

C.S. No. 94

PARLIAMENT OF INDIA  
**RAJYA SABHA**

**JOINT COMMITTEE**  
**ON**  
**THE MEDICAL TERMINATION**  
**OF PREGNANCY BILL, 1969**

**EVIDENCE**

( Volume I )



**RAJYA SABHA SECRETARIAT**  
**NEW DELHI**

**NOVEMBER, 1970**

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COMPOSITION OF THE JOINT COMMITTEE ON THE MEDICAL  
TERMINATION OF PREGNANCY BILL, 1969.

Shri Mulka Govinda Reddy—*Chairman*.\*

MEMBERS

*Rajya Sabha*

2. Dr. (Mrs.) Mangladevi Talwar
3. Shri M. Srinivasa Reddy†
4. Shrimati Usha Barthakur
5. Shri Krishan Kant
6. Shri Sawaisingh Sisodia†
7. Shri K. P. Mallikarjunudu
8. Shrimati Bindumati Devi
9. Shri Niranjan Varma
10. Shri G. Gopinathan Nair
11. Shri S. A. Khaja Mohideen

*Lok Sabha*

12. Shri Vidya Dhar Bajpai
13. Shri Gangacharan Dixit
14. Shri Ganesh Ghosh
15. Shri Kameshwar Singh
16. Shri S. Kandappan
17. Dr. Karni Singh
18. Shri Kinder Lal
19. Shri P. Viswambharan
20. Shri N. R. Laskar
21. Hazi Lutfal Haque
22. Shri M. R. Masani
23. Shri Mohammad Yusuf
24. Shri B. S. Murthy
25. Shrimati Shakuntala Nayar
26. Dr. Sushila Nayar
27. Shri Partap Singh

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\*Ceased to be a member of the Committee on retirement from the membership of the Rajya Sabha on the 2nd April, 1970. Re-elected to the House on the 3rd April, 1970 and re-appointed to the Committee on the 14th May, 1970. Re-appointed as Chairman of the Committee on the 15th May, 1970.

†Appointed on the 14th May, 1970, in the vacancies caused by the retirement of Shri Narayan Patra and Dr. S. Chandrasekhar from the membership of the Rajya Sabha on the 2nd April, 1970.

(iv)

28. Shri Ram Swarup
29. Dr. M. Santosham
30. Shrimati Tara Sapre
31. Shri M. R. Sharma
32. Shri Babunath Singh
33. Shri Jageshwar Yadav

**REPRESENTATIVES OF MINISTRIES**

*Ministry of Law*

- (i) Shri S. K. Maitra, Joint Secretary and Legislative Counsel
- (ii) Shri R. N. Shinghal, Deputy Legislative Counsel
- (iii) Shri S. Ramaiah, Deputy Legislative Counsel

*The Ministry of Health and Family Planning and Works, Housing and Urban Development*

- (i) Shri R. N. Madhok, Joint Secretary
- (ii) Dr. (Miss) Leela V. Phatak, Commissioner (FP)
- (iii) Shri D. N. Chaudhri, Deputy Secretary (Deptt. of UD)
- (iv) Dr. I. Bhushan Rao, Deputy Commissioner (FP)
- (v) Dr. G. P. Sen Gupta, Deputy Commissioner (EP)
- (vi) Dr. S. V. Raja Rao, Asstt. Commissioner (FP)
- (vii) Dr. (Smt.) S. F. Jalnawalla, Deputy Director (FP)
- (viii) Shri A. P. Atri, Under Secretary (FP)

**SECRETARIAT**

- Shri S. S. Bhalerao, Joint Secretary.  
Shri S. P. Ganguli, Deputy Secretary.  
Shri M. K. Jain, Under Secretary.
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**LIST OF WITNESSES WHO GAVE ORAL EVIDENCE BEFORE  
THE JOINT COMMITTEE**

Sl.No.	Name of witness	Date of hearing	Pages
1	Shri Shantilal H. Shah, M.P.	15-6-1970	2—21
2	Shri V. Balasubramanian, Editor, Eastern Economist, New Delhi	15-6-1970	21—27
3	Dr. (Shrimati) Pushpa Madan, Lady Hardinge Hospital, New Delhi	15-6-1970	27—36
4	Representative of the All-India Women's Conference, New Delhi :	16-6-1970	38—50
	(i) Shrimati Lakshmi Raghu Ramaiah . . . . .		
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5	Shrimati Naintara Sehgal, New Delhi . . . . .	16-6-1970	50—63
6	Representatives of the Indian Medical Association, New Delhi :	17-5-1970	65—87
	(i) Dr. P.C. Bhatla		
	(ii) Dr. N.S. Banerjee		
	(iii) Dr. B. Krishna Rao		
7	Shri G.D. Khosla, Retd. Chief Justice, Punjab High Court.	17-6-1970	88—101
8	Dr. Kartar Singh, New Delhi . . . . .	17-6-1970	101—109
9	Dr. (Shrimati) Daisy Kulanday, Retd. Director, Maternity and Child Health Deptt. Delhi Municipal Corporation, New Delhi. . . . .	18-6-1970	111—132
10	Representative of the Synod of the Church of South India, Madras :		
	Shrimati E.I. Gopal Ratnam. . . . .	19-6-1970	134 149
11	Dr. C.I. Talwar, Retd. Professor of Surgery and Head of Department, S.M.S. Medical College, Jaipur. . . . .	19-6-1970	149—167
12	Dr. (Shrimati) R.B. Marikar, Retd. Director of Medical Services, Tamil Nadu, Madras-8.	20-6-1970	169—186
13	Dr. (Shrimati) Sumati Kanitkar, Lokmanya Tilak, M.G. Hospital, Sion, Bombay-22. . . . .	20-6-1970	187—202

JOINT COMMITTEE ON THE MEDICAL TERMINATION OF PREGNANCY BILL, 1969

VERBATIM RECORD OF EVIDENCE GIVEN BEFORE THE COMMITTEE

Monday, the 15th June, 1970

PRESENT

1. Shri Mulka Govinda Reddy—Chairman

MEMBERS

*Rajya Sabha*

- |                                 |                              |
|---------------------------------|------------------------------|
| 2. Dr. (Mrs.) Mangladevi Talwar | 7. Shri K. P. Mallikarjunudu |
| 3. Shri M. Srinivasa Reddy      | 8. Shrimati Bindumati Devi   |
| 4. Shrimati Usha Barthakur      | 9. Shri Niranjan Varma       |
| 5. Shri Krishan Kant            | 10. Shri G. Gopinathan Nair  |
| 6. Shri Sawaisingh Sisodia      |                              |

*Lok Sabha*

- |                            |                               |
|----------------------------|-------------------------------|
| 11. Shri Vidya Dhar Bajpai | 20. Shri Mohammad Yusuf       |
| 12. Shri Gangacharan Dixit | 21. Shrimati Shakuntala Nayar |
| 13. Shri Ganesh Ghosh      | 22. Dr. Sushila Nayar         |
| 14. Shri Kameshwar Singh   | 23. Shri Partap Singh         |
| 15. Shri Kinder Lal        | 24. Shri Ram Swarup           |
| 16. Shri P. Viswambharan   | 25. Shrimati Tara Sapre       |
| 17. Shri N. R. Laskar      | 26. Shri M. R. Sharma         |
| 18. Hazi Lutfal Haque      | 27. Shri Babunath Singh       |
| 19. Shri M. R. Masani      | 28. Shri Jageshwar Yadav      |

Shri K. K. Shah, Minister of Health and Family Planning and Works, Housing and Urban Development, attended the meeting by special invitation.

REPRESENTATIVES OF THE MINISTRIES

*Ministry of Law*

Smt. V. S. Rama Devi, Deputy Legislative Counsel

*Ministry of Health and Family Planning and Works, Housing and Urban Development*

- Dr. K. N. Kashyap, Commissioner (FP)  
Dr. G. P. Sen Gupta, Dy. Commissioner (FP)  
Dr. I. Bhushan Rao, Dy. Commissioner (FP)  
Shri A. N. Varma, Deputy Secretary  
Dr. S. V. Raja Rao, Asstt. Commissioner (FP)  
Dr. (Smt.) S. F. Jalnawalla, Dy. Director (I)  
Shri A. P. Atri, Under Secretary

## SECRETARIAT

Shri S. P. Ganguly, Deputy Secretary  
Shri M. K. Jain, Under Secretary

## WITNESSES EXAMINED

- (1) Shri Shantilal H. Shah, M.P.
- (2) Shri V. Balasubramanian, Editor, Eastern Economist, New Delhi.
- (3) Dr. (Smt.) Pushpa Madan, Lady Hardinge Hospital, New Delhi.

(Shri Shantilal H. Shah, M.P., was called in).

CHAIRMAN: Shall we begin? It is already 9 o'clock. Mr. Shantilal Shah is here and will give evidence before the Committee. I hope that most of the Members have studied the Report that he had submitted. I now request Mr. Shah to give evidence and particularly with reference to the clauses in the Bill. The proceedings are confidential and will not be published until the Report is placed before Parliament. We all know Mr. Shantilal Shah, a former Minister of Maharashtra, and now a Member of Parliament in the Lok Sabha. He was the Chairman of the Committee and the Report has already been circulated to all the Members of the Joint Select Committee.

SHRI SHANTILAL SHAH: May I start? Before I take up the merits of the Bill there are a few points of drafting which, even if you leave the Bill as it is, would require amendment. The first refers to clause 2(a), definition of a guardian. It says:—

“guardian” means a person having the care of the person of a minor or of his property or of both his person and property.”

It presumes and that is the position in law that there may be a minor who has one person as guardian of the property and another person as guardian of the person or the body. Now, in the Bill there is reference to the consent of the guardian. Here it says ‘care of the person of a minor’. Then, it says ‘or of his property’. This

would mean that the minor has one person who is the guardian of the person and another who is the guardian of the property. As the bill stands, it may mean that if the guardian of the person does not agree, but the guardian of the property agrees, then the consent will be valid. That should not be the case. In case there are two guardians, then the consent of the guardian who is in-charge of the person of the minor should be obtained and not that of the guardian of the property of the minor. I would therefore, suggest that the words ‘or of his property’ be deleted. In any case, the consent of the guardian who is in-charge of the person is important. Otherwise, the property guardian may accord consent and the person’s guardian may not agree to it. That is not the intention.

My second point relates to clause 2 (d), which reads:—

“‘registered medical practitioner’ means a medical practitioner who possesses any recognised medical qualification as defined in clause (h) of section 2 of the Indian Medical Council Act, 1956, and whose name has been entered in a State Medical Register”.

I would request you to see that the person who is to perform the operation should have special training in gynaecology, not any ordinary, registered practitioner. Under the present Act, an old LCPS or an LMP is a person registered under the Indian Medical Council Act or the

State Acts. Now, we are dealing with a very serious affair. It is not only the life of the child that is involved, but also the life of the woman concerned. If the abortion is not skilfully done, it may endanger the life of the mother. She may be in misery for the rest of her life or she might die during the operation. Therefore, it is not enough that it should be a recognised medical qualification as defined in the Indian Medical Council Act. It must be something higher. He should not merely be a recognised medical practitioner, but he should be a recognised medical practitioner in modern medicine. Now, according to a Bill which is before the House an Ayurvedic practitioner, a Homoeopathic practitioner or a Unani practitioner will also be a registered medical practitioner. These therapies do provide for abortions, but not abortions as intended here. Therefore, I would suggest that he must be a practitioner of modern medicine. Secondly, he should not merely be an MBBS. As I said, we are playing with the life of a woman and, therefore, the person who performs the operation should be one who has specialised in gynaecology. He should preferably have a post-graduate qualification of MD in gynaecology or some such thing.

CHAIRMAN: Will they be available in all places?

WITNESS: They will not be. Even MBBS doctors are not available in sufficient number. When I deal with the Report I will come to that point. It is impossible in India as things stand today to provide a sufficient number of qualified medical men, MBBS, to meet the situation which will arise as a result of this Bill becoming law. It will be still more difficult to provide medical institutions and the medical apparatus which are necessary for performing these operations. Therefore, I say have a higher qualification prescribed, though there will not be enough doctors. Their shortage will remain in

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any case, but here you are dealing with the life of the woman and her lifelong misery. Diseases may ensue. So we must be guided by not only economic or demographic considerations, but also by human considerations. The life of a human being is worth more than anything else. That is why I have suggested that a post-graduate qualification in gynaecology is desirable.

The next point is I am taking the Bill as it is in relation to clause 3 (2) (b) (i), which says:—

“the continuance of the pregnancy would involve a risk to the life of the pregnant woman or of injury to her physical or mental health;”.

I believe here what is intended is substantial risk and not any risk. Under the English law which has been passed there is a clause which says that the risk must be greater comparative risk. The risk of allowing the pregnancy to go through and have a birth at the end of the term may involve some risk. Abortion may involve another risk. The English law provides that in such cases the comparative risk should be considered and if it is more risky to allow the pregnancy to go on, then terminate it. If it is less risky to allow the pregnancy to run its course, then allow it. We will not consider mere risk but a comparative risk between abortion and normal birth, and whichever is less risky should be done. I am not suggesting that it should not be done, but a mere risk is a very loose expression and a dangerous expression. Therefore, the drafting as in the English Act, to my mind seems better.

Then going further in Explanation II it is said: “Where any pregnancy occurs as a result of failure of any device”, etc. I believe the intention is that if the husband and wife both say that they used contraceptive methods....

(Interruption)

CHAIRMAN: Shri K. K. Shah and Dr. Chandrasekhar are not here. I invited them to participate in the deliberations. Mr. Shah will be coming here shortly.

WITNESS: I was on the failure of the contraceptive methods. If the husband and wife both say that they have used the contraceptive methods and they have failed and therefore they wish to take advantage of this Bill, then is their statement that they have done so to be taken as correct and final? I believe the intention is that their statement should be accepted and there should not be any enquiry on the methods "used, when you used, how often used, in fact have they used at all", and so on. If the intention is that the statement by the husband and wife that the contraceptive methods have failed is to be accepted, then the explanation should run something like this: "Where any pregnancy occurs as a result of the alleged failure of any device", etc. They have got to say that they have failed. Otherwise, you will have to examine a lot of evidence. Therefore, a statement by them that it has failed should be accepted as final if that is the intention otherwise a lot of enquiry will be necessary. This raises another point by the way which I would like to emphasize later. Does it mean that if a husband and wife come and say that they have no children or only one child, even then this is to be allowed? My impression was that the policy of the Government is that a married couple should have two or three children. It used to be three; now the Government's policy seems to be two. But the clause as worded would mean that if the husband and wife have no children or have only one child and if they fall within the explanation, then abortion is permitted. I do not think that was the intention. If so, it should be clarified that this statement about failure of contraceptives should be acceptable as a ground for abortion only after two or three children, whatever view

the Committee may take. But as the law stands a couple having no children can come and say as the Bill stands... (*Interruption*). They are entitled. They have to make the statement to the doctor and the doctor will charge the fee as he deems fit and then the abortion is performed. The intention seem to be to allow abortions freely for the asking but subject to certain restrictions. One restriction I would suggest is that it should be allowed only after two or three children on the failure of the contraceptives.

I will take 3(3), environment question, a little later.

In sub-clause (4) in (a) it says: "No pregnancy of a married woman shall, if such pregnancy is alleged by such woman to have been caused by rape, be terminated except with the consent in writing of her husband" etc. If a woman has been raped and she says "I do not want this child", why should the husband's consent be necessary? The husband's consent in the case of a rape on a married woman seems to be entirely irrelevant. She has been forced into a pregnancy and the husband says never mind but she says she does not want the child. I do not think that is the intention. In the case of a rape the wife not wanting the child and the husband says never mind, should the husband's consent become necessary? I do not think it is the intention. Later on sub-clause (c) uses the expression "unmarried girl" and (d) uses the expression "unmarried woman". I do not know why this different wording. I am afraid in court some lawyer will make a distinction between a girl and a women. Please use the same word. It is dangerous to use different words for the same effect.

Then, Sir, I will take the financial memorandum. I have already dealt with the question of registered medical practitioner. Then the memorandum says about vacuum aspirator. Vacuum aspirators are made in India. They are manufactured in this coun-

try. But as I recollect, they are not of a high quality. Assuming that this Bill goes through, then any medical or surgical instrument to be used must be of the highest quality. Then it says:

"Recurring expenditure of a sum of about Rs. 24 lakhs and a non-recurring expenditure of a sum of about Rs. 19.30 lakhs is likely to be incurred for providing the said facilities."

This is absurd. If somebody can tell me how these figures have been arrived at, I can show the absurdity of it. Would there not be hospitals? Would not women be required to stay in the hospitals for a few days? All over India to have a non-recurring expenditure of Rs. 19.30 lakhs is absurd. The man who has written this does not know his business. The same is the case with regard to the recurring expenditure of Rs. 24 lakhs. The only possible explanation that I can think of is that it is the Central Government expenditure which is contemplated here, and it is quite possible that the intention is that the States will bear the rest of it. But have all the States agreed to bear the rest of the expenditure? Otherwise it should be more. According to the calculations which we made once, this figure does not run into lakhs but crores. It is very easy for Parliament to pass a law. But the question is how it will operate, whether it will operate successfully, whether it will bring about the results which we wish to achieve without any adverse consequences on the woman's life and health. My submission is that this Financial Memorandum does not show the full and correct picture. Even if it is the Central Government's expenditure I do not know whether this figure has been well calculated.

Now coming to the Statement of Objects and Reasons, there is a serious lacuna—I think it is not intentional—in that there is no reference

made to the committee appointed by the Government of India on the question of legalisation of abortions. If that were mentioned, Members of Parliament would have read that report; I presume all Members of Parliament would have read the report, but it would have been a notice at least. And the Statement of Objects and Reasons does not support the Bill as it is. Firstly it is said:

"It has been stated that this very strict law has been observed in the breach in a very large number of cases all over the country."

This statement is true, but what is "a very large number of cases"? Would you consider 10,000 illegal abortions a large number? Or would you consider one lakh a large number? And who can tell me or tell this Committee what is the number of illegal abortions? They are never recorded. They will never be recorded. Therefore, the number of illegal abortions is anybody's guess. So, to call it a "large number" and to base the argument on that "large" which is a very vague word, seems to be very difficult. Then,

"Furthermore, most of these mothers are married woman."

Again there is the same difficulty. There are no Statistics. Not only are there no statistics, but no guess can be made about it. Even statistics on the basis of attempted abortions which came to the hospitals are not certain. Nobody has compiled statistics on that basis. No institution, no hospital has compiled statistics on that basis. Therefore, to say "very large number" or "most" is building up an argument on words which are of very doubtful meaning. Then it says:

"... doctors have often been confronted with...." Again it is guess work. We have gone through the reports of a large number of hospitals and papers read by

gynaecologists and obstetricians and the experience of different hospitals over the last ten or twenty years. The meaning of "often" depends on what you call "often".

Later on it says: that the measure has been conceived on three grounds. "(1) as a health measure—when there is danger to the life or risk to physical or mental health of the woman." I would accept that ground. But as I said in my opening remarks, the clause should not be as in this Bill but as in the English law. You have to weigh the comparative risks of allowing the pregnancy to run through and have a normal birth, and of having an abortion and take the lesser risk. If there is lesser risk in allowing the pregnancy to run through and greater risk in abortion, then do not have abortion. You have to weigh the risk of allowing the pregnancy to run through and the risk of doing an abortion and choose the lesser of the risks. I would support this as a health measure provided there is weighing of comparative risks. And I would suggest that this clause should be accepted as in the English law. The second ground is humanitarian ground "(2) on humanitarian grounds—such as when pregnancy arises from a sex crime like rape or intercourse with a lunatic woman, etc." I would support this too, subject to my submission earlier that in the case of rape, the husband's consent should not be necessary. "(3) eugenic grounds—where there is substantial risk that the child, if born, would suffer from deformities and diseases." This is a ground which deserves consideration. In the Report of our committee you will find a list of a large number of diseases which are hereditary. But they are statistically hereditary. That is to say, out of every four children born, one may inherit the defect, or out of every two children born, one may inherit the defect. Now, how do you know which child will inherit the defect? Suppose in the case of the first birth, it is felt that the mother or the father or both suffer

from a hereditary disease and you abort the first child and allow the second to be born. There is no guarantee that the first would inherit and the second would not. It is quite possible that the first would have been born healthy and the second may inherit it. Therefore, this eugenic ground is a very deceptive ground. Even when there is a strong possibility of one child out of four inheriting the defect, what do you do? If you abort three likely healthy births for fear that one birth would be unhealthy, we shall be breeding human race as we breed race horses. That should not be done. Therefore, in the case of the eugenic ground, something more than the statement in the Bill seems to be necessary. But having said this in the Statement of Objects and Reasons, the Bill has gone further and said something which is not mentioned in the Statement of Objects and Reasons. It refers to environment or what may be called socio-economic grounds. It is unfair not to state that ground in the statement of Objects and Reasons and put it in the Bill. I believe, with great respect, Dr. Chandra Sekhar must be responsible for this.

I will now take the Bill on its merits. I may refer to the Report of the Committee on Legalisation of Abortion. I was the Chairman of that Committee. As you mentioned in the beginning, I have been a Minister of Health in the State of Bombay and Maharashtra for two terms, for roughly about 10 years. Therefore, though I do not know much about science, I have enough knowledge to be able to understand the language of the doctors and to draw a layman's conclusion from the scientific language of the doctors. What I am now trying to place before you are the layman's conclusions. This Committee had 11 members, out of whom five were women, I want to stress these points it is a unanimous report and five members of this committee were women. They are: Smt. Achama Mathai, Chairman of the Central So-

cial Welfare Board; Smt. Wadia, President of the Family Planning Association of India; Dr. (Mrs.) Bhatia, Chairman, Association of Medical Women of India; Smt. Masuma Begum, President, All India Women's Conference; and Smt. Shyam Kumari Khan, General Secretary, Indian Council of Child Welfare. Therefore, on this committee we had women representing social welfare, family planning, medical women of India, child welfare and the Women's Conference. That ought to carry some weight. Then we had three eminent gynaecologists: Dr. Purandare, representing the Federation of Obstetrical and Gynaecological Societies of India; Dr. Shivapuri, representing the Indian Medical Association; and Dr. Shirodkar, who is a gynaecologist of international reputation. One of the members was Shri N. P. Nathwani, formerly a member of the Lok Sabha and now a Judge of the Bombay High Court. There are only two laymen, myself and my Secretary Lt. Col. Raina. Now, Sir, before I go into this, it is very necessary to keep in mind the difference between family planning and population control. The Bill seems to have missed the difference between family planning and population control; and the difference is this: Family planning seeks to prevent conception. Population control does include family planning but it can also include abortions. You can control population by abortion, but it would not be for family planning. And that is why I laid stress on this. The Chairman of the All-India Council of Family Planning, Mrs. Wadia was one of our members, and we have said in the report that the liberalisation of abortions should not be mistaken as a method of family planning. Family Planning is an attempt to prevent conception and abortions are measures which you take after conception. It is, therefore, that in family planning I am preventing conceptions; and with a little self-praise, ever since the family planning programme began when I was the Minister of Health in Maharashtra, I

believe the State had established a record. Every year in succession the Maharashtra State has got the first award in family planning in India; it is so for about ten years. In the first five years, during my second term, the Maharashtra State has got the first award in family planning in India. Therefore, when I am stressing family planning and contrasting it with abortions, I wish to point out that this attempt at abortions should not be mistaken and should not be taken by the Committee as part of the family planning programme. Family planning programme is different. Perhaps you have called Lady Rama Rao who is one of the old guards of the family planning campaign and I hope she will be able to tell you..

CHAIRMAN: She was invited.

WITNESS: I had some talk with her. It is feared that liberalisation of abortions in this way would do harm to the family planning campaign because our does not care about family planning and there will be more irresponsibility and recklessness in observing the family planning rules because there is another alternative always available. One can simply say, "We have tried all the methods advised by you, but they have failed. So allow us abortion". They will say, "Allow us abortion not only because we have three children, but allow us abortion even if we do not have any children". That is what the Bill says.

May I take the Committee through important portions of the report? I hope the Members will read the first two chapters later on because those chapters deal with a survey of the law in the various countries of the world. We had written to our embassies and missions to get us a summary of the laws relating to abortions. I am using the word "abortion" as it is convenient. In India the words "medical termination of pregnancy" are used to avoid the odium which attaches to the word



"abortion" though in the English law they still call them abortions as such; the English law does not use the word "pregnancy" which we use. In the first two chapters, we have a summary of the law of the various countries of the world and there is an appendix where we have said that the law must be most liberal as in Japan and in Sweden. But even there, especially in Sweden, there is not merely a doctor, but there is a board. What we have said here in sub-clause (3) of clause 3 in this Bill is, "In determining whether the continuance of a pregnancy would involve which risk of injury to the health as is mentioned in sub-section (2), account may be taken of the pregnant woman's actual or reasonably foreseeable environment." But how are the doctors qualified to judge the environment? Does environment depend upon the size of the room in which she stays? Or, does it depend upon the income of her husband? Or does it depend upon her relations with her mother-in-law? Or, does it depend upon the prevailing dogmas or customs in the society? Environment is a word of very vague import. And though I am conscious of the fact that the same word has been used in the English law I still fear the use of the word "environment" is asking a medical man to judge about a matter for which he has no qualification. If I say there is the risk of health, physical or mental, a gynaecologist or a medical man is able to judge, but he is not qualified to judge about the environment. Secondly, what environment is, has been left vague—I won't say beautifully vague. I say it is disastrously vague. With great respect to the medical profession I would say you will always find a man to certify that the environment is such that it could be a risk to the health of the woman; it is not difficult in other countries nor is it difficult in this country to find one doctor whose only business or whose only practice would be to give certificates about the environment, about the health, about the non-use

of the contraceptives, and then say, "Well, you pay me this fee of mine, etc." I would, therefore, submit that if environment has to be made a factor, then, it is better to have a board as is done in Sweden. Of course, that has its own difficulties, I do not know. But I am stating from my general knowledge. A woman normally becomes conscious that a pregnancy has occurred at the time of her second menstruation. When the first menstruation does not come, well, it may be taken to be due to many reasons. But when the second also does not come, there is a presumption that pregnancy is taking place which leaves barely four weeks if you take twelve weeks.

Then if a Board is to sit, where will they sit. I am afraid, all of you here, including myself, when we think of these matters we think of what is likely to happen in Bombay, Delhi or Madras. The environment is bad in the slums which we will overlook and also it is bad in the rural areas. But what do you expect of a woman in the rural areas? What do you think of the environment in the rural area? It may be quite good compared to the environment in the slum in the sense that the area will be well-ventilated. The house may be poor but still clean. Therefore, my submission is that this dependence on environment will open the floodgates. If that is the intention then I would say clearly. But I assume that is not the intention to open the flood-gates.

Now, with your permission may I take the Committee quickly through the important paragraphs? Now paragraph 3.9 says—

"In this connection too, therefore, the question of abortion becomes relevant as an *ex-post-facto* and admittedly crude way of regulating the size of the family. It must be made quite clear at this point, however, that the words 'family planning' cannot the control of conception which does not include abortion which takes place after con-

ception. However, abortion also can be used as a means to control family size, as is being done currently in several countries, in which case, family planning or contraception, and abortion, are in two parallel categories, both of which can lead to population control."

Then paragraph 3.12 says:—

"It may be observed that in all countries, the law relating to abortion have taken into consideration at least four basic aspects, viz., ethical or religious beliefs . . ."

I think we are not very insistent on religious beliefs.

" . . . attitudes towards the family as a unit of society and the aims and ideals on which the social order is founded, protection of the unborn child and preservation of the mother's health and well being. In recent times, a fifth aspect has appeared in some cases where demographic needs have been taken into account."

If the family is a component unit of the society, the family as an institution—husband, wife and children,—have to be safeguarded. It also depends on what value you put on the marital tie and on what value you put on virginity before marriage. These are matters on which opinions may differ. As far as we in India are concerned, the overwhelming opinion is that virginity before marriage is essential, that marital ties—I would not call them sacred, but they ought to be encouraged and fostered. And, therefore, our attitude towards family will ultimately determine our attitude towards abortion.

As for the unborn child—I am putting it rather bluntly, and I have put this question to several doctors—if you agree to a child, defenceless, mute, being deprived of its life six months before its birth, putting the mother's health in danger why not agree to do it six months after its birth. In that case at least one life, i.e., that of the mother will be safe.

therefore, I said that the protection of the unborn child, apart from religious belief and religious sentiment is also a question of ethical sentiment. And at least in the Hindu law a child is presumed to be born when it is conceived.

SHRI K. P. MALIKARJUNUDU:  
He has rights to property also.

WITNESS: Yes, if you are prepared to kill an unborn child, why not kill it after its birth if you want to control population. That would at least protect the health of the mother.

Coming to paragraph 3.13, the report says:—

" . . . A point involved in such a situation is whether a woman should not be the master of her own body and decide the question of motherhood for herself. This has been one of the factors for instance, which has influenced the Soviet law permitting abortions."

You say that the mother is the master of her own body. But I say there is another life and another body within her body. Is she the master of that body also? Therefore, to say that the mother is the master of her own body is taking only a part of the truth forgetting that there is another body within her body, and she is not the master of that body. Therefore, the care of the unborn child is the responsibility not merely of the mother but also of the society. That aspect has been overlooked here.

SHRI K. K. SHAH: Mother may not be the complete master of her body but to some extent she is the master of her body.

WITNESS: Who will be the judge as to the extent she thinks it is necessary to protect her body.

SHRI K. K. SHAH: Will you not allow her to be the judge?

WITNESS: If she were to be the judge, what type of medical facilities in the Bill are to come?

SHRI K. K. SHAH: Whether that consider should be one of the considerations?

WITNESS: No, Sir.

SHRI K. K. SHAH: You may limit her right to be the master of her body, But to some extent you will allow her to protect her body within limitations?

WITNESS: If she is partly the master of her own body, is it 99 per cent. or is it 1 per cent.? Up to what extent? Then it is the question of mental and physical health. If you leave it to her alone, then other factors are likely to come in such as her own environment, her own mental state and the family circumstance, among other things, might come into play. And her judgment is not likely to be an entirely unbiased judgment. As against that, I will say that the mother's instinct is to preserve the child and not to destroy it. But even so, if you are taking away an innocent life, let us have it doubly sure that the risk to her physical and mental health should be judged not only by her but also by a medical man. In that case the medical man should certify. The risk should be comparative. I know of patients suffering from cancer; they know that death is coming and the pain may be so great, I know of cases where they have requested the doctors to give them something which might bring about their death immediately. Would you agree that the medical man should expedite his death?

SHRI K. K. SHAH: Another argument is that the chance of his survival should not be ruled out, in spite of his wishes.

WITNESS: That is true. But what is the English law? If the registered medical practitioner finds that the continuance of the pregnancy would involve risk to the life of the pregnant woman or injury to the physical or mental health of the woman or any existing children of her family, it would be better to have that preg-

nancy terminated. This is the Act of 1967.

Now, Sir, I would like to draw your attention to paragraph 3.13 on page 41. It says:

"A point involved in such a situation is whether a woman should not be the master of her own body and decide the question of motherhood for herself. This has been one of the factors for instance, which has influenced the Soviet law permitting abortions."

But there is one more thing. For example, in Japan a girl who is aborted once, she comes for another abortion and the tendency to conceive is greater. In this connection I forget the name of the book which a Japanese expert has written and it has also been translated in English. My understanding from it is that there is a greater tendency to conceive soon thereafter and therefore it should be registered so that same person should not come for abortion again and again.

Then, Sir, paragraph 3.16 on page 42 says:

"When abortion is desired for eugenic reasons, it is granted on condition that a sterilisation also takes place and this is done either at the same time as the abortion, or before it. Sterilisation is not required, however, where the defect that may be passed on to the child is not of a hereditary but of a congenital nature . . ."

Would the parents have abortions for every pregnancy? If there are four children, one cannot say whether the first child will inherit that disease or the second child or the third child. So to remove that fear the best thing is to have sterilisation. And sterilisation has no effects on the sexual life either of the man or of the woman. After sterilisation there will be no need for abortion.

The next is at page 44, end of para 3.24. It says:

"In countries where abortions are being legally induced under good medical conditions, the incidence of ill-health among the women has given rise to some anxiety and is one of the many reasons why contraception is by far the preferred method. It may be added that new techniques of abortion recently developed have reduced the morbidity considerably."

Therefore please do not assume that because abortions are done by medical men or women, there will be no ill effects.

Then, Sir, para 3.26 says:

"There are two points viz., one, contraception does not prevent resort to abortion and two, where there is failure of contraception there is a tendency to resort to abortion."

That again is a dangerous tendency. Where contraception fails, they will say "Let us have abortion."

Then, Sir, on page 45, para 3.30 says:

"It stands to reason that the more contraceptive precautions are effectively taken, the less number of unwanted pregnancies, which may possibly lead to abortion will arise."

I think it is the intention of several Members here that we should control the growth of population. For that purpose family planning should be encouraged. If family planning is encouraged and contraceptives are encouraged, the number of abortions will be considerably reduced.

Then, Sir, para 3.31 says:

"In the last decade or two, countries which achieved a rapid reduction of their birth rates have resorted mainly through abortion, but are trying to change over to contraception as a better way of regulating family size although abortion is permitted side by side."

That shows that even those countries which permitted abortions very

liberally, after their experience, are now relying more on contraceptives and less on abortions. I have no time but the appendices given here will bear out what I am saying.

It is said here:—

"3.32 It may be noted that until very recently, contraceptive methods did not include sterilization, oral contraceptives and the intra-uterin contraceptive devices, to any extent. The nineteen sixties have ushered in the era of modern contraceptives in distinction to the older, 'conventional' methods, thus adding to the armamentarium available for the practice of family planning. And there is no doubt that medical research workers all over the world, stimulated by the world demographic crisis, will come up with scientific methods to control conception which will be a great advance, in many respects, on the hitherto approved methods. They should also help to render abortion by surgical interference on obsolete procedure.

3.33 Thus, it is in this changing outlook of family planning methods that one must consider the role of abortion and whether it is an inevitable necessity in achieving a rapid reduction in the birth rate."

Then, in para 3.34 it is said:—

"...A population given to accepting each day as it comes and taking action only when driven to it, might adopt abortion more readily than family planning. This attitude a *laissez faire* premeates many aspects of life though it can hardly be considered to be, for that reason, an acceptable part of modern living."

Then, in para 3.35, it is said:—

"The following points have therefore to be taken into consideration:

(a) the number of abortions performed would have to run into many millions per year, in order to make a dent in the birth rate."

This is the point which I mentioned. I said that the financial estimate made in the Bill is absurd and fantastically wrong. The number of abortions would run into many millions per year in order to make a dent in the birthrate.

Next it says:—

“(b) Where a couple are apathetic about planning their family they may not want even care to abort in spite of having a large number of uncared-for children. This would seem to imply that, if abortion were to be used as a means of reducing the birth rate, it might be necessary not only to permit abortion legally but actually to advocate it to those with large families a matter fraught with extreme social difficulties and distaste, generally due to religious and ethical sentiments.

(c) The minimum medical facilities properly equipped hospitals and a sufficient number of qualified physicians for carrying out a large number of abortions for demographic purpose, are not only presently lacking, but would not be available even in the foreseeable future.”

That is why I said that the Bill has not taken into consideration the consequences of what will happen for lack of doctors and permitting something to be done by doctors who are not qualified. As I see the Bill ultimately almost anybody can do it, not necessarily a qualified doctor. As I have said a number of times, we have not got enough qualified doctors and even in the foreseeable future they will not be available. This should carry weight with this Committee because there were three eminent gynaecologists on this Committee and they know more about their profession than I do. Therefore the conclusion is that in the foreseeable future we will not have enough doctors available. Then, it says:—

“(d) Medical facilities would be needed not only for performing the abortion but for giving treatment

to the women subsequently, for various morbid conditions.

(e) In the prevailing circumstances, legal abortions would not help to eliminate illegal operations, especially in the rural areas, since even expanded medical facilities could not reach out to that extent.”

A large number of births are in the villages and they are amongst the poor. Even today there is not a good medical hospital in a taluka. I have in mind a taluka with a population of ten lakhs. I do not know about other States, but I know about Maharashtra. As far as medical treatment is concerned, Maharashtra has done well. Therefore, if in Maharashtra we have not got one well-equipped medical hospital per taluka, which means roughly a hundred villages, what would you do about providing these facilities? It is easy for a Committee of Parliament to say. Yes do it. But this Bill is not one which levies a tax. It touches the life of a number of women and our social structure. Unless you are able to do it thoroughly, you will not succeed. If it is worth doing, do it well. It is not worth doing badly. Then it says:—

“3.36. It is felt therefore, that the legalising of abortions with a view to obtaining demographic results is unpractical and may even defeat the constructive and positive practice of family planning through contraception.”

That is why I said that Dr. Chandrasekhar's demographic approach is outworn. Then, it is said:

“3.38. As was said earlier in this chapter, the question of abortion is not merely an adjunct of family planning or population control, but one that stands by itself.

3.42. While the above or some of them are, in general, the grounds which have guided the abortion laws in various parts of the world, the situation in India must be examined very carefully in this context, bearing in mind the effects on

the individual, on society and on the nation as a whole."

Now, Sir, our recommendations are in chapter IV. Para 4.2(i). It says:—

"(a) When the continuance of the pregnancy would involve serious risk to the life, or grave injury to the health, whether physical or mental, of the pregnant woman, whether before, at, or after the birth; or . . ."

This may be accepted.

Then, it says—

"(b) When there is a substantial risk that if the child were born it would suffer from such physical or mental abnormalities as to be seriously handicapped in life;"

This is again subject to the condition that they should accept sterilisation rather than abortion to avoid pregnancy. The third is this:—

"(c) When the pregnancy results from rape, intercourse with an unmarried girl under the age of 16 or intercourse with a mentally defective woman."

The provision in the Bill is that in the case of rape of a married woman, the husband's consent seems to be necessary. I do not see how or why the husband's consent is necessary. She says that she does not want the child. Then, it is said:—

"4.5. The Committee while making the above recommendations also strongly recommend that:

(a) In order to prevent the danger of repeated abortions in the case of women who are not fit to bear the strain of further pregnancies the medical practitioner should advise the woman and/or her husband to undergo voluntary sterilization."

Then, the idea of a small family norm is put forward. This is a family planning idea.

There are two more points which I would like to place before the Committee. They are at page 22—Morbidity and complications. Morbidity means sickness. It says here:—

"2.35. Those without specialist knowledge are influenced by a humanitarian attitude and tend to regard induction of abortion as a trivial operation free from risk. In fact even to the expert working in the best conditions the removal of an early pregnancy after dilating the cervix can be difficult and is not infrequently accompanied by serious complication. This is particularly true in the case of woman pregnant for the first time . . . for women who have a serious medical indication for termination of pregnancy induction of abortion is extremely hazardous and its risks need to be weighed carefully against those involved in leaving the pregnancy undisturbed. Even for the relatively healthy women however the dangers are considerable."

This is a quotation from a paper before those involved in leaving the pregnancies and Gynaecologists. As I said earlier, three eminent gynaecologist accepted this statement and they are members of this Committee. Then at page 25 it is said:

"Some physicians have been concerned with possible psychological sequelae of legal abortion. The Royal College of Obstetricians and Gynaecologists in their meeting on 26th March, 1966 considered this issue and expressed their opinion as follows: 'Whilst the continuance of pregnancy can have a psychological rather than physical ill-effect, so can induced abortion. There are few women, no matter how desperate they may be to find themselves with an unwanted pregnancy, who do not have regrets at losing it. This fundamental reaction, governed by maternal instinct, is mollified if the woman realizes that abortion was essential to her life and health, but if the indication for the termination of

pregnancy was flimsy and fleeting she may suffer from a sense of guilt for the rest of her life. The incidence of serious, permanent, psychiatric sequelae is reported as being between 9 and 59 per cent."

This is what the three eminent Gynaecologists have said. My submission is this. Except the three grounds which are mentioned in the report, the ground saying failure of contraceptive method should not be permitted, and environment as a ground should not be permitted. As I stated it should be comparative risk but not other grounds. I believe in the English law—whether there is a legislation after 1967 I have not been able to trace—there is a reference in section 5 to the Infant Life Preservation Act of 1929. I will look it up. The legal advisers will be able to find that out. There is a reference to it in the English law.

That is all I have to submit. If Members would like to ask any questions, I will try to answer them as best as I can.

SHRI K. K. SHAH: There are two points on which I want clarification. The first is regarding preventing conception and removing conception within the first four or five weeks mentioned. What difference does it make so far as the rights of a woman are concerned to protect her life?

WITNESS: As far as preventing conception is concerned, it is not a factor at all . . .

SHRI K. K. SHAH: You prevent somebody from coming into existence.

WITNESS: It is as if I prevent somebody from becoming a Member of Parliament.

The life has not come into existence.

SHRI K. K. SHAH: You are forcibly preventing somebody from becoming a Member of Parliament.

WITNESS: Prevention is a matter of argument in the Catholic church.

Prevention is a thing which seems to be necessary. I am not opposed to prevention. In fact I am advocating prevention. But I am saying after conception if the life is to be extinguished, then it should be in very limited cases. If it is a question of the life of the child and life of the mother, then compare the risk between the two; and the life of the mother according to me is more valuable, because the life of the child I do not know. But comparative risk must be judged.

SHRI K. K. SHAH: When you say contraceptive, you do not want another intruder in the family. If the intruder could not be prevented, can he not be removed?

WITNESS: You have put twelve weeks in the Bill.

SHRI K. K. SHAH: That is in the earlier stage.

WITNESS: There are two stages in the Bill: one medical man and two medical men. Let us make it forty weeks for some medical men.

SHRI K. K. SHAH: We want to have a dialogue. The doctors' feeling is that at that stage it would not be more injurious. Later on it would be very injurious to the mother. We are trying to understand. The second point is, in the recommendations made you will find at page 51 para 4(2) (i) (a) it is said "before, at or after birth". Mental health after the birth would not include environment?

WITNESS: It would not. If you have included environment for a better mental health, the report is misconstrued. I as the Chairman would say that that is not my view. There may be a mental health where the pregnancy may go on, but the result on the mind of the woman after safe birth of a child should be considered.

SHRI K. K. SHAH: When you say mental health at conception one can understand. Or is it after birth?

WITNESS: During pregnancy there might be things which might lead to mental ill health. But it is connected with pregnancy and not connected with the birth of the child or its existence in the family.

SHRI K. K. SHAH: The moment she sees the child she is reminded of the circumstances under which the child came into existence.

WITNESS: That is a rape case.

SHRI K. K. SHAH: There may be many other cases.

WITNESS: Give me some cases.

SHRI K. K. SHAH: Forcible marriage against her wish.

WITNESS: Therefore contraceptive.

SHRI K. K. SHAH: Under those circumstances where she had to undergo forced marriage on account of the dictates of society . . .

DR. SUSHILA NAYAR: We must have a separate law to deal with that situation.

SHRI K. K. SHAH: I am trying to understand.

WITNESS: Environment should not be included in the mental health case.

SHRI K. K. SHAH: When you say mental health before, at or after birth . . .

DR. SUSHILA NAYAR: An unwanted child or a forced pregnancy if it goes to term, later on she will be reminded of that unpleasant event and suffer.

DR. SUSHILA NAYAR: I would just like to say one word with regard to what you have said earlier; you cannot terminate a pregnancy at the fourth or the fifth week, you are not even sure of pregnancy at the fourth or the fifth week unless you do a very elaborate test, which is not possible in a large majority of cases. You generally do it within 12 weeks, but beyond that there are very definite risks. I would, by and large, accept most of what you have said except the one thing where you have said that if there is a known risk to

the child, the parents or one of the parents must agree to undergo sterilisation.

WITNESS: One of the parents, preferably the mother.

DR. SUSHILA NAYAR: Why the mother? Sterilisation of the father is much easier and simpler.

WITNESS: Motherhood is certain, but fatherhood is uncertain.

DR. SUSHILA NAYAR: This is a rather very loose way of talking. What I am trying to say is that there are conditions in which the health of that one child is definitely at risk, but not of subsequent ones. For instance, the mother may have had German measles during pregnancy, or the mother may have taken certain drugs like phthalidamide which has been so much talked about. Therefore, there is a case for terminating a pregnancy in certain cases without insisting on sterilisation of either party.

WITNESS: It is correct. We have dealt with that aspect in our report. There is a reference to German measles.

DR. SUSHILA NAYAR: So you would agree that there are such cases?

WITNESS: I agree there may be such cases. But I only referred to cases where the cause is repetitive as in the case of hereditary defects.

DR. SUSHILA NAYAR: Secondly, you had referred to the risk to the health of the mother or to the health of the other children in the family. Now, when you say "the health of the other children in the family", that brings in the socio-economic factors by the backdoor because an additional mouth to feed will reduce the available food for the existing children, and so on and so forth.

WITNESS: That is not injury to health. Starvation is not injury. It may bring about death.



DR. SUSHILA NAYAR: What about malnutrition, under-nutrition, etc.?

WITNESS: The reference is only to injury to the physical or mental health of other children.

DR. SUSHILA NAYAR: Malnutrition will cause injury.

WITNESS: It is "injury to" and not "danger to". But the environment has been separately dealt with in the English law.

DR. SUSHILA NAYAR: What I say is that there is a growing tendency to use abortion for population control and I agree with you that it is undesirable. It is much better to educate public opinion and offer all the facilities for family planning that are available, limiting abortions to exceptional cases and specific areas like injury to the health of the mother, injury to the health of the child that may be born, and so on. And the point you made regarding paucity of facilities is a very valid point. I agree with you except on these two points that I have mentioned.

DR. (MRS.) MANGLADEVI TALWAR: About environmental conditions, I agree with you that it would open the floodgates to the type of certificates that might be required and misuse of opportunities. But you have admitted the ill-effects of malnutrition, lack of care, etc. on other children. Similarly, would not lack of accommodation, lack of health, lack of other family surroundings, etc., come under environment? They would also form part of environment. Under what category would you put these things?

WITNESS: That point has been discussed in the report. Supposing there are three children already in the family and a fourth child would put the family in economic distress, would you allow abortion for the fourth child, or the fifth child, or the sixth child? Or would you say, let there be abortion and let there be sterilisa-

tion if you do not want more than three children? If the economic circumstances are so difficult, why allow one abortion after another? The abortion must be accompanied by sterilisation so that there will be no further abortion.

DR. (MRS.) MANGLADEVI TALWAR: You would give the name of "socio economic conditions" rather than "exionment"—is that your recommendation?

WITNESS: No. I would rather say, if there are three children already, please allow the fourth to be born and immediately thereafter remove the uterus. If you can have three children, you can allow the fourth one also to be born and then have sterilisation.

SHRI KAMESHWAR SINGH: This Bill is applicable to the whole of India excepting the State of Jammu and Kashmir. In my opinion, this medical termination of pregnancy Bill should be a social law by itself so that it may be applicable to Jammu and Kashmir also.

CHAIRMAN: That is for the Committee to discuss.

SHRI KAMESHWAR SINGH: I would like to know what Mr. Shah thinks about it.

WITNESS: I believe the Constitution provides that an Assembly has the right to adopt this law.

SHRI KAMESHWAR SINGH: I think it will be applicable if it is just a social measure.

WITNESS: I do not think it is permissible in the Constitution. If it is permissible it may be done. But when you come to the second part of

it, delete the clause in the Indian Penal Code dealing with abortion.

SHRI KAMESHWAR SINGH: I do not mean complete deletion. Make suitable amendments and separate it from the point of view of the I.P.C. so that it becomes a social Bill.

WITNESS: That is for the Draftsman.

SHRI KAMESHWAR SINGH: To an eminent person like you. I would like to ask this question. Apart from the people who drafted the Bill should anybody else be associated with it or not?

WITNESS: I believe the way in which it is done here is all right. That is the way in which it is done in England also.

SHRI KAMESHWAR SINGH: I hope you have no objection in following the new avenues for drafting the Bill.

WITNESS: I want to be cautious, and the caution is what I have stated. Therefore, if you go beyond that I have an objection.

SHRI KAMESHWAR SINGH: The recommendation on page 47 of the Report says:—

“Medical facilities would be needed not only for performing the abortions, but for giving treatment to the women subsequently, for various morbid conditions.”

But there is no such provision in this Bill. What are your concrete suggestions about that?

WITNESS: That is what I said. More hospitals will have to be provided. That is why I said that the Financial Memorandum is thoroughly inadequate and it is fantastically wrong.

SHRI KAMESHWAR SINGH: Yes. That is what I also think. Then, do you not think there will be many court cases by the husbands, after this

Bill is passed, and there will be strife in the family on some excuse. Should the court be directed not to ask for record from the hospitals in cases of rape etc., i.e. sex crimes?

WITNESS: I think you are referring to divorce proceedings.

SHRI KAMESHWAR SINGH: May be divorce or anything. I do not think courts should have any authority about it; otherwise the husbands will go out of the way to ask for information which a wife may not like to disclose, specially of the abortions if any before marriage, and the life of the lady will be exposed to risk and humiliation from the husband.

WITNESS: I think if the court thinks that a certain information is necessary then it should be allowed. But the husband will not get any information by himself from a court.

SHRI KAMESHWAR SINGH: Do you think there is anything secret even in the Cabinet Secretariat, what to talk of the court where you can have a copy of anything by paying a little gratification?

WITNESS: It is for the court to decide whether a certain information is necessary for doing justice to the parties.

SHRI KAMESHWAR SINGH: I agree only to cases relating to sex crimes going to the court but not for other women.

WITNESS: I do not know whether you know the case *Russell v. Russell* between a husband and a wife in divorce matter about pregnancy of the wife. I would, therefore, say that if the court considers it necessary the court may, but information should not be permissible to everybody. When a litigation is there, litigation has to terminate somewhere.

SHRI KAMESHWAR SINGH: Do you not think that by not adding this provision which I mentioned more scope for cases will be there? Already this country is becoming a jungle of law and lawyer paradise.

WITNESS: I do not agree with this.

SHRI K. P. MALLIKARJUNUDU: In the Bill "guardian" is defined as "a person having the care of the person of a minor or of his property or of both his person and property." This presumes that there may be one guardian for the "person" and another guardian for the property in which case the consent of the personal guardian should be required. In this view I think one person is enough for being a guardian. The words "or of his property" should be omitted.

WITNESS: If that is your suggestion I accept.

SHRI K. P. MALLIKARJUNUDU: Coming to clause (3) (2) (b) (i) it says:—

"the continuance of the pregnancy would involve a risk to the life of the pregnant woman or of injury to her physical or mental health".

I would like to add the word "grave" before "injury" because this word occurs in Explanations I and II.

WITNESS: I agree. It ought to be there.

SHRI K. P. MALLIKARJUNUDU: You said that the figure mentioned in the Memorandum is too low. How much amount would actually be required for these facilities according to you?

WITNESS: I won't be able to give any definite figure. Possibly there may be millions of abortions and hundreds of crores of rupees may be required. The cost of a normal delivery is Rs. 100 and that of an abnormal one is much more.

SHRI K. P. MALLIKARJUNUDU: Do you want that sub-clause (ii) should be omitted where it has been said:

"(ii) there is a substantial risk that if the child were born, it would suffer from such physical or mental abnormalities as to be seriously handicapped."?

WITNESS: Make it dependent on sterilisation immediately thereafter, so that there will be no further abortions. The parents themselves ought to realise their responsibilities and get themselves sterilised before any pregnancy occurs. Abortion should be permitted on the condition that they will get themselves sterilised immediately.

DR. SUSHILA NAYAR: Explanation II deals with failure of contraception.

WITNESS: The hon. Member is referring to sub-clause (ii), not to the Explanation.

SHRI K. P. MALLIKARJUNUDU: About environments you said that doctors are not competent to judge the merits of environments. Then what do you suggest in that case?

WITNESS: I am against the whole clause relating to environments. The whole thing should go.

SHRI K. P. MALLIKARJUNUDU: If it is retained, have you got to suggest any further safeguards?

WITNESS: The only safeguard is to appoint a Board which should go into the whole thing. This is prevalent in Sweden. The Board should decide whether it is permissible or not. Otherwise what will happen is this: There may be two persons who may disagree with each other. One person may have a grievance against the other. Then who is to decide the issue? Somebody may say that the judgment is given wrongly; it might lead to several complications.

DR. SUSHILA NAYAR: Would you like to retain Explanation II or would you like to delete it?

WITNESS: Explanation II as it stands allows abortion even for the first child or the second child. It is only after the third child, if at all, that abortion may be permitted for failure of contraceptive efforts.

SHRI G. GOPINATHAN NAIR: The period up to which abortions can be

allowed according to the provisions of his Bill is 20 weeks. Would you like to have that period extended?

WITNESS: No, Sir. As it is, it is bad enough.

श्री जगेश्वर यादव: जों ग्राहमों शिक्षित नहं हैं, जैसे कि पहाड़ों में कोलमल रते हैं, झुगी-झोंपड़ा में रहते हैं, उनके ऊपर यह टर्मिनेशन की सिच्युएशन पैदा होती है तो क्योंकि वे जानते नहीं हैं इस चीज को, उनके लिये गवर्नमेंट की तरफ से क्या फैसिलिटी होगी इस स्थिति के लिये।

WITNESS: The Government can answer that.

DR. (MRS.) MANGLADEVI TALWAR: Mr. Shah, you have referred to unmarried girl and unmarried woman in this....

WITNESS. It is a slip in drafting which I hope the draftsman can correct.

DR. (MRS.) MANGLADEVI TALWAR: No, no. I am referring to another point. I think in "unmarried girl" and "unmarried woman", the word "unmarried" should be deleted. A "woman" is enough. A "girl" means that she is under-aged and a "woman" means that she is of age. Therefore, in both the places instead of "unmarried girl" and "unmarried woman", there should be simply "woman". Many women's organisations and social workers feel that this word "unmarried" before a "woman" would create a social problem and would create conditions which the society would not like. It does not matter whether a woman is married or unmarried. When a woman is pregnant and her pregnancy is unwanted, she can be rid of it by the conditions that are laid down in this clause. Therefore, my suggestion is that the word "unmarried" should be deleted in both the places.

WITNESS: The clause requires that their consent has to be obtained.  
1041RS-3.

ed. The point is the consent of the father or the guardian in the case of an unmarried girl and an unmarried woman has to be obtained. So, this clause only deals with the consent part of it, as to whose consent has to be obtained. It does not deal with the conditions of abortion.

DR. (MRS.) MANGLADEVI TALWAR: There won't be much difference. For instance, for a widow they have put a "guardian." The same thing can be for an unmarried girl or an unmarried woman. It won't make much difference if words like "married", "unmarried", or "widow" are not mentioned. So you can say a "minor person" or a "major person"....

WITNESS: In the case of an unmarried woman who is a lunatic, who will give the consent

DR. (MRS.) MANGLADEVI TALWAR: We can make an exception in the case of a lunatic. I am referring to the condition of an unmarried girl and an unmarried woman who becomes pregnant and who resorts to unlawful abortion. You know a stigma is attached to the family of that girl or woman and naturally nobody likes it. It will lead to undesirable results. So this word "unmarried" should be deleted. You can say a "minor girl" or a "woman".

DR. SUSHILA NAYAR: I will supplement what Manglaji has said. Many people have felt that when you mention "widow" and "unmarried", it gives an impression that you are advocating abortion in their cases. So please avoid the use of words like "widow" or "unmarried". If there is a minor or if there is a lunatic, you can say the consent should be obtained from the "guardian". And also you do not need to mention "husband". Specifically. In all other cases the adult woman's decision should be final.

WITNESS: If the Committee decides that way the draftsmen will be

able to take care of this suggestion, let it be so.

**SHRI N. R. LASKAR:** Mr. Shah, your Committee (to study the question of Legislation of Abortion) has done a wonderful work. But you have studied only certain limited categories. And you have come to certain conclusion do not mind. Do you not think that a popular and social law like this requires the consent of the public in general? I do not know whether you have gone into that aspect also.

**WITNESS:** We have examined a large number of cases. The Committee has examined a large number of witnesses. A list of the witnesses is also given in the appendix. We also issued a questionnaire. That is all that a Committee normally does.

**SHRI N. R. LASKAR:** Do you think that was enough?

**WITNESS:** If you like, the Bill may be sent for circulation.

**SHRI N. R. LASKAR:** Do you think enough discussion has taken place regarding this in our country?

**WITNESS:** If you mean a discussion around a table, it can be limited only to the elite or the educated or the literate people.

**SHRI N. R. LASKAR:** There are certain countries in the world who take this abortion law as a means of controlling population.

**WITNESS:** Yes, we have given a list of such countries in the report.

**SHRI N. R. LASKAR:** Do you agree with them?

**WITNESS:** No. I said population control should be by family planning methods. But if you go in for abortions in order to control population growth, then, the family planning programme to that extent suffers.

**SHRI P. VISHWAMBHARAN:** You have referred to the constitution of a board as in Sweden or some other

country. Do you want a board for the whole country or a board at the district level or the regional level in a vast country like this?

**WITNESS:** The proposal for a board would be there, but it would be almost impossible to have it.

**श्री गंगाचरण दीक्षित :** आपने कहा है कि रजिस्टर्ड मेडीकल प्रेक्टिशनर्स की जगह पर पोस्ट ग्रेजुएट क्वालीफिकेशन वाले होने चाहिए। यहां तो वैसे ही डाक्टरों की कमी है, दस हजार के पोछे एक डाक्टर है, क्या यह एक्ट बनने के बाद इतने ऐसे डाक्टर मिल जाएंगे ?

**साक्षी :** कमी इतनी भारी है कि ऐसा कदम न उठाया जाय। पहले डाक्टरों की कमी दूर करनी चाहिए, नहीं तो इसके भारी दुष्परिणाम होंगे।

**डा० सुमोला नैयर :** रजिस्टर्ड प्रेक्टिशनर की जो बात है उस बारे में तो ऐसा है कि रजिस्टर्ड प्रेक्टिशनर्स ऐसे हैं जो 10 बरस से काम कर रहे हैं, कहीं तालीम नहीं पाई वे भी रजिस्टर्ड प्रेक्टिशनर हैं। तो इसमें कुछ क्वालीफिकेशन रखेंगे कि गाइनोकोलोजी की ट्रेनिंग हो?

**WITNESS:** I said in modern medical science with a postgraduate qualification in gynaecology.

**SHRI SAWAISINGH SISODA:** In regard to clause 3 (2) you have mentioned that the concerned doctor should be a postgraduate doctor. I would draw your attention to clause 4 where the place where pregnancy may be terminated is mentioned, i.e., a hospital established or maintained by Government or a place for the time being approved for the purpose of this Act by Government. Having regard to this provision, do you still insist that an MBBS or a doctor with a postgraduate qualification only should do this operation?

**WITNESS:** A hospital gives you a place and the instruments, but a suc-

cessful operation is an entirely different matter. If there is a hospital and there are instruments, could I go and do it? Skill is as necessary as hospitals and instruments.

**SHRI SAWAISINGH SISODIA:** As you have mentioned there is paucity of postgraduate doctors even at the taluka level. Looking to the conditions of our country, which you recommend that even an MBBS doctor should not do this job, will it ever be possible for the benefits of this Bill to reach the people?

**WITNESS:** We are playing with the life of a woman. The option is there. Shall we wait for some time or shall we be in a hurry? Shall we do something which does not fulfil the conditions? The Committee has to decide between these two. Should we wait or should we be in a hurry? We could wait and after five years or ten years we should review it.

**SHRIMATI USHA BARTHAKUR:** Sterilisation especially of the male is several times better than abortion. While abortion is temporary, sterilisation is permanent. So, we should encourage sterilisation rather than abortion.

**WITNESS:** We should not encourage abortion. It is a thing to be tolerated, not encouraged.

**SHRIMATI USHA BARTHAKUR:** We should encourage sterilisation.

**WITNESS:** Yes. Sterilisation is already a part of the family planning programme and certainly in the case of those who have some hereditary infirmity.

**CHAIRMAN:** Thank you very much. Sorry, we have kept you here for so long.

**WITNESS:** If the Committee requires my assistance, I shall be happy to come again. Thank you.

[The witness then withdrew]

*Shri V. Balasubramanian, Editor, Eastern Economist, New Delhi, was then called in)*

**CHAIRMAN:** Mr. Balasubramanian, kindly treat this as confidential till the report is published and placed before Parliament. It should not be published in your paper or any other paper till then. Your article has been circulated to Members. Now, you are welcome to give your opinion on the Bill and on the clauses of the Bill.

**SHRI BALASUBRAMANIAN:** I welcome this Bill whole-heartedly. I think it is a desirable piece of social legislation and it has not come a day too early. In my view, the purpose of the Bill will be served only if the provisions are made very simple, so that as many people as possible could take full advantage of it. On this matter there should not be any mental reservations on the part of Parliament. There should not be any equivocation or hypocrisy. I am not meaning any disrespect to Parliament or this august body. I am very clear in my mind that we should be bold enough morally and in the sense of law-making to face the issue squarely. It is true that the objects and reasons emphasise the health aspect, the eugenic aspect and the humane aspect. In addition, we should also—when I say 'we' I mean the Committee and Parliament—not hesitate to face squarely the demographic aspect. After all we all know that this Bill is being introduced and debated in the context of the family planning programme. It is a national programme, to which the Government, Parliament and the people are committed. Therefore, I would say that in considering this Bill, in considering how it should be implemented, we should take this aspect into account and see that it also serves whole-heartedly, without any reservation, the purposes, the aims and the objects of family planning. We should see that the vast expenditure from the taxpayers' money, which is being incurred on this campaign, be

comes more effective. Having said this as preliminary remarks, I have to say one or two things on the details of the bill. Clause 3 (2) Explanation II says: "Where any pregnancy occurs as a result of failure of any device used by any married woman or her husband for the purpose of limiting the number of children", etc. I believe that the word 'device' is too restrictive, because as we all know, it is not necessary that the practice of family planning should always involve the use of a device. There are other ways which do not involve the use of a device. For instance, there is *coitus interruptus*, there is the rhythm method. Therefore, I would say that instead of saying device we may say technique. That makes it clear. I think the wording of this explanation needs a change.

The second point I wish to make is this. Again the same explanation: "Where any pregnancy occurs as a result of failure of any device used by any married woman or her husband for the purpose of limiting the number of children," etc. Here we are introducing family planning. I am very glad that this is being done, although as I said earlier, I wish it could be said more openly and instead of its being introduced through the explanation it is made a regular clause of the Bill. This apart, I have got a further suggestion to make. I will go very much further to liberalise this provision. Here I do not think the father should have any right at all. The only person concerned is the woman. In my view, and it is in our interest and also in the national interest of family planning, wherever a woman says she has been practising family planning and the practice has failed, then it should be accepted as a sufficient explanation. If it is said that the medical practitioner should be asked to satisfy himself, how can he satisfy himself? If the woman comes and says that she practised family planning and in spite of it pregnancy has occurred it should be sufficient. A simple written statement to that effect should be enough

for the doctor to act upon. No further conditions should be imposed that the doctor should satisfy himself that the family planning practice has failed. It is too much to ask. It is not possible for a doctor to know that. Therefore, a simple statement from the woman should be enough. However, there may be two conditions here. The first condition is that she should have already had three children. The second condition is that the last child should have been born within the last 24 months. If these two objective circumstances are there, the *bona fides* of the woman should be taken as proved. She has had three children and she does not want a fourth. She has had a child within the last 24 months and she does not want another child so soon. If these objective things are there and the woman says that she has been following family planning methods and they have failed, that should be enough. I do not think that the doctor should be asked to satisfy himself.

Then in clause 3 (2) (b) a distinction is made between the various stages of the pregnancy, where the length of the pregnancy does not exceed 12 weeks and where it exceeds 12 weeks. There is very good medical justification for making this distinction because when pregnancy has lasted for a certain period, then there is risk for the life of the mother. But then to say that there should be not less than two registered medical practitioners acting together to terminate the pregnancy if it is more than 12 weeks, I do not see any reason for this. After all the quality of the operation, the safety of the operation does not depend on the number of doctors. What is important is the competence of the doctor. Merely to say that there should be two doctors when we have not taken any steps to prescribe the qualification that one of the doctors should at least have had ten years experience or things like that—what is the meaning of saying that two doctors should be there and that they should

act together? There may not be two doctors immediately available. I think this could very safely be eliminated and no distinction should be made between pregnancy of 12 weeks and pregnancy of more than 12 weeks. Thank you.

SHRI N. R. LASKAR: We are thankful to you. You have come here as a witness today. You have some interest in this subject or what? In what capacity?

WITNESS: As a citizen of India. I am interested in public issues which affect the national interest. Secondly, I am myself a practical believer in family planning in spite of the fact that I have five children. Vasectomy at the time was not so commonly known. In 1947 I had vasectomy done on me when I had my fifth child. The youngest is now 25 years old. I am interested in family planning in theory, in the abstract and also in practice.

SHRI N. R. LASKAR: Of course it is a personal question. Please do not mind. Before you came here have you gone through the literature of the various countries on the subject or not?

WITNESS: I had gone through it, not just for the purpose of coming here before the august Committee. In fact I am aware of such literature and I have certainly done my best to study it. I have been regularly reading the literature on world developments on this subject.

SHRI N. R. LASKAR: Which other countries are making abortion as a method of family planning?

WITNESS: Japan. It has succeeded to a very remarkable extent.

SHRI N. R. LASKAR: Do you think our people with their social and religious background will accept abortion as a method of family planning?

WITNESS: With due respect to you, it is rather a strange question. I think abortion is being practised in our country and it has been there all

along, for many years; there is nothing new or strange about it. It might be carried on in a clandestine manner. How do you say the people will not accept legislation?

SHRI N. R. LASKAR: Do you want abortion just for the asking?

WITNESS: I do not mean it that way. I do not think there is any objection ground with regard to that. However, I stand for abortion.

SHRI N. R. LASKAR: If you are for population control. Why do you go in for abortion? Why not sterilisation?

WITNESS: The point is we cannot compulsorily sterilise. And in a democratic country an individual has the right to ask for abortion without having to agree to sterilization. Therefore, if the circumstance arise and the individual concerned wants it the society should not raise an objection so long as the safety and the health of the woman is not affected.

SHRI N. R. LASKAR: After the normal two or three issues, which one will you prefer, abortion or sterilisation?

WITNESS: Sterilisation after the delivery. It is not an alternative to abortion. The question is: How can you force a lady to bear an unwanted child. You should not punish her further.

SHRI N. R. LASKAR: Do you think that a simple medical practitioner can do it?

WITNESS: Any gynaecologist should be able to do it.

SHRI V. VISWAMBHARAN: You say that after three children a woman should be allowed abortion if she says that in spite of adopting family planning methods she has failed to avoid pregnancy provided the youngest child is 24 months.

WITNESS: Yes, in such a case the Government should help her.

SHRI V. VISWAMBHARAN: You do not put any sanctity to 24 months.



WITNESS: No, but longer the pregnancy the greater the risk.

SUSHILA NAYAR: I am very glad that you have taken interest and you have said that it should be the woman who decides and not the husband and guardian, except in the case of minors and lunatics matter of this type and it is the woman who should decide whether she wants abortion. You have said that the youngest child should be 24 months before you perform the abortion. I presume you are thinking that the youngest child should have crossed the most hazardous period of infancy when there is a high mortality rate.

SHRI P. VISWAMBHARAN: The question is of establishing the bona fides of a woman when she says that she has failed in family planning.

DR. SUSHILA NAYAR: Would you not go in for sterilisation after the third child after third delivery. After delivery, uterus being bigger sterilisation is easier. Would you not favour sterilisation instead of abortion. Abortion may result in the husband becoming reckless; husband may not co-operate with her in the matter of contraception leading to repeated abortion.

WITNESS: Medically it is very desirable that there should be sterilisation after the third child. And the persuasive influence of the doctor or the family planning personnel should be used. In the first place imposing a condition like that will I think be unconstitutional.

DR. SUSHILA NAYAR: Why should it be unconstitutional? If the woman is morally serious that she does not want another child at all let her prove her bona fides by undergoing sterilisation. One way is let her complete the pregnancy and then come for sterilisation but if you help her with abortion you can say that we will help you provided you agree to undergo sterilisation. This is the recommendation of the Committee also.

WITNESS: I have my own doubts about the legality or the constitutionality of a condition like that. Apart from that, assuming that it is legally valid or constitutional I would like to bring out this point for your consideration. All right, you make that condition and that woman or her husband says, we do not accept the condition. But they still want an abortion and they will go to the back-street practitioner. And one of the purposes of this Bill is to restrict the area of illegal abortions and that purpose will be defeated. So my whole point is you should not put too many conditions.

DR. SUSHILA NAYAR: Has it come to your notice that with all the freedom, with all the facilities, in Japan the number of illegal abortions is equal to the number of legal abortions?

WITNESS: That may be true but illegal only in the technical sense. But in Japan the law is more complicated. In Japan there is a Board if I am not mistaken. Our law is very simple and if we do not impose any conditions we can prevent people from taking recourse to illegal abortions.

DR. SUSHILA NAYAR: Have you considered this fact? With the facilities that we have in India, the number of doctors that we have in India, the number of hospital beds that we have in India, do you think we can cater even for a fraction of the abortions if you make it so universal that any woman who wants to have abortion can have it?

WITNESS: I would say that I do not expect a flood of people queuing up for abortion.

DR. SUSHILA NAYAR: There will be millions of abortions.

WITNESS: Let me explain. I may be right or I may be wrong but what I feel is this. There is still a certain amount of physical fear for any kind of surgery. People do not readily go in for surgery even when it is essen-

tial. As a doctor I am sure you know this. They want to postpone what they call the evil day as far as possible. And so far as the village people are concerned in realistic terms there is no question of our catering to their needs unless we have got mobile surgery service, hospital extension service and things like that. Primarily it is the urban people who in the first instance will be taking advantage of this. And most of the urban people are already following some kind of family planning practices and 'his problem of abortions will not be unmanageable in my view.

DR. SUSHILA NAYAR: Are you aware of the fact that after an abortion pregnancy comes much quicker than after a normal delivery? And once a woman comes for abortion and gets it she can come to you again after five or six months and as you know there is a substantial risk in abortion even today with all the best techniques that are available.

WITNESS: There is no difference of view that the woman who comes up for abortion should also—either she or her husband—undergo sterilisation. I am in complete agreement with that. But I wonder whether you can make that a condition.

DR. SUSHILA NAYAR: You said something about registered medical practitioners being able to perform abortion. Would you not like to suggest that the registered medical practitioner should have definite qualifications and skills to perform such an operation and it should not be just anybody who has been practising for 10 or 15 years even without any qualifications who may be asked to do these operations.

WITNESS: The point is this. Let us look at the basic facts. Now, this registered medical practitioner, what is he supposed to be registered for? I suppose that people's lives are normally safe in his hands.

DR. SUSHILA NAYAR: Normally a person goes to a registered medical practitioner if he has a little bit of fever or some minor ailment and he

is given a little medicine which generally neither cures nor kills, whereas here you are putting a surgical procedure into his hands where things can go wrong in a million ways, inadequate sterilisation, inadequate skill, inadequate after care and so many things.

WITNESS: So far as the poor people are concerned I suppose they will when they need an abortion go to the public facilities, Government and other institutions, Government hospitals, clinics, and things like that.

DR. SUSHILA NAYAR: Are you so sure that the Government hospitals are well-staffed and well-equipped? I wish I could agree with you on that.

WITNESS: After all we have got to go by what we have. We cannot have an entirely new medical system, a new system of hospitals and other institutions merely for abortions when so many other serious cases are being treated in the hospitals we have day in and day out. At this stage we cannot question the competence of our hospitals.

DR. SUSHILA NAYAR: You see in the Primary Health Centres you may have the ordinary registered medical practitioners. You do not go to him for an abdominal operation. For such things you go to the District Hospitals. So also for abortions one should not go to an ordinary registered medical practitioner but go to District Hospitals where there are qualified persons. Don't you think it would be better that you put that condition that the practitioners should be properly qualified, whatever qualification you may prescribe just as a matter of precaution. It should not be done by anybody and everybody.

WITNESS: May I ask you what will be the qualifications which you would consider necessary for this?

DR. SUSHILA NAYAR: M.B.B.S. who has had experience of dealing with obsterics and gynaecology. I cannot propose post-graduate qualifications but I would certainly insist on

adequate experience in gynaecology and obstetrics.

WITNESS: In other words the main purpose is to exclude practitioners of other systems of medicine?

DR. SUSHILA NAYAR: No; it is not. I cannot agree with you that the main purpose is to avoid them. The main purpose is not to put this very dangerous procedure in the hands of a person who is not adequately trained for it. If there is an integrated ayurvedic person who has had experience of obstetrics and gynaecology it may be all right for him or her to do it but it should not be anybody and everybody who may perform abortion. Registered medical practitioner is a very vague term. Anybody can be a registered medical practitioner.

WITNESS: Merely for the purpose of a particular kind of surgery are you going to prescribe a special cadre of doctors?

DR. SUSHILA NAYAR: Sure, sure.

WITNESS: In that case you will be narrowing the facilities available which are already very limited.

DR. SUSHILA NAYAR: I do admit that the facilities available are inadequate but the suggestion that you make is not right. I would ask you this: is your object to help these people or is your object to expose them to unnecessary risks?

WITNESS: Of course to help these people.

DR. SUSHILA NAYAR: Then we must help them properly.

WITNESS: The point is, the woman is determined to have the abortion. If she wants to have it, she now has it even by the crudest methods.

DR. SUSHILA NAYAR: Therefore we are allowing it under certain conditions. You said something about two doctors not being necessary. Do you know that a woman can collapse in abortion and if a second doctor is

not there to revive her, she will be in a mess?

WITNESS: The point is this. As you very well know, medical practice, even in a socialist society, is not evenly divided among all medical practitioners. People command confidence for their known efficiency. Some doctors have a larger practice and there are also doctors, like lawyers, who do not have any practice at all. My own view is, leave it to the people. You will find in due course that doctors who are efficient will get practice and the others will not.

DR. SUSHILA NAYAR: My dear friend, you seem to be taking the life of a woman very cheaply. If you want them to learn in the light of their experience, then so many would have died, and so many would have gone septic. Won't you prescribe some minimum conditions and then ask the Government to fulfil them? After all, they are having mobile teams for sterilisation operations. We have insisted that only qualified people will do the sterilisation. We have not said that anybody can do it. Similarly, if this abortion measure is enacted, it will be necessary for the authorities to provide those facilities if we insist on certain minimum conditions.

WITNESS: By all means have a refresher course or an extension course for training people. That will be excellent. I have no objection to that. But if you are going to prescribe some specific qualifications, then already there are a very limited number of people available and they will become still more limited.

DR. SUSHILA NAYAR: I hope you agree that today we are not in a position in which we can just throw the floodgates open for abortions?

WITNESS: There is no floodgate; that is my feeling. There are social habits. People do not think very well of abortion. Only one in a hundred will seek abortion, not everybody.

DR. SUSHILA NAYAR: Quite a large number of abortions are taking

pace today. As a doctor I can tell you that sometimes the doctors are in a very difficult position. That is why we have brought this legislation. The demand will increase.

**WITNESS:** The State Government can have powers to regulate that. Let them prescribe conditions.

**SHRIMATI USHA BARTHAKUR:** In your note, you say that the proposed legislation would play an effective part in furthering the national policy of population control and the Government's efforts on family planning. Over and above these, do you not think that this induced abortion will help much in preserving the mothers' health and consequently in strengthening our nation?

**WITNESS:** The consideration about the mother's health is stated in the Bill. So I thought there would be no point in labouring the obvious. But I wanted to ring out the other aspect, i.e. family planning, which has been suppressed in the Bill. I said, why are you trying to be unnecessarily diplomatic about it? After all, this must also be an important instrument of family planning. Think of the Bill in terms of this also, so that it can be more useful. About this, the Bill is rather secretive.

**SHRI K. P. MALLIKARJUNUDU:** Do you think that this Bill will have any adverse effect on the morals of the community?

**WITNESS:** Well, I am not saying that there would not be a marginal effect by way of profligacy or licentiousness or things like that. But I think it could be exaggerated. In our country there are so many social conventions and practices which are still strong. They are becoming less strong, but they are still there. When all is said and done, the opportunities for intercourse—I am using the word in the general sense—between men and women are still limited in our country. Many of our girls who go to schools and colleges cannot bring their boy-friends into their houses freely. The

contacts are limited. There are other safeguards also. In our country, the general social atmosphere is such that I think there are restraints already. In a more liberal or more free society, there can certainly be this adverse effect.

**SHRI K. P. MALLIKARJUNUDU:** In the present condition of our society, there is no danger of adverse effect?

**WITNESS:** Only marginal.

**SHRI K. P. MALLIKARJUNUDU:** Do you think that legalisation or liberalisation of abortions will reduce the number of illegal abortions in this country considerably?

**WITNESS:** Not by itself. It depends upon the facilities that are made available along with legalisation.

**SHRI K. P. MALLIKARJUNUDU:** You said that there are many "practices" of contraception and so the word "device" is not adequate. If instead of the word "device", we adopt the word "practice", do you think it will suffice to cover all the cases?

**WITNESS:** Yes, I think it would be much better.

**CHAIRMAN:** Thank you very much, Mr. Balasubramanian, for your valuable evidence.

**WITNESS:** Thank you, Mr. Chairman. I must apologise for my bad throat. It must have caused some difficulty.

*[The witness then withdrew]*

*[Dr. (Shrimati) Puspa Madan Lady Hardinge Hospital New Delhi, was then called in]*

**CHAIRMAN:** I welcome you on behalf of the Committee to give evidence before this Committee. Your evidence will be treated as confidential and it will be published when the proceedings of this Committee are published. Till then you will kindly keep it confidential. Now you can give your general views on the Bill and then take up the various clauses.

**DR. MADAN:** As it has been mentioned that this may be called the

**Medical Termination of Pregnancy Act.** I presume that it is going to be according to the medical conditions, namely, that we are going to consider certain conditions as an indication for the termination of pregnancy. In clause 2 definitions of "guardian", "lunatic", "minor", etc. are given and I do not think I have much to say on them. Regarding clause 3, sub-clause (2), under this a pregnancy can be terminated by a registered medical practitioner where the length of the pregnancy does not exceed twelve weeks. Here instead of one medical practitioner, I would like two medical practitioners to be involved because in the subsequent sub-clause you have said, "not less than two registered medical practitioners, acting together where the length of the pregnancy exceeds twelve weeks but does not exceed twenty weeks". I think the first twelve weeks are as important as the subsequent eight weeks because many complications do occur during the first twelve weeks also. According to my experience, we do see a large number of patients coming to the hospital where termination has occurred before twelve weeks and there have been many complications. So even for that I feel there should be two registered medical practitioners. Another point is in this sub-clause the period has been increased to twenty weeks. I do not know why it has been limited to twenty weeks because we take the viability of the child after 28 weeks. Twentyeight weeks are taken as period of viability. There may be an early abortion or there may be a late abortion.

Then, sub-clause (2)(b)(i) of clause 3—"the continuance of the pregnancy would involve a risk to the life of the pregnant woman or of injury to her physical or mental health." There I agree. Even now it is taken into consideration. If there are indications that there is a risk involved to the mental or physical health of the woman, the pregnancy should be terminated. I think this is a very valid point. Then (ii)—"there is a substantial risk that if the child is born, it would suffer

from such physical or mental abnormalities as to be seriously handicapped." This is also one of the very important medical indications for the termination of a pregnancy.

Then comes Explanation I—"Where any pregnancy is alleged by the pregnant woman to have been caused by rape, the anguish caused by such pregnancy shall be presumed to constitute a grave injury to the mental health of the pregnant woman." This is also a valid point because if rape is committed on a woman, she does suffer physically and mentally and sometimes such woman come to the hospital in a precarious condition for abortion. Or, if such woman give birth to children, the society does not accept them. So, naturally they suffer mentally. This should be considered as one of the very strong points for the medical termination of a pregnancy.

Then Explanation II—"Where any pregnancy occurs as a result of failure of any device used by any married woman or her husband for the purpose of limiting the number of children, the anguish caused by such unwanted pregnancy may be presumed to constitute a grave injury to the mental health of the pregnant woman." Well, this is part of the family planning programme. I think a woman is justified in asking for the termination of her pregnancy when she has honestly used the methods prescribed to her but when such methods have failed or when she becomes pregnant following a loop insertion or following sterilisation. Because of the failure of all these methods—her pregnancy should be terminated.

Then sub-clause (3) of clause 3—"In determining whether the continuance of a pregnancy would involve such risk of injury to the health as is mentioned in sub-section (2), account may be taken of the pregnant woman's actual or reasonably foreseeable environment". This has to be seen because each case has to be decided individually. We cannot just draw a hard and fast rule for everyone. The detailed history of each person must

be taken into account. Then, Sir, with regard to clause 3 (4) (a), it may so happen that the husband may not give his consent; he may be against it. Then I think this woman will be doomed absolutely. Therefore if she herself gives in writing that she wants to have the pregnancy terminated, it should be allowed. Why the husband should come in, I really do not know. She herself is the best judge in this matter.

Then, Sir, the same thing applies to widow in clause 3(4) (b). She should have the authority to go in for termination of the pregnancy and her word should be taken into consideration.

With regard to clause 3(4) (c), I think this is a very valid provision. Her guardian has to be consulted.

Then, Sir, I agree with the provision made in clause 3 (4) (d).

Then, Sir, with regard to the provision made in clause 3 (4) (e), this is a very important point which I would like to emphasise. The consent of the pregnant woman must be obtained before terminating the pregnancy, because it is she who is going to have the pregnancy terminated.

Then, Sir, clause 4 deals with the place where pregnancy may be terminated. This is a very important point, because it has to be done in a well-established and a well-maintained hospital or institution, where any emergency cases can be dealt with. Pregnancy termination operation cannot be done in a private practitioner's clinic which may not be so well equipped. This has to be approved by the Government.

Then, Sir, clause 5 mention the wording 'not less than two registered medical practitioners'. After all an occasion may arise where there may not be enough time left to get the permission or the opinion of the other registered medical practitioner and that delay may cause avoidable harm to the patient. I think to that extent this provision requires to be modified.

With regard to clause 6 (1) (a), the State Government should have the power to make regulations for the preservation or disposal of such certificates.

About 6 (1) (b), while considering this provision, it has to be kept in mind that it has to be kept as a secret document and it cannot be made public; we must take sufficient care to see that the document is kept secret.

I agree with the provision contained in clause 6 (1) (c).

With regard to the provision contained in clause 6 (2), I have actually not been able to follow it. I would therefore like somebody to explain to me that it exactly means.

About clause 6 (3), I cannot just commit myself to the penalty of Rs. 1,000. Of course there must be some punishment awarded to such persons who wilfully fail to comply with the requirements of any regulation but whether that amount should be Rs. 1,000 or less or more, I cannot be specific about it.

Then, Sir, with regard to clause 7 of the Bill, I must submit that this is a very important provision but, in spite of the best care and attention devoted to the case, something may go wrong somewhere and occasionally some accidents may take place. Therefore it must be taken into consideration that the intentions were good but still a particular accident took place and the person concerned should not be punished for that, so long as it is done in good faith.

Thank you.

**SHRIMATI USHA BARTHAKUR:** There is an increasing demand for sterilisation or abortion. Do you think that the Medical Health Service is competent enough to meet the increasing demand?

**WITNESS:** I am afraid there are not enough competent people and there is not enough place. For example, if we take the Government hospitals into consideration, they are already overloaded with other types of work. To give this extra-load, it

will not be useful. We should have more beds and more equipment even as it is.

**SHRIMATI USHA BARTHAKUR:** Many people in our country feel that abortion would open the floodgate of immorality and cause a transplantation of the Western pattern of living. What do you think about it?

**WITNESS:** I do not agree with it. This is going to be decided on a medical indication. Well, as it is thousands of abortions are being performed everyday in the country without any law being there, so we cannot prevent them. I am sure introduction of this Bill will not prevent them. I do not think that by introducing this Bill you will encourage immorality.

**DR. SUSHILA NAYAR:** Dr. Madan, I want to ask you three or four questions. First of all, you will have notice that the Bill mentioned a registered medical practitioner. A registered medical practitioner, as you are aware, can be anyone who has been practising, whether trained or untrained. Would you not like to prescribe certain qualifications? For performing these operations, they should have a certain minimum experience or ability or skill to deal with the conditions and the type of cases that we have envisaged in the Bill. If so, what conditions would you prescribe?

**WITNESS:** Dr. Nayar, it is a very valid question. It is mentioned—a hospital established or maintained by Government....

**DR. SUSHILA NAYAR:** Let us first come to the practitioner. I presume that in these Government hospitals a registered practitioner who has been recognised by the Government, will perform the operation. Only he will be allowed to do it, not any practitioner from outside the hospital.

**WITNESS:** Yes. I should like to explain it. He should be a practitioner of the standing of a consultant. He should certify that the operation could be done. Of course, it can be performed even by the Registrar or Lecturer or by any other junior who is good enough to do it, but from the point of view of certification, I think he should be a consultant. The second person to be taken into consideration should be a physician of a consultant's standard or a psychiatrist of senior standing. We cannot leave it to the general practitioner or to a junior to decide it. They are too junior and could be led away by the people. They would like to please people and they may just listen to the public or their sentiments. So, I think they must be senior people.

**DR. SUSHILA NAYAR:** You have said consultants, psychiatrists and physicians, are needed. You are a professor and your mind thinks in terms of the types of people you are associated with, but a registered medical practitioner may be an Ayurvedic, may be a homoeopath or may be somebody who has had no training of any kind at all. Are you implying that whoever is allowed to do the operation should be an MBBS with a post-graduate qualification? Is that what you are trying to bring out?

**WITNESS:** What I mean is that the doctor must be well-versed with the problem and must have done surgery. He cannot just go and do the termination of pregnancy without surgical knowledge.

**DR. SUSHILA NAYAR:** Are you aware that these integrated-course doctors are doing it?

**WITNESS:** I do not know and so I cannot answer that question.

**DR. SUSHILA NAYAR:** In other words, would you like to prescribe definite conditions of training as well as experience before you allow them to do this?

WITNESS: Yes, certainly. We cannot leave it in the hands of untrained and unexperienced.

DR. SUSHILA NAYAR: You may think over and send us a note saying what in your opinion should be the barest minimum qualifications in some detail.

WITNESS: Certainly.

DR. SUSHILA NAYAR: Secondly, with regard to Explanation II you agree that the woman has a right to ask for termination of pregnancy. Now, would you not put here a condition that the woman has a certain number of children already? Would you leave it to the woman entirely to have the pregnancy terminated?

WITNESS: Definitely two or three children are necessary or whatever number she desires. If a woman is wanting termination of pregnancy, she should have sterilisation at the same time or her husband should have sterilisation. Otherwise, there is no idea in terminating pregnancy. It has been seen that after termination of pregnancy, she becomes pregnant again very quickly and she comes back for repeated abortions. So, there is no idea in having the pregnancy terminated that way. It has to be individualised. She may have two children and she may not want a third one.

DR. SUSHILA NAYAR: You said something about the woman deciding whether to bear a child or not and that husband's permission may not be necessary. Now, would you not like to leave the decision of having an abortion or not having abortion to the woman herself and not insist on the permission of the husband or guardian or anybody, except in the case of minors and lunatics?

WITNESS: I agree with you. I have not said that the husband has got a right. The woman has every right to decide for herself whether she wants to continue the pregnancy or not.

DR. SUSHILA NAYAR: In this Bill widows, unmarried girls, etc. etc., have been mentioned. Many people have taken objection to this. They say; why do you want to bring in widows and unmarried girls which gives the impression that you are trying more or less to propose or encourage use of this facility by these types. Instead of that you just mention a woman, without defining whether she is a widow or she is unmarried or married. If she wants termination of pregnancy, let her have it except in the case of such persons who are out of their mind and who are minors. What is your view?

WITNESS: We could leave it like that. We could just say she decides for herself whether she is a widow or unmarried.

DR. SUSHILA NAYAR: Then you said something about hospitals and the need for being ready for an emergency. What do you think would be the requirements, even if you have a limited number of abortions as envisaged in this Bill, that is, for certain specific reasons? Still this is a large country with a large population. Would you like to hazard a guess as to how many may come for abortion, millions or lakhs, what would it be? What do you think would be the need for additional facilities besides what we have for this purpose?

WITNESS: Whether the duration is a mere 12 weeks or above 12 weeks accidents do happen. With the best of help these can happen. I think the minimum need is a qualified surgeon. We do have patients admitted with induced abortion outside. Some of them are in a very very bad condition. We have to operate on them. So I think it would be necessary to have these facilities at hand when such a procedure is carried out.

DR. SUSHILA NAYAR: What I was trying to get at was extent of additional facilities required. It would be better if you can give it now, or you may like to think it over and send to



us what you think will be the need for additional beds, additional number of doctors, and any other additional facilities to deal with what we are proposing in this legislation to give as service? As you yourself mentioned, the Government hospitals at present are already overloaded. If we wish to add this added responsibility, what are the additional facilities you need in your hospital and judging from that what you think the country will need or at any rate? Delhi will need?

WITNESS: I think it will depend on each area. I cannot give you the whole figure, the total figure for the country. My hospital has about 2000 to 3000 abortions per year and about 300 to 400 bad cases. But I must say that we will not have that number coming to us because of all these patients that come to us very few of them have abortions for medical indication; most of them have induced abortions for socio-economic reasons. But comparatively I think what we need in any hospital is we want two doctors and about half a dozen beds to start with. We have a well-equipped operation theatre which we can utilise. One anaesthetics will be required. These would be the minimum requirements in our hospital.

DR. SUSHILA NAYAR: You might just give a deeper thought to it. Perhaps you can have some talks with your counterparts in other hospitals in Delhi. You give us some idea of what will be the additional requirements for Delhi. Let me put it this way. Do you think that the number of women coming for abortion will increase as a result of the liberalisation of the abortion laws?

WITNESS: I expect it to increase.

DR. SUSHILA NAYAR: But you do not know to what extent?

WITNESS: I cannot give you that as to what extent.

DR. SUSHILA NAYAR: You can only judge in the light of experience?

WITNESS: Yes.

DR. SUSHILA NAYAR: I think it will be a good idea if some of you exercise your minds as to what will be the additional requirements to give adequate service, for instance, in the Union Territory of Delhi, to cater for the needs of this law when it is enacted; would you be able to do so?

WITNESS: I will try.

SHRI N. R. LASKAR: It seems you are agreeing with most of the provisions of this proposed Bill, that is, you are for more liberalisation of this abortion law. Do you think that the existing law is not sufficient?

WITNESS: That does not include rape cases. That does not include cases where there will be failure of contraceptive methods. So far it does not include these. Other medical grounds, it includes; but these two additional factors it has not covered so far.

SHRI N. R. LASKAR: Do you agree that Abortion is to be used as a means of family planning?

WITNESS: That will not be as a means of family planning.

SHRI N. R. LASKAR: When you are agreeing to this proposition, i.e. failure of the contraceptive, how can you judge it?

WITNESS: There are various devices used by people. If there is a failure of sterilisation; sterilisation of pregnancy should be considered.

SHRI N. R. LASKAR: I cannot understand. Anybody can use any contraceptive. Does it mean that she or he will have to go to the clinic. Does it mean one has to practice contraceptive only through clinic.

WITNESS: Apart from sterilisation or the loop there are other methods of using contraceptive. They may be regular customers coming to the clinic for this purpose. If in spite of that the women becomes pregnant, that we should take that into account.

SHRI N. R. LASKAR: What will happen to those who say they are using contraceptives but that have failed?

WITNESS: But we cannot just accept anybody saying that unless we have evidence that they have been using it.

SHRI N. R. LASKAR: That is why we would like to understand your view. Somebody comes and says, "There is failure of contraceptive, so I want abortion". When you want liberalisation, will you accept it?

WITNESS: She would have attended some clinic or other. They will have to certify that she has been using contraceptives.

SHRI N. R. LASKAR: Does it mean that everybody should go through the clinic and not use it privately?

WITNESS: Otherwise how can we make it foolproof? There will be no evidence to say that these people have been using it.

SHRI N. R. LASKAR: The provision reads like this: "Where any pregnancy occurs as a result of failure of any device used by any married woman or her husband for the purpose of limiting the number of children, the anguish caused by such unwanted pregnancy may be presumed to constitute a grave injury to the mental health of the pregnant woman." As it is it simply means that somebody comes and tells of the failure of the contraceptive and wants abortion. You have to accept it as it is.

WITNESS: Somebody has to certify that they have been using it; otherwise anybody can say that they have been using it.

SHRI N. R. LASKAR: That means you want certain restrictions.

WITNESS: Yes, it should be certified that they have been provided contraceptives and they have been using them, but it has been a failure.

SHRI N. R. LASKAR: But do not you think this is always possible by giving a certain fee to any registered practitioner and get a certificate to this effect.

WITNESS: If this person is so keen to have pregnancy terminated and is willing to have sterilisation, at the same time there should be no objection.

SHRI N. R. LASKAR: Sub-clause (4) (a) of clause 3 says:—

"No pregnancy of a married woman shall, if such pregnancy is alleged by such woman to have been caused by rape, be terminated except with the consent in writing of her husband, if he is alive, or of the guardian of her husband, if her husband is a minor or lunatic."

You said that the consent in writing of the husband should not be there. Suppose some woman who is not covered by any other provisions, can take up this plea and without the knowledge of her husband come and ask for abortion? Do you not think there may be cases like this.

WITNESS: This is no doubt a flaw. I think there would be very few women like this. But I think every woman has the right to ask for abortion without the consent of her husband.

SHRI N. R. LASKAR: Suppose just to get the abortion, without the knowledge of the husband she takes the plea that she has been raped.

WITNESS: There will be very, very few cases, not many.

श्री निरंजन वर्मा : कानून की दृष्टि से तो रजिस्टर्ड मेडिकल प्रैक्टिशनर्स वह होते हैं जिनका नाम स्टेट मेडिकल रजिस्टर में दर्ज हो, तो क्या आपकी राय में ऐसे सभी आदमियों को इस प्रकार का आपरेशन करने का अधिकार देना चाहिये या नहीं या उनको ही देना चाहिये जो कि चाहे आयुर्वेद के द्वारा चाहे एनोपैथी के द्वारा शल्य-क्रिया में,

सरजरी में, एक्सपर्ट हो गये हों और उन्होंने उसका अच्छा ज्ञान प्राप्त कर लिया हो।

साक्षी : मेरा ख्याल है कि जिन्होंने अच्छा ज्ञान इसका प्राप्त कर लिया है उनको ही यह काम करना चाहिये।

श्री निरंजन वर्मा : चाहे वह आयुर्वेद के हों चाहे वह एलोपैथी के हों।

साक्षी : जी हां।

श्री निरंजन वर्मा : दूसरी बात यह पूछनी है कि समाज की स्थिति को दृष्टि में रखते हुए ऐसे केसेज भी आपके सामने आये होंगे जब कि अननैरिड गर्ल या विधवा स्त्री प्रेगनेसी को समाप्त कराने के लिये चुपचाप आती हैं तो वह नहीं चाहती कि उनका राज किसी दूसरे को मालूम हो, तो क्या आपकी राय में गर्वनमेंट को अधिकार दिया जाना चाहिये कि जब ऐसी प्रेगनेसी को समाप्त किया जाय तो गवर्नमेंट चाहे कि उसको नाम बता दिया जाय। तो यह नाम देना उचित होगा या नहीं।

साक्षी : मेरा ख्याल है कि नाम देना तो उचित होना चाहिए, नोटिफिकेशन होना चाहिये क्योंकि अगर नाम नहीं देंगे तो इसका मतलब यह है कि बहुत से ऐसे केसेज आयेंगे कि जिनका कुछ पता नहीं चलेगा और अंडरहैंड भी यह किये जायेंगे। नोटिफिकेशन तो होना चाहिये लेकिन, जैसा कि आप कहते हैं, यह चीज सीक्रेट रहनी चाहिये और गर्वनमेंट में एक ऐसा डिपार्टमेंट बनाना चाहिये जिससे कि वह इस बात को किसी को नहीं बताये।

श्री निरंजन वर्मा : यदि गवर्नमेंट के अतिरिक्त ऐसी अविवाहित लड़कियों या विधवा स्त्रियों के कोई सम्बन्धी आपके पास आयें और आपसे यह पूछें कि क्या हमारे यहां की लड़की ने गर्भपात कराया और वह किस से कराया तो उन सम्बन्धियों को कोई इस प्रकार की जानकारी देनी चाहिये या नहीं।

साक्षी : नहीं, बिल्कुल नहीं।

SHRI G. GHOSH: You do not object to one medical practitioner taking decision and acting in order to save the life of the mother; but when it is to terminate a pregnancy where the length of the pregnancy does not exceed 12 weeks why do you say of the necessity of recommendation by two medical practitioners? What is the purpose? Is it to prevent the mother from undergoing a premature termination of pregnancy?

WITNESS: This is quite a different point. I agree with clause 5 that one registered medical practitioner's advice is enough that the termination of such pregnancy is immediately necessary; otherwise I feel that there should be two medical practitioners. I have suggested two to make the whole thing safe both from the patient's point of view as well as from the doctor's point of view.

SHRI G. GHOSH: Is it more as a measure of precaution to save the mother's life and also to save the position of the doctor?

WITNESS: Yes.

SHRI G. GHOSH: In that case would also suggest the recommendation by a psychiatrist when it is to save the mental health of the mother?

WITNESS: Yes, a psychiatrist should also be consulted.

SHRI K. P. MALLIKARJUNUDU: Madam, is there any way by which the length of the pregnancy can be accurately measured whether it is 12 weeks or less than 20 weeks?

WITNESS: Yes, there is a method by which we do know how many weeks old it is. Medically we can judge.

SHRI K. P. MALLIKARJUNUDU: Is it scientifically possible to judge whether the child to be born would

have physical or mental abnormalities? Is it scientifically possible before the birth of the child to judge that?

WITNESS: Sometimes; it is not always possible, when a patient has had certain diseases like German measles in the early months of pregnancy then it is said it leads to some congenital abnormalities. Similarly if there has been irradiation it may lead to congenital abnormalities in the child or he may have taken certain drugs which may also lead to congenital abnormalities. So if we know that, that is an indication for termination of pregnancy.

SHRI K. P. MALLIKARJUNUDU: May I know what is the percentage of such cases where you can definitely say that?

WITNESS: They are small number; they are not very large number. Occasionally one does meet with such cases.

SHRI K. P. MALLIKARJUNUDU: In most cases do you believe it is possible to foresee that the child will be born with abnormalities or not?

WITNESS: It is possible in conditions of such hazards as I have just now mentioned to foresee that the child is exposed to dangers.

SHRI K. P. MALLIKARJUNUDU: As a layman I believe it is rather difficult. Perhaps the cases where you can say are quite few in relation to the cases where it is not possible to determine. What do you say about that? Am I right or am I wrong?

WITNESS: As I have said, it is not that it is not possible to tell. But in such cases where there is the possibility of abnormalities even if it is 70 or 80 per cent, we do not want that the mother should have the risk of having an abnormal child.

SHRIMATI TARA SAPRE: Don't think that woman who is above 40 years should be allowed abortion

without any questioning if she comes for abortion?

WITNESS: If she says she will have sterilisation it is all right. If she does not agree to it, she might come again with another pregnancy.

SHRIMATI TARA SAPRE: My point is whether she should not be given right of abortion without being questioned as to whether she used this or that or any other method.

WITNESS: Yes; I think so.

SHRIMATI TARA SAPRE: My second question is this. We have accepted lunacy. Are there any other hereditary diseases in which we should allow abortions without any other investigations? For instance, schizophrenia, leprosy, epilepsy and other diseases are there.

WITNESS: Lunacy is a definite thing; you see that the patient is lunatic. I am not a psychiatrist but I can tell you that schizophrenias have borne children in between periods when they are quite normal. But the question depends upon the degree of schizophrenia. As for epilepsy, it has been seen that when the patients become pregnant actually they stop getting epileptic fits. In some women epilepsy comes only when they are pregnant. We cannot tell how the patient is going to be. So I do not think that is an indication for termination of pregnancy. Of course we can say that she is epileptic and she cannot look after her child and so she should be sterilized if she has 2 or 3 children.

SHRI GANESH GHOSH: You said it is possible to determine almost accurately the period of pregnancy. Is it on the basis of what the mothers say or it can be done independently of what they say?

WITNESS: Independently also.

DR. SUSHILA NAYAR: Mrs. Spare asked you whether you would advise

termination of pregnancy in cases of leprosy. Do you think that leprosy is a hereditary disease?

WITNESS: It is only through personal contact that a person gets it. If the child can be kept away from the

mother, the child will not develop leprosy.

CHAIRMAN: Thank you for your valuable suggestions.

*(The witness then withdrew)*

*(The Committee then adjourned)*

*Tuesday, the 16th June, 1970*

**PRESENT**

**Shri Mulka Govinda Reddy—Chairman.**

**MEMBERS**

***Rajya Sabha***

- |                                 |                              |
|---------------------------------|------------------------------|
| 2. Dr. (Mrs.) Mangladevi Talwar | 7. Shrimati Bindumati Devi   |
| 3. Shri M. Srinivasa Reddy      | 8. Shri G. Gopinathan Nair   |
| 4. Shrimati Usha Barthakur      | 9. Shri S. A. Khaja Mohideen |
| 5. Shri Krishan Kant            | 10. Shri Niranjan Varma      |
| 6. Shri K. P. Mallikarjunudu    |                              |

***Lok Sabha***

- |                            |                               |
|----------------------------|-------------------------------|
| 11. Shri Vidya Dhar Bajpai | 19. Shrimati Shakuntala Nayar |
| 12. Shri Gangacharan Dixit | 20. Dr. Sushila Nayar         |
| 13. Shri Ganesh Ghosh      | 21. Shri Partap Singh         |
| 14. Shri Kameshwar Singh   | 22. Shri Ram Swarup           |
| 15. Shri Kinder Lal        | 23. Shrimati Tara Sapre       |
| 16. Shri P. Viswambharan   | 24. Shri M. R. Sharma         |
| 17. Shri N. R. Laskar      | 25. Shri Babunath Singh       |
| 18. Hazi Lutfal Haque      |                               |

**REPRESENTATIVES OF THE MINISTRIES**

***Ministry of Law***

**Shrimati V. S. Rama Devi, Deputy Legislative Counsel**

***Minister of Health and Family Planning and Works, Housing and Urban Development***

**Dr. K. N. Kashyap, Commissioner (FP)**  
**Dr. S. V. Raja Rao, Asstt. Commissioner (FP)**  
**Dr. (Smt.) S. F. Jainawalla, Dy. Director (I)**

**SECRETARIAT**

**Shri S. P. Ganguly, Deputy Secretary**  
**Shri M. K. Jain, Under Secretary**

## WITNESSES EXAMINED

- (1) Representatives of the All India Women's Conference, New Delhi
- (i) Smt. Lakshmi Raghu Ramaiah, Vice-President
  - (ii) Smt. Leela Damodar Menon, Hony. General Secy.
- (2) Smt. Naintara Sehgal, New Delhi.

[The Representatives of the All-India Womens Conference, Shrimati Lakshmi Raghu Ramaiah and Smt. Leela Damodara Menon were called in].

CHAIRMAN: Mrs. Lakshmi Raghu Ramaiah and Mrs. Leela Damodara Menon, I welcome you to give evidence before this Committee. Whatever you say will be treated as confidential. We have received copies of the Resolution that you passed at your All India Women's Conference recently. If you have anything to say now, you are welcome to say.

SHRIMATI LEELA DAMORARA MENON: As you have just mentioned, we have forwarded the Resolution that the All India Women's Conference has passed and we stand by that Resolution. We feel that there should be some change in the existing law. We feel also that certain provisions that have been made in this Bill require modification. But we also feel that this Act should not enable just anybody and everybody to use this as a means of getting rid of a child and that the provisions should be so made that they can be used only as an extreme measure, provided all medical facilities are there. That is also very important because even as conditions exist to-day, for normal medical facilities, especially in the villages, proper arrangements are not there, nor are there qualified medical practitioners in every place. We are glad that the Bill has provisions that proper medical attention should be given. But the question is; when there are no medical facilities available in large areas, how the people would utilise the provisions of this Act in spite of the lack of proper

medical facilities. Therefore, we want to make it very clear that the provisions of this measure should not be put into effect without proper medical facilities, whatever be the cost.

Then we feel that it should not be generally used as a means of family planning. As you know in the Shah Committee Report, the conditions existing in various parts of the world where provisions have been made to get rid of unwanted pregnancy, have been given, and it is seen that it is not used always for health reasons. There is this provision that for mental health reasons a mother may get rid of an unwanted child. The provision is very wise. But recent researches and data have shown that where this provision was used without discretion, it proved harmful to the physical as well as the mental health of the mother. I need not go into all details of the data because the Committee will have all these things before it. I want only to say that while there is need to change the existing law, we must make it very clear that at whatever cost it may be, it should not be misused or used in a way the result of which will be harmful to the health of the mother.

CHAIRMAN: Are you satisfied with the provisions of the Bill, or, do you want to suggest any modifications here and there?

WITNESS (SHRIMATI MENON): Generally the provisions are alright But I would like to make a few suggestions. On page 2 of the Bill, in line 21—Explanation I to Clause 3(2)—after the word "rape", and "incest" may be added.

Then about Explanation II I may point out that this will be the biggest thing for the misuse of that Bill. I feel whether we should have this Explanation at all. It is already here in the main clause itself. My suggestion, therefore, is that this Explanation may be dropped and if any further modifications are to be made, they may be made in the main sub-clause itself; otherwise, it will cause a lot of harm and it will be misused in the form in which it is put now.

CHAIRMAN: Do you want to say something Mrs. Lakshmi Raghuramaiah?

WITNESS (SHRIMATI LAKSHMI RAGHURAMAIAH): I hope that the Government will make the amount of Rs. 45 lakhs provided here immediately available for making appropriate and adequate arrangements in the hospitals and I hope the money will be equally distributed among the States.

CHAIRMAN: Now, the Members will like to put some questions for clarifications on what you have said now and you will please answer them.

DR. SUSHILA NAYAR: Mrs. Menon, right at the beginning of the clause, in 3(2)(a) and (b) it is stated, "... registered medical practitioners..." I would not ask you whether one is enough or two should be there because it is for the doctors to say. You are well aware that in many State Acts all over "registered medical practitioners" may include anybody, whether they have had proper training in gynaecology or obstetrics or not. So, would you like to make some qualifications necessary for "registered medical practitioners" to ensure that they should have acquired some skills before they are entrusted with a job like this?

WITNESS (SHRIMATI MENON): Certainly. When we said that proper medical facilities should be made available, it means that patients should not be under the care of any quack or

any person who is not properly qualified in surgery and gynaecology.

DR. SUSHILA NAYAR: Do you realise that this would restrict the number of doctors very much?

WITNESS (SHRIMATI MENON): That is what exactly we are afraid of. We fear that because of that reason this enactment may have serious consequences. A proper provision should be made. As Mrs. Raghuramaiah has pointed out, proper medical facilities should be made available before this Bill becomes an Act.

DR. SUSHILA NAYAR: Mrs. Raghuramaiah does not know whether Rs. 45 lakhs is enough or not. She should know it because she has constructed some small dispensaries and buildings and so on. Rs. 45 lakhs is not enough even for one State leave aside the needs of all the States in the country. It may be enough for one district, because we will have to provide a number of extra facilities in the districts also.

Anyway, now coming to (b), it is stated that the length of the pregnancy for termination should not exceed 20 weeks. Now 12 weeks is understandable because the uterus can be easily evacuated within the period. But at 20 weeks, while there are difficulties in evacuating the uterus there are no advantages, because the child is not viable, it cannot live. At 28 weeks the child can be viable. Would you like to make any suggestions whether the restriction on ending pregnancies at 20 weeks should be retained or should be removed, so that if termination is necessary it may be done at any stage? At 28 weeks the child has a chance to survive whereas the child does not survive at 20 weeks.

WITNESS (SHRIMATI MENON): We are unable to express any view about the medical aspect of it but we are generally convinced that any termination of pregnancy, which is meant for the mental and physical health of



the mother, should not result in any psychological consequences on the mother. If the child is viable and if the child is to be removed, naturally it will have a psychological effect on the mother. I might tell you that in Yugoslavia 15 women suffered pregnancy interruptions, and 9 out of them had serious consequences due to pregnancy interruption, in spite of the best medical aid given to them. So when this law is enacted, we have to wait for the reactions of the people. My suggestion is that it should be used only as a last resort and as an extreme measure. Whatever might be said, there is some psychological effect and reaction on the mother. Therefore we do not know exactly at what time the pregnancy should be terminated. We only feel that there should be no psychological reaction on the mother which will harm her health.

DR. SUSHILA NAYAR: Your point about the physical and mental health of the mother has already been noted and I have myself appreciated it very much. So far as the second point is concerned, some witnesses yesterday said that there was no particular advantage in restricting the period for termination to 20 weeks. If it is to be terminated, the earlier the better, you can say 'as early as possible'.

WITNESS (SHRIMATI RAGHURAMAIAH): I think it should be within that limit of 5 months.

DR. SUSHILA NAYAR: Naturally after the 5th month it would not be in the interest of the mother's health. Anyway, I will not take more of your time on this. Sub-clause (2) (i) says:

"the continuance of the pregnancy would involve a risk to the life of the pregnant woman or of injury to her physical or mental health."

Now it has been suggested that it should be 'grave injury', not just 'injury'. The women might say that she is going to be damaged to her figure if she has a child, or some such thing and therefore there should be

some safeguards provided. Do you agree with that?

WITNESS (SHRIMATI RAGHURAMAIAH): That is understood.

DR. SUSHILA NAYAR: Now it is further stated in (ii):

"there is a substantial risk that if the child were born, it would suffer from such physical or mental abnormalities as to be seriously handicapped."

Now it has been suggested that if there is a hereditary disease which is likely to affect practically all the other children, then sterilisation should also be insisted upon. Have you any views on that?

WITNESS (SHRIMATI MENON): These are really the questions which some persons with knowledge of medical science can answer. We do not know which children will be handicapped due to hereditary diseases. Sometimes perhaps from the womb also it can be found whether a particular child can survive as a normal person in the world. I am afraid these are questions which only those persons having knowledge of medical science can answer. But what we feel is that if a child has a fair chance of survival as a normal person, that chance should be given.

DR. SUSHILA NAYAR: Now with regard to the woman where contraceptives have failed, she comes for termination of pregnancy. I recall that your Association was of the view that it should be permitted only if sterilisation is done simultaneously. Do you still hold that view?

WITNESS (SHRIMATI MENON): Our Association has not gone into the details of the provisions but we have said that this enactment should not be the basis for anybody and everybody to go to the hospital and interrupt pregnancies. It should be resorted to only as a last measure. The detailed provisions of this Bill should be such that it should not be used as family planning, when

There are so many other methods of family planning. This Bill should be used only as an extreme measure.

DR. SUSHILA NAYAR: What do you mean by 'as an extreme measure'? You are agreed, everyone is agreed, that if there is danger to the mother's health or life, pregnancy should be terminated. In fact to some extent it is done even today under the present law. The other provision is that if there is a reasonable chance or a substantial chance of the child being deformed or crippled or born in a very seriously damaged condition then pregnancy should be terminated. These are the medical reasons. Over and above that, another thing has been added in the form of an Explanation the deletion of which you have advocated. Does that mean that under no circumstances you would allow termination of pregnancy except for clear-cut medical reasons or are there certain circumstances under which the couple who have taken precautions as much as they could and still pregnancy has occurred, in such cases would you insist that they should go through that pregnancy and then undergo sterilisation or would you allow them to undergo termination of pregnancy and at the same time undergo sterilisation?

WITNESS (SHRIMATI MENON): Going back to the provision it says the continuance of the pregnancy would involve a risk to the life of the pregnant woman or of injury to her physical or mental health.

DR. SUSHILA NAYAR: That is accepted.

WITNESS (SHRIMATI LEELA MENON): In the Explanation you have said 'grave injury'. Who is to decide about grave injury?

DR. SUSHILA NAYAR: The doctor will decide.

WITNESS (SHRIMATI LEELA MENON): This Explanation will be the reason why many of them who do not have either proper medical atten-

tion or proper capacity to take a decision will misuse the provisions of this.

DR. SUSHILA NAYAR: You would not like this measure to be used as a family planning measure under any circumstances; is that correct?

WITNESS (SHRIMATI LEELA MENON): Unless it is an extreme measure. I am saying extreme measure because I am speaking of two sections of our people, the educated and the uneducated. The educated can take a decision on their own without having serious consequences either psychological, physical or even social but with regard to the illiterate people it may be that we do not want to have provisions which will be misused or used without any social advantage. That is why we say this. Otherwise with regard to the general provisions we are in complete agreement.

DR. SUSHILA NAYAR: All right, we come to clause 3(3). It says, 'In determining whether the continuance of a pregnancy would involve such risk of injury to the health as is mentioned in sub-section (2), account may be taken of the pregnant woman's actual or reasonably foreseeable environment.' It has been suggested to us that this is a very vague and general kind of provision. What constitutes an environment? Is it the sanitation, is it the availability of space, or what is it? So many things can come under the term 'environment' and therefore it has been suggested that this clause should be deleted because it is likely to cause confusion and also lead to misuse. What do you say to that?

WITNESS (SHRIMATI LEELA MENON): I agree that it is really very vague but instead of completely deleting it, an amendment may be made to make it clearer.

DR. SUSHILA NAYAR: Would you like to suggest some amendment? For instance take the mention of

actual or reasonably foreseeable environment. A woman's husband is being transferred from Delhi to Bombay and there is accommodation difficulty there which will necessitate a smaller family. They won't have space for an extra child and therefore they might want to terminate the pregnancy. Would you allow it? That is the type of foreseeable environment. Yesterday a witness suggested that this explanation should be deleted. You can think about it and send whatever suggestion you may have got for its amendment.

I come to the next clause 3(4) (a) which says: No pregnancy of a married woman shall, if such pregnancy is alleged by such woman to have been caused by rape, be terminated except with the consent in writing of her husband, if he is alive, or of the guardian of her husband, if her husband is a minor or lunatic. Why can't the women decide for herself? Why is it necessary to have the permission of some guardian or the husband? Would you like to have this provision removed or retained?

WITNESS (SHRIMATI LAKSHMI RAGHURAMAIAH): I think the husband could be removed from there.

DR. SUSHILA NAYAR: The woman should decide for herself?

WITNESS (SHRIMATI LAKSHMI RAGHURAMAIAH): Yes.

DR. SUSHILA NAYAR: Then the next clause says: No pregnancy of a widow, who is a minor or lunatic, shall be terminated except with the consent in writing of the guardian on such widow. Then 4(c): No pregnancy of an unmarried girl, who has not attained the age of eighteen years, shall be terminated except with the consent in writing of her father or of her guardian, if her father is not alive. Then you have clause (d): No pregnancy of an unmarried woman, who, being above the age of eighteen years, is a lunatic, shall be terminat-

ed except with the consent in writing of her father or of her guardian, if her father is not alive. It has been suggested that the woman should decide whether she wants the pregnancy to be continued or terminated, except of course in the case of minor or lunatic who cannot decide for themselves. The suggestion is that reference to widow, unmarried woman, etc. should all be removed because it gives the impression that the law is to encourage abortions among widows and unmarried women having pregnancy which is rather objectionable in our society and therefore these clauses should be amended so as to bring out the fact that in the case of minors and lunatics the permission of the guardian should be necessary and in all other cases the adult woman should decide for herself whether she wants to have it terminated or not.

WITNESS (SHRIMATI LAKSHMI RAGHURAMAIAH): We feel that this clause must be there to protect the morals of women.

DR. SUSHILA NAYAR: I think you have not followed me. What is being suggested is that the references to unmarried girls and widows should be removed because as you have already agreed the woman could decide for herself if she wants to have the pregnancy terminated. In the case of minor or lunatic it shall have to be done with the permission of the guardian, whoever may be the guardian.

WITNESS (SHRIMATI LAKSHMI RAGHURAMAIAH): I feel, as it is, this clause is all right and no change is necessary. The references to widows and unmarried girls may be there if not for the protection of the morals at least for the fear of the thing.

DR. SUSHILA NAYAR: On the contrary what is felt is by this you are giving ideas that unmarried girls and widows can have abortion which is freely which is available, and the law permits it. The fear that you have in mind regarding moral is the

very fear for which other people have suggested amending this.

WITNESS (SHRIMATI LEELA MENON): I hope you have caught the point she has made. Instead of saying unmarried woman and widow, if we just say woman I think that would be all right. One fact remains. In all cases of operation you have to get some sort of consent from the family.

DR. SUSHILA NAYAR: No.

WITNESS (SHRIMATI LEELA MENON): In all cases of surgery.

DR. SUSHILA NAYAR: No, only the patient's consent is needed. In some cases the husbands consent has been necessary in the past and that has been a source of very serious difficulties and troubles in some cases. There have been repeated requests that the law should be amended. A woman is as much the master of her body as a man is of his body. If a man can give permission for surgery on his body, a woman can also give permission or surgery on her body.

WITNESS (SHRIMATI LEELA MENON): I do not know the law on the question, but I know this that in all the hospitals—I do not know about the headquarters hospitals—which are not of a very big nature, the doctor takes the consent of her guardian or of the family in all cases.

DR. SUSHILA NAYAR: That is only in the case of a minor.

WITNESS (SHRIMATI LEELA MENON): A major also. Before the operation is done, the consent of the guardian is taken.

SHRI N. R. LASKAR: Will you please go through the Bill. You have suggested the deletion of Explanation II in clause 3(2). When you have suggested it, do you have the rural India in view or simply the cities?

WITNESS (SHRIMATI LEELA MENON): I have in mind rural India and because of that I have asked for the deletion of Explanation II, I feel

that Explanation I would cover extreme cases that are brought within the ambit of the Bill. With discretion it can be used properly by the people who can take a decision.

SHRI N. R. LASKAR: In rural India because of the illiteracy which is prevailing, it is likely to be used for family planning purposes. A woman may have three or four children and she may like to terminate her next pregnancy. She would like to have legal abortion in that case. The husband may agree to it.

WITNESS (SHRIMATI LEELA MENON): Where the husband and the wife feel that they must terminate the pregnancy, it can be brought within the provisions of Explanation I. In such cases where termination of pregnancy is there, it should be followed by sterilization so that she will have no more child.

SHRI N. R. LASKAR: So you feel that there should be such a provision as mentioned in Explanation II.

WITNESS (SHRIMATI LEELA MENON): There may be some provision, but it should be used only in extreme cases. It can be utilised in exceptional cases.

SHRI N. R. LASKAR: What are those extreme cases? Let us be clear about it.

WITNESS (SHRIMATI LEELA MENON): The hon. Member would know that it is very difficult to explain what are extreme cases. We know what are not extreme cases and it shall not be used just for family planning. We have to assess the psychological and social reactions. We will keep it wide and after the Act becomes law we shall find out what happens. Then, we shall either amend it so as to have wider scope or restrict it. We must not pinpoint what the extreme cases are.

SHRI NIRANJAN VARMA: Do you represent the whole class of womanhood in India or only those sections

of the educated class who are enlisted in your register?

WITNESS (SHRIMATI LEELA MENON): Our membership includes all—from the rural areas, from the poor, etc. It represents all classes of people. Just as hon. Members cannot represent the whole country I cannot claim that we represent the whole womanhood, but we certainly stand for what is the best in Indian women.

SHRI NIRANJAN VARMA: Do you represent all sections of the people?

WITNESS (SHRIMATI LEELA MENON): We do.

SHRI NIRANJAN VARMA: Such as Muslims, Sanatanists, etc.

WITNESS (SHRIMATI LEELA MENON): We represent all classes, castes, creeds and sections of women and from all economic groups.

SHRI NIRANJAN VARMA: What is your opinion on clause 3(3), at page 2, where it says:

“In determining whether the continuance of a pregnancy would involve such risk of injury to the health as is mentioned in sub-section (2), account may be taken of the pregnant woman's actual or reasonably foreseeable environment?”

Under the British Act, it includes the mental injury to the health of the children also.

WITNESS (SHRIMATI LEELA MENON): I am afraid I have not studied the British Act. I feel that the mother would naturally think of its effect on the child also. We have said 'grave injury to the mother'. Grave injury to the mother would also mean injury to the child.

DR. (MRS.) MANGLADEVI TALWAR: Many of the questions have been asked exhaustively and I do not want to bother you very much. You represent the social aspect more than any other aspect of our society. I believe the All India Women's Con-

ference has worked for the uplift, social welfare and the political welfare of the women of this country. As a result the women of this country have got advanced positions in all walks of life. As a social body standing for the welfare of women, I would like to ask you again what Dr. Nayar has already mentioned. Kindly refer to page 2, clause 3(4) (a), (b), (c) and (d). It is sub-clause (4), (b), (c) and (d) on page 2. The words I have in mind that are added are indicative of the social status of the women, widow, unmarried girl and unmarried woman. I have come across a large number of women and groups of women who have very much objected to these three words being added because they feel that all know what type of abortion takes place; mostly they are unmarried and so on. But to put down and give provision of free licence so to speak—mothers feel that we should not put down unmarried girl or unmarried woman or widow. There should be only one word minor woman or major woman. What do you think about it? Should these words be retained or they should be deleted in the interests of the welfare of the society? Women object to this mothers object, and other women also object on a large scale. That is the reason why I am asking whether these three words, widow, unmarried girl and unmarried woman should be retained or we would only state minor woman or minor girl or a woman who is of age. I would like to know your opinion.

WITNESS (SHRIMATI LEELA MENON): I said that 'woman' is all right. As Dr. Nayar said, provision may be made for minors and lunatics. We also said that there should be provision about the consent of the guardian because otherwise there again there will be social imbalance. Therefore, while we do not want to discriminate between married woman, widow and unmarried woman, we do insist that some sort of consent of the family may be obtained so that the moral aspect is also taken care of.

DR. (MRS.) MANGLADEVI TALWAR: You say consent should be obtained, in your opinion, but at the same time these words may not be retained. In (c) it is again said about the consent: "No pregnancy of an unmarried girl, who has not attained the age of eighteen years, shall be terminated except with the consent in writing of her father or of her guardian, if the father is not alive." So, in your opinion some kind of consent is necessary, and if the person is a minor, it is absolutely necessary. But I would suggest instead of the father, any of the parents can give; the mother can give the consent as well as the father. There are so many people who have no father; otherwise also mother can give consent as well as father. What do you think about this?

WITNESS (SHRIMATI LEELA MENON): We cannot give you the exact amendment because I think it is correlated to other enactments or other legal provisions.

DR. (MRS.) MANGLADEVI TALWAR: I want your opinion, never mind about other enactments.

WITNESS (SHRIMATI LEELA MENON): Our opinion in this regard is that so far as such activities are concerned and regarding whose consent should be obtained, there might be other enactments also which might be in contravention of this, not future enactments but existing laws as they are today with regard to any activity of an individual in the family in relation to operations and surgery and all the rest of it. That is why we do not want to give the detailed amendment. But the idea is the same that the consent of the family should be obtained; if the mother is entitled to give consent, the mother; if the father is entitled to give consent, the father. If any senior member of the family is allowed to give consent, it should be so. But the idea is there.

DR. (MRS.) MANGLADEVI TALWAR: I wanted to know your opinion whether mother is competent to give

also consent as the father because only father is mentioned. Your opinion is important to us at this moment. So you feel consent of either father or mother?

WITNESS (SHRIMATI LEELA MENON): Parent.

DR. (MRS.) MANGLADEVI TALWAR: Either of the parents can give and not only the father? That was my only point.

WITNESS (SHRIMATI LEELA MENON): Parent will cover both father and mother.

SHRIMATI TARA SAPRE: Please refer to Explanation II: "Where any pregnancy occurs as a result of failure of any device used by any married woman", etc. In this case I would like to ask you this. A married woman above 40 years of age wants to get her pregnancy terminated. She should be allowed. Don't you think so?

WITNESS (SHRIMATI LEELA MENON): I would say the mother can decide to terminate the pregnancy under sub-clause (2) (i). I only said that we need not have an explanation as to this particular aspect of the family planning device failing. It can be included in that.

SHRIMATI TARA SAPRE: If she has already two children or one child she should be allowed after 40 years of age?

WITNESS (SHRIMATI LEELA MENON): There again it is an individual opinion about termination.

SHRIMATI TARA SAPRE: When she goes to the doctor, that means she wants termination. Is it not?

WITNESS (SHRIMATI LEELA MENON): What we want to make very clear is that a woman who does not want a child within a period can have several other ways of not having a child . . .

SHRIMATI TARA SAPRE: The point is as a result of failure of the device.

**WITNESS (SHRIMATI LEELA MENON):** In extreme cases it can be brought under the provisions of sub-clause (2) (i) without this explanation. Several other reasons might be there also. You cannot include all the reasons.

**SHRIMATI TARA SAPRE:** In this case the lady is hale and hearty and there is no question of mental anguish or physical injury or anything of the kind, only she is overage. In that case because she is over 40 it is difficult for her to manage the child. She has got already one or two children. So what do you think?

**WITNESS (SHRIMATI LAKSHMI RAGHURAMIAH):** That is enough to see that she is suffering from mental anguish.

**SHRIMATI TARA SAPRE:** If she wants to terminate it she should be allowed?

**WITNESS (SHRIMATI LEELA MENON):** She should not be allowed to terminate the pregnancy just because she is 40 or 45.

**SHRIMATI TARA SAPRE:** If she goes to the doctor, she should not be allowed?

**WITNESS (SHRIMATI LEELA MENON):** No. This provision may be made elastic by which extreme cases may be provided for, without the explanation. That is what I think.

**SHRI KAMESHWAR SINGH:** On page 2 of the Bill in sub-clause (4) (b) it is said: "No pregnancy of a widow, who is a minor or lunatic, shall be terminated except with the consent in writing of the guardian of such widow." In this the position of the widow has not been clarified. I would like to know whether a widow should require the permission from her guardian or in general they can opt for abortion.

**WITNESS (SHRIMATI LEELA MENON):** We have said that we need not have that provision for married or unmarried woman. You may cover

the entire thing by 'woman'. There should be no specific mention.

**SHRI KAMESHWAR SINGH:** Consent is required. You have generalised the entire thing. Married woman, widow, etc., they are taken in one category. What about consent?

**WITNESS (SHRIMATI LEELA MENON):** Consent of the parent or guardian. That provision may be made elastic, so that it will cover all these things.

**SHRI KAMESHWAR SINGH:** Suppose somebody gets pregnant and she is a major, that is above the age of 18. Why should she require the permission of the guardian or anybody to get abortion?

**WITNESS (SHRIMATI LEELA MENON):** In the existing social conditions it is better for the woman herself that such permissions are taken so that she herself is protected socially.

**SHRI KAMESHWAR SINGH:** I quite agree with you. But can you not imagine of circumstances where the guardian may be fussy about it and he may be very strict in giving permission.

**WITNESS (SHRIMATI LEELA MENON):** Some guardians may be fussy about anything.

**SHRI KAMESHWAR SINGH:** Mr. Chairman, she has expressed her opinion. May I know what objection she has got if they do not have to obtain the guardian's consent.

**WITNESS (SHRIMATI LEELA MENON):** I only said that these are the opinions among the people. I as an individual may have different opinion about what should be done. But in the social environment of our country we have to go slowly. Let us not go very much against the existing atmosphere in the country otherwise the purpose will be defeated. That is why I suggested whatever the difficulty, let it not err on the other side; it should go along with the time.

**SHRI KAMESHWAR SINGH:** Mr. Chairman, the United Nations Advisory Mission, which made an evaluation of the family planning of the Government of India in 1969 recommended legalisation of abortion on specific indication including ties of the family and socio-economic reasons. Considering this recommendation of the United Nations Advisory Mission, do you think abortion should be allowed after three children without the consent of the husband on socio-economic reasons.

**WITNESS (SHRIMATI LEELA MENON):** May I give you the result of a research conducted in Yugoslavia on the impact of surgical interruption after the move became law there. It is this:—

“Pregnancy interruption even when performed in the most up-to-date health institutions is in fact a surgical intervention which leaves grave physical and psychical consequences on woman's health.”

This is the actual result of that law there. When we are making a law we want the law-makers to be very careful so that afterwards we need not be faced with grave psychological consequences on our women. That is why we said we do take a certain reactionary attitude with regard to certain things, we do not want grave psychological impact afterwards.

**SHRI KAMESHWAR SINGH:** I quite agree with the hon'ble witness, that law-makers should be careful. But what about the socio-economic reasons?

**WITNESS (SHRIMATI LEELA MENON):** Socio-economic reasons are never permanent. They go on changing.

**SHRI G. GHOSH:** Madam, from what you have said you have made it very clear that this method need not be utilised as a family planning method. You have also made it very, very clear that this method should not be made available merely for the asking, that only in extreme cases

this method should be available since the existing law provides that termination can be done only to save the health of the mother. Would you like to put a provision in this Bill for two medical practitioners to recommend for a premature termination of pregnancy?

**WITNESS (SHRIMATI LEELA MENON):** We do not oppose the Bill because there are certain provisions which are very necessary in order to make certain changes in the existing law. But we only want to make it very clear that it should not be used as a general family planning device considering the serious consequences of a surgical intervention and psychological impact on the mother or woman. Therefore, within that concept all the details of the provisions may be considered.

**SHRI G. GHOSH:** Would you like to add in the Bill that the recommendation of a psychiatrist should be necessary if it be to save the mental health of the mother.

**WITNESS (SHRIMATI LEELA MENON):** Psychological and physical.

**SHRI G. GHOSH:** The present existing law provides for premature termination of pregnancy only to save the life of the mother and not for saving her physical or mental health.

**WITNESS (SHRIMATI LEELA MENON):** Physical reaction does not only depend on saving the life of the mother. That is not the only physical reaction as the hon'ble Member is perfectly aware. There are other factors also. Today also when it is a question of choice between the mother and the child, the choice is for the mother. Today provision has to be made to enlarge the scope of that to include certain conditions where for a woman to have a particular child under particular conditions would be a social and psychological and physical problem. That is not provided in the law. Therefore, we feel that the law has to be amended.



When the law has to be amended the existing law should be amended suitably so as to include what is badly required.

**SHRI G. GOPINATHAN NAIR:** Madam, do you think that such a piece of legislation which liberalises abortion will have an adverse effect on the moral standards of the Indian society?

**WITNESS (SHRIMATI LEELA MENON):** I have made it clear that we do not want to make it a general family planning programme in which more than the physical and psychological health of the mother, moral standards are concerned.

With regard to moral standards family planning programme does not involve morals. It is the other reasons that bring out generally the morals. It is a socio-economic programme, to limit families. That we feel should raise the moral standards of the people. But this Bill we do not consider as a part of the family planning programme. We do not want it to be also another family planning programme.

**SHRI P. VISWAMBHARAN:** Mrs. Menon, the resolution of the All-India Women's Conference, which has been circulated to us, contains two paragraphs. I think the two paragraphs are of the same resolution. Am I correct?

**WITNESS (SHRIMATI LEELA MENON):** Yes.

**SHRI P. VISWAMBHARAN:** The first paragraph says:

"The All-India Women's Conference reiterates its support to the recommendations of the Shah Committee for the liberalisation of the existing stringent law of abortion to cover cases of hardships as outlined therein."

"It views with great concern the increase in India's population in spite of efforts to keep it within control and urges the branches to

co-operate with Government in all its endeavour to help and encourage small families."

May I have a clarification from you? I want a clarification regarding the second paragraph, whether this co-operation that has been sought from your branches is regarding this Bill which to some extent envisages family planning also.

**WITNESS (SHRIMATI LEELA MENON):** The second para is meant to request our branches to more actively co-operate with the family planning programmes in their respective States, in the various aspects of the family welfare projects that we have to-day. For instance, some of our branches have taken up family planning clinics. Some of them have taken up propaganda programmes. Some of them actively associate themselves with the family planning movement in their respective States. So, this is a call to them to be more active about those programmes.

**SHRI P. VISWAMBHARAN:** Do we take it that the second para has absolutely no relevance to this Bill?

**WITNESS (SHRIMATI LEELA MENON):** There is relevance in this way that it also involves termination of pregnancy; to that extent there is relevance.

**SHRI K. P. MALLIKARJUNUDU:** Madam, you said in your statement that Explanation II may rather be deleted. If I have understood you aright, you have given three reasons for your view. First, it is liable to be misused. Secondly, it is covered by sub-clause (2) which deals with grave injury to mental and physical health of the mother. Thirdly, it should not be a part of the family planning programme. There are the three objections which you have taken regarding this Explanation. In that behalf I would like to have some enlightenment. You said there is likelihood of misuse. I am not able to understand what kind of misuse there can be. I

want you to specify the kind of misuse which you contemplate. Secondly, you said it is covered by sub-clause (2) which deals with grave injury to mental and physical health. I fail to understand how it is covered by sub-clause (2). Naturally when the husband and wife do not want a pregnancy to continue and they want its termination, it does not necessarily mean that it may cause grave injury to mental and physical health. So there is very likelihood of the sub-clause not covering several cases which are covered by the Explanation. When the husband and the wife who are adopting some device of family planning, see failure in that, why should they be prevented from going to the doctors and asking for the termination of the pregnancy, especially in cases not covered by sub-clause (2)? Thirdly, you said it should not be a part of the family planning programme. I agree. It should not be a part and parcel of it, but incidentally it may impinge upon the family planning programme. This Bill, as you said, deals only with the protection of the life and health of the mother. That is the main purpose of this Bill, as I understand it. But when the couple are of the view that the pregnancy should be terminated not because it is part of family planning but because they do not want any further addition to the family, in that case, simply because it may impinge upon family planning, why should it be objected to? These are the three points on which I want some enlightenment.

WITNESS (SHRIMATI LEELA MENON): I would ask another question, if I may be permitted. Why should there be this Explanation that if the device had failed, they should be allowed? Why should their failure alone enable them to interrupt the pregnancy? That means we are taking the onus for their failure and providing a chance to them to interrupt pregnancy. That is why we feel that it can be used as an extreme measure, in cases of grave injury to mental

and physical health, but not as one of the family planning devices. Other wise, not only will it create a lot of difficulties with regard to medical facilities available in the country, but it will also have serious psychological and social consequences.

SHRI K. P. MALLIKARJUNUDU: What about the misuse you had in view?

WITNESS (SHRIMATI LEELA MENON): I think there again because I am not a lawyer, I am not able to use my words properly. I said misuse in this sense that it should not generally be used as a means of family planning.

SHRIMATI SHAKUNTALA NAYAR: A number of child marriages take place in our country. I shall give you an example to explain what I want to tell you. A girl of 12 might be married to a boy who is an inheritor of a very large property. Suppose he dies and the girl becomes a child widow. Now there might be some unscrupulous relatives who might be able to persuade the guardian to get rid of the child that she is expecting. Don't you think that we should also make some provision for such child widows so that their interests can be looked after?

WITNESS (SHRIMATI LEELA MENON): But I thought child marriage itself was prevented by law.

SHRIMATI SHAKUNTALA NAYAR: But it does take place and it will take place. In that case, what is the protection that we will give to these girls?

WITNESS (SHRIMATI LEELA MENON): I must confess I am not a lawyer. I do not know the inheritance laws. But I would say that so far as these things are concerned, adequate provision should be made so that on the one hand, it is not misused by people and on the other, such poor mothers are not made victims.

SHRIMATI SHAKUNTALA NAYAR: What is the protection that we will give to such girls?

WITNESS (SHRIMATI LEELA MENON): That is for the Members of Parliament to decide.

SHRIMATI LAKSHMI RAGHU RAMAIAH: The best thing would be not to get her married so early.

SHRI RAM SWARUP: Do you suggest that Explanation II in Clause 3 is not needed for our purpose?

WITNESS (SHRIMATI LEELA MENON): Yes.

SHRIMATI USHA BARTHAKUR: You have suggested the termination of pregnancy in extreme cases. Then, what is the fate of those women who want to avoid more number of children when all the methods of family planning used by them have failed? What is your advice to them?

WITNESS (SHRIMATI LEELA MENON): If they do not want children, they should adopt one or the other family planning device and they should be honest in using the contraceptive devices.

SHRIMATI USHA BARTHAKUR: Supposing for various reasons the contraceptive devices fail, what is the fate of those women? What is your advice?

WITNESS (SHRIMATI LEELA MENON): I can only say that they should be more careful next time. And on your question it is for the doctors to advise, I cannot say anything. Only medical opinion can help them what best could be done. But I still maintain that for the very reasons of health and happiness, surgical termination should be used only as the last and the extreme measure.

SHRIMATI USHA BARTHAKUR: When we go to villages, many women ask us what they should do, they already have many children and they want to avoid any more children. What do you advise them?

WITNESS (SHRIMATI LEELA MENON): So far as the clinics are concerned, they advise the women to go to the best doctor available and sometimes they themselves take the ladies to the doctors for medical opinion.

CHAIRMAN: So, Mrs. Menon and Mrs. Raghuramaiah, thank you very much for your valuable evidence.

*(The witnesses then withdrew)*

*(Shrimati Nayantara Sahgal, New Delhi, was then called in.)*

CHAIRMAN: Mrs. Nayantara Sahgal is here to give evidence before this Committee. Mrs. Sahgal, whatever evidence you tender here, it is treated as confidential till the entire report of the Committee is published by Parliament. Regarding this Bill you are welcome to give your views.

WITNESS: I have read through the Bill and needless to say, it is a much needed legislation and I have very little to criticise in it. I have got only one or two suggestions to make which you might consider.

In the first Explanation to Clause 3, sub-clause (2), you have said, "Where any pregnancy is alleged by the pregnant woman..." Here you have used the word "alleged". But in the second Explanation you have only said, "Where any pregnancy occurs as a result of failure of any device..." and here you have not used the word "alleged". In the second Explanation a great deal of trouble arises in its definition. So, in the second Explanation also instead of leaving the burden for investigation as to the failure and so on, it is just a smooth procedural thing taken for granted if you add this word "alleged" and say, "Where any pregnancy is alleged to have occurred as a result of failure of any device....." That means, in the first Explanation the woman has only to allege that her pregnancy is caused by rape and the rest of the procedure

is smooth. No further examination is necessary. So also in the second Explanation there should be a similar provision; otherwise, I understand that the woman may perhaps have to explain how the contraceptive device has failed. I do not know whether it is a very important point, but for a smoother and practical approach this provision is necessary.

Then there is another point which occurred to me when I was reading through the literature which you sent me about other countries. In the case of Japan there is a very clear reference to the economic considerations. In addition to the physical health and mental anxiety, there is also the economic consideration. I think in the circumstances and conditions of our country today when there is real economic hardship for many people, this consideration could usefully be added as a reason why a couple should be allowed to limit its family.

Again you mention 'environment' here. That may be taken as an economic factor; but it is very vague. The third point is that in the case of unmarried women and widows the Bill does not provide for the same smooth procedure as for the married women. An unmarried woman has to get, I understand, the guardian's permission or the permission of her parents. Now an unmarried woman may in every way be an adult and I feel that the problem of abortion in the case of unmarried women or girls is a real one and the same procedure may be adopted in their case. You may say 'woman' instead of 'unmarried woman' or 'unmarried girl'. But legislation for abortion should be made smooth for them. These are some of the points which I wanted to make. Now if there are any questions put to me, I will answer them.

(DR. (MRS.) MANGLADEVI TALWAR. Madam, you have very rightly mentioned here that as in Japan, the economic condition of the family  
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should be taken into consideration for permitting a woman to have abortion. Here 'environment' I think means socio-economic conditions. If the socio-economic conditions are such that another child to the family would adversely affect the interests of the family or the health of the mother or the father or other children, then abortion should be allowed. In England for instance they have added 'adverse effect on the existing children'. The word 'environment' has attracted a very lengthy debate by other witnesses here. So I would definitely like to know your views whether you would like the word 'environment' to be substituted by 'Socio-economic conditions'. If you do that, it might open the floodgates for false certificates by unscrupulous medical practitioners because they will say that the socio-economic conditions of the family do not permit the addition of more children to the already existing children. What is your view about it? Do you think that it will lead to perpetuation of some kind of corruption and all those things?

The other point is about the widow or the unmarried girl or unmarried woman. You have said that in the case of an unmarried woman or girl, because she has no husband, the permission of the guardian should not be necessary because of so many social complications attached to this type of pregnancy. Do you think that the woman concerned alone should be competent to have the abortion done by the medical authorities on her? Your opinion in regard to this would be of great value to the Committee.

WITNESS: With regard to your second point, personally I feel that it is the adult woman's unfettered right to decide whether she has to bear a child or not. If we take the definition of 'adult' to be 18 years of age as it is in this country, then a girl of that age or above should be the sole decider as to whether she should have a child or not and it will

be a very good thing if abortion is allowed openly in a legal institution. Otherwise what happens is that it proves a great danger to her life if she is aborted outside by unauthorised persons. I think the real distinction, Sir, in the matter of abortion has not been between a married woman and an unmarried woman but between the rich and the poor. This facility is available largely to rich people because medical practitioners who perform such abortions charge very heavy fees, Rs. 1000 or Rs. 1500, because the woman concerned is not in a position to argue. So it would be quite sensible to allow this facility to unmarried women in such legal institutions and by doing this you will be doing away with this sort of discrimination that exists between the poor and the rich.

DR. (MRS.) MANGLADEVI TALWAR: You have made your point very clear. But I would like to ask you another question. Do you want the words 'unmarried girl' or 'widow' to be deleted, because that clarifies the social status of the women? Do you allow the same privilege to a married adult woman if she wants to terminate her pregnancy or do you allow it only in the case of widows and unmarried girls?

WITNESS: In the case of a married woman you have to consider the couple. After all there are two persons involved and they have to take such decisions jointly about children, etc. In the case of an unmarried woman, she is a victim without any support from any quarter and she is very often regarded as an outcaste; there is nobody to whom she can go for help without humiliation and mental agony. I think she is in a different category altogether.

DR. (MRS.) MANGLADEVI TALWAR: There is another aspect in the case of married woman. Of course when there is perfect harmony in the family it does not matter; the husband would be consulted. But in the case of couples where there is some kind

of a disagreement between the husband and the wife or where they have fallen apart for some reason or other, would you allow the woman alone to be able to give this permission?

WITNESS: I thought that the Bill itself covered that contingency when it says that in case of ill health or mental anguish they should be given abortion. No consultation with the husband or anyone else is necessary.

DR. (MRS.) MANGLADEVI TALWAR: It is not clear here.

WITNESS: The three, contingencies provided for are health grounds, humanitarian grounds and eugenics. And there is an extra thing, failure of the devices.

DR. (MRS.) MANGLADEVI TALWAR: It does not mean that the woman alone can give permission. These are the contingencies but in the following sub-clauses it is said how it should be done. Permission has to be taken and taken in writing. This is not automatic. This only states the cases in which this can be done. If there is failure of the devices that creates anguish to the married woman may be allowed to terminate pregnancy and in such cases written permission of the husband should not be necessary as it is for any operation.

WITNESS: Is that so? That is not my understanding. I thought these were the three main clear grounds for abortion.

DR. (MRS.) MANGLADEVI TALWAR: They are the main grounds but it does not follow that the woman can get it done without the permission of her husband.

DEPUTY LEGISLATIVE COUNSEL (SHRIMATI RAMA DEVI): Nowhere in the Bill is it stated. Whether married or unmarried if she is of age no consent of guardian or husband is needed. Nowhere is it said. In the case of minor or lunatic only the consent of the guardian is needed. That is why we have said in clause

(e) save as otherwise provided in this sub-section, no pregnancy shall be terminated except with the consent of the pregnant woman; we do not say pregnant woman, husband or guardian.

**SHRI KAMESHWAR SINGH:** I appreciate that you are very clear about the need for abortion for socio-economic reasons and I would like to have further clarification in this connection as to whether you would like to have some criterion fixed in saying that after two or three children a woman can get abortion even without the consent of the husband.

**WITNESS:** I would go further than that. There are women who do not want more than one child; that is all that they can emotionally, materially and perhaps physically support. And in our present condition where the population has reached crisis proportions I do not think we should lay down any such things as two or three before a woman can have abortion. It is really up to her to decide. I think the adult woman is the best judge of how many children she should bear.

**SHRI KAMESHWAR SINGH:** You are quite clear that husband's consent is not required; very clear.

**WITNESS:** I think the Bill itself is very clear about it. As we were told there is no place where it is mentioned that the husband's consent is required. The only place where he is mentioned is about the failure of the device.

**SHRI KAMESHWAR SINGH:** The point you made about socio-economic reasons is not mentioned in the Bill. Legislation of abortions for socio-economic reasons is not mentioned in the Bill. That is why I want you to make it clear.

**WITNESS:** There is mention of environment and I only made it as a sort of a tentative suggestion. If it is not clear enough it is a different thing but may be it is clear enough. Other countries may have only that

provision and if that is all right I do not want to push it further here. But I suppose it might lead to some difficulty in the sense of defining whose economic circumstances are all right and whose aren't. In this context it might lead to other complications. I do not know. Perhaps this environmental provision covers that too.

**SHRI KAMESHWAR SINGH:** But don't you think it is too vague?

**WITNESS:** It seems so to me but I am not very familiar with the language of the law and how the phrasings go.

**SHRI KAMESHWAR SINGH:** Do you think that a clear provision should be added with regard to socio-economic reasons also?

**WITNESS:** - I would not say that.

**SHRI KAMESHWAR SINGH:** Thank you very much. I appreciate your stand of going even beyond and saying abortion should be permitted even after one child.

**SHRI GANESH GHOSH:** Perhaps as a journalist you know that both in Soviet Russia and Japan after the adoption of these legal measures the number of abortion cases in both, these countries went up so high that it brought about a crisis and Soviet Russia had to take back the legislative measure. Do you expect that if we adopt such a legal measure the number of abortion cases might go up very steeply and create a social problem for us?

**WITNESS:** I think it is probably true that it would shoot up for a time but I think it would find its level in, say, five, six or seven or ten years' time. I think that happens with any law. Take the law of divorce. You would find immediately you have the law there would be spurt in the number of divorces and after that the normal human behaviour, traditions, social customs and conventions assert themselves and it would come down to more or less a rational norm. That is

what one can expect and I do not think this is a great obstacle in considering such a legislation.

**SHRI KAMESHWAR SINGH:** Just a minute, Mr. Chairman. With reference to the question of socio-economic grounds I would like to know whether she is in favour of compulsory sterilisation of the husband when he also agrees for the abortion after the second or third child.

**WITNESS:** This is going a step further. I think in a democratic society you cannot insist upon compulsory sterilisation. You can appeal to people that after the third child they should get sterilised and I think that is what the Family Planning Programme is trying to do. I think if you enforced sterilisation you will get into the category of totalitarian States. I do not think you can impinge on the intensely private lives of the people.

**SHRI KAMESHWAR SINGH:** I am not going to the totalitarian State. In case the husband is also willing along with his wife to have abortion after the first, second or third child, why should the husband also not have sterilisation? It may be due to the failure of contraceptives or something like that, but why should not he go in for sterilisation?

**WITNESS:** Personally I would agree with you because this would have a strong appeal in conditions such as ours. Rather than the woman going in for abortion, I think the man should be sterilised. What I am saying is that if you introduce a provision like that, it becomes rather a tricky business.

**SHRI K. P. MALLIKARJUNUDU:** You seem to suggest that besides the two considerations, namely, danger to life and danger to health, mental and physical, of the pregnant woman, the socio-economic considerations should also be taken into account for allowing abortion. That means, you want to enlarge the scope of the present Bill. In that case, the word 'environment' used in sub-clause (3) would have a wider connotation. It reads:

"In determining whether the continuance of a pregnancy would involve such risk of injury to the health as is mentioned in sub-section (2), account may be taken of the pregnant woman's actual or reasonably foreseeable environment."

I personally think that the word 'environment' has greater significance and scope than the words 'socio-economic considerations.' I think it has a wider connotation. That being the case, who is the person or persons to determine the woman's environment? It is not mentioned in the Bill. Perhaps the doctor has to judge it. From the provisions of the Bill I do not see any agency which would determine the conditions of environment. I would like to suggest that there should be constituted a body of persons who would be competent to determine the circumstances or the environment of the case. Will you agree to it or will you leave the matter to be decided by the doctor concerned?

**WITNESS:** I would have the matter to the woman concerned. As I said, I think she is the crucial and deciding factor. By appointing a body to look into this, it would lead to untold complications and would make a sort of bureaucracy out of abortion. By appointing a body for this and for that, you will highly complicate it. It is a very simple and straightforward measure which should certainly go through on the various grounds mentioned and the woman should be the central and deciding factor.

**SHRI K. P. MALLIKARJUNUDU:** You say discretion should be given to the woman concerned when you will be unnecessarily enlarging the scope of the Bill. You will be creating a new Bill.

**WITNESS:** As I said before, this was just a thought which occurred to me. I have not mentioned that it should be put in this 'environment'.

The word may very well cover economic conditions. In the Japanese Bill it leads to the eye. When I read the Japanese legislation, I said here is something so clean and straightforward. Because the other legislation is there, it may not be necessary to include this particular phrase.

SHRI RAM SWARUP: Am I to understand that you want the word 'environment' to be further clarified and there should be a specific provision that we should not rely on the doctor or anybody else and the pregnant woman may be free to use the provision for abortion and termination of pregnancy?

WITNESS: It is better to leave it as it is. Further clarification will bring in all kinds of people, whereas the present phrasing simply assumes it. At least that is what I understand. The woman is the one to decide it. The doctor is simply asked to take into account her physical health or mental anguish. In other words, he is instructed to do it. Similarly, in the case of the economic factor and the environmental factor he exercises the same discretion and humanity as he would in the other case. That is how I see it. Otherwise, it is just unnecessarily embroiling us in legal aspects.

SHRI RAM SWARUP: Do you agree that there should be no restriction on this? Explanation II says that if a contraceptive device has failed, she can seek termination of pregnancy. Do you think there should be no restriction or Explanation like that?

WITNESS: I think there should be no further Explanation necessary. That is why I have suggested that you include the words 'alleged to have occurred' as you have included in the case of rape.

SHRIMATI TARA SAPRE: Kindly refer to clause 3(4)(c). It says:—

"No pregnancy of an unmarried girl, who has not attained the age of eighteen years, shall be terminated except with the consent in writing of her father or of her guardian, if her father is not alive."

In a case where the father and mother of the girl are alive, if the father says that consent should not be given and the mother wants to give consent, are we to take the mother's consent? Here it is said father's consent.

WITNESS: Are we to assume that the father wants his daughter to marry the man responsible for this act? That is the only circumstance in which he can withhold his consent.

SHRIMATI TARA SAPRE: In that case the father may like it but the mother may think that the boy is not suitable. The mother may think that she should get rid of that pregnancy. In that case the mother's wish must prevail. Do you not think so?

WITNESS: I think you can overcome this issue by simply saying 'a parent', one of the parents, instead of stating mother or father. Do not bother about which parent. 'A parent' is well understood in law.

SHRIMATI TARA SAPRE: If there is a difference between the father and the mother whose opinion should prevail?

WITNESS: You can overcome the difficulty if you say 'a parent'. In law either the mother or father is a parent.

SHRI N. R. LASKAR: You have made it clear in your statement that if a married woman comes forward and says that she should be allowed to terminate her pregnancy, even if it is her first child, it should be allowed. Have you come to this conclusion on your own or have you had in mind the experiences of various countries?



**WITNESS:** This is an article of faith with me, first and foremost. It is high time civilization realised that it is the woman's decision ultimately. It is she who has to bear the child. It is she who has to bring up the child. If other countries support this, I am certainly in favour.

**SHRI N. R. LASKAR:** It is your own view. It is not based on some experience of other countries. For example, from the literature of some of the advanced countries who have adopted this process mostly for family planning, what is their reaction? Do you know all this?

**WITNESS:** No. This is not a problem which I have gone into very deeply. I do know that where abortion legislation does not exist in a liberal measure, this is a great problem now. I saw an issue of "Life" magazine some months ago which features medical abortion legislation. The fact is that all the women who can afford it are registering, and it is a complicated, highly organised and efficient abortion machinery which functions in London. It is like an assembly line, and they go forward.

**SHRI N. R. LASKAR:** For your information I shall read out a passage which is based on some experience of those countries. This is from the Royal College of Obstetricians and Gynaecologists and they expressed their opinion as follows:

"Whilst the continuance of pregnancy can have a psychological rather than physical ill-effect, so can induced abortion. There are few women, no matter how desperate they may be to find themselves with an unwanted pregnancy, who do not have regrets at losing it. This fundamental reaction, governed by maternal instinct, is mollified if the woman realizes that abortion was essential to her life and health, but if the indication for the termination of pregnancy was flimsy and fleeting she may suffer from a sense of guilt for the rest of her life. The

incidence of serious, permanent, psychiatric sequelae is variously reported as being between 9 and 59 per cent."

What have you to say regarding this?

**WITNESS:** I think the doctors would be in a better position to say it. An abortion at a certain stage of pregnancy is no more than just scraping the walls of the womb, which though delicate is a relatively minor thing. Even at the later stage, performed under competent medical conditions, it is not serious. I think the psychiatric factor may enter into it for other reasons and not because of the safety question. I am not very sure what point you are making. 5

**SHRI N. R. LASKAR:** Because they have liberalised the process in the advanced countries, 50 to 60 per cent of the women are suffering from this disease.

**WITNESS:** They are suffering from what disease? I did not understand.

**SHRI N. R. LASKAR:** I shall read again:

"This fundamental reaction, governed by maternal instinct, is mollified if the woman realizes that abortion was essential to her life and health, but if the indication for the termination of pregnancy was flimsy and fleeting". . .

Suppose somebody just wants abortion, I would call it a flimsy ground.

". . . she may suffer from a sense of guilt for the rest of her life. The incidence of serious, permanent, psychiatric sequelae is variously reported as being between 9 and 59 per cent."

Sometimes it is as high as 59 per cent; 59 per cent of the women are suffering.

**WITNESS:** I do not know in which country this happened, but in a country like ours it would be highly unlikely that it is for a flimsy reason, where most of the people are suffering.

serious economic hardship and every child is a colossal burden. May be for a fraction of one per cent of the very rich you might say that the woman wants not to go to the trouble of having another child, but certainly in a country like ours and at the level at which we are I do not think the reasons can be regarded as flimsy.

SHRI N. R. LASKAR: But in medical science when there is an induced abortion on flimsy ground, that is simply the mother does not want the child, then there is a case. . .

WITNESS: That would depend on the environmental factor. If a millionaire's wife desires it, then we might say that she is left with some sense of guilt because she thought of her own pleasure and convenience. But the majority of women I do not think want abortion on flimsy ground. They want it on solid, genuine inescapable grounds which may be physical or which may be economic or which may be just the sheer anguish of bringing another life into the world which she cannot cope with.

SHRI N. R. LASKAR: I have quoted from a journal of the Royal College of Gynaecologists.

WITNESS: They do not mention the country.

SHRI N. R. LASKAR: I am giving the substance of that.

CHAIRMAN: I do not think she has read that. It would be very difficult for her to answer that.

SHRI N. R. LASKAR: One more thing I would like to know from you. Do you think that this induced abortion has any effect on the woman.

WITNESS: I happen to know personally eight women who have had abortion. It had no effect on them. They are perfectly fit and normal.

SHRI N. R. LASKAR: Do you think this abortion requires special arrangements?

WITNESS: Each one of them, absolutely. It involves special arrangements for reasons of safety and security. It has not affected any one of them physically or mentally. They have come out of it perfectly normal. In fact birth of another child might have affected them.

SHRI N. R. LASKAR: What I want to know is whether it should be done only in hospitals or it can be done simply by any medical practitioner.

WITNESS: I am not a medical expert, but it seems to me that any qualified nursing home, any maternity hospital, any hospital or medical institution which is properly equipped can perform this operation in the routine way. I think it is far less complicated an operation than most operations, if done at the right time.

SHRI N. R. LASKAR: Do you have any ideas to whether we have enough facilities for this in our country?

WITNESS: We have not got enough facilities for anything in our country. Just as we have to make arrangements in any crisis, in any emergency, in any situation that may confront us, for this also we have to make arrangement.

DR. SUSHILA NAYAR: I have understood from your remarks that you are clearly in favour of using liberalisation of abortion as a method of family planning. Am I correct?

WITNESS: Yes. I would say that we need it almost as a population control measure. But that, I realise, is a much bigger and wider thing. And I do not want to enter into its complications.

DR. SUSHILA NAYAR: You are aware that there are very effective methods of family planning as well as population control which are without the inherent dangers physical, emotional, psychiatric, than abortion.

The fact that if you popularise involved in abortion as a method of family planning, it is felt that because it does not need precautions, and one can take care of it after the event, it is likely to have an adverse effect upon the family planning movement as a whole. What is your opinion.

WITNESS: I do not think any woman would prefer abortion to prevention. It is only if the latter fails that she must resort to it. I do not think that it can in any way hinder the progress of family planning.

DR. SUSHILA NAYAR: It has happened that in Japan because they used abortion as a method of population control. They have had very great difficulty in introducing other methods of family planning. They started introducing other method at a much later date. I hope Taraji you have seen a copy of the Shantilal Shah Committee report. Its first two chapters give the experience of other countries. I am going to read out two or three sentences about Japan. They studied 1,400 women in one instance and 50 per cent. of them within 18 months had either another abortion or were pregnant again. Then there were another 1,712 cases studied in which they found that 47.3 per cent had post-operative complications. 45 to 49 per cent after the first induced abortion and 54-55 per cent. after the second and third. So abortion is something which even under the best conditions does carry a fair amount of risk. Now, there may be a few lucky women whom you met with whom nothing has gone wrong. But that is no guarantee that every one will be as lucky as that. Will you agree that abortions may be resorted to if it is absolutely essential. As a general rule they may use other family planning methods for spacing as well as checking unwarranted population increase.

WITNESS: I would like to know the figures of these particular circumstances which you mention before abortions were legalised in Japan.

Then only we can compare whether there is damage or otherwise.

DR. SUSHILA NAYAR: The point is you cannot stop post-operative complications when you resort to abortion.

WITNESS: When abortions were illegal, were not all these conditions there.

DR. SUSHILA NAYAR: There are no two opinions that the complications in clandestine abortions are far greater than in regular, open abortions, but all abortions carry a substantial risk.

WITNESS: That is the problem because that would be taking place anywhere.

DR. SUSHILA NAYAR: If you come to that, then illegal abortions have not been checked even after the liberalisation of abortion in a country like Japan. Therefore, certain amount of illegal abortions will continue to occur. But what I mean to say is that even when it is legalised, under the best conditions that the country can afford—and a country like Japan has much better facilities than we have in India—even there the rate of complications is as high as I just put it. Under the circumstances I would like you to consider whether you would think that abortion is something which can be resorted to. But let us not try to popularise the concept of use of abortion as a family planning measure, except in certain exceptional circumstances.

WITNESS: There is no doubt about that. The only point where I disagree with you is that I do not think there is any woman who would rather have abortion. It is, after all, a painful experience and something which no one wants to have if they can do without an operation. They would have other measures. I do not think abortion is an attraction to any woman.

DR. SUSHILA NAYAR: I wish I could share your optimism that all wo-

men are as well informed and as well educated. It is a two-way effort that is necessary on the part of authorities concerned to educate them and to make these things acceptable on the other hand the person concerned must accept such help.

Secondly, in this country of ours you are aware there are very ignorant husbands still, and there are husbands who would not co-operate in the use of some contraceptives. And with the low level of health and nutrition in India, think of the lot of the women who has to have one or two abortions a year. What will she come to?

WITNESS: Any woman in real hardship would prefer to resort to sterilisation.

DR. SUSHILA NAYAR: Therefore, I come to the question that was asked by my friend here. If the couple says that they have tried every device but they have not succeeded, then what is the harm in suggesting sterilisation, when then come for abortion, so that she need not come up against after six months?

WITNESS: I think that would be extremely desirable. My only objection was to the use of the word "compel".

DR. SUSHILA NAYAR: You said that environment would cover socio-economic needs. It has been suggested to us that Explanation II under section (ii) of sub-clause (2)(b) of clause 3 should be deleted. The Explanation says:—

"Where any pregnancy occurs as a result of failure of any device used by any married woman or her husband for the purpose of limiting the number of children, the anguish caused by such unwanted pregnancy may be presumed to constitute a grave injury to the mental health of the pregnant woman."

Further sub clause 3 says:—

"In determining whether the continuance of a pregnancy would involve such risk of injury to the

health as is mentioned in sub-section (2), account may be taken of the pregnant woman's actual or reasonably foreseeable environment".

So Explanation II that should suffice rather than put in environment" which could be a very vague and uncertain thing. Sub-clause 3 should be deleted. Have you any opinion on that?

WITNESS: Well, there are cases where a woman is perfectly healthy, is in a perfectly normal state of both physical and mental health and it would not do her harm to bear another child, but where the fact of her being poor and unable to bring the child up is the only factor. Now a doctor can, I suppose, with a very wide discretion call that mental anguish. But I only mentioned it as a sort of additional health ground for a situation like that to be covered.

DR. SUSHILA NAYAR: You have mentioned about the paucity of medical facilities and so on. Now under this Bill any registered medical practitioner can do the abortion. Would you like us to make sure that the registered medical practitioner has adequate skill, training etc., because a "registered medical practitioner" can be anybody. Even untrained people can be "registered medical practitioners" if they have been practising for a certain number of years.

WITNESS: I would certainly think that it should be in the hands of what we commonly know as "qualified doctors". I do not know if there is a distinction between a "registered medical practitioner" and what we call a "qualified doctor". I am really not qualified to answer this question. I do not know what range of activities these registered medical practitioners have now.

DR. SUSHILA NAYAR: Lastly, you have very rightly said that it should be the woman's right to decide whether she wants to continue the pregnancy or she wants to terminate it,

and not that of the guardian, father or other people. Now it has been suggested to us that instead of saying unmarried woman, unmarried girl, widow, etc., the clause may be simplified to say that the guardian's permission may be required in the case of a minor or a woman of unsound-mind, and in all other cases it should be the woman's own decision whether she wants to continue the pregnancy or she wants to terminate it.

WITNESS: Yes, I would support that.

श्री गंगाचरण डी : महोदया, 26 जुलाई, 1969 के ब्रिटिश मेडिकल जर्नल में एक समाचार प्रकाशित हुआ, जो कि मैं यहां कोट कर रहा हूं। जो कागज़ हमें यहां सेय मिले हैं उनमें ही यह है और उसी में से मैं पढ़ता हूं :

"The community wanted neither a total ban on abortion nor abortion on demand. It wanted abortion to be available where there was serious and genuine need and to be carried out under the best possible medical conditions. The Abortion Act was not achieving this. A minority of doctors were making fortunes out of the Act and were not observing the normal standard of medical care."

तो आप बतायें कि इस सम्बन्ध में आपके क्या विचार हैं। आप इस समाचार से सहमत हैं या नहीं ?

WITNESS: You mean that the doctors are taking advantage of this Act?

SHRI GANGACHARAN DIXIT: No, this is not the only point. The quotation taken from the British Medical Journal 26th July 1969 (page, 245) also clearly says that the Act was not achieving its object. What is your opinion on this?

WITNESS: I would like somebody to tell me whether abortion is legally and readily available in the State clinics and so on whether it is available under the National Health Scheme.

me. You see, the point I am trying to make is that it has been said that a minority of doctors are making fortunes. It depends on whether other facilities are available where you can go. For instance, I can have my tooth extracted under the National Health Scheme and I can have it extracted at great cost elsewhere also. I do not know whether abortion is available under the National Health Scheme, at State clinics and so on.

DR. SUSHILA NAYAR: We do not know whether they can go to the doctors under the National Health Scheme and get it done or they have to pay something extra for it. Probably they have to pay something extra for it and that is why some people who are not really competent to do it might be doing it. This is really a matter of administration of their own services and their own legislation.

CHAIRMAN: This facility, I am told, is available under the National Health Scheme.

DR. SUSHILA NAYAR: Do they get it free or they have to pay something for it? If it is free, why should anybody make a fortune?

CHAIRMAN: Dr. Kashyap will explain the position.

COMMISSIONER FOR FAMILY PLANNING (DR. KASHYAP): In Japan they allow women to have abortion done by Government hospitals through the insurance scheme with the result they have to pay only US \$1 or US \$1.15. But the women there prefer, by and large, not to avail of this facility. They pay US \$15 or US \$20 and get abortions done through private practitioners. That is the privilege or the choice of the women there. They are allowed to go to private practitioners also. It depends upon the individual woman. If she does not want to reveal her identity or if she does not want to make known her name and details, she is free to go to private practitioners. So similarly if various hospitals are cer-

tified that these facilities are available there, the choice can be left to the individual woman to go to one place or another, so long as the hospital has been declared valid and good for carrying out an abortion; in other words, it should be adequately equipped and staffed.

**SHRI KAMESHWAR SINGH:** Dr. Kashyap has said that in Japan though women are required to pay only a small amount if they go to Government hospitals, they prefer to go to private practitioners and pay US \$ 15 to US \$ 20 and there they do not have to reveal their identity. But do you think that the private practitioners in India do not record the particulars of the abortions they do? If any cases rising out of the abortions go to the court, they will have to give evidence. Some court cases will be there . . . .

**SHRI K. P. MALLIKARJUNUDU:** I may point out that Clause 4 prohibits such operations from taking place in any other hospital which is not approved by the Government.

**SHRI KAMESHWAR SINGH:** I quite agree. But nowhere does the Bill say what the approved clinics will charge.

**SHRI K. P. MALLIKARJUNUDU:** That is a different matter.

**WITNESS:** Liberalising abortions, as the Bill does, for the married, women, will go a long way in bringing down the cost because certainly for the married women there is no need of secrecy and most of the women will come with the consent of their husbands and they will have no need to hide their names. So the doctors cannot exploit a woman. Secrecy is not a consideration. Of course, I quite agree with you that in the case of an unmarried woman, she may not like to reveal her identity.

**CHAIRMAN:** Clause 6 (1) (c) says, The State Government may, by regulations,—

“prohibit the disclosure, except to such persons and for such purposes as may be specified in such regulations, of notices given or information furnished in pursuance of such regulations.”

**SHRI KAMESHWAR SINGH:** Mr. Chairman, one submission I would like to make. The moment this goes to the court, the court asks for evidence. Everything has to go to the court. There is no secrecy in the court. So on that ground the married or unmarried girls who do not want to reveal their identity, may be harassed. So I suggest that except in the case of lunatics, rape or any other sex crime, no evidence should go to the court.

**DR. SUSHILA NAYAR:** Mr. Chairman, I think we can discuss this later on when we discuss the Bill clause by clause.

**श्री निरंजन वर्मा :** आपने शायद इस पूरे बिल को पढ़ लिया है और बिल को पढ़ने के बाद आप इस परिणाम पर पहुंची हैं कि भारतवर्ष के सब लोगों के लिये इस बिल का लागू किया जाना अच्छा है तो क्या आप यह उचित समझेगी कि इस बिल को जम्मू और काश्मीर सहित भारत के सारे प्रान्तों पर लागू किया जाना चाहिये ?

**साक्षी :** अब आप मुझे बता सकते हैं कि जम्मू-काश्मीर में कोई बिल लागू होता है जो कि भारत के लिये है ? कोई भी बिल वहां एप्लाइ करता है जो कि बाकी भारत को एप्लाइ करता है ? मेरा तो ख्याल है कि नहीं करता है ।

That is a political problem. But I would certainly include a legislation for Jammu and Kashmir. But as long as all the rest is not included, how can you push this?

**श्री निरंजन वर्मा :** ठीक है आपकी राय जानना चाहता था क्योंकि आप अच्छी जर्नलिस्ट हैं ?

अब आप दूसरी बात यह बताने का कष्ट कीजिये कि अगर कोई 18 वर्ष से अधिक आयु की अविवाहित लड़की है, स्त्री है, वह मेजर है और ल्युनेटिक भी नहीं है, वह इस प्रकार से प्रेगनेंसी को समाप्त करने के लिये जाती है तो इस देश की परम्परा को देखते हुए क्या इससे देश में व्यभिचार नहीं फैलेगा या अष्ट आचरण नहीं फैलेगा ?

साक्षी : Well, this is so.

आप सही कहते हैं मगर इस बिल में मैटल और फिजिकल एंगुइश पर इतना जोर दिया है कि इसी पर सभी कुछ निर्भर है तो सबसे ज्यादा मैटल और फिजिकल एंगुइश किसको होगा ? एक शादीशुदा औरत को जिसके पति उसके पास हैं और जिसको सब बातें मालूम हैं या उस लड़की को जिसके पास कोई नहीं है ! जो कि खुद विकटिम आफ सरकमस्टांसेज हैं उसको या शादीशुदा औरत को ! ज्यादातर ऐसा ही होता है इस मुल्क में । तो जो आप कहते हैं वह ठीक है लेकिन

The Bill must really be almost directed to that sort of persons who require to be helped out of this sort of a situation.

जहां तक होसके उनको देखना है । इस वक्त बिल की जो वर्डिंग है उससे आगे चल करके इम्प्लामेंटेशन में बड़ी मुश्किल होगी क्योंकि ऐसी लड़की, ऐसी औरत तो अपना नाम भी छिपाना चाहेगी और डाक्टर उससे जो कुछ भी ले सकेगा वह लेगा ।

As far as the legislation goes, it should cover her difficulty as far as possible.

श्री निरंजन वर्मा : इसी प्रश्न का एक दूसरा अंश भी है । जैसा कि आपने अभी बताया, अगर कोई कालेज की लड़की 18 वर्ष की उम्र के पश्चात् कालेज में पढ़ती है तो निश्चित रूप से वह मेजर औरत है और अगर वह गर्भपात कराती है क्योंकि अपनी स्वयं की इच्छा से करा सकती है तो क्या

आगे भविष्य में, समाज का जो गठन है उसमें उसको व्यवहार करने में, पति को प्राप्त करने में उसके सामने कठिनाइयां नहीं आयेंगी और अगर आयेंगी तो उसके विषय में आपके क्या विचार हैं ?

साक्षी : मगर आप देखिये कि अगर वह एवार्शन करावे तो उसके रास्ते में कठिनाइयां आवेंगी लेकिन अगर नहीं करवायेगी तो भी तो कठिनाइयां आवेंगी, उससे ज्यादा आवेंगी, अगर कोई वह बच्चा पैदा करे, बच्चा पैदा करना पड़े, तब तो उतका दिवाला ही पिट जायेगा, कितने सम्हलेंगी, क्या करेगी, किससे शादी करेगी ?

श्री निरंजन वर्मा : दोनों प्रकार से कठिनाई हो सकती है ।

साक्षी : ज्यादा प्राबल है उसके बच्चा पैदा करने में क्योंकि उसकी जो हालत है उसमें कैसे बच्चे को सम्हलेंगी और अपना सम्बन्ध कैसे रखेगी ।

श्री कामेश्वर सिंह : इसीलिये आप लड़कों को ब्रह्मचर्य की शिक्षा दीजिये ।

श्री निरंजन वर्मा : एक और प्रश्न है । किसी न किसी रूप में फेमिली प्लानिंग की वजह से, उसकी सहायता के लिये, यह बिल लाया गया है तो अगर किसी मानसिक स्वास्थ्य (मैटल हेल्थ) के कारणों पर यह सब आधारित न हो और अगर 370 को साफ-साफ बता दिया जाय कि दो बच्चे के पश्चात् अब हमको तीसरे बच्चे की आवश्यकता नहीं है, साफ तौर से कहे कि हम गर्भ को धारण करना नहीं चाहते, तो इसको साफ बतलाने में क्या हर्ज है ! यह मैटल हेल्थ की बात न लाई जाय, इस कंडीशन को न रखा जाय और यह बच्चों की बात साफ कह दी जावे उसको साफ कहने में क्यों बाधा पड़ती है ?

साक्षी : जी हां, उसी में आ जाता है, इसी लीगल डेफिनिशन के अन्दर-अन्दर ही आ जाता है । आखिर उसकी भी कोई जरूरत है, कोई वजह है कि कोई और बच्चा नहीं चाहेगा और वजह यह है कि अगर उसकी बीबी बच्चा नहीं पैदा कर सकती, या यह कि वह गरीबी में है और को नहीं पाल सकते हैं और इसकी वजह से मॉटल एंगुइश होगा कि तीसरे या चौथे बच्चे को खाना खिलाना होगा ।  
It is all covered in this Bill.

श्री निरंजन वर्मा : इसमें कही पर इतना स्पष्ट नहीं है, इस पूरे बिल में । तो मेरा तात्पर्य यह है कि इस प्रकार से आड़ में किसी कार्य को करने की अपेक्षा क्या यह अच्छा नहीं होगा कि कानून में स्पष्ट निर्देश कर दिया जाय कि दो, तीन बच्चों के बाद यदि परेंट्स चाहें कि उनको बच्चा नहीं चाहिए

तो उनको अवारशन कराने को इजाजत हो ?

साक्षी : मैं इस से सहमत हूँ और अगर आप बिल में इतना स्पष्ट प्राविजन कर सकें तो अच्छा है । बिल के यही मायने हैं कि दस बारह प्राविजन्स हों और ए, बी, सी, बीच में हों ।

I do not know if it is possible to do that in the Bill itself. It is not possible to make all these things clear in the Bill. That is how, I understand it. If it could be done, so much the better. But I do not think it is possible to do that.

CHAIRMAN: Well, thank you very much, Mrs. Sehgal, for your valuable evidence that you have given before the Joint Committee.

(The witness then withdrew)

(The Committee then adjourned.)



Wednesday, the 17th June, 1970

PRESENT

Shri Mulks Govinda Reddy—*Chairman.*

MEMBERS

*Rajya Sabha*

- |                                 |                              |
|---------------------------------|------------------------------|
| 2. Dr. (Mrs.) Mangladevi Talwar | 6. Shrimati Bindumati Devi   |
| 3. Shri M. Srinivasa Reddy      | 7. Shri Niranjan Varma       |
| 4. Shrimati Usha Barthakur      | 8. Shri G. Gopinathan Nair   |
| 5. Shri K. P. Mallikarjunudu    | 9. Shri S. A. Khaja Mohideen |

*Lok Sabha*

- |                            |                         |
|----------------------------|-------------------------|
| 10. Shri Vidya Dhar Bajpai | 17. Hazi Lutfal Haque   |
| 11. Shri Gangacharan Dixit | 18. Dr. Sushila Nayar   |
| 12. Shri Ganesh Ghosh      | 19. Shri Partap Singh   |
| 13. Shri Kameshwar Singh   | 20. Shri Ram Swarup     |
| 14. Shri Kinder Lal        | 21. Shrimati Tara Sapre |
| 15. Shri P. Viswambharan   | 22. Shri M. R. Sharma   |
| 16. Shri N. R. Laskar      | 23. Shri Babunath Singh |

REPRESENTATIVES OF THE MINISTRIES

*Ministry of Law*

Shrimati V. S. Rama Devi, Dy. Legislative Counsel

*Minister of Health and Family Planning and Works, Housing and Urban Development*

Dr. K. N. Kashyap, Commissioner (FP)  
Dr I. Bhushan Rao, Deputy Commissioner (FP)  
Shri D. N. Chaudhri, Deputy Secretary  
Dr. S. V. Raja Rao, Asstt. Commissioner (FP)  
Dr. (Smt.) S. F. Jalnawalla, Deputy Director (I)  
Shri A. P. Atri, Under Secretary

SECRETARIAT

Shri S. P. Ganguly, Deputy Secretary  
Shri M. K. Jain, Under Secretary

## WITNESSES EXAMINED

(1) Representatives of the Indian Medical Association, New Delhi:

- (i) Dr. P. C. Bhatla, Hony. General Secretary .....
- (ii) Dr. N. S. Banerjee, Hony. Joint Secretary
- (iii) Dr. B. Krishna Rao, M.B.,B.S.

(2) Shri G. D. Khosla, Retd. Chief Justice, Punjab High Court, 16, Teen Murti Lane, New Delhi.

(3) Dr. Kartar Singh M.B.B.S., F.R.C.S., National Clinic; Jangpura A, New Delhi.

*(Representatives of the Indian Medical Association Dr. P. C. Bhatia, Dr. N. S. Banerjee and Dr. B. K. Rao, were called in.)*

**CHAIRMAN:** I welcome Dr. P. C. Bhatla, Dr. N. S. Banerjee and Dr. B. K. Rao. You know that the evidence tendered before this Committee should be treated as confidential and should not be published till the Report is presented to Parliament.

**DR. P. C. BHATLA:** Thank you, Mr. Chairman. I take this opportunity to convey, on behalf of the Indian Medical Association, our appreciation for giving us an opportunity to be present here and place our view points on this very important legislation that is coming up before Parliament. The Indian Medical Association is a voluntary organisation and is comprised of members of the medical profession duly qualified and registered under the Indian Medical Council Act. It comprises not only private practitioners, doctors and surgeons, but also administrators, teachers, specialists, consultants and others. With this little background about the Indian Medical Association, I wish to put before you the fact that right from the beginning when the Shah Committee was appointed, representatives of the IMA have been on that Committee and they have placed the view point of our Association so

far as legalisation or liberalisation of abortion is concerned. Now, we have some points to make on the proposed Bill as well as some general statements. Dr. Banerjee who is to my left is our Joint Secretary and is a surgeon. Dr. B. K. Rao is an eminent sexologist, marriage counsellor, and psychosomatic consultant.

First of all, I would say that the Indian Medical Association feels and strongly believes that it is the inherent right of an adult woman to decide whether she is going to have a child or not. That is our basic concept and from that first impression will follow our points of view. In cases that come in wedlock both the spouses should have a say when such a pregnancy is going to be terminated. While the IMA is in favour of liberalising and giving opportunities to medical practitioners to conduct abortions, we feel that conditions in the country are not such that it should be done in an unrestricted manner. What is needed is not only a number of doctors, but also certain special training. By training we mean (i) a gynaecologist who has been conducting and practising abortion operations; (ii) general surgeons and (iii) certain graduate doctors who have been running nursing homes and doing partly general surgery. These are people who are in their own right, eligible to conduct these

operations, but what is the number of such doctors in the country? To give an example, Dr. Chandrasekhar has written in one of his notes: "I could gather from the figures that there are 6.5 million abortions which have been estimated to be conducted in the country." How this figure has been arrived at, we do not know. It must have come from certain statistical studies, but there are no abortions which come to a hospital and are not recorded. We may be wrong, but it is our feeling. I take only Delhi as an example. The figure given is 13 per thousand population. Thus, we will have at least 50,000 to 52,000 abortions conducted in Delhi alone.

How and where they are done estimates and some suggestions have been made, but these are being conducted. Out of them a number of maternity beds in the hospital or other beds are being utilised for those cases which go bad. The qualified doctors are not doing it because of the restrictions in the present Act, but they are being done by unqualified people, by 'dais' and others, those who are meddling into the affairs of practice of modern medicine and surgery.

I would only come to one or two points. Some provision must be made in the present Act or in the new Act that certain conditions which have been put in it are fulfilled and doctors are given the opportunity to conduct such type of abortions. I have already calculated, I need not repeat because that will be going into the thing again, but one thing I would like to stress and that is that we have to have one point considered, it is in the Bill also, that when contraception fails, opportunity should be afforded to the couple to have resort to this type of termination of pregnancy. Who is to assess whether it has failed or not? We have to believe the couple. We cannot do anything else but believe them. I think it will be very difficult to verify records, so it should be done.

The other point that I wish to place before you is certain other recommendations we have put down, that the definition of registered medical practitioner must be made very clear because we have so many systems of medicine; all will be known as registered medical practitioners. If we have to take those persons, then the names of those doctors which are borne on the All-India Medical Register should be taken as registered medical practitioner for the purpose of this Act. I am repeating, not the State Medical Register. It is because certain State Governments can bring on the State Medical Register any qualification that they consider can be brought on the register, but whether they are borne on the All-India Medical Register is a point which is to be considered. I will give the example of U.P. Some three or four years back some practitioners of integrated system of medicine were brought on the State Medical Register, but the Medical Council of India has not brought them. This is my information if I have followed the points correctly.

Then the second point is in order to prevent the danger of repeated abortions—a woman may conceive again and come within six months—how often we are going to subject a woman to surgery? This will be an unending process for the entire married life of the couple. Our suggestion is that the registered medical practitioner who conducts this abortion should advise the couple to get one of the members sterilised because that is very important if we have to safeguard the health hazards particularly to the woman.

Then the other point is that side by side we should continue vigorously the small family norms through control of conceptions and making accessible the services of family planning. Then this developing of family life education where we bring

a healthy attitude towards sex, marriage, parenthood, etc. that is to be brought forward and the couple educated with that object.

There is one more point. In the case of married women, wherever they have been raped, it is not the husband's consent that is needed there, because it will be as bad a mental anguish to continue the pregnancy if the husband objects. So, the right should be given to the woman to have this abortion done if she wishes it.

We have not been able to understand about the period of pregnancy. Early pregnancy can be diagnosed, and the only indication that can come is if the woman has missed her period. That will be between the first and the second month. Statistics show that for abortions conducted during the first 12 weeks of pregnancy the mortality is very very low. If they are conducted as the pregnancy advances, the chances of mortality go up. But with the modern technology, modern hospitals available, medicines, staff and all that, I am sure the mortality is not going to go that high. As I have said, that will take some time before we achieve those targets. In normal pregnancy also the mortality rate is something like 35 per 100,000. Judging from that if the mortality on abortions ranges somewhere below that, I think there is no risk if we go ahead with the Bill before us.

One point before I finish, and that is that we do not believe in a place certified by the State Government for conducting abortions. We do not like a place like a railway platform. The place should be determined. We say it should be either a hospital, whichever hospital it is of Railways, Government, E.S.I. State Government, all these hospitals plus the Nursing Homes wherever they are existing in the country, that is, the registered Nursing Homes. For

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example, in Delhi there is a Nursing Home Registration Act which is not prevalent to my knowledge in most of the States. If all these Nursing Homes are registered, those Nursing Homes could be considered as places for this purpose. There should be a specification made in the Bill that it should not be a place certified but a hospital or Nursing Home or clinic certified. In the matter of certification, there again if a registered Nursing Home is certified, that is good enough because it fulfils all the stipulations. But in cases where this is not in vogue, then there should be a Board or a Committee appointed by the State Government in which the Indian Medical Association would be glad to participate and would like to be one of the members of that Committee to certify such type of clinics.

Thank you. We would be glad to answer questions which the Members may like to ask.

CHAIRMAN: You said there are different qualification for members enrolled in the State Register and different qualifications for members enrolled in the All India Register.

WITNESS (DR. P. C. BHATLA): There is an exception clause in the Indian Medical Council Act that the State Government may register such persons under such and such condition I cannot quote this because the Act is not with me. I am giving the example of U.P. We have had a lot of dialogue between the State Government and the Medical Council of India. To my knowledge those 100 odd doctors under the integrated system have been brought on the U.P. State Medical Register but not on the All India Medical Register.

CHAIRMAN: If your colleagues want to say something, they can say.

WITNESS (DR. B. K. RAO): I have already given a short note on my views. They are my personal views.

and not of the Indian Medical Association. Well, the problem of abortion is universally known. Dr. Bhatla has given a resume of the opinion of the Indian Medical Association. I have been a specialist in the field of sexual reproduction and I support entirely what Dr. Bhatla said with regard to the dangers of abortion. It has been well established now since the modern techniques have been employed that the risks of abortion are not really as much as they have been made out to be. And even at present, it has been shown that the maximum danger is because of the unauthorised people and quacks doing the abortion. Therefore, it is our idea that only the registered medical practitioners, according to the Indian Medical Council Act, who are trained in modern medicine, should be permitted to perform the abortion. If the law is liberalised if section 312 of the Indian Penal Code is scrapped, I personally feel that people would go for abortion only to qualified medical practitioners and not to quacks, just as nobody would go for appendicitis or any other major operation to a quack or an unqualified person. I feel that the law should be sufficiently amended to see that so many restraints, restrictions and official procedures are not put. All operations are performed by medical men in good faith. I am sure even abortions would be performed in the same good faith.

If any Member would like to ask questions, I would be glad to answer.

**SHRIMATI TARA SAPRE:** In your resolution you have said that the conditions in the country must be favourable, i.e., there should be qualified and trained medical men, properly equipped hospitals in sufficient numbers, and so on. Then are we going to wait for another 20 years?

**WITNESS (DR. P. C. BHATLA):** Why we have put it is that we do not want semi-baked doctors to perform the abortions. If the Indian

Medical Association does not bring it up, who else is going to do it? Secondly, why should we not provide opportunities for people to get themselves trained? The opportunities have to be provided by the State and I think it is the duty of the profession in general to come forward and avail of those opportunities. I am sure we are not going to wait for 20 years. We as Indians have a lot of patience and I think we can quite safely wait for two or three or four years before this is done. I am sure this is going to pick up only gradually. It is not that overnight millions of abortions are going to be done. By the time we gain experience, we have the proper personal and the hospitals for it, we will be doing it. I hope I have made my point clear.

**SHRIMATI TARA SAPRE:** You have said that it is a pre-requisite. If we start with this law, won't the conditions improve quickly?

**WITNESS (DR. P. C. BHATLA):** I think I have not made myself clear. 'Pre-requisite' means that we have certain numbers and we should know what that number can cope with.

**SHRIMATI TARA SAPRE:** My second question is whether you accept this liberalisation of abortion as one of the measures to control the population growth.

**WITNESS (DR. P. C. BHATLA):** We have made it clear that it is not the only method. It can be one of the methods. We have made it amply clear that if the couple resort to contraception techniques and they fail, then there is a ground for allowing abortion. But this is only one aspect. We say that sex education, marriage counselling, general health education, family planning services etc., should go side by side.

**SHRIMATI TARA SAPRE:** In that case, I would like to ask you whether a lady of 40 years of age who has

failed in the use of contraceptive devices should be allowed to have abortion without any question.

**WITNESS (DR. P. C. BHATLA):** We can, if the circumstances so allow. But I would advise the lady to get herself sterilised.

**SHRIMATI TARA SAPRE:** I would say the husband should be sterilised.

**WITNESS (DR. P. C. BHATLA):** The choice is between the husband and the wife. And we do it with the cafeteria approach. We leave the choice to the couple. I think man can be chivalrous sometimes, but they may not be at times.

**SHRIMATI TARA SAPRE:** As a doctor, will you advise the woman or the man to get sterilised?

**WITNESS (DR. P. C. BHATLA):** I would personally advise the woman, if she has already three or four children, to get herself sterilised.

**WITNESS (DR. B. K. RAO):** Here we have got to take the opinion of both the husband and the wife and we have to see what would be in the best interest of both. The member mentioned the case of a 40-year old lady. Well, in some countries, especially in the European countries, age 40 itself is permitted for abortion; that is one of the categories permitted for abortion. Now in this case, I would beg to differ from Dr. Bhatla. I would advise the husband to undergo sterilisation. That is what we often do. I have done this very often. In cases where people take recourse to abortion, I always advise the husband to undergo sterilisation. It is actually one of the pre-conditions that I put.

**WITNESS (DR. N. S. BANERJEE):** May I just say a word? This question is a very important question. The Bill is a very comprehensive one. In Explanation II it says:

"Where any pregnancy occurs as a result of failure of any device used by any married woman or her husband for the purpose of

limiting the number of children, the anguish caused by such unwanted pregnancy may be presumed to constitute a grave injury to the mental health of the pregnant woman."

The Indian Medical Association has supported this point of view. As Dr. Rao has mentioned, it should be very strongly emphasised that a medical practitioner, a practitioner in modern medicine or scientific medicine, always acts in good faith and there is enough law in this country to protect the patient if the medical practitioner does not act in good faith. We do not need a separate Bill for it.

**SHRI P. VISWAMBHARAN:** In your note you have said that "the existing law is sufficient to cover cases of therapeutic abortions." And you said now that the law has got to be drastically amended. So, that statement stands amended?

**WITNESS (DR. P. C. BHATLA):** That is concerning therapeutic abortions.

**WITNESS (DR. N. S. BANERJEE):** That refers to therapeutic abortions, i.e. abortions to save the life of the woman, which is according to the Indian Penal Code. What the Bill wants to provide is something beyond that, to cover certain other risks, including economic and psychological distress caused to the woman. Therefore, the existing law, these socio-economic factors are not permitted at all.

**SHRI P. VISWAMBHARAN:** One of the earlier witnesses suggested that only doctors with post-graduate qualifications should be allowed to perform the abortions. Do you agree with this?

**WITNESS (DR. P. C. BHATLA):** The graduates and others who are specially trained. Those who have got post-graduate qualifications are already trained and those who wish to get further training in this particular subject, they are welcome to do so.

DR. (MRS.) MANGLADEVI TALWAR: I am really surprised that you think that the existing laws are sufficient to deal with the problem which is increasing day by day. You are all doctors with great experience and I am sure you must have come across a large number of married women—I am not talking of unmarried women or widows—who would like to have abortions done on them and only when the medical profession or the hospitals are not able to do it, they go to certain quacks and unqualified dais who are ill-equipped in training and they go to them at the great risk of their health and even their life. I am therefore surprised at the attitude you have taken in this regard. There will be such a large number of abortions that will have to be done and such cases are increasing in numbers. Why have you taken this attitude?

Then you have very correctly stated that only trained medical practitioners who may not be specialists should do this abortion and I agree with you. But I would like to know from you for how long this training should be given to an M.B.B.S. because that is a qualification which we need in general practice. Are you prepared to train them and organise this training and fix some time so that this orientation course should enable them to perform these abortions? It is a very difficult case for one who has no experience and no proper conditions but it is a very simple case for one who has some experience and proper conditions.

Then, as you have already stated, it is well known that specialists in this sphere are not enough in number to cope with the situation and therefore we have to have a large number of doctors who are experienced and who know the job and at the same time they should be employed part-time retired medical personnel, retired surgeons who are able to do this and also organise special clinics for this purpose with proper equipment. Do you agree with this

proposal and are you willing to take over this type of work provided of course you agree that this measure should be introduced and it is in the best interests of the women and the public in general that abortion should be liberalised in this country?

WITNESS (DR. RAO): Probably the hon. lady Member did not catch what I said in the beginning. A therapeutic abortion is still possible under the existing law and it is meant only for the purpose of saving the life of the mother and it is extremely restricted. What we have said is that therapeutic abortions at the moment are quite sufficient but we cannot transgress the law because it clearly keeps out the other factors although, as I said earlier, it is being done even by trained and qualified people under certain circumstances. The family planning movement has taken great strides now and the moral restrictions have become much more relaxed. Some physicians who understand and appreciate the difficulties of the married couples, in spite of all the restrictions, do it, I can assure you about that, though it is not in the open. But the purpose of enacting this law is that we qualified people should not have to act like thieves afraid of the law all the time. On the contrary the medical practitioners should be given full legal support and abortion should be afforded the same status as any other major operation. For example my friend, Dr. Banerjee, would perform any major operations without any fear; he does not have to fill any form, etc. and whatever he does he does in good faith. Therefore abortion should be on the same level as any other major operation and in that case I am sure the people would not go to quacks and they would rather like to go to well-qualified people for their abortions.

DR. (MRS.) MANGLADEVI TALWAR: You have said that abortions should be allowed like any other major operations without any more restrictions. So you agree that the liberalisation of abortion should be

there but it should be at par with other surgical operations and there should be no restrictions. Then how is the doctor to be protected or the medical practitioner to be protected? Now, if a woman wants abortion, ordinarily how is the medical practitioner protected by law? According to the existing law there are restrictions attached to abortion being done by a medical practitioner. How do you propose the medical practitioner should be protected by law against the existing law?

**WITNESS (DR. B. K. RAO):** What I have said now is my personal view and it is not the view of the Medical Association. I agree that the present law is extremely restrictive and I would even go to the extent of saying that the Bill itself is too restrictive. If the operation for abortion is brought in line with the rest of the surgical operations, there should be no difficulty.

**DR. MANGLADEVI TALWAR:** You do not want any restrictions. When a woman wants abortion, without any conditions being attached, it should be done.

**WITNESS (DR. B. K. RAO):** My view is that section 312 should become extinct and it should be scrapped.

**DR. MANGLADEVI TALWAR:** But you have written in this something else.

**WITNESS (DR. B. K. RAO):** This is my personal opinion.

**DR. MANGLADEVI TALWAR:** I want your Association's view.

**SHRI PARTAP SINGH:** We want your Association's views.

**DR. SUSHILA NAYAR:** You are here as representatives of the Association. If you wish to appear as an individual, you are welcome to appear separately as an individual. Here you come as representatives of the Association and we would appreciate your giving the views of your Association.

**CHAIRMAN:** Dr. Rao might be able to evidence before this Committee. Now, he happens to be here and he can do so. We need not call him again.

**DR. SUSHILA NAYAR:** We can call him separately. Now, let us have the views of the Association.

**WITNESS (DR. BHATLA):** In the memorandum that we have submitted there are two points to which I would like to draw your attention. In the first paragraph we have said that it is the inherent right of an adult woman to decide whether she is going to have a child or not. Secondly, in para 4 we have said that the existing law is very restrictive. We want a new Bill or the present law to be so amended as to include what is put in here. Side by side we have also given our views on the proposed clause in the Bill regarding failure of contraception. That also we feel can be included in this Bill.

**CHAIRMAN:** Dr. Talwar's objection is to this. You have said that a general legalisation of abortion should be deferred till an opportune moment.

**WITNESS (DR. BHATLA):** I have already said in the beginning that till we have got those safeguards, we should proceed cautiously. We shall gradually improve in our number, quality, quantity and facility. Till then, we should not rush in suddenly and give a general feeling that from tomorrow anybody can just start doing these operations. That is the idea with which this has been put down here. This was the opinion expressed some time back before the Shah Committee which we still reiterate.

The other question you put is regarding involvement of the Indian Medical Association. We would be too happy to get ourselves involved to the maximum possible extent whether it needs the training of doctors whether it needs orientation whether it needs involvement of people, whether it needs the opening



up of special clinics, employment of retired doctors, retired surgeons, retired gynaecologists, etc. We will be too pleased to do it. The training period can vary depending on the qualification of the person, whether he wants orientation, or a reresher course or whether he wants training right from the beginning. He may be a trained surgeon who is not doing abortions at all. He would like to go and visit his colleague for a couple of days. That is good enough for him. For another person it may mean three months, six months or a year. It will depend on the curricula, etc. The training will have to be devised suitably. I must say that the co-operation of the Government must be extended. Facilities should be provided and made available by the State Governments to the Association. The Association is not financially that sound. We are just pulling on somehow. We would certainly like to associate ourselves with this to the maximum possible extent.

**SHRI GANESH GHOSH:** It appears from your comments on the Bill that there is not much of a difference. There are only one or two small points which you have made. With regard to clause 3 (2) (b) you have suggested that a second opinion of a registered medical practitioner should be taken before a pregnancy is terminated. It is not necessary as you have said that both the doctors should have a hand in the operation, but their recommendations are necessary. Would you not also agree that when the termination is necessary from the point of view of saving the mental health of the mother, the recommendation of a psychiatrist like Dr. Rao is necessary?

**WITNESS (DR. BHATLA):** I have already said that in general we agree with it except here in the Bill it is put down that two doctors have to perform the operation. That is what I understood. That is why I said a second opinion may be obtained, though the operation will be performed by one doctor.

**SHRI GANESH GHOSH:** The Bill says that so long as the length of pregnancy does not exceed twelve weeks one doctor would do, but when it exceeds twelve weeks the recommendation of two medical practitioners is necessary. You have said it is necessary in all cases.

**WITNESS (DR. BHATLA):** No, not in all cases. It is only advice. About psychiatrist, it depends on individual cases and even the preparation of the patient who is to be subjected to the operation. It involves a lot of psychological handling by the doctor or doctors. In certain cases it may be necessary, but it should not be made the rule.

**SHRI GANESH GHOSH:** With regard to clause 4 (b) you have suggested that any approved hospital or nursing home, duly registered be substituted for 'a place'. In our country, what do you think is the position in the vast rural areas where innumerable ladies might be requiring termination of pregnancy? My suggestion is that the primary health centres and the sub-centres should be fully equipped to handle the situations. That is all.

**SHRI G. GOPINATHAN NAIR:** I would like to read out from a letter received of certain doctors. They say, "No doctor of any conscience will agree to terminate any pregnancy even after it is legalised because for him it is tantamount to murder..." What is your view on this?

**WITNESS (DR. B. K. RAO):** These are personal opinions of individual doctors held by them under conviction and good faith.

**SHRI G. GOPINATHAN NAIR:** Does it represent the views of the Medical profession in India?

**WITNESS (DR. B. K. RAO):** In India quite a number of people hold very different views on different matters. But we have to generalise and see what is good for the maximum number of people in the country.

The people who view it from the point of view of ethical standards might probably say that we are not to destroy life. But here this is a legal sanction that we are giving that a doctor is competent to handle any case if he feels that therapeutically it is necessary to save the life of the woman. So under these circumstances these one or two personal opinions should not actually influence us in arriving at decisions as to what is good for the country as a whole.

**SHRI G. GOPINATHAN NAIR:** In your comments on clause 3 (2) (b) you said that "the distinction between twelve weeks and twenty weeks is not clear since viability of the foetus is doubtful in most of the cases"—So according to you the period where the pregnancy can be terminated without any injury to the mother can be extended beyond twenty weeks.

**WITNESS (DR. P. C. BHATLA):** Yes.

**SHRI G. GOPINATHAN NAIR:** So, up to which period can that go? One of the earlier witnesses said that the period can go up to twenty-eight weeks. In the legislation of Singapore the pregnancy can be terminated up to twentyfour weeks. With which of these two periods do you agree?

**WITNESS (DR. P. C. BHATLA):** Twentyeight weeks is generally accepted as the viability period. Now twenty weeks has been put only as a safeguard. That is what we understand. We say it is not clear. But it may mean that probably twenty-eight weeks is the period where the viability period starts.

**SHRI G. GOPINATHAN NAIR:** Up to that period of twentyeight weeks the pregnancy can be terminated without any physical injury to the mother.

**WITNESS (DR. N. S. BANERJEE):** We are discussing two things here. One is the viability of the foetus, twentyeight weeks and afterwards. Before twentyeight weeks the foetus is not viable. That is the Indian

Medical Association does not consider the twenty weeks as any landmark in a woman's pregnancy life. Her landmarks are three months, that is, between twelve weeks and twenty-eight weeks and we do not differentiate between this period. Before twentyeight weeks it is abortion and after twentyeight weeks it is miscarriage. It is the legal definition as exists in the country.

**SHRI G. GOPINATHAN NAIR:** You have no comment on clause 4(a). That means you agree with the proposal in this clause? Pregnancy can be terminated in any Government Hospital including Health Centre?

**WITNESS (DR. P. C. BHATLA):** Yes. And if facilities are provided and sufficient equipment is given to the primary health centres and subcentres, we will have to go to them also. Here, I would like to point out that we are not in agreement with the type of provisions made regarding recurring and non-recurring expenditure in the hospitals. Is the sum of Rs. 45 lakhs which is provided here sufficient to provide all the necessary equipment to all the hospitals? If sufficient grants are not made, then we had better not start this at all. What can you do with this small sum of Rs. 45 lakhs recurring and non-recurring? I have calculated that in Delhi it will come to 40 paise per abortion. So I think we have to go into the further details of the grant and its adequacy.

**WITNESS (DR. B. K. RAO):** Talking about hospitals, it must be done by such hospitals where major surgical operations are being performed. There should be no doubt about it. When you talk of performing any abortion in a hospital, that hospital must be well equipped and suitable for a normal surgery. That should be the condition.

**SHRI K. P. MALLIKARJUNUDU:** You have stated in the beginning that it is the inherent right of a woman to bear a child or not. At

the same time you wanted to restrict that right in the case of a married couple saying that the consent of both the husband and the wife is necessary for terminating the pregnancy. How do you reconcile these suggestions? Why do you want that restriction, on medical grounds or otherwise?

**WITNESS (DR. P. C. BHATLA):**  
I said in the beginning that generally speaking this is what should be done. In the case of a married woman, it is after all a problem of the couple and the consent of both of them should be taken. Where there is an alleged rape, the consent should be of the wife and not the husband's. Generally it is so for psychological adjustments and for a happy married life. So it is better that we do not say that hundred per cent it is the inherent right of the woman to decide whether she wants a child or not. No doubt we all agree that we cannot take away this right of the woman, but in certain cases which we suggested we would like the cooperation of the husband in making the wife come to that position.

**SHRI K. P. MALLIKARJUNUDU:**  
So far as I understand the provisions of the Bill, the consent of the husband is only needed in the case of rape. But in other cases the right of the woman is unrestricted. Do you agree with this view or do you want to increase the area of restriction or do you like to restrict the area of the wife in the case of rape?

**WITNESS (DR. P. C. BHATLA):**  
We are very clear that in the case of rape of a married woman we want the woman to decide and not the husband.

**SHRI K. P. MALLIKARJUNUDU:**  
In case of failure of the contraceptive device the consent of the husband is not necessary according to the provisions of the Bill. You please go through Explanation II which reads as follows: "Where any pregnancy occurs as a result of failure of any device used by any married woman or her husband for the purpose of limiting

the number of children, the anguish caused by such unwanted pregnancy may be presumed to constitute a grave injury to the mental health of the pregnant woman." It is clear from that that the consent of the husband is not necessary in cases where the failure occurs after the use of contraceptive methods.

**WITNESS (DR. P. C. BHATLA):**  
Yes, I agree with you.

**SHRI K. P. MALLIKARJUNUDU:**  
Regarding the definition of registered medical practitioner you said they must be specially qualified. Unless the doctors performing the operation are specially qualified for that purpose, they should not be allowed to perform that operation. Do you suggest any specific amendment to the definition of registered medical practitioner as is found in the Bill?

**WITNESS (DR. P. C. BHATLA):**  
We have put down in para. 4 of the memorandum, "qualified medical practitioner who has had training for the purpose for which the State should make arrangements for those who desire to have such training".

**SHRI K. P. MALLIKARJUNUDU:**  
You want more specific qualifications to be prescribed?

**WITNESS (DR. P. C. BHATLA):**  
Specially training. In certain cases where people do not hold specialist qualifications like MRCS, FRCS, MS and other degrees.

**SHRI K. P. MALLIKARJUNUDU:**  
A mere entry in the Indian Medical Register is not sufficient according to you?

**WITNESS (DR. P. C. BHATLA):**  
First we make a selection out of that. Then those who are on the Medical Register plus some other qualification.

**SHRI K. P. MALLIKARJUNUDU:**  
You want that the clause should be amended accordingly?

**WITNESS (DR. P. C. BHATLA):**  
**SHRI K. P. MALLIKARJUNUDU:**  
From your experience can you say Yes.

in cases where abortions were performed in hospitals what is the rate of mortality? Can you give us any idea in regard to hospitalised cases?

**WITNESS (DR. P. C. BHATLA):**  
We have no studies of our own. It is only from the literature that we were quoting you. That is, the mortality in abortions performed under 12 weeks of pregnancy does not go beyond 3 to 5 for 100,000. As it goes up, it can go up to 60, 65 or 68 per 100,000. But in normal pregnancy the mortality rate is somewhere between 30 and 35. We can understand from that that the abortions will not as such increase the mortality. If we are able to improve the facilities as we gain experience, I am sure the mortality will range just the same as for normal pregnancy or a little higher than that.

**WITNESS (DR. B. K. RAO):** I would like to supplement. As far as mortality and morbidity under Indian conditions are concerned there are no available statistics. Secondly what happened in the hospitals cannot be taken as correct because most of them come in an advance state where they have already been handled by some people with sepsis and other complications. Therefore, hospital figures cannot be taken as correct. If we consider the experiences of other countries, and the East European countries have better experience, it has been mentioned that in Rumania and Czechoslovakia the mortality following abortions in the hospitals has been hardly 1 to 2 per 100,000 whereas mortality following childbirth has been as high as 4 to 5. So it has been said that mortality increases with the length of pregnancy and surely as it goes above 12 weeks the mortality rate is higher and morbidity is higher. If it is performed within 12 weeks, as some authorities in East European countries say, it is much less than in operations for tonsillectomy and appendectomy. The danger is far less.

**SHRI K. P. MALLIKARJUNUDU:**  
You have answered that point already.

But for my satisfaction I will put it again. In case of rape husband's consent is necessary under the provisions of the Bill. If I understood you said they are inadequate. What sent is necessary.

**WITNESS (DR. P. C. BHATLA):**  
Yes.

**SHRI K. P. MALLIKARJUNUDU:**  
With regard to financial provisions you said they are inadequate. What is your view of the average cost of one abortion performed in a hospital?

**WITNESS (DR. P. C. BHATLA):**  
I do not think I will be able to answer that question. But I can tell you that outside the hospital depending on certain number of abortion cases done, the abortion expenses can range anything between Rs. 25 and Rs. 500 or Rs. 600 provided there are no complications afterwards. Complications will make the expenses go much higher. In the hospitals regarding the expense I do not know, I feel maintaining a bed in a general hospital costs something like Rs. 10 to Rs. 12 per day that is what we are told for maintaining a bed. Then the doctors, medicines, all these expenses are there. If you are to divide it—I think I am not competent to answer that question.

**WITNESS (DR. N. S. BANERJEE):**  
I want to add something. This figure has been worked out by the Society of Obstetricians and Gynaecologists in Delhi. They have worked out that when the abortion is performed, which is not complicated, which is before 12 weeks, the cost comes including everything to Rs. 150 per head. If it is beyond 12 weeks and not 28, it comes to Rs. 250. If it is beyond 28 weeks and if a major operation is performed which amounts to a Caesarean operation, the expenses go up to Rs. 500 or Rs. 600.

**SHRI RAM SWARUP:** You have suggested in your memorandum that you would like abortion cases to be done by private nursing homes registered under the law. But I am

afraid if such a proposition is made, then a patient might feel difficulty in getting an abortion done by these nursing homes on consideration of the high charges. Would you like some control by some Chief Medical Officer or any authority to check up that they do not charge so highly from the patient?

WITNESS (DR. P. C. BHATLA): Regarding private nursing homes, special hospitals, special clinics, e.c., as we explained in the beginning, they may also have retired people to conduct such type of operations. We can have surgeons on honorarium basis. We can have private nursing homes. If the Indian Medical Association gets involved, we might lay down certain norms of the type that we have agreed to in consultation with the Government in the case of IUCD, sterilisation operations, etc. I think it is a matter for discussion and I do not see why this facility should be denied just because of finance when the patient has to pay and get it done on her own.

DR. SUSHILA NAYAR: You mentioned that the mortality rate is something like 5 or 6 per cent in abortions. I do not know whether you have had the opportunity to look at the first two chapters of the Shantifal Shah Committee Report. I may quote a few lines from it here.

"The deaths due to abortion without mention of sepsis were 41 in Bombay, 18 in Rajasthan and 16 for Nagpur for the year 1960. Deaths due to abortion with sepsis of the same year were 99 for Bombay, 26 for Rajasthan and 63 for Nagpur....."

Leaving aside mortality, the morbidity figures—damage to the physical and mental health of the woman—come to as much as 59 per cent in the countries with highly sophisticated facilities for abortions, like Japan. Under these circumstances, would you as a medical man favour abortion as an important method of family planning or population control,

knowing full well that there are very adequate methods, besides abortion, for family planning? Would you restrict abortion for the exceptional case, or would you use it for anybody and everybody who comes and says and the contraceptives had failed?

WITNESS (DR. P. C. BHATLA): Madam, we would not make it one of the categories approaches for family planning; we do not recommend that. We have said that in exceptional cases where the couple had been using various contraceptive techniques and yet pregnancy had occurred, to tide over that particular crisis it may be recommended. But we will not like it to be made available just for the asking.

DR. SUSHILA NAYAR: Would you also, in that case, insist that if you offer the facility of abortion to this couple, one of them should undergo sterilisation?

WITNESS (DR. P. C. BHATLA): Legally we cannot ask the sterilisation to be performed. But we will certainly use our best influence and give advice that if they have sufficient number of children, they should undergo sterilisation to avoid morbidity, to avoid repeated abortions, to avoid mental and physical injury to both.

DR. SUSHILA NAYAR: You have very rightly mentioned that a registered medical practitioner should have adequate training, if not post-graduate qualification before he or she can do abortions. Would you like to include adequate training in the law itself, or would you just leave it as a recommendation?

WITNESS (DR. P. C. BHATLA): I would leave it as a recommendation. In the rules which will be framed, it may be mentioned.

DR. SUSHILA NAYAR: In view of the shortage of doctors, particularly of women doctors, and in view of the fact that many women in India would still like to go to women doctors for such conditions, would you

be willing to give training to the registered practitioners of, say, integrated variety of Ayurveda?

WITNESS (DR. P. C. BHATLA): I would simply say "No."

DR. SUSHILA NAYAR: Even though you know that there are a number of these women who are doing an excellent job as obstetricians?

WITNESS (DR. P. C. BHATLA): I would not say that because that leads me to the question why they are being allowed to practise medicine at all when there is a penal clause in the Indian Medical Council Act.

DR. SUSHILA NAYAR: As for that, there are many State laws permitting many of these people to practise. You know and I know that there are a large number of people who are practising obstetrics. At any rate, obstetrics is allowed to be practised even by ordinary midwives. So there can be no question of preventing some of these people from practising obstetrics.

WITNESS (DR. P. C. BHATLA): I would only say that we will not recommend this. As for what the situation is, it is most unfortunate. I cannot say anything beyond that.

DR. SUSHILA NAYAR: Then you said something about two doctors not being necessary and that the opinion of the second doctor is enough. Now, the provision has been made, as you would have seen, for terminating relatively advanced stage of pregnancy.

At this stage when an operation for termination of the pregnancy is undertaken, severe complications can arise and unless there is a second person available, who is going to look after the patient who might suddenly collapse or require specialised attention? Would you not agree that two doctors are absolutely necessary if an abortion is to be carried out in a woman where pregnancy has gone beyond 12 weeks.

WITNESS (DR. P. C. BHATLA): I would only say that when we are restricting it to hospitals and nursing

homes, we will have a team of doctors to perform the surgical procedure. And if there is a team at the hospital of the clinic, well-equipped to meet any emergency, they will be able to do it. Two surgeons may be there, or two practitioners may be there, or one may be an anaesthetist or assistant, but it is a team.

WITNESS (DR. P. C. BHATLA): So we would say that the opinion can only be obtained, but not necessarily. Even in the case of penicillin shock also we say when we give an injection we should have two or three doctors. But I do not think that is very necessary. We do the operation in good faith. We believe that we are equipped fully to meet any situation and the doctor's whole team is kept there ready.

DR. SUSHILA NAYAR: So far as the penicillin shock is concerned, generally the doctor who gives the injection, have the requisite medicines with him. He can take care of the patient. But in abortion cases the patient may collapse. If there is any failure in giving immediate attention, the patient may die. The doctor may be occupied with completing the abortion. If another doctor is not there, what happened to the patient? The patient needs immediate attention. Unless a second doctor is available, what can that single doctor, however, eminent, do in such a situation? Even in a well equipped hospital in Calcutta when I was a house surgeon, I was sent for from the Out-patients Department to attend to a collapsed patient. In that hospital the surgeon was doing a caesarian operation under special anaesthesia. Suddenly the patient collapsed. The surgeon was doing it all alone. Of course, she was a highly qualified doctor. But by the time I rushed to the operation theatre nothing could be done. So a second doctor should be there.

WITNESS (DR. N. S. BANERJEE): I do not think Dr. Sushila Nayar wants to get an answer to this for herself. Perhaps it is the Committee which would like to know about it. Dr

Sushila Nayar has already got the reply of this question which she has put to us. She knows the answer very well. As long as the human being is involved, I do not think you really want to discuss it with reference to a particular clause or sub-clause in the Bill that there can be a risk, there can be a danger. There certainly can be a danger in procedure dealing with human beings. There is a possibility of the human being being in danger. It is something like crossing the street. But that should not deter us from giving any provision for the sake of the multitudes.

DR. SUSHRILA NAYAR: I must say that Dr. Banerjee is light hearted when he wants to compare the crossing of the street with a deliberate surgical procedure undertaken for the termination or pregnancy. Surely there is no comparison. I personally feel that whoever has drafted the Bill in accepting the necessity of two doctors being present, has done it very wisely. I would expect the Medical Association to say that they would have two doctors even for a termination under twelve weeks rather than say something about good faith. In an emergency in order to save the life of the patient, a doctor can act in good faith. But when it is a deliberate, well-calculated, properly timed, planned, surgical operation, surely it should not be left to one doctor alone under the plea of good faith.

WITNESS (DR. P. C. BHATLA): Dr. Banerjee did not mean that actually. Dr Sushila Nayar has probably taken it seriously. What we feel in the Medical Association is that the very presence of two doctors or two surgeons or two gynaecologists is not very essential. We can get an opinion. We agree with you. But the person who performs the operation should be only one. And any good surgeon, any good nursing home, etc. will have a good team. And now it is not going to be done behind the curtain. It is done openly now. If a doctor wishes to take a colleague of his along with him, he can do it. And if a doctor can do all himself, it is

enough. In case of necessity, a doctor can have the opinion of another doctor.

DR. SUSHILA NAYAR: I want you to look at clause 4 and read it. Under this provision it is not necessary that in every locality there will be a well-equipped hospital or a nursing home will be there with all facilities for dealing with emergencies. So now would you insist on making the definition clear in such a way that all these facilities are available? I hope your Medical Association would think over it and not treat it lightly.

The next point is you said that this Bill can be delayed because the present Criminal Code Procedure permits therapeutical operations and we should not bring about liberalisation till we are ready for it. Under the Cr. P. C. you may perform therapeutical abortion in order to save the life of the woman, but you cannot perform abortions because the child is likely to be defective. You cannot perform an abortion because there has been a rape which causes a lot of emotional difficulty for the woman who is bearing the child. And you know also that a large number of illegal abortions are being carried out in a clandestine manner. I remember when there was partition of India there was one doctor who used to perform abortions in a row on those unfortunate women that were brought from Pakistan pregnant after rape.

Under these circumstances do you not think that it is necessary to liberalise the law to protect the doctor who helps these unfortunate women? The places where abortions can be performed may be limited to district hospitals and other well-equipped hospitals?

WITNESS (DR. BHATLA): I agree and that is what exactly we have put on page 2, paragraph 4. I agree with you.

DR. SUSHILA NAYAR: Another point is you have also stated that it is the inherent right of a woman whether she will go through pregnancy or not. Don't you think that consulta-

tion with her husband may be left to the woman and husband permission be not made necessary. So far as we are concerned, the law should allow the women to decide for themselves.

WITNESS (DR. P. C. BHATLA): We agree.

DR. SUSHILA NAYAR: In the same clause it is mentioned requirement about the obtaining of the consent of guardian or husband in the case of an unmarried girl or woman or a married woman who was raped or a widow, etc. It has been suggested to us that when we mention these various categories, it is rather obnoxious and given the permission that we are suggesting things. So, would it not be better not to mention all these various categories from the ethical point of view and merely say only that the consent of the guardian which includes a parent, mother or father, should be required in the case of minors and women of unsound mind or lunatics and for the rest the woman concerned should decide for herself whether she wants to go on with the pregnancy or she want to terminate it.

WITNESS (DR. P. C. BHATLA): I agree with this view because this is what we have put down in the various clauses. It is up to the legal brain to frame the rules in such a way as to bring out these things clearly. I absolutely support your contention.

SHRI S. A. KHAJA MOHIDEEN: Doctors have instinctive dislike for abortion. Why?

WITNESS (DR. BHATLA): Because they know the consequences of abortion.

CHAIRMAN: Before Members put their questions, I want to leave as I have some engagement. Dr. Talwar will preside.

[DR. (MRS.) MANGLADEVI TALWAR in the Chair].

SHRI N. R. LASKAR: As a representative of the Indian Medical Association I hope you have a fair knowledge about the conditions pre-

vailing in a district hospitals in the country at the moment. Don't you think that the district hospitals could be equipped for abortion purposes at least?

WITNESS (DR. BHATLA): That is a very good suggestion but if we look to the financial provisions made for this type of enactment, they are very inadequate. We have to make a start from the district hospitals and then go forward if we have the means and the demand.

SHRI N. R. LASKAR: Don't you also think that if this Bill is passed, we can cope with the situation? With little additional facilities in the district Hospitals?

WITNESS (DR. BHATLA): My feeling is that it needs a lot of awakening among the people to come forward openly for such type of abortions in public hospitals and the demand will not be that much initially; it may pick up later on as in the case of family planning by radio broadcasts and posters. So it will take a little time. But certainly those who are bold enough and want to save money would like to take advantage of the public hospitals and make use of the facilities available there.

SHRI N. R. LASKAR: So you will agree that in the district hospitals because at the initial stage we do not expect, we have not so much pressure of abortion cases, we can handle them.

WITNESS (DR. BHATLA:) We can handle them but we will have to make certain extra provision for them. If that is there, it is good enough.

SHRI N. R. LASKAR: Supposing a couple comes and says "We do not want any issue", will you accept that argument also and allow abortions?

WITNESS (DR. BHATLA:) Yes, if they come forward and argue saying that they do not want to have any child at all, it is their concern; we do not want to have any compulsory restrictions on a married couple to have children.



**DR. SUSHILA NAYAR:** You mentioned that extra facilities would be necessary. The hospitals in Delhi certainly are overburdened. Would you like to hazard a guess, or send us a note later giving information as to what in your opinion is the minimum requirement, say, for Delhi and perhaps for the rest of India?

**WITNESS (DR. BHATLA)** Yes, Madam, that is a very good thing. I think the IMA would be too pleased not only to give the information about Delhi but we would like to give it about other places also, other States, because if we involve ourselves in this task, we have to involve ourselves whole-heartedly and fully into the programme which is national and which is common to all of us.

**श्री (तो बिन्दु) तबो :** मैं ल्यूनटिक सेडोज के बारे में एक जानकारी करना चाहूँगी। क्या यह जरूरी है कि जो पागल महिलाएँ हैं उन के बच्चे भी पागल निकलें ? क्या यह संभव नहीं है कि उन के बच्चे स्वस्थ और नार्मल हों ? आप चूँकि डाक्टर है इस लिए मैं आप से यह जानना चाहती हूँ।

**WITNESS (DR. RAO)** As far as we know, mental diseases are not inherited there are certain but not all, e.g. lunatics. But it is not only the question of bearing the child but the question of maintaining the child and taking the responsibility for that child.

**SHRI GANESH GHOSH:** Is it a fact that children of lunatic persons become invariably lunatics?

**WITNESS (DR. RAO):** I am afraid the expression 'lunatic' actually has no meaning absolutely. What we mean by it is insane or mentally handicapped or mentally deranged person.

**श्री प्रताप सिंह:** हमारे सामने यह बिल पहली बार आ रहा है और मैं समझता हूँ कि इस के पहले भी अबार्शन किसी न किसी प्रकार से होते रहे होंगे। तो मैं जानना चाहता हूँ कि अर्ली स्टेज में अबार्शन के लिए जैसा कि धारा में दिया गया है कि यह समय

अबार्शन के लिए सैफ परियड होता है और उस के अन्दर दवाओं के जरिये यह सर्जन की सहायता से आसना से अबार्शन किया जा सकता है तो क्या आप का राय है कि जितने भी मेडिकल प्रेक्टिशनर्स हैं उन को इस परियड में इन दवाओं का इस्तेमाल कर के अबार्शन करने का छूट दे दा जाय कि उन दवाओं का इस्तेमाल कर के अबार्शन कर सकें ? इस बारे में आप की क्या राय है ?

**WITNESS (DR. BHATLA):** If I have followed correctly, I do not think there is any medicine which will make the situation so simple as to give pills for abortion. That is not there. We have to resort to certain operative techniques.

**SHRI PARTAP SINGH:** What about the second point? Every registered medical practitioner should be given permission in the early stages, not in the advanced stages.

**WITNESS (DR. BHATLA):** Since there are no medicines available, is a specially trained doctor upon whom you have to rely or with post-graduate qualifications. So the question of restricting it only to 12 weeks and not beyond that does not arise. At least I do not agree with it.

**श्री निरंजन वर्मा :** डाक्टर साहब आप यह बताइये कि पृष्ठ 2 परा सी में आप ने लिखा है

"No pregnancy of an unmarried girl, who has not attained the age of eighteen years, shall be terminated except with the consent in writing of her father or of her guardian, if her father is not alive."

तो प्रगर्नेसी टरमिनेट करने की आज्ञा देनी चाहिए लेकिन अगर कोई अनमैरिड गर्ल नहीं है मरिड गर्ल है जो कि 16 वर्ष से नीचे की है तो उस के बारे में आप की क्या ओपीनियन है ?

**WITNESS (DR. BHATLA):** I would put it this way. The question is whether under the present legisla-

tion the marriage is legally accepted. If you accept it, then they become a couple and a legally married couple. Then, the provisions are already there as are available for legally married couple. What needs to be done is the registration of marriages. It is very essential. There is the registration of births and deaths, but there is no registration of marriages in the country.

HON. MEMBERS: There is.

WITNESS (DR. BHATLA): I am saying compulsorily there is no registration of marriages. It is going to give us a lot of information. I would venture to suggest that if you register a marriage and that registered number is quoted, when later on after two years or five years or seven years, the girls come for abortions, that will go along way in making statistical data available in the country. I feel that in the case of those below 16 it is not legal. I may be wrong. Some of the legal luminaries may be able to throw light on this. If it is not legal, then other questions will arise later on.

श्री निरंजन वर्मा : कानून की दृष्टि से 18 वर्ष से नीचे की कोई लड़की मेजर नहीं मानी जाती और व्यावहारिक दृष्टि से 16 वर्ष की लड़की भी मेजर हो जाती है। तो आप लोगल पोजीशन में जाने की कोशिश न करें।

साभो (डा० भा ला) : शारदा ऐक्ट के हिसाब से क्या है ?

श्री निरंजन वर्मा : मैं जानना चाहता हूँ कि अनरेजिस्टर्ड गर्ल जो कि ग्रंडर दी ऐज आफ 16 है उस के बारे में आप की क्या ओपिनियन है ?

साभो डा० भा ला : मेरी ओपिनियन तो यह होगी कि अगर वह लड़की लोगली बेंडलाक है तो उस को ग्रंडर दि ऐक्ट जो भी प्राविजन्स हैं अलाई करेंगे और अगर वह रेजिस्टर्ड नहीं मानी जाती तो उस के लिए हम ने प्राविजन कर दिया है।

श्री निरंजन वर्मा : दूसरी बातें यह बताइये कि जिन महिलाओं के साथ रेप होता है उन के बारे में आपने यह बताया कि उन की प्रेग्नेसी टर्मिनेट करने के लिए उन के पति की कंसेंट लेने की कोई आवश्यकता नहीं है और वह अग्रीमेशन उस का स्वयं का इच्छा से ही होना चाहिए, तो जो स्त्रियाँ विवाहित हैं और उन के साथ रेप होता है वे अगर आप के पास आयें तो आप कैसे जानकारी करेंगे कि वह प्रेग्नेसी रेप के द्वारा हुई है या उन के पति के द्वारा ?

WITNESS (DR. BHATLA): Here again there is a very simple answer. We believe when a married woman comes for abortion, whether it is because of rape or because of normal marriage consequences, it is up to her. We go by her statement. We are not there as doctors to verify it. If it is a registered marriage, she can give the number, but it is not a point which concerns doctors. I think it should concern somebody else outside the medical profession.

श्री निरंजन वर्मा : रेप के बारे में अगर स्त्री कहती है कि उस के साथ रेप हुआ और पति उस को स्वीकार करता है तो उस दशा में उस के पति की आज्ञा लेना आवश्यक होगा या नहीं ?

WITNESS (DR. BHATLA): We have said 'No' because of the possible psychological and other considerations later on to which he is exposed. Day after tomorrow he may not accept it. He will keep on taunting. He will not consider the child as his own and all the complications will arise. once you bring on record that the child is not his. We go by the decision of the woman. That is what we have suggested.

श्री निरंजन वर्मा : बाद में अगर वह अपनी ओपिनियन बदलता है तो उस की जिम्मेदारी उस दम्पति पर ही होगी। इस लिये अगर कोई स्त्री इस तरह से गर्भ धारण कर लेती है तो उस अवस्था में उस के पति की आज्ञा लेना आवश्यक होगा या नहीं ?

WITNESS (DR. BHATLA): We have said in the very first sentence that it is the woman who should decide whether she wants a child or not.

श्री निरंजन वर्मा : पृष्ठ 3, सब-संबंधन (2) में जो आपने लिखा है उससे आप का क्या तात्पर्य है ?

WITNESS (DR. BHATLA): The Act should extend to the whole of India. Why should we restrict to certain places? Whether it is a hill area or a plain, whether the population is less or more, it should apply to all. We should not say that it should apply to the Adivasis only. To us as citizens, it does not appeal.

श्री निरंजन वर्मा : इंडियन मैडिकल कॉन्सिल ऐक्ट के अंतर्गत रजिस्टर्ड मैडिकल प्रैक्टिशनर्स की तीन श्रेणियां बतलाई गई हैं। अब जब बनारस हिन्दू विश्वविद्यालय में ए० एम० एस० और मध्य प्रदेश में बी० आई० एम० एस० की डिग्री दी जाती है और वहां पर सर्जरी और एलोपैथी दोनों प्रकार की प्रक्रियाएं चलती हैं। उन के सम्बन्ध में आप का क्या ख्याल है। उन को रजिस्टर्ड मैडिकल प्रैक्टिशनर्स में सम्मिलित किया जाय या नहीं।

साक्षी (डा० भट्टला): यह मैंने पहले ही स्पष्ट कर दिया है कि हम इस के विरुद्ध हैं।

श्री निरंजन वर्मा : आप ने यह बताया कि दिल्ली में प्रति वर्ष 50 या 52 हजार के लगभग गर्भपात होते हैं। आप को इस की जानकारी कैसे मिली। यह भी संभव है कि दस हजार गर्भपात होते हों। यह जो इतनी बड़ी फिगर आप ने दी है यह कहां से दी है ?

साक्षी (डा० भट्टला): यह जो मैंने दिया यह किसी स्टेटमेंट से दिया है। इस की तीन चार स्टडीज यहां हो चुकी हैं। डा० चन्द्रशेखर का स्टेटमेंट भी है :

The number of abortions is 13 per thousand. That is the estimate. It is from Dr. Chandrasekhar's statement. So for a population of 40 lakhs, it would come to about 52,000.

We have absolutely no figures. We have done no surveys or studies, except sample surveys here and there.

SHRI KAMESHWAR SINGH: I have to protest against not giving me time to put questions.

CHAIRMAN: We have called three witnesses and the time, as you know, has been fixed already. I would very much like that everybody should ask questions as they like. As the hon. Members know, these gentlemen have been here for nearly two hours answering questions. The other witnesses are waiting. That is the only reason. As far as I am personally concerned, I have no objection.

SHRI KAMESHWAR SINGH: I hope you will understand my protest. I have been saying that we are hurrying through this Bill.

DR. SUSHILA NAYAR: We are not.

SHRI KAMESHWAR SINGH: If the Members are not allowed to ask questions as they feel like asking freely, if you put your thumb on it, why have you formed this Committee? You should go home and sit tight. We should have put it right through in Parliament. It is easier. But we have to see...

CHAIRMAN: Kindly ask the question. This point may be discussed with the Chairman because this is not the occasion for it.

SHRI KAMESHWAR SINGH: In page 2, para. 5, of the memorandum, it is mentioned: "Complete records including reasons for abortion conducted should be maintained by the medical practitioners. Such information on forms prescribed for the purpose should be submitted as and when required by the Government under legal protection to the medical practitioners." I would like to know why you want this provision to be there. If you at all are in favour of this provision, do you think that this record should go to the court excepting in case of rape or sex crimes or insanity or something like that?

**WITNESS (DR. P. C. BHATLA):** I would like to answer it this way. Any surgical intervention done by any doctor is recorded in his register, let any questions should arise later on on that particular case. The case history is recorded. Legal protection to the doctor should be given inasmuch as he cannot divulge the information unless required by law. It is a private affair between the doctor and the patient. Under these circumstances we have suggested that complete records should be maintained.

**SHRI KAMESHWAR SINGH:** I quite agree records should be maintained. Suppose you have maintained record of an unmarried girl. Tomorrow she gets married and somebody from your hospital tells her husband that she has had an abortion. If that is filed in the court later on when the court asks for the record, then that gets known and it becomes true that she has had an abortion. Then don't you think that the marriage would be wrecked?

**WITNESS (DR. P. C. BHATLA):** So far as the court is concerned, he has to keep a record and he has to produce it.

**SHRI KAMESHWAR SINGH:** I quite agree that records should be maintained. The point is whether you are in favour of this particular record of this nature going to the court or not.

**WITNESS (DR. P. C. BHATLA):** Under protest we have to give this record when asked for by the court. But we cannot divulge otherwise.

**SHRI KAMESHWAR SINGH:** That is not my point. I agree with you completely, I respect your view. Are you in favour of the records going to the court whereby a marriage would be wrecked completely, or you want to divulge it secretly to the court? You want such a provision in this Bill?

**WITNESS (DR. P. C. BHATLA):** I would draw your attention to para. 6 of the memorandum: "Names of the  
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persons aborted should not be included in the routine returns". This is what we have said side by side. With that object, the question whether they should go to the court or not, I do not think we can answer that all.

**SHRI KAMESHWAR SINGH:** Not from the medical point of view. You have come here as a witness. You are a doctor. On a very human ground what do you think? That the marriage of a young girl who has had abortion before marriage should be wrecked after marriage on the ground that she has had an abortion before that which will become known when the records go to the court?

**WITNESS (DR. P. C. BHATLA):** I do not think we are competent from the Association point of view to give any views on this particular problem.

**SHRI KAMESHWAR SINGH:** My next question is with regard to para. 7(a). You have mentioned: "In order to prevent the danger of repeated abortions in the case of women who are not fit to bear the strain of further pregnancies, the medical practitioner should advise the woman and/or husband to undergo voluntary sterilisation". Suppose the husband refuses to undergo voluntary sterilisation. You know better. If ladies have to undergo voluntary sterilisation, it is a much difficult and complicated process. Do you think instead of voluntary it should be made compulsory for the husband to undergo it?

**WITNESS (DR. P. C. BHATLA):** I explained in the beginning that we cannot make it compulsory because some persons may come with only one child. They may want to space their children. They may want the next child after three years or five years. Why should we compulsorily sterilise them? I do not think that is our intention. Our intention is that the entire process of abortion, the entire process of sterilisation, loop, etc., is voluntary for them. There is no compulsion. That is why we said to avoid morbidity, illness, later on as a sequ-

ence of repeated abortions the doctor should stress that one of them must get sterilisation if they have a sufficient number of children. But then the decision of the couple should be voluntary.

**SHRI KAMESHWAR SINGH:** In para 7(d) you have mentioned: "Family life education to develop healthy and responsible attitudes towards sex, marriage and parenthood should be promoted." How do you propose to promote this particular aspect through education? By change in the curriculum of the school and college studies? How do you propose this specially in the rural areas?

**WITNESS (DR. B. K. RAO):** There are two aspects to sex education. One is a much wider field in which we have got to have regular courses of education for doctors, nurses, teachers, and so on. But I suppose there is also a second aspect of sex education whether every physician and every doctor should be able to educate. Suppose a couple come and say they want abortion. Should they say, all right, you have it? First and foremost it will be for a physician or for any medical practitioner to resist the question of abortion, to persuade as far as possible and advise them to avoid abortion and to have the child and perhaps next they can take further precaution according to advice. I think this family life education is a wider field which is not within the scope of the discussion just now. But I feel every physician should be able to educate his patients before motivating them one way or the other.

**WITNESS (DR. P. C. BHATLA):** I would like to supplement it. Health education itself is a job not only of the medical practitioner but also of the social scientists, of the teacher, of the community at large, I put it this way, right from the beginning, without going into details. The second thing is, coming to marriage and sex.

**SHRI KAMESHWAR SINGH:** You said that it is the job of the teachers

and social scientists right from the beginning, from the lowest strata to the uppermost strata. I want to know specifically whether you are in favour of addition to the curriculum of such courses in schools and colleges.

**WITNESS (DR. P. C. BHATLA):** We are all in favour of health education programmes at the school level, at the university level, at all levels, including sex education. We have stressed this a number of times at different places. Even Government we have approached with that object in view. We are in favour of it and the doctor has to be properly groomed, that is, "I must know something before I can answer the questions of the people". Dr. Rao mentioned that if a couple comes for abortion, in addition to giving answers to all questions regarding abortion, how it will be, what will happen after one or two years, all those questions will have to be answered, and then this aspect given. It is not that I will ask the couple not to go in for it. We will say, this is how it happens, you have to be prepared for this, this, and so on. We will have to give all the information that they seek.

**SHRI KAMESHWAR SINGH:** In reply to a question you said that the district hospitals have to be made ready for this termination of pregnancy. Do you think that the district hospitals are not well equipped, that they do not have gynaecologists there, and so on?

**WITNESS (DR. P. C. BHATLA):** My idea is that with the strain that the district hospitals are already under, it will not be possible for them to take this additional workload. They will have to be provided sufficient facilities before they undertake this additional work.

**SHRI KAMESHWAR SINGH:** What do you mean by "sufficient facilities"?

**WITNESS (DR. P. C. BHATLA):** Staff, equipment, beds, medicines, all these facilities have got to be given.

**SHRI KAMESHWAR SINGH:** In serious cases of abortion, how long will you prefer the woman to be hospitalised at Government cost?

**WITNESS (DR. P. C. BHATLA):** It depends on the individual case. It may require one day's treatment, or it may require 15 days' hospitalisation. Generally speaking, in the case of an incomplete abortion coming to the hospital, the average stay is never less than five to seven days. It may be more also.

**SHRI KAMESHWAR SINGH:** Do you want to provide that aspect, regarding medical facilities, specifically in the Bill? The Bill does not mention that at all.

**WITNESS (DR. P. C. BHATLA):** I do not think it is necessary. I understand that these provisions will be made in the rules which will be framed under this Act as to how to implement this measure. But if it is to be put in the Bill, we have no objection; let it be put.

**SHRI KAMESHWAR SINGH:** It is very easy to draft a Bill and for Parliament to pass it. But ultimately it will be your responsibility as to how it is going to be worked. So to that extent, it can be discussed here.

**WITNESS (DR. P. C. BHATLA):** I think it is a very important question. But some time back I had said that we would prepare a draft giving our suggestions on the implementation of it and send it to the Committee.

**SHRI KAMESHWAR SINGH:** Are you in favour of private clinics if they are duly certified by qualified gynaecologists of the State Government or the Central Government?

**WITNESS (DR. P. C. BHATLA):** Yes, Sir.

**SHRI KAMESHWAR SINGH:** Now, there are some doctors who have passed M.B.B.S., who learnt midwifery in M.B.B.S. but who did not practise it after that. Do you think they can

do the abortion or they should undergo some specified training?

**WITNESS (DR. P. C. BHATLA):** We have already said that it should be done only by registered medical practitioners who hold qualifications which make them competent to handle such cases. If they do not have the necessary qualification, then they have to be given training, for which we will take the responsibility. We will offer our services to train them. I know a couple lot of my friends, who are M.B.B.S. and who are having a lot of practice. But they cannot do it unless they get a refresher course and are given proper training.

**SHRI KAMESHWAR SINGH:** Why not have a special scheme of training for those who are already in the hospitals but who are not practising it?

**WITNESS (DR. P. C. BHATLA):** I agree with you. That is exactly the suggestion we have made.

**SHRI KAMESHWAR SINGH:** You have also said that the Act should apply to the whole of India. How do you apply it to the whole of India? Have you seen the existing provision of this Bill?

**WITNESS (DR. P. C. BHATLA):** This is our opinion. How to apply is not our concern. We have only to suggest. It is for you to consider.

**SHRI KAMESHWAR SINGH:** I would like to have some suggestions. It is a social measure and so it must be applicable to all parts of India?

**WITNESS (DR. P. C. BHATLA):** We have expressed ourselves in one simple sentence that this should apply to the whole of India.

**SHRI KAMESHWAR SINGH:** Do you think that section 312 of the I.P.C. should be deleted and then this Bill should be brought forward as a social measure?

**WITNESS (DR. P. C. BHATLA):** I do not think we should suggest anything in that particular matter.

**SHRI KAMESHWAR SINGH:** How many gynaecologists are there in this country to do this supervisory work, to see how many hospitals can undertake this work, and also give some practical training?

**WITNESS (DR. N. S. BANERJEE):** Whatever figures we may give you now will not be correct because they will be based on guess work. We are going to prepare a draft. We are actually going to meet very soon in every State and we will then present these details.

**श्री विद्याधर बाजपेयी :** दो तीन दिन की कार्यवाही देखने से मेरे मन में एक भाव पैदा हो रहा है जिस को मैं व्यक्त करना चाहता हूँ। हमारा देश एक घातक देश अनन्त काल से रहा है और गर्भ गिराना, भ्रूण हत्या अपराध माना जाता रहा है, इस लिए कानूनन यह वर्जित है। आज हम बैठे हैं उस को कानूनी रूप देने के लिए तो मुझ को तो ऐसा लगता है कि हम सभी लोग भ्रूण हत्या के अपराधी हैं। यह मैं अपनी भावना व्यक्त कर रहा हूँ। गर्भाशय जो करता है वह अंजाम को सीधे बिना कर डालता है और जब हमल ठहर जाता है तो उसको गिराने की फिर करता है। आप वन-साइड फौसला करने के लिए बैठे हैं। जो हमल के अन्दर जीव है उस की बात आप ने सुनी ही नहीं। उस को मार डालने का फौसला आप कर रहे हैं आप अपराधी हैं और हम सब लोग उस में भागीदार हैं या नहीं यह विचार मेरे मन में उठता है। समाज के भय से हमल गिराया जाता है, नसेसिटी नहीं है, कुंवारी लड़की के हमल हो गया तो वह कैसे समाज में मुंह दिखाएगी इसलिए गिराया जा रहा है। तो ऐसा कानून क्यों न बनाया जाय कि उस के साथ शादी हो जिस के कन्ट्रैक्ट से हमल आया है चाहे वह विधवा हो। सामाजिक भय आप दूर नहीं कर सकते चोरी वाला काम आप सिखा रहे हैं, चोरी चोरी हमल कर लो, चोरी चोरी गिरा लो, लोग जान भी न पाएं। यह देश को

उन्नति की ओर ले जा रहा है या पतन की ओर ले जा रहा है। मनुष्यों की संख्या घटानी है तो कुछ आदमियों को मार डालिए गोली से, संख्या कम हो जाएगी लेकिन यह कहां तक ठीक है कि जीव को मार डालिए जिस ने अपनी बात कही ही नहीं। अगर वह कहता तो आप को और हम सब को कोर्ट में खड़ा होना होता। ऐसा ख्याल मेरे दिल में उठता है।

दुनिया में विज्ञान कितनी उन्नति कर रहा है। आज तक डाक्टरों साइन्टिस्ट्स ऐसी दवा नहीं बना पाए जिससे एक मर्तबा खा लो साल भर की फुरसत हो जाय कुछ भी करो हमल न ठहरे। हमल भी आ जाय डाक्टर भी अपराधी बने चोरी भी हो फिर आप जल्लाद का काम करें हम उस की इजाजत दें जिस के ऊपर वह कार्यवाही हो उस की जान को भी खतरा हो इस के बजाय क्या इस प्रकार की औषधि नहीं बनाई जा सकती आज जब आदमी पृथ्वी से आसमान में जा रहा है। मार डालने का इन्तजाम तो हो रहा है हाइड्रोजन बम एक सैकन्ड में कितने ही आदमी मार सकता है तो हमल को रोकने की औषधि का निर्माण क्यों नहीं हो सकता? उस का प्रबन्ध करना चाहिए। फैमिली प्लानिंग का बड़ा ढिंढोरा पिटा लेकिन वह फेल्योर है वह अभी तक कामयाब नहीं हुई। एक तरफ हिन्दू यह सोचता है कि वह कामयाब है तो मुसलमान समझता है कि हमारा तो नेमान बढ़ रहा है। वह इस को स्वीकार नहीं करता, जबरदस्ती आप लागू नहीं कर सकते और इच्छा से वह लागू हो नहीं पाया।

**चेयरमैन [डा० (श्रीमती) मंगला देवी तलवार]:** आप जवाब देना चाहते हैं तो जवाब दीजिए यह उनकी ओपीनियन है।

**श्री विद्याधर बाजपेयी :** यह ओपीनियन की बात नहीं है आप यहां जवाब देने से मुकरते हैं तो भगवान के यहां जवाब देना पड़ेगा।

सोशल बिल कहते हैं लेकिन अनसोशल तरीके से करने जा रहे हैं। तो मैं यह उपाय रखना चाहता हूँ कि आप ऐसी श्रौषधि निर्माण करें जिस से साल भर तक हमल न ठहरे क्योंकि परमानेंटली कर दिया जायगा तो किसी को आवश्यकता हुई तो नहीं हो सकता है। तो ऐसी श्रौषधि बनाई जाय। दूसरी किसी जगह पर खतरा है इन्सान के लिए हमल से तो उस को गिराने की इजाजत दी जा सकती है, लेकिन यह नहीं कि मोज में गर्भाधान हो गया और हम चले छुरी, चाकू ले कर। यह मैं ने अपनी भावना व्यक्त की है।

चेयरमैन : ये मेडिकल एक्सपर्ट हैं, इनसे आप एक-दो सवाल पूछ लें, टाइम बहुत हो गया है। ये जो बातें हैं, वे तो पालिसी की बातें हैं, वे तो अपने घर में बैठ कर, पार्लियामेंट में कर सकते हैं। आप अपनी श्रोपीनिशन् एक्सप्रेस कर रहे हैं। विटनेस जवाब देना चाहें तो मैं उनको रिक्वेस्ट करूंगी। ये लोग मेडिकल एक्सपर्ट हैं, इनसे इस बारे में सवाल पूछने हों तो पूछ सकते हैं।

श्री विद्याधर वाजपेयी : वे इन्सान पहले हैं मेडिकल एक्सपर्ट बाद में, आप भी इन्सान पहले हैं चेयरमैन बाद में और इसी तरह हम लोग भी इन्सान पहले हैं और एम० पी० बाद में हैं।

SHRI M. SRINIVASA REDDY: This was one of the directive principles which should have been included in the Constitution, but they had omitted it. This Committee can do something.

WITNESS (DR. BHATLA): I am not well-conversant with all those things; so I do not wish to enter into all those points. But I can say that research work is going on to this extent that we have additional facilities in the shape of a pill or an injection or something which would give immunity to the lady in bearing any child for a year or so. I would say that the scientific advances are proceeding in that direction and some-

thing will come out sooner or later. Coming to the other point, I do not think it needs anything for me to say.

SHRIMATI TARA SAPRE: In cases where even sterilization method fails and a pregnancy occurs, do you not think that the lady should be allowed to have an abortion without the consent of her husband?

WITNESS (DR. P. C. BHATLA): When the contraceptive methods fail, that is open. There are cases where pregnancy has taken place after sterilization. So, an opportunity must be afforded to that lady to get that pregnancy terminated.

SHRI M. SRINIVASA REDDY: What about vasectomy?

WITNESS (DR. P. C. BHATLA): The same thing. On the failure of any contraceptive method, the lady should be afforded an opportunity to get the pregnancy terminated.

CHAIRMAN: So, gentlemen, I thank you all the three, the representatives of the Indian Medical Association. You are the representatives of an important organisation. Our Members were so much interested and they have asked so many questions and you all have been very kind in replying to every question in great detail. I wish to thank you on behalf of the Committee for the trouble you have taken.

WITNESS (DR. P. C. BHATLA): I thank you and the Members of the Committee on behalf of the representatives of the Indian Medical Association for the patient hearing you have given us and we welcome questions; we are used to questions by patients and by everybody. So we do not mind being grilled with questions and should you need any assistance from us, if it is worth, we would present ourselves again at your command whenever you say so.

SHRI M. SRINIVASA REDDY: Please also keep in mind the suggestion of our elderly colleague here.

(The witnesses then withdrew)



(Shri G. D. Khosla was then called

**CHAIRMAN:** Mr. Justice Khosla, I am sorry to have detained you so long but as the witnesses before you were medical experts, the Members were very much interested in asking questions.

Now the proceedings of this Committee are confidential and they should not be published. If you wish to make some remarks, you are welcome to do so and then the Members would ask you questions.

**SHRI G. D. KHOSLA:** The only remarks I would like to make are that I think it is necessary to have this legislation for a variety of reasons which are quite obvious. The most important one is to save the mental and physical anguish to the mother who does not want to have a child. That is enough justification for allowing abortions.

**DR. SUSHILA NAYAR:** You said that there are quite a few reasons why abortion should be allowed. Can you give some important reasons?

**WITNESS:** The most important is that an unwanted child should not be brought into this world; it is neither fair to the parents nor to the child.

**DR. SUSHILA NAYAR:** In other words you want to use this law as a family planning device. Is it correct?

**WITNESS:** Not only to reduce the population but there are other reasons also. Unwanted children should not be brought into this world, even in a country where there is no population problem.

**DR. SUSHILA NAYAR:** Don't you think that the remedy to prevent an unwanted child as a general rule should come before conception by proper precautions and use of proper methods, so many of which are available today and do not involve any risk to the physical and mental health of the mother, whereas abortion does carry a definite risk, to a greater or lesser extent?

**WITNESS:** I entirely agree with you provided you can make the prevention of conception hundred per cent. certain.

**DR. SUSHILA NAYAR:** You know that there is an intensive effort for family planning; it may not have produced as much result as desired but still the fact remains that more and more facilities for family planning are available to those who wish to prevent conception and therefore the use of this law for preventing unwanted children would only hamper family planning, unless it is resorted to in exceptional cases.

**WITNESS:** Where the contraceptives do not work.

**DR. SUSHILA NAYAR:** Or in the case of rape for instance.

**WITNESS:** That is another instance. Then there may be a change of mind on the part of the mother. It may be that a young man and a young woman may have had intercourse before marriage intending to get married but something happens and the marriage does not take place and the mother might want to get rid of the child. That I think is a very good reason for allowing abortion.

**DR. SUSHILA NAYAR:** Now I am sure you must have gone through the provisions of this Bill. Under clauses 3 and 4 different cases are given; it may be a minor, it may be a lunatic, it may be a widow, it may be an unmarried girl and so on. Now you find that the permission of the husband is required before abortion is carried out in the case of a woman who may have been raped, if she is married, and the permission of the father or the guardian is required in the case of a minor girl or a lunatic. Do you think this is a fair provision? It has been suggested that by mentioning all these categories we give the impression that we are making these facilities available for such categories. Then in the case of rape the husband may not give permission and afterwards he may trouble his wife. They may be on good terms at that

moment but later on that unwanted child is taunted and the woman is taunted. So it has been suggested to the Committee that we should so amend this clause that permission of the guardian is required in the case of minors or lunatics and in all other cases it should be the right of the woman to decide whether she wishes to carry the child or not and if an adult woman with a sound mind wishes to have abortion done, this facility should be made available to her without any permission from anybody else.

WITNESS: I am of the same view. I think the decision must rest with the mother because she is the person who is really concerned. The husband is also concerned to some extent but if the woman is an adult with a sound mind, her decision should be final in this matter.

DR. SUSHILA NAYAR: Now on page 2 you find two Explanations I and II. Explanation II and sub-clause 3 refers to certain environment in support of abortion, but it has been suggested that environment is a very vague term and the definitions mentioned earlier are quite enough to cover all such contingencies and therefore Explanation II and sub-clause 3 should be deleted. What is your view on this?

WITNESS: As a Judge I am somewhat orthodox. It does give a certain amount of flexibility. I know that Judges only interpret the law, but in interpreting if they are hidebound by exact definitions then that sometimes defeats the purpose. So to put it as environment I do not think will lead to any abuse because a good Judge will give it a very sound interpretation in keeping with the tradition, social customs, etc. I think a certain amount of apparent vagueness is not really vagueness at all. It makes allowance for changing conditions.

DR. SUSHILA NAYAR: So you would like to keep this?

WITNESS: Yes; I would like to keep this.

DR. SUSHILA NAYAR: Another objection that has been raised is about

clause 3(2)(b) where a distinction is made between pregnancy of under 12 weeks and of over 12 weeks but not exceeding 20 weeks. Some doctors have pointed out that there is no reason really to put a restriction at 20 weeks for the simple reason that if it is viability which is in the mind of the legislators then viability comes at 28 weeks and not at 20 and therefore this provision that it should not exceed 20 weeks should be deleted. Have you any view on this?

WITNESS: The only thing I can say is there are two reasons for putting this limitation. One is that a woman may change her mind. There is such a thing as motherly instinct and she may after a time feel that the environmental anguish which she is trying to overcome is not greater than her motherly instinct and therefore she may change her mind and it may be that the object is not to let her change her mind. And the other must be the physiological reason that abortion after a certain period will be more dangerous, but if there is no danger involved and if it is just as safe to carry out an abortion after 20 weeks as before that period, then there is no reason for this limit at all.

DR. SUSHILA NAYAR: May I say that the danger is there? Even at 12 weeks the danger is there. The danger is greater at 20 weeks, and still greater at 24 weeks, danger is there all the times. If it is below 12 weeks even then there is a certain amount of danger but it is much less than beyond 12 weeks. But have you any objection in allowing a woman to change her mind? If she wishes to have a baby why not let her do so.

WITNESS: What I am saying is if the element of danger is not more there is no necessity for any limit. I am told that the mortality rate is something like 32 per 100,000 or so. There is much higher degree of mortality in illegal abortions.

DR. SUSHILA NAYAR: It goes up to 300, in fact more than 300 per 100,000 in some cases.

**WITNESS:** I am afraid I do not know; I am not a medical man. If it is fairly safe . . .

**DR. SUSHILA NAYAR:** The first two chapters of this Report give very good information.

**WITNESS:** I have seen this Report only cursorily as I was waiting in the room down below. The point is, if the medical view is that it is safe to have legal abortion at any stage then there is no justification for putting any limit.

**DR. SUSHILA NAYAR:** Illegal abortion is more dangerous; there is no doubt about it. The whole idea is to do away with illegal abortion and wherever abortion is necessary it should be possible to have it openly in a recognised place rather than have it done illegally. The only point that I was referring to was whether it should be restricted to 20 weeks or whether, if a woman wants to have it even after 20 weeks it should be permissible.

**WITNESS:** I am afraid I am misunderstood. If you put some restriction and if the woman changes her mind she is going to have recourse to illegal abortion. Therefore even this liberal measure will be defeated in its purpose if you put a limit.

**DR. SUSHILA NAYAR:** So you are against keeping this limit of 20 weeks?

**WITNESS:** Provided the medical view is that the danger is not too great. Even if it is something like 50 or 60 per cent I would say put the limit.

**SHRI N. R. LASKAR:** Mr. Justice Khosla, I am just referring to your note. You have said that the only argument that can be advanced against the measure is that it is likely to be abused by unscrupulous persons. What do you exactly mean by this abuse by unscrupulous persons?

**WITNESS:** What I meant to say was that if it will be said you liberalise this kind of law then you are

going to have a lot of immorality and there will be promiscuity in our life. But it is like the law of prohibition. You impose prohibition so that there should be less drinking but that is not true. Whatever law you may pass there is likely to be a kind of reaction. The husband may not approve, the parents may not approve and the woman can go to any place. That is what I meant.

**SHRI N. R. LASKAR:** So don't you think as important as a public citizen of India that if this provision encourages this kind of corruption in our society you would like to do away with such a provision?

**WITNESS:** I do not think it will lead to corruption as such liberalising the law always means a certain slackness of conduct at first.

**SHRI N. R. LASKAR:** You yourself said something about immorality.

**WITNESS:** I meant to say that this kind of criticism might be made but I do not think that criticism would be just.

**SHRI N. R. LASKAR:** Over and above this objection don't you think there is also the other side, the moral and ethical side of it?

**WITNESS:** Well, I do not know; because we seem to take away life without any compunction. I think the ethical side can be that this is taking away of life but I do not like to consider that we are doing wrong there because we take away life anyhow for our own betterment. We are living in a country where human beings have little compassion.

**SHRI N. R. LASKAR:** Killing the child in the womb and killing after birth it outside amounts to the same thing, is it not? Because after all you are killing life, gap is before and after.

**WITNESS:** There are some people who would consider it the same thing but I do not think it is. Once the child comes into life a certain amount

of affection develops even in favour of an unwanted child and that is a living being. You can consider it ethical or moral or physiological but I think a born live child is quite different from an unborn child.

SHRI N. R. LASKAR: Well, admitting all these arguments, even then you would support the provision in the Bill?

WITNESS: I think the mental anguish caused to a mother when the child is not wanted either because it is illegitimate or because she cannot afford to bring it up due to economic reasons or because it is the result of rape or for any other reason is going to cause much more harm to the child. It is very unfair to the child itself to part from the parents, and I would like to stop it before the child is able to feel it mentally or physically.

SHRI N. R. LASKAR: So you agree these provisions are going to do good to our society?

WITNESS: Yes; I think so.

श्री निरंजन वर्मा : खोसला साहब, यह बात जानते हुए कि जितने आप कानून के जानकार हैं उतना ही आपके कंधे पर समाज के चरित्र का भार भी है तो क्या इस दशा में कुंवारी लड़कियों के लिए गर्भपात को बंद करना, उसकी आज्ञा देना, चाहे वह कानून के द्वारा ही क्यों न हो, समाज में एक दूषित वातावरण, एक चित्ररङ्गपटा नहीं पैदा करेगा।

साक्षी : बात यह है कि अगर एक बात गलत हो गई तो जो गलत बात थी वह हो गई उसको दुरुस्त क्यों न कर दिया जाय ताकि उसकी मेंटल सर्फरिंग जो है वह तो कम से कम बन्द हो जाय। वह गलत बात हो गई। होना तो चाहिए था कि गर्भ न हो लेकिन अगर हो गया तो क्या किया जाय।

श्री निरंजन वर्मा : दूसरी बात। इस बिल का उद्देश्य यह भी है कि अपने देश में जो पापुलेशन बढ़ रही है उसको किसी

प्रकार से रोका जाय लेकिन ऐसा मालूम होता है कि इस बिल के संयोजकों ने सीधी तरह से उसको नहीं रखा और वह शायद समाज के भय के कारण है। तो क्या आप यह उचित समझेंगे कि सीधे प्रकार से इस बिल में कोई ऐसी धारा रखी जाती कि दो या तीन बच्चे के पश्चात् अगर किसी की इच्छा नहीं है तो वह डाक्टर से जाकर सीधे कहे कि अब उसको इच्छा नहीं है, यह हो गया इसलिये हम इसका गर्भपात कराना उचित समझते हैं।

साक्षी : यह मैंने पहले ही अर्ज कर दिया कि इस बिल में जो असली आबजेक्ट है वह यह नहीं है कि पापुलेशन को, आबादी को कम किया जाय, इसका असली मुद्दा तो और है और वह यह है कि जो अनवाण्डेड चिल्ड्रेन हैं उनको न लाया जाय। आबादी पर जरूर असर पड़ेगा लेकिन मेरे खयाल में असली मतलब जो है वह और है।

श्री निरंजन वर्मा : इस बिल में कुंवारी या विधवा स्त्रियों के बारे में उल्लेख है। कुंवारी लड़कियों के बारे में यह है कि या तो उनके परसन का गाडियन या प्रापर्टी का गाडियन कंसेंट दे और इसी प्रकार से विधवा के लिए भी परसन का गाडियन हो सकता है और प्रापर्टी का गाडियन भी हो सकता है और उन में से किसी एक की राय लेने की जरूरत है। तो लीगल ब्रेन होने के नाते से आपने कहीं कहीं ऐसा भी देखा होगा कि परसन का गाडियन अलग आदमी होता है और सम्पत्ति का कोई और रिसीवर होता है या दूसरा गाडियन भी होता है। तो उस दशा में जब कि दो गाडियन होंगे तो इस बिल में जो यह है कि उन में से एक का ही कंसेंट होना चाहिये, यह ठीक है या इसमें किसी प्रकार का अमेंडमेंट करना आप उचित समझेंगे ?

साक्षी : मेरे खयाल में जो नाबालिग है उसकी जो परसन या गाडियन है उसकी कंसेंट होनी चाहिये।

**श्री निरंजन वर्मा :** अगर किसी प्रापर्टी के लालच में, कोई विधवा स्त्री जिसको कि तीन या चार महीने का गर्भ हो, कोई आदमी उसकी भ्रूण की हत्या कराने के लिये तैयार हो जाय, इसलिये कि उसकी सम्पत्ति का कोई उत्तराधिकारी नहीं रहेगा तो वह रिलेटिव या कोई भी उसका उत्तराधिकारी बन सकता है, अगर इस प्रकार से कोई क्राइम करे तो उसके विषय में आपकी क्या राय है ?

**साक्षी :** मुझे कुछ समझ में नहीं आया। जरा फिर से कह दीजिये।

**श्री निरंजन वर्मा :** किसी विधवा स्त्री के पास बहुत प्रापर्टी है और उसको विधवा होते समय एक या दो महीने का गर्भ होता है और उस के जो रिलेटिव्स या गार्जियन्स हैं व चाहते हैं कि वह गर्भ गिरा दिया जाय ताकि प्रापर्टी का उत्तराधिकारी उस के पास न जाय, तो उस के लिए आप क्या निदान बता सकते हैं ?

**साक्षी :** अगर वह औरत बालिग है तो उसकी रजामंदी ही गर्भ गिराने के लिए काफी है। लेकिन अगर ऐसा केस हो और उस के रिश्तेदार गर्भ गिराना भी चाहे तो बिना उस औरत की रजामंदी के गर्भ कैसे गिराया जा सकता है।

**श्री निरंजन वर्मा :** अगर वह माइनर है तो ?

**साक्षी :** तो उस में ऐसी गलती तो हो सकती है। लेकिन मेरा ख्याल है कि ऐसे वाक्ये बहुत कम होंगे। अगर प्रापर्टी बहुत ज्यादा है तो उस के वेलफेयर को देखने वाला तो कोई न कोई होगा ही, न हो तो कोर्ट उस का वेलफेयर देखता है।

**श्री निरंजन वर्मा :** बिल का धारा 6 में गवर्नमेंट को इस तरह के रेगुलेशन्स बनाने का अधिकार है कि जिस से सीक्रेसी मेन्टेन की जा सके। तो आप की राय में क्या गवर्नमेंट के पास सीक्रेसी रहना उचित होगा या डाइरेक्टर मेडिकल हेल्थ के पास इस तरह का रजिस्टर रहना उचित होगा जिस में सीक्रेसी

मेन्टेन रहे? क्योंकि अगर गवर्नमेंट के पास इस तरह का रजिस्टर रहेगा तो उस से लोग अनुचित लाभ उठा सकते हैं और अगर वह रजिस्टर डाइरेक्टर मेडिकल हेल्थ के पास रहेगा तो उस का अनुचित लाभ नहीं उठाया जा सकता।

**साक्षी :** यह बात तो फौरन ही खुल जायगी। इससे कोई फायदा न होगा भले ही आप रजिस्टर कहीं भी मेन्टेन करें।

**SHRI KAMESHWAR SINGH:** Mr. Khosla, you have mentioned in your memorandum that the only argument that can be advanced against the measure is that it is likely to be abused by unscrupulous persons. Regarding this I would like to know whether you are in favour of having some provisions or penalising clauses in the Indian Penal Code against crooks practising abortion or medical termination of pregnancy or persons taking the lady to some crook. Are you in favour of having some provision to penalise such people?

**WITNESS:** I do not know, but there will be no need for that because if the provision is that an adult woman who is going to be a mother consents to or desires abortion, her decision should be final and there is very little chance of this provision being abused.

**SHRI KAMESHWAR SINGH:** This can be abused in only one case. I would like to have certain clarifications from you. Suppose a girl below the age of 18 becomes pregnant and ultimately with the consent of her parent or guardian she gets abortion. When she gets married later on, some people may inform her husband that she got abortion and later on her husband may file some sort of case in the court. Later on the court asks for the records from the hospital. It is quite possible that this girl had abortion. After that it is possible that her marriage will be on the rocks and the girl will suffer for her lifetime. Do you think that, in such circumstances, the court should not be permitted to get the records, except in the case of rape, sex crime or related matters?

**WITNESS:** This is the old story of Hardys Tess, a girl getting a child before marriage. Some husbands take a very strict view of it. If the girl can tell her husband straight, perhaps it would be easier. As far as the outsider is concerned . . .

**SHRI KAMESHWAR SINGH:** The husband will have to be educated a lot before he is told straight.

**WITNESS:** An outsider giving information of this type can have two motives. One is blackmail for which there is provision in the Indian Penal Code. Even if the information which the blacmailer gives is true, he is guilty of blackmail and is punishable under the IPC. If he is merely giving friendly advice, you cannot just stop it. It is like sneaking by some mischief-makers, and you cannot stop it.

**SHRI KAMESHWAR SINGH:** Do you not think that a certain amount of secrecy should be maintained?

**WITNESS:** I think it would be almost impossible to maintain secrecy. One could blackmail out of malice or give information out of friendship.

**SHRI KAMESHWAR SINGH:** Suppose the records are not to be sent to the court. The hospital only keeps a record, but not the name of the girl. In that case, what is your objection?

**WITNESS:** I have no objection to that at all. I do not hold the opinion that there should be a complete record of every operation. The only reason is to keep a check on the doctors.

**SHRI KAMESHWAR SINGH:** I agree with you, but to keep a check on doctors, it is not essential to have names. Case history and number are sufficient.

**WITNESS:** It is for the medical authority to see whether they can exercise sufficient control over it. I have no opinion on this. I am not in favour of keeping records which can be leaked out. If it is necessary for some administrative purpose, then the danger of the same being leaked out has to be faced.

**SHRI KAMESHWAR SINGH:** Do you think that from the administrative point of view the name is essential to be recorded?

**WITNESS:** The name can be recorded. I think it is impossible to keep any kind of record without the name. I do not know what the mechanics will be, whether the doctors would be paid for the operation. If you do not maintain names, they may inflate the number of operations which they have done. I am not quite certain about it. Therefore, it would be necessary to have a proper, complete record.

**SHRI KAMESHWAR SINGH:** In the case of Japan where it is liberalised and the charges are very nominal, the girls or ladies prefer to go to unauthorised persons because there they do not have to keep anything in record or something like that. They pay more money and they go to such persons. Don't you think that such a practice should prevail in our country also?

**WITNESS:** I think I may be wrong in this, but it is very right that one should liberalise this.

**SHRI KAMESHWAR SINGH:** My next question is, in our country people trained in non-Allopathic systems are also registered as medical practitioners. Do you think that they are quite competent to appreciate the gravity of the problem arising as a result of the medical termination of pregnancy?

**WITNESS:** About non-Allopath practitioners I am afraid I cannot say. I have said about the opinion of competent doctors who say that the danger is very minimal. I have not done the statistics myself. If it is true that about 6 1/2 million illegal abortions take place now and the mortality rate is high and on legal abortions it is as low as .32 per cent then I think it is worthwhile having it legally.

**SHRI KAMESHWAR SINGH:** In the same context I would like to ask another question. This is about Allopathic medical practitioners who practise in different fields of medicine and surgery, specially medicine, and later

on they are asked to carry out abortions in the hospitals for which they have no experience. Do you suggest that they should go through a training course specially in this field?

WITNESS: I am definitely of opinion that nobody who is not an experienced doctor in this field should be allowed to handle cases of abortion. I think it will be absolutely criminal to do so.

SHRI KAMESHWAR SINGH: The provisions in clause 4(a) and (b) are good so far as they go. But as medical termination of pregnancy is a thing which involves procedures which might be accompanied with grave complications including risk to life, do you think that the hospitals which are utilised for the purpose of such operations must have minimum facilities to be fixed by a panel of gynaecologists for the whole country?

WITNESS: I think it will be for the medical service to set a standard so that these operations are performed under the best available conditions and by really competent people.

SHRI KAMESHWAR SINGH: Do you think that such hospitals should be subjected to regular periodical checking by expert gynaecologists?

WITNESS: I would appreciate it if all hospitals, whether they deal with cases of abortion or not, are subjected to checks. From what we read in the papers it is necessary to check all hospitals.

SHRI KAMESHWAR SINGH: The present Medical Termination of Pregnancy Bill makes abortions lawful on certain grounds only. Do you think it is proper or it should be liberalised more?

WITNESS: I think that it is liberal enough. If you say that the desire of the mother who is an adult and of sound mind is sufficient, I do not think there could be anything more liberal than that.

SHRI KAMESHWAR SINGH: Do you think that if section 31, and re-

lated sections of the IPC are deleted by suitable amendments then abortions will not be a cognisable offence under the IPC?

WITNESS: If this law comes into force and abortion is obtained under this law, it will certainly not be an offence.

SHRI KAMESHWAR SINGH: Do you think that this law should be applicable when passed as legislation to the whole of the country?

WITNESS: Yes. Indeed I think it should be applicable to the whole world.

SHRI KAMESHWAR SINGH: It is a wonderful suggestion. Perhaps I would like you to refer to the Bill. The Bill says on page 1, clause 1(2): "It extends to the whole of India except the State of Jammu and Kashmir". What do you think about this?

WITNESS: I think I would like to say it is superfluous.

SHRI KAMESHWAR SINGH: I would like to know one thing. If the relevant provisions of the IPC are separately deleted, section 312 and related sections, and this Bill is introduced as a separate social welfare measure, do you think in that case it will be applicable to the State of Jammu and Kashmir also? Then it will be for the whole of India. Presently it is not.

WITNESS: If there is an exception in the case of Jammu and Kashmir, if it says that it does not apply to it, then it does not apply.

SHRI KAMESHWAR SINGH: Already the IPC is not applicable to Jammu and Kashmir. The Bill modifies certain provisions of the IPC. In case the relevant provisions of the IPC are deleted separately and this Bill is brought forward in Parliament with suitable amendments and introduced as a social welfare measure, a Bill for social welfare, in that case do you think it will be applicable to Jammu and Kashmir?

**WITNESS:** If this clause is omitted, then it will certainly apply to Jammu and Kashmir.

**SHRI KAMESHWAR SINGH:** Are you in favour of that?

**WITNESS:** It is a political ground on which Jammu and Kashmir has been omitted, not on any other ground I am not an authority . . .

**SHRI KAMESHWAR SINGH:** That is, you are in favour?

**WITNESS:** I said the whole world.

**SHRI KAMESHWAR SINGH:** Because the taxation laws are also extended to Jammu and Kashmir. If taxation laws can be extended to Jammu and Kashmir, why not this law?

**WITNESS:** I am not a legislator. I am only an interpreter of the law. I said this kind of law should be enforced in every country. If our legislators feel it should not apply to a certain part of the country, I cannot question it.

**SHRI KAMESHWAR SINGH:** One thing more I would like to ask. Is it not correct that while personal factors of religion and connected moral values play an important role, the majority do not wish to risk the law in the case of abortion?

**WITNESS:** You mean they would not like to have unwanted pregnancy?

**SHRI KAMESHWAR SINGH:** It is not a case of unwanted pregnancy. Presently people do not like to take up abortion cases lest they be penalised under the law and also on the ground of moral values.

**WITNESS:** You mean they would be concerned they derive from man-man standards. If you say that this is going to be the law, then moral values will change soon.

**SHRI KAMESHWAR SINGH:** Next I would refer to clause 3(4) (a) and (b), lines 36 and 37. In my opinion the word 'lunatic' is an obsolete expression. I do not understand why

specially the persons who have drafted this should have put it like that. Do you think that instead of 'lunatic' the expression 'insane' or 'deranged' or 'mentally handicapped' could be substituted? Mentally handicapped people are not included in this. Those people may also suffer. Do you think that any of these three could be substituted?

**WITNESS:** It can be. It may not be necessary, but if you add them, you will make the thing better. It will be to your advantage.

**SHRI KAMESHWAR SINGH:** I would like to ask you this. According to a Geneva Conference of the U.N. held in August, 1965 they mentioned that not only for health reasons but on the basis of socio-economic and other considerations abortions should be permitted. Are you in favour of this?

**WITNESS:** I think this Bill covers that aspect also.

**SHRI KAMESHWAR SINGH:** I do not think so.

**WITNESS:** According to this Bill, abortion will be allowed for social and economic reasons also.

**SHRI KAMESHWAR SINGH:** I do not think it is clear.

**WITNESS:** I should imagine that economic reasons would be not wanting a child that you cannot properly look after and social reasons would be illegitimate children, children born as a result of rape and so on.

**SHRI KAMESHWAR SINGH:** The social aspect is clear in the Bill, but not the economic aspect.

**WITNESS:** The economic aspect is when you do not want more than a certain number of children. That is also covered in the Bill. I think both the social and economic aspects are necessary. If the contraceptive fails, then the only remedy is abortion.

**SHRI KAMESHWAR SINGH:** I would now refer to para (c) at the top of page 130 of the Shantilal Shah Committee Report.



"that the pregnant woman's capacity as a mother will be seriously overstrained by the care of a child of another child."

WITNESS: I think it is covered by our Bill. That is why I said that this "environment" in a liberal law should be retained.

SHRI KAMESHWAR SINGH: I would like to know whether such provisions as mentioned in the Shah Committee Report should be provided in our legislation very clearly and specifically.

WITNESS: It could be, but I do not think it is necessary. As a judge I would not like the law to be much too detailed because interpretation becomes difficult. I think all these would be covered by the provisions of the Bill as drafted.

SHRI KAMESHWAR SINGH: Now it is very easy to pass a legislation in Parliament. But, in my opinion, we should also study whether it could be worked successfully or not. I think this is one of the most important legislations after independence. It concerns the mental and physical conditions of people and has social and economic implications for the whole country. That is why I have been stressing that the provisions should be specifically and clearly made in the Bill.

WITNESS: It can be done. I have no objection to that at all. I think it is unnecessary, but certainly it can be done. If I am wrong in assuming that this case is covered, then let it be added.

DR. (MRS.) MANGLADEVI TALWAR: I would like to refer to clause (6)(1)(c) of the Bill which says:

"prohibit the disclosure, except to such persons and for such purposes as may be specified in such regulations, of notices given or information furnished in pursuance of such regulations."

Later on it says in sub-clause (2),

"The notice given and the information furnished in pursuance of regulations made by virtue of clause (b) of sub-section (1) shall be given or furnished, as the case may be, to the Chief Medical Officer of the State."

Now the States are competent to make their own rules under this Act. Every medical practitioner who conducts an abortion on anyone will have to have some basic information, name, address and so on. That information is supposed to be secret. He is not to give it to anyone else. But he must give that information to the Chief Medical Officer of the State. My point is, these days no secrecy can be guaranteed in any office. People can go and get information from the Secretariat or the Ministries in the States. As there is nothing in this Bill to ask the Chief Medical Officer to keep this information secret, naturally he may not be careful. So should we have some provision here to the effect that the Chief Medical Officer should keep this information secret as it will affect the whole life of the woman concerned?

WITNESS: Yes, I agree with you. There can be some provision making it incumbent upon the Chief Medical Officer to keep this information secret. I do not know whether it would be effective. But one may well make a provision to that effect.

DR. (MRS.) MANGLADEVI TALWAR: So there can be a provision made in this Bill?

WITNESS: I think clause 6(1)(c) would cover the case of Chief Medical Officer also. If it does not, you can specifically say that the Chief Medical Officer also will be prohibited from disclosing the information.

SHRIMATI USHA BARTHAKUR: I am glad that you have said in your note that there can be no two opinions about this Bill. Of course, you want some modifications. I want only one clarification. In Clause 3, sub-clause (4)(c) it is said. No pregnancy of an unmarried girl, who has not attained

the age of eighteen years, shall be terminated except with the consent in writing of her father or of her guardian, if her father is not alive". But the pregnancy of an unmarried girl is not tolerated easily in our society. Do you not think it to be proper to obtain the consent of the father or of the guardian in respect of an unmarried girl below or over eighteen years? Again regarding the guardian, any person may be said to be the guardian of the patient to solve the problem. How will you identify him to be her real guardian?

WITNESS: With reference to your first question, my view is that if the woman is an adult, there is no need to obtain the consent of her father or husband. Even if she is an unmarried girl, there is no need if she is an adult and if she is able to decide herself. In the case of an unmarried minor girl, it is necessary to have some kind of a consent from the father or the guardian of that girl to prevent any abuse by unscrupulous persons who may take this girl to a medical practitioner and get the abortion done when there is really no need for it. With regard to the second question, if the girl is an adult, she should be able to decide for herself.

SHRIMATI USHA BARTHAKUR: How will you identify the guardian?

WITNESS: Some enquiry or investigation can be made. Under the law impersonation is an offence. If it is found out that somebody has impersonated as the father or as the guardian, he is liable to punishment under the Indian Penal Code.

SHRIMATI TARA SAPRE: According to the medical ethics it is compulsory for doctors to treat the patients. I would like to ask you one question. There is some gynaecologist or some physician or some doctor who is properly trained to perform this operation but he says he does not want to do this operation because his conscience does not permit it, his conscience does not permit his terminating the pregnancy of a woman. Now,

according to the law, is his refusal to treat his patient punishable or no?

WITNESS: I understand you to say that he may not want to do the operation.

SHRIMATI TARA SAPRE: Yes. He does not want to do it because his conscience objects to it.

WITNESS: There is no law which compels a doctor to do the operation. But even according to the medical ethics, if he is doing something illegal, he can refuse. But if he refuses to do something legal, as, for instance, a sick patient goes to the doctor and the doctor refuses to treat him, then, action can be taken against him by the Medical Association. It is the same thing here. This applies to any kind of illness or ailment.

SHRIMATI TARA SAPRE: He knows that there is no danger. But he says he does not want to do it. Is there anything to protect him when he refuses to do an operation? Can any law or association under law take objection to his refusing to terminate the pregnancy?

WITNESS: I think you mean there is a girl who is not in danger by being pregnant, but for reasons within this Bill, she wants an abortion and goes to a qualified doctor or one of the hospitals specified by the Government and the doctor refuses to perform the operation. You want to know what can be done under those circumstances. There are two remedies open to us.

SHRIMATI TARA SAPRE: Not only Government approved hospitals, but also Government approved nursing homes.

WITNESS: Yes, any place prescribed under this legislation. One remedy is to remove that doctor or that hospital or that nursing home from the list of prescribed places. The other remedy is to approach the Medical Association to debar the particular doctor. There is nothing else that you can do.

**SHRIMATI TARA SAPRE:** But you cannot have an objection of your conscience to performing an operation.

**WITNESS:** I cannot understand why there can be any conscience objection because I do not see in any law or ethics where it is laid down specifically that you must refuse to perform an abortion. I find nothing even in the scriptures against it.

**SHRI P. VISWAMBHARAN:** According to Clause 3(2) a registered medical practitioner or registered medical practitioners can terminate the pregnancy only if such medical practitioner is of the opinion that certain conditions have been fulfilled. That is firstly he should be convinced that those conditions have been fulfilled. Later in the same clause there is Explanation II which says, "Where any pregnancy occurs as a result of failure of any device used by a married woman or her husband for the purpose of limiting the number of children, the anguish caused by such unwanted pregnancy may be presumed to constitute a grave injury to the mental health of the pregnant woman." Then, that would be one of the reasons for the termination of the pregnancy. So according to the provisions of this Bill, the medical practitioner has got to be convinced that the contraceptive devices have failed. In this context I would like to know from you whether a mere statement made by the woman concerned is enough for the medical practitioner to get convinced that this operation should be done.

**WITNESS:** We will have to look at it from the practical side of it. A woman goes to a medical practitioner and makes a statement; the medical practitioner performs the operation. Afterwards it is found that the statement was false. We should like to see whether what the doctor did was in good faith or not. And the Bill provides that if he does something in good faith, then, he is exempted from any prosecution. After all, you have got to give somebody the right to

decide at some time or the other. When the woman goes to a doctor, he must decide whether or not to perform the operation on whatever information is made available to him. It cannot be a detailed investigation and inquiry. But when the matter ultimately goes to the court, he will be safe if he can prove that he had acted *bona fide*; but if it is proved that he acted *mala fide*, he will be liable to punishment because it is an offence.

**SHRI P. VISWAMBHARAN:** My point is whether the Explanation should be elaborated stating that a statement from the woman concerned would be sufficient to prove that an operation is necessary. I want to know whether this Explanation needs to be modified in that way.

**WITNESS:** I think it would be dangerous to say that the statement by the woman should be sufficient. It is better to leave it as it is so that if the matter goes to a court, the court can decide whether in the particular case the doctor acted in good faith or bad faith. If you say that the statement of the woman is enough, the doctor will never be able to prove it.

**SHRI P. VISWAMBHARAN:** Then coming to sub-clause (3), there are several provisions like (a), (b), (c) and (d). Different provisions are made for married women, for widows, unmarried girls and unmarried women. I would like to know whether such classification should be there or only there should be two categories, major women and minor women.

**WITNESS:** If you are going to say that the husband must have his say or the guardian must have his say, then you must have this classification.

**SHRI P. VISWAMBHARAN:** In that case your view is that the consent of the husband or the guardian is not necessary in the case of a major woman?

WITNESS: Yes.

SHRI K. P. MALLIKARJUNUDU: Sir, abortion means taking the life of one individual. Is the taking of life of an individual justified of grounds of jurisprudence to preserve the life of another individual? If I am not wrong, that is the principle incorporated in section 312 of the Indian Penal Code. Abortion is allowed in order to save the life of the mother. If I understand it correctly, life can only be taken to preserve the life of another individual. Do you wish to extend the area of abortions? Don't you think it violates the fundamental principles of jurisprudence?

WITNESS: I am afraid my views are very unorthodox because I do not think there is any fundamental right to live except in certain circumstances. Our civilisation is getting more and more complex. We take animal life; we take human life all the time. In wartime to save ourselves we kill other men and women. When there is a famine, the parents abandon their children in order to save themselves. This happens all the time, Sir, because of exceptional circumstances and these exceptions are increasing on account of the increasing population; the economic and social as also the moral values are changing all the time. So I do not think you can say that there is any such fundamental right. We take human life without the least compunction.

SHRI K. P. MALLIKARJUNUDU: Except in cases like famine and war, do you want to enlarge the scope of the right of taking life, e.g. the abortions which this law contemplates?

WITNESS: I would like to enlarge the scope in the interests of the nation only.

SHRI K. P. MALLIKARJUNUDU: In that case, do you like to extend it to the utmost extent possible?

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WITNESS: Only to the extent it is absolutely essential. At the moment I would not go beyond this enactment.

SHRI K. P. MALLIKARJUNUDU: Some of our friends have suggested that there should be prohibition for divulging the secrecy involved in this matter. In this connection I would like to draw your attention to clause 6(1) (c). Can that provision override the provisions contained in section 123 and 124 of the Indian Evidence Act which have cast a duty on the courts to call for any record? The courts have the right to call for any records and they have to decide whether a particular document can be divulged or not.

WITNESS: I think for two reasons it would override the provisions of the Evidence Act. The first reason is contained in the Evidence Act itself when it says that any information given by a patient to a doctor shall be treated as a privileged statement and the doctor shall not be forced to divulge it.

SHRI K. P. MALLIKARJUNUDU: In that case do you think that the regulation is sufficient to override the provisions of the Evidence Act or do you want any specific legislation for this?

WITNESS: I do not think it would be necessary to incorporate any specific provision.

श्री गंगाचरण दीक्षित : क्लॉज 3, संबक्लॉज 4 के अन्तर्गत जो धारा है उसका तात्पर्य यह है कि यदि अनमेरिड वॉमेन चाहे तो वह अपनी मांग के ऊपर कभी भी एबॉर्शन करा सकती है। अगर यह सच है तो क्या आप समझते हैं कि समाज के लिए यह अच्छी परम्परा होगी।

साक्षी : समाज पर असर गर्भ होने का होता है, निकालने का नहीं होता।

श्री गंगाचरण दीक्षित : अगर वह डिमांड करती है तो उसकी मांग की पूर्ति कर देनी चाहिए विदाउट ऐनी एन्वयरी !

साक्षी : इतना आसान नहीं है । उसका केस इस कानून के नीचे आना जरूरी है । एवार्शन करने से पहले यह देखना जरूरी होगा कि उसका केस इस कानून की जो शरायत हैं उनके नीचे आता है ।

श्री गंगाचरण दीक्षित : इसमें ल्यूनेटिक के लिए दिया गया है कि उसके पिता या संरक्षक की, यदि पिता जीवित नहीं हैं तो कन्सेंट देना जरूरी है । अगर वह ल्यूनेटिक नहीं है तो उसको कन्सेंट लेने का सवाल ।

साक्षी : इस कानून में दिया गया है कि किन-किन वजुहात में वह एवार्शन मांग सकती है ।

श्री गंगाचरण दीक्षित : इसमें यह है कि अगर अविवाहित बालिग औरत की कन्सेंट हो गयी तो वह ही सफीसिएंट है । पना की या संरक्षक की यदि पिता जीवित नहीं है तो कन्सेंट लेना आवश्यक नहीं है ।

साक्षी : वह ही सफीसिएंट नहीं है, जो बाकी की शरायत हैं मेन्टल एंग्विश वगैरह की वह भी तो पूरी होनी चाहिए ।

श्री गंगाचरण दीक्षित : क्या आप फेवर करते हैं कि वह मांग करे तो उसकी मांग की पूर्ति होनी चाहिए ?

साक्षी : अगर बाकी की शरायत पूरी हो गई हों ।

श्री गंगाचरण दीक्षित : एक्सप्लेनेशन 2 में है कि यदि हंसबैंड वाइफ यह कहते हैं कि हमने कोशिश की थी बर्थ कंट्रोल की, तो वह सफीसिएंट है । आपकी निगाह में क्या एफीडेविट या डिक्लेरेशन देने की कोई जरूरत नहीं है ?

साक्षी : बिल्कुल जरूरत नहीं है । कानून में यह लिखा है कि यह हो, यह नहीं कि किस तरह इसको साबित किया जाय ।

SHRI GANGACHARAN DIXIT: Do you mean to say that they should be permitted whether they have utilised the device or not. In that case what is the significance of having such a provision here when there is no declaration or affidavit. Do you mean to say there is nothing is needed here. What is the use of saying they must prove that they have tried the devices? In that case any couple can come and say that they want to have abortion and that they have utilised the devices. After all there is nothing in writing, no affidavit. Simply they say they have made use of the devices and according to you it is enough. But who is to judge whether they were used or not?

WITNESS: If the husband and the wife have used a device and it has failed and if the husband makes such a statement, that statement is either true or it is false. This Act does not say that the statement has to be accepted. If the statement is proved to be false then these people can be held guilty.

SHRI GANGACHARAN DIXIT: Who will decide if the statement is true or false and how? Because there is nothing in writing. Merely the person comes and says he has used the device and it has failed. There is no affidavit, no declaration. What is the use of having such a provision? You can as well say that people can come and ask for abortion by saying that they do not want to have more children. What objection can be there? Why should not people be permitted? Why should he be called upon to give an indication that he has used the device and it has failed? If something is taken in writing, a declaration or an affidavit, I can understand that.

WITNESS: The law does not lay down the method of proof.

SHRI GANGACHARAN DIXIT: Do you suggest that something should be there?

WITNESS: There is no need because you only say this fact must be there. The Act does not say that you must prove it. If his statement is challenged then it will have to be proved in a court of law eventually.

SHRI GANGACHARAN DIXIT: Do you want any amendment to be made here or should this remain as it stands? If you want it to stand as it is, what is the significance of saying that they must say that they used the device?

WITNESS: I will tell you the danger as a Judge. If you prescribe any kind of a declaration then what are you going to have? Even then you cannot prove the declaration false.

SHRI GANGACHARAN DIXIT: That will be some check if you say he will have to file an affidavit or give a declaration in writing. Here he comes and simply says he has made use of the device.

WITNESS: The only thing I could say about it is that if you do anything like that you will never be able to prove the *mala fides* of the doctor.

DR. SUSHILA NAYAR: This is a thing which we can discuss between ourselves.

CHAIRMAN: Yes; I think we can discuss it when we take up the clauses. Now, thank you very much for your valuable evidence.

*(The witness then withdrew)*

*[Dr. Kartar Singh, was then called in].*

CHAIRMAN: We have before us

here Dr. Kartar Singh. He has not submitted any memorandum and whatever he wants to say by way of general remarks he is welcome to do so. Afterwards Members will put him questions.

Dr. Kartar Singh, whatever you say is to be treated as confidential till the Report is placed before both Houses of Parliament.

DR. KARTAR SINGH: Chairman and esteemed Members of Parliament, I hope I will be excused. I had very short notice and I could not send this paper to you but I will now hand it over to you.

You will be able to follow my arguments regarding termination of pregnancy only when you understand the methods of termination of pregnancies. One method of terminating pregnancy is by administering drugs to the pregnant lady. Another method is by surgical procedure.

The drugs used aim at contracting the uterus. Uterus is the organ in the body of the female which contains the developing baby. There are drugs of modern medicine like ergot, quinine and others and several indigenous drugs made from Indian herbs. All these drugs are dangerous to the life of the pregnant lady when administered in quantity enough to be effective in causing abortion. There is a second group of medicines called sex hormones. Sex hormones are secretions of the ductless glands in the body which control menstrual flow, that is, monthly periods and sex changes like secretion of milk by mother etc. These hormones also effect abortion by contracting the uterus if administered in effective quantity. They may be effective only in the first month or the first one and a half months of pregnancy. They are comparatively safe but not sure in results. The second method of termination of pregnancy is by surgical procedure. The pregnant lady

has to be made unconscious by administering anaesthesia. The cervix, i.e., the mouth of the uterus has to be dilated with instruments called dilators. After the mouth of the uterus is widened an instrument called curet, which is spoon-like, with sharp edges is introduced into the uterus and the ovum is scooped out. There is bleeding after the ovum is taken out. The amount of bleeding depends on the advancement of pregnancy, i.e., the length of time since pregnancy had occurred. The risk to life increases with the advancement of pregnancy. So, the termination of pregnancy by surgical procedure is an operation like any other surgical operation, like appendix, vasectomy, etc. It is a full-fledged operation. That is what I wanted to impress on you before I give my arguments. There are hazards in the operation. First is bleeding. It can be so profuse after the ovum is taken out that it can prove fatal if handled by a non-competent person. The second is rupture of the uterus. The uterus can be ruptured by a person who does not know his job. You will agree with me that the operation of termination of pregnancy should be performed by a qualified surgeon, i.e., a person who possesses M.S., M.R.C.O.G., F.R.C.S. F.A.C.S. or like qualifications and not by an M.B.B.S. or L.M.S.F. doctors who do not know how to do the operation. MRCOG means Member of the Royal College of Gynaecologists, FRCS means Fellow of the Royal College of Surgeons, FACS means Fellow of the American College of Surgeons...

DR. SUSHILA NAYAR: We know most of these things.

WITNESS: Still I want to say it. It should not be done by one who does not know how to do the operation. An MBBS doctor detects that the patient requires surgery and refers the case to a qualified surgeon. I have said something which you all know, but still I want to stress it.

I am strongly of opinion that termination of pregnancy should be legalised. At present since it is not legalised, qualified surgeons who are persons of integrity and have worked hard in the profession do not terminate pregnancy except in threatened abortion. Threatened abortion means that bleeding has started in a pregnant woman, but the ovum does not come out. The life of the pregnant woman is in danger due to heavy bleeding. A qualified surgeon or gynaecologist would not like to do anything which can disturb his peace of mind. On the other hand, unqualified medical practitioners and quacks are terminating pregnancies because they are unscrupulous. They have no other source of income, they can afford to take the risk of breaking the law of the land and they are low in the status of like. I know a couple of so-called lady doctors who have never studied medicine even, what to talk of surgery, who are terminating several pregnancies per day. The public have to go to these unqualified lady doctors because the surgeons and gynaecologists refuse to do this job for them. At least every month I come across four or five persons who come to me with such a request. I refuse to do abortion and they go to these unqualified lady doctors. I remember a case when I was a surgeon in Kashmir a couple came to me for abortion. I refused it and they went to a private doctor. The husband and wife were doctors. They had a private nursing home. The woman died on the table. It was shocking to the husband. He wanted to sue them, but he left the place in disgust.

DR. SUSHILA NAYAR: How could they sue, when they had themselves done something illegal?

WITNESS: The public will have to go to these unqualified doctors because the surgeons refuse to do the job. Further, the so-called lady doctors do not understand what sterili-

sation is. Their clinics and the instruments they use are dirty and unsterilised. Imagine operations being done in places full of infection and with material full of infection. Mortality in these cases is very high. Since the guardians of the pregnant ladies have also broken the law by getting abortion done, they do not inform the police, as they are liable to be punished in law. Further, these lady doctors charge very heavily. The usual charges vary from Rs. 200 to Rs. 2,000, depending on the pocket of the guardian of the patient. They state they have to charge heavily because they are running the risk of breaking the law. On the other hand, fatality in terminating pregnancy in the hands of surgeons and gynaecologists is nil. Termination of pregnancy is legalised in England. During 1950-55 their mortality was less than one per cent. Now, when I went to England in 1968 I found that the mortality of this operation is almost nil. This is how this operation is being done in England.

Sex is a biological necessity. Even with all the precautions taken and contraceptives used, there is a chance of pregnancy taking place. Hence, pregnancy should not be an irretrievable step.

As regards the place of termination of pregnancy, it should not be restricted to Government hospitals alone. It should be permitted in approved private hospitals and nursing homes. People who can afford would like to choose their own surgeon. Some people would not like to go to Government hospitals because they want privacy or they do not believe Government hospitals provide enough nursing care and medical attention or they have no faith in the surgeons of Government hospitals. Their belief may be right or wrong, but the feelings of every individual in an independent country should be respected.

In this country we have freedom of thought, speech and press. Then, why should the public be not free to get this operation of termination of pregnancy done where they like or by whom they like? Termination of pregnancy should be allowed in all hospitals and nursing homes, Government or private, which have been approved by the Government under the Nursing Homes Act. Government approves a hospital or a nursing home after being satisfied that the operation theatre and other arrangements are up to the mark and provision is made for proper sterilisation and asepsis.

As regards the time when pregnancy should be terminated, I would like to place before you that the amount of bleeding at the time of termination of pregnancy increases with the advancement of pregnancy and it is absolutely dangerous to the life of the pregnant lady to terminate pregnancy of more than twelve weeks duration. It seems the Bill has been prepared by a non-medical man or by a medical man who has no knowledge of the operation of termination of pregnancy. Two certificates, one from a medical specialist and one from a doctor of MBBS or equivalent qualification, may be made necessary before a pregnancy is terminated.

As regards the qualification of the doctor who should terminate pregnancy, I have made it clear that termination of pregnancy is a surgical operation like any other operation like appendicectomy, tonsillectomy, mestectomy, etc., and it can only be done by a surgeon who possesses the degree, the required surgical qualification like MS., F.R.C.S., F.A.C.S. A doctor who is M.B.B.S. or L.S.M.F. is not supposed to do surgery and they are not doing surgery. They are only diagnosing the disease and referring



it to the surgical specialist for operation. It is risking the life of the pregnant lady if we allow registered medical practitioners of M.B.B.S. qualification to do the operation of termination of pregnancy who do not know the job of operating.

If two medical practitioners are allowed to terminate pregnancy thinking that it is more safe if two medical practitioners are doing the job, it means only one blind man leading another blind man, and it does not become the least safer. When a surgeon is operating, he takes a house surgeon who is M.B.B.S. as his assistant and takes the help of one anaesthetist.

That is all I have to say. I may be allowed to answer questions.

DR. SUSHILA NAYAR: Dr. Kartar Singh, from your earlier remarks indicating and demonstrating the dangers of a surgical interference I take it that you would like the termination of pregnancy to be resorted to in exceptional cases and not as a general family planning measure, available for any couple who make up their mind that they do not want this baby and who may not have taken the precautions for preventing conception. In other words, you are not propagating the use of abortion liberally as a family planning or population control measure but you would like to have it done in certain exceptional cases where it is absolutely necessary. Am I right in my surmise?

WITNESS: No. On the other hand I described the hazards, because I wanted not less than a surgeon to perform the operation. It is not that, as everybody says, these operations are easy and there is no danger to life and it can be done when the person requires it. But these hazards will be there if it is done by unqualified people and not by a qualified surgeon.

DR. SUSHILA NAYAR: I hope you have had the time to read the first two Chapters of the Shantilal

Shah Committee Report. If you have not, please do. I wish to tell you that you are being very lighthearted when you say that there is no risk of any kind if it is done by a surgeon. Eminent gynaecologists of the Medical Association of Britain and many others have said that abortion is always something that carries a hazard. There is a definite risk of loss of life and they have quoted figures. Further there is the risk of morbidity, that is, danger to the physical and mental health of the woman which goes from 50 to 60 per cent. So please bear this in mind, study this report.

WITNESS: I will answer this also. About two months ago there was an editorial on abortion in *Hindustan Times*. They found that the mortality in England after the abortion is almost negligible. You can read that article in the *Hindustan Times*. They have quoted figures. I quoted that article.

DR. SUSHILA NAYAR: I do not take my information on medical matters from *Hindustan Times*. I hope you will not do it either. Further I wish to ask another thing. You have said that sex is a biological necessity. Are you trying to advocate free sex relations and free availability of abortions to undo the results of the free sex relations? Is that your suggestion?

WITNESS: My suggestion is if a woman is pregnant and she does not want any more children, she can easily resort to abortion, and I have made it very clear. Again I am making it very clear.

DR. SUSHILA NAYAR: You would not like her to use the far safer methods of family planning which are being made available more and more and which are very effective, as everybody knows.

WITNESS: I would advise them to use family planning methods, but I have already said that the family planning methods so far known have failed. In spite of all precautions....

**DR. SUSHILA NAYAR:** As an exceptional case we accept your suggestion to allow abortion. In exceptional cases where all available methods have failed there may be a case for abortion but not free availability for the asking.

**WITNESS:** The woman has tried her best by family planning methods but she has conception then only she resorts to abortion.

**DR. SUSHILA NAYAR:** But you want it to be readily available.

**WITNESS:** Available after the family planning methods fail, not for everybody who wants to resort to it. Only if the contraceptive methods fail.

**DR. SUSHILA NAYAR:** You said that public should be free to have the operation where they like and by whom they like, and you would like surgeons to do it. I presume you mean gynaecologists, not general surgeons.

**WITNESS:** Gynaecologists as well as general surgeons. Both can do it.

**DR. SUSHILA NAYAR:** You are advocating private clinics rather than Government hospitals?

**WITNESS:** I have said nursing homes if they are approved. Only approved nursing homes. It should be allowed only in those nursing homes and hospitals which have been approved. We do not want only Safdarjung Hospital or Willingdon Hospital. Other hospitals like Gangaram Hospital and Tirathram Hospital should be allowed as they are approved by Government.

**DR. SUSHILA NAYAR:** That is what exactly the law has proposed. The second question I wish to ask you is, will not you consider it enough if a certain amount of training is given to the MBBS doctor rather than insisting that surgeons should carry out abortion, because to the best of my knowledge a surgeon is not necessarily competent to handle cases of abortion and gynaecological condi-

tions? Therefore, I would like you to consider whether what you are trying to suggest is that whoever is allowed to do this operation should have adequate training. Let that adequate training be decided by specialists as to what it should be rather than saying that it should be done by a surgeon because the surgeon himself may not have training in this type of work.

**WITNESS:** My experience of training is that people come through the backdoor. They do not get training. They get certificate. Training has got a different meaning. If a man has got a degree and also training, then he is competent. Otherwise an MBBS can say that he is a full-fledged surgeon, and he may not know anything about this at all.

**DR. SUSHILA NAYAR:** Unfortunately I have seen surgeons with high qualifications like FRCS whom I would consider nothing less than murderers judging from the skill they have displayed in the surgical rooms, and I am sure you have seen such cases.

**WITNESS:** You have got your own opinion. I absolutely differ from it.

**SHRI N. R. LASKAR:** I think you have personal knowledge and experience of termination of pregnancy. I mean abortion.

**WITNESS:** I do not do abortion cases except when there is threatened abortion. It is less than 100, threatened abortions, but not abortions in general.

**SHRI N. R. LASKAR:** You are also of the definite opinion that provided medical facilities are there, there is no danger to the life of the pregnant lady?

**WITNESS:** If proper care is taken and the surgeon is properly trained and qualified, there is no risk. The risk is just a very remote risk, far less than one in 1000.

**SHRI N. R. LASKAR:** Please tell me also about your opinion so far as Delhi is concerned. Do you think there are enough facilities for this operation?

**WITNESS:** Not enough. There should be more. There is not enough accommodation in Delhi. A person has to wait for a hernia operation for one year or 1½ years. If it is a gall-bladder operation, he has to wait for nine months. For an operation of stone in the kidney he has to wait for nine months. This is the condition in Delhi because people not only from Delhi but also from outside come for medical treatment. A heart patient is discharged after three or four days because there is no accommodation in the hospital. If Members of Parliament go and see the condition of the hospitals, they will be shocked. Accommodation is very limited and even if a person tries to do something, he is discouraged.

**SHRI N. R. LASKAR:** You have said that to save the lives of the women who go to the quacks, you want to liberalise this abortion law?

**WITNESS:** Yes.

**SHRI N. R. LASKAR:** In that case, when you have not enough doctors at the moment, how do you think you will improve the situation?

**WITNESS:** Doctors and specialists are more than the hospitals. There are specialists who want to get a place to operate, but they cannot do it. More and more doctors are going to England and getting M.S. degrees and Gynaecology degrees. But the pitals are not sufficient in number. There used to be honorary surgeons previously. That system is gone now. They all have to find a place in private hospitals and the private hospitals—Ganga Ram, Tirath Ram and Holy Family—are already overcrowded. The question of specialists, therefore, does not arise. The question is, more clinics, nursing homes and hospitals are needed which the Government should provide and which the

private bodies should be encouraged to develop.

**SHRI N. R. LASKAR:** You want liberalisation of this abortion law with more hospital facilities?

**WITNESS:** Yes.

**श्री प्रताप सिंह :** आपके सामने ऐसे केसेज भी कभी आये होंगे कि जिनमें आपको अर्ली स्टेज में ही, विदइन थ्री मंथ्स अवार्शन करने का मौका मिला हो ?

**साक्षी :** जी हां ।

**श्री प्रताप सिंह:** तो क्या उसमें आपको हर केस में आपरेशन ही करना पड़ा है ? या मेडिसिन देने से भी आप प्रैग्नेंसी टर्मिनेट करा सके हैं ?

**साक्षी :** ऐसे केसेज रोज ही आते हैं जिसमें लोग आकर कहते हैं कि मेरी वाइफ को पीरियड मिस हो गये हैं और हम उनको मेडिसिन या इंजेक्शन सजेस्ट कर देते हैं और उनके इस्तेमाल से उनको मेंसेज आ जाते हैं ।

**श्री प्रताप सिंह :** तो आपके कहने का मतलब यह है कि अर्ली स्टेज में बिना आपरेशन के दवाइयों से ही यह काम किया जा सकता है ?

**साक्षी :** जी हां, लेकिन अर्ली स्टेज में यह तय करना बड़ा डिफिकल्ट होता है कि प्रैग्नेंसी है या नहीं । हम यूरिन टेस्ट से ही इसे इस्टेबलिश करते हैं । औरत समझती है कि वह प्रैग्नेंट है, लेकिन कई बार कई और तरह के कॉन्फ्लिक्शन्स होते हैं और हम उनके हिसाब से ही अगर दवा दे देते हैं और मेंसेज हो जाते हैं तो वह समझते हैं कि उनका काम हो गया । अगर अर्ली स्टेज में प्रैग्नेंसी हो तो उन दवाइयों से भी मेंसेज हो जाते हैं और अगर उसके बाद भी मेंसेज नहीं होते तो हम आपरेशन की बात सोचते हैं ।

**श्री प्रताप सिंह :** जब अर्ली स्टेज में दवाइयों की मदद से सफलित से काम हो

जाता है तो क्यों न सारे डाक्टरों को इस बात की छूट दे दी जाय कि अर्ली स्टेज में बच्चा देकर ट्रेनिंग देकर टरनिनेट कर सकते हैं ?

साक्षी : कई लोगों को ऐलोपैथिक में विश्वास होता है, कइयों को होम्योपैथी में और इसके अलावा हर डाक्टर का अपना-अपना ढंग होता है। एक दिन आप एक मेडिसिन सलुवेट करेंगे इसके लिए तो दूसरे दिन कोई दूसरी मेडिसिन आ जायेगी। Again the doctors have to be consulted and they have to be paid fees for that consultation. There is no other way.

श्री प्रताप सिंह : क्या आप इस बात को मानते हैं कि आयुर्वेदिक और यूनानी में भी ऐसी दवायें हैं कि जिनके इस्तेमाल करने से अर्ली स्टेज में अवरार्थन हो जाता है ?

साक्षी : मेरा ऐसा ही खयाल है कि उस सिस्टम में ऐसी दवायें हैं।

DR. (MRS.) MANGLADEVI TALWAR: You are a surgeon of experience and you are running a nursing home. I would like to know from you how many nursing homes in Delhi are such where the services of specialists like surgeons, gynaecologists or obstetricians are available, who would be competent to perform these abortions.

WITNESS: I think there are not more than a dozen.

DR. (MRS.) MANGLADEVI TALWAR: If that is so in Delhi, what do you think would be the condition in other parts of the country, especially in the rural areas? I think there would be none outside the Government services.

WITNESS: They have to go to the district hospitals. The accommodation in the district hospitals can be increased. We have to see what maximum we can do. But my experience is that the Government puts a hindrance if somebody wants to start a nursing home or hospital. I have been trying for the last three years to build

a hospital. The money has been collected—a few lakhs donated by people and trusts. But I cannot get land and the Government does not encourage us to build hospitals because these officers of the Government are aristocrats and they do not want things to be done. This is my experience. We cannot get land for building a charitable hospital. For the last three years I have been trying and they just put some hindrance in the way just for the sake of hindrance. This is the condition in the country. I cannot help, only the Parliament can help.

DR. (MRS.) MANGLADEVI TALWAR: It is very sad that the people who have the money and the desire cannot do it. Now, I want to know whether in your opinion the M.B.B.S. doctors cannot be trained to perform abortions? Why do you think so?

WITNESS: The M.B.B.S. doctors have not received training as a surgeon or gynaecologist. This is a different kind of training. When they get the degree of M.S. or F.R.C.S., they have to work with that one intention of only learning surgery and they master all aspects of surgery, not any one aspect only. But the M.B.B.S. doctor has to learn about eye, ear, nose, throat, etc. It is just a general knowledge. Unless he works upon one subject, he cannot specialise. Unless he specialises, he cannot have mastery over it. Unless he has mastery over it, he cannot cope with all the hazards and the complications that can occur.

DR. (MRS.) MANGLADEVI TALWAR: According to you there are very few specialists even in Delhi to do this work and there is none in other areas, in the rural areas, and you do not allow the MBBS people to perform them. MBBS means Bachelor in Medicine and Bachelor in Surgery. An MBBS doctor has got a general idea of anatomy; he knows about the various elementary things about surgery and therefore, that special training can be given to them. I feel sure that he or she can be trained for this

work. I agree with you that in this abortion operation there are hazards to life and that complications can occur; bleeding can occur. But for those cases there should be arrangements for the availability of a fully equipped clinic or such other place where the cases can be treated properly. I think the MBBS people are competent for this work. May be, there may be some who may not be competent. But there are many people who are competent, who can be trained, who have a desire to be trained and they should not be debarred. That is one thing.

The other thing is there are so many maternity homes run in Delhi and other cities. Even in smaller places there are maternity homes run by lady doctors. They also do these operations. I can assure you I have personal knowledge that there are so many lady doctors who are not surgeons but who are running maternity homes and they do evacuation. Abortion is an evacuation operation. And they do many operations quite successfully. If these maternity homes are inspected and if they are made to equip, say, with oxygen, etc. I see no reason why they should not be allowed to perform these operations.

WITNESS: As regards the second of your remarks, I agree with you. If the maternity homes are inspected and approved by the Government under the Nursing Homes Act, and if they are included in the list they certainly can do these operations. The nursing homes should be inspected and approved by the proper authority and included in the list. Then, as regards your first point, I also agree if an MBBS person is clever and intelligent and can perform the operations. But you see the other side. There are many people who are not competent but who will manage to do it. And the public depends upon that doctor. The patient hands over his life to that person. An intelligent doctor should first decide whether he can do it himself or not. There is the danger of less experienced and less intelligent

people creeping into the market and claiming that they can do it though actually they cannot do it. To avoid such danger there should be a certain level of qualification kept. The persons approved for this job should have some qualification, some degree, to ensure that he knows the job well and can be entrusted with it safely. There are so many M.S. qualified people and specialists in every State, in every University. If they know that they can make more money by doing abortions, more people will get the degrees and there will be no difficulty of qualified people being available.

DR. (MRS.) MANGLADEVI TALWAR: I quite agree that suitable people, the people who have got MBBS degrees, if they are intelligent and the interested in this work, they should be trained for this job.

WITNESS: Yes, in the same way as a Matriculate may have more English knowledge than a graduate.

SHRIMATI TARA SAPRE: There is the word "lunatic" in this Bill. I would like to know from you whether this word would be sufficient to cover mentally retarded persons or persons of unsound mind or deranged persons.

WITNESS: Yes, it cover most of them. But these are questions of only the degree of the position or the condition of the person.

SHRI K. P. MALLIKARJUNUDU: The Bill gives two categories of cases where operations can be done, that is, when the pregnancy length is not more than twelve weeks and the second is when the pregnancy length is more than twelve weeks and less than twenty weeks. I remember to have heard you saying, subject to correction, that the safest period will be twelve weeks. Do you think that an abortion should be allowed even after twelve weeks. Do you not think that there is a much greater degree of risk in undertaking operations where the length of the pregnancy is more than twelve weeks? What do you advise in that case?

WITNESS: I think the operation will be dangerous after twelve weeks; because, foetus has developed in the uterus and it has to be pulled out. There are so many blood vessels developed by that time between the developing baby and the placenta, the place where the uterus is attached. If you want to take out that foetus after three months, sufficient blood has got to be there. In the case of threatened abortions it is a different thing altogether because there is no other way and the life of the lady is at stake and you have got to do something. But for a person who does not want to have children for psychological reasons, she should not be allowed to have to undergo the risk of life. So, in my opinion, in no case, except in the case of threatened abortions, should the pregnancy be terminated after three months, that means, after twelve weeks.

SHRI K. P. MALLIKARJUNUDU: That means you are against allowing abortions after twelve weeks. If that is so, do you want that the relevant clauses should be deleted?

WITNESS: I thought the draftsman, who does not know anything about the termination of pregnancy, has formu-

lated this Bill; otherwise, he would have seen the risks involved and the dangers that the woman is subjected to, the hazards that are there in the termination of a pregnancy after three months. It is rather sad that somebody has put in this clause.

SHRI K. P. MALLIKARJUNUDU: Can I take it therefore that you are against the retention of sub-clause (2) (b) of clause 3?

WITNESS: I think sub-clause (2) (a) is all right. Sub-clause (2) (b) can be done away with.

SHRI K. P. MALLIKARJUNUDU: So you are in favour of deleting that sub-clause. Should I take it like that?

WITNESS: Yes, absolutely.

CHAIRMAN: Dr. Kartar Singh, thank you very much for the valuable evidence that you have given before the Committee.

WITNESS: Sir, can I pass on this note to you for your record?

CHAIRMAN: Yes, certainly. It will help us greatly. Thank you.

*(The witness then withdrew.)*

*(The Committee then adjourned.)*

Thursday, the 18th June, 1970

PRESENT

Shri Mulka Govinda Reddy—*Chairman.*

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WITNESSES EXAMINED

Dr. (Smt.) Daisy Kulanday, Retd. Director, Maternity and Child Health Department, Municipal Corporation, Delhi.

*Dr. (Smt.) Daisy Kulanday was called in]*

CHAIRMAN: I welcome Dr. (Smt.) Daisy Kulanday, Retired Director, Maternity and Child Health Department, Municipal Corporation, Delhi, to give evidence before this committee. She has not submitted any memorandum.

WITNESS (DR. KULANDAY): I have got my memorandum. I will give it now.

CHAIRMAN: Then it will be circulated.

Now, you are welcome to say whatever you feel about this Bill.

WITNESS: First and foremost they say that abortion can be performed from 12 weeks up to 20 weeks. What I want to say is that the child is a being from the very moment the chromosomes have been laid, that is, when the ovum has been fertilised. On the sixth day it has about 150 cells and it is embedded in the mother's womb and within six weeks the embryo starts developing into a human being. The master plan for the development of the child has already been laid and if he is going to be a genius it is already there and you cannot interfere in this arbitrarily saying that ten or twelve weeks is nothing important. It is just an eyewash; the child is already there and it is as good as murder.

The next thing I want to say is about therapeutic abortion. What is therapeutic abortion? Medical science has improved to such an extent that

we are proud to say that there is no more need for therapeutic abortion. There is so much of armaments in our medical armoury that we can cure all any somatic condition without any risk to the mother. And here in therapeutic abortion you only look at one side, the mother's side. What about the infant? The infant is going to be cent per cent mortality. Nobody thinks about it because it has no place. In the United Nations Children's Charter just because there will be lot of people who will forget the unborn child, they have made it very clear, and they have underlined that the legal rights of the child must be protected in the womb as well as after birth. Here in this Bill we have completely ignored the fact. Nobody has bothered to think whether the child is alive and it has got a right of say.

In the Law of Torts I must point out that the child in the womb has got a right. If the mother receives an injury while the child is in the womb and that injury is shown after delivery the child can claim compensation. If the mother is condemned to death she cannot be executed unless the child is delivered. When the law itself is there to protect, how can the medical practitioners be just asked to do it? Do you think we have no conscience or do you want us to just do what anybody wants us to do?

The next thing that we do not think about is, what does this abortion do to the mother. In Japan and other countries abortion has been practised as a means of birth control. Mr. Yoshio



Koya, the well known demographer has said that 47 per cent of the women undergo maternal morbidity. They suffer from haemorrhage, menorrhagia, metrorrhagia, metragia; they are liable to have premature deliveries, they may have ectopic gestation; they are unable to work and they are really a drag on society. Even in Denmark about 3.5 per cent have been shown as fatal complications. You do not think of all that because there are women who just come to the OPD (Gynaecological) for help in their difficulty. You are debilitating the nation; you are debilitating the women; you are debilitating the mother and you are killing the child. The family planners are only wanting to think about their rates. They say reduce it, reduce it; but at what cost, at whose cost? At the cost of the mother, at the cost of the nation. They do not think about this. Even in Japan where this has been practised there is a hue and cry. There is a big association known as the Association for the protection of life which says this should be stopped. The Japanese Government, the Japanese Health Ministry, the Japanese Welfare Department are all against it and they are now collecting signatures. There have even been papers published dramatising the whole thing. They are projecting it in a dramatic form that this abortion is a heinous thing. I can quote one instance of such dramatisation. In one of the papers they show the woman on the table and she is deeply sedated. A mass is removed and thrown into a corner and that little thing wriggles and then it cries but nobody takes any notice of it. It is thrown in the corner. The mother recovers from the deep sedation; the husband stands by miserably and both of them walk home without even turning back. Is this what you want to happen in our country?

Let me come to another aspect. They say rape. I do not have to tell this august gathering about the mechanism of conception. It is ac-

tually a heritage. It is impossible that a woman when she is in fear and in conditions of violence will have the perfect orgasm necessary for a conception. This is only just to increase promiscuous life. If a woman is really raped she will immediately be upset. She will not be ashamed to report. It will be reported immediately and action can be taken against the rapist. She can also be curated. Apart from that if at all by fluke or accident she has conceived it can be removed. In such cases of rape she can never have that mental strain that she has conceived. It is all just an eyewash. Rapes do not produce conception; it is impossible. This is just for those people who are going to live a promiscuous life. You are creating a new clientele of people for abortion.

Now, this is a nice way of saying that if a woman uses family planning methods, which fail and she gets conception, then she must be helped out. Where is the proof that she was using a family planning method? Who has got the proof even in a court of law? It is difficult to prove it. Doctors have no idea about law, but only about their own profession. If they knew their own subject very well it would be very good. If they do not know law, how are they going to say that this woman has used a contraceptive? If you want to know what is happening in other countries, the moment abortion was liberalised they threw away contraceptives. They felt it was irksome. They jolly well had a big, wonderful time. All they did was to go and get abortion done and march off. Another thing is, even in Russia where the abortion rate is the highest, all the female students of the Moscow University, unmarried students have already had one abortion. It is happening in Japan. This is what is going to happen in America. Why should we copy the Western nations? We are not like the Western nations. We have a different social structure. Our people live in the rural areas. If you

have any idea of the rural woman, they are very good women. Our law of universal early marriage protects our girls from getting into this kind of situation.

Another thing I want to say. All these methods of family planning will fail definitely. Why I can tell you. Why the IUCD is a very good method of family planning in the Western countries. They have got the technical staff to do it. They have got all the facilities to do it. We tried to mobilise our forces, but our trained women were no good. They misuse it and they mishandle it. The women become septic. So, the whole thing became a failure. Our women are so undernourished that they have no blood in them. The little amount of blood they have they lose while using these contraceptives. I have seen women coming to me crying and saying please remove this. I just cannot do even my normal household work. Now, you want to do abortion on these women. It is not like just pulling out a tooth and packing her off. She will lose blood and our facilities are not good enough to look after them. What do we do in the rural areas? Now, we say we have made provision and we have recognised institutions for doing this. I can tell you it will never work. I have been in charge of the Delhi Administration supervising the private hospitals and maternity homes for making them come under the registered hospitals. When I visit them I find them worse than a butcher's shop. I told them, do this, do that, and came away. When I go back I find them still to be the same. It is difficult to give them recognition. They have got no anaesthetist. They have no sterilisation arrangements. They have no nursing staff. It is not even properly ventilated, the place they have got. How are we going to cope with the situation? These people who have made this Bill have faintest idea. They only think in some dramatic terms that the population must come down. The population must come down at any cost. At what cost? Murder,

debility, anything. They do not care. It is a crime against humanity to do such things.

Now, let me come to the point about the children who are going to be born deformed. Fortunately God has not given the human being the power to diagnose who is going to be born deformed and who is not going to be born deformed. There are certain diseases as a result of which there is a chance of a child getting deformity. Thank God, medical research is one of the glories of modern medicine. We have done so much research. We have found out vaccines and we have found out so many things to combat this abnormality. Now, if we just drop out all these children, if we say, please remove this little child from my womb because I suspect some deformity, medical science will lose its impetus to do research. Today it has a glorious record of doing research. So, actually maiming and all sorts of things are not predictable. It can never be predictable and even in India thank God we do not have Rubella and these complications.

Then, I come to the slums. We think that by giving the poor woman a limited family, our slums are going to disappear. It is just a fantasy. Slums will not disappear unless we improve general sanitation generally, give protected water supply, etc. If we think that we are going to achieve it by family planning, we are exactly thinking in terms of that great but unfortunate man, who thought that by destroying unwanted persons and by sending a set of people of his country to the gas chamber of Buchanwald he could improve the nation. We are all thinking like that. If we follow this method, our philosophy is going to be like that. By doing abortions we cannot get rid of our slums. Our slums can be got rid of only by our charity by our people contributing and doing better work and more scientific work.

Then, they say, illegitimate children are born. I have got here a few

pictures of illegitimate children. From the foundling homes they were adopted by certain families. If we had removed all these illegitimate children, they would have been already dead. It is not fair to these children. We should have more homes for unmarried mothers. We should be prepared to adopt such children. Our adoption law first should be altered. We have no adoption law making it easy for people to adopt. Now, if people adopt children, they find it very difficult. If they send the child to a school, there is no birth certificate. There is nothing even to prove that it is an adopted child. So, instead of wasting time on abortions it is much better to pass an adoption law and make a better society. Have homes for the unmarried mothers and give them aid. Now, in Denmark there is a society known as the Mothers Aid Society. When pregnant mothers feel that they do not want the children, they have first to go to this Society. They talk to her. They try to understand her difficulties and they say that about fifty per cent of the mothers' problems are solved and they go back happy. Their experience is that a number of women can be made to change their mind and carry through pregnancy. Then, you say psychological indications. One of the greatest psychiatrists in Birmingham, England, says that the first treatment for a psychological patient is to say that if she is pregnant let her stay pregnant it has got a beneficial effect. On the other hand, abortion has a deleterious effect on her mental condition because she will have a feeling of guilt. There was a case of schizophrenia. She went to the hospital with her husband. The husband wanted an abortion. She said that she did not want it and that she was happy with her pregnancy. The doctor later said that he could have easily declared her to be of unsound mind and done the abortion. She was left to her will. She had her baby and she was perfectly happy with it. So, it is not that the baby is going to make a woman neurotic. They

have analysed about 700 cases of suicide and they found that in the child-bearing age group not one case of suicide was reported in the case of a pregnant woman. Pregnancy will not make a woman lunatic or make her commit suicide. It is just imagination, fantasy and things like that.

DR. (MRS.) MANGLADEVI TALWAR: You said that there is no Act for adoption in our country. That is true. I have introduced a Bill in Parliament.

WITNESS: Thank you. Very good. I am very happy about it. When I was in charge of the maternity and foundling homes I had to break my neck in quickly getting this because when a child comes to the foundling home, I have to quickly find a mother to look after that child. The child needs not only food. It needs affection, love, care. It is not enough if some aya or dai comes and dumps some food into that child's mouth. The child wants something better and more than that.

In clause 7 you have given protection to the doctors when they do something in good faith, when they do an abortion in good faith, and something else happens. When something happens no compensation can be claimed from them. That alone shows that you are quite sure that something drastic might happen in this sort of pulling out the babies. At the same time you have given no protection to those people who are honestly saying that this is not good, that this is not correct. Do you think that they must do whatever you want them to do under this Bill? Well, if you are going to pass this Bill, you must give some protection to those people who refuse to do an abortion and cannot be sued for not doing it. You cannot force the doctors to do this sort of thing. You must give them protection otherwise, it is discrimination. After all, doctors are in a materialistic society. Abortion is something remunerative. There are materialistic doctors. Dr. Alan

Gutmacher of the Planned Parenthood Association of USA has remarked that this is a very disgusting thing, that the borderline cases are difficult to decide that even when the cases are not borderline cases, the patient's prestige and money are very vocal in getting an undesired pregnancy terminated. So it is very disgusting. I have to admit that it is the privileged and monied people who can exert pressure and get abortions done. Otherwise; the doctors will say, go, go. I can well imagine what the cases will be. Everybody wants an abortion. There is another thing envisaged in this Bill. The moment this Bill is introduced, there will be more illegal abortions. This is just like a fairy tale, because, just imagine that my unmarried daughter gets pregnant. I am not going to take her to the hospital and get her pregnancy terminated. I would not like to divulge this secret. But even when I take her to the hospital and say that this should not be divulged to any other person, how is it practicable, how is it possible? Look at the VD cases. Nobody would like that disclosed. Everybody tries to cover it because it is a stigma. Even when a doctor performs an abortion under law, the society will say, "Look at that girl or that woman. She is unmarried and she has had an abortion." She will not be married, she cannot be married in that situation. She cannot get a husband. Naturally it will be very difficult. And it will still be a hush-hush thing. Even in Sweden where abortion has been legalised they also have a committee consisting of a doctor, a psychiatrist, etc. They go through the case and they reject a certain number. So, a woman does not want to be rejected. Once she is rejected, it will be very difficult for her. So they do not go to the approved doctors. They go to the backstreet abortionists. Naturally the backstreet abortionists definitely thrive. So it is just a figment of imagination that you think you are going to get rid of this problem so

easily. We have got an Act, the Indian Medical Act. Nobody who is not a qualified doctor according to the law, cannot practise medicine. But look at the boards in all our streets and lanes. Everywhere you find "Dr. so and so". Go to the Paharganj area and you will find "Dr. so and so (Lahore)", etc. etc. All the compounders, dais, ayas or midwives, all are doctors. Everybody has been putting up a board, though he or she has not got the capacity or the facilities required for his or her job. How are you going to prosecute them? We have not been able to make even prohibition a success to that extent and so the States are giving it up. How can you, then prosecute all these fake doctors? It is very difficult. You will find all these people making more money and still more money. I may bring to your notice that even in Hungary which is another place where abortion has been legalised, after it was over-run by Moscow, the country became so bad because the people there had all started having abortions. Andras Klinger of the Hungarian Central Office of Statistics reports that there is an increasing trend towards induced abortions among young, unmarried women under the age of 20. A Communist writer, Karoly Jobbagy, who favoured abortion in 1956, wrote in February, 1964 issue of *Elect es Iredalom*: "I would not have believed that scarcely eight years after the legalisation of abortions we would be looking at this freedom with doubt, struggling with the monstrous possibility of the extinction of our nation. The fact is that the Hungarian nation is growing weaker. . ." So, it looks that it might not happen here in ten years because our country is so vast with a population of 560 millions. But you can imagine that in another hundred years we will all surely be gone and our nation will be gone if we are going at this rate. The famous writer Pal Szabo, wrote that it should be clear to everyone that abortion means not only the extinction of countless infant lives, but an

impairment of the lives of those who continue to live. In a recent poem Gyula Illyes pushed the logic of abortion to its ultimate conclusion: "If today we kill off the unborn children because as unproductive elements they would burden our economy, tomorrow, using the same morbid logic, we could liquidate the older generations as well." The older generation is much more burdensome and they are much more expensive. It is more difficult to treat the older people. They need more expensive medicines, they need more food. So many more expensive things than a child might need. On the top of it, he is not going to give anything in return, he is going to die. So you may sit and think over it and say, why not make a law to get rid of them. It is quite possible....

**SHRI K. P. MALLIKARJUNUDU:** When you say that we, the old people are very much afraid.

**WITNESS:** So am I. In America that is what they are doing. The young people certify that their fathers and mothers are mentally unbalanced and so they should be sent to mental homes. Of course, here we do not do it because we have got the joint family system and our traditions are not like that of the Western countries. It is very difficult always to become something better, but it is very easy to destroy things which are better. It is very difficult to climb up a hill, but it is very easy to climb down; you just lie down and roll down and you easily find yourself at the bottom.

Let us first see how many beds we have in the country. According to the statistics we have got about 255,700 hospitals beds and about 4,919 primary health centre beds and the total number of the qualified doctors is 102,520. All these doctors cannot do abortions. Just now there is a case where a dental surgeon has done an abortion. He thought doing an abortion is just like pulling out a tooth. You will find many such doctors. All

doctors should, therefore, not be permitted to perform this delicate operation. No ordinary physician or a general surgeon can do this operation. Only an obstetrician should be the person to do this operation if we have any concern for the life or health of the mother and this proposed legislation purports only to care for the anguish of the mothers . . .

**SHRI B. S. MURTHY:** Do you think a qualified doctor can do?

**WITNESS:** I am saying that a qualified doctor should not merely be a general practitioner, a GP? In Malayalam there is a saying which means whatever one does daily you become an expert. If daily you are looking at the eye of a person, you are only qualified to treat the eye; tomorrow you cannot be looking at the woman's uterus to remove the foetus. If daily you are looking at the ear, you can only treat the ear; but you cannot tomorrow look at the woman's uterus to remove the foetus. The President of the Obstetricians and Gynaecologists Association said, "Thank God, I am not doing so many of therapeutic operations.....I can say I have not done anything that when I appear before my Maker I will be ashamed to stand before Him." In Hindu every philosophy of one believes in the law of transmigration a child takes human form to work out his Nirvana. In family planning through the contraceptive devices you are preventing the child from entering a mother's womb to work his Nirvana. Then, how much more should that be considered a crime? It is really a crime. After all, we must, therefore, sit and pause. Then, what about the illiterate people. We have got so many illiterate people. I will just give you an example of what happened with them in my experience. We had a polio programme for Mehrauli district. We had to go to every village and every house and offer the polio drops or the polio capsules to the children. We sent out our staff to various places. But what happened? At many places

the illiterate villagers turned furious on our staff and drove them away. Many times our staff had returned unsuccessful. The illiterate villagers said, "You people, in the name of protection to our children, want to reduce our *santhan*. You want to use these pills for our children so that when they grow, they will not have any *santhan*. You are very nasty. You want to kill us. Get away from here." That is how those villagers were reacting. So don't think that you are going to benefit the rural areas and reduce the rural population. It is only the intellectual class and the middle class that will be benefited by this.

Now I would like to show you a book by Gandhi. In this Gandhi Centenary every one of us should have read this book, instead of this Gandhi Darshan and all that. We would be a much better nation if we had understood what Gandhi said and practised.

CHAIRMAN: So now, our Members will ask some questions which you please answer.

श्री विद्याधर वाजपेयी : आपने अपने जो विचार यहां पर व्यक्त किये हैं वे मेरे विचारों से बिलकुल मिल रहे हैं जो मैंने यहां परमों व्यक्त किए थे और लोगों ने उन पर ज्यादा ध्यान नहीं दिया था क्योंकि यहां पर हम विचार कर रहे हैं कि एवार्शन कैसे किया जाय और इसके विपरीत एवार्शन को रोका जाय वह बात लोगों के कम समझ में आई। क्या कोई ऐसा उपाय भी है कि काम भी बने और पाप भी न हो यानी एवार्शन का जो मकसद है कि हमल गर्भ में आवेही न ऐसी कोई मेडीसिन ईजाद हो सकती है जिससे साल भर तक गर्भ धारण न हो सके और गर्भ गिराने की आवश्यकता न हो ?

WITNESS: There is no medicine; of course, in foreign countries they are experimenting that pill which can be taken by a mother when she feels that she is going to conceive. There

are, say, pill A or pill M, being developed in certain countries as a contraceptive method. But by the time those pills are developed and they come to India, what will be our situation here? I do not know. In this context I would like to say that the pill is a success in some of the foreign countries. In America everybody is using the pill.

But ours is entirely different from that of the European women. We are taking very little of proteins. Even though we eat *dal* it is only a second class protein.

Their liver is already slightly damaged. When they take the pill over a long period, this has got a deleterious effect on the health of the mother. Even if we have the pill and we take it and think that it is moral, it is not going to do good. It will definitely have a bad effect on the mother.

श्री विद्याधर वाजपेयी : आपने जितना बयान यहां पर दिया है वह सब आदर्शवादिता के आधार पर है, लेकिन सारे देश में जो परिस्थिति है और जैसा अमल हो रहा है उसमें हमल गिराने की आवश्यकता तो होती ही है क्योंकि समाज का वातावरण ऐसा नहीं है कि जो उसको बरदाश्त कर सके। तो कोई आल्टरनेटिव भी आपके पास है या सिर्फ आदर्श ही आदर्श है ?

WITNESS: I have not understood the question.

DR. SUSHILA NAYAR: What he says is that in actual practice abortions do take place. Do you have an alternative solution for the problem?

WITNESS: It is not all women who have done abortion. It is only very few. Abortion has not been a disease with our people. There are very few people who have turned to abortion. That is because of the high level of living. We want to keep up with the Joneses. Somebody has got one car. I must have also a car.

Somebody has got an airconditioner. I must have also an airconditioner. Instead of having two children and educating them in India, let me have one baby and send that fellow to America or England and bring him back as a big snob. That is why all these things are happening. It is just because people want to live above their means. Whatever they are given they are not satisfied with it. They want everything. When I came here in 1938, I had no airconditioner. Still I felt I was very happy. The doctor will refuse; if there is no airconditioner, he will not operate. People want frigidaire, they want this thing and that thing. People want to enjoy materialistic benefits. Those people will go in for abortion. Unless we educate the people, mere liberalising the policy will harm them. There are lots of rash drivers. They drive like mad. If we relax the rules of driving, these mad drivers will not stop rash driving. That is why abortions will take place just because of some people; they think on wrong lines. Unless we educate them from the very childhood in good morality, they will be going for it. If only we have committees consisting of people who are really good social workers, not 'namkawaste' workers but real social workers, who will run about and talk to these women who do not want pregnancy and will go for abortion, talk to them and find a solution for them, then these abortions can be reduced.

श्री विद्याधर बाजपेयी : आइ डियलिज्म तो अच्छी चीज है और मनुष्य अगर ब्रह्मचारी रहे तो शायद आवश्यकता ही न पड़े संतान उत्पन्न करने की या गर्भ धारण करने की, लेकिन यह चलता नहीं है। तो जो लोग आदर्शवाद पर कायम रहना चाहें और उस पर चलना चाहें उनके लिए कोई स्कावट नहीं है। यह कानून उनको कान्पेल नहीं करता कि जबरदस्ती किसी का गर्भ गिरा दिया जाय। लेकिन जो गर्भपात कराना चाहते हैं वह चोरी से न करायें और उनको

प्रापर मेडिकल एड मिल जाय मेरे ख्याल से इस कानून का मंशा यही है और जो आइडियलिज्म पर चलना चाहते हैं उनको कोई मना नहीं करता। तो इसमें आपकी क्या राय है कि इस कानून को बनना चाहिये या नहीं ?

WITNESS: As I told you, in our country just because the abortion rate is going up, if we liberalised abortion law the backstreet abortionists will thrive and they will increase. Nobody will want to come forward and do abortions openly. They will still do it. Now they feel that if they go to the abortionist the risks are great. Fear is the beginning of wisdom. If you have fear, then you are wise. If you have no fear, you are not wise. If the law is there, instead of coming down on the backstreet abortionist, you will be increasing the number. You do not have to be a Brahmachari all the time not to have 'santan'. You can use any of the methods. Lots of methods are there. There are so many things which you can use if you want. The thing is nobody is motivated. Everybody wants the line of least resistance. They want to eat the cake and have it too. That is what everybody wants.

श्री विद्याधर बाजपेयी : तो आज जो प्रेक्टिस है उसकी तरफ से आंख बंद करके आइडियलिज्म प्रीच करना और कोई वाया मीडिया पेश न करना यह तो निगेटिव पालिसी हुई। तो इसका कोई वाया मीडिया भी आपके दिमाग में है क्या ?

WITNESS: The via media will be to prosecute all the backstreet abortionists, catch hold of them and prosecute them. Another thing is it is very difficult because nobody will admit it. It is just because they are thriving. No prosecution has yet been successfully carried out. Even on the question of adulteration of food we cannot prosecute. They are just going on happily, merrily, adulterating food and making easy money and

killing people. They are going on doing it. Even if we try to prosecute and enforce the law, it will be difficult. The best thing is to enforce the law and to punish a few of these backstreet abortionists. Take them round in a decorated jeep and go round the town and tell them, "This is the backstreet abortionists. Beware of this person". Then people may not do this thing. You must bring the horror of this person out.

**श्री गंगाचरण दीक्षित :** महोदया, अभी आपने कहा कि एबार्शन ला में कुछ परिवर्तन करना चाहिए। तो क्या आपके कहने का मंशा यह है कि एबार्शन ला में ऐसा परिवर्तन किया जाय कि जो इस प्रकार के बच्चे पैदा हों उनके लिए दूसरे लोगों से कहा जाय कि वे उनको एडाप्ट कर लें ?

**WITNESS:** We can give it only to those who can look after them. We have got a whole list of people applying for those children. Of course we do not give it to everybody who wants to adopt. Some people may want to adopt. We go into their background, how many children they have got, what their financial position is, whether they are really wanting the child, whether they are in the child-bearing age, whether both the husband and wife are physically fit to look after the child, and so on. We only can give it to them for caring for it. They cannot say that it is my child. That child cannot be registered as their child. They are given this child to care for it and bring it up. If you have a law saying that if people are willing to give their child to some body and that somebody is willing to adopt it, then it can be given to them, that will be of benefit.

**श्री गंगाचरण दीक्षित :** तो क्या आप समझती हैं कि आज काल की परिस्थिति में लोग ऐसे लड़के को, जिनके कि मां या बाप का कोई पता नहीं है, एडाप्ट कर लेंगे ?

**WITNESS:** A lot of people are taking it because heredity has also got a

substantial amount of effect in the child. It is the environment, love care and so many other things which also go in the development of the child. I will give you an instance of Canada where twins were born. One was adopted by a very good family and given good education and looked after in better environment. The other was adopted by a low, poor class family. The good class child turned out to be a very good genius and the poor class family child not so goes. Identical twins are usually of the same temperament and same intelligence. Still it proves that environment and education and facilities can overcome what is lacking in the child.

**CHAIRMAN:** Mr. Dikshit, please continue.

**श्री गंगाचरण दीक्षित :** आपका क्या यह ख्याल है कि अगर यह बिल एक्ट में परिणत हो जायेगा तो एबार्शन्स और ज्यादा रेट से बढ़ेंगे ? क्या आपका ख्याल है कि आज एबार्शन्स नहीं हो रहे हैं ?

**साक्षी :** हम तो यह नहीं कह रहे हैं ।

**श्री गंगाचरण दीक्षित :** जिस प्रकार से आज एबार्शन्स हो रहे हैं और जिस प्रकार से बंध या हकीम या और लोग उनको डील कर रहे हैं और उसके कारण जो बच्चे मर रहे हैं उनमें इस एक्ट के बन जाने के बाद कमी होगी या बढ़ोत्तरी होगी ?

**साक्षी :** उनमें बढ़ोत्तरी होगी, एक्ट के बन जाने के बाद वे बढ़ जायेंगे ।

दूसरे देशों में आज यही हो रहा है और वहां एबार्शन्स बढ़ रहे हैं ।

**श्री गंगाचरण दीक्षित :** तो आप के ख्याल से जिस प्रकार स्त्री जाति के साथ खिलवाड़ हो रहा है वह बढ़ जायेगा ।

**साक्षी :** जी हां, वे लोग सर्टिफिकेट ले लेंगे, बोर्ड लगा लेंगे और उन का काम ठीक होगा नहीं ।



श्री गंगाचरण दीक्षित : अभी भी देश में ऐसे आदमी हैं कि जो गर्भपात को अच्छा नहीं समझते और वे नहीं चाहते कि हमारे यहां गर्भपात हों, लेकिन लोगों के न चाहते हुए भी गर्भपात हो रहे हैं। इसके लिए आपका क्या सुझाव है ?

( नोई उतर नहीं दिया गया )

DR. SUSHILA NAYAR: Dr. Kulanday, you said that rape is not likely to result in pregnancy. I wish to tell you that there were hundreds of young girls in the post-partition period in camps who had been raped and who were pregnant. People at that time behaved brutally like mad men. In spite of abortion being illegal, there were doctors, who not for the love of money but out of humanitarian motives not to expose these young girls to the memories of that unpleasant attack on them throughout their life afterwards, who carried on abortions in a home.

WITNESS: I do agree, Doctor. But that is a very, very unfortunate occasion, which is a very, very rare occasion. That was a time when men were actually mad, when they performed that act in a repeated way. Really it was an abnormal condition. It was something like a flood or an earthquake or something like that. At that time the treatment is entirely different. It is not that women are raped every day. It is not in a mass scale that it is happening now. It is a very abnormal situation. Now it is a question of some solitary rape. That should be reported. What you referred to was about mad men. The same thing happened in Congo when Congo got independence. Then Nuns and other women who were doing such good work were also raped. That is why the holy Father gave them the privilege of using the pill so that when they are raped they may not conceive. But these are all abnormal conditions which do not exist normally.

DR. SUSHILA NAYAR: Anyway. They may be abnormal. But human being descend to the level of brutes sometimes and they do these things. I agree with you that they are abnormal. But these things do occur. But you will agree that the doctor who helps these unfortunate women should not be penalised. Today the law can penalise the doctor.

WITNESS: Even that the moment she is raped she can report.

DR. SUSHILA NAYAR: But she is not in a position to report.

WITNESS: Then her guardians should report.

DR. SUSHILA NAYAR: She is rescued from the hands of the criminals after some time. How can you ask her to report immediately she is raped. I hope you agree that here at least is a case where the doctor who helps this unfortunate woman should not be penalised in terms of law as the law stands today. To that extent the law should be changed. I want your reply.

WITNESS: You have the mother homes for such women to look after that delivery case. Then you can send her home.

DR. SUSHILA NARAR: You want her to go through full pregnancy and then you will allow her to deliver. First you want her to get attached with the child and then separate them and inflict further emotional injuries on her. I am sorry I cannot agree with you and I hope the Committee also will not agree with you.

Now I go further and I ask you another question. You have expressed views about the undesirability of abortions as a device of family planning or as population control. But there are cases where it is suspected that the child is likely to be abnormal. You have yourself read the big

controversy that was in the papers for months with regard to the use of Thalidomide. Surely you do not want parents to be faced with this terrible situation where they have to rear a child that suffers from serious abnormalities. If this woman, knowing that she has taken Thalidomide and which is likely to injure the child, wants to terminate the pregnancy, would you stand in her way?

WITNESS: Thalidomide was an unfortunate episode where some people in an attempt to get tranquilisers took to thalidomide which ended in this thing. We should all be cautious that drugs are not administered to pregnant women. Pregnant women should be saved from such drugs. Even if these drugs are produced they should not be brought into the country. In America the law is so strict that they do not allow thalidomide to come to the country.

DR. SUSHILA NAYAR: It was thalidomide yesterday. It may be something else tomorrow. This Thalidomide incident took place in countries where the drug laws are very effective and the administration of all these laws is also very effective. In this country, with the best will in the world, the drug laws are not as effectively implemented as in some of those countries. Therefore, while I agree with you that there should be better implementation of these laws and administration of such drugs to pregnant women should be avoided, these things have taken place in other countries and they can take place in India also. You have yourself mentioned the case of German measles, etc. in which a very high proportion of children are likely to be mentally defective.

WITNESS: Forty per cent.

DR. SUSHILA NAYAR: You say it is 40 per cent. Others say it is higher. Now, let us not quibble over the percentage. Even if it is 40 per cent, if

there is a fair chance of the woman having a mentally defective child and she does not want it, why should you want her to produce that mentally defective child and be saddled with that cross for the rest of her life? I know of one girl who wasted her youth in looking after her mentally defective child. If there is an opportunity for her not to produce a defective child, why should we deny it to her?

WITNESS: A certain amount of therapeutic abortion is allowed.

DR. SUSHILA NAYAR: Therapeutic abortion is only to save the life of the mother. It has nothing to do with the child. Anyway, you concede that we might liberalise the law to cover such cases. That is what I infer from your reply.

While I like your straightforward statements on how efforts to find short-cuts and easy ways out are likely to create a lot of other complications, at the same time I feel that we have to be realistic and think in terms of what is the bare necessity of our people. I am sure that as a doctor you would have had this experience where abortions had come to the doctor half done by quacks. They come to you after a lot of bleeding and in a very serious condition, and many of these unfortunate women die. As a doctor, would you rather complete the job that has been badly started by someone else, or be given the opportunity to do the job from the beginning when it has to be done?

WITNESS: No, I would not do it. Now there are a lot of antibiotics, blood transfusion and other things which can protect the life of the mother. I will not stain my hands. Even if you cut off my neck, I will not do it. Even if you take away my job, I will not do it. No, I will not.

DR. SUSHILA NAYAR: Well, you are a good Catholic and I expected

nothing else from you. It is all right you will not do it. But will you stand in the way of some other doctors who do not have such religious prohibition, doing a thing like that and giving an opportunity to the mother to have the abortion if she wants it? Let it be done under conditions of safety rather than expose her to quacks who do it in such a bad manner that many of these women lose their lives.

WITNESS: In my 33 years of maternity and child welfare services, I have had lots of women coming to me for abortion—unmarried mothers and so on. Once when one such girl came to me I took her and left her with a doctor and when the time for delivery came, I went myself and delivered her in one of the maternity and child welfare centres. I looked after the mother and the baby. The child is in France now having obtained a scholarship in music. Many women in the third month are flabbergasted and they want to get rid of the child. But you have to talk to them, explain to them. What we need is more psychological treatment. You should be more humane to them. These are social problems and it is for these that there are maternity and child welfare centres. Even then if a woman does not want the child, I do not know what to say. Let God help her. I have found that it is not the poor people who do it. They believe that each child brings its luck. It is only the middle class people, those who are on the border line, who want to do away with the child if they do not want it. If all doctors did their jobs properly and if all the social and public health workers did their jobs properly, I am sure this problem could be controlled. We should not do the job just because we get the salary. We must have love for the job. You should take up the job if you get satisfaction in doing the job and not because it is paying. If money is the only consideration then the job is not satisfactorily done and all these complications come in.

DR. SUSHILA NAYAR: Anyway we accept all that you say and I myself wholeheartedly agree that all these things should be tried. I congratulate you for whatever you have achieved in this direction. At the same time, there will be cases where this type of approach will not work. Take the instance of a mentally retarded girl. She is just not aware of what she does. If the girl because of sexual union becomes pregnant and there is a fair chance of the child being mentally defective, I would agree with you if you say "Abort her by all means, but at the same time sterilise her." But if you say "No abortion under any circumstances" even in the case of this mentally retarded woman, who is not responsible for what she does, I do not know what to say.

WITNESS: We must give her protection in the homes for the mentally retarded. If we cannot do that, this is not an easy solution. They must be protected and looked after. It is not always that the mentally retarded women produce mentally retarded children. Also, as a psychiatrist in England has said, a mentally retarded person is happy with a child. Her mentally retarded condition improves with a child because it is something to care for. If you tell the mentally retarded person "You are unfit", it is an *infra dig* for that person and she definitely feels it and her condition becomes exaggerated.

DR. SUSHILA NAYAR: For heaven's sake. You will put a child in the care of a mentally retarded woman in order to make her feel happy. I just do not understand this type of argument. You will sacrifice a budding life in order to give mental or emotional satisfaction to this woman? Even in highly sophisticated countries like Norway, Denmark and Sweden, which you are referring

to in connection with psychiatry, the mentally retarded persons are by law steriliser so that they do not produce children.

WITNESS: We can also make a law to sterilise them, but not abort them.

DR. SUSHILA NAYAR: First you help her out of the trouble and then sterilise her.

WITNESS: But this law does not state that.

DR. SUSHILA NAYAR: The Bill says that where the child is likely to be affected, abortion can be done.

WITNESS: The first duty is prevention. Prevention is the best law. We prevent cholera. There is no necessity to have cholera and then have treatment for it. We must do preventive medicine. You keep these mentally retarded women safe and sterilise them. Why should you wait till they become pregnant and then abort them? We are crossing broken bridges unnecessarily.

DR. SUSHILA NAYAR: Anyway, I am with you so far as prevention is concerned.

WITNESS: I am a public health worker. (Interruption) Treatment is not sterilisation after delivery.

श्रीमती बिन्दुमती रेवी : स्टेरिलाइजेशन के बारे में अ पकी क्या ओरीनियन है। आव-  
श्यकता पड़ने पर स्टेरिलाइजेशन क ना चाहिये  
या नहीं।

WITNESS: This is a very difficult question because no statistics are available in any country where mass sterilisations have been done. I happened to attend a lecture in the Lady Harding Hospital by a gynaecologist

from John Hafkins Hospital about sterilisation of women after Caesarian operation. He was said that it was only a recent development in medicine. He followed his case for sometime and found some had bad effects. We must follow cases for 20 years. What the effect of sterilisation on the population would be you cannot say. Selective sterilisation may be all right. With regard to intensive sterilisation you cannot predict what is going to happen to the society or to the people. When I was in charge of the maternity and child welfare services, where family planning was integrated and sterilisation was done, families had broken. I may just tell you for instance in the All-India Institute we had a sweeper and his wife; they were happily living with four children. The wife wanted the husband to be sterilised and both of them agreed and his semen was being repeatedly examined and then he was pronounced okay. But one fine morning his wife left him with two children. So these are the problems. It catches fire immediately. In Shahdara we had a case and the man was sterilised and he had two children. But the first child fell down from the balcony and died and the other child also died of something. Then he was wanting to have a child. It is true we do have operations which are reversible. Then there was another man who was sterilised. Do you know what happened to him? He suddenly felt that something was happening to him and he did not like to live in the world; he was growing weak day by day and after eight months' time he died. So that way the sterilisation programme became very difficult. This is how it failed. I have not done any research. I have only one or two stray cases; I do not say that one swallow makes a summer. But then you must analyse all such cases and come to your own conclusions. I know how the doctors treat their patients in the hospitals. We know everything because we are the public health workers and we go into the field. The overcrowded hospitals are not sufficient enough to

give proper treatment to the patients. So I cannot tell you what this mass sterilisation is going to do to the country, I cannot predict, I am very happy I am not going to live to see what is going to happen in another ten years. I really thank God that I have lived my life in a much happier world and I am not going to live to see this period of abortions and sterilisation and things like that.

SHRI N. R. LASKAR: Madam, after hearing you at length I presume your fear is that after this Bill is passed, there will be many women who would come rushing to the hospitals for abortions. Don't you think that only those women who do not want the unwanted children would come to such hospitals, only when it is needed and not otherwise?

WITNESS: All of us are not intrinsically good. We are all born good and bad and it is the bad which has a greater effect; it depends upon our thinking power also. Then the laws of the country and society are there to inhibit us from doing certain things. But when the restrictions are removed, there will be so many cases. In the Roman Catholic Church to which I belong there are so many people wanting liberalisation but there are some conservative people who still say that what was bad some years ago suddenly cannot become good today. That is why I say that when the society is such that we are governed by certain environmental laws, liberalisation is certainly bad.

SHRI N. R. LASKAR: Don't you think that people will come to the hospitals only when it is absolutely necessary for them?

WITNESS: I will just explain it. Now what is happening? It is said "Two or three—bus" as if that will make you affluent and would give you everything, the sun, the moon and all that. That is what everybody thinks. It is said that the Government will stop all conveniences and facilities for those who have more than two or three children; they will

not get any promotion, no maternity leave, etc. So, there are so many contributory factors.

SHRI N. R. LASKAR: From your experience as a doctor, do you think that there is some need to extend this abortion law?

WITNESS: I do not think so, unless you make it a grave injury to the child or to the mother or something like that. But again you must protect the doctor who decides. You might add 'grave injury to the mother or to the child'.

SHRI N. R. LASKAR: What is your view about the helpless ladies who are victims of certain circumstances and they want to abort those unwanted children?

WITNESS: I always feel that you give them a good home to live in, you give them all sorts of facilities and you look after those children. After all there is so much expenditure incurred on marriages and other parties. You can tax the people, the wealthy people, who can easily afford to pay the taxes and from that money you can maintain them. I am all out for it, but not for abortions.

DR. (MRS.) MANGLADEVI TALWAR: Dr. Kulandai, I appreciate your explanations on many points and as Dr. Nayar said I also agree that the doctors should be more human; they should be kind, sympathetic and look into the mental condition of the patients. That is all right as it should be and as you are a very good Catholic I would like to ask you one question. Do you personally believe that people should be sterilised for anything?

WITNESS: No, no except for certain things like extreme incapacity to look after the child etc. when we might examine it by a Board who should go into the merits of the case and then we might do it; otherwise not.

DR. (MRS.) MANGLADEVI TALWAR: I would give you one example

from my personal experience. I was in charge of a Women Hospital in Kashmir and my second-in-command was a Catholic lady. She was a very good Catholic like yourself. In Kashmir at that time—now that question does not arise because nutrition is much better—most of the women who came here came for caesarian section. In a large number of cases caesarian had to be done because of deformities and therefore sterilisation was essential in these cases because they could not be allowed to bear another child. Only in the case of the first or second child they could get away; otherwise after the third child every girl had to be sterilised. My second-in-command would stand near me. She will help me; she will do only what I tell her. She will not tie or do any such thing. And I respected her feelings because she believed in it. She was a real conscientious objector. But now in this modern world you have to do so many things that perhaps were not necessary before. Therefore I asked you that question.

Another thing is, you seem to think that this Bill is meant generally to give free permission to everybody and the general effect would be free abortions. I would like to bring to your notice the Statement of Objects and Reasons. Paragraph 3 says:

“There is thus avoidable wastage of the mother’s health, strength and sometimes life. The proposed measure which seeks to liberalise certain existing provisions relating to termination of pregnancy has been conceived (1) as a health measure—when there is danger to the life or risk to physical or mental health of the women; (2) on humanitarian grounds, such as when pregnancy arises from a sex crime like rape or intercourse with the lunatic woman, etc. and (3) eugenic grounds—where there is substantial risk that the child, if born, would suffer from deformities and diseases.”

So you know this Bill is primarily just to liberalise those provisions

which are already in existence. You have been in the Health Service for a very long time and you must have come across a number of women who come to the outdoor, married and unmarried, mostly married. A woman who has taken it into her head to have an abortion, no matter how much you talk to her, no matter howsoever you persuade her, she would have it done. If the law does not allow that, she will go anywhere to get it done. A large number of them used to come to me and as I could not help them they will go to the quacks and have it done and then they will come back to me in a dangerous condition. And it is for that that this measure is being introduced.

Another thing I would like to say. I was in the Jail Reforms Commission in Rajasthan. As a Member of that Commission I visited all the jails in Rajasthan, especially those relating to women’s section, in Delhi and in many other States. And you know the offences of most of the women prisoners are attempts illegal abortions of they have killed the child after it is born. Most them are such cases apart from murders etc. but murders also were based on sex crimes. Therefore there is definite need to help such women. They are in a mental condition; they are not normal persons. Now when an unmarried woman or a widow gets pregnant in the context of the social disabilities can you imagine her anguish her distress and are you not going to help her by just liberalising the provisions that are already there in existence?

WITNESS: I do not believe in helping her by liberalising the abortion law. I believe in helping her by rehabilitating her, by looking after her instead of sending her to such a stupid jail where she is badly treated. She must be sent to a correction home where she should be given proper and better treatment, and if she is men-

tally refuted that will get corrected. Otherwise if she returns to the society she will again be in difficulties. She is to be protected by social measures and not by abortion law. I really feel sorry that she has done infanticide. Just because one wrong has been committed we should not do another wrong to correct it. That is why my plea is that the doctor who refuses to do it must be protected. I am stressing it again and again. I have no objection; you can do anything but the doctor who has got a conscience—it is not elastic; it cannot be stretched to this side or that side—and who refuses to do it must be protected. What will happen in the country if the law is liberalised? I just read an article in the papers. In one of the small hospitals in Birmingham the doctor says most of the staff have left but the Gynaecological and Obstetrics Wards are full with abortion cases. Gynaecological cases are all waiting because the staff is simply not there. All that they do is abortions.

**SHRI PARTAP SINGH:** I would like to know from you whether there are any medicines or injections which are more useful in the early stages of pregnancy for abortion.

**WITNESS:** I have just said that there is what is known as A Pill and M Pill. As soon as you suspect that you are going to be pregnant you take it. It has to be taken every month. In fact you can go on taking it; that way it is as good as a good contraceptive pill.

Apart from this there is a Pill but it has not reached India yet. I do not know how it is going to work on Indian women because the other pill has not worked.

**श्री प्राप सिंह :** क्या इतने लम्बे अर्से में इस पिल के अलावा और कोई दूसरी गोलियाँ आप के ध्यान में नहीं आईं जो कि आज प्रचलित हों, जो कि बहुत सी लेडीज़ इस्तेमाल करती हैं और उनको इस्तेमाल करने से बहुत हद तक फायदा

पहुँचता हो। लेकिन किसी हालत में अगर पेट में जो बच्चा है उसको हानि पहुँचती है तो इस बिल में जो दिया गया है कि वह हमल गिरा सकती है, इस से आप सहमत होंगी या अगर पिल खाने के बाद बच्चा मर जाय या अगर मरे नहीं तो भी इस बच्चे की हालत इतनी खराब हो जाय कि वह आगे चल कर मुश्किलत पैदा करे तो क्या उस शकल में आप इस बिल से सहमत होंगी।

**WITNESS:** There is so much of research done on pre-natal care that you can prevent these diseases by treatment and most of the abnormalities, thank God, can be cured by proper diagnosis early. It is a crime to destroy a foetus. I believe in the United Nations Charter. I believe that the unborn child must be protected at all cost. There are so many illegitimate children who have become High Court Judges and what not and they have risen to high positions. When the British Army was in Cannanore there were so many illegitimate children born. Do you mean to say that they should all have been destroyed? If they had been aborted, we would not have had many of the geniuses which we had.

**SHRI KAMESHWAR SINGH:** I agree hundred per cent with the hon. witness when she mentioned that with certainty even specialists cannot carry out abortion operations. A few words of hers were very heartening to me. The hon. witness said that in extreme cases when a woman cannot bring up her child, it could be done. By this, do you mean that abortion should be permitted? Do you mean that on socio-economic grounds it could be done, if it is permitted by a lawfully constituted Board?

**WITNESS:** 'Socio-economic grounds' is a very elastic term. The morals would be destroyed. If you want to improve the socio-economic conditions, help her. Give her education, give her clothing, free textbooks, and other aid.

**SHRI KAMESHWAR SINGH:** I quite agree with you, but you said

'in extreme cases'—these are your words—'when a woman cannot bring up her child . . .' What do you mean by this that it should be permitted?

WITNESS: The society should come to her aid in extreme cases.

SHRI KAMESHWAR SINGH: You also said that a Board should be formed.

WITNESS: Not Board, but a mothers' aid society to care for the child. Maybe my English was wrong.

SHRI KAMESHWAR SINGH: English is not my mother-tongue. Thank you very much.

THE MINISTER OF STATE IN THE MINISTRY OF HEALTH AND FAMILY PLANNING AND WORKS, HOUSING AND URBAN DEVELOPMENT (SHRI B. S. MURTHY): May I know how many abortion cases you have done?

WITNESS: I have not done any abortion case at all.

SHRI B. S. MURTHY: In continuation of what Dr. Sushila Nayar has said was any case brought to you of mishandling by a quack? Did any such thing come to you?

WITNESS: When I was working in hospitals I must say I never kept any statistics.

SHRI B. S. MURTHY: How many cases did you come across?

WITNESS: I have only come across very few septic abortion cases. We had treated them. I was qualified in 1933. At that time we did not have all these antibiotics, blood-transfusion facilities, etc. In spite of it we looked after our patients well.

SHRI B. S. MURTHY: Did you have any cases where you were of two minds, whether to save the mother or to save the child.

WITNESS: No, I have not come across any such case.

SHRI B. S. MURTHY: Suppose you are confronted with such a case, which will you prefer—the mother or the child?

WITNESS: I think the child comes first. The mother has led her life. I will not kill one to save the other. I leave to God. I never kill and I will not kill.

SHRI B. S. MURTHY: I congratulate you for your inspired enthusiasm for speaking against abortion. We welcome it, but I would like to know, in a case like that, whether you would care for the child or the mother. You are very experienced frank and pointed in your replies. Your evidence is something like an eye-opener to us in many respects. We congratulate you. At the same time, let us clear some of our doubts. We are not cross-examining you to test your ability. Just now you said that you would prefer the child. This goes against the moral code.

WITNESS: Medicine is so advanced that we never come to such a situation. In my 33 years of medical practice I have never come across such a situation. Pregnancy is a normal physiological process. If there is any danger to the life of the mother, Caesarean section can be done and the life of the mother and the child could be saved. You can take her straight to the theatre, operate and take out the child. Medicine and medical science has improved.

SHRI B. S. MURTHY: I would like to know another point from you. In India, according to an estimate made, there are about 6.5 million abortion a year. Out of it I am told that about 2.6 million are natural and 3.9 are induced. Now, how to save these 3.9 million induced cases which would otherwise go into unqualified doctors? You are more emotional. I am anxious that you should give your experience. The question is how to save these 3.9 million cases which seek the hands of unqualified doctors. What remedy do you propose, so that all these innocent, vagrant girls are saved?

WITNESS: How did you arrive at the statistics on abortion? Abortion is a criminal act and nobody will come



forward and register it. Nobody will say that he or she has done criminal abortion. How is the statistics correct? I know how these statistics are prepared in the primary health centres. I know that even the statistics which I have sometimes to submit are all lopsided. I was going through the report of the New Delhi Municipal Committee. They have said about maternal mortality in the age group 0-5 three and such things. Now, in the case of criminal abortion, which everybody is hiding, how could you arrive at this figure of 3 million something? People who want to emphasise their point of view bring in all these big figures to buttress their claims. After all at the present moment I do not think it is such a wild thing and such a frightful thing as it is made out to be.

SHRI B. S. MURTHY: I straightway scrap this figure. Do you think there are no abortions by quacks?

WITNESS: That I do not say.

SHRI B. S. MURTHY: What will be the number according to your own experience? Can you say that?

WITNESS: In the whole year we might get . . .

SHRI B. S. MURTHY: Suppose it is only one for a hundred. Then in this case I would remind you of a story in Bible which came out of the lips of the Lord, and he said: If a shepherd has lost one of his sheep, then he would leave the 99 and will go in search of the one he lost, and when he finds it, he comes with such an elated heart that he is beside himself. Therefore, out of 100 if one woman is in danger, don't you think, as the Biblical story says, you are to save that one because the 99 are safe? As a good Catholic Christian, what is your reply to this?

WITNESS: This comparison does not work. It is not a case of comparison to my mind. I do not know. The other people might sound very

well. I think this comparison is not correct. If one woman has fallen, you have definitely to educate her not to fall again; just because she went to an abortionist or a quack, like that so many people are going to quacks. Instead of an orthopaedist they go to the bone-setters and have the bone set. That means we legalise all bone-setters. Like that so many things happen. If a woman went to an abortionist, only education can save her.

SHRI B. S. MURTHY: Do you believe in 'karma'?

WITNESS: My beliefs are my own things. I do not make them public. I keep them to myself.

SHRI B. S. MURTHY: What little I have grasped from your emotional exhortation I think you believe in 'karma'. If you have a little faith in 'karma', don't you think that liberalisation is also due to 'karma'?

WITNESS: No. It is murder.

SHRI B. S. MURTHY: I go once again to the statement of objects and reasons, already brought to your notice by Dr. Talwar. Now do you support or lend your support in a case where the health of the patient will be mortally affected in case the abortion is not done?

WITNESS: That is inevitable abortion. If a woman is already bleeding . . .

SHRI B. S. MURTHY: Could I beg of you to answer in mono-syllables?

WITNESS: If a woman is already bleeding and the foetus has already started separating, you have to accelerate the process. As I told you, medical science has improved to such an extent that actually mortality due to such conditions is vanishing.

SHRI B. S. MURTHY: You support giving assistance for termination of pregnancy in cases based on humanitarian reasons?

WITNESS: Humanitarian reasons? I do not think. What is humanitarian

for you may not be humanitarian for somebody else.

**SHRI B. S. MURTHY:** Suppose the doctor believes that on humanitarian grounds he should terminate the pregnancy?

**WITNESS:** I quoted Dr. Alan Guttmacher.

**SHRI B. S. MURTHY:** When he goes to God, he says, Sir, I have not done any abortions".

**WITNESS:** "I have done only those which had to be done necessarily".

**SHRI B. S. MURTHY:** Will you please define "inevitable" at least for our guidance?

**WITNESS:** 'Inevitable' means nature has already started the process. already separation has started . . .

**DR. SUSHILA NAYAR:** The embryo has already started separating and you cannot reimplant that in the uterus.

**SHRI B. S. MURTHY:** What do you think of a case where the patient has gone to a person who could not attend to it properly and the life of the patient is in danger; is it also inevitable?

**WITNESS:** That is only twisting and turning and all those things.

**SHRI B. S. MURTHY:** What do you think of a rape case?

**WITNESS:** I have already told you my opinion about rape.

**SHRIMATI USHA BARTHAKUR:** Some of the questions which I wanted to ask have already been put to you, but I cannot resist myself to ask you this question for clarification. I am a social worker and I am to help the village women with my advice. You know that thousands of women in our country specially in the rural areas have been doing termination of pregnancy illegally with the help of untrained hands or with some unscientific technique, and many of them lose their lives and some may become

quite useless to lead a healthy life due to mishandling at the time of abortion. Do you not think that we should at least place those unfortunate women, who desire no more children and still they conceive against their will, in the hands of trained doctors by legalising the termination of pregnancy? How do you want to save the lives of those women in the rural areas from the hands of the quacks? As a social worker I personally meet such unfortunate women in thousands in the villages. Do you not think that we should try to save them?

**WITNESS:** In the rural areas medical facilities even for normal deliveries are not good. Even in a place like Narela which is easily accessible, it is only 14 or 15 miles from Delhi and they have got a primary health centre, even there the private dais are doing normal deliveries, mishandling, pulling out one limb, doing all sorts of things. We cannot stop that. We have not got the personnel to do it. This liberalised abortion law will not in any way affect the rural area. We have not got the staff to do it. The primary health centres, most of them have male doctors. I have known cases where the placenta is left behind. I had to pull so many of them up for mishandling them. I must say that are unqualified to do it, neither will they send them to the proper place. So this social evil cannot be cured by this law. We have to train our dais and we have to train our people, and a lot of spadework is to be done. It is not only abortions, they even mishandle normal deliveries. We have seen so many deliveries mishandled. Placenta is left behind. If it is a case of twins, one of the twins will be delivered one day and the other will be delivered the next day. Liberalisation of abortion is a very very blind relief that we are thinking of. It is not that to cure some evils you should have more evils than you can imagine because once this is liberalised, all these dais will call themselves qualified. Now there is law to prosecute these dais though it is so difficult to prosecute them

because you cannot get witness. Even in cases of adulteration you cannot prove because you cannot find witnesses coming forward. In this case the woman patient will not admit it. By legalising it you cannot stop this social evil. You will only increase it as it has increased in other countries. As you know even for normal delivery cases we do not have enough number of people to look after them; we do not have women doctors. They do not go and stay in rural areas. It is difficult to stop illegal abortions unless you are going to prosecute them.

**SHRI K. P. MALLIKARJUNUDU:** Madam, from what you have stated so far, can I take it that you are opposed on principle to the liberalisation or proliferation of this law of abortion and if at all you allow any cases of abortion they should be very, very limited and only in exceptional cases. Am I right?

**WITNESS:** Yes.

**SHRI K. P. MALLIKARJUNUDU:** You said in the beginning that the period of 12 to 20 weeks is only a fanciful thing and not a real guide for action. You mean to say that there is equal danger in cases of aborting within 12 weeks as after 20 weeks.

**WITNESS:** Abortion is abortion. It is operation inside the womb. I wish I had brought the necessary instruments and the things to show how an instrument goes in and how painful it is for an unmarried women. You have to delute the womb by putting such a big thing inside it. That area is not visible to your eye; it is invisible. In other words, it is an operation we are performing in an invisible area. When you do it in an unmarried woman it is very dangerous. Ten, twelve or twenty weeks is an arbitrary period. Even in England which is medically so much advanced, the obstretician simply writes: "DLC done". These operations are done in operation theatre and nobody is watching there. There is no lawyer.

When a man is condemned to death he has got a lawyer and everybody to come and defend him. He can even appear in person. But there is no such facility in the case of these poor people.

**SHRI K. P. MALLIKARJUNUDU:** You mean to say that the risk is as much as in the case of 12 weeks.

**WITNESS:** Above 12 weeks it is not so dangerous.

**SHRI K. P. MALLIKARJUNUDU:** Is there any method to measure the length of pregnancy. Some doctor appearing before us said that it is possible to measure.

**WITNESS:** There is a probably and positive signs. Positive signs are few. In other words it is presumptive signs Pulsation is a positive science. But that is also not positive because it is felt with fingers. My finger may pulsate. Another man's finger might not pulsate. Positives are very rare. Urine test is a positive test.

**SHRI K. P. MALLIKARJUNUDU:** So in your opinion it is probable.

**WITNESS:** Probably, that is why this 20 weeks will always extend to more than 24 weeks. But it takes time and by the time pregnancy is diagnosed, pregnancy has passed this stage.

**SHRI K. P. MALLIKARJUNUDU:** Is it possible scientifically to determine before birth whether a child is suffering from any kind of abnormality?

**WITNESS:** To my knowledge it is always possible. But a dignosis requires time. And who has got time to put an individual to so many rigorous tests?

**SHRI K. P. MALLIKARJUNUDU:** According to you it is not possible to arrive at a correct dignosis.

**WITNESS:** This is what the President of the Gynaecological Society has also said in the journals.

**SHRI G. GHOSH:** I have to put only two questions. Suppose a husband with a good number of children and who is dominating inflect pregnancy on his unwilling wife. What do you say to abortion being done on this mother?

**WITNESS:** I do not think that is a solution for the husband's drunkenness or cruelty. The best way is for the woman to take divorce and come away. The man should be punished.

**SHRI G. GHOSH:** In answer to my hon'ble friend there you supported termination of pregnancy in a very limited number of cases.

**SHRI NAIR:** Madam, what do you think are the conditions where pregnancy can be terminated. If the mother suffers from some disability the child when born will suffer from mental handicaps. In this connection, I shall give you a quotation from a medical text-book. It says:

"Syphilis is one of the diseases which in a pregnant woman shows its effect not merely on the mother but also on the off-spring and in some cases transmits its adverse effects even to the third generation."

So, if the mother or the father has syphills and if there is a chance that the child will be syphilitic and it may transmit syphilis to the next generation also, would you in that case also oppose abortion on the ground that it is murder?

**WITNESS:** In the case of syphilis, it is premature labour and premature ending; that baby ends itself. In all good maternity hospitals we do the routine blood test. This quotation must have been taken from an old textbook centuries ago.

**SHRI G. GOPINATHAN NAIR:** This textbook is studied by all the medical students in India.

**WITNESS:** We do the W.R. test on the pregnant woman as a routine. If it is negative, it is negative. If it is positive or even doubtful, we give a provocative dose and we repeat the injection. We then send for the father and treat him. Syphilitic babies do

not live long to produce two or three generations. If a man contracts a disease, he can transmit it also. That is no argument to say that we can murder the child. If a man gets syphilis, we do not murder him. Why should we murder the poor child? Let this child also have a chance to live, just as we allow the syphilitic man also to live. Of course, God will punish. They say, the sins of the father are visited on the children. Maybe it is one of those things. But I may tell you, our science has advanced to such an extent that all these diseases can be cured. This has really gone to the vanishing point. I do not know who is teaching this textbook. I have studied in the Madras Medical College. I did not study any such thing.

**SHRI G. GOPINATHAN NAIR:** This is a text book on clinical obstetrics by Dr. A. L. Muraliar supplemented by Dr. M. K. K. Menon.

**WITNESS:** M. K. K. Menon was my classmate, Dr. Mudaliar was my professor. He never taught me that syphilis is hereditary. There is treatment for syphilis. When you know they have got syphilis, treat them.

**DR. SUSHILA NAYAR:** Only at an early a late stage you will be able to help them with treatment know it.

**WITNESS:** If it is past the 20th week, this Bill will not allow it.

**SHRI G. GOPINATHAN NAIR:** I do not understand this 20 weeks; I stand for 28 weeks.

**WITNESS:** Then why not make it 40 weeks?

**SHRI RAM SWARUP:** Have you gone through this Bill?

**WITNESS:** I have studied it carefully.

**SHRI RAM SWARUP:** Does any provision here convince you of the need for abortion?

**WITNESS:** No, not at all.

SHRI RAM SWARUP: Then I have nothing more to ask.

SHRI S. A. KHAJA MOHIDEEN: Does induced abortion affect the later issue resulting in permanently crippled babies, babies with chronic illness and, in some cases, with deformities because the uterus has been tampered with?

WITNESS: Repeated abortions may later on produce mentally defective children. That is possible. I did not quite follow what the hon. Member said. I think he asked, if you tamper with the ovum, will the child be born with deformities. Once you tamper, it is definitely going to come out; it is not going to stay in. If a woman has repeated abortions, there is a probability of her getting a mentally defective child. The first seed is the most powerful seed. That will produce the best plant. The later seeds are not so good as the first and the second. As the parents' age increases, the possibility of mentally defective children is greater.

SHRI S. A. KHAJA MOHIDEEN: Infection is said to be a very common feature in induced abortion. What diseases generally result thereby?

WITNESS: Some of these criminal abortionists have perfected their techniques. So their abortions do not end in septic conditions. Only a certain percentage turn septic. In the abortions done under aseptic techniques also there are quite a number of septic conditions. Forty-seven per cent of the women can get haemorrhages and perforation of the uterus is a possibility. Quite a lot of statistics are available. I have even seen tetanus in the operation theatre.

SHRI S. A. KHAJA MOHIDEEN: Whatever may be the period of pregnancy, do you not agree that destruction of the embryo affects something fundamental in human life?

WITNESS: The law may be protecting the child, but unfortunately the child is not vocal at this stage. If you cannot protect the child in the womb, how are you going to protect the child outside? It is for the law-makers to protect it, not for the doctors. If you want to send the child from the womb to the tomb, you are welcome to it.

DR. (MRS.) MANGLADEVI TALWAR: You just now stated that the first child will be the best child and the second the next best. But generally it is the youngest child which is the most brilliant and intelligent. All the outstanding personalities of the world were not the first born of their parents.

WITNESS: Maybe, I do not know; the child might have had latent potentialities which might not have been developed. I cannot say. In my family, the first child was the best child.

DR. SUSHILA NAYAR: You are the first child?

WITNESS: No.

CHAIRMAN: Thank you very much Dr. Daisy Kulanday for your valuable evidence.

*(The witness then withdrew)*

*(The Committee then adjourned)*

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Friday the 19th June, 1970

PRESENT

Shri Mulks Govinda Reddy—*Chairman.*

MEMBERS

*Rajya Sabha*

- |                                 |                              |
|---------------------------------|------------------------------|
| 2. Dr. (Mrs.) Mangladevi Talwar | 6. Shri Niranjan Varma       |
| 3. Shri M. Srinivasa Reddy      | 7. Shri G. Gopinathan Nair   |
| 4. Shrimati Usha Barthakur      | 8. Shri S. A. Khaja Mohideen |
| 5. Shrimati Bindumati Devi      |                              |

*Lok Sabha*

- |                           |                               |
|---------------------------|-------------------------------|
| 9. Shri Gangacharan Dixit | 17. Shrimati Shakuntala Nayar |
| 10. Shri Ganesh Ghosh     | 18. Dr. Sushila Nayar         |
| 11. Shri Kinder Lal       | 19. Shri Partap Singh         |
| 12. Shri P. Viswambharan  | 20. Shri Ram Swarup           |
| 13. Shri N. R. Laskar     | 21. Dr M. Santosham           |
| 14. Hazi Lutfal Haque     | 22. Shrimati Tara Sapre       |
| 15. Shri Mohammad Yusuf   | 23. Shri M. R. Sharma         |
| 16. Shri B. S. Murthy     | 24. Shri Babunath Singh       |

REPRESENTATIVES OF THE MINISTRIES

*Ministry of Law*

Shri S. Ramaiah, Deputy Legislative Counsel

*Minister of Health and Family Planning and Works, Housing and Urban Development*

Shri R. N. Madhok, Joint Secretary  
Dr. K. N. Kashyap, Commissioner (FP)  
Dr. I. Bhushan Rao, Dy. Commissioner (FP)  
Dr. S. V. Raja Rao, Asstt. Commissioner (FP)  
Dr. (Smt.) S. F. Jalnawalla, Dy. Director (I)  
Shri A. P. Atri, Under Secretary

SECRETARIAT

Shri S. P. Ganguly, Deputy Secretary

Shri M. K. Jain, Under Secretary

WITNESSES EXAMINED

- (1) Representative of the Synod of the Church of South India, Madras:—  
Shrimati D. L. Gopal Ratnam, Member of the Executive of the Synod.
- (2) Dr. G. L. Talwar, Retd. Professor of Surgery and Head of Department, S.M.S. College, Jaipur.

[Mrs. D. L. Gopal Ratnam, Member of the Executive of the Synod of Church of South India, was called in]

CHAIRMAN: I now welcome Mrs. D. L. Gopal Ratnam, Member of the Executive of the Synod of Church of South India. We have already circulated the memorandum presented to us by this institution. Now, whatever you say will be treated as confidential. Apart from the memorandum that you have submitted, you are welcome to say whatever you want to say on this Bill.

MRS. GOPAL RATNAM: Mr. Chairman, Sir, we have already submitted to you a memorandum some months ago and you want me to speak further on this.

CHAIRMAN: If you wish to.

WITNESS: I would like to clarify the points that we have raised therein. Shall I read the paragraphs and then comment on them?

CHAIRMAN: We leave it to you.

WITNESS: To be more intelligible, with your permission, I would read the small paragraphs and then submit thereon the Church's considered opinion. Para 1 says:—

"The Synod holds that the life of a child before birth is as sacred as it is after and that any wanton destruction of the foetus in the womb cannot be allowed whatever its stage of development be. However, the Committee also recognises that this Bill is permissible since the termination of the life of the foetus is discussed primarily under those circumstances in which the life and health of the one who is pregnant is in danger and in which the concern for the welfare of the unborn child is conceded."

Now, I give my opinion on this paragraph which we have submitted. To the Christian Church life is sacred.

THE MINISTER OF STATE IN THE MINISTRY OF HEALTH AND FAMILY PLANNING AND WORKS, HOUSING AND URBAN DEVELOP-

MENT (SHRI B. S. MURTHY): Now, you say you are dealing with the opinion of the Church. Whose opinion is this?

WITNESS: All that is the opinion of the Church. In clarification I would say that to the Christian Church the Synod is the supreme body. When I say the 'Church' I mean the Synod. To the Christian Church life is sacred. From conception life comes into existence. Termination of life during pregnancy is discouraged by the Church. Life is a continuous process beginning in the womb and the period of nine months of growth inside the womb is the preparation for life outside. Hence induced abortion is a misuse of the trust that is given to us by God and it is lack of reverence for life. The Synod considers this Bill permissible only under certain exceptional circumstances related to the life and health of the mother and the welfare of the unborn child.

"After independence, with the great population explosion, the Government is placing priority—concern for Family Planning programmes at all levels. As more people are aware of the economies of small family, the curve of the desire to terminate pregnancies is going up and a large number of abortions are being done in the city in the most unhygienic conditions with crude drugs and instruments by unqualified people, resulting in the death of so many. If this Bill is to control these dangerous, unauthorised abortions or terminations, it is welcome."

This paragraph is submitted as an adjunct to the first paragraph we have submitted.

"Nevertheless legalising abortion as a means to control population is an amoral measure and we cannot contribute to such an argument."

Amoral is an adjective. It is non-moral outside the sphere of morals. Immoral is opposed to morality. What

we say is this is an amoral measure. Abortion as a means to control population we do not recommend because this would lead to laxity in morals in our opinion.

"Again there are also practical difficulties as the protagonists of legalising abortion have always quoted Japan as an example, where population has been controlled through this method of abortion. In Japan there is one doctor to every 1000 people and the total population is 1000. But in our country there is one doctor to every 10000 people only in very well developed. States and our total population is 524 millions. Hence abortion is not practical or safe at the moment, without the availability of proper medical facilities.

The Bill says that if "Pregnancy would involve injury to the mental health of the pregnant woman" abortion is permissible. The claim could be misused much because every pregnant woman, particularly in unwanted pregnancies, will be terribly upset in mind, which, in turn, may set up a chain of physical reactions, which will further aggravate the situation, so as to cause injury to mental health. Thus this clause could be invoked as a justification for abortions."

As it involves injury to mental health, it should be done with great caution. Clause 3(2), Explanation I says: "Where any pregnancy is alleged by the pregnant woman to have been caused by rape, the anguish caused by such pregnancy shall be presumed to constitute a grave injury to the mental health of the pregnant woman." In this explanation a mere allegation of rape is not sufficient proof. There should be proof beyond reasonable doubt, as otherwise this could be used to terminate unwanted pregnancy easily.

"Further, the Explanation II given in the Bill, says "where any pregnancy occurs as a result of failure of any device used by any married

woman for the purpose of limiting the number of children" the anguish caused thereby could constitute injury to the mental health of the mother. We feel that the device should include only provable things like intra-uterine contraceptive device like loops, etc. The use of other contraceptives cannot be easily proved. If this clause as it stands is accepted, we feel Family Planning Methods would go into disrepute. People will easily go in for abortion claiming failure of contraceptives."

Regarding Explanation II we feel that this has to be done with great caution. The consensus of opinion of our theological, medical and legal experts is that this Explanation II be either deleted or it be modified suitably because: (1) it is redundant since clause 3(2)(i) deals with mental health, and while deciding on the mental health all these factors, namely, use of family planning methods and failures, etc., will be discussed by the registered medical practitioner. (2) "The purpose of limiting the number of children" is family planning. Termination of pregnancy is being used as family planning measure in the guise of an explanation. We do not contribute to this. (3) Here it is presumed that there is mental anguish when there is a failure of family planning methods. Is this presumption going to be applied in every case of failure of family planning methods? This is difficult to prove unless the statement of the person involved is accepted without question. (4) There are various causes of mental anguish. Then why spell out this particular anguish?

"Further, we feel that if a decision is taken to liberalise the indications to include mental health etc., the decision to induce abortion should not be permitted to be taken by any one "qualified doctor acting in good faith" but only by a Board of three Specialists, one Physician, one Gynaecologist and one expert on Mental Health (preferably



Psychiatrist) appointed by the Government."

Clause 3(2) (a) and (b) leaves the decision to terminate the pregnancy entirely in the hands of registered medical practitioners. Unless the people vested with such powers are scrupulously honest and above temptations, the power is likely to be misused. Hence the interpretation of mental health calls for due caution as it is a serious decision to be taken with earnest consideration. There is a confusion in the minds of persons regarding a psychiatrist and psychologist. A psychiatrist is a person who deals with mental diseases. A psychologist is concerned with the science of the nature, functions and phenomenon of the human mind and its conduct. We strongly feel and suggest that it would be better to do intensive propaganda bringing out the dangers of induced abortions as against delivery followed by sterilisation which is very safe. If the dangers are known, very few would want abortion.

We also feel that the conditions under which abortions could be induced in preventing the birth of a physically handicapped child should be spelt out in detail.

*Section 3, Clause 2 (ii)*—Diagnosis of physical and mental abnormalities in the foetus up to 12 weeks or 20 weeks has not obtained perfection. It may be reasonable to legalise termination of pregnancies where the foetus might be seriously affected as a result of maternal Rubella—i.e. German Measles, teratogenic drugs, i.e. drugs creating monstrosities or abnormal formations and inherited and other conditions. But the reasons should be spelt out clearly. The diagnosis might go wrong at any time and in our experiences of the Church children born handicapped, had also contributed a lot to the progress of humanity.

*Section 3(4)*—All sub-clauses deal with the consent or august permissive authority of husband, or guardian or

father. The desires of men are always given such a weightage for the termination of the life of foetus and nothing is said about the consent or desire of the woman in whose womb the foetus is formed and growing. The Christian Church always feels that the child is the joint responsibility of both parents. This clause makes the male authority the supreme one denying equality to the woman who will be vitally affected in this decision. The diagnosis might go wrong at any time and in our experience of the Church children born will be handicapped.

CHAIRMAN: How do you say that? She is rushing to the doctor for abortion.

WITNESS: How do you know that the woman comes of her own accord?

THE MINISTER OF STATE IN THE MINISTRY OF HEALTH AND FAMILY PLANNING AND WORKS, HOUSING AND URBAN DEVELOPMENT (SHRI B. S. MURTHY): The pregnant woman rushes to the doctor and asks for the termination of pregnancy. If the husband is alive the doctor will ask for the consent of the husband also. Therefore, here the man is not dominating; he is ancillary.

WITNESS: How do you know that the woman has come of her own free will? There are so many cases where the woman is forced to come for termination of pregnancy.

CHAIRMAN: Now hon'ble Members will put questions to you.

DR. M. SANTOSHAM: The whole Bill has been so drafted that it is for the purpose of giving freedom to woman who is going to be handicapped because of carrying a child that she does not want. The entire tone of the Bill, as you would gather, is for the purpose of giving more freedom to the woman so that she may not suffer from a handicap that she is bearing a child which she does not want. Therefore, it is necessary to particularly mention that the husband's permission also is necessary. I think that is what the wording denotes.

WITNESS: The hon'ble Member used the word "also". If that could be included it meets the point.

DR. M. SANTOSHAM: The Church's viewpoint has been discussed from the point of view of pregnancies that take place in marital life. What will be the Church's attitude with regard to the unmarried girl getting pregnant when she wants that pregnancy should be terminated for very eminent reasons, namely, that the stigma that is likely to arise out of such a pregnancy is likely to condemn her for ever, throughout her life, as a sinner. I am quite sure the Christian Church believes in forgiveness. What would be its attitude towards a woman who has fallen once and has become pregnant and is likely to be condemned by society for all time. Not only she, but the innocent child that is going to be the off-spring of that woman is likely to be in a state of life in which that child will be looked down upon by the society. In such circumstances would the Church give complete forgiveness and let the society forgive her and permit the abortion which she asks for?

WITNESS: That is a rather complicated question you have asked me, Doctor. Forgiveness is always the essence of Christianity. A fallen mother is never condemned. In fact more sympathy and more consideration is given to a young unmarried mother. If that unmarried mother still wishes to have the child, the Church will not want her to undergo a forced abortion. If she wants abortion of her own free will the Church will not stand against it either. The Church is more concerned for the human being concerned and the unborn child. If a child is permitted to come out of the womb alive it will do everything possible to make that child live a respectable life as a citizen of this country.

DR. M. SANTOSHAM: In your explanation to the various paragraphs in the memorandum you suggested certain precautions to be observed

with regard to the various devices that are used and so on. You want to say that a certain amount of caution and a certain amount of detailed explanation should be given as to what should be the criteria for permitting abortion. Do you not think that the law should be a wide one where either permission is granted for abortion or permission is not granted for abortion because, after all, this adding up a number of clauses to a law is not by itself going to prevent people from making flimsy excuses for rushing into something that is dangerous. Therefore, I personally feel that adding up too many clauses is not going to prevent people from taking to abortion.

WITNESS: People who want to rush in for abortion will rush in for it Bill or no Bill. Human nature being what it is, adding clauses after clauses is not going to meet the point. You are right there; I agree with you. But at the same time, when you make clauses, you introduce certain clauses only, to which the Church says "You have to exercise caution." For example, why do you highlight only family planning devices, unless you want to bring this Bill as an aid to family planning? That we do not recommend. If people want to rush in and take advantage of these clauses, they will certainly take advantage of these clauses but caution and great consideration will have to be exercised when you give people the freedom to choose shelter under these clauses.

DR. M. SANTOSHAM: Suppose we remove all these clauses and say this Bill is only for the purpose of protecting a qualified doctor who thinks a woman's request for abortion must be conceded and does a technically skilled abortion. If the Bill is prepared in that manner, will it be totally agreeable to the Church?

WITNESS: It will be totally agreeable to the Church.

SHRI GANESH GHOSH: Madam, your reluctance to support this Bill, or

your conditional support to this Bill, comes entirely from the fact that you consider life to be sacred; is it not?

WITNESS: Yes.

SHRI GANESH GHOSH: If you kindly look to clause 3, you will see that there are certain conditions under which only termination of pregnancy is permissible. Now, you have laid great stress on the point that the consideration that the mental health of the mother is being affected should not be misinterpreted or taken very lightly. Now there is a provision for a medical officer recommending termination of pregnancy. If a psychiatrist, an expert in mental diseases, be also associated with that doctor, would that satisfy you?

WITNESS: Under the existing clause, having a board would satisfy us.

SHRI GANESH GHOSH: Not the board, In the Bill there is a provision that so long as the pregnancy does not exceed 12 weeks, one medical practitioner can recommend for termination of the pregnancy. Now if a psychiatrist be also associated with that medical practitioner for making the recommendation, would that satisfy you entirely?

WITNESS: A gynaecologist must be there. One of these two medical practitioners should be a gynaecologist.

SHRI GANESH GHOSH: And the other should be a psychiatrist?

WITNESS: Yes.

SHRI GANESH GHOSH: That will entirely satisfy you?

WITNESS: Yes.

SHRI GANESH GHOSH: In sub-clauses (3) and (4) of clause 3, there is mention of unmarried mothers, widows and married women. Don't you think that the opinion of the woman carrying the baby should be final and should prevail even if there be opposition from the husband or the guardian?

WITNESS: We consider that the responsibility for the child has to be taken by both the parents if they are alive. The opinion of only the mother or the father should not be made very important.

DR. M. SANTOSHAM: But in cases of rape, the husband is not the parent

SHRI GANESH GHOSH: If there is rape on a married woman and the woman for reasons which you can understand wants to terminate the pregnancy, but the husband is opposing it, whose opinion should prevail?

WITNESS: The mother's opinion, in my opinion.

SHRI GANESH GHOSH: You consider that the medical officers who come in for this must be experts—obstetricians or gynaecologists or persons having special training for this purpose—and nobody else should be allowed to do this?

WITNESS: Yes, that is our opinion.

SHRI GANESH GHOSH: Do you think it can be done, considering the conditions prevailing in our country as a whole, especially in the rural areas?

WITNESS: I have already made that comment. In our country we have one doctor for every 10,000 people. So it is not practical.

SHRI GANESH GHOSH: Are you opposed to this Bill only for this reason?

WITNESS: It is one of the reasons. It is not for that single reason that we oppose it. We have to look at the Bill from all angles and this is one of the angles from which we looked at it, and we oppose the Bill.

SHRI GANESH GHOSH: You oppose the Bill?

WITNESS: Oppose it in this sense.... Well, you put the word into my mouth, and I am just repeating it.

SHRI GANESH GHOSH: You want us to be very cautious and to make arrangements as the necessity arises?

WITNESS: Yes, otherwise there is no opposition.

DR. M. SANTOSHAM: She gives conditional support.

WITNESS: Yes, I have put that very clearly; under certain exceptional circumstances, this Bill is permissi-

SHRIMATI TARA SAPRE: Madam, please refer to Explanation II in the Bill. Now, in a country like India where there is great poverty, suppose a couple use family planning devices and they fail; and the lady wants to terminate the pregnancy due to social and economic circumstances; if it is continued, she will be having anguish because of the fact that one more child is going to be added to her family and it will be very difficult for her to bring up that child properly. Then how do you say that she should not be allowed to have the termination of her pregnancy? Mental anguish is there. Are you going to allow her go through that and have that child and throughout her life suffer that anguish when she has to look after that child against her wishes? If the family planning device has failed, it is not her fault because there is no device which guarantees cent per cent. In such case, will you not advise the termination of her pregnancy?

WITNESS: No, that is wanton destruction. We do not contribute to that view. You want to use this Bill as part of the family planning measure. That is what you are saying now. If a family planning device fails, that is sufficient justification to destroy the foetus. We do not contribute to that view. Only in certain exceptional circumstances where the physical or the mental health of the mother is in danger or where the unborn child's welfare is in danger, we permit it. Just because a family planning device has failed, we do not advocate the termination of pregnancy.

SHRIMATI TARA SAPRE: In that case if that lady goes on brooding over the matter and if she gets mad, do you not mind it?

WITNESS: That is beyond the scope of this Bill. Just because a family planning device has failed, if you want that the pregnancy should be terminated, we do not contribute to that view because family planning device is not the fundamental right of everybody. You use it because you want to use it and you know that all the family planning devices are not cent per cent sure. You know that. And knowing that fully well, you use it. And when it fails and when you bear a child, you want to terminate it. We do not consider that a fair and proper thing. We do not want to use the termination of pregnancy as a population control measure.

DR. M. SANTOSHAM: The population control measure is a social objective.

WITNESS: In that case the lady ought to have used the family planning device with more caution. She ought to have gone for sterilization.

SHRIMATI TARA SAPRE: Supposing that also fails.

WITNESS: Then she must bear it and sacrifice her wishes. Life is more sacred for us.

SHRIMATI USHA BARTHAKUR: If the termination of pregnancy is allowed by this Bill, would you think that the family planning programme will be hampered and people may lose faith in the family planning devices and consequently there is every possibility of this scheme being a failure?

WITNESS: If you say this is a family planning device, you use it and then if that device fails, any person is going to lose some faith in that particular device and to that extent there will be a little failure in the whole family planning programme. It is inherent there. When a device is not cent per cent successful, there is a failure. But here you support the failure of the device by saying that this may be quoted as a cause for asking for termination of the pregnancy.

**SHRIMATI USHA BARTHAKUR:**

On the contrary, with the fear of getting a great deal of trouble, physical, mental, financial and social also, people can lay more stress on the family planning devices. What do you think about the psychological effect on the women of India if this Bill is passed?

**WITNESS:** The women of India even in the rural areas are very intelligent. They are keen to limit their families of course. But when wide publicity of certain rules and regulations for self-control that had been used by women from times immemorial, could be given, much propaganda as part of the family planning measures, because women had a number of restrictive self-control measures that intercourse with men should not be allowed on certain fast days, on days when women have their oil bath, on festival days, etc. etc.—during a number of days like that— if women could make that as part of the family planning programme, that would bear much results than saying if there is a failure of the family planning device, you go and have an abortion.

**SHRIMATI USHA BARTHAKUR:** Today hundreds and thousands of women have been having abortions at the hands of quacks and some of the women have even lost their lives. So we are trying to save such women by legalising abortions and placing them at the hands of trained doctors and well-equipped hospitals. Do you not agree with this view?

**WITNESS:** If that is the view, we agree. I have said so many things in support of that. If it is to control these dangerous, unauthorised, criminal abortions, we welcome the Bill.

**SHRIMATI USHA BARTHAKUR:** In addition to the objectives mentioned in the Statement of Objects and Reasons, would you not think that the legalisation of abortions indirectly

helps the problem of national importance, the public welfare, and serves the socio-economic problem of the nation?

**WITNESS:** You put emphasis on the socio-economic aspect of it so much. But we put more importance on the life of the child. There is a difference in the approach.

**SHRI B. S. MURTHY:** Mrs. Ratnam, I would like to point out that the figures given by you in your Memorandum are not quite correct. In paragraph 4 you have said that there is one doctor to every 10000 people. It is 4500.

**WITNESS:** I have taken it from the Tata School.

**DR. SUSHILA NAYAR:** Your figure is very old. The Minister's figure is correct. But there are also places where there is one doctor for 20 or 30 thousand people and there are places where there is one doctor for two thousand people.

**SHRI B. S. MURTHY:** Then you kindly refer to Explanation II in the Bill on page 2. You will agree that it is not a correct appreciation of the Bill if it is said that this is a method only for family planning. I would again request you to turn to page 4—Statement of Objects and Reasons. There are three grounds given there: (1) as a health measure, (2) on humanitarian grounds and (3) on eugenic grounds. But this legislation may also help the family planning programme but the measure is not entirely on the basis of achieving greater results in family planning.

**WITNESS:** But the Explanation says that the purpose is to limit the number of children, and that is family planning. The termination of pregnancy is being used as a family planning measure in the guise of this Explanation. So either you delete it or modify it suitably.

**SHRI B. S. MURTHY:** What is the harm if this Explanation is there? If the husband and wife want to plan their family and then in course of time they find that they have not succeeded and the pregnancy occurs, then naturally they will be disappointed and disappointment means anguish and they will try to terminate the pregnancy. So this legislation will benefit them.

**WITNESS:** Why do you bring in all those things when you have beautifully said in the beginning that under certain circumstances pregnancy can be terminated? Only when you spell out this family planning, our objection comes in.

**SHRI B. S. MURTHY:** For other purposes you agree?

**WITNESS:** Yes.

**DR. (MRS.) MANGLADEVI TALWAR:** Madam, I would at the outset ask you one question. Are you against family planning and termination of pregnancy in all circumstances or do you allow it in some circumstances? I am asking this question because the people who follow the Roman Catholic faith are against termination of pregnancy in all circumstances and also against the use of devices for family planning. I would like to know your views about it.

**WITNESS:** I am a member of the Family Planning Board of the Madras State and I have actively been doing family planning propaganda work day in and day out and I have been a judge of the Juvenile Court and I have been in charge of the Council. I am a strong advocate of family planning devices.

**DR. M. SANTOSHAM:** Thank you very much. What is the view of the Church?

**WITNESS:** As belonging to the Church of South India we are not against family planning as such. The Church of South India is Protestant

and we belong to the Protestant faith and the Church of South India represents 13.8 lakhs of people.

**DR. (MRS.) MANGLADEVI TALWAR:** I am referring to the last sentence of your Memorandum, paragraph 2, where you have said that if this Bill is to control these dangerous, unauthorised abortions, it is welcome. That means you agree with this measure, because it was pointed out by Mr. Murthy that there are three objects of this Bill. So you agree in principle that this Bill is welcome if it is to control the unauthorised abortions. Madam, you will agree with me that there are a large number of unauthorised abortions in this country that are being done every day, every month and every year. Then, Madam, I would refer you to Explanation II which says:

"Where any pregnancy occurs as a result of failure of any device used by any married woman or her husband for the purposes of limiting the number of children...."

You are a strong advocate of family planning and you know whether the person concerned is speaking the truth or not about the use of contraceptives. The person concerned says honestly that she has used a contraceptive, but it has failed. The woman is pregnant and she feels that it should be terminated. Now, if termination of pregnancy is not permitted in the open, she will go into the backstreet. She will go to the quack. I am a doctor and I have a large hospital and outdoor clinic. I have been in charge of a women's hospital. So, I can tell you that the mentality of a woman is, no matter what you tell her, she would insist that her pregnancy should be terminated. If you do not do it, somebody else will do it. Do you not think, in the case of failure of a family planning device, to help her out, to protect her from unauthorised people, this Bill is necessary?

**WITNESS:** That would come during the investigation by the registered medical practitioner. Her physical

and mental health will be taken care of. Why do you want to spell this out? Our objection is to your spelling it out. Due to the failure of any family planning device you say that abortion is permissible. You spread the idea for controlling the population. We do not contribute to that way of thinking. It is a matter of principle with us.

DR. (MRS.) MANGLADEVI TALWAR: Laws are made for honest people. They are not made for the dishonest. It may be misused by somebody, but that is not the intention of this measure. The intention of this measure is to help the honest people who would make use of the device honestly.

CHAIRMAN: If you will put brief questions, she could answer them easily. Otherwise, if you put elaborate questions, it would be difficult for her to remember them.

DR. (MRS.) MANGLADEVI TALWAR: Please refer to para 6 of your memorandum. You have referred to Explanation II and you say that if abortion is allowed in the case of failure of any family planning device, people would go in more and more for abortion. Do you think that women would prefer abortion to the use of family planning devices?

WITNESS: You will know much better as a medical doctor that sterilisation is the safest method. We only need tell this woman that sterilisation, after delivery, is very safe and if much propaganda is done in that way this sort of abortion will not be asked for.

DR. (MRS.) MANGLADEVI TALWAR: That is true. My point is, would women prefer abortion to the use of family planning devices? Abortion is a painful process. Abortion, in many cases, will mean the use of anaesthesia and surgery. Nobody would prefer the surgical procedure to the other devices.

WITNESS: The inherent failure of family planning devices is always

there. A woman should not be so terribly upset and should not feel any mental anguish by the failure of any family planning device. If it comes to that she should allow the pregnancy to go on and resort to sterilisation after her delivery.

DR. (MRS.) MANGLADEVI TALWAR: I have no dispute. Abortion is no substitute for sterilisation.

WITNESS: In this connection I want to answer the question of Dr. Santosham. The Church of South India runs family planning clinics in all its hospitals and the women's Fellowships in all the churches run family planning clinics voluntarily as part of the churches' activities.

DR. (MRS.) MANGLADEVI TALWAR: There was a case of a woman who had undergone sterilisation operation, but after three years she again became pregnant. What do you say to this?

WITNESS: There are a number of cases like that. It is not a solitary case. You advise the woman.

DR. (MRS.) MANGLADEVI TALWAR: The family planning device or sterilisation has failed. That is the point.

WITNESS: In that case she should go through her pregnancy and then have sterilisation after the birth of the child.

DR. (MRS.) MANGLADEVI TALWAR: Thank you very much.

SHRI NIRANJAN VARMA: All of you belong to the Protestant Church. Can you tell us what is the opinion of the Methodist, Presbyterian and Roman Catholic Churches?

WITNESS: I do not hold any brief for the Roman Catholic Church. In the Church of South India, in this union, we have the Church of India, Pakistan, Burma and Ceylon, ex-Anglican Traditions, the Presbyterian Churches, namely, the Church of Scotland and London Mission, the Australian Presbyterian Mission, etc.

All these Churches' Union I represent. I do not represent the Roman Catholic Church at any time.

SHRI NIRANJAN VARMA: You may have visited those countries which believe in the Roman Catholic faith. May I know whether they are in favour of this sort of legalisation of abortion or not?

WITNESS: I will not commit myself.

SHRI NIRANJAN VARMA: Are the Catholics in favour or against this kind of Bill?

WITNESS: With your permission, Mr. Chairman, I do not represent the Roman Catholic Church. I have no right to answer anything about them. Will you please allow me to hold my peace and not answer this question?

CHAIRMAN: You are free not to answer if you do not want to answer.

SHRI P. VISWAMBHARAN: In the memorandum you have circulated you have stated that you would allow abortion in case the family planning device like the intra-uterine contraceptive device has failed. To that extent you agree to use abortion as part of the family planning programme.

WITNESS: Why I have said about the intra-uterine device is because here is proof that they have used the family planning device. It is a positive proof. In the case of the other family planning devices there is no such positive proof. Just to highlight that point, to prove that a person has been using the family planning device, we have said that and not for anything else.

SHRI P. VISWAMBHARAN: Where you are convinced that an honest attempt has been made to use the contraceptives and those attempts have failed, then abortion could be done?

WITNESS: We have not said that. We just put it as a caution to the makers of this Bill. We did not say that if the loop fails you will do the

abortion. No, we did not say that. Certainly not.

DR. M. SANTOSHAM: You used the word intra-uterine device for our sake, not your sake.

WITNESS: That is not our purpose. We only mentioned it to say that there must be some definite proof of the person having used the family planning methods.

DR. M. SANTOSHAM: What he asked is, if it is proved that the family planning device has been continuously used and it has absolutely failed, under such circumstances, would the Church consider abortion?

WITNESS: No. A firm 'no' on that.

SHRI P. VISWAMBHARAN: I would like a clarification. You have said that even in cases of rape or failure of these contraceptive devices, a mere statement from the woman will not be enough. The doctor concerned should be fully convinced that it was a case of rape. About that I would like to know from you whether the statement from the woman is not enough or whether a statement from the woman and her husband or guardian, both, is not enough. If the statement comes from the woman and the guardian, then you would agree to it?

WITNESS: For rape there is a special procedure in the Indian Penal Code. This is a corollary of that thing.

SHRI P. VISWAMBHARAN: Excuse me. If I have understood you correctly, in the beginning you have said a mere statement that a rape has been committed is not enough.

WITNESS: Yes. It is not enough. It must be proved beyond reasonable doubt.

SHRI P. VISWAMBHARAN: Who will take evidence on that? Are you of the opinion that the doctor concerned should take evidence and come to a conclusion on this point?



WITNESS: That is the headache of this legislative body, not mine. You have to find out and make it beyond reasonable doubt. You must take measures and I am not an authority on that.

SHRI P. VISWAMBHARAN: We are taking the views of people like you just to make the law as much foolproof as possible.

WITNESS: We would insist on proof beyond reasonable doubt.

SHRI P. VISWAMBHARAN: Then you have referred to a Board of three to be constituted in performing these abortion operations. I would like to know your views on the constitution of this Board, that is, whether there should be a Board for every hospital or there should be a Board at the district headquarters? What do you mean by this Board?

WITNESS: Wherever the State Government provides facilities for such terminations there should be a Board. That could be worked out with the Public Health Department. For example, we had a discussion with the medical experts in Madras State. Madras State has got a very good chain of family planning clinics and hospitals and block development schemes. Perhaps wherever there are facilities for terminations there should be a Board. It would help the people in a very large way.

SHRI P. VISWAMBHARAN: My point is, you have said that a Board consisting of three specialists, one physician, one gynaecologist and one expert on mental health, should be constituted. The point is whether we would be able to get these three specialists in the district headquarters at least. Otherwise the purpose of the Bill will not be served. Under the conditions obtaining in the country today the point is whether these three specialists will be available at least in the district headquarters.

WITNESS: They should be made available. As a citizen of this country I feel we make many laws and do not expect those laws to be carried

out to the letter of the law. For example, in my State there is a Compulsory Elementary Education Act. If that Act is meant to be put into practice, there are not enough schools and teachers. What is the use of an Act like that? So I would request and beg the hon. Members to make all facilities available before you pass a Bill into an Act.

SHRI N. R. LASKAR: You were just insisting on the constitution of a Board of three specialists at the district headquarters. Here the question is one of relieving the mental anguish of pregnant women. If your suggestion of constituting a Board is to be accepted, don't you think that it will defeat the very purpose of the Bill?

WITNESS: To be very frank with you, we have not exercised our minds on the Constitution of Boards at different places. Wherever there are facilities for termination, wherever you want to decide that such and such case is fit for termination, that should be done by a Board. We have not worked out any detailed programme as to how this could be implemented at the village level or at the district headquarters level. This is a thing for you to consider. When you say two registered medical practitioners or one registered medical practitioner, we feel that is not enough. We should have a Board of three people, a physician, a gynaecologist and a mental expert. That is our submission.

SHRI N. R. LASKAR: But if we make a provision like this, two gynaecologists who know the subject, if they are there, you have no objection? If there are two gynaecologists who are specialised in this thing in a particular hospital, I do not think you have any objection in that case.

WITNESS: These are all safeguards for taking the decision by the doctor.

SHRI N. R. LASKAR: That is why you are insisting on a Board. We say if a Board is there, there will be a lot of procedural matters. The

purpose of the Bill will be lost. If there are two gynaecologists, I do not think you will have objection.

WITNESS: There will not be much objection.

SHRI N. R. LASKAR: If I properly heard you, if there is mental anguish in a person, you also agree for an abortion.

WITNESS: I do not quite get what you aim at by putting this question. Would you kindly be more explicit?

SHRI N. R. LASKAR: Would you agree to abortion if a patient comes with mental anguish?

WITNESS: First you decide what is mental anguish. Somebody should be there to decide on that preferably.

SHRI N. R. LASKAR: Suppose a married or an unmarried woman has been raped and she does not want that child. Does it not amount to anguish?

WITNESS: A woman in her lifetime undergoes so many anguishes and in case of unwanted pregnancies there is more anguish.

SHRI N. R. LASKAR: Why do you want the doctors alone to decide it? i.e. which constitute mental anguish and not the concerned person who comes with the plea.

WITNESS: You yourself have said that registered medical practitioners should be allowed. I am just elaborating it. The Bill gives power to a registered medical practitioner. We say it should be there, one a gynaecologist, another a physician and another a psychiatrist so that a correct decision is taken.

SHRI PARTAP SINGH: You have rightly mentioned in paragraph 4 of your memorandum the practical difficulties regarding the medical facilities provided to tackle such cases, and so you have stated that abortion is not practical or safe at the moment. In the light of this do you mean that abortion can be allowed as soon as

medical facilities are available in the country or it can be done where such facilities are available?

WITNESS: Yes, abortion can be allowed where medical facilities are available properly, again, under special circumstances and not mass abortions as I mentioned in paragraph 1.

SHRI GANGACHARAN DIXIT: Do you mean to say that if this Bill, as introduced, is enacted into law it will be bringing family planning by back-door?

WITNESS: I would not say that the thing is being brought by the back-door. There was no such insinuation in my statement.

SHRI GANGACHARAN DIXIT: What is your opinion if Explanation II is not removed and the Bill is enacted into law?

WITNESS: I have given you the considered opinion of our experts that Explanation II should be either deleted or modified suitably to meet the particular objection for using family planning as a method of termination of pregnancy. That is the objection.

SHRI GANGACHARAN DIXIT: Your objection is for "device". If this word is not there then you have no objection to this explanation in the Bill.

CHAIRMAN: Mr. Dixit, she has already said that they are opposed to this.

SHRI RAM SWARUP: You have earlier expressed the opinion that you would not take the life of children to limit population. Is it so?

WITNESS: We do not take cognizance of the second portion of your sentence "to limit population". Life is sacred and its wanton destruction is not good unless it is a hazard to the mother's health.

SHRI RAM SWARUP: Would you agree with me that if the sacred child causes misery to the family of the

mother then you would have no objection to abortion.

WITNESS: How do you know that the future child is going to cause misery to the mother or her family?

SHRI RAM SWARUP: Due to health considerations.

WITNESS: That you have already provided for. I have said in the first paragraph under what conditions termination of the life of the foetus should be permitted.

SHRI RAM SWARUP: Have you given any consideration to socio-economic reasons?

WITNESS: We do not support that view. Life is sacred.

SHRI RAM SWARUP: Have you thought of the problem of the nation being over-populated when we are already short of food, education, medical facilities and so many other things?

WITNESS: Certainly we have. But termination of pregnancy is not the only way.

SHRI RAM SWARUP: But should we not adopt it as one of the methods?

WITNESS: We do not approve it as one of the methods.

DR. SUSHILA NAYAR: You will forgive me for my ignorance. But what exactly is a Synod?

WITNESS: Synod is the supreme governing body of the union of the Churches of South India.

DR. SUSHILA NAYAR: Is it in other parts of the country also or is it only in South India?

WITNESS: In South India there were several denominations of Christians before the year 1947. There were various denominations of the protestants. Each one was different. We then all united to form the Union of Churches of South India on 27-9-1947. There are 17 Dioceses in this

Union including Ceylon comprising 13.8 lakh Christians. For all these Dioceses there is this Synod. It is a body for the governance of these churches. Every Diocese is in charge of a Bishop. From each Diocese a representative is sent to form the Executive of the Synod.

DR. SUSHILA NAYAR: You mentioned something about the need for setting up boards if abortion is to be allowed. Now were you advocating this Board for all cases or only for cases where the contraceptive have failed?

WITNESS: For all cases.

DR. SUSHILA NAYAR: Surely you do not want to take away the discretion of the doctor. Even if the doctor thinks there is danger to the life of the mother, or the infant is going to be defective, still you would want a board?

WITNESS: When there is a great urgency, when the life is in imminent danger, of course, one doctor's decision will be supported by the other doctors also. You need not wait for a meeting of the board or anything like that. You are giving a particular difficulty. We are spelling out a general formula that should be followed.

MR. SUSHILA NAYAR: Even under the present law when abortion is illegal, a doctor is allowed to perform the abortion in order to save the life of the mother. Surely you are not wanting to restrict it?

WITNESS: We do not want that. Section 312 of the I.P.C. already takes very good care of that.

DR. SUSHILA NAYAR: Now some talk has gone on regarding the anguish that might be caused as a result of an unwanted pregnancy. Have you come across any cases where the parents were unhappy when the pregnancy occurred, because it was unwanted, but later on when the child was born they were all very

happy to welcome that additional child?

WITNESS: Many cases like that. That is exactly why more caution should be exercised.

DR. SUSHILA NAYAR: May I ask you whether the anguish caused by the need to share limited food and other resources in the family is likely to be more acute than the anguish caused by some sort of a guilty feeling that she has destroyed life? Have you come across cases where abortion had been resorted to and there was a considerable guilt feeling afterwards that they had done something which they should not have?

WITNESS: There are cases like that also where the parents feel guilty for having undertaken an abortion. But I have not come across many such cases.

DR. SUSHILA NAYAR: You know that in some of the Western countries like Switzerland, every case of abortion has to be certified by a board of three people—one is a physician or gynaecologist, the second is a psychiatrist and the third is a priest, to take care of this guilt feeling complex. Would you consider that arrangement desirable at least for those cases where the parents wish to resort to abortion because of failure of the contraceptives?

WITNESS: Inclusion of a priest in the board—that is what you mean?

DR. SUSHILA NAYAR: It may be anybody from the religious hierarchy so that there are no guilt feelings.

WITNESS: We never contemplated on those lines. We consider this as a purely medical thing and our theological opinion comes only in the case of wanton destruction of life.

DR. SUSHILA NAYAR: Don't you think that the aspect of guilty feeling can be better dealt with by somebody who deals with the religious life, rather than by a medical or psychiatrist expert?

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WITNESS: Personally I do not think it will make much difference unless the priest or the religious head is taken as their own personal counsellor. Just because we put a provision there, it will not make much difference, that is what I feel.

DR. SUSHILA NAYAR: Now in clause 3 of the Bill, there are references as to whose permission is necessary for carrying out an abortion—in the case of a minor girl, in the case of a married girl, in the case of a lunatic, ect, etc. It has been suggested that, so far as a normal healthy woman in full possession of her mental faculties is concerned, it should be her decision and not the decision of the husband or the guardian or anybody else, whether she wishes to carry on with the pregnancy or she wishes to terminate it. Would you subscribe to that opinion?

WITNESS: Not fully, Madam. If it is a married woman, it is the right of both the parents. If it is a lunatic, it is not her right. If it is a minor girl, it is the joint concern of the guardian and the minor.

DR. SUSHILA NAYAR: I was talking about a normal healthy adult woman, not about minors and lunatics. If it is a married woman and it is a case of rape, how can you bring in the husband?

The husband may have one opinion to-day and may have another opinion tomorrow. Should not the woman be the master of her own body?

WITNESS: The woman is not the master of her own body when she is married.

DR. SUSHILA NAYAR: Do you want to continue that position? A man can undergo surgery without his wife's permission. Why can't a woman undergo abortion without the husband's permission?

WITNESS: Because a child is concerned. It should be the joint responsibility of both.

DR. SUSHILA NAYAR: If the relations between them are good, they will consult one another in any case. If the relations are not good, would you not give the woman the choice to do what she wants?

WITNESS: I still hold that there is joint responsibility when a woman is married and has her partner living. If the partner is not living, then it is her own responsibility.

DR. SUSHILA NAYAR: Then it has also been suggested that the reference made here to widows and unmarried girls is undesirable on the ground that it gives the impression that the Bill is meant to encourage the use of abortion in such cases, which is not the idea, and that such references should be removed and the clause should be so worded that it refers to a normal adult woman, in which case she will be free to decide for herself or after consultation with her husband, and to minors and lunatics, in which case it should be the decision of the guardian, so that there is no reference in the Bill to widows and unmarried girls.

WITNESS: That is a good one. I could think, because a lot of women do get into this predicament and it is going to affect them more in the form of a stigma.

DR. SUSHILA NAYAR: Therefore, you would have adult women in possession of all the facilities to be in one category and minors and lunatics in the other category.

WITNESS: That sounds more reasonable and fair.

DR. M. SANTOSHAM: Madam, you suggested that a board should go into the question of the mental anguish, whether it should warrant the permission for abortion or not. I am sure you will admit that there is such a thing as the sanctity of family secrecy. There may be circumstances when the husband and the wife is just likely that the mother of the unwanted child is likely to suffer both jointly make up their mind. It

very much from the mental anguish as to cause permanent ill health to her. Under these circumstances, calling for a board would involve that the sanctity of the family secrecy is lost to a very great extent. So for that reason they go to their family doctor. If you say that immediately you write to the authorities concerned, form a board at the district and call for the various specialists, the secrecy to that extent is lost, and if that secrecy is lost, a great deal of stigma is likely to be attached to that family. Under these circumstances, do you still insist that there should be a board to go into this question?

WITNESS: You have put it in a different way altogether. You put more premium on the secrecy of the family than on the proper decision that should be taken. If a proper decision is to be arrived at, then, I think all experts should come together and decide it; a proper decision concerning the health of the mother is more important than the secrecy of the family.

DR. M. SANTOSHAM: You seem to think that qualified doctors and the registered medical practitioners who normally deal with the health of the society are not sufficiently qualified to declare whether a pregnancy should be terminated or not. Presuming that you do so, you think that the board of experts has got to be called in for taking a decision because of the sanctity of life, the value of life. That I quite understand. All the same, there is such a thing as medical qualification, medical registration; and that is why registered medical practitioners are allowed to tackle situations of this type. Every medical man learns every aspect of medicine. Every medical man is to some extent a physician, to some extent a surgeon, though he might have specialised in one particular branch of medicine. Therefore, I would consider that when such a properly qualified registered medical practitioner can look after the health of the society, such individual will be certainly equipped with

the knowledge a physician should have with the knowledge a gynaecologist should have, and also to some extent, practically he is a psychologist himself. Under these circumstances where is the need for this board to be called in?

WITNESS: In that case this Bill need not have come at all, because you say all medical practitioners know everything and everybody can go to every doctor and get everything done. If that is so, there is no need for a Bill of this kind at all.

DR. M. SANTOSHAM: If you have to call a board at the district level it is going to take four to five weeks and plenty of precious time is lost for the woman who is in danger. So it is absolutely an impracticable suggestion I would feel.

WITNESS: Do you say that a board will take four weeks to be constituted? For that matter it will take some time for anything to attempt anything in a Government hospital. But in a place where facilities for abortion are provided, doctors are available there all the 24 hours, if you really want to call it a pregnancy termination centre. Doctors are expected to be on duty all the time. And so I do not expect such a situation where you have to write to the doctors and go through the ribmarole of the redtapism we are sick of now. Such a kind of situation is no good. I do not envisage such a situation. This is a centre where a pregnant woman may rush in at any time of the day for help and doctors are available there all the time.

DR. M. SANTOSHAM: We know what happens after premature retirement. It takes such a long time to call all the doctors together in one place. All of them may not necessarily be available at one particular place. One doctor might be away a hundred miles on other duty. It does take some time to call him back.

WITNESS: Perhaps the hon'ble members will get rid of all those other things at least through this Bill.

CHAIRMAN: So, thank you, Madam, for the valuable evidence you have tendered here.

WITNESS: Thank you.

*(The witness then withdrew)*

*(Dr. G. L. Talwar, Retired Professor of Surgery and Head of Department, S.M.S. Medical College, Jaipur, was then called in.)*

CHAIRMAN: Now, I welcome you, Doctor, to give your evidence before this Committee. The proceedings of this Committee will be treated as confidential and they will not be published.

DR. TALWAR: Would you like me to read my note?

CHAIRMAN: Your Memorandum has been circulated, but if you want to make any comments, it is for you... *(Interruptions)*.

WITNESS: With your permission, Sir, I will read my note for the benefit of the Committee.

Sir, this Bill is primarily a Bill to cover Registered Medical Practitioners from the charge of an illegal operation and its consequences, and thereby extending to all women the safety and security of an operation performed without fear and under optimum surgical conditions.

It should therefore be unnecessary to limit the right of the woman, provided she is an adult and in a state of mental health required to come to an intelligent and voluntary decision, to have her pregnancy terminated, if she should so desire and express in writing to her Doctor, without any other let or hindrance, leaving the safety of the operation and her subsequent health to the care and discretion of her said Doctor.

Exceptions to the above para would be minor girls and those women whose state of mental health does not permit of an intelligent and deliberate

decision. In such cases permission of their guardian should be obtained as required by section 3 (4) c, d.

The above suggestions, if accepted, would eliminate all the conditions imposed or allowed by section 3 (2), 3 (3), 3 (4).

In any case consent of the husband should not be necessary when a woman should desire termination of a pregnancy which is the result of a rape (or under intoxication) as is required by section 3 (4) a of the Bill.

Presuming that only a female can become pregnant, the use of the pronoun 'his' in two places in section 2 (a) appears in-appropriate and should at least be preceded by the pronoun 'her'/'his', the last in view of a husband who may be a minor or lunatic as mentioned in section 3 (4) a.

The coverage provided by section 5 should be extended to the permission ordinarily necessary to be obtained from a patient undergoing a surgical or anaesthetic procedure, when the woman concerned should be unconscious, in which case permission given in writing by a responsible person in attendance on her should be obtained and be sufficient.

If a case should go to a court of law it should be enough for the proper discharge of his duty by the judge if he is orally informed in his chamber of the incidence of the termination of the pregnancy, without the latter coming on record and working to the detriment of the woman.

Section 3(4) 3 is not quite clear as to whether the consent of the pregnant woman would be necessary in all cases. "Save as otherwise provided" seems to imply that it is not necessary always to take the consent of the patient before submitting her to a surgical procedure. Even when the patient should be a minor (which under the present law does not cease till after the age of 21 years, already

intended to be reduced to 18) her consent should be necessary, for if she is old enough to become pregnant she is or should be considered old enough to make a valid decision with regard to the termination of her pregnancy. This is also recommended by the Shah Committee.

In the implementation of the facilities provided for in this Bill special hospitals should be created where the staff would specialise in this particular work. This would result in the giving of immediate treatment to such cases who by the very nature of their conditions cannot afford to wait till a bed should fall vacant in General Hospitals run by the Government. Specialisation would make for greater efficiency and for the possibility of research in safer and quicker methods of evacuation. It would also enable retired medical personnel, otherwise physically fit and technically competent, to take the load of this extra work off the shoulders of the younger people, who would thus be made free for more arduous and complete work. The provision of 24 lakhs for the whole country would have to be expanded rapidly to as many crores, for it will be grossly inadequate otherwise.

It is necessary to consider who should be permitted to do these terminations. In this regard one has to note that they are already being done. The doers are said to be unqualified people. I have no personal knowledge of them but I wonder if they would consistently be inexpert at their job. It may appear, after the passage of this Bill and the disappearance of the need for secrecy that the so-called quacks may have among their ranks people quite expert at their job. If such there be who are skilful, their open cooperation would go some way in solving the problem. Sir, I do not advocate unqualified people, who are not expert at their job doing this operation. I am only pointing out the possibility of skilful people among them like Slocum, for instance,

who was not a qualified engineer and yet he could build the best of dams. So, there may be people who may not hold any degree, but having practised the art for all these years have become experts. We will be lacking personnel to do this work and give this aid to these unhappy women. So, without being too orthodox I have a suggestion to make for what it is worth that the aid of other skillful persons may be taken.

Now, whether the doctors following the integrated system of medicine should be permitted to undertake these operations, and more so whether the practitioners of Ayurvedic medicine and the Homoeopaths should also be permitted, the criterion would or should be the same as apply to those practising modern medicine, viz., competency to carry out all the measures essential for the safe conduct of the operations and the care of the woman subsequently. No one, I think, should be allowed to do this work who has not been a House Surgeon under a qualified surgeon for at least one year or an equivalent apprenticeship under a surgeon of any of the other creeds. No one, not even the most ardent advocate of the other systems, would want to place the lives of these patients in the hands of people who would leave a long trail of disabled women in the wake of their practice. Therefore, all would agree on the insistence of the minimum skill, to whatever system the surgeon may belong. Obviously the most suited would be the gynaecologists but they are already fully occupied, and so are the surgeons trained in general surgery. It is true that even these will have to take extra burden but there is a large number of retired people with the necessary skill who may, like retired Generals and soldiers in times of war, be recalled to duty. Do not please think that I am pleading my own cause. I am merely pointing it out. But they must be paid adequately and not appear to be exploited.

Then, there are young graduates coming out of the medical colleges,

some of whom would like to make of this work their speciality, and they could be rapidly trained up and sent out to man the cottage hospitals. I know that it is difficult to get trained surgeons to go to the villages, but that would not be a problem peculiar to this kind of work and will be solved only with the rest of the problem of rural medical aid. But the point I am making is that once the stigma of 'abortionist' is removed by the operation coming within the law and the fear of criminal prosecution is taken away there would be no lack of workers in the field. It would obviously be foolish to expect that a full-grown service would emerge from the word 'go', but if the foundations are well laid and every district town in the country—and if I am not mistaken there are 319 regular districts (outside Jammu and Kashmir to which this Act would not apply) in addition to Delhi and the other Union territories—has a 50-bedded hospital, with a staff of five surgeons and five nurses with ancillary personnel, a good beginning will have been made. And it is not necessary that everyone of these should be on the ground in the first year of the scheme—slow but steady work will succeed.

Who should foot the bill. In my opinion it is the Central Government. This Bill is the brain-child of the Family Planning Department of the Health Ministry—in fact, it is not a Department but half the Ministry. This should not be considered the work of the ordinary health service of the States but like the family planning work the responsibility of the Central Government.

It is undoubtedly true that prophylactic measures of family planning should be the mainstay of the population control campaign; it is equally true that when FP methods fail operative help must be given to the unhappy mothers. The very fact that Explanation II to section 3(2) has been included in the Bill shows that



this termination of pregnancy work is an extension of family planning. I therefore do not understand why the State Minister of Health and Family Planning should have refused to give this Bill the status of a population control measure.

Should an abortion be accompanied by sterilisation? I think it should, but it should not be made a condition for terminating the pregnancy, the latter question being judged purely on its own indications. Most women would agree to the sterilisation for they would already have had two or three children or would appreciate that future pregnancies would be detrimental to their health and/or survival. But whether it should be her husband or herself who should be sterilised may be left to the parents.

However, I can visualise a woman wanting the termination of an unwanted pregnancy but refusing to undergo sterilisation herself and her husband similarly refusing. Neither can be forced and so the only course open is persuasion and education.

Due publicity should be given to the availability of this service so that women are not exploited through ignorance.

All clinics doing this work should be registered with the State or the Central Health Directorate.

If there are any questions on this I am at your disposal.

**CHAIRMAN:** I would request Members to put questions.

**SHRI GANGACHARAN DIXIT:** On page 2 of your memorandum you have said:—

“Even when the patient should be a minor, her consent should be necessary, for if she is old enough to become pregnant she is or should be considered old enough to make a valid decision with regard to the termination of her pregnancy.”

Do you mean to say that it will not widen the provision of the Indian

Majority Act? Should not be followed. A minor's consent is no consent at all. According to the Indian Majority Act a minor's consent is no consent and you say that because she is able to become pregnant she should be taken as a major.

**SHRI GANGACHARAN DIXIT:** You say when she has become pregnant, she should be considered old enough to take a decision with regard to the termination of the pregnancy and because her consent would be necessary, it should be taken though it may be against the Indian Majority Act. But do you know that minors consent is no consent at all.

**WITNESS:** I am quite aware of that. I am stating here that a person has got in fact absolute authority over her own body. She has become pregnant and therefore she should be considered for our purposes fit enough to be able to decide whether she will be submitting to an evacuation or not. I do not say that her guardian's consent should not be taken. I say in addition to the guardian's consent the woman must also consent that she will be operated upon.

**SHRI GANGACHARAN DIXIT:** But here in sub-clause (4) (e) it is said: “Save as otherwise provided in this sub-section, no pregnancy shall be terminated except with the consent of the pregnant woman”. This means to imply that it is not essential always to take the consent of the patient before submitting her to operation. This section 3(4) E is not quite clear as to whether consent of pregnant woman would be necessary in all cases. You say that if she is a minor her consent should also be taken. But if she is a minor, minor's consent should also be there. How will a minor's consent according to Indian Majority Act? She may be a minor, she may be a major. It is not mentioned, it is not clear in the provisions of the Bill anywhere. Do you mean to say that because she is pregnant, she may be taken as a major woman?

WITNESS: No. But her consent should be obtained; I am not concerned with major or minor.

SHRI GANGACHARAN DIXIT: How can her consent be valid because it is against the provisions of the Indian Majority Act? Minor's consent is no consent.

WITNESS: All right, modify the Act. You are Members of Parliament. You know the matter. You have respect for the woman. Therefore, modify the Act.

SHRI GANGACHARAN DIXIT: What have you to say about the subjective satisfaction of a doctor? Do you mean to say that the subjective satisfaction of a doctor on the health ground is sufficient?

WITNESS: I do not understand the meaning of subjective satisfaction.

SHRI GANGACHARAN DIXIT: Subjective satisfaction means if a doctor simply says, "I am satisfied that her health is not good". Do you mean to say that this subjective satisfaction alone is quite enough?

WITNESS: Yes.

SHRI GANGACHARAN DIXIT: Do you not agree with me in this respect that or the subjective satisfaction should be governed by some relevant factor because in recent rulings of the Supreme Court it is said that subjective satisfaction is not enough and it must be governed by some relevant factors? What have you to say regarding this?

WITNESS: What other regulating mechanism do you propose?

SHRI GANGACHARAN DIXIT: If a doctor says, "I am satisfied", simply the saying of the doctor is enough that her condition is good or bad?

WITNESS: What other condition do you propose to limit this independence of the doctor?

CHAIRMAN: He wants you to prescribe some other conditions in addition.

WITNESS: I do not think any other condition is necessary. A doc-

tor is an honourable man. You take his advice in every other case. Why do you think he is going to anything but honourable in this case?

SHRI GANGACHARAN DIXIT: Do you mean to say that the doctor's subjective satisfaction is enough?

WITNESS: He is coming to an objective decision.

SHRI GANGACHARAN DIXIT: It is subjective satisfaction.

WITNESS: I am not concerned with the subjective part of it. I am concerned with the objective, deliberate diagnosis of the doctor and I have no reason to doubt his integrity.

SHRI PRATAP SINGH: In the Bill on page 3, according to clause 4, termination of pregnancy shall be done "(a) in a hospital established or maintained by Government, or (b) a place for the time being approved for the purpose of this Act by Government". What is likely to happen is that a large number of clinics may apply for permission to the Government that they should be declared as clinics which are capable of or fit for performing abortions. Do you propose that all such clinics existing in the country be allowed to perform such operations?

WITNESS: They are to be registered, Sir. Mr. Pratap Singh, my last recommendation in my note, you will remember, is that all clinics and all places where this work is to be done must be registered. If they are to be registered, they will comply with the regulations made by the registration authority before their name is put on the register.

श्रीमती बिन्दुमती देवी : अभी आप ने कहा कि एक्सप्लेनशन दो जो पेज दो पर दिया हुआ है उसकी मंशा यह मालूम पड़ता है कि हम इसका इस्तेमाल एक ए फैमिली प्लानिंग मजूर भी करना चाहते हैं। लेकिन इसमें पेज 4 पर दिया हुआ है कि हमारा यानी इस बिल का यह प्रावजन नहीं है, तो क्या आप सजेस्ट करेंगे कि इस explanation दो को डिलीट कर दिया जाय?

WITNESS: It is my purpose that the status of the Bill should be elevated, if I can use the word 'elevated', to the status of a population control measure, because this is what you are going to use it for.

श्रीमती बिन्दुमती देवी : बिल में पेज 4 पर दिया हुआ है कि यह हमारी मंशा नहीं है।

साक्षी : वहां माडिफिकेशन करना चाहते हों तो कर दीजिये ।

SHRI N. R. LASKAR: As you are agreeable to most of the provisions of the Bill, I do not like to put questions on them. So far as the qualification of a doctor is concerned, you say any registered, qualified doctor will be able to do the operation or abortion. Is it not? Any registered, qualified doctor on the subject will be able to do the operation?

WITNESS: I only said that it is not anybody who is not qualified that the Bill permits to operate. It is only qualified people that are permitted to do the operation. If he should also have the skill to do it, that would certainly be a very very nice thing. I would insist upon it.

SHRI N. R. LASKAR: You say that any M.B.B.S. doctor who goes through special training can undertake this operation?

WITNESS: Of course, yes.

SHRI N. R. LASKAR: Please go through your memorandum. You have said that no one should be allowed to do this work unless one has been a house surgeon for at least one year.

WITNESS: Because this will provide him the necessary skill. What I am trying to drive at is that you are very short of staff and, therefore, you must try and get as many people on the floor of the theater as you can afford consistent with the health of the patient. Therefore, the best person, as everybody feels, is the gynaecologist.

SHRI N. R. LASKAR: I want to understand from you whether any

M.B.,B.S. doctor who goes through the special training without being house surgeon can do that.

WITNESS: House surgeonship is only to give him the skill.

SHRI P. VISWAMBHARAN: Dr. Talwar I would like to get further clarification from you. The point which has been raised by my friend there is regarding the consent of the minor. Is it your contention that the consent of the minor should also be obtained or whether the consent of the minor is enough and the consent of the guardian is not necessary?

WITNESS: Yes, in addition to the consent of the guardian.

SHRI P. VISWAMBHARAN: In sub-section (b) of section (2) of clause 3 of the Bill it has been suggested that a pregnancy may be terminated by:—

"not less than two registered medical practitioners, acting together where the length of the pregnancy exceeds twelve weeks but does not exceed twenty weeks . . ."

and a registered medical practitioner can terminate the pregnancy where the length of the pregnancy does not exceed twelve weeks. I should like to know whether this specific clause should be there. Why I put this question to you is that doctors are performing more complicated cases of surgery than termination of pregnancy. In those cases I do not know whether there is any law providing that so many doctors should be there to perform an operation. If this is not there why should there be a specific provision for this purpose in this Bill. Is it not enough that we leave it as in the case of other surgical operations? Of course, if it is a complicated case any surgeon may seek the advice of any other surgeon or the assistance of any other of his colleagues. So I would like to know whether this provision of "one doctor" or "two doctors" should be there or it should be left to the discretion of the doctor doing the operation.

**WITNESS:** Would you oblige me by letting me have the opinion of those people who have drafted the Bill as to why they have put this clause?

**CHAIRMAN:** You are an eminent doctor. He wants to know your opinion if it is not enough to have one doctor.

**WITNESS:** I agree with every word he said. But I am ignorant of the reasons which have impelled the Health Ministry to put this thing, and in view of what they have said I may have to modify my views.

**SHRI P. VISWAMBHARAN:** I want the advice of an eminent doctor like you in this respect whatever the Ministry Draftsmen might have thought about it. I should like to know whether this particular clause should be there or even without this particular clause the purpose of the Bill will be served.

**WITNESS.** I understand you perfectly. The only point I would like to make is when the indication is "mental health", then it would be nicer if the advice of a psychiatrist is obtained. But in all other matters the surgeon is capable of making a decision on his own.

**CHAIRMAN:** The only thing is that the Bill recommends one registered medical practitioner where the length of the pregnancy is within twelve weeks and two doctors where it exceeds twelve weeks but does not exceed twenty weeks. He would like to know whether for the period between twelve weeks and twenty weeks one doctor will be sufficient. The question of mental anguish does not arise.

**WITNESS:** The indication about mental health is given. "Where the continuance of the pregnancy would involve a risk to the life of a pregnant woman or injury to his physical or mental health?"

**SHRI P. VISWAMBHARAN:** That means two medical practitioners for terminating the pregnancy are not necessary. According to you the cer-

tificate of a psychiatrists should be obtained from the point of view of her mental health.

My next point is should not the advice of a psychiatrist be obtained without the specific provision to that effect in the Bill. Could the surgeon who does the operation not get the advice of a psychiatrist even otherwise?

**WITNESS:** May or may not.

**SHRI P. VISWAMBHARAN:** If at all two medical practitioners are recommended here in the Bill according to you it should be specifically mentioned that one should be a psychiatrist.

**WITNESS:** I would say in definite words that a psychiatrist's opinion should be taken in all cases where there is indication of mental health as the reasons of operation. Whether it is 12 weeks or over 22 weeks is irrelevant. And as far as the operation, is concerned one surgeon is sufficient. It is not one surgeon who will be operating. He will have his team in his theatre. There would be provision for blood transfusion, for cardiac trouble and all other things. The head of the team would be one man.

श्री निरंजन वर्मा : डाक्टर साहब, आप कृपा कर के आपने जो नोट दिया है उसका पांचवां पैराग्राफ देखिये, उसमें आप ने कहा है

"In any case consent of the husband should not be necessary when a woman should desire termination of a pregnancy which is the result of a rape (or under intoxication) as is required by section 3(4)(a) of the Bill."

तो अब किसी पति के जीवित रहते हुये उसकी पत्नी यदि यह बहे कि उसके साथ रेप हुआ तो क्या जब कि उसका पति जीवित है उसके पति को कुछ कहने का अधिकार नहीं होगा या उसके कंसेंट की आवश्यकता नहीं होगी। उस दशा में जो भ्रूण है वह रेप के द्वारा है या उसके पति का है यह तो कुछ कहा नहीं जा सकता तो उस दशा में

पति की अनुमति या आज्ञा लेने की आवश्यकता आप क्यों नहीं आवश्यक समझते।

जबकि दो महीने का किसी को गर्भ है और तीसरे महीने में रेप हुआ . . .

WITNESS: Rape is a condition which a woman would ordinarily not wish. If she says that she has been raped and there is sufficient medical and legal evidence to that effect I do not see why you require the consent of the husband who may or may not agree.

साक्षी : अगर रेप हुआ है दैट इज इतफ ।

श्री निरंजन वर्मा : मान लीजिये कि एक स्त्री के पास दो महीने का फीटस है और तीसरे महीने उसके साथ रेप हुआ . . .

श्री निरंजन वर्मा: वह तो हो गया, लेकिन दो महीने का गर्भ है जोकि पति का है, लीगल है, जायज है . . .

साक्षी : यह कैसे मालूम हो कि रेप हुआ ।

साक्षी : यह कैसे मालूम कि पति का है ।

श्री निरंजन वर्मा : स्त्री कहती है कि मेरे साथ रेप हुआ । अब वह स्त्री चाहती है कि हमारे फीटस को रिमूव कर दिया जाय और चूंकि दो महीने का उसके पति का फीटस भी है तो क्या उस समय भी पति के कंसेंट की आवश्यकता नहीं ।

श्री निरंजन वर्मा : पत्नी को मालूम है कि रेप तीसरे महीने हुआ और उसके पहले का गर्भ दो महीने का है, तो अगर ऐसी स्थिति आये तो भी क्या आप बिल्कुल एक्सप्लीसिट प्रोपीनियन दे गेदे कि पति के कंसेंट की आवश्यकता नहीं है ।

साक्षी : पति रेप नहीं करता ।

श्री निरंजन वर्मा : आप मेरी बात समझे नहीं ।

साक्षी : आप मेरे नोट का पैराग्राफ 2 पढ़ियेगा । मेरा दृढ़ विश्वास है कि स्त्री के ऊपर अपरेशन हो या नहीं हो इसको डिस्टाइड करने के लिये स्त्री खुद रिसांसिबिल होनी चाहिये । पति अगर यह कहे कि यह गर्भ तो मेरा है इस वास्ते इसको नहीं निकालना चाहिये, यह जो रीजनिंग आपने दी है कि वह रीजनिंग तो वैसे भी एप्लाइ करेगी । आखिर आप भी तो स्त्री को कहियेगा कि देख तेरा बच्चा दो महीने का है और रेप तो कल हुआ तो यह कैसे कह सकती हो कि यह रेप की वजह से है और इस कारण से वह अपरेशन न करवाये ।

साक्षी : मैं ठीक कहता हूं, मैं समझता हूं, आप कहते हैं कि दो फीटस उसके अन्दर हो, यह भी नहीं हो सकता है ।

श्री निरंजन वर्मा : उसका पति तो जिन्दा है तो उस समय उसके कंसेंट की आवश्यकता आप क्यों नहीं अनुभव करते ।

साक्षी : क्योंकि उसकी स्त्री रेप हुई है ।

श्री निरंजन वर्मा : मेरी जो धारणा है वह मैंने निवेदन की कि दो महीने का किसी को गर्भ है . . .

श्री निरंजन वर्मा: अगर मान लीजिये कि पत्नी पति की बात को मानने को तैयार नहीं हो और वह गर्भ गिराने के लिये बिल्कुल तैयार है और पति को आज्ञा लेना नहीं चाहती । मैं एडवोकेट हूं, मेरे पास सेरे रेप के केसेज

साक्षी : मेरे ख्याल में हसबैंड के कंसेंट कोई आवश्यकता नहीं है ।

श्री निरंजन वर्मा : आप एक्सपर्ट ! इसलिये आप बतायें कि उस स्थिति में

आते हैं इसलिये इसके बारे में आप से जानना चाहता हूँ कि क्योंकि आपकी ओपीनियन एक्सपर्ट की ओपीनियन है और इसलिये मैंने पूछा कि ऐसे केसेज हों तो आपकी क्या राय है।

साक्षी : मेरे आंखर से आप सेंटिस्फाइड हुये कि नहीं या मैं और कुछ कहूँ।

श्री गंगाचरण दीक्षित : अगर पत्नी चाहती है और पति नहीं चाहता है, पति चाहता है कि गर्भ न गिराया जाय और पत्नी जिद करती है कि गिराया जाय और पत्नी को राय ले कर के वह गर्भ गिरा दिया जाय तो फिर हमारे यहां की जो परम्परा है, ट्रिडिशन है, जो फैमिली ट्रिडिशन है, वह कैसे रहेगी।

डा० सुशीला नयर : अच्छे होंगे तो सलाह करके यह करेंगे और अच्छे नहीं होंगे तब यह चीज आयेगी।

श्री गंगाचरण दीक्षित : आप कहते हैं कि इन नो केस दी कंसेंट शुड बी अबटेड लेकिन अगर हसबैंड इसके लिये कंसेंट दे दे तो फिर क्या आपत्ति है।

DR. SUSHILA NAYAR: I think what Dr. Talwar says is—and I myself agree with him—that when a man has to undergo an operation, it is not necessary for him to get the permission of his wife. Similarly if the wife has to undergo an abortion, she must be the mistress of her own body and it should not be necessary for her to get permission from anybody, provided she is an adult and is of sound mind.

श्री निरंजन वर्मा : दूसरी बात। कोई अनमेरिड लड़की जो कि 18 वर्ष के ऊपर की हो तो डा० सुशीला नयर ने जैसा कहा कि वह अपने शरीर के ऊपर जैसा चाहे करे लेकिन इस कानून के अन्तर्गत जैसा कि वह वर्तमान में है वह मेरिड है तो उसके पति को आज्ञा लेना आवश्यक है क्योंकि इसमें यह नहीं बताया गया है कि पति की आज्ञा की आवश्यकता नहीं

पड़ेगी। तो अब आप यह बताने का कष्ट करें कि आपने अपने नोट के पराग्राफ 8 में यह बताया है कि जज के चैम्बर में जा कर कहें और वह सफिशियेंट होगा तो यह आपने किस अनुभव के आधार पर लिखा है।

साक्षी : मैंने कहा कि मैं लाइयर नहीं हूँ यह मैंने एज ए डाक्टर विर हिज रिलेशन टु ए पेगेंट के अनुभव के आधार पर कहा है। ला. कोर्ट की बात आप जानते हैं मैं क्या कहूँ कि वहां क्या होता है। मैंने अपने प्वाइंट आफ व्यू से बता दिया। अब कोर्ट के सामने क्या आप कहेंगे यह आप जानें आका काम जानें।

श्री निरंजन वर्मा : आपने लीगल मामले में एक राय दी थी इस लिये मैंने पूछा। अब तीसरी बात यह है कि आप केवल डाक्टर ही नहीं हैं बल्कि समाज सुधारक भी हैं इसलिये आप यह बताने का कष्ट कीजिये कि इस प्रकार के कानून के बन जाने के बाद समाज में जो 18 वर्ष की अविवाहित लड़कियां हैं जो कि कालेजों में रहती हैं जो कि स्वतंत्र रूप से जीवन व्यतीत करती हैं और जिनके गार्डियंस भी हैं उनके चरित्रों के ऊपर इसका अनुचित प्रभाव नहीं पड़ेगा।

साक्षी : वर्मा जी जहां तक अनुचित प्रभाव की बात है तो उसको अनुचित बनाने का जिम्मेवार तो आपका सिनेमा है और इसके ज्यादा आपकी आती कमी है आपने अपने बच्चों में वह रिसांसिबिलिटी का माह्रा रूढ़ा नहीं किया है जिसके आधार पर आप यह चाहते हो कि वह लड़की या लड़का एक तरीके का स्वभाव बनावे। तो उनके ब्लेम करने के पेशतर इस बिल को ब्लेम करने के पेशतर आप अपने को ब्लेम करो कि आपने अपना काम पूरी तरह से नहीं निभाया। If any child has been properly brought up and the training imparted to that child has been appropriate, nothing in the world can shake his morality. But if anything like that happens, it is only indicative of our failure. When things

break down, the way out is provided in the Bill. This Bill has nothing to do with what the effect of this would be on the morality of the boys and girls. Nobody will read the Bill and then go and cohabit. She would have done this long before and then she will go asking for help because the girl is in a dreadful state of mental torture.

**SHRI NIRANJAN VARMA:** *Ignorantium legis non excusats*

एक सिद्धांत है।

**WITNESS:** That is your concern. But from the human point of view everybody is ignorant and gets into difficulties.

**श्री निरंजन वर्मा :** तो आपका ख्याल है कि कानूनों का प्रभाव नहीं पड़ता समाज पर।

**साक्षी :** इसके बारे में आप जानते हैं आप कानून शास्त्री हैं मेरे से क्यों पूछते हो।

**श्री निरंजन वर्मा :** मेरी एक प्रार्थना और है कि जो लड़की और लड़के ऐसे हैं तो क्या आपका यह ख्याल है और इससे आप सहमत हैं कि इस प्रकार के कानूनों की आवश्यकता के होते हुए कानून भी बनना चाहिये और उनके मारल की शिक्षा के लिये भी कोई न कोई प्रबन्ध होना चाहिये।

**साक्षी :** जी हां।

**DR. (MRS.) MANGLADEVI TALWAR:** I would like to ask one question. You are putting a condition that no one should be allowed to do this work who has not been a House Surgeon under a qualified Surgeon for at least one year or an equivalent apprenticeship under a surgeon of any of the other creeds. If you put this condition that they should have done one year's house surgeonship I would just like to know how many boys and girls who pass out of the Medical Colleges have a chance of becoming house surgeons especially under a surgeon. Only two or three of them can do house surgeonship the rest have to find their own professions or their

own place. Don't you think this condition would restrict the M.B.B.S. graduates who would otherwise want to do this work? I think this condition will restrict the newly qualified graduates like M.B.B.S. and others and I think this should not be there. It should be enough if they are given training or orientation course for some time and it should be made sure that they have become quite competent to perform this operation. Regarding the followers of other systems the same should apply to them. They should also be given very intensive and in fact longer training if they want to do this operation. That is what I have to submit that this condition that they should have done one year's house surgeonship should not apply.

**WITNESS:** I quite agree with you in everything that you have said. The intention is to provide the skill and if you feel that skill has not been already provided during the training period it should be provided afterwards before this work is allotted to them. And this applies to everybody whatever the system of medicine he might be practising.

**SHRI B. S. MURTHY:** Doctor, there is a suggestion before us by a very important organisation that the decision to resort to abortion should only be taken by a Board of three specialists, one physician, one gynaecologist and one expert on mental health, preferably a psychiatrist. What is your view on this suggestion?

**WITNESS:** Where is the question of Board here? Is it in the Bill?

**SHRI B. S. MURTHY:** That is suggestion which has been placed before us that there should be a Board of three doctors, one specialist, one gynaecologist and preferably one psychiatrist before a decision is taken for termination of pregnancy.

**WITNESS:** I do not agree.

**SHRI B. S. MURTHY:** What is your suggestion then?

**WITNESS:** One doctor.

**SHRI B. S. MURTHY:** Specialist in the subject?

WITNESS: The woman's family doctor and if he is not a surgeon then the surgeon to whom the family doctor will take the patient.

SHRI B. S. MURTHY: What is the period at which pregnancy can be terminated without any danger to the mother?

WITNESS: There is no such period.

SHRI B. S. MURTHY: Which is the period of comparative safety?

WITNESS: There is always a risk; in normal pregnancy there is risk and in abortion also there is risk to the mother. God made mothers to always take risks. These are part of their life's work. As far as the risk is concerned, it will be evaluated by her doctor under all circumstances.

SHRI B. S. MURTHY: The general popular opinion seems to be that an attempt at abortion before three or four months does not involve a great risk. Is it a fact?

WITNESS: Well, it depends upon what you call 'great'. Abortion does carry a risk and there are three or four casualties or deaths per hundred thousand.

SHRI B. S. MURTHY: You said that the husband commits no rape.

WITNESS: I did say that.

SHRI B. S. MURTHY: But according to the Indian Penal Code Section 375 sexual intercourse by a man with his own wife who is under fifteen is rape.

SHRI NIRANJAN VARMA: He is not supposed to be a lawyer.

SHRI B. S. MURTHY: I am asking for his views as a doctor, not as a legal luminary. As a doctor of experience what do you think of that, doctor?

WITNESS: Most of the people whom I have come across were not of that age. If you say that a husband who commits gently an intercourse with his wife to whom he is married—and having married her he has the right to have intercourse with her—is com-

mitting rape according to your law, then modify your law.

DR. SUSHILA NAYAR: On the other hand, implement the law about the age of marriage and see that no woman is married at an earlier age than what the law permits. The law does not permit marriage at fourteen or fifteen. See that you implement your laws and observe the age of marriage.

SHRI NIRANJAN VARMA: But that is not a cognizable offence that is the difficulty.

SHRI B. S. MURTHY: There is some sentimental objection in certain pockets in the name of religion, in the name of customs and other things against termination of pregnancy. What do you think we should do to convert them to our view?

WITNESS: Educate them.

SHRI B. S. MURTHY: How?

WITNESS: By ordinary education. People are becoming very liberal now. I do not know how people think that we are still living in 1500 B. C. We are now in 1970 and even our young children know what marriages imply, what birth control means I do not know how these questions are relevant to this Bill with due respect to Mr. Murthy, of course.

SHRI B. S. MURTHY: You must also recognise that there are two ideas one belonging to Dr. Talwar and other to another section of people who think that such steps should not be undertaken. Therefore, as an expert recognise that there are two ideas assistance and help as to how to get over these difficulties.

WITNESS: Educate them. Educate them and tell them that women are human beings. Women are not something to be put in a bed and rape committed on them. They are partners in our life's work. Educate them that in our country the value of a woman is very very high. I do not know why people keep on degrading woman.



**SHRIMATI USHA BARTHAKUR:** On page 2, Clause 3, sub-clause 2(b) says, "not less than two registered medical practitioners, acting together, where the length of the pregnancy exceeds twelve weeks but does not exceed twenty weeks." This Bill, when passed, will be applicable to all the women, whether literate or illiterate. Generally we find in rural areas that due to ignorance the mothers are not aware of the date of their menstruation. When there is a long gap, then they become concerned that they are pregnant. But they cannot say the length of the pregnancy period. It may be within twelve weeks or it may be more than twelve weeks. In such circumstances when they go to a doctor for the termination of their pregnancy, how will the doctor decide the length of the pregnancy period and whether one doctor is enough or two doctors are required? Secondly, occasionally it is found, though rarely, even during the period of conception monthly menstruation occurs within twenty or twenty two weeks of pregnancy. In some cases it happens that menstruation does not occur at all between the birth of one child and the conception of another one. In these complicated cases how will the doctor correctly judge the pregnancy period if the women approach them for the termination of pregnancy? Suppose he decides that the pregnancy is within twelve weeks or so and does the termination, but later on it is found that the pregnancy was actually of about twenty weeks. In such a situation, will the doctor be punishable for terminating the pregnancy?

**WITNESS:** The question is how the doctor is to know the period of the pregnancy. Well, if I describe how the doctor is to know, Mrs. Barthakur will none be the wiser for it. All I have to say is or all that I need to say is, that the doctor can make the diagnosis, whether the pregnancy is early or whether the pregnancy is in its mid term. That is the answer for that part of the question. As regards the other part, she is probably concerned about the people who have been conducting

the abortions. I have already said that two doctors are not necessary; and I have already said that if the indication for the abortion is the mental condition, then the aid of a psychiatrist may be necessary irrespective of the duration of the pregnancy. Both her questions are covered.

**SHRIMATI USHA BARTHAKUR:** As there is a high probability of early pregnancy following an induced abortion and as repeated abortions are unhealthy to a woman, do you think there should be a provision in the Bill regarding the gap between two abortions—that there should be so many years of gap between one abortion and the next—and also regarding the number of abortions?

**WITNESS:** I did not get the hang of the question. But my position is this that an abortion is to be offered to a woman only if she will consent to make future pregnancies impossible, and an abortion is not to be repeated, not in the ordinary way. I do not know whether this answers Mrs. Barthakur's question. If she is satisfied, then it is all right; otherwise, she can ask a supplementary.

**SHRIMATI USHA BARTHAKUR:** No, that is enough.

**SHRIMATI TARA SAPRE:** Please see No. 9 on page 2 of your memorandum. At present the age of maturity/majority for girls is 18. You have said that when the patient is a minor, her consent should be necessary if she is old enough to be pregnant, she is not, she should be considered old enough to make a valid decision with regard to the termination of her pregnancy. A minor unmarried girl, just not even eighteen years, wants to retain her pregnancy though her parents want to terminate for fear of a social stigma. In this case these unmarried girls below 18 are likely to be emotional and have no proper judgment of the social stigma that may be attached to the child in its later life. So, don't you think that in such cases a parent or the guardian is the best judge in spite of her not consenting to the termination of her preg-

nancy? If particularly the mother of the girl wants to terminate the pregnancy for the sake of the future life of the child and the future life of the girl, don't you think that the termination should be done?

WITNESS: I take it that you are a mother and you must have personal experience that under such circumstances there would be an infinitesimal number of girls who will not be able to understand the situation put to her by her mother. So I think that question is rather hypothetical in the sense that the girls will consent and will not stand up against her own mother's coaxing, reasoning, love, understanding and affection. All these things go into a family life. If the mother has got no bond with her daughter, then the mother has no concern for the girl, whether she is pregnant or not, whether she gets it terminated or not. I presume the mother and the daughter have got an intimate bond of love. I do not see why the girl will not respond.

SHRIMATI TARA SAPRE: In this case there may or may not be a natural mother for the girl. There may be only a guardian.

WITNESS: I do not understand your question, what situations you are implying.

SHRIMATI TARA SAPRE: In some cases girls are too emotional that they will be able to bring up the child, all right. They do not know how the child will suffer.

WITNESS: Then you tell her. But today there are no such girls who do not understand the social stigma. There are no girls like that. And if the mothers cannot make their own daughters understand, all right, let the girls make their mother understand. I do not understand where the problem lies. The girls cannot be emotional all the 24 hours of all the days of the week of all the months of her pregnancy. It cannot be.

SHRIMATI TARA SAPRE: It is a question of only a few weeks.

WITNESS: Yes, even that should be sufficient to make her understand. But have you had experience of such occasions? Have you come across any such cases?

SHRIMATI TARA SAPRE: Yes, I have come across such cases.

WITNESS: Then, have you gone into their family history?

SHRIMATI TARA SAPRE: Because of some idealistic views, the girls go on saying that they will have the child and try to bring it up.

WITNESS: Either the daughter should be able to make her mother understand or the mother should be able to make her daughter understand.

SHRI GANESH GHOSH: Doctor, I am surprised and happy to find that such liberal and radical views on such complex social problems have come from such an elderly person like you. I congratulate you. I have now one or two simple questions to ask.

Doctor, what you have said both in your statement and orally, if that is incorporated in the new Bill, don't you think that the number of such cases will be so big as to produce a condition of near-crisis in our country?

WITNESS: No, no.

SHRI GANESH GHOSH: Under the present conditions in our country and looking to the availability of medical facilities, do you think this will be good for the prospective mothers health and life?

WITNESS: What is happening today? You will only be improving on what the present situation is and that is all that one can do.

SHRI GANESH GHOSH: Being a very experienced doctor, do you think there is any special significance in limiting premature termination of pregnancy to only 20 weeks and not extending it to 27 or 28 weeks when there is the possibility of the viability of the child?

WITNESS: This Bill deals with abortions. Abortions do not include 27th week of pregnancy.

SHRI GANESH GHOSH: Will you kindly refer to clause 3 (2) (b) of the Bill where particular mention has been made of the 20th week of pregnancy? Any significance attached to the 20th week?

WITNESS: Well, it is being differentiated from the first period of 12 weeks.

SHRI GANESH GHOSH: As a doctor, do you think there is any difference between the 20th week and the 25th week or the 26th week?

WITNESS: Yes, it is becoming more and more dangerous to the mother.

SHRI GANESH GHOSH: Is the 19th week more dangerous than the 18th week?

WITNESS: It is no use asking these questions because the doctor is going to evaluate the danger to the patient. Therefore these questions are not material.

SHRI GANESH GHOSH: Do you think there is any special significance in mentioning the 20th week?

WITNESS: You may say: "Why not 20 weeks and two hours?" I have no objection.

DR. M. SANTOSHAM: Doctor, I would like to know whether as a family planning measure you would advocate termination of pregnancy.

WITNESS: No, in the sense that it is not the first thing to do, it is the last thing to do.

DR. M. SANTOSHAM: In any case in the family planning programme this will not come in.

WITNESS: It will come in; it is already there in the Explanation.

DR. M. SANTOSHAM: Doctor, you know that an induced abortion is likely to produce many serious comp-

lications—perforation of the uterus and severe haemorrhage. When you say that such institutions must be registered, would you also advocate that this should be done only in institutions where such complications can be effectively combated?

WITNESS: Yes.

DR. M. SANTOSHAM: Would you like that to be put down in the Bill?

WITNESS: I think it is understood. When a clinic is registered for the purpose of this service, the registering authority will ensure that all such facilities are provided for. I do not think there is any need to put it in black and white because it is understood. Doctors are very responsible people and I do not know why their integrity is doubted; they will see to it that their clinics are well equipped. Then the Directorate of Health, Central or State, will have to see to it that such registered clinics are fully equipped.

DR. M. SANTOSHAM: I am asking this specific question because it has been said that unregistered persons who have been carrying on this trade of induced abortions, if they are sufficiently skilled, they may be called in and may be registered and it is quite possible that these people who have been carrying on these criminal abortions are not equipped sufficiently to combat all such complications of perforation and haemorrhage.

WITNESS: Their clinics will be not registered, Sir.

DR. M. SANTOSHAM: Then you say that the competence of the person should be judged. There should be some basis and some criteria for judging their competence. Who is to decide that?

WITNESS: Universities have got syllabi and their colleges have inspection teams, etc.

DR. M. SANTOSHAM: I am talking about such people who do not come through universities.

WITNESS: Then their skill has to be proved and demonstrated.

DR. M. SANTOSHAM: Then are we to glorify those people who have been doing what is not expected of them?

WITNESS: Well, I do not have a very narrow view of it.

DR. M. SANTOSHAM: Then about the termination of pregnancy, the period at which it should be done, you know that we have no facilities in most of our rural areas to find out early pregnancies. Even if there are signs of pregnancy experienced by the lady, there are no laboratories where the pregnancy can be confirmed. Therefore sometimes it is likely to exceed that period which has been prescribed here and it remains unknown for quite a long period of time and it might be detected only when the person has passed that stage of 20 weeks. I think such instances are not very rare and under these circumstances is it right to limit it to this period? That way you will be denying this right of abortion to a woman who is entitled to it.

WITNESS: Would you like to extend the period up to delivery?

DR. M. SANTOSHAM: I should say, till it is diagnosed.

WITNESS: In the Bill they have to put down a period.

DR. M. SANTOSHAM: The person defects in after the 24th week that she is pregnant and she is entitled to have abortion.

WITNESS: Let the child be born and you sterilise her afterwards.

DR. M. SANTOSHAM: It is all right, but there are so many conditions in which that child is not wanted.

WITNESS: Such people are in a nervous condition and they detect

the movement of the baby in their tummy much earlier. The quickening period is from 14 to 20 weeks and the mother, if she is not a dunce or a lunatic, will know it.

DR. M. SANTOSHAM: With regard to the consent of the minor girl who is pregnant, there are quite a number of instances where the minor girl has become pregnant and is not likely to know the consequences of child-birth.

WITNESS: In 1970?

DR. M. SANTOSHAM: There are girls who become pregnant. Take, for instance, a girl from an orphanage. She becomes pregnant and for evident reasons the abortion should be induced. Is it necessary under such circumstances that the child's permission should be taken?

WITNESS: She is no longer a child.

DR. SUSHILA NAYAR: Dr. Talwar, you have mentioned in your note that there should be special hospitals and doctors can be easily trained for doing abortion. Have you come across doctors who are specially trained for carrying out sterilisation but who have felt bored stiff of life because they do not like to be doing sterilisations day in and day out? Is not the same kind of situation likely to arise if you ask some people and train them specially to do abortions?

WITNESS: This is a service that the nation is demanding of the doctors. There is no question of their feeling bored or otherwise. I feel that if you give the training, the person is expected to help a patient in need. That he should feel bored, do you think that it is likely?

DR. SUSHILA NAYAR: It is not only likely, but it is happening. I have come across so many doctors either want to leave or want to get out of the job. They are just fed-up doing nothing else. They feel that they have ceased to become doctors. Therefore, will you not rather and a wing or some extra beds to the

department of obstetrics in a particular hospital? Give them some extra hands in that departments, so that they can cater to the needs of those who come to them for abortion. They can take on hand the normal obstetric cases and also do those abortions.

WITNESS: You have been a Minister of Health and you know the situation in the country probably even better than I do. My experience is in Rajasthan. Do you feel that by adding a few beds to a hospital you will be able to attract the staff of the hospital to do this work? Do you think that it would be feasible?

DR. SUSHILA NAYAR: I have no doubt in my mind that the only way to make a success of this effort is by doing what I am proposing. You can have extra hands if you like and extra beds will have to be provided. I am saying this in the light of my experience and fairly wide experience that setting up of special hospitals and special doctors for this purpose will lead to a failure of the whole thing.

WITNESS: I do not agree with you, Dr. Nayar. I feel that if you give extra hands in a general hospital, they will be taken away to do other jobs.

DR. SUSHILA NAYAR: The department is responsible to the Professor of Gynaecology and Obstetrics. Give them extra hands and give them extra beds. There is no question of taking them away from the department.

WITNESS: If there are such facilities available and if there ladies and gentlemen are willing to do that, they can go in their own way. I am talking about district place where the special kind of effort that is necessary may not be available. If you have independent units, there would not be any staying or waiting for beds. If you have them in a general hospital, the beds get occupied.

DR. SUSHILA NAYAR: What I am saying is by all means add these beds

for the specific purpose, but please do not have separate hospitals and do not have separate doctors for this.

WITNESS: If you can guarantee that a woman in need will not have to wait, I will go all the way with you.

DR. SUSHILA NAYAR: Secondly, you have mentioned that you will even take some of these people who have been doing abortion and so on. You know very well that some of these people may be able to deal with a normal, simple abortion, but they will not be able to deal with a complicated cases. Complication can take place in any abortion. Nobody can say whether a case will have complications or not. Under the circumstances do you not think that it will be putting too dangerous a responsibility in the hands of these unqualified people?

WITNESS: You go again by the four letters M.B.B.S. I say experience counts for more as I have pointed out to you great and eminent people who have not gone in the orthodox way, but they have contributed greatly to humanity's welfare. I quite agree with you that normally you will not take any unqualified person. I am only saying it provisionally, by the way. If there be such skilled people, make use of them. Give them extra training if you like, but do not discard them just because they have no tail behind them. If you can provide the qualified staff I have no objection. I am only acting on a provisional basis.

DR. SUSHILA NAYAR: One more question. You said that the Bill should openly and frankly provide for population control rather than call it the Medical Termination of Pregnancy Bill and by the backdoor introduce population control also in it. Now, you are well aware that Japan started with abortion as a population control measure. Abortion is something which does not require

any precaution and any forethought and consequences can be faced later on. The result was that they found it extremely difficult to popularise the ordinary family planning methods at a later stage. Do you not think that the popularisation of abortion, as a family planning measure, might act as a set back to the regular family planning campaign?

WITNESS: I agree with you.

DR. SUSHILA NAYAR: Therefore, you would use it only in exceptional cases?

WITNESS: Only as a last measure provided the woman will agree to have herself sterilised.

DR. SUSHILA NAYAR: Lastly, you mentioned that the woman should decide for herself whether she would continue with the pregnancy or whether she wishes to end it. In the same clause you will notice there is mention of widow, unmarried girl, etc. etc. A suggestion has been made to this Committee that we should simplify this clause and mention just normal adult women who can decide for themselves, and minors or lunatics who cannot decide for themselves, and avoid all mention of any other widowed, unmarried, etc. etc., type of classification, married, widowed, unmarried, etc. etc., because mention of the specific categories is objectionable from various points of view. Some people think that it will act as an inducement for these categories to resort to abortions. Some other people think it is a kind of categorisation which is unnecessary. As you have yourself stated that permission of the husband should not be necessary as mentioned in the clause under certain conditions, so would you agree that we may simplify the clause by saying that all adult women in full possession of their mind should decide for themselves whether to continue with the pregnancy or terminate it, and guardian's permission may be necessary

in the case of those of unsound mind, those who are described as lunatics and minors where the law requires guardian's permission.

WITNESS: There is this point that in these later categories the indication for abortion is the state of a woman—that she is unmarried and therefore she should not have a child; that she is a widow and therefore she should not have a child. The indication for the operation is the state of the woman and consequently it is wise to put it. I shall give the woman extra liberty if she is unmarried, and if by chance she has become pregnant, just because she is unmarried, that is good enough, it is an indication.

DR. SUSHILA NAYAR: So you would rather keep the clause as it is?

WITNESS: From that point of view only. I am not treading on other's corns. I quite agree and I feel ried, and if by chance she has become points, but the point is that they have got pregnant and if their sensitivity was so high, they would not have brought it about on themselves.

DR. SUSHILA NAYAR: Would you like to prescribe the necessary experience or qualifications for those who are entrusted with this type of job of carrying out abortions?

WITNESS: I do not get it.

DR. SUSHILA NAYAR: What I mean to say is if there is a requirement that a certain training is necessary—the tendency is to put anybody on the job, you know what happens in the States, whether this should be prescribed in the law.

WITNESS: You get the best man available.

DR. SUSHILA NAYAR: Best man available, it does not say much, it means nothing. You will have to prescribe that so much training or qualification, so much experience, is necessary. Some people have stated there should be post-graduate quali-

fiction in gynaecology. Some others have said there should be a certain definite period of training. Would you like to prescribe some definite criteria for those who are entrusted with the job of abortions so that they are not put in the hands of people who are not competent to do it, what is called a dangerous operation?

WITNESS: I have emphasized competence. That should mean everything that you want.

DR. SUSHILA NAYAR: You would not like to define competence or give some guidance for ensuring that the authorities concerned will see to it that certain training is a precondition? For instance, for sterilisation we prescribe that so much training is necessary, that so many sterilisations under supervision a woman should have been carried out before he or she can be entrusted with this work and similarly for intra-uterine devices. Surely for abortions too we would like some definite training prescribed to ensure the competence of the person concerned.

WITNESS: Yes, I will go all the way with you there again, but that would be completely covered if you make sure before registering a clinic that they have the necessary competence. You have got the authority to certify, register or not register.

DR. SUSHILA NAYAR: You know very well that two or three big names may be there for registering the clinic. They are working perhaps at half a dozen places but they are not available when it is necessary. Unless you prescribed that the person who performs abortions shall have so much competence, your purpose will not be achieved.

WITNESS: If you go about making wrong arrangements, doubting the capacity of the people to whom you in your correct judgement entrusted it, you will get nowhere. The point is that it is the job of those who are appointed to see that these clinics are properly equipped and the staff doing

it are well trained if you find that those people are not doing their jobs properly, well, change them have competent people, and give them the liberty to do it. These words in the Act—you know very well how many Acts are there that are not complied with. So that what is required is intention, integrity, and those people that you appoint to register the place must be trustworthy and you have to give them your trust.

DR. SUSHILA NAYAR: I wish I could share your optimism.

WITNESS: It is not a question of optimism.

DR. SUSHILA NAYAR: But I am sorry to say again that at the time of registration, at the time of inspection, people produce all kinds of people. Afterwards they are not there. Some people appeared before us yesterday or day before who told us how difficult it has been to enforce the registration of maternity homes where such registration has been carried out. As for legislation not being honoured, you can only do your best, that is, if you have certain criteria prescribed and somebody does not follow them you can perhaps bring him to book and that will act as a deterrent. If you only go on good faith and good intentions, I do not know what is going to happen.

WITNESS: My fundamental objection to what you say is that if you go on that basis, nothing constructive can be done. As far as competence is concerned and conditions are concerned, I have said that a person should have one year's House Surgeon training or an equivalent of it. If there are people who have not undergone that House Surgeon Ship for one year—not the rotating thing—the corresponding skill should be imparted to them before they are given this job. Are you not satisfied with that?

DR. SUSHILA NAYAR: All that I am saying is if you are making this a precondition for all people who are

to undertake the work of abortions, I will say that it is all right. But even for a House Surgeon job, a person may have done it 20 years ago and may not be doing this type of work, but may be doing something else in the meantime. Do you think they also require a refresher course?

WITNESS: Yes.

CHAIRMAN: Dr. Talwar, thank you very much for your valuable evidence.

WITNESS: Thank you, Sir.

(The Committee then adjourned

(The witness then withdrew.



Saturday, the 20th June, 1970

PRESENT

1. Shri Mulkha Govinda Reddy—*Chairman.*

MEMBERS

*Rajya Sabha*

- |                                 |                              |
|---------------------------------|------------------------------|
| 2. Dr. (Mrs.) Mangladevi Talwar | 5. Shri K. P. Mallikarjunudu |
| 3. Shri M. Srinivasa Reddy      | 6. Shrimati Bindumati Devi   |
| 4. Shrimati Usha Barthakur      | 7. Shri Niranjana Varma      |

*Lok Sabha*

- |                               |                         |
|-------------------------------|-------------------------|
| 8. Shri Gangacharan Dixit     | 15. Shri Partap Singh   |
| 9. Shri Ganesh Ghosh          | 16. Shri Ram Swarup     |
| 10. Shri Kinder Lal           | 17. Dr. M. Santosham    |
| 11. Hazi Lutfal Haque         | 18. Shrimati Tara Sapre |
| 12. Shri B. S. Murthy         | 19. Shri M. R. Sharma   |
| 13. Shrimati Shakuntala Nayar | 20. Shri Babunath Singh |
| 14. Dr. Sushila Nayar         |                         |

REPRESENTATIVES OF THE MINISTRIES

*Ministry of Law*

Shri S. Ramaiah, Deputy Legislative Counsel

*The Ministry of Health and Family Planning and Works, Housing and Urban Development*

Shri R. N. Madhok, Joint Secretary  
Dr. K. N. Kashyap, Commissioner (FP)  
Dr. G. P. Sen Gupta, Dy. Commissioner (FP)  
Dr. (Smt.) S. F. Jalnawalla, Dy. Director (I)  
Shri A. P. Atri, Under Secretary

SECRETARIAT

Shri S. P. Ganguly, Deputy Secretary  
Shri M. K. Jain, Under Secretary

WITNESSES EXAMINED

- (1) Dr. (Smt.) R. B. Manikar, Retd. Director of Medical Services, Tamil Nadu, Madras.
- (2) Dr. (Smt.) Sumati Kanitkar, Lokmanya Tilak M. G. Hospital, Sion, Bombay.

[Dr. (Smt.) R. B. Marikar, Retired Director of Medical Services, Tamilnadu, was called in.]

CHAIRMAN: I welcome Dr. (Kumari) Marikar, Retired Director of Health Services, Tamilnadu. She has not sent any memorandum. But now she is welcome to make her comments with reference to the Bill that we are now discussing. Dr. Marikar, the evidence that you tender before this Committee is confidential before it is published by Parliament.

DR. MARIKAR: I have prepared a note on legislation of abortions. I am sorry I was not able to send it earlier. In the Bill the term 'length' of pregnancy used under clause 3(2) (a) and (b) is not the correct term. It may be altered as 'duration' of pregnancy.

Clause (i) under section 3(2) cannot be accepted. If this clause is accepted any pregnant mother can approach a qualified doctor under the pretext of feeling ill, tired, exhausted or mentally upset and have an abortion done legally. This clause gives a very wide latitude to the medical practitioner even though the opinion is formed in "goodfaith". One can easily see how this 'good' faith can easily be misused especially for monetary consideration. Even to day many persons come to the hospitals demanding abortions because it is their idea of family planning. Naturally when the public know that there is now liberalisation of law of abortions, the demand for abortion would be very great. Thus a large number of abortions will have to be performed in the hospitals which are least equipped especially, skilled assistance of blood transfusion facilities etc. The Government will have to provide the necessary facilities to meet emergencies and consequences thereof as the mothers will have to stay in the hospitals for 4-5 days and if complications occur as Sepsis, Haemorrhage a longer period ranging from 10—20 days. The induction of abortions, whatever be the period of pregnancy is a major surgical proce-

dure and is associated with far great risks than those of normal delivery followed by sterilisation even in the hands of specialists. There will be a significant number of immediate complications like, haemorrhage, sepsis, and perforation of the uterus when it is performed on a large scale even in the best of hands. Neither is this a permanent measure. If the mother is not sterilised at the time of abortion there is evidence that 49 per cent become pregnant again during the year and about 23 per cent more than twice within a period of 18 months. It is obvious, therefore, that unless abortion is combined with sterilisation the result would be—repeated abortions to be induced in the same woman.

In Japan, with a population of only 80 million they had to induce over a million and a half abortions in a year to reduce the growth of population to 23 per 1,000. Japan had one doctor for 1,000 population when they liberalised the law of abortion. Eight thousand doctors who were trained as specialists in inducing abortions were permitted to carry out abortions in recognised hospitals by the Government. Even then a large number of abortions were done by other doctors and unqualified ones also.

In India we have only one doctor for 5,000 population in the best of developed States and it will be very difficult even to get a fraction of the man-power required to carry out the large number of abortions that would be required which may run into millions and for which there will surely be a demand. Even though one is a qualified doctor he/she is not in a position to carry out an abortion without risk unless he/she is trained in the techniques of inducing abortions. It is a major surgical procedure the gravity of which is seldom recognised by any, except by gynaecologists. An uncompleted and ill-performed abortion can lead to frequent bouts of haemorrhage weakening the woman and in other cases may lead to growth of malignant and non-mal-

ant tumours. It will be very difficult to have enough medical men trained when we cannot even get enough personnel to introduce the Loop which is innocuous when compared with the surgical induction of abortion. Therefore, Japan cannot be taken as an example for this country

I would also invite your kind attention to the columns of the *Indian Express* dated 5-12-1968 wherein their Staff Reporter has published an article about his interview with the specialist gynaecologist of Liverpool, viz., Dr. Harold Francis. Dr. Harold Francis is of the view that abortion is a wasteful way of birth control. According to him liberalisation of abortion is not practicable due to the shortage of trained doctors and nurses. In his country, abortions were recently legalised and the result is that abortions have risen from a few thousand a year to 14,000 in the first six months of the legislation. There is a definite risk as there have been a few deaths in the 14,000 abortions in the last six months, and that is in a country where all the facilities are available.

Sub-clause (ii) of clause 3(2)(b) is acceptable. But it is necessary to spell out in detail the conditions under which abortions could be induced to prevent the birth of a physically handicapped child.

The paragraph on "Explanation" requires to be modified. It is suggested that the liberalisation should be limited to pregnancy occurring with an IUCD. The reasons are that any couple can state that they have been practising contraceptive methods for which here is no proof. If this clause is accepted there will be no necessity for any one to use family planning methods for they can demand abortion when pregnancy occurs. The whole family planning programme will be affected adversely and the various family planning methods will go into disrepute by this clause as it stands now.

As in the case of IUCD insertions by doctors trained in the technique, induction of abortion should be done only by doctors trained in the technique. All abortions should be carried out only in recognised institutions as in-patients and the mothers should stay in hospitals for 4-5 days. It is doubtful whether Government can provide the necessary beds in hospitals for this purpose.

Then, it has also to be admitted that the lure of money will necessarily tempt many doctors to start the practice of abortion once it is liberalised. Nobody questions its existence now, but a very large number of doctors are not practising abortions for fear of law. If the law is liberalised, many including some untrained will enter the field because of the lure of money. It is unfortunate. But one has to face the facts. The benefits would ultimately be for the better class of people who can afford to pay, while those in the low socio-economic group in whom it is most essential that the pregnancies be restricted, would be benefited least by this liberalisation. It would be better to do intensive propaganda bringing out the dangers of induced abortions as against delivery followed by sterilisation which is very safe. If the dangers are known, very few would want abortions.

I would, in conclusion, suggest that clause (a) be restricted to medical indications only as is existing now. If however, a decision is taken to liberalise the indications to include mental health, etc., the decision to induce abortion should not be permitted to be taken by any one "qualified doctor acting in good faith" but only by a board of three specialists—one physician and two gynaecologists appointed by the Government.

The Bill, if accepted as it is, will have far-reaching and unhappy consequences. My opinion is that liberalisation of abortion legally will not help family planning under the circumstances obtainable in this country.

**CHAIRMAN:** Now Members will put questions. Please answer them,

**SHRIMATI USHA BARTHAKUR:** Sub-clause (b) of clause 3(2) says:

“not less than two registered medical practitioners, acting together, where the length of the pregnancy exceeds twelve weeks but does not exceed twenty weeks.”

Suppose we delete this altogether. I think the period of pregnancy should be fixed within 12 weeks and should not extend to 20 weeks, as the uterus can be easily evacuated within 12 weeks and the mother's health also is not affected so much, while on the other hand, if it goes up to 20 weeks, induced abortion generally becomes complicated and due to the length of the pregnancy, the mother's physical and mental conditions also are badly affected and she cannot recoup her health soon. So, if termination is necessary, it should be done at an early stage, I think. I think after three months, no termination of pregnancy should be allowed on the ground of the physical and mental condition of the mother. What is your opinion about it?

**WITNESS:** Termination of pregnancy within 12 weeks, if it is necessary, is the safest. After 12 weeks, it is followed by certain hazards to the mother. There is no doubt about it.

**SHRIMATI USHA BARTHAKUR:** To be deleted altogether?  
Do you want this sub-clause 3(2) (b)

**WITNESS:** Yes, it is better deleted.

**SHRIMATI TARA SAPRE:** Please refer to clause 2(d).

‘registered medical practitioner’ means a medical practitioner who possesses any recognized medical

qualifications as defined in....” etc. etc.

Do you think all the persons registered under the category of “registered medical practitioner” are competent to perform abortions?

**WITNESS:** Certainly not. Only those who have certain experience in midwifery and gynaecology can do abortions. I have seen as a gynaecologist, even experienced people fear to do an abortion because of the complications it brings about. Certainly neither a E.N.T. specialist nor a general surgeon is competent to do abortion.

**SHRIMATI TARA SAPRE:** Do you think ayurvedic and homoeopathic physicians are competent to do this abortion?

**WITNESS:** When I say that even allopathic doctors who have been to a certain extent scientifically trained are not fit to do abortion, how can I agree that ayurvedic and homoeopathic doctors could be allowed to do abortion?

**SHRIMATI TARA SAPRE:** If some special training is given to these medical practitioners—all kinds of medical practitioners—will it not be possible for them to do abortion?

**WITNESS:** You have got the example in the country of the insertion of the loop and the complications it has brought on the women of this country. If still it is nothing, then you can attempt this. But it will have serious consequences.

**SHRIMATI TARA SAPRE:** Madam, please read sub-clause (4) of Clause 3. Do you think that the consent of the husband is essential for the raped woman?

**WITNESS:** This is a very tricky question. I have not seen such cases. Even if a pregnancy occurs, this also acts in two ways. Any married person can come and say, my wife has been raped, please perform an abortion. It is possible. It is a very loose

term. People can easily take advantage of it and get abortions done without any proper evidence. Even the courts are unable sometimes to judge and prove that there was actually a rape. Then, how is it possible to take some one's word?

SHRIMATI TARASAPRE: Do you think that the consent of the husband is not necessary in the case of a raped woman?

WITNESS: In the case of a married woman, the husband's consent will be necessary for performing the abortion.

SHRIMATI TARA SAPRE: In the case of rape also?

WITNESS: I am not convinced of this term. There will be so much of misuse of this; for a little laxity it will bring more complications for performing the abortion than any benefit to the person concerned unless perhaps it is a proven case of rape. But I do not know how the doctor is going to judge whether the statement of rape is correct or not. Just because a woman wants to get rid of her pregnancy and the husband comes and says that his wife has been raped of an abortion should be done, are you going to do it?

SHRIMATI TARA SAPRE: Here the woman alleges a rape.

WITNESS: If the rape is proved by a court and if the husband is not willing to give his consent, then, it is going to bring family unhappiness. Even then, are you going to do that abortion? If the woman is carrying, by rape, somebody else's child, then, the husband must be willing for an abortion. But if the fact is not so, it will bring family discord in their married life.

SHRIMATI TARA SAPRE: But don't you think that the woman will have to go through mental anguish for her pregnancy when she does not want to beget that child?

WITNESS: But, then, is there not the greater burden of her having to

face a separation from her husband and family? Which is the better of the two? I do not know.

SHRIMATI TARA SAPRE: So you are not in favour of it.

WITNESS: No not in favour of it. In Western countries such situations may arise. The Conscientious people can use it for their advantage, but it can also be misused by unscrupulous if things are done in the way sometimes it is done in this country.

SHRIMATI USHA BARTHAKUR: You have said just now that after an abortion the patient may suffer some complications. So, don't you feel that there should be some provision in the Bill for keeping the patient in the hospital for a certain fixed period under the supervision of the medical practitioner for observation and after-care on the termination of pregnancy? Sometimes it is found that abortions have been done safely, but due to carelessness or ignorance on the part of the patient, complications arise.

WITNESS: It means that provision be made for hospitalisation. Is it not? At present we are unable to keep patients who come for normal delivery for more than two days in the hospitals for want of beds. Now, if you are going to do a number of abortions and if you are going to keep a few people in the hospitals after the termination of pregnancy, there will be acute shortage of beds and a number of women will suffer in an emergency or when they come for a normal delivery or for a complicated delivery.

CHAIRMAN: In your preliminary remarks, Madam, you said that at least for four or five days the patient should be kept in the hospital after operation. You yourself have said it.

WITNESS: I have said that it is necessary to keep such a patient for four or five days for observation because you cannot discover sepsis immediately. There who are other complications such as haemorrhage etc. We have to satisfy ourselves the

after care in food. But have we got such facilities now?

**SHRIMATI USHA BARTHAKUR:** Don't you think that there should be some provision for that in the Bill?

**WITNESS:** I have said that if abortion is done, it would require hospitalization. Not that I favour abortion. If abortion has to be done, the consequences will have to be met with, and there should be sufficient provision in institutions if we want to legalise abortion. We should not just legalise abortion and leave it at a loose ends. If you do so, every practitioner will take it into his hand to do an abortion and leave the woman to her fate to meet the complications that may follow. And you have also given adequate protection to such a practitioner in your Bill. Please read Clause 7 of the Bill, "No suit or other legal proceeding shall lie against any registered medical practitioner for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act."

**SHRI K. P. MALLIKARJUNUDU:** From the trend of your statement, Madam, I gather that you are opposed to this measure and this I want to verify from you whether I am correct in drawing such inference or not. I find you are opposed to the liberalisation of abortions in general and apart from that you have given certain factors who go against liberalisation. They are as follows:

You say that the risks involved in conducting abortions are many; even in the abortions conducted by the best medical people there are a good number of risks. Secondly, under the existing conditions of India there is paucity of equipment and specialisation. There are not enough number of specialists; there is not enough training, enough equipment, in the hospitals for conducting these operations. Thirdly, you seem to say that the liberalisation will increase the number of abortions.

Fourthly, it does not help family planning unless followed by sterilisation. Fifthly, the lure of money induces many unscrupulous doctors to have recourse to this process. These are the grounds mentioned by you in support of your case for opposing liberalisation in general. Am I right?

**WITNESS:** Yes, you are right.

**SHRI K. P. MALLIKARJUNUDU:** Do you conceive of any extreme cases where abortion can be resorted to, e.g. rape?

**WITNESS:** In extreme cases there may be justification but when I see the consequences of how that would be misused, I am really not in favour of it.

**SHRI K. P. MALLIKARJUNUDU:** So the clause as it stands in your opinion is likely to be misused.

**WITNESS:** Definitely.

**SHRI K. P. MALLIKARJUNUDU:** Then in sub-clause(b) (ii) it is said:

"there is a substantial risk that if the child were born, it would suffer from such physical or mental abnormalities as to be seriously handicapped."

Do you advise abortion in that case or not?

**WITNESS:** That provision already exists—where there can be some handicap for the child due to infectious disease, then medical termination of pregnancy is allowed.

**SHRI K. P. MALLIKARJUNUDU:** May I know whether it is possible for any specialist to say with a certain amount of exactitude that the child to be born will have abnormalities?

**WITNESS:** So far I am not aware of any medical science which will predict whether the child to be born will be of abnormalities, except the infectious fever which I have mentioned and which is not common in our country.

**SHRI K. P. MALLIKARJUNUDU:** I want to know whether medical science as advanced to such an extent as to determine the length of the pregnancy precisely.

**WITNESS:** Yes, it is possible.

**SHRI GANESH GHOSH:** Madam, am I to understand that it is your opinion that premature termination of pregnancy should not be allowed even when it is demanded on grounds of mental and physical health of the mother?

**WITNESS:** Yes, it should not be allowed, because it is only changing the morbidity of one into another. Of course there may be some complications and she may be mentally relieved of her immediate worry of pregnancy but she may have a lifetime disability, some infection or other complications. Therefore I am not at all in favour of it.

**SHRI GANESH GHOSH:** You have suggested that there should be a Board of three medical practitioners which only should recommend premature terminations. Do you think that there should be a psychiatrist on the Board?

**WITNESS:** No. I am not just a believer in terminating pregnancy for relieving mental worry. A woman may be temporarily worried and want an abortion should be done. But there is an easy method of stopping pregnancies by sterilisation which she could have done. Are we going to do 16 or 17 abortions on a woman? I do not think there is any necessity for this.

**SHRI GANESH GHOSH:** Is it your opinion that all premature terminations must be followed by sterilisation?

**WITNESS:** Depending upon the individual cases.

**SHRI GANESH GHOSH:** Not all cases?

**WITNESS:** Not all cases. Abortions should be very few. For family planning, definitely not.

**SHRI GANESH GHOSH:** But there should be sterilisation in particular cases.

**WITNESS:** Sterilisation in selected cases as is being done.

**SHRI GANESH GHOSH:** Will you kindly refer to the Financial Memorandum on page 5 of the Bill? It mentions the recurring expenditure of a sum of about Rs. 24 lakhs and a non-recurring expenditure of Rs. 19.30 lakhs. Do you think this amount would be quite enough to give adequate medical relief to all?

**WITNESS:** I think this provision is only for the initial stages. When the demand increases, there will be more funds necessary.

**SHRI GANESH GHOSH:** So this amount is enough for the first year?

**WITNESS:** It may be, because the hospitals themselves take time. Can we do it in the primary health centres? Even in the district hospitals there are not properly qualified doctors for this purpose. So it will take a very long time to implement this. It cannot be presumed that just as soon as grant is given the work will be done. If it is presumed blindly women will have to suffer because they will be in ignorance of the facilities available and this will be cheated and may even die because of lack of proper facilities in many of the hospitals to treat emergencies and implications. Again only the sophisticated people will take advantage of it and the rural women will be left behind without any aid.

**DR. M. SANTOSHAM:** Please refer to the Statement of Objects and Reasons. The first reason is that it is brought in as a health measure; that is when there is danger to the life of the mother, it is already covered by the existing law. When there is danger to the life of the mother abortion is permissible as it is and it is being done in Government institutions.

The actual condition now mentioned there is risk to the physical or mental health of the woman. This risk to the physical or mental health is to be judged by a registered medical practitioner. Even a ten per cent reduction in haemoglobin percentage, a reduction in the weight of the individual or a reduction in the strength of the individual may be considered as a risk to the physical or mental health of the individual. Therefore suppose we say, "grave permanent risk to the physical or mental health of the woman" would you under such circumstances of grave permanent risk to the physical or mental health of the mother advise abortion?

WITNESS: Even in the existing provisions there are very few indications for abortion. Tuberculosis, heart diseases, these are all now treated. In any case, provision already exists and why should another provision be made now? Where the diseases few have mentioned could be treated.

DR. M. SANTOSHAM: My know, ledge is this that the present law only cover danger to the life of the mother. Abortion is now permissible only when there is danger to the life of the mother but not to the physical or mental health of the mother.

WITNESS: "Physical or mental health of the mother" is a very wide term. Any mother who wants an abortion can feign illness and she can go on feigning and thus have abortion after abortion.

DR. M. SANTOSHAM: My know- even the phrase "grave permanent risk to the mental or physical health of the woman" would be abused?

WITNESS: Yes, definitely. It would be very difficult for any doctor to find out what is grave risk to the mental health. This is a very vague reason for having abortion.

DR. M. SANTOSHAM: When we say that we are bringing this as a health measure I would refer you to the

various instances that are now taking place. A number of people must have been coming to you also who had their abortions done elsewhere outside by incompetent people at the request of the pregnant mother. We know that a large number of criminal abortions are going on in the country and some of the cases die. Do you think by introducing this Bill and allowing this Bill to go through, such deaths could be reduced substantially?

WITNESS: No, it will increase the deaths.

DR. M. SANTOSHAM: You think it will increase the deaths?

WITNESS: Yes.

DR. M. SANTOSHAM: Now you said that this is a very highly difficult operation and that it requires great technical skill, a good deal of equipment, hospital-bed facilities and so on. We have heard of one technique of doing abortions through what is called the vacuum evacuator. As an experienced doctor could you say something about the advantages of using vacuum evacuator, whether it will reduce the risk and whether it is possible even for individuals not very highly trained to use these evacuators so that this Bill can be of some benefit to the people?

WITNESS: Even for an innocuous thing as introducing a loop people have perforated the uterus and sent the loop into the peritoneal cavity. So the introduction of a vacuum evacuators It cannot be less risky. It could not prevent other complications like sepsis haemorrhage etc.

DR. M. SANTOSHAM: Do you think it would be more dangerous than the usual curette method because the vacuum evacuator involves forcible withdrawal of the matter from inside and do you think this forcible evacuation is likely to produce more complications than the ordinary method?

WITNESS: Personally I must confess that I have not used this and I cannot say anything about it. But,



I do not think that it will prevent the usual complications like perforations, sepsis, haemorrhage etc. It may reduce the pain but more than that I do not think that it will be of any advantage.

DR. M. SANTOSHAM: What about the Rh factor? In cases where you know there is blood abnormality which is likely to produce complications and affect the survival of the child, would you advise termination of pregnancy?

WITNESS: As a temporary measure or as a permanent measure?

DR. M. SANTOSHAM: When the woman comes to you with a known Rh factor and says that the child is going to have complications and, therefore, she would like to have abortion, would you advise aborting her and then advising her sterilisation.

WITNESS: Even there there is the complication of getting the appropriate group blood for the mother if there is a complication during the abortion. It would be to let her undergo this and then sterilisation.

SHRIMATI BINDUMATI DEVI: As regards danger to the life of the mother it is already provided in the IPC that she can get her pregnancy terminated. So is it at all necessary to bring this Bill in your opinion?

WITNESS: The existing provisions are adequate enough.

SHRIMATI BINDUMATI DEVI: Is there any necessity to introduce this Bill?

WITNESS: Personally I have not felt any necessity for liberalising abortion. The existing law itself is adequate enough for our present conditions.

SHRIMATI BINDUMATI DEVI: The term 'risk to the mental health' is likely to be misused by many woman as it can cover any ordinary case. So what do you suggest we should do to have a check on it?

WITNESS: It is a very wide term. It is very difficult definitely to prove

a case of mental derangement. During pregnancy a woman may be worried but abortion cannot be a solution for her worry. After a woman has three or four children and her husband will not give her permission for sterilisation. In a number of cases the husband will not have sterilisation done on himself nor would he allow the wife to have sterilisation. In such cases the woman will be in great mental torture. Even then it is better for her to undergo the pregnancy and then have the sterilisation done, then come for abortion as the woman can conceive 3 months inter again.

SHRI GANGACHARAN DIXIT: It is said that a new device has been invented by the Soviet government hospitals called the suction pump apparatus and by this device it has become very easy for the surgeon to have the operation done. Do you agree with this?

WITNESS: I do not have any personal experience with the suction pump myself, but I know that anything will be successful in that country. First of all they have got adequate precautions or arrangements for meeting any emergency. They have got experienced people and adequate facilities are available. So, it would be a success there. Some cannot be said of ours.

SHRI GANGACHARAN DIXIT: Do you agree with the view that by using this device the special training programme will not be required, as otherwise some say that special training would be necessary? If this device is utilised here also in India no special training will be required.

WITNESS: Special training will have to be given, whatever instrument we may use. A good example for us is the IUCD. It was said at the beginning that no training was required and anybody could do it. We all know now the consequences of allowing indiscriminate introduction. If there is a setback to the family planning programme, it is due to the indiscriminate use of the IUCD which is

supposed to be the most harmless. In view of the difficulties obtaining in our country I will not treat these instruments or these methods lightly and say that anybody can use it because in other countries people have used it successfully.

SHRI PRATAP SINGH: Please read clause 5 which says:—

"The provisions of section 4, and so much of the provisions of sub-section (2) of section 3 as relate to the length of the pregnancy and the opinion of not less than two registered medical practitioners, shall not apply to the termination of a pregnancy a registered medical practitioner in a case where he is of opinion, formed in good faith, that the termination of such pregnancy is immediately necessary to save the life, or to save permanent grave injury to the physical or mental health, of the pregnant woman."

If this clause remains here, than it will bypass clause 3 (2) of the Bill. What is your opinion? Should this clause 5 remain in the Bill?

WITNESS: Again here the two fault is that medical practitioners may be practising anything other than obstetrics and gynaecologist. They need not necessarily be specialists in gynaecology or obstetrics. They will decide whether the pregnancy should be terminated. This is unacceptable.

DR. SUSHILA NAYAR: If the doctor considers in good faith that termination of the pregnancy is necessary, what is wrong?

WITNESS: Already the provisions in the existing law allow for this kind of permanent damage to the mother. 'Grave injury to the physical or mental health' is a vague term. Who is going to decide it?

SHRI PARTAP SINGH: This clause bypasses the whole Bill. Now, any medical practitioner can do abortion. Do you think that this clause should remain in the Bill?

WITNESS: No. It is not possible for many medical officers to recognise whether a patient has a cancer ever or for some eruption. Such conditions in this country, how are we to decide upon their opinion whether termination of pregnancy should be done or not?

SHRI PARTAP SINGH: My second fear is that if this clause 5 remains as it is, the medical practitioner can bypass clause 4 where it says:—

"No termination of pregnancy shall be made in accordance with this Act at any place other than—

(a) a hospital established or maintained by Government or

(b) a place for the time being approved for the purpose of this Act by Government."

Now, if this clause 5 remains, the doctor can bypass this provision and he can operate anywhere.

WITNESS: Yes he is notably permitted by clause 7 but, he is also protected if he has done anything in good faith!

SHRI PARTAP SINGH: Is it not necessary to determine or to define how many times a woman can have her pregnancy terminated? What should be the interval between one termination and another?

WITNESS: Why should you frame a law limiting the number of abortions? Normally if a woman has had more than two abortions, it injures her health even when done in the best of hospitals. I do not agree for even one abortion a woman. I am a gynaecologist myself and I have dealt with women all along. I have known their complications and permanent damage abortions have brought to women of the rural as well as the urban folk. I do not think there is any necessity for the introduction of this bill. Many unscrupulous people will practise for monetary considerations and abuse the protection which is given in this bill.

SHRI PARTAP SINGH: You have said earlier that sub-clause (2) (b) of clause 3 can be deleted, as it is more complicated. Only sub-clause (a) will remain in the Bill. In this context I want to know whether there are any injections or pills or medicines which are useful for abortion in allopathy, Ayurveda or homoeopathy? If so, why should not such medicines be used for abortion? Can abortion take place without any complication. What is your opinion?

WITNESS: You want to do abortion. Whether it is done by tablets or by instruments, the principle is the same. One is worse than the other. I am against the principle of abortion itself. If there are certain pills which will do abortion, I do not think there is any necessity for this measure. If by taking a pill the contents of a uterus could be evacuated, there is no need for this Bill at all.

SHRI PARTAP SINGH: There are some medicines which can be used.

WITNESS: In such cases usually the abortion is incomplete. Half the matter remains inside the uterus. Only one half is thrown out and the other half is retained. It will lead later on to haemorrhage and other complications. They became septic also. Quite a lot of the supposed-to-be criminal abortions are of that type.

SHRI PARTAP SINGH: Section 6 of the Bill states that the Government will frame regulations. But the doubt is whether such regulations will strengthen the hands of the medical practitioner and ensure him that he is terminating the pregnancy in a *bona fide* and genuine case. What do you suggest to add in the regulations? What type of regulations should be framed? I want the benefit of your experience in this matter.

WITNESS: State Government regulations?

SHRI PARTAP SINGH: Yes.

WITNESS: What precautions should be taken by the State Government to regulate abortions?

SHRI PARTAP SINGH: Yes, so that the doctors who may be responsible may not be prosecuted.

WITNESS: You have already given that in clause 7: "No suit or other legal proceeding shall lie against any registered medical practitioner for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act." Unfortunately any doctor can perform it, even if he or she never feel did the bimamal examinations to the uterus even once. That is the wide laxity given her for a medical practitioner who will do this.

DR. SUSHILA NAYAR: Dr. Mari-kar, am I correct in understanding that you would like to restrict the right to undergo abortion to therapeutic cases only?

WITNESS: Yes, Madam. That is my intention.

DR. SUSHILA NAYAR: Please correct me if I am wrong. Do you concede the right for abortion in a case where there is a substantial reason to believe that the child will be seriously damaged or defective?

WITNESS: There is already the provision....

DR. SUSHILA NAYAR: You would allow it?

WITNESS: For special conditions, provided there are two gynaecologists and a physician to certify that, not by any other.

DR. SUSHILA NAYAR: Would not you extend his liberty to cases of rape in a riot and other things circumstances. Would you insist that these unfortunate girls who have fallen a victim to somebody's lust, must go through the full pregnancy and bear the cross, or would you allow them to get rid of it?

WITNESS: Under some special conditions obtaining perhaps. It could be decided.

**DR. SUSHILA NAYAR:** What are the special conditions?

**WITNESS:** The child will be maimed, if the mother contracts illness like germane measles—that is only in earlier pregnancy.

**DR. SUSHILA NAYAR:** There is no illness, there is nothing wrong with the child. As I told some other people, I have witnessed in Kurukshetra Camp riots pre and post when these abductees per and post when these abducted women were brought back, Dr. Damayanti Bali had put them in a row and she went on performing abortions saying "I will save the women from the ignominy and the problems they will have to face if they go through the pregnancy". Under the present law a doctor doing that type of thing can be charged of murder. Would you not protect the doctor who gives the service to the unfortunate victims of rape?

**WITNESS:** Under some extraordinary circumstances, in such a condition, it might be allowed, but not as a family planning measure.

**DR. SUSHILA NAYAR:** As a family planning measure you have conceded that if pregnancy has taken place with the use of the IUCD or perhaps even after sterilisation operation sometimes it happens and perhaps it has failed for some other reason—you would allow abortion in those cases?

**WITNESS:** If they agree, the man must be sterilised. First depending on the condition, whatever may be necessary. Even then personally I will not do it, I will allow the pregnancy to continue and perform the sterilisation after delivery

**DR. SUSHILA NAYAR:** You allow abortion for medical reasons like risk to the mother's health, you allow it for mental anguish like rape, you allow it because of the risk of a maimed child provided proper precautions are taken, and you allow it for certain exceptional cases of failure of contraception; am I right?

**WITNESS:** One thing. I am not in agreement that mental health may be a reason, which is so vague. Mental disturbance is a very vague term. Anyone who comes for abortion can feign illness. For mentally deranged persons you can perhaps do it or you can sterilise . . .

**DR. SUSHILA NAYAR:** In other words, the mental anguish and mental health risk you would like to be determined by a qualified psychiatrist, then you would permit abortion?

**WITNESS:** Yes.

**DR. SUSHILA NAYAR:** Your concern is that it should not be made an excuse for getting rid of pregnancy instead of taking proper precautions to prevent conception.

**WITNESS:** Yes when they have failed with all other methods in preventing an unwanted pregnancy. But "failure of any device" is a very vague term. Anyone can make that an excuse. What is the method of finding or to check that they have used it? That is why I said under the rare circumstance because of the failure of all other methods we might do it provided she gets sterilised.

**DR. SUSHILA NAYAR:** Therefore, you agree that amendment of the law is necessary because the law as it stands at present does not allow an abortion in any of these cases except where there is grave danger to the life of the mother, to be used with proper precaution, with proper care.

**WITNESS:** Yes, then it has to be changed.

**DR. SUSHILA NAYAR:** What do you think?

**WITNESS:** The wording should be completely changed. These clauses should not be there.

**DR. SUSHILA NAYAR:** Would you like to suggest as to what should be the amendments, not immediately, but you can send afterwards after thinking it over as to what you think should be the amendments.

WITNESS: I could send it sometime later.

DR. SUSHILA NAYAR: Now we come to clause 5 that Shri Partap Singh was talking about. Clause 5 gives protection to the doctor that the doctor enjoys today. Is there any reason to take away that protection from the doctor who tries to save the life of the mother? If the bleeding mother comes, the doctor will have to do it with whatever facilities he can muster.

WITNESS: If a woman comes with bleeding she will have to get the aid of the Doctor.

DR. SUSHILA NAYAR: He is on the horns of the dilemma. If he does not do it the woman is going to die. And if he is going to do it there is 50.50 chance of survived.

WITNESS: Would he not hasten her death if he attempts in a place when he has no facilities.

DR. SUSHILA NAYAR: When a woman is bleeding the doctor will have to do the operation immediately to stop that bleeding.

WITNESS: Even not the doctors do it as an emergency but not inducing an abortion.

DR. SUSHILA NAYAR: Exactly that is what I am saying. So the question of taking out clause 5 does not arise. You agree?

WITNESS: But that is very vague. Now every doctor when a woman starts bleeding and if it enlarges her life whether there is justification for abortion or not, will try to save the life of the woman by evaluating her. But here as the question is to induce abortion.

DR. SUSHILA NAYAR: Clause 5 says:—

“The provisions of section 4, and so much of the provisions of subsection (2) of section 3 as relate to the length of the pregnancy and the opinion of not less than two regis-

tered medical practitioners, shall not apply to the termination of a pregnancy by a registered medical practitioner in a case where he is of opinion, formed in good faith, that the termination of such pregnancy is immediately necessary to save the life, or to save permanent grave injury to the physical or mental health, of the pregnant woman.”

It states here “the physical or mental health of the pregnant woman”.

WITNESS: Here there is no urgent necessity that he cannot shift to a place where there are better facilities and expert opinion.

DR. SUSHILA NAYAR: You would allow it for saving the life of the woman.

WITNESS: Yes, inducing abortion could merit. There is no immediate danger to the person concerned

DR. SUSHILA NAYAR: Can a single doctor not do it to save the life of the woman?

WITNESS: I do not agree

DR. SUSHILA NAYAR: You said just now that it is being done even today.

WITNESS: Yes, by unscrupulous doctor give them wider powers. Why do you need a special clause at all for this.

DR. SUSHILA NAYAR: Over and above the Penal Code provisions in this new law you have said that nobody can terminate the pregnancy beyond twenty weeks.

SHRI K. P. MALLIKARJUNJDU: It is permissive and not prohibitive legislation.

DR. SUSHILA NAYAR: According to this law it may be done if pregnancy is more than 12 weeks but not fit is more than 20 weeks. I am not a lawyer. Whether it is allowed or not allowed, it is the same thing. The sum and substance of this is you are not allowing termination of pregnancy beyond twenty weeks. If it is over

twelve weeks then two doctors are necessary. Yet conditions can arise in a primary health centre, in an out-of-way area where with difficulty you have one doctor and this woman is brought. And there if the doctor says that the law does not allow it, the woman will die you will have to allow him to operate. Therefore, this protection is necessary.

WITNESS: To give any one that laxity to absorb a case of over twelve weeks is dangerous. One must be precise first of all whether termination of pregnancy is necessary or not.

DR. SUSHILA NAYAR: Suppose a woman comes to you bleeding at 16 weeks, are you not going to help her

WITNESS: Yes, depending on her condition and facilities available. Will they be able to do it at the Primary health centre?

DR. SUSHILA NAYAR: The choice is between doing something and giving her a chance to live and doing nothing and allowing her to die of bleeding.

WITNESS: Then this is not for induction of abortion. Already in the case you mention she has aborted and it is incomplete. It is a different case.

DR. SUSHILA NAYAR: How can you say that? It may be separated 50 per cent. Now she may be only bleeding, and because of that bleeding the doctor decides that the termination should be done.

WITNESS: Should they do it at the risk of her life. Even without proper facilities in a rupture to transported ten miles distance to a place where facilities are available.

DR. SUSHILA NAYAR: You have seen how these abortion cases are dealt with. Suppose you have to transport that woman ten miles away by a bullock cart. That is not possible. Something has to be done straight-away.

WITNESS: If that is the case you must have adequately trained doctors

in the villages. Otherwise her survival is only a chance.

DR. SUSHILA NAYAR: All that is stated here. I am coming to it because they have provided for certain types of regulations which, I think, should be there. Are there any sure oral medicines for abortion?

WITNESS: Not to my knowledge. Whatever oral medicines are taken now. They are given mostly by untrained people. Half the product is expelled and half the product remains in the uterus causing much damage to the woman.

DR. SUSHILA NAYAR: So the question of oral medicines for abortion does not arise. There has to be surgical interference

WITNESS: And some of the physically handicapped children are born due to this kind of oral medicines. After these medicines are taken in some defect in growth of the organs.

DR. SUSHILA NAYAR: In clause 6 the Bill says:—

“The State Government may, by regulations,—

(a) require any such opinion as is referred to in sub-section (2) of section 3 to be certified by a registered medical practitioner or practitioners concerned, in such form and at such time as may be specified in such regulations, and the preservation or disposal of such certificates.

(b) require any registered medical practitioner, who terminates a pregnancy, to give notice of such termination and such other information relating to the termination as may be specified in such regulations;

(c) prohibit the disclosure, except to such persons and for such purposes as may be specified in such regulations, of notices given or information furnished in pursuance of such regulations.

(2) The notice given and the information furnished in pursuance of regulations made by virtue of clause (b) of sub-section (1) shall be given or furnished, as the case may be, to the Chief Medical Officer of the State."

Now do you not think that they should also make regulations as to the training and qualification of the people to be entrusted with the work of carrying on abortion.

WITNESS: Yes, they have to train people if Govt. legalise abortion.

DR. SUSHILA NAYAR: Unless you put it in the legislation because one State may be able to provide trainers while the neighbouring State may not agree. Similar regulations will have to be made for ensuring minimum conditions in nursing homes etc. You agree that these two types of regulations should be put in this clause.

WITNESS: Yes, it will be necessary.

DR. SUSHILA NAYAR: Lastly, sub-clause (3) says:—

"Any person who wilfully contravenes or wilfully fails to comply with the requirements of any regulation made under sub-section (1) shall be liable to be punished with fine which may extend to one thousand rupees."

Do you think this punishment is enough? Don't you think it should involve much heavier punishment? These fellows can take Rs. 1,000 for one abortion and to punish them with a fine of Rs. 1,000 is a joke. Don't you think so?

WITNESS: There must be provision for a term of imprisonment also, and not merely fine. The party would have already paid the money to him.

SHRI NIRANJAN VARMA: Madam, in your opinion, will not a legislation of this kind affect the character of the younger generation, especially these married and unmarried major girls?

WITNESS: There are enough temptations other than this for the teenagers. What about the middle-aged men and women also? Why blame the teenagers only? This of course gives a wide margin for every one who wants to indulge in such activities.

SHRI NIRANJAN VARMA: What is your opinion about the records being kept confidential or in such a way that the parents or the persons should not come to know of these things?

WITNESS: It will only induce them to take advantage of these facilities. If they will not be chided or advised by the parents, how will they or the parents be able to take care of them at least in the future? So many young lives would go like this without any guidance if such a wide protection is given to them that the parents or the guardians should not know about it.

SHRI NIRANJAN VARMA: Now, the term 'mental health' is a very vague term, no doubt. But is there any methods or test by which you can judge whether a woman is really suffering from any mental agony or anguish?

WITNESS: Only a psychiatrist will be competent to do that. A cursory examination in a crowded clinic will not be enough to tell whether she is really suffering from mental agony. It requires a good study by a psychiatrist.

DR. (MRS.) MANGLADEVI TALWAR: Madam, you have suggested that the opinion of a board consisting of two gynaecologists and one physician should be necessary to decide the merit of a case. Won't it involve a great deal of red tape and delay, especially in urgent cases? Why should two gynaecologists be required to give the opinion? One gynaecologist should be enough. Don't you think one person of competence is enough to do it? Then, when you say a gynaecologist, do you mean that he or she is also an obstetrician, because in our country a gynaecologist is very often an obstetrician also? I should like to ask

you particularly why you want two gynaecologists.

WITNESS: It is better to have two gynaecologists preferably one obstetrician one gynaecologist and one physician.

DR. (MRS.) MANGLADEVI TALWAR: So you want one obstetrician, one gynaecologist and one physician and not two gynaecologists?

WITNESS: Yes.

DR. (MRS.) MANGLADEVI TALWAR: Suppose there is no obstetrician there, and only two gynaecologists are here, why should you want to have two of them for opinion on a simple case of termination of pregnancy?

WITNESS: Well, if there are only one physician and one gynaecologist and both differ, there should be a third person to tell you whether it is necessary or not. It is better to have two gynaecologists, who unanimously might agree or disagree, and one physician with their.

DR. (MRS.) MANGLADEVI TALWAR: What about the delay? It is all right in Delhi, Bombay, Madras and other big cities where you can find two gynaecologists. But you cannot find two gynaecologists in a district, for instance. Won't it cause delay? You want to look for another gynaecologist who may not be available and for that matter you want to postpone the termination of pregnancy in urgent cases.

WITNESS: Everthing gets delayed in our country. But is it that necessary you have to do the abortion in such a hurry? As an emergency you can easily have two or three or four days' delay; it does not matter. If this is so urgent what about greater things like a post partum haemorrhage case which are being delayed & causes death due to want of adequate medical aid in our country.

DR. (MRS.) MANGLADEVI TALWAR: I am not talking of the P. P. H. case. I am talking of indications for abortion.

WITNESS: I have said that these things should be done under normal conditions. If there is a necessity for abortion, these conditions must be obtained. If they are not obtained, the remedy which we are seeking will be worse than the disease. That is my opinion.

DR. (MRS.) MANGLADEVI TALWAR: Who, in your opinion should be competent to do the abortion operation—an obstetrician, a gynaecologist, an M.B.B.S. man or a graduate of integrated medicine?

WITNESS: It should be either a gynaecologist or an obstetrician and never a physician or a general surgeon or any ordinary practitioner. Only people with experience in gynaecology and obstetrics should be competent to do this. Above all there is another important qualification, the conscientious doctor.

DR. (MRS.) MANGLADEVI TALWAR: You won't want even an F.R.C.S. person to handle this case?

WITNESS: If there is one with experience and he is a trained person, he could do it if not one with high Degrees.

DR. (MRS.) MANGLADEVI TALWAR: He is a general surgeon. He knows the anatomy of it; he knows the surgery of it. Will it not be possible for him to do abortion? Is a general surgeon not competent to do this abortion?

WITNESS: He may be very good in general surgery. The question is whether he is competent to do this job.

DR. (MRS.) MANGLADEVI TALWAR: So you would allow only an obstetrician or a gynaecologist for this job.

WITNESS: Or anyone who gets adequate training, a qualified doctor who is adequately trained.

DR. (MRS.) MANGLADEVI TALWAR: You have said that after abortion there would be morbidity, complications, etc. that the woman would



be disabled for life. I agree with you. There can be many complications. There would be sepsis, there would be hundreds of other things, that will disable a woman for life if she is not treated properly, if she is not taken care of properly in the medical sense. But done under proper conditions by an experienced person, do you think that most of the cases would suffer from such morbidity or disability as you have said?

WITNESS: Even in the best of hands these are unavoidable sometimes. Haemorrhage would be unavoidable even in the hands of the best experienced persons. So also sepsis. Even ordinary operations done by experienced surgeons, sometimes contract sepsis such Gross infections are unavoidable in the wards.

DR. (MRS.) MANGLADEVI TALWAR: There will be very few such cases. But given proper conditions in a well-equipped place, may be a hospital or a nursing home, when an experienced persons handles it, do you still think that these complications would be so prevalent as to disable most of the women who are operated upon?

WITNESS: It may happen sometimes even from experienced hand.

DR. (MRS.) MANGLADEVI TALWAR: For instance, in a large number of cases done in England it is found that these complications are very few.

WITNESS: But there will be the after-effects; mental effects or imbalances will be there. We do not have the facilities of England here.

DR. (MRS.) MANGLADEVI TALWAR: Of course, it is a question of research. They require a follow-up That I admit, that there has not been enough time to do that. But take the results they have obtained there. After all, these abortions are done after taking all the precautions. It should not be such a thing that complications should be feared in every case or in a large number of cases. They can be minimised to a very great extent.

WITNESS: We have to learn although the necessity to do research is very much there because we do not know the nutritional and general condition of each woman. Of course, we can learn from the experience of other countries where abortion has been liberalised or legalised. It has been done in Sweden and Hungary. Even in the countries where medical aid is adequate and the basic medical aid is very well organised, they have found complications. We can experiment. We can do research on how far our already ill-nourished, weakened, women will stand the strain of an abortion. That has to be studied before we make it a licensed affairs.

DR. (MRS.) MANGLADEVI TALWAR: We should have a follow-up service after the operation. You advocate that.

WITNESS: Yes.

DR. (MRS.) MANGLADEVI TALWAR: I agree with you. In our country, in our society, there are certain situations—I have personal knowledge of them—especially 20 or 30 years ago when people used to marry at a very early age and beget children with the result when they are about 40 or 45 they have grand-children, sometimes even grown-up grand-children. Sometimes it so happens that grand-mother becomes pregnant and in that situation she feels it so embarrassing before all her grown-up children and grand-children and she would not like to have that child if she can so help it. When the parents are old, they do not naturally like to have any more responsibilities nor would they like to pass on their responsibility to their grown-up children. In such cases would you not advise abortion?

WITNESS: No. I would say that the grand-mother should have taken adequate precaution when family planning advise is freely available.

DR. (MRS.) MANGLADEVI TALWAR: But supposing all those devices fail them.

WITNESS: Then that grand-mother must have to deliver the baby. Certainly this kind of abortion if killing

an unborn baby is not the easiest way of getting rid of such accidents. I would not agree to that.

DR. (MRS.) MANGLA DEVI TALWAR: So you would say they had better not indulge in it.

WITNESS: Yes. After all, if they do not take precaution for which advice is freely available all over the country they should bear the consequences. This will be a punishment.

SHRI B. S. MURTHY: What is your experience about induced abortions in India? Everyday there are a number of induced abortions in India. In spite of social and religious fears and anathema those things are going on and most of them resort to some sort of criminal abortions. What do you think of them? How many people do you think, survive when they go to quacks, for this help?

WITNESS: Absolute statistics are not available in this regard excepting in the hospital cases which come to our notice because a number of cases go to the hands of quacks and naturally we have no way of collecting those statistics. In Tamil Nadu there are about 12,000 cases of abortion a year, are 29 deaths among them, most of them due to sepsis. Many deaths occur at the hands of the unqualified people in the villages. But I am unable to say their number.

SHRI B. S. MURTHY: It is said there are several persons facing even death in the matter of terminating pregnancies. What should be our remedy to save such people? Should we allow them to go to quacks or should we provide them the machinery by means of which they can save themselves and avoid such predicament? I am asking you as a person who knows the difficulties of women and also of men. Are we to keep quiet and allow things as they are happening today? A woman commits a mistake and conceives and she then runs here and there. She then falls into the hands of some quack who may or may not save her life. Therefore what should be the duty of the nation or the society to save such pregnant women?

If you think something can be done, then what is that something?

WITNESS: You have asked me a very difficult question. I am not at all thinking of family planning. I am only thinking of such women who are without medical aid and who die every other day for want of little advice from a medical officer in a remote village. I am thinking of the essential medical facilities that should be made available to them.

SHRI B. S. SURTHY: That we are doing; we have done it in Madras and we are doing it in the Centre. But what is your remedy for those who have to face such difficulties and who fall into the hands of quacks?

WITNESS: The answer is to give them adequate medical aid in those far-flung areas where people have neither advice nor facilities. There are places where we do not have even arrangements for admitting a case of Haemorrhage of such women. Neither there are adequate facilities to treat them. By doing a few abortions here and there we are not going to solve the problem of relieving.

SHRI B. S. MURTHY: You are trying to bypass my question. No doubt what you have said is correct. We are not able to meet the needs; we are not able to carry our supplies and services to the people who are really in need of them. But what is the remedy that you would like to suggest? Don't you think that the society is morally bound to provide facilities for these people who want to get rid of such pregnancies which they think would make their position in the society quite unhappy? They would rather prefer to die than to live with such pregnancies.

WITNESS: For providing such facilities we would be requiring a lot of money. Are we in a position to provide that much money?

SHRI B. S. MURTHY: Suppose money is available, then what is your answer?

**WITNESS:** You can give them first for adequate basic medical facilities. If we give them health education, I do not think there will be any necessity for persons to go to untrained people for abortion. I am sure no woman will go to these people if they are aware of the dangers that will followed.

**CHAIRMAN:** The question now is about liberalising it. Now it is illegal. By this legislation we want to permit it. That is the question.

**WITNESS:** The remedy which you are seeking will be worse than the disease.

**SHRI B. S. MURTHY:** How? I will just illustrate my point. By liberalisation, by giving permission, a majority of the people who are now resorting to quacks will try to openly go to doctors with necessary evidence and get their help in getting rid of such pregnancies. But today such facilities are not available. For instance, let us see what this Bill provides for. It is only extending the provision the Indian Penal Code. If you see clause 5, it says:

“termination of such pregnancy is immediately necessary to save the life . . .”

Now to this we are adding the words:

“or to save permanent grave injury to the physical or mental health of the pregnant woman.”

The provision is already in the Indian Penal Code. Why should anybody fight shy of making this liberalisation?

**WITNESS:** The term “permanent grave injury” is very vague.

**SHRI B. S. MURTHY:** I am sorry I am taking your time because you are very experienced and very generous-hearted. Therefore I am seeking your advice. This provision is already there in the Indian Penal Code to save the life of the pregnant woman a doctor can terminate the pregnancy. Here we are adding only one clause that if it is likely to cause a permanent injury to the physical or mental

health of the pregnant woman then also it should be possible to terminate the pregnancy. What is the danger you see in this?

**WITNESS:** I see great danger in the last part of the sentence. So far as mental health is concerned, who is to decide that it is going to cause a permanent injury to her mental health?

**SHRI B. S. MURTHY:** The doctor who decides the danger to her life will also decide this.

**WITNESS:** Because of the various scientific methods that are available and modern facilities in the treatment of diseases the danger to life is considerably reduced now.

**SHRI B. S. MURTHY:** The very person who will decide about the danger to her life can also decide whether it will lead to any grave permanent injury to the mental health of the pregnant woman.

**WITNESS:** It is a very vague term to say injury to mental health.

**SHRI B. S. MURTHY:** Then will you please give us a draft as Dr. Sushila Nayar has asked so that we will take your draft which will not be vague but would be perfect?

**WITNESS:** As I said I am not prepared to accept the condition of “permanent damage to mental health”. The woman is very anxious about the pregnancy, but how can anyone know if it is going to cause deterioration to her mental health of a permanent nature? That is a very vague and that cannot be decided by any doctor immediately.

**SHRI K. P. MALLIKARJUNUDU:** This is likely to lead to great abuse and you will be doing more harm than good by having this clause. There may be cases as you contemplate but this is certain that it will open the flood gates of abuse.

**WITNESS:** Yes, this is likely to be greatly abused by the people concerned.

**CHAIRMAN:** Thank you very much for your valuable evidence.

(The witness then withdrew)

[Dr. (Smt.) Sumati Kanitkar, Lokmanya Tilak M. G. Hospital, Bombay, was then called in].

CHAIRMAN: I welcome Dr. (Smt.) Sumati Kanitkar to give evidence before this Committee. She has already submitted a memorandum which has been circulated to Members. Dr. Sumati Kanitkar, you are welcome to make your comments with particular reference to the provisions of this Bill and whatever you say is confidential till it is published by Parliament.

DR. KANITKAR: Thank you very much for inviting me to express my opinion on this very interesting and important topic of the day. I am glad that we are taking this question, shall I say, by the horn and I hope some solid conclusion will definitely come out of this.

When I went through this Bill the first thing which struck me is the clause that any registered medical practitioner is authorised to give opinion as well as to do abortion. Now I want to know who is called registered medical practitioner. If they are those who are actually practising, then according to me all of them are not trained in allopathic science and even those who are trained in allopathic science are not competent to do abortion because they are not practising gynaecology. If all such doctors are given this permission I feel the results would be disastrous. They should not give even opinion because it is very difficult to judge whether the pregnancy is of 12 weeks or 20 weeks. Firstly the history itself may not be correct; the woman may give wrong information. I am stressing on this because induction of abortion is a little bit safer at 12 weeks but as pregnancy advances it involves complicated operations. There are likely to be more complications when the pregnancy is of more than 12 weeks and the complications go on increasing afterwards. And especially in our

country, where all the facilities are not available, facilities for resuscitation, blood transfusion, etc., this is asking for trouble. I want to say that any registered medical practitioner should not be considered competent to do this.

Secondly I would like to know another thing. You say any Government approved hospital. Now I have got here some very good references. There is one very good article here in Lancet—One Year of Abortion Act. The Editorial Board itself has said that in England after one year they are reconsidering the whole issue and under the Act they have set up a Committee which will scrutinise the facilities in all these hospitals. They have specifically said here that anaesthesia facilities and blood transfusion facilities should be available also we should see that a competent anaesthetist is available as well as blood transfusion facilities and we should also see that facilities are available at such places for abdominal operations because one does not know what will be the outcome. There might be some complications when we may find that an abdominal operation is essential.

Actually one method of doing abortion is through the abdominal route, if the other methods fail. So, this is the second thing which I wanted to say.

The third thing is about the social aspect. I do not know whether I am competent to discuss it. You have said that in case of rape the husband's permission is necessary I feel that this clause should be removed. Many times the husband may not think that it is rape, and there may be trouble later on. The woman will unnecessarily get into trouble. Where there is a genuine case of abortion, her own consent should be valid. Her husband's or guardian's consent should not be necessary.

There is another clause where a minor girl is pregnant. In such cases as a doctor I will tell you about my experience: Illegal abortion is an

urbanised problem. In the villages people have their own method of solving the problem. They have got their own social system. The girl is exonerated. In the cities without the knowledge of their parents the girl and her boy friend go to many doctors and especially to the quacks. They take the decision in their hands. Here if you make the girl go to her guardian or parent, I do not think she will summon enough courage to approach her guardian and tell him or her that she is pregnant. This period of twenty weeks is really a short time to get the abortion done after consulting the guardians. These are minor girls and unmarried girls. The child born will be illegitimate and unwanted. If you want to rescue these girls and their present children being born, I feel that once the girl is capable of conceiving, she should herself take the decision of getting the abortion done.

Then, there are some other things which are not clear here. To whom should the information be given? I suppose you will not want too many forms to be filled in and too much publicity to be given. In that event no woman would come to a public institution. A lot of inconvenience will be caused and meanwhile the period of twelve weeks or twenty weeks will be over. Let there be less number of forms and the less the publicity the better it is. A device or means should be found to minimise formalities. The information should be kept strictly confidential and it should not be revealed to any person who is not properly authorised. For instance in a public hospital where they have got a special record department or registration department, quite a number of people handle a particular form. Now, in these abortion cases strict secrecy should be observed and some such rule should be made whereby only the doctor who is performing the operation and at the most the head of the institution, should have access to the record and nobody else should have access to the record.

There is some information which I have come across with and I do not know whether it is required. There is a very nice book by Sir John Peel and Malcolm Potts and is called "Contraceptive Practice". Here they have made clear the position according to modern knowledge about the condition where you might consider there is a serious risk that the child will be mentally and physically retarded. So, when you are making this Bill into law, some guidelines should be given to doctors. After all, their knowledge will not be up to date. What are the conditions to be considered in which a woman could get abortion done? If she feels that the child will be born mentally or physically retarded, if there is any such risk, it should be considered. The physical and mental health of the mother should also be considered. These are two factors. Some guidelines should be given according to the latest medical information. You say here Government approved hospitals. These should have all the facilities. The doctors in the district levels are not up to date and some sort of training should be given to them. Training must be given to the doctors who will be doing the abortions. Three or four operations are involved in this and a person who is not competent and who is going to cause injury should not be permitted to handle such cases.

I think this is sufficient by way of introductory remarks.

**SHRI B. S. MURTHY:** As regards the definition of "registered medical practitioner", we are now thinking of deleting it. As you rightly pointed out, every registered medical practitioner should not be allowed to handle these cases. Then, he should also be given orientation and some competent authority should certify that so and so is authorised to handle such cases. We want to make such rules so much so that a novice or a man who is ignorant of the difficulties will not be allowed to handle such cases.

WITNESS: I entirely agree with you. It is a very wise suggestion. I feel some sort of training just like family planning training course or IUCD insertion course should be given. It is a more serious operation than the insertion of a loop. This provision is necessary.

DR. (MRS.) MANGLADEVI TALWAR: I agree with your suggestions and I also agree with the three conditions which you have enumerated. Please refer to clause 4 (b), which which says:—

“a place for the time being approved for the purpose of this Act by Government.”

When the Government approves a place, they should see that these three conditions are fulfilled. You can never tell when things go wrong. You do not know whether blood transfusion will be required. May be an abdominal operation is necessary. So, I quite agree that those conditions should be fulfilled by a private clinic. The only point is it is all right in a city or in a big town like Bombay, where you are practising. When you come to the rural areas, do you think that such cases could be handled by the primary health centres? Do you think that a private medical practitioner in a small place should be provided with facilities to do the evacuation operation? If anything goes wrong, such as bleeding, blood transfusion facilities will have to be made available. I agree with you. But as you know, even in big hospitals, if blood is required for transfusion, it is not available. Our people are not willing to donate blood. So, we have to consider this very difficult situation in our country. Where these things are not available, what do you suggest for the rural areas? Suppose a case has gone wrong in a village or nearabout a village, then what do you suggest? Should the woman or the patient be sent through the courier system or an ambulance system or better still have a fully equipped mobile hospital where in the services of a specialist and blood-

transfusion facilities will be available? The team with all the instruments will be there. Do you think that would solve the problem.

WITNESS: I am glad you asked this question. In Bombay we have started what is called a flying maternity squad. It is operating in the city of Bombay and attending to maternity cases. I think you, Dr. Sushila Nayar, inaugurated it and you will remember it. We are successfully doing this. Our doctors go with blood transfusion bottles. These are the doctors who are specialised in gynaecology and we can say in anaesthesia also induction of abortion. After all this is going to be a planned operation. In that case it can be done at a district level hospital where clearly a civil surgeon is available to manage and blood transfusion can be made available. Now everywhere pathologists are available. I know places in Maharashtra where district hospitals also have blood bank. So in districts it is possible. The Government approved hospitals should be at district level. Even if the condition is one of emergency, I think it could be done. In cases of extreme emergency even if this place is not specified, these flying maternity squads could help if the doctor gives some indication that he is planning to do these operations. In case of emergency the squad service should be available. It is not difficult to train the people on the squad at all. The squad does a good job I can tell you from my experience.

DR. (MRS.) MANGLADEVI TALWAR: Another suggestion you have given. In the case of minor girls when they become pregnant, it should not be necessary for the guardian or the parent to give permission in writing as it is in the Bill. I think I agree that if the girl is old enough to become pregnant, perhaps she can decide for herself about this. But don't you think it will lead to legal complications? Also all girls are not mature enough when they are 14 or 13. A girl can become pregnant even when she is 12 or 13, below 14. Do

you think that a girl of that tender age, although she may become pregnant, is mature enough to decide for herself, and would her consent be considered valid in the court of law?

WITNESS: It is like this. It will be giving rise to many legal complications, yes. But with for an illegal child there will be double dose of complications. When she becomes pregnant and she wants to get rid of the pregnancy by her own consent, the complications will be far less. She can decide to take the other bolder step of going to the Government approved hospital where the process of admission should be cut short and she should be given the maximum facilities.

DR. (MRS.) MANGLADEVI TALWAR: Kindly refer to Explanation II, last sentence. It is mentioned here, "the anguish caused by such unwanted pregnancy may be presumed to constitute a grave injury to the mental health of the pregnant woman". Do you agree with this wording of the sentence where without any guidelines it is said "grave injury to the mental health of the pregnant woman." I would say it is very vague. It can mean anything and different people may take different meanings. Do you think it should be clarified and it should be made more definite?

WITNESS: I feel it should remain vague as it is so that people may interpret it as they like. After all we do want to help these people. We do want that those unwanted children should not be born unwanted. They should be wanted children. So let legal and other people interpret it.

DR. (MRS.) MANGLADEVI TALWAR: In other words you want provisions of a very liberalised nature that would enable everybody to get rid of unwanted pregnancy.

WITNESS: I am for giving medical aid to the women who are now going to people who are not competent to do it. Unless we make this liberal the women will never come to us in the public hospital.

DR. (MRS.) MANGLADEVI TALWAR: There is one more question I would like to have your views on. In clause 3(3) it is said, "account may be taken of the pregnant woman's actual or reasonably foreseeable environment". This again is very very vague. "Reasonably foreseeable" may mean anything to anyone. Do you think this should remain like this?

WITNESS: In the English law they have recognised that the health of a child in the family can be a condition. This may also apply to an Indian family. The clause should remain vague. That is what I feel.

श्री निरंजन वर्मा : अपने देश में जो कानून हैं उन सब में मेजरिटी 18 वर्ष बताई गई है। अभी आपने बताया कि जिस स्त्री में या लड़की में गर्भधारण की क्षमता आ जाय इस कानून के लिए उसमें उन्नीस प्रकार से छूट होनी चाहिये अर्थात् अगर कोई लड़की 16 वर्ष की आयु में गर्भधारण करने की क्षमता रखती है तो यह जो मेजरिटी एकट का 18 वर्ष का परिपालन है उसको छोड़ देना चाहिए। आप की राय में यह 15-16 वर्ष भी इसके लिए रखना ठीक होगा ?

साक्षी : इसी उम्र की लड़कियों में यह प्राबल्य बहुत एक्यूट है। वे अपने फादर से नहीं कह सकतीं और कितनी की हेल्प भी नहीं ले सकतीं। मैं इसको जरूरी समझती हूँ और इस पर इन्सिस्ट करती हूँ।

श्री निरंजन वर्मा : अभी आपने बताया कि जहाँ तक बने वहाँ तक इसको सीक्रेट रखना चाहिए। सीक्रेट इसलिए रखना चाहिए क्योंकि संकोच के कारण, शर्म के कारण बहुत सी लड़कियाँ अपने माता-पिता से भी छिपाने का यत्न करती हैं लेकिन अगर आपरेशन के

कांसीवक्त्रेंसज गलत हो जाय, फेल हो जाय तो उस दशा में उनके गार्जियन्स को और उनके पालकगणों को सूचना देनी पड़ेगी, उस दशा में सब बात आउट हो जायगी तो पहले इसके लिए तैयारी क्यों नहीं करनी चाहिए कि उनकी आज्ञा ले ली जाय, उन्हें सूचना दे दी जाय ।

I am sorry I cannot speak freely in Hindi. I feel that in this particular case you should give special concession for this particular operation namely that the minority law should also be liberalised, because for other operations when we do surgical procedure we take the guardian's signature for the minor girls. But here they will not go to the guardian. Therefore, she should be allowed to come boldly to us and decide. Ultimately it is the doctor who is going to decide whether he is to do the operation or not. After all the doctor is a responsible person.

डॉ निरंजन सर्मा: तीसरी बात इसमें मंटल हेल्थ की आयी है । जैसा कि आपने बताया कि मंटल हेल्थ एक वेग टर्म है । कोई भी लड़की बहाना बना कर आ सकती है और कह सकती है कि मुझे बहुत मेंटल एगोनी हो रही है और इसमें मैं अबांर्शन कराना चाहती हूँ । तो इस तरह की बहाने-वाजी से अबांर्शन तो हो जायगा लेकिन इस प्रकार के दुष्चरित्र का प्रभाव अपने सामाजिक जीवन पर आगे पड़ने की संभावना तो रहेगी ही । इस के विषय में आपका क्या मत है ?

साक्षी : इस से थोड़ी सी लिवर्टी ज्यादा मिल जायगी ।

Right from the beginning of the world moral laws are man-made laws. What is moral in India may be held not moral outside and *vice-versa* a girl. Once she is pregnant then only we come to know that she has been immoral. If she has been using some device she can continue to be immoral; we have no control over her. Only when she comes to us for her pregnancy that we are going to act as

judges for her. Therefore, let us not make matters worse. It is the poverty, poor social conditions, and lack of gainful occupation for the girl that make her go in for such things. Unless she is mentally imbalanced every girl has some morals.

डॉ निबंधन वर्मा : अभी जो बिल इस संबंध में आया है और आप के सामने है और जिसका आपने अध्ययन किया है इसमें और ब्रिटिश कानून में अंतर यह है कि मेंटल एगोनी तो अपने यहां केवल उस महिला को ही देखी जाती है लेकिन ब्रिटिश ला में उसके जितने बच्चे हों यदि उसके कारण उन को भी मेंटल एगोनी हो जाय तो भी उसको गर्भपात कराने का क्लेम हो जाता है । तो क्या आप का ख्याल है कि अपने यहां भी इसी तरह का लेजिस्लेशन होना चाहिए जैसा कि ब्रिटेन में किया गया है ?

साक्षी : इस की यहां इतनी जरूरत तो नहीं मालूम पड़ती है ।

The mother herself will have all the mental agony. The child is too small to have the agony. You relieve her of the agony and the children will be definitely taken care of.

DR. SUSHILA NAYAR: Doctor, you have said that if the girl is old enough to conceive she should be old enough to give consent for carrying on abortion. But the law does not allow that. And you know that conception in some exceptional cases can take place at a very early age. Further conception may be the result of rape and not a deliberate act on the part of the girl. Therefore, unless you take her parent or guardian into confidence the girl will not be better protected in future. In the interest of the minor girl herself it will be necessary to take her parent's into confidence. Would you not agree with it?

WITNESS: Many times they are not bold enough to consult their guardians. I am sorry to State that in the two generations there is always a gap. By the time guardian gives the consent twelve weeks may



be over and the case may become more and more complicated. The father may not see eye to eye with the girl. If she is married the husband may not see eye to eye. Therefore, for such a girl, I feel, she should have some freedom for her ownself.

DR. SUSHILA NAYAR: While I will go along with you, so far as a married woman is concerned, she may decide for herself. But so far as the minor girl is concerned, I am afraid in her own interest her guardian or her parent has to be taken into confidence; otherwise some unscrupulous person who has misled this girl made her pregnant, takes her for operation to some place and does the same thing over again and exploits the child. Surely you agree that a minor child of 12 or so who can conceive is not mature enough to form judgment of everything.

WITNESS: I agree without. But in case she does not go to her guardian and she is burdened with an illegal child, the matter is going to be worse. She is going to be exploited again and again.

DR. SUSHILA NAYAR: I do not think it will be so easy to amend the law to give power of giving such permission to minor children

WITNESS: Probably that is the most delicate problem. She is already exploited and on top of it you want her to tell her guardian.

DR. SUSHILA NAYAR: Absolutely. I do not want these people who are too busy joining parties and cocktails, and various functions outside their home and have no time to look after their own children and protect them, to go scot-free. I think their children should not be made to pay for these overbusy women. If they produce children it is their job to look after them, and to give them proper education and proper protection and not except the children to go for abortions for themselves.

WITNESS: I am working in a public hospital and in all the public

hospitals we get patients coming from the lower strata where their mothers are going to factories or working as maid-servants and these girls are remaining unprotected in some cottages. These girls are just used by their neighbours for immoral purposes, they become pregnant. And then it becomes a social stigma. And if on top of it their father is a drunkard you can imagine the fate of such girls who come to public hospitals.

DR. SUSHILA NAYAR: While I fully sympathise with the plight of these girls the remedy is not to keep the parents out of the picture. Maybe social workers may have to find certain places for certain cases where these children can stay while parents are at work. In fact, in Bombay I think some social workers have done an excellent job in arranging such places school buildings are used for keeping children after school hours till the parents come back from work in the evening. Anyway, let us come back to the provisions of this Bill.

You have very rightly stated that so many facilities are necessary before an abortion can be carried out which makes it obvious that an abortion is a risky affair and, therefore, it should be resorted to only when it is absolutely necessary. Now, danger to the mother's life is already recognised by law. We are taking care of the child lest it should be defective. We are taking care of rape cases and the consequent problems created for the mother and the child. We are covering them. From your remarks as I understand them you also wanted to liberalise the use of abortion as a family planning measure. You know, firstly, that there are far safer methods of family planning which may be resorted to. Do you not think that if abortion is made easy for family planning purposes, it will act as a damper for the family planning movement and the popularisation of contraceptives which are far safer than abortion can ever be under the best conditions?

WITNESS: I feel that one experience of abortion will definitely make that person wiser and she will definitely resort to contraceptives because it is not a very easy matter to come and get aborted. She will even give consent to undergo sterilisation. But once she becomes pregnant, we do not want that child to suffer for being born unwanted in this world.

DR. SUSHILA NAYAR: Unfortunately the experience of countries where abortion has been liberalised, does not confirm your hope or expectation that one abortion will teach them a lesson. In Japan they have found that within 18 months over 60 per cent have had a second abortion. And there are women who have been going for abortion once or twice every year. Therefore, abortion is a thing which can be taken lightly by people if there is ready availability of facilities for it.

WITNESS: We have not yet found contraceptives which when used regularly will give 100 per cent results.

DR. SUSHILA NAYAR: Almost 100 per cent.

WITNESS: So, it will be 99 per cent; and we want to take care of that one per cent.

DR. SUSHILA NAYAR: Sterilisation means 100 per cent and IUCD, almost 100 per cent. And mind you, in other countries like France and Britain, they had limited the size of their families with the conventional contraceptives, when not some of these newer and more effective methods of family planning were not known. Surely if they want to limit the number of children they can do it.

WITNESS: Well, this abortion measure is wisdom after the act; that is, she has conceived now, whether she has used contraceptives or not. What we want to do now is to cure her of that particular pregnancy. Later on you can make an amendment saying that if they have enough child-

ren, she should undergo sterilisation or her husband should undergo vasectomy.

DR. SUSHILA NALAR: Why not make it a condition that if you have to give this facility of abortion as a family planning device, it shall be done only if one of the partners agrees to undergo sterilisation?

WITNESS: That can be done if they have got enough children. But suppose within six months of the first delivery, a girl conceives again.

DR. SUSHILA NAYAR: Let her go through with it. You know very well, so many times a woman is very upset when she conceives; but when the child comes, she is very happy. Our friend opposite told us how in his family they wanted to have an abortion at first, and later on when the boy was born they were happy. He turned out to be the brightest in the family.

WITNESS: It is the married women who go to the abortionists in the maximum number. By putting this condition of sterilisation you are not going to reduce illegal abortions. If you make this illegal, they will go somewhere else.

DR. SUSHILA NAYAR: We cannot eliminate illegal abortions under any circumstances. Even with the free availability of abortion facilities in Japan the number of illegal abortions is as high as the number of legal abortions. So, people who want to do an illegal thing will continue to do it.

WITNESS: We hope at least they are not blackmailed into doing that.

DR. SUSHILA NAYAR: Would you like us to make some regulation regarding the requisite training for the doctors?

WITNESS: I feel so.

DR. SUSHILA NAYAR: Clause 6 says that the penalty for deliberate contravention of the provisions of this law is fine which may extend up to Rs. 1,000. Do you think that it is enough? A man may earn more than.

that in one day or in one weekly carrying out abortion.

WITNESS: I feel it is sufficient penalty at least for him to be cautious.

DR. SUSHILA NAYAR: Why don't you send him to jail as is the case under the present law?

WITNESS: Personally I do not mind sending all these people to jail because of the injury, caused to these women. That is why some liberalisation should be there so that people can go to institutions which are better equipped. I feel this is some way of reducing the number of people going to the quacks.

DR. SUSHILA NAYAR: Would you agree that an adult woman with a sound mind should decide for herself whether she wants to undergo an abortion or she wants to continue with the pregnancy, and the permission of the guardian or husband or parent—whichever it may be—should be necessary only in the case of minors and persons of unsound mind?

WITNESS: Again I differ from you as far as minors are concerned. A healthy woman, whether she is married or unmarried, can decide for herself. If you bring in the husband factor or the guardian factor, the whole purpose of the bill will be negated. As far as a lunatic is concerned, she is an irresponsible person; in her case everybody would be in favour of doing the abortion. So there would not be any obstruction.

श्री प्रताप सिंह : मैं समझ सकता हूँ कि आपने हालात को मद्दे नज़र रखते हुए इस बात पर जोर दिया कि अनमैरिड गर्ल को यह अधिकार होना चाहिए कि वह बगैर किसी इमदाद के खुद जा कर आपरेशन करा ले और आपको काफी अनुभव है आज कल के जमाने.

का और खास कर शहरों का कि जहाँ आम तौर पर यह बात चल रही है। और यह भी ठीक है कि शायद आप के पास जितने केसेज आये होंगे उन में शायद किसी में भी लड़की का पिता उसके साथ नहीं आया होगा। तो ऐसी सूरत में हम दोनों बातें नहीं कर सकते पहली बात यह कि जो अनमैरिड गर्ल हैं। 18 साल के नीचे की, व जा कर अबॉशन करा लें, एसा भी नहीं हो सकता और यह भी नहीं हो सकता कि उसके गार्डियन्स को पता न हो। तो ऐसी सूरत में आप बतायें कि आप को पैरा 2, सब क्लॉज 4 (सी) में क्या इस तरह के अमॉडमेंट की जरूरत महसूस होती है कि—

“No pregnancy of an unmarried girl, who has not attained the age of eighteen years, shall be terminated except with the consent in writing of her father or of her guardian....”

Now, I change the words as follows:

“...except with the consent in writing of any of her guardians..”

Will it suffice?

आप को जो भय है, मैं समझता हूँ कि वह भय सीधा सा है कि पिता को यह इत्तला नहीं होनी चाहिये क्योंकि उससे बहुत ज्यादा बदनामी होती है और न लड़की पिता से कोई ऐसी बात कह सकती है। हो सकता है कि वह मां से यह बात कह सकती हो, लेकिन पिता को वह नहीं बतायेगी। और मां भी नहीं चाहेगी कि वह अपनी लड़की की ऐसी बात अपने पति से बताये कि उस की लड़की को हमल ठहर गया है। तो ऐसी सूरत में महज गार्जियन का लफ्ज ही इस में रखें तो क्या आप इस से सहमत होंगी ?

WITNESS: I feel our women are not bold enough to go against their husbands' wishes or even inclinations, to give this consent. In their heart of hearts they might be feeling it, but I am doubtful whether they will carry it out. So many women actually want

it, but they are not bold enough to go against their husbands' wishes for themselves: I do not know if they will do it for their daughters. That "guardian" should not be there.

श्री प्रताप सिंह : आपका मतलब यह है कि कुछ भी न खा जाय ।

साक्षी : जी हाँ ।

श्री प्रताप सिंह : दूसरी बात । क्या आपकी जानकारी एतद्भां है कि आज भी अब शास्त्रों के तर्कों से हो रहे हैं, एक तो यह कि दवाओं या इंजेक्शन के जरिये—जो कि 12 हफ्ते से पहले-पहले हो सकता है—और दूसरा आपरेशन के जरिये जो कि 12 हफ्ते से पहले और उसके बाद भी हो सकता है । तो अगर यह दवाओं से हो सकता है तो क्या आप इस हालत में डाक्टरों को इनाजब देंगे कि वह इन दवाओं का इस्तेमाल कर लेंगे ।

WITNESS: I do not know of any medicine which causes abortion. It is done only by curettement.

श्री प्रताप सिंह : मैंने यह इसलिए पूछा कि यहाँ एक विटनेस ने कहा था कि वह इंजेक्शन भी दे देते हैं और उन इंजेक्शन से भी एवार्शन हो जाता है । तो क्या यह आपकी नज़र में है । आप जानती होंगी कि अगर गर्भ दवाओं का इस्तेमाल करये तो शुरु का स्टैज में एवार्शन हो जाता है । इसी तरह से आमुवेद में भी रजवाँता बटाँ या दशमूल रिष्ट आदि है जिसका इस्तेमाल इसके लिये लाभदायक है । एसाँ हालत में अगर ये चीजे वाकई में ठीक हैं तो क्या हर एक रजिस्टर्ड मेडिकल प्रैक्टिशनर को इन दवाओं के इस्तेमाल करने का अधिकार होना चाहिये ।

साक्षी : अब डू नाट दो वाकई में ये सब ये सब चीजे ठीक हैं या नहीं और इनसे हंड्रड परसेंट रिजस्ट मिलेगा या नहीं । यह सब तो एक्सपेरिमेंट करने की चीज है ।

As an allopathic practitioner I know definitely that it is by the D. C. Research is going on to kill the foetus as soon as it ferti-

lises. Still, as far as the hormone injection is concerned, research is going on. It will come within two or three years. I am not saying "no". But nothing has been proved. If it is so easy, it would not have created any problems. I feel the training is most necessary. But as far as I know no injection has been found up till now which is cent per cent effective.

श्री गंगाशरण दीक्षित : आप इस बिल का जो एक्सप्लेनेशन 2 है उसको देखिये । इसका मतलब यह है कि अगर किसी ने कह दिया कि हमने यह डिवाइस का उपयोग किया था और वह फेज हो गया तो फिर इतना भर गर्भपात कराने के लिये काफी होगा । क्या इससे ही डाक्टर का सैटिस्फैक्शन हो गया ऐसा समझ लिया जावेगा ।

Is there anything to know exactly whether she has used that device or not? Simply going and saying that she has used that device will be enough for a doctor to have a surgical operation. Is this subjective satisfaction of the doctor enough? According to a Supreme Court rulings "subjective satisfaction must be governed by some relevant factors."

WITNESS: It is the doctor who is going to give opinion whether this particular woman deserves an abortion. The ultimate responsibility is on the registered medical practitioner who opines on it. On the basis of his diagnosis and his conversation and discussion with the woman, the doctor can opine whether that woman deserves an abortion.

श्री गंगाशरण दीक्षित : ऐक्सप्लेनेशन 2 में डिवाइस के उपयोग के लाने के बाद जो बताया गया है तो क्या यह डिवाइस उपयोग में लाया गया या नहीं क्या इसको एक रजिस्टर्ड मेडिकल प्रैक्टिशनर पहचान सकता है । क्या यह पहचान सकते हैं कि डिवाइस इस्तेमाल किया या नहीं ।

साक्षी : नहीं पहचान सकते ।

श्री गंगाशरण दीक्षित : आपके खयाल से यह डाक्टर नहीं कह सकता कि इसने डिवाइस का उपयोग किया या नहीं ।

साक्षी : नहीं कह सकता ।

श्री गंगाशरण दीक्षित : अगर हम यह डिवाइस शब्द निकाल दें तो आपको कोई आपत्ति होगी ।

साक्षी : मुझे तो कोई आपत्ति नहीं होगी

It is the history given by the person. If she says she is married, yes. We cannot say unless you get your marriage certificate I won't believe it. She says she has used the contraceptives for which there is no proof. She says she has taken pills. Where is the proof? You have to take her word. So the provision you have given should be enough.

श्री गंगाशरण दीक्षित : अगर एक कपुल आता है और कहता है कि प्रैग्नेंसी रह गई है, हमारे दो या तीन बच्चे हैं और हम चाहते हैं कि गर्भपात हो जाय तो हो जाना चाहिये, वेदर दे हैव यूज्द दि डिवाइसेज आर नाट ।

WITNESS: If I feel that she is having mental anguish, again it is the doctor's judgement. It is the doctor who discusses the case with the woman. He should feel that the anguish she is suffering from is enough for an abortion to be done. The doctor should be satisfied of that.

श्री निरजन वर्मा : आपका मतलब यह है कि एंगुइश हो या न हो, अगर कोई दो बच्चे क बाद सीधे आ जाय और कहे कि हम आगे नहीं चाहते तो उसका क्या हो ।

WITNESS: But he has to say in these words that there is enough mental anguish.

श्री निरजन वर्मा : यह शब्द तो बतला जा सकता है, ऐसा नहीं है कि यह सब रहे ही । आपने जो पूछना है वह यह है कि अगर कोई

सीधे ही आ कर कह दे कि दो बच्चे हो गये अब हम नहीं चाहते, गर्भ रह गया है अब इसको उड़ा दिया जाय तो ?

WITNESS: That should be conditional. This is altogether a different thing which you are asking. Whether we should do it straightway or not is the point. So, I feel in that case if they say we have got two children, then, sterilise the person, compulsorily on demand a certificate to that effect. If the man gives consent, his wife can be sterilized. We are doing that. When an abortion is there, we can sterilize the woman. After all, they have come for that.

श्री गंगाशरण दीक्षित : वैसे ही यह क्लाइ (डी) है । इसको आप देखिये । इसका अपोजिट यह हुआ कि अगर अनमैरिड वूमन है और मेजर है और वह डिमांड करती है कि मैं गर्भ गिराना चाहती हूं तो वह कर सकती है ।

साक्षी : यस ।

श्री गंगाशरण दीक्षित : सिम्पली आन डिमांड पर ही गर्भपात कर दिया । आपने अपने नोट में भी ऐसा लिखा है । उसको मांग पर ही हो जायगा ।

Then, all these factors are not essential.

WITNESS: Provided she says is unmarried. There is no legal protection for her or her illegal child. The child becomes illegal and that is a demand. That she is not married is itself a demand.

श्री गंगाशरण दीक्षित : तो अगर वह आ कर खुद कह देती है कि मैं गर्भ गिराना चाहती हूं तो यह पर्याप्त होगा ।

WITNESS: If she is unmarried.

श्री गंगाशरण दीक्षित : कौन से फंक्टर्स होंगे जिन के बरपर यह होगा । सिर्फ डाक्टर के पास टेबिल पर आकर कंसेट दे देती है और यह काफी होगा ।

WITNESS: Yes, because she says she is unmarried. There is no protection for her under the law. This a case for liberalisation or legalisation of abortions, that is, of unmarried mothers only because the fathers go scotfree.

SHRI GANGACHARAN DIXIT: In that case the consent of the father or the guardian of the girl is essential if she is a lunatic. Otherwise she has got every right to give consent herself.

WITNESS: She says I am unmarried and I want this pregnancy to be terminated. She is bold enough to come and say that. That itself is sufficient punishment to her. She is already punished. So I feel you should have to be merciful to such women.

DR. M. SANTOSHAM: I would like to know about the incidence of poor slum girls, minors, who go to Government hospitals asking abortions.

WITNESS: Very little. We because do not ask them the detail and they may not give us correct history also. I am, however, not in a position to give any statistical information at the moment. If you want statistics, they may have to be collected. One source will be anatha-ashrams or such other places where these mothers are taken. I think we have got enough orphan homes where children are brought.

DR. M. SANTOSHAM: These are the people to whom we have to show great sympathy. That is right. Your suggestion is that the girl herself is asking for an abortion and is giving the necessary consent herself and that should be enough to do an abortion for her. But don't you think that under the peculiar economic circumstances in which they are living, this liberalisation would be a sort of indulgence for them to frequently indulge in this sort of a thing? The Bill itself provides protection to a minor girl and the guardians will protect the girl.

WITNESS: I think you are protecting two people, one is the girl herself

and the other is the unborn child, the illegitimate child.

DR. M. SANTOSHAM: For the moment you are protecting that girl. You must think in terms of the possibility of many girls who turn out to be professional prostitutes practising in their own homes.

WITNESS: Do you mean to say that this problem is not existing right now? It is there even now. Accidentally they become pregnant. What about those who do not become pregnant?

DR. M. SANTOSHAM: Should not the State take some responsibility to see that the moral calibre of our girls is stepped up a little bit? The State will certainly sympathise with them and see that they are not condemned once and for all and the State should give help once to such girls.

WITNESS: They will come to us and say "This is only once". Then they will go elsewhere and say 'This is only once'. Like that it will go on.

DR. M. SANTOSHAM: Because this girl is likely to be extremely frightened of the Government institution where this abortion is going to be carried out divulging the secret, she is not likely to go to that hospital but she would like to go to some other place where the secret is guarded. But all the same I cannot accept your explanation that if the girl is guarded from the parents, it would not make any difference with regard to the future character of the girl. You are allowing her to do what she likes because you are not making the guardians responsible. I am a medical practitioner myself and I know innumerable cases of this type. I can point out many cases in the slum areas. I tell the parents not to be harsh on their girls but find out the persons who are responsible for it and in some cases marriages are also arranged like that. The State must own this responsibility.

**WITNESS:** I agree that these questions should be referred to medico-social workers of the hospitals and they can have conferences with the guardians in general but not giving out the facts of these particular events. This problem should be handled very delicately by the medico-social workers. The guardians need not be informed. In other words you can take care of the rehabilitation of these girls tactfully.

**DR. M. SANTOSHAM:** The medico-social workers can go and find out in the slums as to what has transpired actually and ultimately who is the person responsible for these activities. But ultimately you will have to tell the parents or the guardians.

**WITNESS:** 'Ultimately' is alright but before that you allow the abortion to take place. So let the medico-social workers decide it keeping this act absolutely confidential.

**DR. M. SANTOSHAM:** The other thing is about the married women who get conceived and the child becomes unwanted because they already have got a number of children. They can go to the hospitals for abortion and after that they can have sterilisation.

**WITNESS:** Therefore abortion should not be on demand. Every case should be discussed with the doctor. Let the doctor discuss this with the mother and then decide. If the doctor thinks that this is going to be an unwanted child, he can allow abortion. It is the doctor who should decide it, whether it is a fit case for abortion or not. The doctor will decide in such cases whether this is a deserving case or not.

**DR. M. SANTOSHAM:** Don't you think that with the liberalisation of this abortion law there will be many cases of abortion and they would not like to go through the full term of pregnancy? Even on flimsy grounds they will come and ask for abortion. After all the medical practitioners are also running trade and they

would like to earn something out of induced abortions. Don't you think this liberalisation is likely to cause a situation where many abortions will be asked for?

**WITNESS:** It is going to be like that. In England there was a spate of abortions. But the trend of modern society is to be taken into consideration. If a woman says she cannot educate her child or bring up her child, then she is mentally anguished, and that should be a sufficient cause for abortion. All these things the doctor can discuss with the mother and then a decision be taken. If the doctor is convinced that the mother's argument is correct, then he will allow abortion. In the present circumstances we have to refer deserving case to some doctors—personally I am not in favour of abortions but in the given circumstances and with the modern trend of life I feel we have got to act according to times in certain conditions.

**DR. M. SANTOSHAM:** You just wanted certain conditions to be fulfilled where these abortions should be conducted. Do you think in a place where general surgery is being carried out under anaesthesia....

**WITNESS:** With competent anaesthetists.

**DR. M. SANTOSHAM:** Most clinics perform surgery under good anaesthesia and anaesthetists are quite easily available in the district headquarters.

**WITNESS:** There should be good apparatus also.

**DR. M. SANTOSHAM:** Do you then want us to incorporate in this legislation some provision that these abortions should be carried out only where general surgery is available and only through the use of pharmaceutical drugs? Should this be included in this Bill, because there are a number of advertisements about the various drugs in the market which are likely to be used for partial abortions, etc.?

Should we put a clause here that it should be done only under modern conditions with modern methods of surgery and the pharmaceutical drugs?

WITNESS: We may say modern accepted methods. Under modern methods the drugs in modern allopathic practice. If you put modern methods it will cover surgical methods as also the drugs. Suppose there are drugs which are accepted in the modern allopathic practice, they will be covered by it.

DR. M. SANTOSHAM: In the matter of giving permission for termination of pregnancy I have heard it often said that the woman is the mistress of her own body. When she is carrying a foetus is she the mistress of the foetus also?

WITNESS: When you say guardian, you are guarding somebody's life. She is responsible for the welfare of the child.

DR. M. SANTOSHAM: The point is, the foetus is not entirely her ownership. She is guarding it all right; there is no doubt about that. But if she wants to break it up, it is not entirely her ownership. This liberalisation is being done so that the woman should not go somewhere else to get it done. But it is the child that is going to be destroyed. There is a marital contract between the husband and the wife that they shall live together and shall produce children. This is part of the marital contract.

WITNESS: I do not know about production of children.

DR. M. SANTOSHAM: Under such circumstances the foetus that is inside the uterus is partly the possession of the man who is responsible for it and how can the woman by herself decide that she would destroy this life when for that child somebody else is also partly responsible?

WITNESS: There are quite a number of irresponsible husbands. There

was a case of a woman selling vegetables. Her husband does not stay at home with her; he only comes and meets her periodically and once in two years she becomes pregnant. He goes away leaving all the children with her. In such cases we cannot catch hold of the man; what is to be done?

DR. M. SANTOSHAM: I can quite understand such circumstances where the husband has deserted the wife and where he does not take the responsibility for the children. But where the husband is still living with the wife, where he is looking after the other children and also the woman, in such circumstances it will be a crime if you do not take the permission of the husband. Am I not right? Suppose there is a very loving husband who is looking after his wife and she is carrying a foetus. Now she may not want this child but he may want it. Then is it not a crime to destroy that? Is it not a crime against that man?

WITNESS: In such conditions when there is harmonious life there will be very little difficulty. We want to protect cases like the one I quoted where the husband does not care for anything, and where he practically leaves the wife in the lurch. Where there is harmony between the husband and wife, naturally the husband will automatically be coming with the wife and I hope they will be united in their request.

DR. M. SANTOSHAM: But that is not how you frame a legislation. You have to protect such instances happening. Otherwise when the man is away from home the wife would just sneak to the nearest maternity hospital and get the foetus off and when he returns from the office or from the camp he will find the whole foetus is gone.

WITNESS: In that case it is the doctor who is responsible.

DR. M. SANTOSHAM: How can the doctor know? I think there must be specific provision in the Bill speci-



fyng the circumstances in which the woman should be allowed to decide for herself about the foetus that she carries. There should be such a clause; that is my opinion.

There is one more thing I want to ask. You are talking of various approved methods. Are there intra-uterine things which can bring about abortion?

**WITNESS:** Well, perhaps not quite safe enough. I do not know; but some pastes are being advertised. An intra-uterine injection of saline or glucose in a particular concentration is considered to be an accepted method. Now as I said there is another method; it is called U-2 paste or something which is nowadays becoming popular in England. But that method is not found in the textbooks on mid-wifery. Since we follow the textbook line of treatment we do not teach these to the students in their course on therapeutic abortions. We only go by standard methods. We consider this intra-uterine injection of concentrated glucose or saline as an accepted method of procuring abortions.

**DR. M. SANTOSHAM:** After passing this Bill would you advise Government to import such pastes as are being used elsewhere to make matters easy for those who are going for this here?

**WITNESS:** If statistics from other countries and their experience prove that this is a safe method I do not mind. Why should not the Government allow that to be taken up here?

**SHRI GANESH GHOSH:** Madam, as you must have seen, this Bill is a liberalisation of the present Act in respect of abortion because it allows premature termination of pregnancy to save the physical and mental health of the mother. You have great experience of the poorer people in Bombay area. Do you think that there must be one clause by which termination of pregnancy can be allowed even on social and economic grounds?

**WITNESS:** I should have thought that mental anguish would cover that.

**SHRI GANESH GHOSH:** That is an interpretation. If a poor woman comes and says that she is not in a position to maintain the future child and that she would like to have an abortion, are you prepared to allow that?

**WITNESS:** It is the doctor's judgment. If she says that she is not in a position to bring it up and on that account she has mental anguish, that can be covered. This is a good enough clause.

**SHRI GANESH GHOSH:** This Bill does not provide for termination of pregnancy beyond the 20th week. Are you of the same opinion?

**WITNESS:** I feel that it should not allow even beyond 12 weeks because after 12 weeks the whole thing becomes more complicated. In the present conditions in the country, people do not know even the last date of menstruation and the history is also difficult in forthcoming from the party because the woman will like to hide her pregnancy. Then apart from that there is the official delays to be taken into account and it will ultimately come to more than 20 weeks; it might go even up to 28 weeks. So I suggest that we should make it 12 weeks with a proviso that it can go up to 20, and if it does like that it should be condoned. I am not a lawyer and I do not know how you will put it. But 12 weeks should be the limit which should be prescribed.

**SHRI GANESH GHOSH:** Another question. You must have seen the Statement of Objects and Reasons. There are already a large number of cases of clandestine abortions and if this liberalising Bill is passed, don't you apprehend the number of cases of abortion will go up so high that it might create a nearcrisis condition in our society?

**WITNESS:** I do not know about that but our population has also

reached a crisis proportion. It is a big crisis already. Which is bigger, which is less, we will see when we come to it.

**SHRI K. P. MALLIKARJUNUDU:** Madam, in the beginning you stated that the registered medical practitioner should not be allowed to conduct this operation unless he has some special qualifications in gynaecology etc. And subsequently in answer to Dr. Santosham's question you stated that a general surgeon can do it. Which statement do you want to stick to?

**WITNESS:** When I say general surgeon, a general surgeon is far better than the other, he has better training. He is a person who has taken a special course in surgery and he knows the consequences and the complications that are likely to arise and how to deal with them. This operation of curette is not so technical though it definitely requires training to do it. An ordinary doctor who is not competent to do general surgery should not be allowed to do this. If one is trained in general surgery he can easily do this.

**SHRI K. P. MALLIKARJUNUDU:** Without being a gynaecologist can he do it?

**WITNESS:** Yes. He has to be trained once or twice. It is not such a difficult operation.

**SHRI K. P. MALLIKARJUNUDU:** Secondly, the doctor who is conducting the operation has to decide whether the continuance of a pregnancy would involve such risk of injury to health as would cause harm to her physical or mental health. Do you think that a mere surgeon is competent to judge whether it will cause injury to her physical or mental health? Do you want the help of a psychiatrist?

**WITNESS:** I should think a doctor who has done a medical course is sufficiently educated to decide it. Complications will be there if a psychiatrist is also associated with it.

There will be so much delay that the child will be born in the meantime.

**SHRIMATI TARA SAPRE:** As an eminent gynaecologist, I would like to ask you whether there are any hereditary diseases carried in the family and likely to be transmitted to the child by the persons having such diseases?

**WITNESS:** There are two or three conditions which are definitely accepted and which are carriers of mental retardation. There are a number of conditions which will definitely give rise to the risk. I am not saying definitely that every child born out of such particular parents will carry that mental retardation, but there are certain conditions which will carry such a risk. One in four or one in ten in the sex-linked disease either through the mother or the father, would carry that risk. That risk is there when the parent is suffering from that particular disease.

**SHRIMATI TARA SAPRE:** My second question is this. Please refer to clause 6(2) which says that the information shall be furnished or given, as the case may be, to the Chief Medical Officer of the State. Do you not think that the register should be kept secret in view of the social conditions? In this case, I would like to ask you in whose custody it should be kept. Should it be available as a relevant document or not? If it is to be made available as evidence, may I know whether it should be oral evidence before the judge in the court or should it be written evidence in a court of law?

**WITNESS:** I have got the "Lancet" here. It is for the Medico-Legal Adviser to decide.

**SHRIMATI TARA SAPRE:** What do you say from the social point of view?

**WITNESS:** In England they have the same problems. They have given some guidelines as to who should be in charge of and in possession of this

information. There also they have said that in medico-legal cases the police can have the information. It is a medico-legal problem and the doctor has to be protected. Suppose the husband says that the doctor has physically assaulted his wife, the police must have access to the record in such cases. As far as Government hospitals are concerned, the record is sort of a public property. There are a number of clerks and others who handle the records. Either the gynaecologist himself should be the custodian or the Chief Medical Officer of that institution. The administrative head should be the custodian and these should not be passed on from hand to hand. It should be kept strictly confidential.

SHRIMATI TARA SAPRE: Do you think that the evidence should not be given in writing?

WITNESS: Some record has to be maintained.

SHRIMATI TARA SAPRE: In the court should it be given in writing or should it be conveyed orally?

WITNESS: Written evidence should always be permitted.

SHRIMATI TARA SAPRE: One particular witness said that it should be conveyed orally.

WITNESS: After all the court's recordings are supposed to be confidential and everything is not given out to the public.

SHRIMATI TARA SAPRE: My third question is this. According to your memorandum you want to provide for exceptions. Do you think that conscientious objection should be added as an additional clause?

WITNESS: I feel in certain cases it should be allowed. Suppose I am a doctor in a public hospital and I definitely have a conscientious objection to procuring abortion. There should be no order asking for my removal from service. I have a right to my livelihood doing abortion would

be only a part of my duty I am not saying that the woman should not get the benefit of abortion. She should be referred to another doctor. It is a hypothetical case. There may be people of different faiths. They are equally responsible gynaecologists, but some are definitely against doing this kind of work. They have conscientious objection. At the same time, the patient should have the benefit of getting advice. Her doors should not be blocked. If any doctor has a conscientious objection, that also must be taken into consideration. After all, he is an individual and he has got some moral and other principles.

SHRIMATI USHA BARTHAKUR: In your statement you have said that when an abortion is sought on the ground of probable risk to the child to be born, the husband's consent is essential in the case of a married woman. Here I want to say something. You know there is some husband, either due to his conservatism or wrong notions, fears a surgical operation. His wife is for a termination of the pregnancy knowing that the child would be deformed, as it is an advice from the doctor. Do you think that only because of the husband's fear, she should bring forth a deformed child? She has to face torture also because generally the father remains outside and he is not responsible for bringing up the child. What do you think we should do in such a case? In such a case will she not be entitled to decide herself for the termination of pregnancy or should she follow her husband's foolish wish and lead a miserable life?

WITNESS: As an after-thought I agree with you. She should be allowed to decide on her own and the husband's consent should not be compulsory.

CHAIRMAN: Thank you very much doctor for your valuable evidence and liberal views.

*(The witness then withdrew)*

*(The Committee then adjourned)*

PARLIAMENT OF INDIA  
RAJYA SABHA

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JOINT COMMITTEE  
ON  
THE MEDICAL TERMINATION OF  
PREGNANCY BILL, 1969

EVIDENCE

(Volume II)



सत्यमेव जयते

RAJYA SABHA SECRETARIAT  
NEW DELHI  
NOVEMBER, 1970

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COMPOSITION OF THE JOINT COMMITTEE ON THE MEDICAL TERMINATION OF PREGNANCY BILL, 1969

1. Shri Mulka Govinda Reddy—*Chairman\**

MEMBERS

*Rajya Sabha*

2. Dr. (Mrs.) Mangladevi Talwar
3. Shri M. Srinivasa Reddy†
4. Shrimati Usha Barthakur
5. Shri Krishan Kant
6. Shri Sawaisingh Sisodia‡
7. Shri K. P. Mallikarjunudu
8. Shrimati Bindumati Devi
9. Shri Niranjan Varma
10. Shri G. Gopinathan Nair
11. Shri S. A. Khaja Mohideen

*Lok Sabha*

12. Shri Vidya Dhar Bajpai
13. Shri Gangacharan Dixit
14. Shri Ganesh Ghosh
15. Shri Kameshwar Singh
16. Shri S. Kandappan
17. Dr. Karni Singh
18. Shri Kinder Lal
19. Shri P. Viswambharan
20. Shri N. R. Laskar
21. Hazi Lutfal Haque
22. Shri M. R. Masani
23. Shri Mohammad Yusuf
24. Shri B. S. Murthy
25. Shrimati Shakuntala Nayar

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\*Ceased to be a member of the Committee on retirement from the membership of the Rajya Sabha on the 2nd April, 1970. Re-elected to the House on the 3rd April, 1970 and re-appointed to the Committee on the 14th May, 1970. Re-appointed as Chairman of the Committee on the 15th May, 1970.

†Appointed on the 14th May, 1970, in the vacancies caused by the retirement of Shri Narayan Patra and Dr. S. Chandrasekhar, from the membership of the Rajya Sabha on the 2nd April, 1970.

(ii)

26. Dr. Sushila Nayar
27. Shri Partap Singh
28. Shri Ram Swarup
29. Dr. M. Santosham
30. Shrimati Tara Sapre
31. Shri M. R. Sharma
32. Shri Babunath Singh
33. Shri Jageshwar Yadav

REPRESENTATIVES OF MINISTRIES

*Ministry of Law*

- (i) Shri S. K. Maitra, Joint Secretary and Legislative Counsel
- (ii) Shri R. N. Shinghal, Deputy Legislative Counsel.
- (iii) Shri S. Ramaiah, Deputy Legislative Counsel

*Ministry of Health and Family Planning and Works, Housing and Urban Development*

- (i) Shri R. N. Madhok, Joint Secretary
- (ii) Dr. (Kumari) L. V. Phatak, Commissioner (FP)
- (iii) Shri D. N. Chaudhari, Deputy Secretary
- (iv) Dr. I. Bhooshana Rao, Deputy Commissioner (FP)
- (v) Dr. G. P. Sen Gupta, Deputy Commissioner (FP)
- (vi) Dr. S. V. Raja Rao, Assistant Commissioner (FP)
- (vii) Dr. (Smt.) S. F. Jalnawalla, Deputy Director (I)
- (viii) Shri A. P. Atri, Under Secretary

SECRETARIAT

Shri S. S. Bhalerao, Joint Secretary  
Shri S. P. Ganguly, Deputy Secretary  
Shri M. K. Jain, Under Secretary.

## LIST OF WITNESSES EVIDENCE BEFORE THE JOINT' COMMITTEE

Sl. No.	Name of witness	Date of hearing	Pages
14.	Dr. Y. R. Reddy, Additional Professor of Pediatrics, Osmania Medical College and Deputy Superintendent, Niloufer Hospital, Hyderabad.	22-6-1970	2—18
15.	Dr. Syed Khalefathullah, Madras.	22-6-1970	18—30
16.	Representative Of the Federation of Obstetric and Gynaecological Societies of India, Bombay: (i) Dr. S. B. Aaklesaria (ii) Dr. (Prof.) B. N. Purandare (iii) Dr. C. L. Jhaveri	23-6-1970	32—56
17.	Shri Shashi Dhar Bajpai, Editor, Hindi Manav Seva, Kidwai Nagar, Kanpur.	23-6-1970	56—62
18.	Dr. (Kumari) Sulabha Bhatavadekar, Bombay.	23-6-1970	62—70
19.	Pandit Shiva Sharma, M. P.	14-7-1970	72—100
20.	Dr. (Kumari) Shiva Dua, Principal, Kalandi College, Delhi.	14-7-1970	100—116
21.	Shrimati Dhanvanthi Rama Rau, Ex-President, International Planned Parenthood Association, Bombay.	14-7-1970	116—127
22.	Dr. Diwan Harish Chand, New Delhi.	15-7-1970	129—157
23.	Dr. P. N. V. Kurup, Advisor, ISM, Ministry of Health, Family Planning and Urban Development, New Delhi.	15-7-1970	157—168
24.	Dr. (Sharimati) H. M. Sharma, Retd. Director of Health Services and Family Planning, Tamil Nadu, Madras.	15-7-1970	168—178
25.	Shri Khushwant Singh, Editor, Illustrated Weekly of India, Bombay.	16-7-1970	180—199
26.	Dr. (Shrimati) Uma Agarwal, Delhi.	16-7-1970.	199—212



THE JOINT COMMITTEE ON THE MEDICAL TERMINATION OF PREGNANCY  
BILL, 1969

VERBATIM RECORD OF EVIDENCE GIVEN BEFORE THE COMMITTEE

Monday, the 22nd June, 1970.

PRESENT

1. Shri Mulka Govinda Reddy—*Chairman*

MEMBERS

*Rajya Sabha*

2. Dr. (Mrs.) Mangladevi Talwar
3. Shri M. Srinivasa Reddy
4. Shrimati Usha Barthakur
5. Shri Sawaisingh Sisodia
6. Shrimati Bindumati Devi
7. Shri G. Gopinathan Nair
8. Shri S. A. Khaja Mohideen

*Lok Sabha*

9. Shri Vidya Dhar Bajpai
10. Shri Gangacharan Dixit
11. Shri Ganesh Ghosh
12. Shri P. Viswambharan
13. Shri N. R. Laskar
14. Hazi Lutfal Haque
15. Shri B. S. Murthy
16. Shrimati Shakuntala Nayar
17. Dr. Sushila Nayar
18. Shri Partap Singh
19. Shri Ram Swarup
20. Shrimati Tara Sapre
21. Shri M. R. Sharma
22. Shri Babunath Singh
23. Shri Mohammad Yusuf

REPRESENTATIVES OF THE MINISTRIES

*Ministry of Law*

Shri S. Ramaiah, Deputy Legislative Counsel.

Ministry of Health and Family Planning and Works, Housing and Urban  
Development

Dr. K. N. Kashyap, Commissioner (FP).  
Dr. G. P. Sen Gupta, Dy. Commissioner (FP),  
Dr. (Smt.) S. F. Jalnawalla, Dy. Director (I).  
Shri A. P. Atri, Under Secretary.

SECRETARIAT

Shri S. P. Ganguly, Deputy Secretary.  
Shri M. K. Jain, Under Secretary.

WITNESSES EXAMINED

- (1) Dr. Y. R. Reddy,  
Additional Professor of Pediatrics,  
Osmania Medical College and Dy. Supdt. Niloufer Hospital, Hyderabad.
- (2) Dr. Syed Khaleefathullah, Madras.

[Dr. Y. R. Reddy, Addl. Professor of  
Pediatrics, Osmania Medical College  
and Deputy Superintendent, Niloufer  
Hospital, Hyderabad, was called  
in]

- (1) The benefits from this Act to  
the individual and to the  
nation.
- (2) The undesirable effects and  
consequences as an outcome  
of this Bill.

CHAIRMAN: Dr. Reddy, what you  
would say before this Committee is  
treated as confidential. You are wel-  
come to make your comments, and  
then Members will put some ques-  
tions to you. Firstly, I welcome you  
to make your comments.

Medical termination of pregnancy  
is of great benefit under the follow-  
ing conditions and should be resorted  
to when demanded by the pregnant  
mother.

DR. REDDY: Mr. Chairman, I am  
not very sure whether the short note  
I have sent has reached everybody  
and whether everybody had time to  
go through it. So I may briefly go  
through the short note which I sent.  
Later on we can go in for any further  
discussion.

Firstly, to preserve the health of  
the pregnant mother both physical  
and mental. Apart from the well  
known therapeutic indications to ter-  
minate pregnancy as advanced cardio-  
vascular disease, tuberculosis, kidney  
diseases etc., there are several other  
conditions which warrant termination  
of pregnancy in view of the current  
changed socio-economic conditions  
and over-population.

I am of the firm opinion that the  
"Medical Termination of Pregnancy  
Bill, 1969" introduced in the Rajya  
Sabha in November, 1969 is a very  
welcome move from several angles.  
When a Bill of this nature on a con-  
troversial subject is introduced, the  
pros and cons should be thoroughly  
gone into. In this context the two  
important points to discuss are:—

(a) A woman, who is debilitated,  
though not exactly lingering in dan-  
ger of any disease, is scared of phy-  
sical strain in bringing up the young  
besides her work of attending to her  
husband and the other members in  
the joint family and her other child-  
ren, should be allowed, if so desired

to terminate her pregnancy by a qualified doctor. Such liberal termination of pregnancy will prevent some of the women from resorting to desperate measures including things like infanticide, etc.

(b) Another example where similar facility should be available is to a woman who is in her early pregnancy when the husband dies so that she is saved from the humiliation and embarrassment that may be caused to her by the society. We can go even a step further and say that in a situation like the one I have stated you have to think seriously of terminating the pregnancy on compassionate grounds. For example, a woman like that, wants to get rid of her pregnancy so that she may have a better chance of getting married later. A widow who decides to remarry at a young age has got a better chance to do so than a widow who has got a child.

(c) When an unmarried girl or a young widow falls into a sexual urge which is a physiological phenomenon among all adolescents and an accidental conception takes place, she feels disgraced and is looked upon as bringing dishonour to her parents. It often so happens that led to desperation, she tries to commit suicide under some pretext or other. Here legalisation of abortion would really mean protecting her life and saving her from social disgrace. Of course in such cases abortion should be followed by advice on family planning with contraceptive devices, so that future pregnancies are avoided.

If abortion is not liberalised to include many similar situations as the above—I have given only a few examples but there are many more—then the women with unwanted pregnancies resort to criminal abortions with the help of quacks and untrained abortionists. As a result many precious lives of women are lost and health of many more women is jeopardised, as a result of the cri-

minal abortions. Statistical evidence of this is readily available in many of the Western countries and to some extent also in our country. A woman with unwanted pregnancy is bound to get rid of this. If legal abortion is not available, sure as anything, she will resort to illegal abortion with all its consequent dangers.

All these days stress has been laid on the woman's health only. Unfortunately the child is forgotten. As a Pediatrician I am responsible to take care of the children. I would plead with you to give some consideration to the unwanted child. Too much stress was laid on the woman's health all these years. Now it is necessary to lay some stress on the child's health also. In this context I have given some of the pediatric indications for the termination of pregnancy:

Important foetal indications for the termination of the pregnancies are: (a) Genetic, (b) infection (Rubella), (c) Irradiation, (d) Drug ingestion, (e) Rhesus incompatibility, (f) social factors. I shall dilate on some of these a little more hereafter.

*Genetic Indications.*—Most of us will be familiar with genetic disorders. It is all in the news. A few days back you would have read about genes and one more break-through has been revealed in the genetic make-up by one of our Indian scientists, Dr. Khorana, a Nobel Prize winner. He has again discovered something phenomenal about the genes. This is not the place to go into the details of that. There are a lot of diseases which are determined by genes, what are called genetic diseases. If a mother or father is suffering from a genetic disease, the child is likely to inherit the disease. In these conditions medical termination of pregnancy is warranted sometimes. I will give you some examples.

Important foetal indications for the termination of the pregnancies are: (a) Genetic, (b) Infection (Rubella), (c) Irradiation, (d) Drug ingestion, (e) Rhesus incompatibility, (f) social factors.

*Genetic indications.*—(a) In condition determined by dominant gene, the risk of the disease occurring in the offspring of an affected parents is 50 per cent. This is undoubtedly serious, as for example in progressive neurological disorders.

(b) Of recessive genetic disorders, Tay-sach's disease and wording-hoffmann disease are both untreatable disorders. Hemophilia (also called a royal disease because some members of the royalty of England suffer from this disease) is a familiar disease. Should contraceptive measures fail in the parents of an affected child, then termination of pregnancy should be considered. Hemophilia and certain other defects of blood clotting, and muscular dystrophy are some other genetically determined defects, for which termination of pregnancy should be considered.

(c) In some of the chromosome abnormalities as translocation mongol, the risk of mongolism in the offspring of such mother is so high (50 per cent) that termination of pregnancy should be done, if requested. Most of these children are mentally retarded (idiots).

(d) A history of identical or related serious congenital defects in two or more members of sibship, these have genetic basis, is an indication for termination of pregnancy.

(e) Incestuous pregnancies must also be terminated because of the possibility of occurrence of serious disease in the offspring of such matings. Clearly in all the above groups the prevention of pregnancy is far more to be desired than its termination, and the question of abortion arises only if preventive measures have failed.

*Infections.*—Certain infections like germ measles, rubella, that occur during the early months of pregnancy are likely to cause serious trouble in offspring and this risk in the offspring is not acceptable in many cases and termination of pregnancy is advisable

*Drugs.*—If certain drugs as quinine (for malaria) and aminopterins are taken during the early months of pregnancy, there is a substantial risk of serious deformity in the infant, so as to consider the termination of pregnancy.

*Irradiation.*—Therapeutic irradiation of the pregnant mother is strongly teratogenic affecting particularly the brain of the foetus. If the pelvis of a pregnant mother is irradiated for any reason, the termination of pregnancy is to be considered because the foetus will be affected.

*Haemolytic Disease of the New-born.*—If a rhesus negative woman with a rhesus positive husband gives birth to a baby with haemolytic disease, any further rhesus positive babies will also be affected and in such cases, termination of pregnancy has to be considered.

These are some of the examples. There are many more situations where in the interest of the child termination or prevention of pregnancy has to be seriously considered.

*Abortion as a method of population control.*—The rate of population growth is accelerating at an alarming rate. This "population explosion" is the most cruel paradox man has ever faced. It requires no prophetic gift to foresee that unless mankind annihilates itself by an all-out atomic war or a similar madness, the task of controlling population size will overshadow all else within utmost a century or probably much sooner. It is common knowledge that lot of children are born out of unwanted pregnancies in our country. Many of these children are an outcome of chance, rather than of choice. Hence the need for liberalisation and legalisation of abortion as a method of population control; but it should be the last measure when all others fail.

Unwanted pregnancy has been a problem since the appearance of the first mammals on the earth. Most of

the societies, no matter how primitive, have devised methods for controlling family size. The oldest written recipe for an abortifacient is attributed to the Chinese Emperor Shen-Nung, who reigned 2737 and 2696 B.C. Egyptians and Greeks practised aborting freely. Plato suggested abortion as a method of maintaining population of his republic at not more than 5040 citizens. These are all historical facts.

Legal abortion is used as a method of pregnancy and population control in many of the countries as Japan and East European countries. This legalisation of abortion has positively influenced a decline in criminal abortions in all these countries, as is shown by decline in cases of death and morbidity in consequence of abortion. Deaths due to legal abortions are almost nil in these countries. Especially when the old method of D. & C. has been replaced by Dilatation and evacuation of uterus with suction apparatus. This new method is painless, non-esthesia, required no blood loss, needs only a short stay in hospital with little mental change in the patient.

Finally every one should give a serious thought to the fact whether it is not more moral, ethical and economical to prevent an unwanted child either by contraception or by abortion, rather than allowing him unwillingly, to be born into this already overcrowded world and not be able to take care of him, feed him, clothe him and educate him properly, which are his birth-rights once he is born into this "world of fools".

Apart from this short note which I had prepared I have got a few more points to add.

I am speaking more from a paediatrician point of view because we are concerned very much with the number of children we have to deal with. We want less number of children for various reasons. Any method to advice this is all right; whether it is contraceptive method or abstinence

or, as a last measure, liberalisation of abortions. We feel that we have too many sick children in our country now. As is well known we have got now the task of looking after 13 million more children every year. I am talking of this year. Next year the figure may be 16 million, and after ten years it may be 150 million more children. We are not prepared to take good care of these children. Any number of hospitals will not be able to tackle the problem because of economic limitations. We cannot go on expanding our pediatric services. What is happening now? Out of every thousand children that are born, hundred children die during their first year. This is known as infant mortality rate. Why do they die? There are two main reasons. One is malnutrition, or not enough proper food for them. Secondly, they die due to infections because we are not able to take good care of them. Most of the infants die due to these two reasons. Hundred children out of a thousand die before they celebrate their first birthday. Some of them are grossly under-nourished and are mentally defective. Malnutrition causes subnormal brain functioning. Some of these children might because mentally subnormal. Their mental capacity is not developed to the full level. Every year we are adding more and more of such subnormal type of children.

So this is the problem we paediatricians face. Some paediatricians think that it is a crime not to be able to take care of the children and not to give them basic amenities. The WHO Charter has given a list of the rights of a child when it is born. Immediately a child is born, it gets certain rights. It must be clothed fully, fed properly and educated and given all facilities to become a normal human being. But in quite a number of cases we are not able to do this because our resources are very limited, because of the limitations in bringing them up. This is one of the main reasons why we

paediatricians plead for less number of children in our country.

These are some of the thoughts which I have placed before you. Now I will be very happy to answer any questions or take part in the discussion.

DR. SUSHILA NAYAR: Dr. Reddy, you have stated that there are an increasing number of children with sub-normal brains or mental activity. Have you any accurate statistics based on any accurate study on this subject?

WITNESS: We have these statistics taken from some of the research work done by nutritionists in India. For example, there was an international symposium two years ago and again last year about malnutrition. One of the conferences was held in U.S.A. in which some of the nutritionists from our country, from the National Institute of Nutrition, Hyderabad, took part. It was definitely brought out in that conference that some of the children who suffered from malnutrition during the first two or three years, have got sub-normal mental activity.

DR. SUSHILA NAYAR: I will be very grateful if you will let me know what comparative studies, if any, have been made to show that this was the level of sub-normal children 40 years ago and 20 years ago, and this is the level now. Then only we can say that malnutrition has resulted in sub-normal functioning of the brain. If what you are saying is true, then by now we should be almost a nation of idiots. Thank God, we are not. Therefore, as a scientist, I hope you will agree with me that this is a matter which needs more careful scientific study and analysis before anyone can say definitely that malnutrition results in mental retardation.

WITNESS: I have got to make two points here. Number one, the studies have been made but not on a large

scale. I cannot give you the references now; I can send you the references latter. We have got some work done in the National Institute of Nutrition. These papers are published. There is a lot of work done elsewhere also (scientific research works), where they have proved this not only in human beings but also in animals. They have conducted studies where it has definitely been established that if the nutrition is not optimum in the first two years, the brain will suffer. It does not mean that we should all have become idiots. I would put it this way that if nutrition had been better in some of those children, they would have probably been more intelligent.

DR. SUSHILA NAYAR: I, too, happen to be a paediatrician. As such I can say that I have seen a number of studies and all that they say is that while the child is in its mother's breast, it is more developed, mentally and emotionally, than any Western child, and when the child is put on other food, because of malnutrition or infection, its development rate slows down. But later on it picks up in most cases. There may be exceptions here and there. But so far as I know, there is no study which has decisively proved that as a result of malnutrition, the number of mentally retarded children is increasing year by year or decade by decade. I am not denying the fact that the children should have good nutrition. But, at the same time, let us not use this argument for permitting abortion, because often the children of the poorest families who have had very little food, have turned out to be most intelligent, as the hardships and difficulties of life have forced them to develop their faculties to an intensive extent.

WITNESS: They are exceptions. Every rule has an exception.

DR. SUSHILA NAYAR: They are not exceptions. In fact, this is the general rule. The children of a poor family generally develop their facul-

ties better than the children of a well-to-do family. This is not an exception. This is the general rule.

WITNESS: In this context, I should say that we did not think of this problem till recently. We did not concentrate on malnutrition till about 10 or 15 years ago. Especially this aspect of work, i.e., mental faculties being retarded as a result of malnutrition, is a recent development. But there is sufficient evidence now, though not on a wide scale, that this affects mental development. Maybe after some time, we will have more statistics on the subject.

DR. SUSHILA NAYAR: Sometimes we are very apt to jump to conclusions. A Minister in some speech somewhere said that by eating *iddlies* we will become a nation of idiots. Well, we have not become a nation of idiots by eating *iddlies*. In fact, some of the most intelligent people come from the group who eat *iddlies* regularly. So we must be careful in our assessment and conclusions.

The second question I want to ask you is, you mentioned that abortion will prevent infanticide. Do you think infanticide occurs just because the pregnancy is unwanted, or do you think that apart from these unmarried mothers or widows and cases of that type, infanticide is rather rare and is not really a big problem in India to-day?

WITNESS: It is not a big problem to-day. It is only an example that I gave.

DR. SUSHILA NAYAR: Then, you have said that a young girl who is pregnant and whose husband dies, should be aborted. Don't you think that a young girl who is carrying a child and whose husband has died recently would be very anxious to keep that child?

WITNESS: Yes, if she is anxious to keep that child, it is criminal to

abort her. It is only in exceptional cases where it is requested and where the mother suffers from ill health, it should be done, and not as a routine.

DR. SUSHILA NAYAR: I am glad you have stated that abortion should be resorted to only in exceptional cases and not as a general rule. You have stated that a sickly mother may undergo abortion. Now, will you say that if an abortion is carried out, we should also see that she is sterilised because otherwise she may come in for abortion again after a few months, and repeated abortions can be a very serious risk to her health?

WITNESS: I agree with you. It must be followed by sterilisation. Especially a sickly mother with a number of children must be sterilised after abortion. There is no question about it.

DR. SUSHILA NAYAR: You have not said anything anywhere about the qualifications of the man or the woman doctor who perform abortions. The Bill says 'Registered Medical Practitioner'. You know that in the States there are practitioners who have been in practice for a number of years and they can be registered. Would you allow them to perform such abortions?

WITNESS: It should be a registered medical practitioner with proper training in abortions. I am one of those who still believe that all medical practitioners should not be given a licence to terminate pregnancies. For example, if somebody comes to me, I cannot do it because I am not in the know of things, although I have been a registered medical practitioner for 20 years. Therefore such people must be qualified with the necessary training in obstetrics and gynaecology and should have intensive training in conducting such abortions. They would be preferable. Otherwise there will be a number of medical practitioners who will not be conversant with this technique.

DR. SUSHILA NAYAR: Would you also like to prescribe the minimum conditions for places where these abortions should be performed?

WITNESS: Yes. In the Bill it has been mentioned that it should be done in a hospital maintained by the Government. Of course there are some hospitals with a very few beds and also the doctors may not be the know of things and proper facilities may not be available. So I would like to put it this way—a registered medical practitioner with proper qualifications should be in charge of a well-equipped hospital. That should be recognised.

DR. SUSHILA NAYAR: Would you like to make regulations for the minimum requirements of the place where abortions should be allowed? Clause 6 of the Bill deals with regulations. Would you like the qualifications and the facilities to be made by those regulations?

WITNESS: As far as the qualifications are concerned, I have already mentioned them. Only qualified persons should be entitled to do it. As far as the facilities are concerned, there should be proper facilities provided to deal with any complications that may arise as a result of abortion. If there is excessive bleeding for example, there should be proper facilities to control it. But in this context I might also mention that complications on grounds of abortions are much less than those in the case of normal deliveries.

DR. SUSHILA NAYAR: Well, well, abortions have to be treated with respect. What you say is absurd. This is what the experienced people have always said. Therefore I would not treat them lightly.

Now one more question. You notice that there is a small provision of money made in the Financial Memorandum. Do you think that the provision is adequate?

WITNESS: This is a very small provision. We definitely need much more money to give more and more facilities. Any amount spent is worth it.

DR. SUSHILA NAYAR: I am not saying or asking whether it is worth while or not. All that I am saying is that the amount provided here is most inadequate.

WITNESS: It is very inadequate. For abortions we have to provide more and more facilities and much more money is required to do that.

SHRI PRATAP SINGH: There have been noticed instances where certain drugs meant for termination of pregnancy have been found frequently with the girls and women and in cash such drugs are harmful, what control do you suggest for prescription by the doctors and sale by the chemists of such drugs?

WITNESS: There are some drugs which have proved to be very dangerous and when used, children are likely to be born without hands or legs. By using such drugs many handicapped children are born. If certain drugs like quinine are taken during the early months of pregnancy, there is a substantial risk of serious deformity in the infants. Of course during the earlier period of pregnancy may not be detected, and the doctor prescribes certain medicines. But if we know that a woman is pregnant, the use of such drugs should be restricted.

SHRI PARTAP SINGH: There are various methods of termination of pregnancy. What method in your opinion is most suitable?

WITNESS: I am sorry I am not very competent to give a proper answer to that question because I am a pediatrician. Gynaecologists can give you a much better answer to that question. I can only theoretically answer it; if you want an answer.



**SHRI PARTAP SINGH:** I would like to know whether as a result of this enactment there are any chances of birth control and, if so, the percentage. Also whether it would be beneficial for us.

**WITNESS:** Definitely. As I was telling you before, a mother may have got three children already and gets pregnant for the fourth time. I am talking of those families whose income is very limited. I think 90 per cent of them would not like to have any more children in their families. In such cases definitely it will be useful to prevent such births.

**SHRI PARTAP SINGH:** Lastly, please refer to clause 6(3) regarding punishment to the doctor who contravenes the provisions of this Bill. Are you in favour of the punishment suggested in the Bill? Is it sufficient or should it be severer?

**WITNESS:** As a doctor I would always like to protect my fraternity. These are matters which could be changed, but I do not know what is the sanctity behind this figure of a thousand rupees. Is it because it is a round figure?

**SHRI PARTAP SINGH:** Do you think that he should be given some imprisonment? Is a fine sufficient?

**WITNESS:** Fine is enough, but how much fine I am not competent to say. It is for the legal experts, but as far as I am concerned there should be some limitation of the fine and there should be no imprisonment.

**SHRI GANGACHARAN DIXIT:** In Explanation II it says 'where any pregnancy occurs as a result of failure of any device used.....' Will any doctor be able to say that any device has been used? How can it be proposed.

**WITNESS:** It is very difficult to say. For example, there are two kinds of device. In the case of a tablet, whether the woman has taken the pill or not, we cannot prove it.

**SHRI GANGACHARAN DIXIT:** Then the word 'device' should be deleted. When the doctor cannot prove whether the device has been used or not, what is the use of retaining the word 'device'?

**WITNESS:** It will not serve any purpose. In some cases we can prove whether the device has been used or not. For example, we know whether a loop has been used or not. If she becomes pregnant we have a record to show when the loop was inserted. In the case of oral tablets it cannot be proved. In certain cases it is redundant to retain the word 'device'.

**SHRI GANGACHARAN DIXIT:** So, it is not necessary to retain the word 'device'.

**WITNESS:** It depends on the type of contraceptive device used.

**SHRI GANGACHARAN DIXIT:** It is very vague.

**WITNESS:** It is vague in the sense that it can be proved in some cases and it cannot be proved in other cases. I agree with you that it is vague. In the case of tablets there is no way of recording it.

**SHRI GANGACHARAN DIXIT:** Then, in Explanation II, it is stated 'for the purpose of limiting the number of children.' In the Statement of Objects and Reasons it is said that the Bill has been conceived as a health measure, on humanitarian grounds and on eugenic grounds. It does not say that it is meant for family planning. Now, by this Explanation you bring in family planning by the backdoor.

**WITNESS:** Yes, I agree with you. Only these grounds are mentioned in the Statement of Objects and Reasons, viz., health, humanitarian and eugenic grounds. I would like to add two more, viz., socio-economic grounds and as a means of population control. These two could be added.

**SHRI GANGACHARAN DIXIT:** Do you agree with the view that in Explanation II the word 'device' should be deleted?

**WITNESS:** Not in all cases.

**SHRI GANGACHARAN DIXIT:** Here it is mentioned:

"Where any pregnancy occurs as a result of failure of any device used by any married woman or her husband for the purpose of limiting the number of children....."

Do you think that the abortion should be followed by sterilisation?

**WITNESS:** From the aspect of limiting the number of children it should be followed by sterilisation. Otherwise, the mother might become pregnant again.

**SHRI GANGACHARAN DIXIT:** Do you agree with the view that the new device invented by the Soviet Government, viz., the suction pump apparatus, it has become very easy for any competent surgeon to perform abortion?

**WITNESS:** It is said to be very safe, though I would mention that abortion is much more safe than normal delivery.

**SHRI GANGACHARAN DIXIT:** Does it require any special training or is it fact that any competent surgeon can do it?

**WITNESS:** A surgeon is competent as far as surgery is concerned, but as I have said even though I am a registered medical practitioner for twenty years I cannot do it, unless I am trained. Training, intensive training can be given for one or two months to batches of a hundred or two hundred Doctors. Untrained doctors should not be given any chance.

**SHRI GANGACHARAN DIXIT:** So for the suction pump apparatus special training is required.

**WITNESS:** It is required. Some do not know what the instrument is and how it acts.

**SHRI GANGACHARAN DIXIT:** Will not a competent surgeon be able to use a suction pump apparatus?

**WITNESS:** A thoracic surgeon knows about the suction apparatus for the lungs and not that of the heart or the fetus. He must be trained in that. A thoracic surgeon may not know much about cardiac surgery, which must be done with a particular apparatus. Each apparatus has its own method of application. If he is not trained, he is likely to make mistakes and the whole procedure will get a bad name, if he does not know how to handle the apparatus.

**SHRI GANGACHARAN DIXIT:** In clause 6 power has been given to the State Governments only. It has completely ruled out the Central Government. Do you agree that this power should be retained by the Central Government also?

**WITNESS:** Not necessarily. The State Governments can be delegated with powers. The States have got good health plans and the power could be safely delegated to the States.

**SHRI RAM SWARUP:** It has been said that by using the suction pump apparatus the danger of abortion has been minimised in so many countries. Clause 3 (2) (b) says that there should be two medical practitioners for carrying out the termination of pregnancy. Having regard to the suction pump apparatus, is it necessary that there should be two practitioners? Clause 3 (2) (b) says not less than two registered medical practitioners.

**WITNESS:** I do not know what is the idea in putting in two registered medical practitioners. The termination of pregnancy becomes more difficult when the duration of pregnancy

increases. The earlier the pregnancy is terminated, the less will be the complication. In other words, the more advanced the pregnancy, the greater will be the complication. If it exceeds twenty-four weeks, as there will be difficulty in terminating the pregnancy, probably a second doctor's help may be necessary. If you do not except any complications, one medical practitioner is as good as two. One medical practitioner is sufficient. They always have the help of nurses. A good trained nurse is as good as a doctor, sometimes.

**SHRI RAM SWARUP:** Would you like to agree that some private clinics and nursing homes should also be allowed to carry out this operation if they have got sufficient training in gynaecology and in those modern techniques?

**WITNESS:** Definitely yes. Private nursing homes should be allowed. They must be given a licence after they satisfy all the criteria.

**SHRI N. R. LASKAR:** Dr. Reddy, as a Professor of Paediatrics you are naturally concerned with the children born defective.

**WITNESS:** I am also concerned with children.

**SHRI N. R. LASKAR:** Do you suggest that in cases where a child is likely to be born defective abortion should be resorted to?

**WITNESS:** Yes.

**SHRI N. R. LASKAR:** Will you kindly look at the proposed Bill, clause 3(2)(b)(ii), page 2: "there is a substantial risk that if the child were born, it would suffer from such physical or mental abnormalities as to be seriously handicapped". In that case do you suggest this abortion there also?

**WITNESS:** Yes.

**SHRI N. R. LASKAR:** Do you think it is enough or you want to mention

that what you have suggested in the note specifically should be in the Bill itself?

**WITNESS:** Actually this is a sort of speciality. On the question of what are the conditions where there is a fatal risk I think the opinion by a paediatrician must be sought, because a general practitioner may not be in the know of all the risks as I have mentioned. This is a very growing science, genetics. In doubtful cases it is always best to get the opinion of a paediatrician.

**SHRI N. R. LASKAR:** Do you think that this clause itself is not enough and it needs more elaboration? If so, what do you want exactly?

**WITNESS:** I would suggest a clause to be added like this: in cases of substantial risk to the child the opinion of a paediatrician may be sought.

**SHRI N. R. LASKAR:** Do you think this paediatrician is available in all district headquarters?

**WITNESS:** Again I would say that it is not in every case that you get into a contingency like this. It is only in a very few cases, in which cases you can go to the district headquarters. There are paediatricians in every district headquarters and the district headquarters is not far away. This contingency arises not in every case but only in 5 or 10 per cent of cases. The paediatrician is available with 30 or 40 miles. Actually some of the taluks have got paediatricians, at least in my State.

**SHRI N. R. LASKAR:** In Explanation II there is something there, "the anguish caused by such unwanted pregnancy may be presumed to constitute a grave injury to the mental health or the pregnant woman". Do you like in that case that the mental anguish should be judged only by the doctors or it is something to be decided by a specialist the patient herself?

WITNESS: Usually by and large a doctor can decide. In case of doubt he could always seek the advice of a psychiatrist if he is available. Psychiatrists are much less available. But these contingencies arise not in every case.

SHRI SAWAISINGH SISODIA: Are there some harmless drugs which can be useful for abortion in the early months of pregnancy?

WITNESS: A lot of drugs have been tried, but they may be useful only in a minor percentage, on which we cannot rely. By and large there are no drugs. Once a pregnancy occurs, there are very few drugs that will act as an effective evacuator in early months.

SHRIMATI USHA BARTHAKUR: Dr. Reddy, it seems that you appreciate the Bill for various good reasons and your views are that it is more moral, more ethical and more economical also for our country. But according to some the immorality of unmarried girls will increase because by this law they will be given chance to do some immoral acts and thus it will open the floodgates for immorality in our country. What do you want to say about it?

WITNESS: As far as the morals are concerned, there is always a certain risk that this will give rise to some immorality. But we will have to see the benefit out of it. Just because here are one or two stray cases of immorality we cannot forego the benefits out of this Act. After all morals are changing just like life is changing. The fashions are changing, morals are also changing. What is moral today may not be moral tomorrow. What was moral 15 years ago is not moral now. Twenty years ago a woman would not come into the street. She was not allowed to sit by the side of a man. Now it is the right of every woman to sit wherever she likes. We have to change our morals depending on the needs of the society

socio-economic factors. After all if you ask me what is moral, it is very difficult to define it. According to me is whatever is good for the mankind is moral and whatever is harmful for society is immoral.

DR. SUSHILA NAYAR: Does it mean that you concede that they have got the right to go and have the abortion whenever they want?

WITNESS: There are qualifications for that. I would not give free licence like that. What I mean to say is morals are very flexible depending upon our socio-economic status. So, according to me, if you do not harm somebody, if you derive some benefit out of it, that is moral. After all you cannot exactly define it. After all what is moral? Kissing is immoral here, but it is moral elsewhere. So I am not perturbed with the moral aspect.

SHRIMATI USHA BARTHAKUR: May I know from you whether those countries who have liberalised it have succeeded in their objective? If otherwise, are they going to reconsider keeping in view the possibility of the impact of an Act of this nature?

WITNESS: Some of the countries have more than succeeded in their objective who have introduced this particular measure. To give an example, Czechoslovakia. They have over-succeeded and they are now worried about the decrease in population. They are encouraging more children. That is the latest thing. They have succeeded in so much in preventing into that now they have more of older generation than younger generation. They are now encouraging mothers to get more children. Incentive is given. One year's salary is given where they produce a child. It is in Czechoslovakia. There is an article about it in one of the journals.

SHRIMATI USHA BARTHAKUR: Do you not think it to be proper that in liberalising abortions in our coun-

try we should also educate public opinion and provide all facilities of family planning devices among the people more vigorously so that abortion is limited to cases of injury to the health of the mother and injury to the child to be born or cases of lunatics?

WITNESS: I definitely agree that education about family is very important. If we can prevent a conception that is the best. The most important thing is to take more care and educate the public. This question of abortion does not apply except in some cases.

SHRIMATI TARA SAPRE: Dr. Reddy, you advocate abortion on socio-economic grounds. Do you think that sterilisation of a woman is a prerequisite before she gets a fourth child.

WITNESS: Definitely. For example, as I mentioned, there are three children to a woman, two boys and a girl. If now she does not want any more children you should sterilise her. You should make it a sort of "must" if she comes to a Government hospital after she has three children.

SHRIMATI TARA SAPRE: Please refer to paragraph 2(a) of your memorandum which says:—

"A woman, who is debilitated, though not exactly lingering in danger of any disease, is scared of physical strain in bringing up the young besides her work of attending to her husband and the other members in the joint family and her other children, should be allowed, it so desired, to terminate her pregnancy by a qualified doctor. Such liberal termination of pregnancy prevents many women from resorting to desperate measures such as infanticide, etc."

I would like to ask you one specific question. With all that you have said would you advocate legalised abortion for the spacing of the children?

WITNESS: For spacing of the children abortion should not be encouraged. We have got other methods of spacing which are quite easy. So in most of the women this contingency does not arise. An occasional case may warrant an abortion. Contraceptives are ideal.

SHRIMATI TARA SAPRE: Do you mean to say that if contraceptives have failed she should be allowed abortion?

WITNESS: You cannot generalise. If a mother has got two children and if both the parents agree that they do not want any more children, you do sterilisation operation. After one child sterilisation is not advisable. Sterilisation in the case of two children also is advised provided both the children are healthy. Sterilisation after two children should be performed, even at the request of the parents, only at the advice of the children is suffering from some heart disease or liver trouble or lung trouble for which there is no cure, it will die. Therefore, I have told my colleagues not to sterilise a woman unless the pediatrician has certified to that effect. I know of cases where the second child developed jaundice and died six months later. You have first to ascertain that the child is not suffering from any hidden disease and for that it is always better to consult the pediatrician. Secondly, after the birth of the second child it is always better to wait. Immediately a child is born the chances of his survival are not very bright till he is one year old.

SHRIMATI TARA SAPRE: Talking about unmarried girls in para (c) on page 2 of your memorandum you are advocating advice on family planning with contraceptive devices so that future pregnancies are avoided in case she has come to you for the first abortion. Instead of that do you not think that the girl should be married instead of your apprehension lest family planning devices should fail?

WITNESS: It varies from individual to individual. In case a girl becomes pregnant repeatedly you have to take recourse to sterilisation.

SHRIMATI TARA SAPRE: Why do you not ask the parents to get her married? You have mentioned of diseases in which abortions should be allowed. As a layman I put you this question. If a medical practitioner comes across a patient during his routine work to sterilise these people instead of going in for medical termination of pregnancy afterwards? In some diseases of this type is it possible to sterilise these people even before the pregnancy?

WITNESS: There are two things in this question. In case of hereditary diseases one of the two children is likely to develop that disease, which one nobody can be certain. Where the first child is normal the chances are that the second child will be affected. In this case we have to explain to the parents whether they would like to take the risk. In such a case let us allow termination of pregnancy and sterilise them with their consent.

SHRIMATI TARA SAPRE: According to the standard of diet in our country, hardly 2 per cent of our children get standard nutrition. Do you want to suggest that in the coming future the number of intelligent and better children will further reduce?

WITNESS: I am sure with all the precautions taken we will have more intelligent and better people than what we are having now.

SHRI B. S. MURTY: Dr. Reddy, you said some investigations are being done at the National Institute of Nutrition, Hyderabad. What type of investigations are going on?

WITNESS: It is what is called 'field project'. They have been conducting studies of two types. One is animal experiment. You cannot always translate animal experience into human beings, but many of the times we can. They take animals in their early stages. Then half of the animals are given normal diet and the other half are given a diet comparable to the diet which our children get ..... ..

SHRI B. S. MURTHY: As a matter of fact, this has been going on in the world in some other places. What is the latest method the Hyderabad Institute is developing so as to find out the effects of malnutrition not only physically but also mentally?

WITNESS: They have done some field work. They have gone out into the field, into the villages, and they have got comparative figures of normal children who are well fed and of children who are not well fed. They stay there for one or two months and do this study. Dr. Sreekantiah has done that and he has also published a paper which he read at an international conference, bringing out that mental faculties definitely come down because of malnutrition.

SHRI B. S. MURTHY: Are you sure that malnutrition affects the boys only mentally and not physically?

WITNESS Physically also is affects. The physical effect is well known for a long time.

SHRI B. S. MURTHY: You have read "Oliver Twist"?

WITNESS: Yes.

best judges of human psychology. In that book he has brought out one fact, i.e., the poorer children are more clever, and they could be easily trained for picking pockets. Do you differ with Charles Dickens?

WITNESS: I do not entirely agree with him because it is not the rule that the poorer children are always more intelligent. There might have been a Ramanujam who did not have enough to eat and yet was very clever. But exceptions do not prove the rule.

SHRI B. S. MURTHY: But Oliver Twist is not an exception. It is a general rule. Dickens took these children, from the poorer families, from the "havenots". Therefore, it is not a freak chance. It is a general rule.

WITNESS: Even so, the mental faculties are affected only in the first two years. After two or three years, when the brain is completely grown, it is not affected.

SHRI B. S. MURTHY: By the fifth year, a child's brain is more or less fully developed.

WITNESS: Yes.

SHRI B. S. MURTHY: Therefore, how does malnutrition affect the brain after the fifth year?

WITNESS: After the fifth year, it is not affected. It is only in the first two years, and actually even before the birth, that it is affected.

SHRI B. S. MURTHY: There is another important question that I want to ask you. Do you think a doctor should specially be qualified for attending to abortion cases?

WITNESS: Yes, I am very particular about it, because, as I said, there are people who have forgotten this art. For instance, I may not be able to do an abortion though I have

trained a lot of people to become doctor, because I am not in the line myself.

SHRI B. S. MURTHY: If an ordinary doctor with an M.B.B.S. degree, who has some sort of a rudimentary knowledge of gynaecology and obstetrics, is given some orientation, will it be enough, or do you insist that he should possess a diploma or degree in gynaecology or obstetrics?

WITNESS: I would agree with you if he is given such an orientation. What this orientation should be and how much it should be can be discussed. But he must be given an orientation. Many of them may be qualified, but they are likely to forget it because they do not generally deal with such cases. Since they do not do it, they are not in the know of it. After you give them some orientation, they may be allowed. What this orientation should be, how much it should be, etc., should be specified.

SHRI B. S. MURTHY: What I mean to say is, there may be a special class for those who are selected for taking up these abortion cases and an intensive training for two or three months may be given.

WITNESS: That is enough. You can give a sort of training certificate; that is more than enough.

SHRI B. S. MURTHY: Do you think that we should license nursing homes for attending to abortion cases?

WITNESS: I think so. It is good to license them. Whichever nursing home is well equipped and managed by a qualified man must be licensed.

SHRI B. S. MURTHY: You insist on only qualified doctors attending to these cases?

WITNESS: Yes.

SHRI B. S. MURTHY: Do you think it is necessary to give a prescription of fees, etc.

WITNESS: We have no control over private nursing homes.

SHRI B. S. MURTHY: When you are licensing them for a certain purpose—the purpose being that all people irrespective of their status should be given facilities for abortion in these nursing homes—do you think any prescription of fees is necessary?

WITNESS: Well, I do not know whether it will be workable in the case of private nursing homes. It is all right with the hospitals.

SHRI B. S. MURTHY: You are aware that anything from Rs. 5 to Rs. 500 is charged as fee for an abortion?

WITNESS: Yes; even more, sometimes.

SHRI B. S. MURTHY: Then all persons cannot afford such a privilege. Therefore, when you are licensing, can't you prescribe that this should be the maximum, this should be the minimum, etc.?

WITNESS: We can prescribe. But I do not know how far it will be workable. In Govt. hospitals it is all right.

SHRI B. S. MURTHY: Some people who came here were of the view that liberalisation will lead to a spurt in abortions. Do you subscribe to this view?

WITNESS: Well, the number will increase, no doubt; I do subscribe to this view. But on the other hand, the number of criminal abortions will decrease. Whatever is criminal now will become legal. Naturally the demand will be more. But after a certain stage, it will not be much.

SHRI B. S. MURTHY: Don't you think that liberalisation will only get the underground cases to the surface and there will not be a spate of abortions because of this legislation?

They are happening even now. Once you openly declare that anybody can go and get this assistance, the cases will come out.

WITNESS: Yes.

SHRI B. S. MURTHY: Therefore, I think this is a fallacy to say that liberalisation of abortion will create a spate of cases.

WITNESS: I think so. The illegal abortions will come to the surface. The total number will not increase much.

SHRI B. S. MURTHY: After all, all these illicit relationships do not aim at pregnancy. Therefore, once they are unable to control it, they need some remedy. Don't you think the society is bound to give such a remedy where people are unfortunately unaware of these risks, rather than allow them to go to the quacks and sometimes even die?

WITNESS: Yes, I agree with you.

SHRI B. S. MURTHY: Now you have posed another question about family planning. You say that the first one, two or three children must be examined and certified and then only the number should be restricted. Then you say that the disease from the parents might pass on to the children. How do you reconcile both these things?

WITNESS: In the case of these diseases, Sir, there is only a risk, 50 per cent. chance of the child inheriting this disease. But if choice is given to the parents, I am sure no parent would take that risk of having a handicapped child.

SHRI B. S. MURTHY: Suppose the first four children born are according to your diagnosis defective, do you allow them to go on producing more and more?

WITNESS: We advise such parents to go in for sterilisation.



SHRI B. S. MURTHY: If four children are born defective, they would like to say "Give us one or two more chances."

SHRI B. S. MURTHY: If the first two are defective, at that level we decide the issue, we ask for sterilisation for such parents.

SHRIMATI TARA SAPRE: You say '50 per cent. of the children are likely to be defective'. So if that 50 per cent. is over, the third child may be a normal one.

WITNESS: I have given only one example but there are hundreds of diseases in which case the percentage differs. In the case of some diseases the chances are 80 per cent. Even then I feel the parents would not like to take any risk of having handicapped children. It would of course depend on the psychology of the parents.

SHRI B. S. MURTHY: Anyhow, two or three and no more is a good slogan.

WITNESS: I will say 'one or two'; otherwise we will never be able to catch up with our problems; all our efforts will be wasted. To give an example; I would even say 'one or none' for some time.

SHRI B. S. MURTHY: We are even afraid to think of that prescription 'one or none'. Anyway, further on page 2 of your note in (c) you say "when an unmarried girl or a young widow . . ." Why not a middle-aged widow? Have you got any particular objection to that?

WITNESS: No, Sir.

SHRI B. S. MURTHY: Then on page 3 you have mentioned 6 causes. This is for the first time that I am hearing from a pediatrician that on grounds of genetics there must be termination of pregnancies. Has this matter been taken up by you doctors in your conferences?

WITNESS: No, Sir, we have not been able to give much thought to it because we had so many other problems. But I think in our future conference, this subject is going to be discussed.

SHRI B. S. MURTHY: If you really feel that a thing like this is necessary, then you must create that public opinion before the Government is called upon to legislate. I do not know what steps you are going to take in this direction. This is an equally good point to control and contain the population of children with less mental capacity and physical capacity.

WITNESS: Sir, it is a very good suggestion and we will place some concrete proposals very soon and I will discuss it with my learned colleagues.

SHRI B. S. MURTHY: Let me disabuse your mind of this family planning. This is not exactly a family planning measure. Only in Explanation II some mention is remotely made of family planning but nowhere else has family planning been brought into this Bill. Here in the Statement of Objects and Reasons, as you will see, there are three types of grounds: (1) as a health measure, (2) on humanitarian grounds and (3) on eugenic grounds. The eugenic grounds covers your idea.

WITNESS: Yes, Sir.

SHRI B. S. MURTHY: You have submitted six points in your memorandum. Therefore, this is not entirely a family planning measure. As a matter of fact, it is too late now. Otherwise, I would have preferred this Bill to be sponsored by the Law Ministry. Then, nobody would think that it has got any link with family planning. Because we are sponsoring it, many people are of the view that we are anxious to use any stick for achieving family planning. Therefore, I thought that I should

bring to your mind this remark. One of the grounds is eugenics. Thank you very much.

WITNESS: I have to add two more, viz., socio-economic grounds and population control. If I am given choice, I would add these two.

CHAIRMAN: Thank you very much for your valuable evidence.

*(The witness then withdrew).*

*(Dr. Syed Khaleefathullah, M. C., Madras, was then called in)*

CHAIRMAN: I welcome you and you can offer your remarks on the Bill. You have not submitted any memorandum. The evidence you give should be treated as confidential till it is published and placed before Parliament.

DR. KHALEEFATHULLAH: As regards the memorandum I have sent my opinion on the 13th itself.

CHAIRMAN: The office has not received it.

WITNESS: I will read the letter which I addressed to the Deputy Secretary:—

“Sub: Medical Termination of Pregnancy Bill, 1969.

I am giving a few of my opinions on the said Bill in a nutshell. (1) In my opinion, the law to legalise abortion should not be liberalised in our country. Our problem is over-population and poverty which are not going to be benefited by this Bill. Secondly, our country is a country of thousands of villages, with little or no modern facilities and lack of trained medical men.

(2) By this Bill becoming pregnant will become a common place affair and the present moral stigma

attached to illegal pregnancy will disappear and many a woman or girl will be tempted to take undue advantage of the liberal provisions of this Bill.

(3) The anguish caused by any married woman or her husband for the purpose of limiting the number of children, referred to in section 3, Explanation II, cannot be made a criterion for legalising abortion.

(4) Explanation II says, in the case of a pregnant woman her existing physical health alone should be taken into consideration while determining whether the continuance of a pregnancy would involve risk of injury to her health.

(5) Section 5 should be deleted *in too*, since there is no case of emergency calling for an immediate termination of pregnancy.

(6) Except under expert medical opinion and with the specific purpose of saving the life of the mother, pregnancy cannot be terminated as it amounts to homicide.

Looking forward to meeting you, learned Members. This was the letter sent by me. Now, I come to the Bill.

I have persued this Bill very carefully. It is written that pregnancy from the 12th to the 20th week is covered in this Bill. I would like to bring to the notice of learned Members here that as soon as the fertilisation of the ovum takes place life comes into effect. So, any disturbance of the ovum, which is embedded in the uterus, should not be done and whether it is disturbed earlier or later, it amounts to abortion. Secondly, it is written that there are some therapeutic abortions which are now being done by some practitioners by saying that the life of the mother is in danger and so it can be done. I would like to bring to the kind

notice of hon. Members here that science has advanced so much that we can easily control and we can even avoid therapeutic abortion which was prevalent and which is permitted by the Indian Penal Code. In this world, as we have got liberty of speech, expression, movement and all those things, similarly, the unborn children also have the same right, even though they are not existing in this world, as far as the theoretical aspect is concerned. If you take the practical aspect, once the mother has conceived, the child comes into existence. They become one of the citizens of our country. We do not know, but may be one may be like Milton, the other may be a big man like even our late Prime Minister Nehru, or even like Abraham Lincoln. If you make these abortions legalised, then what happens? There will be maternal morbidity which may increase in the sense that in many of the cases we have seen they go in for haemorrhages and other complications after repeated abortions. After repeated abortions we have also on record that the mothers go in for premature deliveries later on. In this Bill it is said in Explanation I: "Where any pregnancy is alleged by the pregnant woman to have been caused by rape, the anguish caused by such pregnancy shall be presumed to constitute a grave injury to the mental health of the pregnant woman." Here I would like to say that if in a real sense it is rape, then I think there will not be any pregnancy at all.

SHRI B. S. MURTHY: What do you mean by real sense?

WITNESS: I mean to say that during rape there is struggle. There is a fear on the part of the woman and there is a struggle by the woman when this particular act is being committed. By these two things there will not be proper orgasm. When there is no proper orgasm on

the part of the lady, in 99.9 per cent of the cases there are chances that pregnancy will not take place. Even if by chance it takes place and if it is a rape, immediately the woman or her relatives will report it to the police and the police will register a criminal case. Once it is registered, the patient is brought to the doctor or hospital for investigation. At that particular stage itself we can remove or we can clear it away by giving some pills as a precautionary measure rather than keeping it till the end and making an abortion.

In Explanation II it is said: "Where any pregnancy occurs as a result of failure of any device used by any married woman or her husband for the purpose of limiting the number of children, the anguish caused by such unwanted pregnancy may be presumed to constitute a grave injury to the mental health of the pregnant woman." Here I would like to say that family planning devices are being used now. Once you liberalise abortion by this particular Bill, then people will try to avoid the family planning devices. As some of the family planning devices, some of them, will not give them the full satisfaction of the sexual act, they will try to remove or avoid those things and they will think that if they become pregnant they have got this Bill which is a liberalised measure making abortion legal; so they will prefer that. In that way the Family Planning Department will be at a loss . . .

SHRI B. S. MURTHY: Will be a loser.

WITNESS: But at the same time I would like to say a few more things. The amount which we are spending on family planning can be diverted in giving more and more facilities to our countrymen in making everything modernised. Even though in a way we will not be preventing the population explosion, at the same time we will be able to get more

efficient work to be turned out. I have studied in some books that our population explosion, if it is left as such, after a few years it will be doubled. At the same time when you compare that with the development and our food output, it is not being doubled. At this juncture I would like to bring to the notice of learned Members that our country has got vast land which is being unused, which is barren. We can use them. For using that barren land we require manpower. The population which we have can be diverted. If I am permitted to say so, a legislation should be brought to force the people to go into the interiormost villages to work for the betterment of our country.

SHRI B. S. MURTHY: It is said that India has 2 per cent of the world's land area and 14 per cent of the world's population.

WITNESS: Even we have seen that the population is getting concentrated in the cities and big towns but they are not inclined to go to the rural areas. So I think we can force them to go to the villages so that we can have a better output in our food and other problems.

DR. SUSHILA NAYAR: There is not only concentration in the cities. There is hardly any place in this country today where there are no people. In fact when the Swiss people came here and they were told to go to some place in Kerala where they could develop some dairy, where there was pasture land, they found there were 7000 or 8000 families in that area. So in every place where there is any possibility to grow anything or to have a living, people are there. There is a vast population as the Minister says; 14 per cent of the world's population is here.

SHRI B. S. MURTHY: Again we are warned by world authorities not to touch any more forest areas. As it is today we are far behind in the

needed forest area for attracting the trade winds. We are bringing this fact to your notice.

WITNESS: By bringing this legislation and making abortion legalised in my opinion only the upper middle class and the higher class will take advantage of this liberalised measure. But actually if you go into details, more children are born in the slum areas. This I am bringing to the notice of the hon. Members because slums are there on a large scale in our country, and to eradicate these slums or to lessen the population in the slums this is not the correct method, and it requires a second thought. In slums people are afraid of taking these family planning measures. Do you then mean to say that people will adopt this drastic method of terminating pregnancy.

Abortion has impact on the psychological conditions of the woman. The Bill advocates abortion for psychological reasons, to relieve mental anguish in the woman. But in practice abortion worsens the psychological condition of the woman. So abortion should not be made compulsory for the women of our country.

THE MINISTER OF STATE IN THE MINISTRY OF HEALTH AND FAMILY PLANNING (SHRI B. S. MURTHY): Where do you get the feeling of "imposed abortion" in the Bill?

WITNESS: The aims in the Bill say that.

SHRI B. S. MURTHY: Dr. we are liberalising it and not imposing.

WITNESS: Only therapeutic abortions we cannot avoid.

SHRI B. S. MURTHY: About clause 5, you said that this has been bodily lifted from the Indian Penal Code.

WITNESS: Yes. These words are taken from the I.P.C.:

"or to save permanent grave injury to the physical or mental health, of the pregnant woman."

DR. SUSHILA NAYAR: You will adopt the whole Bill as well as section 12 of the Indian Penal Code.

WITNESS: I may make it clear that the I.P.C. was prepared a few years ago. But I may emphasise here that there is no emergency as far as abortion is concerned.

DR. SUSHILA NAYAR: Who told you that? Are you a medical doctor?

WITNESS: Yes.

DR. SUSHILA NAYAR: Have you ever seen a woman bleeding? Let us not talk of inevitable. A woman can bleed to death. If a bleeding woman is not an emergency case I wonder what else is an emergency. I do not know whether you have seen an emergency.

WITNESS: Ordinary abortions which are sought to be legalised here are not emergency cases. I have not dealt with any bleeding cases. I have not dealt with a case of inevitable or incomplete type of abortion.

DR. SUSHILA NAYAR: Let me tell you that I have seen them and but for timely intervention the woman would have died. Even for timely intervention some more things are necessary, blood transfusion etc. You agree that in such cases it is necessary.

WITNESS: In that respect I do agree. But I do not agree as far as general abortions are concerned.

CHAIRMAN: Please complete your remark. Then our Members will put questions.

WITNESS: In clause 7 it is said that:

"No suit or other legal proceeding shall lie against any registered medical practitioner for any damage caused or likely to be caused by anything, which is in good faith done or intended to be done under this Act."

Here I would like to say that if the Committee feels that a protection must be given to the doctor because some drastic physiological change is going to be done in the body of a pregnant woman, you have to remember that sometimes these abortions are very serious. So I would emphasise here that we should know which is the case which is going to come under this clause. As a doctor I may be happy to have this clause. Any doctor does an abortion or anything only in good faith. We know that therapeutic operation can be done by a doctor; it is permitted. Therefore, let us not make this general abortion a completely legalised thing. Let us keep it confined up to therapeutic abortion.

There is another important point. We want to legalise abortions to curb population and to bring down the burden on our economy. But then a time will come when people at the helm of affairs may say that the older generation too is a burden on the economy of our country and therefore why not have a legislation—I should not use a drastic word—to liquidate them? It is difficult to be good in this world. But it is easy to be bad. If a person falls in the public eyes he can never rise to his original position in his life time. Similarly the girls and women who once fall in the public esteem due to abortion can never have their honour restored in the public eye. Suppose a girl due to some mistake becomes pregnant and they want to get her aborted. They take her to a doctor or a hospital or a nursing home approved by the Government for the purpose. And once this girl gets admitted to this hospital people will come to know that she was pregnant

and got admitted to the hospital for illegal abortion. Therefore, to escape public eye people will avoid taking their girls to these hospitals. They will prefer to take them to some quacks, therefore, illegal abortions will increase instead of decreasing with the establishment of these clinics meant for liberalised abortions. Quackery will thrive more and more.

Secondly, it is said according to the statistics that we have more than two lakhs of hospital beds and more than a lack of qualified doctors in our country but qualified obstreticians and gynecologists are very few and if at all they are there, they are in the big cities and towns. Nobody is prepared to go to villages where this illegal abortion is very common. Actually in my opinion if there is fear in a person that particular fear will make the person, the woman or the girl or the parents or the husband of the particular woman or girl to be more cautious and more wise to protect their children, to protect their wives, from being spoiled.

DR. SUSHILA NAYAR: You want only the woman to be afraid? The man does not have to fear? Are you advocating double standards?

WITNESS: That is why I say if you legalise abortion morality will go down.

DR. SUSHILA NAYAR: This means you want only the woman to suffer, because some man has inflicted the pregnancy on her, she must go through it and she can have no protection. The man is protected anywhere. He can go and put ten others in the same predicament.

WITNESS: We want both of them should not suffer. Here I am not criticising the woman or I am not supporting the male in this respect.

DR. SUSHILA NAYAR: You are advocating double standards of morality.

WITNESS: What I say is to keep up the standards of morality there must be some fear and here because the victim is only the woman it is she who must fear. As a great lawyer in the state of Tamil Nadu said while advocating a case of rape unless the woman agrees nothing can happen. You cannot put the whole blame on the man alone. Both of them are equally involved.

SHRI B. S. MURTHY: I think you are quoting Mr. Norton, is it not.

CHAIRMAN: Have you finished?

WITNESS: Yes Sir.

SHRI B. S. MURTHY: Doctor, you see we are not legalising abortion. We are only liberalising the provisions that are already in existence. That is the fundamental point. And liberalisation is being done by adding a clause "or to save permanent grave injury to the physical or mental health of the pregnant woman". This is the sum and substance of the Bill. Therefore, I would like your comment on this clause only because we have no right now to advise the Government saying that the Indian Penal Code must be amended. We have not such right because the scope of this Committee does not go so far. Now, please advise us what is wrong in adding this clause "or to save permanent grave injury to the physical or mental health of the pregnant woman".

WITNESS: May I know from the hon. Minister what he means by "permanent grave injury to the mental health of the pregnant woman"?

SHRI B. S. MURTHY: You have already said in your evidence that a pregnant woman who does not want the pregnancy is already physically and mentally worried.

WITNESS: That means to say the hon. Minister is emphasising about the mental anguish which the patient has got. I have said that this mental anguish is a very broad term. The mental anguish which is there to you may not be to me or which is to me may not be somebody else. So we have to define first of all, what this mental anguish or grave injury to the mental health is.

SHRI B. S. MURTHY: That will be determined by the doctor whom she approaches and suppose the doctor feels that the woman is suffering from physical as well as mental anguish, then should we not say that the doctor is at liberty in *bona fide* cases—I am not talking of hanky-panky cases—to help her out? You are a doctor. A pregnant woman comes and tells you the circumstances in which she now has an unwanted pregnancy and she also tells you her physical difficulties and her mental anguish and suppose you are convinced at that time. Will you or will you not like to have permission to help that woman who is before you? This is the only thing I am now asking you.

WITNESS: As far as the grave injury to physical health is concerned, we are there to judge and if and when necessary as I have already pointed out therapeutic abortion can be restored to. But as far as mental health is concerned, it is difficult to decide what line of judgment should be followed. It may be less according to me, it may be more according to some other doctor. If you can clearly define what is permanent grave injury to mental health, then I will be able to say.

SHRI B. S. MURTHY: Then I will refer you to page 2 of the Bill. Explanation No. 1 and Explanation No. 2. If you follow that carefully you will see that we are giving in substance what is meant by physical and mental ill health.

WITNESS: Here again it is written that where any pregnancy is alleged by the pregnant woman to have been caused by rape, the anguish caused by such pregnancy shall be presumed to constitute a grave injury to the mental health of the pregnant woman. Here the anguish is attached to rape. As far as rape is concerned I have already said that first of all pregnancy will not take place. If however pregnancy does take place and if it is followed by police evidence that it is a real case of rape...

SHRI B. S. MURTHY: After crossing all these hurdles unfortunately the pregnancy results and then after that she comes to you and says here is the evidence that I was raped on such and such a date; here is the proof and this is the result of the rape. Then, what will you say?

WITNESS: Then, we can say....

SHRI B. S. MURTHY: Don't hesitate doctor.

WITNESS: I am not hesitating; I would like to make my point very clear. If pregnancy occurs because of rape then I would like to say that such a woman....

SHRI B. S. MURTHY: .... should be helped, should be saved from that predicament.

WITNESS: It depends upon the type of woman who has been raped. For instance, suppose it is a young girl or an unmarried girl, then I think she can be helped out of this if rape is confirmed.

SHRI B. S. MURTHY: Rape is rape, whether a person is young or old or middle-aged. So it is the act that is responsible. Why differentiate between the types of women when the act is the same?

WITNESS: As far as mental anguish is concerned, my personal opinion is that we can help out the

woman if it is an established case of rape.

DR. SUSHILA NAYAR: There had been hundreds of these instances at the time of partition. Hundreds of girls, whether on this side or the other side, had been exposed to the brutality of men who had gone mad at that time.

WITNESS: True. But are you expecting a repetition of the same thing?

DR. SUSHILA NAYAR: I am not expecting a repetition of that thing. I am only objecting to your statement that pregnancy does not occur as a general rule, as a result of rape. That is a very unscientific and wrong statement, whoever has made it, because pregnancy has taken place not in one or two but in hundreds of cases as a result of rape.

WITNESS: They may be stray cases.

DR. SUSHILA NAYAR: They are not stray cases. There were hundreds of girls.

WITNESS: But that is an unfortunate incident which happened in the history of India.

DR. SUSHILA NAYAR: But it disproves the statement that pregnancy does not occur as a result of rape. That is what I am concerned with. Therefore, if a woman says she has been raped and she wants to get rid of her pregnancy....

WITNESS: So you say that we have to take the word of that woman?

DR. SUSHILA NAYAR: Sure, who else?

WITNESS: We have to get complete evidence for it.

DR. SUSHILA NAYAR: You want to put a woman who has been raped, in the court and get evidence? Is that fair? Is it a right thing? Again

you are thinking of making the woman moral; you are not concerned with the man.

WITNESS: No, no, it is not so.

SHRIMATI USHA BARTHAKUR: Do you know that thousands of illegal abortions are going on in our country at the hands of quacks, that some of the women have lost their lives and some have become quite useless to lead a family life?

WITNESS: Yes.

SHRIMATI USHA BARTHAKUR: Don't you want to check it by liberalising this Act so that they can be placed in well equipped hospitals and in the hands of trained doctors?

WITNESS: That is why I told you in my explanation, Madam, that if you are going to liberalise this termination of pregnancy, we will be encouraging the quacks in a way because our women, because of the moral stigma behind it, will never go to the qualified doctors. Once they go to a qualified doctor, they have to register everything. Even though the Bill says that everything must be kept confidential, still it is on record and no women will dare to go to a qualified doctor because of the moral stigma attached to it. So, in a way we are going to encourage the quacks and not the regular clinics.

DR. SUSHILA NAYAR: Are not these quacks doing it to-day?

WITNESS: They are.

DR. SUSHILA NAYAR: If you give open facilities, will the quacks be encouraged or discouraged?

WITNESS: That is why I said, because of the moral stigma no woman will go to a qualified doctor as everything will be on record there.

DR. SUSHILA NAYAR: In any case, those who are going to-day will be still there. Some of them may go



to these open clinics so that the number of quacks should decrease rather than increase. Would you not agree?

WITNESS: If you are going to liberalise the law, what I will suggest is, first try to eliminate these quacks.

SHRIMATI USHA BARTHAKUR: How?

WITNESS: The people at the helm of affairs must think about that. We have more quacks than qualified doctors.

SHRIMATI USHA BARTHAKUR: It seems that in our country there are two schools of thought regarding termination of pregnancy. One upholds that liberalisation of abortion will increase permissiveness among women and the other contends that morality cannot be influenced by external coercive forces alone. Do you agree with any of these views?

WITNESS: Both of them have got something. But I cannot agree completely with both of them. What I say is, the moral stigma is definitely there. If the law is liberalised, the morality, whether it is among men or women, will definitely come down. This is not a mature time for bringing this Bill. Our people must become self-conscious. Many of our people are in the villages. They do not know what is the advantage and what is the disadvantage of anything. And many people are illiterates. So morality will definitely come down.

SHRIMATI USHA BARTHAKUR: The Statement of Objects and Reasons gives three reasons for this Bill. Over and above these reasons, will you not think that legalising abortion will pave the way for solving the socio-economic problem of our country, which is of national importance and public interest?

WITNESS: As far as the Statement of Objects and Reasons is concerned, the first reason is a health measure—"when there is danger to the

life or risk to physical or mental health of the woman." Here I reserve my opinion on the "mental health" of the woman, because I have already objected to it. The second ground is humanitarian ground—"such as when pregnancy arises from a sex crime like rape or intercourse with a lunatic woman, etc." Here with regard to pregnancy in a lunatic woman, I think in England or in some European country, it is said that a lunatic woman will be happier to have a child and she looks after the child better than others. The third ground is eugenic ground—"where there is substantial risk that the child, if born, would suffer from deformities and diseases." I do not know how we can say that the child will be born with deformities and diseases. Here you may say that the existence of syphilis is there but nowadays because of the advancement of science and as a routine measure we take the blood of every woman who comes to the clinic for test and if the result is positive, we definitely give treatment. Then there is no question of that disease being transmitted to the child and the child becoming deformed.

SHRIMATI USHA BARTHAKUR: Will you not accept it on account of social and economic problems of our country?

WITNESS: Socially it is not going to help our country and the parents will be very unhappy and we will not be able to help it or the social aspect of it. But as far as the economic aspect is concerned, to a certain extent it may improve. But I doubt how far this Bill is going to affect the people.

SHRIMATI USHA BARTHAKUR: Clause 1(2) says that it extends to the whole of India except the State of Jammu and Kashmir. Don't you think that this should extend to the whole of India without exception?

WITNESS: Yes. But I think the persons who have drafted this Bill must know it better.

SHRIMATI USHA BARTHAKUR: What is your opinion?

WITNESS: I think if the Constitution of India permits, this should also be included.

SHRIMATI TARA SAPRE: You have said that unmarried girls should not be allowed termination of pregnancies. Then don't you think they will have to live with their illegitimate children and with a stigma? Who is going to look after them? After all they are innocent children; it is not their fault at all. Why should they suffer at the hands of the society?

WITNESS: We should not terminate the pregnancy of an unmarried girl but we can have some special homes to bring up such children, illegitimate children and the Government can take care of them.

SHRIMATI TARA SAPRE: You want to place their responsibility on the Government and not on the citizens.

WITNESS: In England for instance it is said that every girl who is 18 years old has gone through at least one abortion. Let us also have it that way and let the others learn a lesson from it; it will be an eye-opener to others.

SHRI G. GOPINATHAN NAIR: Dr. Saheb, you said that if the rape is real, there will not be any pregnancy, because there will not be organism in the woman. I want to know whether your statement is medically correct, whether it has got the backing of medical science behind it.

WITNESS: You should not take only organism of the woman. There is also fear and violence on the part of the woman. If these three things are there, definitely according to medical science no pregnancy can take place.

SHRI G. GOPINATHAN NAIR: I doubt that very much.

DR. (MRS.) MANGLADEVI TALWAR: I was rather intrigued by your one remark that older people are a great strain on the society and therefore they should be liquidated. How do you propose to do that?

WITNESS: Once the viability of the child has started in the womb, because that particular child is not able to talk, that does not mean that we should curb the rights and privileges given under our Constitution. Actually the maximum amount is spent on the older generation rather than on the younger generation.

DR. (MRS.) MANGLADEVI TALWAR: What do you propose to do with them?

WITNESS: I do not propose to do anything. I just said that somebody may bring forward legislation saying that the old people may be liquidated.

DR. (MRS.) MANGLADEVI TALWAR: What is your suggestion? You have brought forward this thought before this Committee that the older generation is a drain on the society.

WITNESS: I never meant that. I only said that those people who are advocating economic grounds may plead for the liquidation of the older generation because they are a drain on the society.

CHAIRMAN: The witness says that economic considerations should not be brought into this Bill and he is totally opposed to abortion.

WITNESS: The hon. Member has misunderstood me.

DR. (MRS.) MANGLADEVI TALWAR: I was amused by your reference to the older generation. Then, you said something that the money spent on family planning should be diverted to welfare measures. It

means that you do not bother about family planning. I do not want to spend too much time on that. You know that there is a major population explosion in our country and therefore, population control is essential, but you say that it is not required.

WITNESS: I said it in the context that if you liberalise abortion then the family planning methods which are being used now will definitely go down.

DR. (MRS.) MANGLADEVI TALWAR: That is a separate thing altogether. You say that the amount spent on family planning should be diverted to welfare measures. You said something that pregnancy could be terminated if it is achieved by the use of some sort of pills. I would like to know what pills you have in mind. You are a medical man.

WITNESS: As far as our country is concerned, we do not have any pills. If at all, we have to import them and that would involve foreign exchange. I am not concerned with it. Now, these pills are available in European countries and they are given to ladies who think they are going to get pregnant or who are in the early days of pregnancy.

DR. (MRS.) MANGLADEVI TALWAR: There are pills that are going to prevent abortion. They may succeed or they may not. I am not talking about it now. You are opposed to this measure. I would like to bring to your attention and the Minister has already said that this measure is neither a family planning nor a population control measure. In our country there is a large number of illegal abortions. Some five million or more abortions are there in our country.

WITNESS: May I know from the hon. Member from where these statistics have been obtained? If it is illegal how can you get the figures?

DR. (MRS.) MANGLADEVI TALWAR: I would refer you to the Report of the Shah Committee.

WITNESS: Once it is illegal, it is not recorded. Without any record how can there be any statistics?

DR. (MRS.) MANGLADEVI TALWAR: Let me explain what I want to say. I would refer you to the Report of the Committee to study the question of Legislation of Abortion, otherwise known as the Shah Committee. On page 18 para 1, it says:—

“In a population of 500 million the number of abortions per year will be 6.5 million—2.6 million natural and 3.9 million induced.”

Quite a large number of these abortions are done by quacks. As you say, correct statistics are difficult to maintain. Secrecy is maintained of the operations. In any case there is a large number of abortions. This measure is only to help those people. I would refer you to page 4 of the Bill, the Statement of Objects and Reasons. It says in para 3:

“There is thus avoidable wastage of the mother's health, strength and sometimes, life. The proposed measure which seeks to liberalise certain existing provisions relating to termination of pregnancy has been conceived (1) as a health measure—when there is danger to the life or risk to physical or mental health of the woman; (2) on humanitarian grounds—such as when pregnancy arises from a sex crime like rape or intercourse with a lunatic woman, etc.; and (3) eugenic grounds—where there is substantial risk that the child, if born, would suffer from deformities and diseases.”

I would ask you whether you still believe in your objections. Do you think that this Bill will serve some useful purpose in giving help to women who are unfortunately victims or who, for some other reasons, wish to terminate the pregnancy?

WITNESS: Here I should like to say at the outset that the statistics provided by the hon. Member are too exaggerating.

CHAIRMAN: The hon. Member has quoted from the Report.

WITNESS: Once it is criminal abortion, nobody gets a record of it. Once it is not recorded, how do you get the statistics? It may be in the Report, but logically our conscience never permits us to accept it.

DR. (MRS.) MANGLADEVI TALWAR: You are a medical man.

WITNESS: I do not practise abortion.

DR. (MRS.) MANGLADEVI TALWAR: You are a doctor of medicine. You are a physician though a physician may not practise gynaecology or obstetrics.

WITNESS: I am not a gynaecologist or an obstetrician.

DR. (MRS.) MANGLADEVI TALWAR: Then you must be some other specialist. Anyway statistics are given in the book. So we do not have any reasons to suppose that what is given there is all wrong. I certainly have not collected it myself but they are there in the report. Apart from that, there is no doubt that a large number of cases of abortion take place everyday, and not all go to hospitals, but at the same time a very large number takes place openly in hospitals. So, just to help those this measure is brought.

WITNESS: As I have already told when another hon. Member has raised the same type of question, there are other methods and this therapeutic abortion can be stopped.

DR. (MRS.) MANGLADEVI TALWAR: Whatever is in existence does not need sanction. That is the point. Otherwise there was no need to bring this.

WITNESS: That is why I am of opinion that it is not necessary.

SHRI SAWAISINGH SISODIA: Are you of opinion that there should be no termination of pregnancy in any circumstances whatsoever?

WITNESS: I never said that there should be no termination in any circumstances.

SHRI SAWAISINGH SISODIA: What are those circumstances?

WITNESS: The circumstances, as I said, are proved cases of rape, and in cases where the health of the woman is in danger if a panel of specialist doctors give an opinion on it.

SHRI PRATAP SINGH: I want to know from you whether any pregnancy resulting out of love should be treated as rape or something else. In that case whose consent is necessary keeping in view the age of the lovers?

WITNESS: Once it is a matter of love the best solution is marriage. The pregnancy can go on. We need not disturb it.

SHRI PRATAP SINGH: Suppose the father or the mother of that girl does not want that this marriage should take place. In that case will you suggest that it should be terminated?

WITNESS: You are saying that a girl and a boy are in love. Nowadays who are the parents to interfere in their love affair? Once they had gone to the extent of getting pregnant, that shows that they are in real love. So here there is no question of termination of pregnancy.

SHRI PRATAP SINGH: Do you suggest that the record of termination of pregnancy should be kept secret in the Government hospitals as well as in the private registered clinics and a separate Wing be opened

to deal with these cases in the Government hospitals and the records should not be shown to anyone except the head of the institution, and that this record in no case should be produced before any court? What is your opinion?

WITNESS: If this Bill is going to be enacted, then this provision is an essential provision of the Bill.

SHRI PRATAP SINGH: How many times termination of pregnancy is possible keeping in view the different status of women in the different regions, in rural and the urban areas?

WITNESS: I am thankful to the hon. Member who has just given a hint to me. There is a big loophole in this Bill again that they have not given how many abortions have to be done and at what duration. Suppose a woman comes every third year; according to this Bill she is eligible to get it aborted. So I would like to say here that when I am of the opinion that abortion itself should not be liberalised, I have got my own reservations about this particular question.

श्री प्रताप सिंह : आप डाक्टर की हैमियत से यह भी जानते होंगे कि आजकल ऐसी बहुत सी दवाइयाँ हैं जो हमल गिराने में कामयाब साबित हो रही हैं चाहे वे ऐलोपैथी में हों, चाहे प्रायुर्वेदिक में हों या दूसरे सिस्टम में हों। मेरी जानकारी कुछ ऐसी है कि आजकल ग्राम औरतों और लड़कियों के पास हर वक्त ऐसी दवाइयाँ मौजूद रहती हैं जिसे वे हमल के वक्त में इस्तेमाल करे ताकि उनको हमल न ठहरे और वे काफी हद तक कामयाब होती हैं। अगर वह दवाइयाँ कामयाब न हो सकें क्योंकि ऐजा भी हो रहा है कि वायजूद दवाइयाँ खाने के हमल ठहर जाता है और उस हालत में बच्चा पैदा हो जाय तो उस बच्चे में फिजीकली या मेन्टली कुछ न कुछ नुस्म रहता है। ऐसी हालत में क्या आप इस बिन्दु के मुताबिक यह मानेंगे कि हमल गिराना जायज है ?

साक्षी : जैसा आपने फरमाया ये दवाइयाँ खाने के बाद हमल रहे तो बच्चा दिमागी और जिस्मानी कमजोर होगा मैं यह मानने के लिए तैयार नहीं हूँ क्योंकि जब पिल खाने के बाद हमल ठहरा है तो उसके माने यह हुए कि उस औरत की जिस्मानी ताकत ने उस पिल को निकाल दिया, इसलिए वह कमजोर नहीं हो सकता क्योंकि उसमें पूरी ताकत रहती है। तो इसमें भी एवार्शन लीगलाइज करने की कोई जरूरत नहीं मालूम पड़ती।

SHRI P. VISWAMBHARAN: You are a medical practitioner. I would like to know from you the system of medicine that you are practising.

WITNESS: I am practising Allopathy.

SHRI P. VISWAMBHARAN: In the beginning you said you are totally opposed to this Bill, and later you said that when there is a real case of rape and when the health of the mother is in real danger, then abortion could be restored to.

WITNESS: But this particular provision is already there. It is already there existing that if the health of the mother is in danger, then abortion can be done. So what I have told the hon'ble Member is nothing new.

SHRI P. VISWAMBHARAN: We are discussing a Bill which suggests some amendments to the Indian Penal Code. In that context I would like to know whether that provision of the I.P.C., according to you, should be modified or should be left as it is or would you like the I.P.C. to be modified even taking away the exceptional permission that is given in the clause ?

WITNESS: We should leave the I.P.C. as it is.

**SHRI P. VISWABHARAN:** According to you since the I.P.C. was enacted science has progressed very much. So even where the mother's life is in danger this permission for abortion, according to you, should be avoided.

**WITNESS:** Yes, I have the answer from the hon'ble Members that I cannot comment on the I.P.C. Because I have been already objected to I cannot say anything.

**SHRI P. VISWAMBHARAN:** According to you science has advanced to such an extent that abortion should be avoided even in such cases.

**WITNESS:** Yes, it has progress.

**SHRI P. VISWAMBHARAN:** Could you cite one or two countries which are scientifically more advanced than India where abortion is total prohibited and in its place other preventive measures have been substituted cent. per cent.?

**WITNESS:** I do no know.

**SHRI P. VISWAMBHARAN:** How far, according to you, it is correct that some countries have developed cent. per cent. effective pills?

**WITNESS:** Even there there is some percentage of failure.

**SHRI P. VISWAMBHARAN:** You say that abortion will increase the mental anguish of the woman. Where as in the Bill abortion is recommended as a measure to eliminate mental anguish. Is your statement based on any scientific study?

**WITNESS:** Abortion once it is done interferes with the physiological functions of the woman's body. And once the physiological functions of the human body are interfered with hormonal imbalance definitely takes place in the body and this imbalance will definitely interfere with psychology and the mental and physical health of the woman.

**SHRI P. VISWAMBHARAN:** May I know whether a comparative study

has been made on the subject, namely mental anguish if the pregnancy were not terminated and mental anguish if the pregnancy was terminated?

**WITNESS:** I am a general practitioner and not a research scholar and a social worker. With my experience I can say with certainty that abortion will definitely increase the mental anguish of the woman.

**CHAIRMAN:** Is there any research made in any country to establish what you say?

**WITNESS:** I read somewhere that some research has been done. If the hon'ble Member want details I will send it later on.

**SHRI S. A. KHAJA MOHIDEEN:** Apart from allopathic medicines is there any medicine in ayurved or unani?

**WITNESS:** I understand from papers that the ayurvedic and unani counsels are doing some research in family planning. They have come out successful also in their research.

**SHRI S. A. KHAJA MOHIDEEN:** Does induced abortion affect the progeny?

**WITNESS:** Yes, repeated induced abortions will definitely interfere with the progeny to come. The uterus gets affected. With repeated abortions deliveries will be premature afterward, and if the delivery takes place there will be deformities or mentally retarded child.

**CHAIRMAN:** Dr. Khaleefathullah, thank you very much for your valuable evidence.

*(The witness then withdrew)*

*[The Committee then adjourned.]*

Tuesday, the 23rd June, 1970.

PRESENT

1. Shri Mulka Govinda Reddy—*Chairman.*

*Rajya Sabha*

2. Dr. (Mrs.) Mangladevi Talwar
3. Shri M. Srinivasa Reddy
4. Shrimati Usa Barthakur
5. Shri Sawaisingh Sisodia
6. Shrimati Bindumati Devi
7. Shri G. Gopinathan Nair
8. Shri S. A. Khaja Mohideen

*Lok Sabha*

9. Shri Vidya Dhar Bajpai
10. Shri Gangacharan Dixit
11. Shri Ganesh Ghosh
12. Shri Kinder Lal
13. Shri P. Viswambharan
14. Shri N. R. Laskar
15. Hazi Lutfal Haque
16. Shri Mohammad Yusuf
17. Shri B. S. Murthy
18. Shrimati Shakuntala Nayar
19. Dr. Sushila Nayar
20. Shri Partap Singh
21. Shrimati Tara Sapre
22. Shri M. R. Sharma
23. Shri Babunath Singh
24. Shri Jageshwar Yadav.

REPRESENTATIVES OF THE MINISTRIES

*Ministry of Law*

Shri S. Ramaiah, Deputy Legislative Counsel.

*Ministry of Health and Family Planning and Works, Housing and Urban Development*

Dr. K. N. Kashyap, Commissioner (FP).

Dr. S. V. Raja Rao, Asstt. Commissioner (FP).

Dr. (Smt.) S. F. Jalnawalla, Deputy Director (I).  
Shri A. P. Atri, Under Secretary.

## SECRETARIAT

Shri S. P. Ganguly, Deputy Secretary.  
Shri M. K. Jain, Under Secretary.

## WITNESSES EXAMINED

- (1) Representatives of the Federation of Obstetric and Gynaecological Societies of India, Bombay:—
- (i) Dr. S. B. Anklesaria, President.
  - (ii) Dr. (Prof.) B. N. Purandare.
  - (iii) Dr. C. L. Jhaveri, Hony. Secretary.
- (2) Shri Shashi Dhar Bajpai, Editor, Hind Manav Seva, Kanpur.
- (3) Dr. (Miss) Sulabha Bhatavadekar, M.B.B.S., D.G.O., Bhatavadekar's Maternity Hospital, Bombay.

*(Representatives of the Federation of Obstetric and Gynaecological Societies of India, Bombay, Dr. S. B. Anklesaria, Dr. B. N. Purandare and Dr. C. L. Jhaveri were called in).*

CHAIRMAN: Dr. Anklesaria, I welcome you to give evidence before this Committee. The note submitted by your Federation has been circulated to the Members of this Committee. Whatever you say has to be treated as confidential till it is published by Parliament.

WITNESS (DR. ANKLESARIA): Sir, the first point is whether, according to the definition which we have, every "registered medical practitioner" is really going to be able to perform an abortion, because from whatever I can see from this Bill as it has been given to us, every "registered medical practitioner" is empowered to perform an abortion. If he is honest and conscientious, very often he will have to say "I am sorry, I cannot do it." If otherwise, there might be damage. So, I would say that in addition to all those qualified as obstetricians and gynaecologists, if at all the Government wants other medical practitioners to do it, there must be some form of certifica-

tion of people who can perform abortions. I fully realise that if you really want to make abortions more, the obstetricians and gynaecologists in the country will be too few to do it. So, that would be one of the first questions which I think this Committee should consider very carefully before allowing every registered medical practitioner to perform an abortion. This will include people who are M.B.B.S. but who have not taken any further training. It will include L. C. P. S. and L. M. P. It is possible that some people who qualified outside of this country, who may not be allowed even to practise in that country, may be registered here. In many countries of Europe, you are not allowed to practise after getting the degree unless you undergo training. If he has not done that and he comes here, because he is an Indian we register him and he would also be a registered medical practitioner. So, this is the first point which I would like to raise.

Then, I am not able to understand why two registered medical practitioners can decide in the case of a pregnancy which has gone to a certain further extent and one cannot. The question is, if it is left to the



obstetricians and gynaecologists who are well qualified, then this clause of one or two medical practitioners perhaps may not come in at all.

Coming to the question of the Explanations which are on page 2, you will excuse me if I put it that they are too vague and it will be extremely difficult for any registered medical practitioner to decide on this. I am completely in sympathy with performing an abortion in the case of a rape. But when you say "alleged rape", how am I to sit in judgment and decide whether this alleged rape is true rape or not. Therefore, if such a terminology is to continue, the responsibility must rest with some responsible committee who can decide and tell the doctor if it is a case of rape or not. Besides, we have put down that the anguish caused by such unwanted pregnancy may be presumed to constitute a grave injury to the mental health of the pregnant woman. It has been done in good faith; we may grant it. But imagine the position of any medical practitioner who has to decide whether a contraceptive device has failed or not. If any married woman comes and tells me that her husband used a contraceptive but it failed, how am I going to investigate it. And if I am going to believe that; where are we going to end, because if we go to that limit, it may mean that there will be so many abortions and the expenses which you have laid down as Rs. 24 lakhs might have to be multiplied many many times. So, here if you are going to say that if a woman had sterilisation and had failed, if the husband had sterilisation and had failed, or if the woman had a loop inside and yet the pregnancy occurred—here I can tell you as an expert that it can be introduced after the woman becomes pregnant, but let us brush it aside for the time being—it can be allowed, then it will be very simple. But when you say "where a contraceptive device has failed" and do not specify anything further, the difficulty arises.

Further on, from whatever I can read in sub-clauses (b), (c) and (d), I envisage that unmarried woman and widows are going to have abortions. Now, if there is anguish from an unwanted pregnancy because a contraceptive device has failed, I think there is far greater anguish for an unmarried woman or widow who has become pregnant. Are we going to terminate the pregnancy of every unmarried woman and widow? If not, who is going to decide and how are we going to decide? These are points which require very careful consideration. If such a thing has to be done, a committee of at least a good judge, a good social worker—there may be more than one of these—and some good obstetricians and gynaecologists should be formed who can decide on these issues. Then an individual doctor has no further responsibility. He knows that there may be pressures of various types and very often he will have to do it, though he is not convinced that this may be so, because he cannot lead evidence and he cannot decide by any other means whether this particular pregnancy should or should not be terminated. In sub-clause (4), if what I have said before is to be agreed upon, then, I feel that should be added here. It should not only be the hospital which has to be recognised the person (doctor) should also be recognised by Government. If you are going to put in the other clause, that may not be necessary. But if certain people are going to be allowed to perform it, it would be all right.

Then in the next clause, I am afraid it is going to be somewhat difficult if you leave the State Governments to pass any legislation they like asking doctors to give information they want. It may defeat the very purpose that you want. I do not know the views of this Committee nor have I any business to go into their views. But if you really want to help a widow or an unmarried woman—I am completely in sympathy with helping her in certain circumstances

because the other party goes round, may be, even maligning such people—I am in full sympathy with helping some unmarried women, some widows, completely. But then if the Government is to keep such records and if they are to go to some office—after all that office' will not be the chief officer to which you expect me to go; there will be so many people—it is going to be very difficult. And perhaps there are two things which contradict each other. One says, prohibit the disclosure except to such and such persons and for such purposes as may be specified in such regulations. I would say again you have to appoint a committee of people who have their ears and eyes always open and mouths shut. Then alone such committee could be really helpfull and information may be given to such committee. To give it to every provincial Government may lead to difficulties and may actually lead to hardships to the people whom you really are thinking of helping.

As I told you, finally, I think the amount of Rs. 24 lakhs which is provided in this Bill, if it is to serve the purpose which you really want to achieve, will not be enough; rather it will be far less than what you may actually have to incur. I may be permitted to say, there are two clear suggestions that I would put forward. As for the married woman who does not want any more children, we can straightway legislate saying that when a married woman who does not want to have any more children comes for an abortion, she should also be willing to be sterilized following the abortion. I would like to lay emphasis on this. Any obstetrician or gynaecologist can terminate her pregnancy and sterilize her at the same time so that at least that particular woman will never come to us again for abortion and thereby we will have saved all further possibilities and complications. Short of that, it is for the representatives of the people to decide what the people want. I think the best we can suggest is please try

this out in some Union Territory or one State or the other and let the experience of that Territory or that State be the guidance for further legislation rather than going in for a legislation which may land us into difficulties.. Otherwise, if it is to be in the form that we see it now, I think there will be such a huge demand for abortions. I think the greatest thing is that we are all keen, and nobody could doubt it, to reduce population. I do not think that my federation or anybody believes in abortions. When many of the legislations were passed before, the intra-uterus devices, the pills and other reliable contraceptives were not available. But today I do not think that abortion should be used to limit the family. Better methods should be used and if you allow such a lax measure, it is possible that women may think, "I need not go in for a sterilization. If and when I need I can have an abortion." That will defeat the very purpose of family planning and that is why I suggest that if the people could agree with our convictions, I think we had better legislate now so far as married women are concerned, rape and other things being left aside. To start with, let us legislate only for married women. that is, a woman who does not want any more children and wants to have an abortion, will have sterilization at the same time. Looking to the circumstances in which we are at present, I think it will be a very good impetus to many women to undergo sterilization and this will help our family planning programme also considerably because women just after a delivery can be influenced more easily than later on, and a woman who is just going to have an abortion will perhaps be induced more easily to undergo sterilization and that will save us from many of the problems.

These are the few things which I and my federation wanted to point out here to the learned Committee. If there is anything that I can answer further, I would be very glad to answer.

**SHRIMATI USHA BARTHAKUR:** Please see the last paragraph. Kindly tell me: Do you not think that our society will gladly accept legalising abortions and helping the salvation of the various problems facing our country now such as population control, socio-economic problems, etc. and some illegal abortions taking place in the rural areas?

**WITNESS:** There are certain sections to which I did not refer because I thought that it was not necessary for me to refer to things which you have definitely safeguarded. You have safeguarded the medical practitioners more than the previous laws on abortion and we are thanking the Committee for doing that for us. Previously the position was not so. Now in this Bill there is a provision which says that there can be no legal action against the doctor and he cannot be hauled up in a court of law and when he has performed the abortion in good faith and if any harm accrues to the health or the life of the woman, he cannot be responsible. That is all what we want. We do not want any privileges or rights or anything else.

**SHRIMATI USHA BARTHAKUR:** Kindly refer to paragraph 1 of your Note where you say that the introduction of the Bill is necessary for the legal protection of the trained and qualified practising obstetricians and gynaecologists. Is it only for that purpose?

**WITNESS:** I think there is some misunderstanding. We are discussing only obstetricians and gynaecologists and we are limiting ourselves to that. We do not object that it should be done for other purposes. I apologise if there is any such misunderstanding caused by this note.

**SHRIMATI USHA BARTHAKUR:** Then kindly refer to para 2 of your note.

**WITNESS:** There must be something in the enactment which must not make the woman wait and the procedure should be made as simple as

possible. If we have to terminate the pregnancy, the procedure should be very simple and the formalities should be as easy, simple and short as possible so as to reduce the unnecessary loss of time. That is the whole object of this paragraph so that it does not take time.

**SHRIMATI USHA BARTHAKUR:** You have said that the termination of pregnancy should be done within 12 weeks.

**WITNESS:** There are two conditions. One condition is that in which we have to terminate the pregnancy not for definite physical deterioration of health but for certain purposes for which we think it should be done. Let us be quite clear now only on that. Now in that case it should be early enough. But even if it is the 7th month or the 8th month, the pregnancy can be terminated. But if a particular woman does not want to have a child, then it should be done early enough. That is all that it means.

**SHRIMATI USHA BARTHAKUR:** I agree with you. Now I want your opinion whether the clause relating to the number of weeks should be deleted.

**WITNESS:** For emergencies the period is 20 weeks. If it is to be done for medical purposes for which we want to do it, we can do it any time. We may even open the abdomen and terminate the pregnancy. So that question does not arise of deleting the clause.

**SHRIMATI TARA SAPRE:** Doctor, you have agreed that there should be termination of pregnancy in an alleged case of rape. Now I would ask you whether the husband's consent is necessary in such a case.

**WITNESS:** I would rather leave it to the judges and lawyers to decide it.

**SHRIMATI TARA SAPRE:** I would like to know your view.

**WITNESS:** My view is that if a woman is as free as a man, then she

should have as much freedom as the man. Therefore if the consent of the husband is necessary, then the consent of the wife will also be necessary for the husband's sterilisation. But that is not for me to decide; it is for the judges and lawyers. Therefore I would not like to interpret the law, because I am not competent to do that. If you ask my personal opinion, I would say that I respect the mother more than anybody else.

SHRIMATI TARA SAPRE: In the case of a woman who has got more than three children, because of the failure of contraceptives if she comes for termination of pregnancy, do you think that sterilisation should be the prerequisite and obligatory on the part of the husband or the woman? Will you do that abortion without her consent for sterilisation? Secondly, would you like to have the consent of the husband in this case also?

WITNESS: I think I had made my position clear. If you are not going to make sterilisation absolutely compulsory, the number of abortions that you might have to do would be so many that I am afraid that this country at this stage with the medical personnel available at present will not be able to cope with it. I am not going into any other aspect of it. I am not concerned with the religious, philosophical or any other aspect. I am talking of plain and practical things. If you allow abortion to a married woman who does not want a child and who has failed in the contraceptive methods, you will have to allow an unmarried woman or a widow also. Now the position is that today everybody wants to take and nobody wants to give. This is not only prevalent in our country but in all other countries. I think the demand for abortions will be such that it would be difficult to cope with it. That is my personal opinion and I think that is the opinion of the Federation also. You may do it and see the results. You are the representatives of the people and you may

decide for yourselves and face the results. We can only explain the plain position. By having sterilisation on women the number of abortions will considerably come down and that is how we will be able to reduce our family planning difficulties also. A woman who is sterilised will not create any problem for us in future. That is all that I want to say. I am not saying it from any ethical or other point of view. I am saying it only from a practical point of view.

SHRIMATI TARA SAPRE: Now please refer to the Statement of Objects and Reasons. It mentions 'eugenic grounds'. Would you allow the termination of pregnancies on these grounds?

WITNESS: That is why I suggested that a Committee should be set up because otherwise the doctor is going to be in a very difficult position. It has happened in many cases. A woman has got measles and her child will be defective. But the doctor feels that it is not going to have any effect on the child and the child will not be defective and therefore he does not terminate the pregnancy. She sues the doctor. That is why I suggest that we must protect the doctors and leave it to a committee, because there are very serious responsibilities involved in this. Even by taking out the fluid from the womb you can say whether there is going to be any defect, but sometimes the defects are not at all detected. It is good for the people to have their own conscience and have a committee to decide that conscience rather than leave it to a doctor's conscience to decide their conscience. This is what a doctor has said in an American journal. 'Your conscience says that you should have abortion under the circumstances. Have a committee to decide it and do not leave it to the conscience of the doctors.' Regarding the point you have raised as well as the question of alleged rape and certain other conditions, if they could be

left to a committee, then that committee's decision is final and the doctor will take it as such that it is a case of rape because the committee said so or that it was a case of failure of the device and he does not further think about it. In the case of medical condition, I fully realise that the doctor should be left to decide himself but when you leave it—I do not say you should not have left it and this is recognised the world over—it is very difficult for a doctor to decide this issue either way. If he says that the pregnancy should be terminated and the woman did not agree and she gets a healthy child, she will say: 'You were going to prevent me getting this healthy child.' So it is better in such cases, to leave it to a committee. Let there be obstetricians, gynaecologists and social workers in that committee but they should have their mouths shut so that nobody knows what happens in that committee. Then you will save the medical men from a lot of difficulties. Because this happened in America that a woman actually sued a hospital for 25,000 dollars because she did not have the pregnancy terminated and she gave birth to a defective child. So when it is to be carried out, you must understand the difficulties of the doctors also. So I say that in all doubtful cases, if you want to legislate it is for the Parliament—it would be better to have a committee to decide them rather than leave them to one or two medical practitioners to decide. For instance you have only said here: 'on humanitarian grounds'. You have not mentioned the 'anguish and mental ground'. This is the difficulty with which we will be faced. The people will think 'this is our right and we should have it. We are going to create chaos. It is not our responsibility to legislate, it is entirely that of the Parliament. We do not want to take on that responsibility but we do feel that if you keep such vague clauses, it will be difficult to limit the number of abortions. There is another aspect, viz., I do not think we have enough medical personnel. You will grant that

there are villages to-day which do not have doctors. Should we take away doctors and employ them for abortions when we cannot give medical relief to our people in the villages? We may be wrong and you have every right to decide that.

SHRIMATI TARA SAPRE: Is this committee going to tour the villages to decide whether a woman should get her pregnancy terminated?

WITNESS: The Parliament has to decide; if the doctors have to go to the villages, then the committee that may be appointed may also have to go there.

SHRIMATI TART SAPRE: That will take a long time.

WITNESS: That is for the Parliament to think over. It should not take a long time. Anyhow this is not a question which I can consider. It is an administrative problem for the Parliament to decide. Please remember that when it is an emergency, you have permitted the doctor to do it, if it is going to be a serious damage to the health of the individual. I do not say there is anything wrong about it. So the time that passes may perhaps make it difficult for the woman to have the abortion from below but if the Parliament is keen to have the Bill, it should have the ways and means to see that a committee is appointed and that it can reach the villages. That is all that I can say.

SHRI G. GHOSH: I think it is your opinion that premature termination of pregnancy should not be made available merely for the asking but only on the ground that medical facilities in the country are not enough. Am I correct?

WITNESS: You are quite correct. If we permit abortions on all the premises laid down here, the number of abortions which would be required would be so much and I would not say the number of registered practi-

tioners but the number of people who can do it ably will not be enough because I do not think every practitioner will be able to do it. Even when it was legislated in Japan, it was not that every practitioner was allowed to do it. Only obstetricians and gynaecologists and certain people who were certified could do it. Of course, the more common you make abortions, the more people you can train but till then there is going to be a deficiency of people who can perform abortions. I would not say all the practitioners may be right or wrong but there may be wrong practitioners who may go in for it and it may be that the Parliament may be helping the wrong people to a great extent because then they will have a free licence to do something which may damage the people.

**SHRI G. GHOSE:** You are also strongly of the opinion that such premature termination of pregnancies should be done only by specially trained gynaecologists and obstetricians or specially trained medical personnel?

**WITNESS:** That is quite true. Also it should be done in a place where if it is necessary you can open the abdomen and treat an injury in the uterus because there is no honest obstetrician who might have performed enough abortions without ever injuring the uterus. Clause 5 says that you can terminate pregnancy whenever life is in danger. That is the existing Act. Now the last two lines have been added and it is said that you can also terminate pregnancy to save permanent grave injury to the physical or mental health of the pregnant woman. I think on principle you have no objection to this. Apart from the question of medical facilities not being enough, from the point of view of principle you are not opposed to this; is it not?

**WITNESS:** Not at all because here there is a question of serious damage to the physical or mental health of the woman and I think

today also we are doing it. It is not that you are asking us to do it. If I feel that the woman is going to be seriously damaged by continuing the pregnancy, surely I will terminate the pregnancy.

**SHRI GANESH GHOSH:** But can you do it now? That is illegal, I think under the existing law you cannot do it.

**WITNESS:** Well, can the Judge sit and decide when it is a question of life and death? As a medical man I can say I thought that her life was in danger. Is the Judge going to decide it?

**SHRI GANESH GHOSH:** Kindly refer to the Financial Memorandum about which you have made your position very clear. This allotment of Rs. 19 lakhs and Rs. 24 lakhs appears ridiculous. Can you give us an idea as to how much should be the minimum necessary to start with?

**WITNESS:** I am sorry I cannot answer that question because I do not now what will be the response, what will be the demand. You are asking me a question which is possible to be answered.

**श्री जगेश्वर यादव :** यह जो अनमैरिड गर्ल 18 साल से कम उम्र की होती है या 18 साल से अधिक उम्र की होती है उनको जब गर्भ किसी एक विशेष नैचुरल लव से हो जाता है या फिर जो समाज में बिला इजाजत छिप कर गर्भ रह जाता है तो उस गर्भ से एक विशेष इंटेलिजेंशिया आत्मा पैदा होती है। ऐसे गर्भ के लिए अगर कोई टन देने पर, उनके गाजियन या पिता के देने पर, एबार्शन किया जायेगा तो इस प्रकार जो प्रेम से या छिप कर गर्भ रह जाता है और फिर जो विशेष आत्मा पैदा होती है उससे समाज वंचित रह जायेगा। आपको मालूम है कि जैसे हनुमान जी हुए और पारासर हुए जिन्होंने वेद दिया और फिर वेदव्यास

कहलाये, तो ऐसी आत्माओं को बचाने के लिए रिटन देने पर एवार्शन नहीं होना चाहिये। इस तरह के गर्भ के लिए आपका क्या विचार है।

साक्षी : आप ने जो सवाल किया है उसका तो कोई आचार्य या कोई धर्मगुरु ही जवाब दे सकता है। इस तरह के सवाल तो धर्मगुरु से ही किया जा सकता है। मैं तो धर्मगुरु नहीं हूँ बल्कि एक डाक्टर हूँ और इस सवाल का जवाब तो धर्मगुरु ही दे सकता है। आपके पार्लियामेंट में जरूर धर्मगुरु होंगे और वे इसका जवाब दे सकते हैं।

श्री जगेश्वर यादव : मेरा कहना यह है कि इस तरह के विशेष प्रेम से जो गर्भ रह जाता है और फिर जो एक इंटेलिजेंशिया आत्मा रह जाती है, उसको बचाने के लिए जिससे कि देश का हित हो सकता है, उसके बारे में आपका क्या ख्याल है। जिस तरह से पारामर ने वेद बनाया और एक विशेष आत्मा पैदा हुई, उस तरह के गर्भ के लिए आप क्या सेफ्टी का सुझाव देते हैं।

साक्षी : मेरे लिये इस बारे में कहना मुश्किल है कि तमाम वक्त में विशेष इंटेलिजेंशिया की आत्मा आयेंगी। यह बात ठीक है कि किसी वक्त आ सकती है मगर हमेशा नहीं आ सकती है। कर्म से कौन क्या होगा, यह तो धर्मगुरु ही बतला सकता है मैं नहीं बतला सकता क्योंकि मैं तो डाक्टर हो कर आया हूँ।

SHRI N. R. LASKAR: Well, Doctor, as an expert in gynaecology do you think that abortion technique has been revolutionised and under the modern method it is very easy and safe to perform abortions?

WITNESS: I do not think that is a very correct interpretation of the fact. It may be very safe in safe hands and it may be very dangerous in dangerous hands. If you say that

it will be safe in the hands of anybody whom you call the registered medical practitioner I cannot agree. I would like to ask a simple and plain question: is it safe in the hands of any medical practitioner? I do not think I can agree with it; not that I run down the practitioner. After all, he may be knowing more of surgery and ENT than I do as an obstetrician but when it comes to an expert process I do not think he is qualified to do that. Not that you cannot train up people to do it; that is a different matter.

SHRI N. R. LASKAR: Suppose we modify and use some other wording instead of registered medical practitioner, suppose we say registered gynaecologist?

WITNESS: You count the number of gynaecologists and then the number of abortions that you can perform and see whether it is enough.

SHRI N. R. LASKAR: You say that it is impossible for an ordinary MBBS to practise this technique?

WITNESS: I have just told you that you have to train him. How much training should be given we can sit down and discuss. That is exactly why I said that I do not want to limit it to the gynaecologists because I know that is going to make it impossible. And I do not want to put the cart before the horse.

SHRI N. R. LASKAR: At least you would agree that at the moment it is possible to have this performed at the District Headquarters level?

WITNESS: I do not agree with that. At the headquarters level you have got people of all types and I do not think they can safely perform abortions.

SHRI GANGACHARAN DIXIT: You said that persons with medical qualification should be given some training for this. If they are given

training for four or five months, will it suffice?

WITNESS: You say four or five months; I say six months. Again it will depend upon the place where he is and the person under whom he is trained.

SHRI GANGACHARAN DIXIT: How many months training would you think necessary?

WITNESS: I think six months should be the minimum; one year would be better. It will depend on the material available.

SHRI GANGACHARAN DIXIT: All the things taken together I put you a definite question. Will it be all right if six months' training is given to persons who possess post-graduate medical qualifications?

WITNESS: I think we are talking of something which will never exist. How will a man with post-graduate medical qualification come back again to become a mere abortionist? He is a surgeon or a physician or something else. Only the people who have got the basic qualification will come to this and I think six months' to one year's training is necessary provided the institution is able to do sufficient number of abortions.

SHRI GANGACHARAN DIXIT: You say that there are not so many qualified doctors to perform abortions in the country. In that case what is your special suggestion as to what should be done? Do you want that this Bill should not be passed unless and until you have got such a large number of doctors as would be able to cope with it?

WITNESS: I think I made my point very clear. That is why I said that you might limit this to those women who do not want any further children and who will have abortion and sterilisation at the same time. Or you might try to do this in one or two. States and see what the outcome is. That can guide us. You can

do that instead of making it for the whole country and then finding that we are not in a position to cope with it.

SHRI GANGACHARAN DIXIT: Kindly refer to Explanation No. 2 where it is mentioned 'for the purpose of limiting the number of children'. Do you agree with me that these words denote some aspect of family planning?

WITNESS: Putting something on paper does not achieve anything. Let me explain to you. If women do not run for abortions instead of getting sterilised the purpose may be achieved. If women do not get themselves sterilised but run for more and more abortions the purpose will not be achieved. It is not possible for me to become a prophet and tell you straightway what the outcome will be. Looking to what is happening all round us at present it would appear that women may run and rush in for abortion and not go in for sterilisation. The number of sterilisations may drop and then you will have failed in your purpose. If you make it necessary that the woman should, at the same time, undergo sterilisation, then the purpose of family planning will be achieved better.

SHRI GANGACHARAN DIXIT: That means that it should be followed by sterilisation. She will then have no children.

WITNESS: I am sorry I am not saying that. I am being misunderstood. When she has had enough children and if she does not want any more children, then only there should be termination of pregnancy. At the same time, sterilisation should be done. If it is a question of spacing, at best she will succeed in one spacing, but she may again become pregnant. That is all that I can say. If you can produce the number of doctors for a number of abortions, you can go ahead. I think, it is not possible.



SHRI GANGACHARAN DIXIT: Do you agree that Explanation II is redundant, in view of clause 3(2)(b) (i), which says:

"the continuance of the pregnancy would involve a risk to the life of the pregnant woman or of injury to her physical or mental health;"?

WITNESS: I do not think so. It would be very difficult for a medical man to say that just because a woman does not want her pregnancy that there is the risk of serious physical or mental injury. It will be very difficult for the doctor to say that. I do not think he will say so.

SHRI GANGACHARAN DIXIT: Do you agree that Explanation II should remain as it is?

WITNESS: I would not interfere with the rights of this Committee or of Parliament in that matter. We have to choose between the two. If we really want that all these women should get abortion done, we should try and see how we can get the medical personnel to do it. We do not have the medical personnel at present. If we want it only when there is a definite injury to the physical health or even mental health of the woman, with the help of pshchologists or psychiatrists it is possible that this will bring in certain definite advantages to those who have to do the abortion. It will bring in the very important question of abortion being necessary in case of rape, so that when he thinks that it is a case of rape he gets the right to do it and he has not face to the court of law because he has committed a crime. So, I do not think I can decide this issue on my own. We can only tell you what we think you should do. Legislation is part and parcel of Parliament's duty and it is for them to decide.

SHRI PARTAP SINGH: Kindly refer to para 3 in the Statement of Objects and Reasons. Three grounds have been proposed, viz., (1) as a

health measure; (2) on humanitarian grounds; and (3) eugenic grounds. Do you also suggest that family planning be added to this para?

WITNESS: I do not at all agree. There are better methods of family planning than performing abortion. We should not consider at all in this century and at this stage of civilisation abortion as a means of family planning. I think it is a retrograde step. It will only encourage irresponsibility. The State gives family planning devices free. The State allows you to be sterilised free of charge. Still you refuse to get it done. Then you want the State to spend so much money on performing abortion. I think it is a retrograde step.

SHRI PARTAP SINGH: In the light of what you have stated, do you think that Explanation II should be omitted or should it remain as it is?

WITNESS: I have already explained that if you want it to remain, you will have to see that you have a huge personnel to do it. If you do not want to do it, the matter becomes simple, but then, of course, the other things do remain. Please do not forget, if Explanation II goes away, under what circumstances are you going to perform abortion on an unmarried woman and a widow? There must be some provision for that. I think today the only explanation you can give is that there is mental anguish and for overcoming that mental anguish you can perform an abortion.

SHRI PARTAP SINGH: Explanation II reads:—

"Where any pregnancy occurs as a result of failure of any device used by an married woman or her husband for the purpose of limiting the number of children, the anguish caused by such unwanted pregnancy may be presumed to constitute a grave injury to the mental health of the pregnant woman."

WITNESS: I quite agree, but then under what circumstances will a medical man perform an abortion on an unmarried woman or a widow? Under certain circumstances one has to perform abortion on an unmarried woman or a widow. Otherwise, some portion of the Act would not come in.

DR. SUSHILA NAYAR: There is a different clause for it.

CHAIRMAN: It is there in clause 3 (4) (a), (b), (c) and (d).

WITNESS: I completely grant it. Will you kindly show me exactly under what circumstances on an unmarried woman or a widow a doctor is going to perform an abortion? This is what I would like to know. I do not think this Bill covers this point.

DR. SUSHILA NAYAR: On page 2 of the Bill, in clause 3 (2) (b) (i) it says:—

“the continuance of the pregnancy would involve a risk to the life of the pregnant woman or of injury to her physical or mental health;”

Anguish will be covered by that.

WITNESS: That is exactly what I am trying to say, that the anguish which has been put in this Explanation must also cover the unmarried woman because otherwise there will be no definite evidence to show that the unmarried woman is going to get physical or mental injury, unless you take anguish as part of mental injury. That is exactly what I am trying to point out to you. Unless you do that it will be very difficult for the doctor, and I am in full sympathy with the fact that in a certain number of cases the pregnancy of the unmarried women and widows should be terminated. I am in full sympathy. Having come across women and having realised what it means I am in full sympathy with that. If this clause of mental anguish goes away, I think

it will be very difficult for the doctor. If he has to explain the injury to mental or physical health it will be very difficult. Mental anguish is mental anguish.

DR. SUSHILA NAYAR: Explanation II as it stands does not cover unmarried women or widows. They will have mental anguish.

WITNESS: I quite agree with you. I think you will have to take that into consideration when this Bill passes that for the unmarried women and widows something should be done either in Explanation II or something else should be done. We should not completely omit the unmarried women and widows in certain cases. That is why I suggested that Committee could decide such issues, and then the doctor would not have such a grave responsibility of deciding either one way or the other in such doubtful cases.

श्री प्रताप सिंह : सोविएट यूनियन में पम्प इस्तेमाल किए जाते हैं जिन से हमल आसानी से गिराया जा सकता है और उसके लिये ट्रेनिंग की भी बहुत कम जरूरत होती है। तो क्या ऐसे पम्प जो हमल गिराने के लिये इस्तेमाल किये जाते हैं हमारे अस्पतालों में भी पहुंचे हैं और क्या आपकी जानकारी में यह है कि इस किस्म के पम्प सोविएट यूनियन में इस्तेमाल किये जाते हैं ?

साक्षी : मेरे खयाल में तो ऐसे पम्प बहुत कम अस्पतालों में होंगे। सोविएट यूनियन में अस्पताल किस तरह के हैं वह बतलाना बहुत मुश्किल है। वहां के लोगों की ट्रेनिंग किस तरह की है वह भी बतलाना मुश्किल है। उनके पास बहुत बड़े परिमाण में डाक्टर हैं और उन लोगों की ट्रेनिंग भी ज्यादा अच्छी है। सवाल यह है कि वह सब करने में अगर कभी गर्भाशय को नुकसान हो तो अस्पताल में पेट खोल कर उसको ठीक करने

की तैयारी रहनी चाहिये। अभी सरकार के सामने बहुत मुश्किल आयेगी क्योंकि यह सब सरकार ही करने वाली है। जो कोई आदमी की बीबी को नुकसान हो गया तो वह सरकार से कम्पेन्सेशन भी मांग सकता है। यह सारी मुश्किल भी देखनी होगी।

**SHRI SAWAI SINGH SISODIA :** Doctor, in giving your opinion regarding Explanation I, you have mentioned that the statement of the woman regarding the alleged rape will not be sufficient and you have suggested that there should be a Committee to enquire and come to the conclusion whether there was a rape or not. Under the existing criminal law of our country rape is an offence under the Indian Penal Code, and therefore it will be very difficult for a Committee and it will not be acting under the criminal law of the country to enquire and come to a certain decision regarding the rape. Therefore, under the circumstances prevailing in our country and the society will you not think it sufficient to have the statement of the lady on oath that there was rape and therefore she requires the operation for abortion? Don't you agree with this suggestion?

**WITNESS:** Well, this point requires such a sympathetic consideration that I am prepared to accept it, that for some time we may try to accept it; but I think there should always be a sort of looking back to see whether there are not an unduly large number of cases of alleged rape. You may be quite right that for this particular purpose the Committee may not be able to do it, but that is a legal point on which I cannot say anything. But all I would say is that it is going to be very difficult if this question of alleged rape is to be carried unnecessarily far. I am in full sympathy in helping a woman who has had an alleged rape. This is what I stated,

this is what I would say again. It is going to be very difficult for a medical man sitting in his consulting room to just accept the statement of the girl and perform an abortion. But I would be prepared to say if there is difficulty, it can be left to the doctor's judgment and it could be only so far as rape is concerned.

**SHRI SAWAISINGH SISODIA :** It will be a statement on oath.

**WITNESS:** That could be laid down.

**SHRI SAWAISINGH SISODIA:** Regarding Explanation II, "Where any pregnancy occurs as a result of failure of any device used by any married woman or her husband for the purpose of limiting the number of children", etc. Your opinion is that this sort of allowing the termination of pregnancy should be only when there are three living children. Is it not?

**WITNESS:** No, no. The point was that if we are only going to perform it because the woman says that—I made it clear to start with that if the woman was sterilised, if her husband was sterilised, if we found the loop inside, the matter is simple. But just because a woman says that she or her husband used a contraceptive device and it failed, if we are going to do the abortion, the number of abortions will be so many that I do not think we will be able to do them. That is why I suggested that if the woman has three or more children and she is prepared to undergo sterilisation, we can do both together, not that she may come later for sterilisation, so that you will put an end to such abortions even in the future. That is all I said. I may not be against that particular aspect from the point of view of any aesthetic or any other aspect, but is it going to be possible for us to perform such a large number of abortions if the women come to us? That is all I have tried to point out.

And then how is the doctor going to sit in judgment on that?

SHRI SAWAISINGH SISODIA: In regard to the last line of clause 5 which says "or to save permanent grave injury to the physical or mental health, of the pregnant woman", you have said that this term is very vague.

WITNESS: I do not think so. I think we have been misunderstood. We only said so about explanation II and not about this. Where there is serious injury to the health of the woman it is for the doctor to say so. I think we are misunderstood.

SHRI SAWAISINGH SISODIA: In the last line of paragraph 4 of your statement you said that the term "limits of the grave injury to the physical or mental health, of the pregnant woman" is a very vague term".

WITNESS: "Injury to the mental health" is a difficult point to decide. Now you have to see that it is only for a serious emergency. Injury to the mental health must be such that it should continue; it could not be just a temporary change. I think this is all that I mean. I agree it should be there.

SHRI SAWAISINGH SISODIA: When you term this term as vague what is your opinion. What is the specific wording that you desire?

WITNESS: You can put "as decided by two specialists". That will save all matters. If it is necessary the Obstetrician can consult a psychiatrist, a cardiologist or somebody and the matter will end. There will be no difficulty at all. That would be the simplest thing to do. Here is a question of emergency. There is no question of doing it at leisure.

SHRI SAWAISINGH SISODIA: Clause 4 deals with the place where pregnancy may be terminated. You are of the opinion that termination of

pregnancy can be done even in a private institution.

WITNESS: If a private institution is fully equipped for everything that you want there is no reason to prevent it from being done. You must decide what things are necessary and what equipment is necessary. If you visit and see that the private institution is fully equipped there should not be any difficulty. This will be for some governmental agency to decide.

SHRI SAWAISINGH SISODIA: In connection with clause 6 you have mentioned some difficulty about doctors performing operations. Are you of the opinion that all these operations and information should be kept secret?

WITNESS: I think so. According to the ethical code for the medical men they are not supposed to give out anything. If so and so comes and tells me that he has murdered so and so, I do not think I am supposed to divulge anything which he has told me. It is my bounden duty to see that I do not tell anything about it.

SHRI SAWAISINGH SISODIA: But if a dispute arises whether the alleged abortion was under the law or not, whether it fulfilled the required conditions, how will you be able to decide.

WITNESS: So far as the fulfilled conditions are concerned they are recognised. So the question does not arise.

SHRI SAWAISINGH SISODIA: Institution is quite a different thing. It may be equipped or may not be equipped. Suppose somebody says that the abortion is illegal and the doctor is not prepared to give the information. He has not given the required details. How will you be able to decide?

WITNESS: I think we are going beyond the issue. I have not said that the doctor should refuse to give this

information to the proper legal authorities. I have only said that you should not expect the doctor to give out the information to the provincial government. You should give it to the legal authority. Whenever a legal authority wants to investigate they are within their right to investigate the case. They are fully authorised to do so. If a patient goes and complains before a judge I think the judge is within his right to enquire whether the doctor took full precaution. Here you will be expecting the doctor to give details of each and every abortion that is performed and to the offices that you have laid down. The doctor will have to give out information of each and every abortion that he does.

*(At this stage Dr. B. N. Purandare, representative of the Federation of Obstetric and Gynaecological Societies of India, Bombay, came.)*

CHAIRMAN: Dr. Purandare is here. He was supposed to be here at 9 O'clock. Dr. Purandare, whenever we give time to any representative he should be here on time. That is better. Now it will be difficult for you to follow what has happened. It does not matter now. Now that you have come I would introduce you to the members.

DR. SUSHILA NAYAR: Doctor Saheb, in your written memorandum there are one or two clarifications that I would like to ask. In paragraph iii of your memorandum you have said:

"However if this rule may be applicable after 3rd child birth, after the 3rd living child this condition of the use of contraceptive should be waived and only demand for early termination of pregnancy of unwanted child should be allowed provided temporary sterilisation procedure is agreed upon by the husband or wife and should be made obligatory."

Now there are two questions that arise in my mind. First of all, I was very happy to hear you very clearly and categorically state that abortion should nowadays not be adopted as a method of family planning as such. While abortion may be necessary in an exceptional case the other methods of family planning should be used as a rule, you have said. Here you say that after the third living child any woman who comes should be given the facility of sterilisation provided he or she is willing to undergo sterilisation. Is there any contradiction between the two?

WITNESS (DR. B. N. PURANDARE): My point in stating this is that the method of abortion should not be used as a method of family planning even before the birth of the second or the third child because it is going to vitiate the programme of family planning by just adopting the simple method of abortion being carried out which would mean that the number of abortions will be fantastic. We know that there are about 22 million children delivered every year out of which 6 million or so are the ones who are in the age group of the third child. Out of this, nearly 12 per cent will be about 2½ million who would be undergoing sterilisation or tubectomy as a routine as is being done today. So it is only in the case of the remaining 3 million that you would require repeated abortions. And these 3 million might become pregnant twice a year. That will become a problem, 6 million people to be aborted every year. It will not be an easy problem to be solved in such a big country as India. In other words what I suggest that if you do not make this sterilisation compulsory, this problem will increase tremendously big if nobody will like have sterilisation carried out at all. Then it will create problems still further because we will find that other methods of family planning will not be utilised because if abortion is easily available, everybody will go in for abortion. All said and done we know that abortion is not such a safe thing

as people think. It is after all associated with some amount of risk. So from that point of view, it is safer to cut down the number of abortions. One abortion may be allowed in such a case; one risk can be taken. After that it is better that we put a stop to pregnancy. That is the main idea behind it. Our Federation was of the opinion that abortion should not be made a thing easily available so that one would have to go on doing the abortion practice and no other practice.

DR. SUSHILA NAYAR: That is exactly what I am trying to get at. While on the one hand you are against abortion as a method of family planning, on the other, after the third child you are willing to offer free services of abortion provided they agree to undergo sterilisation.

WITNESS (DR. PURANDARE): Only once, not many times. After that there should be vasectomy or female sterilisation so that there is no more occasion to be exposed to this danger of repeated abortion. In Japan one individual underwent abortion 36 times. I think that might be repeated here also if we do not have restrictions in that way.

DR. SUSHILA NAYAR: You have referred to "temporary sterilisation". What do you mean by that?

WITNESS (DR. PURANDARE): I used this word purposely because people have an impression that vasectomy or female sterilisation is permanent sterilisation. It is not. It is reversible. That is why I have put the word "temporary sterilisation" to remove the idea from the minds of the people that it is not permanent mutilation of the body, so that people should accept it freely.

DR. SUSHILA NAYAR: You are an eminent gynaecologist, Dr. Purandare. Would you be able to tell us in what percentage of cases you have been able to reconstruct these passages?

WITNESS (DR. PURANDARE): In the case of tube, I have found that nearly 90 per cent of the women become pregnant when you re-canalise the tube. Sometimes it is even more than that. I would go to the extent of putting it between 90 and 95 per cent. I have seen that women have become pregnant after five, six or eight years after sterilisation had been done. That is why I want to say that it is not permanent.

DR. SUSHILA NAYAR: Are you talking of your own cases?

WITNESS (DR. PURANDARE): I am talking generally. These are the possibilities. This is possible in the case of re-canalisation of the tube. I am not talking about vasectomy because personally I have not got any experience.

DR. SUSHILA NAYAR: Dr. Phadke was doing reconstruction of the vas.

WITNESS (DR. PURANDARE): I do not want to start a controversy here whether tubectomy is better or vasectomy is better. But the point is that in the case of female sterilisation, it is possible that a woman can become pregnant in 90 per cent of the cases after the re-canalisation operation.

DR. SUSHILA NAYAR: Would it not depend upon the place where the tube was cut?

WITNESS (DR. PURANDARE): Yes. I have always been advocating that it should be tied at the junction of outer one-third and medial two-third, in which case recanalisation can be easily carried out. You do not chop off any portion of the tube at all, so that the second operation becomes very easy. We have to do it in such a way that subsequently, if the need arises, the woman can be resperated and can become pregnant again.

DR. SUSHILA NAYAR: I know of a couple from Bombay, who had one daughter and one son and the woman had got herself sterilised. The boy was killed in a road accident. The woman became just crazy with grief and wanted another baby. We told them to go back to the people who had done the sterilisation. But they were going from pillar to post without success.

WITNESS (DR. PURANDARE) : There were occasions when formerly people used to remove the whole of the tube. There are cases where both the outer ends of the tube had been chopped off. In such cases it is practically impossible to re-canalise it. I can also give you an instance where I did sterilisation on a woman after she had had four children. I did this sterilisation when she was 34. At the age of 41, in a railway accident all her four children died in her presence. She came to me after about a month and a half after the accident. I was at first rather reluctant. She was already 41. I was wondering whether it would help at all. But I did the operation. She had only one period after that. She had a son in my own hospital where she had delivered her four babies previously. This gave me encouragement. I have been using this practice of not removing the outer ends of the tube but tying it at the junction of outer-one-third and medial two-third. In fact, I have been asked to write a small booklet on that line by the Family Planning Ministry for making this thing known to the doctors and public so that they can utilise this method for family planning.

DR. SUSHILA NAYAR: But have they asked for your assistance in giving training to those who are entrusted with sterilisation operations?

WITNESS (DR. PURANDARE): People have been sent to Bombay from various places like Rajasthan and they get training in this technique.

DR. SUSHILA NAYAR: Now, in paragraph 5 of your memorandum, you have said that private institutions should be inspected by a committee of the Chief Medical Officer and two representatives of the Federation of Obstetric and Gynaecological Societies of India. I agree with you that proper inspection and proper facilities should be available wherever sterilisation is permitted. But do you think that the places where such facilities are available will suffice to deal with the three million abortions that you contemplate will be coming up if this Bill is passed?

WITNESS (DR. PURANDARE): I will put it this way. If we start with a thousand beds all over the country for abortion, each bed dealing with about 300 patients in a year—because a patient is going to stay for a day only in the hospital—the total comes to three million. So 1,000 beds in the whole of the country will be sufficient to deal with three million people. That is for the first year....

DR. SUSHILA NAYAR: Do you think an average of one day will be enough? Some of these women are bound to stay there for a longer period. So many of these women will be undernourished or sick in some way or other. Is it fair that you should tell them, once the foetus is rid. So many of these women will out, they must go out from the hospital? Would you not take care of them and give them a little bit of rest and treatment if needed.

WITNESS (DR. PURANDARE): That is correct. If next year another thousand beds are added, you can help them more. In any case it is better if they can have at least 24 hours of rest in the hospital. It is much better than not having any rest at all as it is happening everywhere now. People are not going to any hospitals at all. They get abortions done somewhere in hiding and there is no proper medical attendance on them. So if they are in the hospital, there will be medical care at least for 24 hours and that will definitely help the pati-

ent's condition. To start with at least this is enough. Subsequently you go on adding to the number of beds. It is not going to cost more than Rs. 17 lakhs per year for this purpose. We are going to suggest this arrangement only in well-equipped hospitals, Government or private, with well-qualified doctors. This can be done in private hospitals also because there are some private hospitals very well equipped. In an emergency if a perforation occurs, the necessary operations has to be done immediately. That is why I suggested that the Surgeon General or the head of the State Governments Medical Services as well as two competent gynaecologists and obstetricians can be selected to go round and select the best place available. They can select even private hospitals because there are many people who would not like to go to Government hospitals. So, if a proper selection of the hospitals is made, I think there will not be much of a risk in this. When a perforation takes place while in a public hospital or in a private well-equipped hospital, if the patient is attended to immediately, it is not going to carry the same amount of risk as is involved in an abortion done in hiding where the perforation patient's condition becomes bad and after two or three days the patient may be transferred to a public hospital in a grave condition and the patient will die there. When a perforation occurs while in a well-equipped hospital, I do not think it is so risky at all. That is why this sort of State inspection has been suggested.

DR. SUSHILA NAYAR: Anyway, one thousand beds will have to be added and the requisite number of extra hands should also be provided to take care of these patients or there should be extra help given to the existing hospitals or the departments of gynaecology and obstetrics in the hospitals. If so, do you think that the financial memorandum which mentions certain figures has given adequate figures?

WITNESS (DR. PURANDARE): When they are suggesting the provision of a thousand beds, that does not mean the creation of a separate hospital with a thousand beds. Only extra beds are to be added to the existing hospitals. In the existing hospitals there are already some doctors and they are competent doctors.

DR. SUSHILA NAYAR: I quite agree with you that separate abortion hospitals will not be desirable and will not serve the purpose that we have in mind. However, you know fully well that the existing beds and the existing staff in the hospitals are already more than over-worked. I know the position in Delhi. Mothers are pushed out here and also in Patna, Bombay, etc. after 24 hours of delivery. It will be putting a heavy burden on the existing bed and staff. If they are asked to take care of extra load of abortion: When we talked to some of them here, they said, yes, we can take this responsibility provided you give extra beds and extra hands. If extra beds and extra hands are given to the departments, naturally it will mean extra expenditure. And so far as I can see the financial memorandum mentions figures which are grossly inadequate. Would you not like to ask for a larger financial outlay for making adequate funds available for providing adequate facilities?. Would you like to suggest some larger financial outlay? And if you cannot suggest it now, you can work it out and send us afterwards.

WITNESS (DR. PURANDARE): I hope I will be able to give you now itself. I was also present at that meeting when those discussions took place and when those figures were derived and I had also given some indication. The first thing is that when these figures were derived, we took into consideration certain points. Some amount of medical facilities are available in most of those hospitals. We took into consideration their minimum requirements also in arriving at these figures, Rs. 24 lakhs and Rs. 17 lakhs.



DR. SUSHILA NAYAR: Most of the other specialists in your line are not in agreement with this opinion. They consider this provision to be grossly inadequate.

WITNESS (DR. PURANDARE): These are not the final figures. These are only the progressive figures and these will be increasing step by step. After all, if we make a demand for more than Rs. 9 crores or Rs. 10 crores all at once, it is not going to be accepted. When you are starting a thing like this, you can go step by step. It can be increased year after year. It can be developed gradually. From that point of view I do not think there will be any difficulty. All new schemes have got to be undertaken step by step.

DR. SUSHILA NAYAR: Last question. You said, "....provided the interests of the practising gynaecologists and obstetricians is legally safeguarded in carrying out...." What do you mean by that?

WITNESS (DR. PURANDARE): There are two things involved in this. According to the provisions of this Bill, every abortion has to be reported before permission can be obtained. But no distinction has been made between a therapeutic abortion and the abortion carried out for the termination of pregnancy for medical reasons. It just happens in certain cases of therapeutic abortion that the man concerned may not get time to go and report that an abortion is to be carried out. I think this is a little ambiguous to some extent. That is why I said the doctor's interests should be well safeguarded.

DR. (MRS.) MANGLADEVI TALWAR: You said that while doing sterilization on women, you tie the tube at the outer one-third. It may not fail in your hands since you are an expert. But in the hands of less able persons it may fail.

WITNESS (DR. PURANDARE): This is more a technical point and an important one. Sometimes tying is done a little more tightly with the idea of giving a good, complete, block. That is why I suggested the tying should be done at the outer end. I have been doing it for the last thirty years. It is a simple procedure and there is not that amount of risk involved. There is no need of cutting it away or throwing it away.

DR. (MRS.) MANGLADEVI TALWAR: Thank you. Now you expect a fantastic number of abortions if this measure is passed. You will agree that human nature is that they would like to resort to a simpler device of family planning rather than have abortions. From your experience is that not the human nature?

WITNESS (DR. PURANDARE): First of all I feel that tying the tube is a comparatively safer operation than abortion; it is a well-known fact. So from that point of view I consider that a woman should not repeatedly go in for abortions. That is the reason why I lay stress on the sterilisation programme and I feel that for a country like ours if anything is going to be hundred percent successful, it is sterilisation and nothing else. After all in our country with a huge uneducated and uneducated population it is very difficult to approach the villagers to go in for family planning methods. I find that sterilisation is the only way of dealing with the problem to reduce the responsibility of the Government rather than trying to tell them "You should do this thing and that thing." I have been going to the various villages holding camps at different places and taking my post-graduate students with me. I find that the response is very great and the people are realising that it is an easier way to have sterilisation done rather than go on attending the various family planning centres. Our problems are different from those in the Western countries. By the 25th year the family has got the fourth or the fifth child and it is not advisable for the remain-

ing years to have family planning programme or to have abortions repeatedly. There should be one sterilisation procedure which is far safer than any other procedure.

DR. (MRS.) MANGLADEVI TALWAR: Here I would draw your attention to your colleague's statement. He says that abortions should be allowed to married women in whose cases family planning devices have failed but sterilisation must be made compulsory. Please see this Explanation II on page 2. It says:

"Where any pregnancy . . . . . constitute a grave injury to the mental health of the pregnant woman."

It is very vague, as it has been pointed out by your colleague. You are also of the opinion that sterilisation is much simpler than abortion. Of course, abortions should be discouraged. Do you think that this clause should be more restrictive and you should use it only up to the third pregnancy, if it is considered necessary by the medical officer? Do you think this clause should be modified suitably?

WITNESS (DR. PURANDARE): There is one consideration that is involved. The person who has been using contraceptive methods would not like to go in for abortion as a method of family planning. But there may be cases where the contraceptives have failed. In such cases I think some latitude or little consideration should be given but it should not be freely available. Otherwise it will create another problem. The people will not even be coming for contraceptive methods because they know that they also fail and there is no other way available at all; that will shake their faith in the contraceptives also. So this is just to give protection to those who have been very regularly following the family planning methods. After all no method is hundred per cent. successful.

There are bound to be one or two cases at random which would require attention. Otherwise what will happen is that they will just go on telling others "Doctors prescribe these loops and pills but they don't work; we get pregnant and then they do not want to help us at all." Therefore we would like it to be restricted to one abortion after the third delivery.

DR. (MRS.) MANGLADEVI TALWAR: So you are definitely of the opinion that this clause should be modified to mean that if they come after the third child, they should be allowed abortion but after that sterilisation should be compulsory for them and anybody and everybody should not be able to come for abortion as it is mentioned here. Are you of that opinion?

WITNESS (DR. PURANDARE): I am strongly of that opinion. In fact I have always been saying that. I happened to be a member of the Shantilal Shah Committee. I have been discussing this point that people should not be encouraged to have repeated abortions but it should be restricted and it should be followed by sterilisation from the point of view of the safety of that person.

DR. (MRS.) MANGLADEVI TALWAR: Kindly see sub-clause (3) which says:

"In determining whether the continuance. . . . foreseeable environment."

The words 'foreseeable environment' have been mentioned here. It is for the medical officer to determine whether the continuance of a pregnancy would involve such risk or complications. In England it is said that if it has a bad effect on a woman, in the opinion of the medical officer, or on the existing children, the woman can have abortion done on herself. Do you agree with these two words 'foreseeable environment' or do you suggest they should be deleted or replaced by some other words?

**WITNESS (DR. PURANDARE):** The practical aspect also is there. I have sometimes seen a woman who gets the first child and their economic conditions are so bad that they do not have food even for the husband and the wife. Now they demanded sterilisation to be done. I went to the ward and I was told that this patient is demanding sterilisation. I said 'non-sense, sterilisation after first delivery'. The next day the patient says: 'The next child that comes you will have to feed because we have not got the money.' So where economic problems exist, there should be some relation. These problems are going to affect individual families. Everybody is not well-off. There are people who earn only Rs. 70 a month and they have to feed wife, husband and a child and an additional child will be a burden. If the couple is sensible enough to understand this and if she demands sterilisation, she should be given. It is better that she has some methods which will not expose her repeatedly to the occurrence of pregnancy.

**DR. TALWAR:** We are not now concerned with sterilisation. We are here concerned with abortion. Will you allow such phrases like 'foreseeable environment' to remain?

**WITNESS (DR. PURANDARE):** If I were to voice the feelings of the Federation, I will say that we are not so much in favour of abortion being done before the delivery of the third child because the whole profession as such is not in favour of this unnecessary abortion to be carried out. We have been given this direction. In occasional cases you have to use the discretion. Of course genuine cases are there but then the same is utilised by the rich people. That should not be so.

**DR. TALWAR:** You are in favour of sterilising that woman on the ground of socio-economic condition. If the woman has only one child and she does not want another you think you can sterilise her but you are not

in favour of retaining this clause which allows abortions on foreseeable environmental condition?

You are also of the opinion that if this measure is allowed to become an Act, there would be such a large number of cases demanding abortions that you would not be able to cope up with it and so there would be chaos?

I refer you to page 18, para 1 of the Shah Committee where it says:

"Some guess can be made on the magnitude of the problem. If it is assumed that for every 73 live births, 23 abortions take place of which 15 are induced, the number of abortions annually in a 1000 population may be approximately 13—5 natural and 8 induced (corresponding to the estimated birth-rate of 39). In a population of 500 million the number of abortions per year will be 6.5 million—2.6 million natural and 3.9 million induced. Assuming an average expenditure of Rs. 50 per induced abortions, the annual expenditure on induced abortions may be Rs.19.5 crores."

So this number of abortions is already taking place.

Then I refer to page 4 of the Bill where it says:

"There is thus avoidable wastage of the mother's health, strength and, sometimes, life. The proposed measure which seeks to liberalise certain existing provisions relating to termination of pregnancy has been conceived (1) as a health measure—when there is danger to the life or risk to physical or mental health of the woman; (2) on humanitarian grounds—such as when pregnancy arises from a sex crime like rape or intercourse with a lunatic woman, etc. (3) eugenic grounds—where there is substantial risk that the child, if born, would suffer from deformities and diseases."

of course according to your colleagues and your views, it seems there should be no liberalisation because there will be a large number of abortion cases coming to the hospitals but in view of the position explained above, do you not think that it would be in the interest of the public? What is your opinion?

WITNESS (DR. PURANDARE): There are two aspects. One is to-day the law is such that it does not allow a person to carry out any abortion when it is indicated. The result is women go to various quacks, get the abortion started, gets the bleeding and then they are brought to the hospital and in that condition we are not able to do anything. We have found that formerly in 100 cases 50 would die and to-day 30 die with the stoppage of urine etc. That is the result of not having a little liberalisation of law and that could be avoided once the law gets liberalised to some extent. The gynaecologists should have a right to carry out abortion in indicated cases. So that we will not have such cases coming and dying. It is for the safety of the mother that liberalisation is suggested. At the same time too much of liberalisation also we do not want. As a federation we feel this law should not be left too much loose that anybody can have abortion done. That will increase the workload on the doctors and from that point of view and also from the safety of the patients. It is better that there is limited liberalisation rather than too much of it. So it should be restricted only to where it is required and that is after the third child or if after the use of contraceptives some contingency arises when pregnancy should be stopped.

DR. (MRS.) MANGLADEVI TALWAR: May I suggest to you that a large number of them—I won't say all of them—who go to the quacks in the backstreets for abortions are mostly unmarried women or widows or those having

some kind of unwanted child? What indication would you prescribe for them? When abortion is made legal and when they come to the gynaecologist—suppose the girl comes or her father brings her—what would you do for her?

WITNESS (DR. PURANDARE): For unmarried girls below the age of 18 there is a provision made already and after 18 the girl is supposed to be intelligent enough.

DR. (MRS.) MANGLADEVI TALWAR: She may be 19, she may be 20.

WITNESS (DR. PURANDARE): There the real problem comes up and that is the reason why the original Report suggests only to restrict it up to 18. After all this is going to affect the morals of the girls. Just for the safety of the minors this has been suggested. After a person becomes major she becomes intelligent enough to understand the responsibility and there should not be this sort of abortion being carried out as and when required because this is going to affect the morals of the people and the people will resort to it unnecessarily. I know people will say that these very people can go in for contraceptive methods instead of going in for abortions. And that is what is happening today to some extent. Anyway that is much better that they do not come to the hospitals asking for abortion or go to the quacks for that purpose.

CHAIRMAN: Shri C. L. Jhaveri, Honorary Secretary of the Federation of Obstetric and Gynaecological Societies of India, has come in. We had requested you all to be here at 9 o'clock and it would have been better but now you have deprived the Committee of your experience in this. Now the Minister will put some questions.

SHRI B. S. MURTHY: May I know the membership of your Federation?

WITNESS (DR. C. L. JHAVERI): 1600 and odd. We have 31 societies distributed in the various States of India and we have a strength of 1600. They are post-graduate qualified medical men. We are also a member of the World Federation of Obstetricians and Gynaecologists. Dr. Purandare is the President and I am a member of the Executive Committee of the world body. We are also a member of body of the Asian Federation of Obstetricians and Gynaecologists.

SHRI B. S. MURTHY: When did you take up this Bill for discussion?

WITNESS (DR. C. L. JHAVERI): About three years back.

DR. SUSHILA NAYAR: What is the total membership, you said?

WITNESS (DR. C. L. JHAVERI): 1600 and odd I said.

SHRI B. S. MURTHY: When did you discuss this Bill in your Federation?

WITNESS (DR. C. L. JHAVERI): This was discussed when the Shah Commission was first appointed and when Dr. Purandare came as Member representing the Federation. And off and on this problem has been discussed at the managing committee level. Our opinion was first sent telegraphically to the Shah Commission. Even this time when the Bill came to us for reference though it was late we sent it to all our 31 member bodies and I have already got replies from four of them today.

SHRI B. S. MURTHY: 27 more are yet to come?

WITNESS (DR. C. L. JHAVERI): Yes.

SHRI B. S. MURTHY: Would you kindly pass all that information to us?

WITNESS (DR. C. L. JHAVERI): With pleasure.

SHRI B. S. MURTHY: I want to know whether your Federation in its annual meeting took up this question and discussed it at any time.

WITNESS (DR. C. L. JHAVERI): At the last conference in Nagpur we had a whole session on family planning, the various methods of contraception, methods of sterilisation. This particular vacuum extractor which is so popular in the Communist countries especially in Russia was to be shown in film. It was banned. We wanted to show that film so that the gynaecologists and obstetricians can have later on it was permitted to be shown.

SHRI B. S. MURTHY: You know all this information I am asking with a certain purpose and I hope you realise that; I am not just probing into your strength of membership or anything like that. I am asking you all this so that we can say that your Federation consisting of 1600 qualified doctors and 31 branches has come to such and such conclusion. Was any resolution passed at the Nagpur session?

WITNESS (DR. C. L. JHAVERI): Unfortunately I do not possess the resolution that was moved by the Managing Committee.

SHRI B. S. MURTHY: Would you send the relevant information to our Ministry?

WITNESS (DR. C. L. JHAVERI): Yes.

SHRI B. S. MURTHY: You were good enough, Dr. Purandare, to tell us that 94 to 95 per cent cases of tubectomy can be successful. You did not tell anything about man, about vasectomy.

WITNESS (DR. B. N. PURANDARE): I have had no personal experience. As a gynaecologist I do not do any vasectomy. But the general impression is that you cannot reach up to 90 per cent. About 60 to

70 per cent has been claimed by various workers. It is a little more difficult to do the union of the vas than to do the union of the tube. It does require a little more technical skill because we are dealing with a comparatively small size tube of the man than the bigger size tube in the case of the woman.

**SHRI B. S. MURTHY:** A paediatrician who came as witness before us has suggested that in morbid foetal indications such as genetic infection, rubella, irradiation, etc. pregnancy may be terminated. How far do you agree and what are your views on this matter?

**WITNESS (DR. C. L. JHAVERI):** Rubella is a disease which is not known in this country. The impact of radiation is not studied anywhere. As far as I know in the last ten years not a single paper has appeared in India on the effects of radiation on pregnant women leading to malformation of the child to be born. Now we come up with the problem of genetic influence and whatever is reported is all hypothetical as far as western countries are concerned. Here genetic influence studies are not being done.

**WITNESS (DR. ANKLESARIA):** Can I just intervene? In spite of all this we are completely agreed that the eugenic aspect should be included in the Bill so that a medical man could be empowered. In case he is sufficiently convinced that there would be a defective child, he should have the right to terminate the pregnancy. I do not think that any of us would not want that particular clause, but there are difficulties in the way of deciding the issue.

**WITNESS (DR. PURANDARE):** When this Report was being prepared we had given in part IV an exhaustive list of the various aspects in a child that might indicate a termination of pregnancy. It is given on page 64. Not every disease or dis-

order has been included. It depends upon the opinion of the gynaecologist who is going to treat the case. In addition to the list, from time to time new diseases will also be found and they will have to be included. After all when you say that a gynaecologist is competent enough to decide from the medical point of view, it does not matter. He will in the end know what are the most important things. You are depending upon his judgment. If these things are added we have no objection at all. At the same time, I do not think the list is going to be complete any time. As advancement in medicine and genetics is made we will have to expand the list from time to time.

**SHRI B. S. MURTHY:** We are aware that defective children are born and after their birth we try to correct them, but in many cases we are not able to succeed. We think the time has come when we should have legislation by which if a competent doctor or a board of doctors are of the view that the child born will be defective and a burden to the society, the pregnancy should be terminated.

**WITNESS (DR. ANKLESARIA):** I feel that in the matter of law if you leave it as you said to a competent committee, the doctor will be protected both ways. If the committee says that the child is going to be defective, he will be safeguarded. It does not mean that the woman will definitely agree to get her pregnancy terminated. I think we had a discussion before and the doctor's position is legally complicated in both ways. If he says that the pregnancy should be terminated but a healthy child is born, the woman will blame him. If he says that the pregnancy should not be terminated, but a defective child is born, then also the woman will blame him. A competent committee would be very helpful to the doctor. On that a committee a geneticist should be there. A geneticist should be associated with the competent committee to safeguard the

doctor. Definitely this is an advancement and eugenic grounds should be put in the Bill. If on eugenic grounds she is going to be the mother of a defective child and does not want to bring forth such a child, the doctor should be able to help her.

**SHRI B. S. MURTHY:** Then, there is a section of opinion which believes that legislation like this will open the floodgates of immorality and the number of pregnancies will increase many times. How far do you subscribe to this view?

**WITNESS (DR. ANKLESARIA):** If you have left it to a competent committee as you have just suggested, it will not open the floodgates so easily.

**SHRI B. S. MURTHY:** Excuse me. I am only saying that a section of opinion is there in India that legislation like this will give licence to immorality and pregnancies will increase. There is such a view. As competent and experienced doctors you are aware of such a view. I would like to have your opinion on the validity of such an opinion like this.

**WITNESS (DR. ANKLESARIA):** Sir, the validity of the opinion would be quite right if we are going to do for vague reasons as I discussed in the beginning, but now we are discussing a particular reason, viz., eugenics.

**SHRI B. S. MURTHY:** No, no. There is a section of opinion in the country which says that if a Bill like this is passed, it will give licence to immorality and many more.

**WITNESS (DR. ANKLESARIA):** After all, morality is a thing which the society decides. What was considered immoral yesterday is considered to be moral today. I do not think that Parliament is not competent to decide what should be morality in this century and at this time. After all, today in certain parts of

the world a woman comes forward and is absolutely bold to say that she is a miss and she is not worried whether she is pregnant or not. This is their morality. I do not suggest that you accept that morality. At the same time, if Parliament thinks that there should be such a Bill, it should pass it. As I already said, it is difficult to decide in the case of an unmarried woman, in the case of a widow or in the case of a woman who has had children and does not want any more children. If there is a competent committee to decide it, it would not lead to immorality. A competent committee could be relied on to decide on what is considered to be morality and what is immorality. The committee should do it.

**WITNESS (DR. PURANDARE):** By making a law like this we are not going to favour immorality in our country or in a community. Does it mean that this kind of immorality is not existing in the country? There is plenty of it. It is done through the backdoor. Some of those who are aware of it know it, because they have to deal with it afterwards. We know fully well that it is safer to have a law rather than continue with this sort of immorality going on behind the backdoor. After all I look at it from the practical point of view. By having a law like this we will be saving the lives of so many women who would otherwise unnecessarily die because such a law is not existing. Now, it is not going to add to immorality. After all, everything has got two sides. Everything has got certain drawbacks. Take the case of family planning. - Some would say that family planning favours immorality. Some say that if you remove the uterus, the woman would become immoral. You have to look at it from the point of view of the benefits this Bill is going to confer.

**WITNESS (DR. JHAVERI):** I was just now told that 3.5 million abortions are being done in this country which are induced. It means that

immorality is static and it is not going to deteriorate further. I personally believe that this Bill will provide a better type of moral check than what it is at present. If at all immorality will go down and not increase.

SHRI B. S. MURTHY: Last question. Please do not misunderstand me. You know the dangers of induced abortions. Though not millions, hundreds of thousands of innocent and illiterate women are exposed to death almost. Why did not your Federation take this up and agitate for legislation for open abortions instead of criminal abortions? If you think you can answer it, you may do, but I am not forcing you.

WITNESS (DR. PURANDARE): I would put it this way. We have been following to a great extent the various laws that have been existing in Britain. We had this idea of starting a discussion about abortion and legalisation. In the meanwhile in the British Parliament this new Bill was coming up. Naturally at that time we were waiting to see what would happen. In fact, it so happened when the Shantilal Shah Committee was in Bombay, I took the President of the Royal College of Obstetricians and Gynaecologists, Sir Hector Mac Heman—he was in Bombay—to discuss with Mr. Shantilal Shah the Bill that was coming up then in Parliament. Naturally we were waiting for what was going to happen, how the Bill was going to be passed there. We wanted to have the opinion of those people because after all they were going to discuss the matter threadbare and by the time our final report was ready that Bill would be ready and passed through. That is the reason why we were watching the thing, not that we were not knowing about it. In fact even in England it so happened that one of the gynaecologists had purposely to go to the police and say, "I am carrying out as a test case abortion on a small girl", a sort of criminal abortion. He went there and reported so that some action should be taken and Parliament

should be made aware of the fact that this is a lacuna in the legislation. After that this Bill came in. Naturally we were just watching what would happen. Meanwhile our Committee came into existence and we were meeting for the last two or three years. Naturally we were just watching. Not that we were not conscious about it, in fact we have been will conscious about it. We wanted protection from the Government when there was a need for doing it. We thought let our hands be sufficiently strengthened so that we can go and do it where it is required and not go behind the bars in case it is carried out in the interests of the patient.

CHAIRMAN: Dr. Anklesaria, do you want to say anything?

WITNESS (DR. ANKLESARIA): No. He has elaborated this particular question enough.

CHAIRMAN: Dr. Jhaveri, you want to say anything?

WITNESS (DR. JHAVERI): No.

SHRI B. S. MURTHY: I thank you specially for categorically stating that medical termination of pregnancy is necessary. Thank you.

CHAIRMAN: Thank you, Doctors, for your valuable evidence.

WITNESS (DR. PURANDARE): We are sorry that both of us could not come in time because the plane was late nearly by an hour and a half. We came here straight from the airport. We are very sorry for late appearance.

*(The witnesses then withdrew)*

*(Shri Shashi Dhar Bajpai, Editor, Hind Manav Seva, Kanpur was then called in).*

CHAIRMAN: Mr. Bajpai, your memorandum has already been cir-



culated to Members. I welcome you to make any remarks if you want to. Whatever you say is treated as confidential till it is published by Parliament.

You were expected here at 10.30. Sorry we have delayed the proceedings because the other witnesses took a long time. Sorry for the same.

SHRI BAJPAI: I have been asked to supplement my views already placed in my memorandum. I may be permitted to add a few words more. The Medical Termination of Pregnancy Bill intends to grant an exclusive licence to expert medical practitioners to curb a social evil as much as to change the shape of an age-long act of crime rampant in Indian society in the name of illegal abortions. These illegal abortions have their own past history. Human society in all parts of the world did not allow an illegally born child to discredit the sanctity of lawful births. Such illegal abortions even now are a bad crime in the currency of the Indian Penal Code which needs certain of its provisions to be amended to liberalise the abortion law. No law shall punish abortion as a crime, is not the intention of this Bill, yet it is one very important step towards such an end when this law shall have been totally expunged. By enacting this Bill you will be placing all the conscious responsibilities on the medical shoulders to curtail the corrupt practices surrounding criminal abortions and also cutting down the unbearable expenses incurred in terminating the undesirable pregnancies through illegal means. This Bill, if enacted, shall produce healthy results for the present Indian society. That is all I have to say for the time being.

CHAIRMAN:—Shall I request our Members to put some questions?

WITNESS: Yes.

DR. (MRS.) MANGLADEVI TALWAR: Do you think that this Bill for

liberalisation of abortions—because therapeutic abortions are already in existence, there is a law to that effect; but liberalisation would make it possible for these illegal abortions, those which are done illegally by quacks and other people, to be stopped, and the people would be able to get expert medical help to have the operation done. Do you think that the law for liberalisation of abortion should be passed?

WITNESS: I am in favour of legalising this measure. This Bill should be legislated and I am of opinion that if this Bill is enacted it will bring in healthy consequences and will improve the society.

DR. (MRS.) MANGLADEVI TALWAR: I would refer you to Explanation I in the Bill which says:—

“Where any pregnancy is alleged by the pregnant woman \* to have been caused by rape, the anguish caused by such pregnancy shall be presumed to constitute a grave injury to the mental health of the pregnant woman.”

That pregnancy should be terminated without any evidence or without the consent of her husband.

WITNESS: In my opinion the pregnancy should be terminated only on medical grounds, better if none except the pregnant woman so desire or ask for.

DR. (MRS.) MANGLADEVI TALWAR: What do you take as “medical ground”?

WITNESS: I mean physical and mental health.

DR. (MRS.) MANGLADEVI TALWAR: Do you agree with the statement given in Explanation I?

WITNESS: Yes, I do.

DR. (MRS.) MANGLADEVI TALWAR: You are of the opinion that

this pregnancy should be terminated only if a woman asks for it without any further evidence or without any further enquiry or consent of her husband if she is a married woman.

WITNESS: Only the opinion of the pregnant woman should be asked and not anybody else.

DR. (MRS.) MANGLADEVI TALWAR: In Explanation II it is said that if there is failure of any contraceptive device by any married woman the result is pregnancy. Should they be terminated by her asking because this unwanted pregnancy may be presumed to constitute grave injury to the mental health of the pregnant woman?

WITNESS: There is no harm.

DR. (MRS.) MANGLADEVI TALWAR: So you agree with most of the provisions of this Bill.

WITNESS: Yes.

SHRI SAWAISINGH SISODIA: Only one clarification. You have referred to section 4(c) at page 3 of memorandum. Perhaps you mean clause 3(c) because there is no (c) and (d) in clause 4.

WITNESS: Yes.

DR. SUSHILA NAYAR: I just want to ask you one question. On page 2 of your memorandum you have said:

"In my opinion the pregnancy is the Nature's gift awarded by a mere sex act always forced by Nature itself. No law therefore punishes a natural act or a result thereof."

Are you suggesting that abortion should not be a punishable offence? It is not clear as to what you have in your mind.

WITNESS: It is not the object of the Bill that abortion should not be punishable. That is a punishable crime.

DR. SUSHILA NAYAR: Do you agree that it should remain punishable except in certain cases?

WITNESS: Yes, except on medical grounds.

DR. SUSHILA NAYAR: Here the Bill does not cover only medical grounds. The Bill also covers cases of rape on unmarried girls, widows and so on. You agree that to prevent the mental suffering of the women in such cases termination of pregnancy should be allowed.

WITNESS: Mental suffering is a question of health also. That is a medical ground also. Why should you take it other way.

DR. SUSHILA NAYAR: What about cases of failure of contraception? Do you agree that if they really have mental anguish because of unwanted child, they should also agree to undergo sterilisation along with abortion so that they do not come for abortion again and again?

WITNESS: Yes, they may. What is the harm?

DR. SUSHILA NAYAR: Do you say 'may' or 'should'?

WITNESS: May.

DR. SUSHILA NAYAR: If it is "may", then they may choose to or not choose to do get pregnant again. After a few months the woman may come for another abortion which may be detrimental to her health.

SHRI PARTAP SINGH: In your note on page 2, you have mentioned,

"But in cases where abortion is sought for to avoid social contempt, the termination of such pregnancies is also a matter of concern."

Further on page 3 you have mentioned,

"There is no provision to save innumerable such women from social hatred and legal miseries".

Now, in view of this, do you agree that after clause 3(2) (b) (i), after the word "or", the following be added, namely,

"places a girl or woman in a disadvantageous position in the social life of that community."

WITNESS: Under the garb of "danger to mental health" some safety is seemingly going to be awarded in the present Bill. That is not actually awarded. If you enact this Bill, it will not provide that safety to the womenfolk. In my opinion nothing can be added like that. This was, I think a view given here. If it is added, so far so good.

SHRI PARTAP SINGH: Then, in regard to clause 3(4)(c) and (d), you have mentioned in your memorandum on page 3,

After the word "Father", the words "or natural mother" be added.

What do you mean by this? Do you not think that the father is responsible for a minor girl instead of the mother?

WITNESS: In my opinion, both are responsible. Suppose the father is away, then the mother is the best person to be asked to give such consent.

SHRI PARTAP SINGH: When the word "guardian" is there, where is the need of putting the word "mother" there? Do you think that the word "guardian" will not cover "mother" also?

WITNESS: Yes, it will cover.

SHRI PARTAP SINGH: So, there is no need for including the words "natural mother"?

WITNESS: There is no need. It was only a minor suggestion.

श्री गंगा चरण दाक्षित : वाजपेयी जी, मैं आप का ध्यान धारा 3 की उपधारा 1042 RS —5.

4 के 'बी' के ऊपर आकर्षित करना चाहता हूँ। इसमें यह दिया है :

"No pregnancy of a widow, who is a minor or lunatic, shall be terminated except with the consent in writing of the guardian of such widow."

तो विधवा के लिये अगर वह माइनर है, कंसेंट आफ दी गार्जियन इसेंशियल है। लेकिन अगर विडो न हो और वह लड़की हो तो उसके लिये कंसेंट की जरूरत है या नहीं है। अगर वह विडो है और माइनर है तो इसके लिये कंसेंट आफ दी गार्जियन की जरूरत है। अगर वह विडो नहीं है और माइनर गर्ल है तो उसके लिये कंसेंट की जरूरत है या नहीं है।

साक्षी : मेरे अपने खयाल से कंसेंट की जरूरत किसी के लिये नहीं है। यहां पर खयाल यह होता है कि जिन एनवाइरनमेंट्स में लड़की या विडो जिसे भी आप कहिये पलती है उन एनवाइरनमेंट्स को हमें सही करना है। इस खयाल से उन तमाम लोगों की जानकारी में यह बात हो कि फलां गर्ल या विडो प्रेगनेंट हुई और कुछ ऐसे सर्कमस्टांसीज में हुई कि उसकी प्रेगनेंसी को टर्मिनेट करने के लिये राय लेना जरूरी है।

श्री गंगाचरण दाक्षित : आप का मतलब यह है कि अगर विडो माइनर भी हो तब भी कंसेंट लेने की कोई आवश्यकता नहीं है। लेकिन इंडियन मेजारिटी ऐक्ट के मुताबिक माइनर की कंसेंट कोई कंसेंट नहीं हुआ करती है। यदि हम इस ऐक्ट के द्वारा माइनर की कंसेंट पर कोई काम करेंगे तो क्या इंडियन मेजारिटी ऐक्ट के खिलाफ नहीं जायेगा।

साक्षी : जा सकता है।

श्री गंगाचरण दाक्षित : एक ऐक्ट दूसरे ऐक्ट के खिलाफ जाय तो उस हालत में

आप क्या इसमें कुछ संशोधन करना चाहेंगे या इंडियन मेजारिटी ऐक्ट में करना चाहेंगे, आप की क्या राय है ।

साक्षी : इंडियन मेजारिटी ऐक्ट में अगर कोई संशोधन किया जाय तो उसमें ज्यादा शंका होगा ।

श्री गंगाचरण दीक्षित : लेकिन इसमें आप कोई चेंज नहीं चाहते हैं ।

साक्षी : क्या इसमें कोई ऐसा मुनासिब चेंज नहीं हो सकता है जो दूसरे किसी ला को इफेक्ट न करे ।

श्री गंगा चरण दीक्षित : इसी प्रकार मैं आप का ध्यान सबक्लाज़ (डी) पर आकर्षित करना चाहता हूँ :

"No pregnancy of an unmarried woman, who, being above the age of eighteen years, is a lunatic, shall be terminated except with the consent in writing of her father or of her guardian, if her father is not alive."

इसका मतलब यह हुआ कि अगर स्वस्थ मस्तिष्क की कोई औरत है और बालिग है तो उसको हम यह स्वच्छंदता दे दें कि वह कभी भी जाकर अपना गर्भपात करा सकती है और उसको किसी के कंसेंट की आवश्यकता नहीं है । तो इससे क्या हमारे देश में स्वच्छंदता नहीं बढ़ेगी ।

श्री गंगाचरण दीक्षित : अभी तो कुछ भय है, कुछ उनके ऊपर रूकावट है, उस हालत में कोई रूकावट नहीं रहेगी, वह कभी भी जा सकती है और कह सकती है कि वह गर्भपात कराना चाहती है । क्या इससे देश में स्वच्छंदता का संचार नहीं होगा ।

साक्षी : जब समाज में समागम की स्वच्छंदता है, जिसका कि परिणाम गर्भाधान है तो उसके निवारण की स्वच्छंदता क्यों नहीं जाय ।

श्री गंगाचरण दीक्षित : तो उसका मतलब यह है कि आप एक गलती का दूसरी गलती से निवारण करना चाहते हैं ? हमने डाउरी ऐक्ट पास किया, डाउरी ऐक्ट पास करने के उपरान्त भी—आपको ज्यादा अनुभूत होगा, आप समाज सेवक भी हैं—क्या हम दहेज की प्रथा को दूर कर सके ? वह दहेज की प्रथा आज भी कायम है, उसका रूप दूसरा हो गया ।

साक्षी : आपके स्वच्छंदता प्रदान करने से समाज में स्वच्छंदता आ नहीं जायगी । जैसे आपने कोर्ट मेरेजेज के लिए विधान बना दिया । उसके बाद क्या बारातें नहीं आती, उसी तरह से मेरिजज नहीं होती जैसे पहले होती थी, जो धार्मिक आदर्श से चलने वाले हैं वे चल सकते हैं । जो आपकी नजर में अपने धर्म से गिर गए मेरी नजर में नहीं कानून उनकी रक्षा में जाता है ।

श्री गंगाचरण दीक्षित : आपकी नजर में गर्भाधान करना भी जायज है ।

साक्षी : हम और आप उसे रोक नहीं सकते, वह ऐसी ईविल है जो रेस्पेन्ट है । हर दो घर के बाद आप देखेंगे कि ऐसी दुर्व्यवस्था है । इसको आप कहां रोक पाएंगे ?

श्री गंगाचरण दीक्षित : क्या आप समझते हैं कि इसके पास हो जाने के बाद हम बालिक लड़की को ज्यादा आजादी नहीं दे देंगे और कैसेज ज्यादा नहीं बढ़ेंगे ।

साक्षी : आप लाख आजादी दे दें, ऐसे कैसेज नहीं बढ़ेंगे यह खामखयाली है । कोई भी ला जो आता है वह रक्षा के लिए आता है, पापों या अपराधों के लिए स्वच्छंदता नहीं देता है ।

श्री गंगाचरण दीक्षित : ला काहे के लिए बनाया जा रहा है ? गर्भाधान या गर्भपात रोकने के लिए...

CHAIRMAN: Mr. Dixit, he has already expressed his views. Let us not try to embarrass him. You please put your further questions if you have any.

श्री विद्याधर वाजपेयी : अभी एक्सपर्ट डाक्टर्स आए थे, उन्होंने यह कहा था कि स्टर्लाइजेशन परमानेंट नहीं होता । अगर स्टर्लाइजेशन कर दिया जाय और फिर गर्भाधान की आवश्यकता आ ही पड़े तो उसे भी किया जा सकता है और बच्चे पैदा हुए हैं । जब एवार्शन के लिए आवे तो एवार्शन के साथ स्टर्लाइजेशन क्यों न कर दिया जाय जिससे बारबार एवार्शन के लिए उसे न दौड़ना पड़े और जब बच्चा पैदा करने की आवश्यकता हो तो वह भी हो सकता है । इसके बारे में आपकी क्या राय है ?

साक्षी : एक ऐसी स्टेज आ सकती है कि किसी के 4, 5, 6, बच्चे हों, वह सब के सब मर सकते हैं तो जरूरत पड़ सकती है कि एक बच्चा और हो जाय तब वह क्या करेगी अगर स्टर्लाइज हो गयी स्टर्लाइज्ड को पुनः फर्टाइल बनाना बहुत मुश्किल है

श्री विद्याधर वाजपेयी : स्टर्लाइजेशन के लिए उन्होंने यह कहा है कि स्टर्लाइजेशन के बाद भी ऐसा उपाय है कि बच्चा पैदा हो सके ।

साक्षी : तब तो हो सकता है यदि यह क्रिया आसान हो ।

श्री विद्याधर वाजपेयी : दूसरे क्या इस बिल को आप फेमिली प्लानिंग का पार्ट समझते हैं ?

साक्षी : यह पार्ट है फेमिली प्लानिंग का लेकिन इममें हैल्थ पाइन्ट आफ व्यू ज्यादा है ।

SHRI N. R. LASKAR: Mr. Bajpai, you are the Editor of Hind Manav Seva, Kanpur.

WITNESS: Yes.

SHRI N. R. LASKAR: So, you welcome this idea of liberalisation of the abortion law.

WITNESS: Of course.

SHRI N. R. LASKAR: Have you popularised it through your paper to know the public opinion?

WITNESS: I have given a note in the paper many times.

SHRI N. R. LASKAR: On that note have you got any response from the public or have they written to you about their opinion on this? Do they welcome it?

WITNESS: I could not assess it so well. But people have praised it. Those who met me, gave their opinion in its favour. Mostly they welcome it.

SHRI P. VISWAMBHARAN: Do you think that abortion can be adopted as a family planning or population control measure?

WITNESS: No. It should not be restored to for that reason alone, just to minimise population. This law should only come to the rescue of pregnant women if there is risk to their life or to their health, physical or mental.

SHRI P. VISWAMBHARAN: Supposing a woman has used a contraceptive but the contraceptive has failed. She has used the contraceptive because she does not want any more children. The failure of the contraceptive might cause mental anguish to her. In such circumstances, will you agree for the termination of the pregnancy?

WITNESS: I agree only if there is risk to her mental health; not otherwise.

SHRI P. VISWAMBHARAN: Please see Explanation 2 to Clause 3 on page 2 of the Bill. Do you support it in toto?

WITNESS: Are you referring to Explanation II—"Where any pregnancy occurs as a result of failure of any device used by any married woman...?" If yes, that will cause grave injury to the mental health of the pregnant woman.

SHRI P. VISWAMBHARAN: So you approve of it?

WITNESS: Yes.

SHRI V. S. MURTHY: What is your paper, daily, weekly, fortnightly or monthly?

WITNESS: Weekly, Sir.

SHRI B. S. MURTHY: What is the circulation?

WITNESS: About 2000 sir,

SHRI B. S. MURTHY: Have you opened any column for discussing this question of termination of pregnancy?

WITNESS: I have not specially opened a column for this.

SHRI B. S. MURTHY: Do you write articles on this in your editorial, supporting or criticising this measure?

WITNESS: With regard to legalisation, I have given notes now and then, but shall immediately open a column for this in my paper.

SHRI B. S. MURTHY: Could you kindly send a copy of it to us?

WITNESS: I have already sent it in a good number for circulation among the members of this Committee.

CHAIRMAN: Thank you very much, Mr. Bajpai, for your valuable evidence.

*(The witness then withdrew)*

*Dr. (Smt.) Sulabha Bhatavadekar was then called in.)*

CHAIRMAN: I welcome you, Dr. Bhatavadekar, here. You have already sent your Memorandum which has been circulated to the Members. Now Dr. Bhatavadekar, you will kindly make your comments on the Bill and whatever you say here is confidential and will not be published till it is placed before Parliament.

DR. BHATAVADEKAR: Thank you. I have already written in my short notes that I am a little against this Bill for legalisation. I would like liberalisation more than legalisation. I say that because we do not have sufficient doctors and hospital beds and if it is not done in a proper way, it will be more hazardous rather than helpful. It will not help the family planning programme. But if it is done on a large scale, it might reduce the birth-rate, but that will take a long time.

About morality, Sir, the contraceptive pills have themselves reduced the standard of morality and if abortions are freely available, then the standard of morality might further fall down. In our country usually a woman does not go in for abortion so easily. Since we want to liberalise the present law, it should be done on certain definite grounds and those grounds are, for example, if there is risk to the mother's life or the physical or mental health of the mother. Secondly, it should be allowed on humanitarian grounds, e.g. if the pregnancy has occurred as a result of rape on a minor girl or insane girl. Thirdly if at all there are some substantial risks to the child to be born of having some disease which will make him physically and mentally handicapped—for these three reasons one could liberalise abortion. You have said on physical and mental grounds but mental grounds have to be thoroughly scrutinised as what are the grounds because anybody with pregnancy which is unwanted will say she has mental anguish and will want advice.

DR. SUSHILA NAYAR: You will not allow her. What about failure of contraceptives?

WITNESS: It is very difficult to judge because we have to go by the evidence of the patient. There is no evidence except in tubectomy or vasectomy.

DR. SUSHILA NAYAR: What about IUCD?

WITNESS: How can you say it has failed?

DR. SUSHILA NAYAR: If it is still there?

WITNESS: Of course you can consider from all points of view but about other contraceptives it is difficult to rely on the patient's evidence alone that they have failed.

DR. SUSHILA NAYAR: Even if the patient is already having 3 children and is ready to undergo sterilisation you will not agree?

WITNESS: One should think about it if she has 3 children. About the place of getting it done, one must be very firm and definite about standard of the place. It should be the district for the village people and it should be the Govt. General Hospital in the cities.

CHAIRMAN: Section 4 deals with that.

WITNESS: It should be laid down that that anaesthetics, oxygen cylinders and other facilities should be available for any emergency. Because abortion has always some hazards and one should be able to tackle them. It should not be done by a general practitioner but by one specialist in that line—a gynaecologist or surgeon and he should have some experience of doing abortions. The Government can undertake training people in some hospitals and then only allow them to do it.

SHRI B. S. MURTHY: You say the medical practitioners should have knowledge of the subject but how can there be abortions if the law is not there?

WITNESS: Before the law is implemented, 6 months' period is enough.

SHRI B. S. MURTHY: As soon as the law is passed, naturally number of cases will come. Before the law we cannot openly attend to abortion cases. What is your advice in this matter?

WITNESS: If the Government allows it should be at the Government level to do it before even the law allows it.

SHRI B. S. MURTHY: Do you think abortion is more risky than normal delivery?

WITNESS: Normal delivery also carries some risk. Abortions, because they are made into normal pregnancy, carry more risks.

SHRI B. S. MURTHY: You have prescribed in para 3 six months. Do you think it is possible for gynaecologists and obstetricians to have 6 months training in attending the abortion cases.

WITNESS: It is only for general registered practitioners. They may not stay in the hospitals but if they are in some districts, they should go to civil hospitals and get training. It is not necessary for them to stay there.

SHRI B. S. MURTHY: Why not 6 weeks' orientation for those with background of gynaecology?

WITNESS: Yes, if they have some good knowledge of gynaecology but in our country there are so many homoeopaths who do not have enough knowledge of gynaecology.

SHRI B. S. MURTHY: You have said about fees in para 3. Is it for hospitals or for private nursing homes?

WITNESS: In hospitals when it is done on medical indication, it may be free but if done on humanitarian grounds, some fee should be charged if the patient is in a condition to pay.

SHRI B. S. MURTHY: What risk is involved in normal pregnancy and what risk is there in abortions?

WITNESS: Normal pregnancy has haemorrhage, abnormal deliveries. Operative deliveries themselves carry some risks of infection after delivery if it is not done properly. Compared to that abortion has more risks.

SHRI B. S. MURTHY: Do you think a legislation like this will increase immorality? If so, How?

WITNESS: Yes. Because abortion is easy and is done on the signature of the lady only and the trends are now more towards loose sex life so immorality will increase. As it is, with contraceptives and pills more college girls in the cities are having an immoral life with boy friends and if they know abortion is also easy in times to come, they might go in for it and right not take to pills and even if they fail in pills they will go in for abortions.

SHRI B. S. MURTHY: You have said in para 6 not more than 3 pregnancies and not less than 6 months. What do you mean?

WITNESS: Some maximum should be laid down; otherwise it will spoil the health if one has to go in for 7 or 8 abortions. It will be hazards to her health. Three abortions in a married woman's life is enough, and minimum interval should be 6 months between two abortions.

SHRI B. S. MURTHY: What is your view about abortions being one of the Family Planning methods?

WITNESS: It is not going to help in reducing the birth-rate unless done in a mass scale.

SHRI B. S. MURTHY: You say in your memo it should not liberalised.

WITNESS: I mean legalised.

SHRI B. S. MURTHY: It is already legalised. The IPC contains a provision allowing it under certain circumstances but what we are now doing is to broaden it or liberalise it. Since you have advised later on to do some things, you expect, I take it, us to go forward with this legislation?

WITNESS: It is to be liberalised under certain conditions which are medical grounds and with safeguards.

SHRI B. S. MURTHY: So you agree for liberalisation under a set of real causes?

WITNESS: Yes, with proper safeguards and good medical care. If it is done under good medical conditions I think it is all right.

DR. SUSHILA NAYAR: If I have understood you correctly I think you are in agreement with the provisions of this Bill except that you do not want it to be used as a cloak for family planning purposes.

WITNESS: Yes.

DR. SUSHILA NAYAR: And you would not like it to be used for alleged failure of contraceptives because it will make couples slack in taking proper precautions.

WITNESS: Yes.

DR. SUSHILA NAYAR: And you very rightly stated that abortion is a risky operation and therefore it should be performed by people who are adequately trained and in places which have adequate facilities.

WITNESS: Yes.

DR. SUSHILA NAYAR: Would you like to make regulations in the Bill itself to ensure that these precautions are taken?

WITNESS: I think so, it is necessary to put them in the Bill.



DR. SUSHILA NAYAR: Further you will find in the Bill it is stated that if anyone deliberately contravenes the provisions of the Bill he or she may be fined and the fine may extend up to Rs. 1000|-. Do you think it is adequate punishment? A person can earn Rs. 1,000|- in one day by performing abortions.

WITNESS: That is not adequate punishment.

DR. SUSHILA NAYAR: Some people have suggested that if there is any deliberate violation of this law the offenders should be sent to prison. Do you agree with that? The present law, the Penal Code, says that a doctor who performs abortion except for saving the life of a woman . . .

WITNESS: I think imprisonment is too rigid, is too strict. You can enhance the punishment by increasing the fine.

DR. SUSHILA NAYAR: That means he will earn more by illegal abortions and will be able to pay more.

WITNESS: I think when it is liberalised these people who are taking so much money will no more get any money because when people know that they can get it done at a much less cost at the Government hospitals they will not go to these people who are making money.

DR. SUSHILA NAYAR: In this law it is stated that if the woman says that her pregnancy is the result of a rape, it may be terminated with the permission of the husband. Don't you think that the woman's permission alone would suffice? Do you think it is necessary to go to the husband for this permission?

WITNESS: I think it is necessary because there may be family conflicts and family quarrels. Even in case of married people it is better to have the husband's signature. It should be with the mutual consent of both.

DR. SUSHILA NAYAR: On the other hand by forcing her to go to the husband when there has been a rape and a pregnancy don't you think that it will intensify the conflict and it may result even in the breaking up of that family? Something has happened and she wants to get rid of the pregnancy so that her family life is not disrupted. She is an adult woman; is she not the mistress of her own body?

WITNESS: If you are allowing her signature for other purposes there is no reason why there should be husband's signature for this.

DR. SUSHILA NAYAR: So would you allow every adult woman to decide for herself except for minors and lunatics in which cases the guardian must give the permission before the abortion can be done?

WITNESS: Yes.

DR. SUSHILA NAYAR: Now as you are against the use of this legislation of abortion for family planning purposes would you like to remove Explanation No. 2 which says that the anguish by an unwanted child is enough to justify an abortion?

WITNESS: I think it should be removed, because it is a big loophole.

DR. SUSHILA NAYAR: Similarly part (2) of sub-clause (3) says account may be taken of the pregnant woman's actual or reasonably foreseeable environment. Suppose a woman or her husband is being transferred to Bombay where they will have a small house and there won't be room for an extra child. In such a case would you allow abortion or would like this environment clause to be removed?

WITNESS: I think this also should be removed.

SHRI PARTAP SINGH: In your note you have very rightly said that the consent of the husband of the

married woman is very necessary. I want to know where a widow or an unmarried woman becomes pregnant by some mistake or rape, whose consent should be got in such cases?

WITNESS: I think if the woman is adult her consent is enough.

SHRI PARTAP SINGH: No question of taking anybody else's consent?

WITNESS: No.

SHRI PARTAP SINGH: Perhaps there are certain drugs, pills and injections also that have been found useful for abortion in the early stages of pregnancy and you have also admitted it. Do you think that this system of treatment should also be incorporated in the Bill?

WITNESS: No; I think there are no oral measures of inducing abortion that we know of.

SHRI PARTAP SINGH: But you mentioned a little while ago that college girls used some pills.

WITNESS: I said they were using pills as contraception not for inducing abortions.

SHRI GANGACHARAN DIXIT: Suppose a married woman comes to a doctor and make an oral statement that the family planning device has failed and that she would like to have abortion. Do you think that simply on the oral statement of a married couple abortion must be performed?

WITNESS: No, no. I said in the beginning that it should not be done.

DR. (MRS.) MANGLADEVI TALWAR: You say in paragraph 8 of your note that unwanted pregnancies are now common in the rural areas and illegal abortions are not common there due to ignorance and religious taboos. So it is mostly an urban problem, and abortions are required in the cities only.

WITNESS: That does not mean that it is only required in cities. They are more common in cities.

DR. (MRS.) MANGLADEVI TALWAR: You say that unwanted pregnancies are not common in the rural areas and illegal abortions are not common there. That means these women become pregnant with unwanted children and carry on with their pregnancy. What type of women are you having in mind, married women, unmarried women, minors, or widows?

WITNESS: They are all sorts, married, unmarried. The age of marriage in the rural areas is very low; there the people get married very soon and they do not have this problem which arises in the urban areas as a result of late marriages. There they get married usually before they are 15. They do not have the feeling of unwanted children; they do not always feel that way of having got too many children. I may feel that they have too many children but they don't.

DR. (MRS.) MANGLADEVI TALWAR: You say in your note that illegal abortions are not common in the rural areas. It is good that they are not common there, because it has a good effect on others. Would you not advocate sterilisation and more medical aid to those people who require it in rural areas?

WITNESS: In the rural areas, of course, more medical aid should be given because they are illiterate people and they must have proper medical aid. They should also have the benefit of sterilisation, but what I mean to say is that the problem is more in the cities of unwanted pregnancies rather than in the villages.

DR. (MRS.) MANGLADEVI TALWAR: You have said in your note:—

“In my opinion the abortion law should not be liberalised in our country. The Medical Termination

of Pregnancy Bill as introduced in the Rajya Sabha is probably brought in just because a similar law has been introduced in many so-called advanced countries in the world."

It does no credit to us.

WITNESS: I did not mean to offend anybody. I felt that we have more need for medical aid in our country rather than for liberalising abortions.

DR. (MRS.) MANGLADEVI TALWAR: That may be your opinion, but the Bill has been brought forward after due consideration and in consultation with the people who are concerned with it. I would refer you to the Report of the Committee to study the question of legislation of abortion, known as the Shah Committee. They have gone through it very carefully. If you go through the list of the members of this Committee you will find that they are top people. You cannot say that this measure has been just brought forward because some advanced countries have enacted such a measure. You do not give due credit to our people.

WITNESS: I do not mean to underestimate the Rajya Sabha's Bill.

DR. (MRS.) MANGLADEVI TALWAR: It is the whole country and not only the Rajya Sabha. I think you have a conservative view. I agree that they should be adequate medical facilities before the operation is done. I would refer you to some of the clauses in the Bill. You will agree that a large number of abortions are taking place. Some are legal abortions in the sense that women come bleeding and their pregnancy has to be terminated and others who cannot find medical aid in the legal way go to quacks. They go to such people who do the abortion. The evil is in existence as it is. It is only to help them and to protect them that there is liberalisation of abortion in this measure. It is to save the women's life and to save her suffering and also

on other grounds as stated in the Statement of Objects and Reasons. You must have read it. This measure is primarily to save the avoidable wastage of the mother's health, strength and life. The other grounds are: (1) as a health measure; (2) on humanitarian grounds and (3) eugenic grounds. You will agree that the objects of this Bill are very good. The law which is already in existence is restrictive and many doctors cannot do this operation without a stigma and without the fear of punishment. Therefore, it should be welcomed. You are a doctor and I think you have your own nursing home. Your opinion is that this Bill should not become law.

WITNESS: Excuse me. We are very short of medical people and facilities even for attending to serious cases of illness.

DR. (MRS.) MANGLADEVI TALWAR: That is your only objection.

WITNESS: Yes. Why go in for this unnecessary when we cannot attend to ordinary illnesses first? Why should we go in for this?

DR. (MRS.) MANGLADEVI TALWAR: There is a need for it.

WITNESS: If we liberalise it too much, then I think it might be hazardous. Only by providing very strict safeguards we can liberalise it.

SHRIMATI USHA BARTHAKUR: I want to ask the same question as that of Dr. Talwar. You have in the first paragraph of your memorandum said:—

"In my opinion the abortion law should not be liberalised in our country. The Medical Termination of Pregnancy Bill as introduced in the Rajya Sabha is probably brought in just because a similar law has been introduced in many so-called advanced countries in the world."

There is liberalisation of abortions in Japan. Just because of it can you

say that the Japanese are less moral than Indians or Americans? We cannot say that. The Japanese are as moral as Indians viewed against the background of their own culture. Each society has its own social ways and values and it does not mean that the sexual norms and values of one society are less moral than those of another. Those countries like Japan which have liberalised abortion have succeeded in their purpose. They have liberalised it keeping in view the possibility of misuse of the law.

WITNESS: They have succeeded in bringing down their birthrate by half. That is what they claim. About the standard of morals, their standards are quite different from ours. As you say, each country has its own standard of morals. Since our Indian standards are rather conservative, I think we cannot compare our standards with others. It does not mean that the Japanese morals have come down or anything like that.

SHRIMATI USHA BARTHAKUR: Again in paragraph 8 you mention: "Unwanted pregnancies are now common in rural areas and illegal abortions are not common there due to ignorance and religious taboos." I oppose it because, as I am a social worker, I always meet with such women who have been doing some illegal abortion by untrained hands like dais. Most of them lose their lives or they become useless for family life, all due to mishandling by untrained hands, and this is going on. Do you not think that to check these illegal abortions and to save the mothers, this Bill is quite necessary? Do you not think like that?

WITNESS: Something is necessary to check that. But if we bring in this legislation, then undue advantage will be taken by people who do not want pregnancies, who would want to get aborted. How many mothers are there to save like this? We have to have statistics to compare and find out. We do not have statistics.

SHRIMATI USHA BARTHAKUR: No, no. We personally meet them because those women always have been doing such work. We personally meet them

WITNESS: If at all the law comes, then these women should be punished, so that if at all they do it . . .

SHRIMATI USHA BARTHAKUR: No punishment has been given.

WITNESS: So far. Because it has been kept a secret.

SHRIMATI USHA BARTHAKUR: That is the thing.

WITNESS: Unless we have some statistics it is very difficult to say.

SHRIMATI USHA BARTHAKUR: We want to curb that.

WITNESS: You should have some statistics from big hospitals.

CHAIRMAN: They have given some statistics. According to the Shah Committee report illegal abortions are 3.9 million a year.

SHRIMATI TARA SAPRE: Please refer to your memorandum, paragraph 2. In that you have said: "it should be done mostly on medical grounds and not on socio-economic grounds". I would like to ask you this. Suppose there are some very poor ladies. If they have got more than one or two children, then they want to terminate their pregnancy on socio-economic grounds. Continuance of pregnancy is going to cause them mental injury in the sense that the children are going to be underfed and undereducated and so many other problems are going to come in the family. In that case also you are sure you do not want it?

WITNESS: In that case we have to liberalise to that extent. In that case what will happen is practically everybody will say that she is not able to afford another child.

SHRIMATI TARA SAPRE: You can find out.

WITNESS: When they approach you, then you are going to do it within three months, twelve weeks.

SHRIMATI TARA SAPRE. There may be genuine cases and there may be cases not genuine. In genuine cases you do not want it?

WITNESS: You cannot stop with abortion. They must be taught contraceptive ways. Otherwise they will go on coming for abortions. They are illiterate people. They are not going in for contraceptives. They will go on getting these done and they will spoil their health. If it is an easy thing at a less cost, they will keep on going in for abortions if the thing is liberalised to that extent.

SHRIMATI TARA SAPRE: Then I refer to paragraph 6. "In this Act, how many abortions a woman can undergo and at what minimum intervals is not specified." As an expert gynaecologist I would like to know from you whether from a medical examination it is possible to find out whether a woman had undergone two or three abortions.

WITNESS. There is no way to find out how many abortions a woman has had.

SHRIMATI TARA SAPRE: A woman will go to one doctor, next time she will go to another doctor. To avoid that don't you think sterilisation should be compulsory?

WITNESS: Yes, yes. After three children sterilisation should be compulsory if at all abortion is done.

SHRIMATI TARA SAPRE: Then on socio-economic grounds you will allow abortions?

WITNESS: If at all sterilisation is done, then we will consider But I have already said that if the patient is willing for sterilisation, it can be done after three children.

SHRIMATI TARA STPRE: If sterilisation is made a prerequisite, then you are ready to accept it on socio-economic grounds?

WITNESS: Yes, after three children.

SHRI P. VISWAMBHARAN: You are not for liberalisation of the law?

WITNESS: Not for legalisation.

SHRI P. VISWAMBHARAN: That is, the first sentence in your note should be changed: "In my opinion the Abortion Law should not be legalised"?

WITNESS: Yes. It should be liberalised.

SHRI P. VISWAMBHARAN: In the Statement of objects and Reasons of Bill the last paragraph reads like this: "proposed measure which seeks to liberalise certain existing provisions relating to termination of pregnancy has been conceived (1) as a health measure; (2) on humanitarian grounds; and (3) on eugenic grounds. Do you agree that on these three grounds the law can be liberalised to this extent?"

WITNESS: It can be liberalised.

SHRI P. VISWAMBHARAN: Then in paragraph 3 of your memorandum you have stated that at least two registered medical practitioners should have formed the opinion in good faith. Why do you suggest two medical practitioners?

WITNESS: Because if they are not in a Government medical hospital, then some interested person might—he will be the judge; he can do abortions according to the medical indications, whatever he puts in. So many indications can be put in that it is bad for mental health. If two people are there, I think there will be a check on the doctor who does that.

SHRI P. VISWAMBHARAN: There is a chance of error of judgment according to you if there is only one

doctor, or you doubt the bona fides of some doctors also?

WITNESS: Yes. I think if at all it is going to be a monetary thing, then the other doctor can take advantage. That is why there should be a check on him.

SHRI P. VISWAMBHARAN: Coming to paragraph 6 of your memorandum, "In this Act, how many abortions a woman can undergo and at what minimum intervals is not specified". You have suggested that there should not be more than three abortions. Up to three you agree?

WITNESS: Yes.

SHRI P. VISWAMBHARAN: Then in paragraph 8, last sentence: "This Act if it helps at all, it will benefit a few women in cities who would have otherwise got the abortion done illegally at medical or quack hands". Anyway we are all agreed that quite a large number of abortions are being done illegally by these quacks.

WITNESS: Yes.

SHRI P. VISWAMBHARAN: In order to achieve the full objects of this Bill of course the facilities in our hospitals should increase. But if this Bill is passed into law, will it not help to some extent at least to avoid quacks doing these things?

WITNESS: Yes, it will definitely.

SHRI P. VISWAMBHARAN: In the last paragraph of your memorandum though you make abortion lawful on certain grounds you do not want to make it available on demand. Would you kindly explain that?

WITNESS: I do not agree that if contraception devices fail then abortion should be available on demand. The doctor alone should come to a decision.

SHRI P. VISWAMBHARAN: Please look at Explanation No. II which says:—

"Where any pregnancy occurs as a result of failure of any device used by any married woman or her husband for the purpose of limiting the number of children, the anguish caused by such unwanted pregnancy may be presumed to constitute a grave injury to the mental health of the pregnant woman."

Suppose she does not want any more child and if the contraceptive fails, would you concede that she will suffer from mental anguish to that extent?

WITNESS: If the contraceptive has failed to that extent, I do not think mental anguish is that important.

SHRIMATI SHAKUNTALA NAYAR: In paragraph 4 you have said that consent of the husband of a married woman to terminate pregnancy should be necessary to avoid unpleasantness. Do you agree with that?

WITNESS: I think it is necessary to take the husband's signature when it is pregnancy as a result of the mating of a married couple, otherwise the husband may doubt his wife, that the pregnancy was from somebody. She will be unnecessarily suspected and there may be family quarrels.

SHRIMATI SHAKUNTALA NAYAR: Suppose the husband is away and the woman is raped. What do you say to such termination of pregnancy without the husband's consent?

WITNESS: When it is pregnancy by rape it should be considered as rape. I think there should be no need to consult the husband for his consent.

CHAIRMAN: Mr. Bhatavadekar, thank you very much for your valuable evidence.

WITNESS: Sir, I thank you very much for giving me a chance to express my views before the Committee.

*(The witness then withdrew)*

*(The Committee then adjourned)*

*Tuesday, the 14th July, 1970.*

PRESENT

1. Shri Mulka Govinda Reddy—Chairman.

*Rajya Sabha*

2. Dr. (Mrs.) Mangladevi Talwar
3. Shrimati Usha Barthakur
4. Shri Krishan Kant
5. Shri Sawaisingh Sisodia
6. Shri K. P. Mallikarjunudu
7. Shrimati Bindumati Devi
8. Shri Niranjan Varma
9. Shri G. Gopinathan Nair
10. Shri S. A. Khaja Mohidden

*Lok Sabha*

11. Shri Vidya Dhar Bajpai
12. Shri Gangacharan Dixit
13. Shri Ganesh Ghosh
14. Shri Kinder Lal
15. Shri N. R. Laskar
16. Hazi Lutfal Haque
17. Shri Mohammad Yusuf
18. Shri B. S. Murthy
19. Shrimati Shakuntala Nayar
20. Dr. Sushila Nayar
21. Shri Partap Singh
22. Shri Ram Swarup
23. Shrimati Tara Sapre
24. Shri M. R. Sharma
25. Shri Jageshwar Yadav.

REPRESENTATIVES OF THE MINISTRIES

*Ministry of Law*

- Shri R. N. Shinghal, Deputy Legislative Counsel.  
Shri S. Ramaiah, Deputy Legislative Counsel.

*Ministry of Health and Family Planning and Works, Housing and Urban Development*

Dr. K. N. Kashyap, Commissioner (FP).

Shri D. N. Chaudhri, Deputy Secretary.

Dr. I. Bhushan Rao, Deputy Commissioner (FP).

Dr. (Smt.) S. F. Jalnawalla, Deputy Director (I)

Shri A.P. Atri Under Secretary

SECRETARIAT

Shri S. P. Ganguly, Deputy Secretary.

Shri M. K. Jain, Under Secretary.

WITNESSES EXAMINED

- (1) Pt. Shiv Sharma, M.P.
- (2) Dr. (Kumari) Shiva Dua, Principal, Kalindi College, Delhi.
- (3) Smt. Dhanvanthi Rama Rau, Ex-President, International Planned Parenthood Association, Bombay.

[PT. SHARMA, M.P. WAS CALLED IN].

MR. CHAIRMAN: I welcome Pt. Shiv Sharma, M.P., and a leading Ayurvedic practitioner, to tender evidence before this Committee. Whatever, Pt. Shiv Sharma, you say will be treated as confidential till it is published by Parliament.

You have written to me to say that you have sent a note. I am sorry it has not reached us either in the office or at my residence. But you are well come to state whatever you want to state.

PT. SHIV SHARMA: That note was sent 24 hours before this letter was posted. I was not in Bombay all these days; I was inspecting some Ayurvedic research institutes under the Health Ministry and I returned only two or three days before I received your letter. Even now there was a puncture in the car that brought me and I had to rush all the way to make it on foot. The plane landed fifteen minutes late. This is my apology for keeping you waiting.

CHAIRMAN: No, no. You are perfectly in time.

WITNESS: In the note I have supported the Bill as it is. I think the conditions in the country require that this protection should be extended to unfortunate people who find themselves in that predicament when protection is well-deserved. I do not think any of the concessions in the Bill are extravagant. It is very balanced approach to a very delicate problem and we should not hang on to a hundred-year old legislation in this matter.

Sir, being a physician I have seen many tragedies where protection could have been extended to the female by timely abortion by the medical practitioner. Physical and mental disorders, which sometimes submerge the entire life-time of the patient because this relief was not extended at the right moment, are plentiful all over the country. I have also seen criminal abortionists build palaces after palaces and I have wondered why the law does not reach them. The law only does not offer protection to the more deserving.

Having looked at it from this angle I feel that this legislation is equitable, very just and very much needed. Now the question of morality comes in. Some of you, the hon'ble Members,



must have read the story of thalidomide. There was a tranquiliser, called thalidomide. . After four years' of laboratory experiments, that efficient country, West Germany, passed it for human consumption. The result was that a large number of women who had taken it, started giving births to monsters. That was only ten or fifteen years ago. There was lot of noise about it all over the world of that time. Pictures of the monsters as they were born, have appeared in the international magazine *Times*. Now, it would have been very fair to extend the protection of abortion to such women who had taken this drug after its evil effects were absolutely apparent but America did not offer them protection. And you must have read of the American women flying to Japan to have their abortions there because it was illegal in the States. And yet, if one were to look very dispassionately at Japan and at the United States—I think you will all agree with me that in matters of sexual morality (or, even in business morality, I have great respect for the States, too.) Japan is not behind the States in any way. That woman could have an abortion in Japan and thereby save herself from nursing a monster, a limbless child, and also protect that child from being born and from living in mental torture for the rest of his life. I think Japan was far more human and far more moral in offering her the abortion which, although decidedly very humanistic generally, the States would not. Therefore, even on the question of morality it is very doubtful whether notions which intrude into the liberties and the conveniences of the peoples' personal lives should be considered more important than the day-to-day immoralities which we introduce into the society and into politics. I will prefer a person who changes beds to a person who crosses floors. I think our moralities have gone haywire. The basic integrity of the individual is more important than the simple conventions and formalities of life.

Sir, I have always given vent to my feelings. I have never put a censor

between my thoughts and speech, and I have never spoken with two voices. I belong to a very orthodox family and am a very strictly teetotaler. That is not just for public consumption. I have been in Europe, in New York, in Paris. Everywhere I have stuck to my ancient vegetarian dietary habits. I am the Vice-President of the World Vegetarian Congress, elected, without standing for the office, under pressure from foreign countries. I feel that I have had a correct approach to integrity and morality. I am not allowing myself to be influenced by any modern permissive trends. I feel—I was going to say "conscience" but the word has started stinking. I am reminded of an American Senator who had said that it was good to nurture one's conscience. The larger our conscience, the more we get for selling it, gold and silver you can sell, and it is gone from your hands. But conscience you can sell, re-sell and re-sell and re-sell and still it is with you. That is why I have a little hesitation in referring to the word "conscience". But if you think that some people can still retain it, I speak straight from my heart and according to the dictates of my conscience that the protection that this Bill offers to some unfortunate people is absolutely necessary and I support it *in toto*. I have nothing more to say.

CHAIRMAN: Members may now put questions. Mr. Varma.

श्री निरंजन वर्मा : पंडित जी, यह बताने का कष्ट कीजिये कि इस प्रकार के क्लिब के आने से वह कुमारी लड़कियाँ जो कि माइनर नहीं हैं और मेजर हैं और कालेजों में अध्ययन करती हैं उनके चरित्र पर किस प्रकार का प्रभाव पड़ेगा। आपको इसका दुष्ट-प्रभाव पड़ने की आशंका है।

साक्षी : सम्भव है कि किसी अंग में आपका भय सत्य पर निर्भर हो, परन्तु मैंने आरम्भ में ही कहा था कि मैं चिन्तित्सक हूँ

और मेरे पास विद्यार्थी भी आते हैं और विद्यार्थियों से इतर दूसरे व्यक्ति भी आते हैं, सब प्रकार का परामर्श लेने के लिए और मैं समझता हूँ कि यह भय सूचनाओं के अभाव पर निर्भर है। इस समय कालेजों में, विद्यालयों में और पाठशालाओं में—(पाठशालाओं तो नहीं कहना चाहिये क्योंकि पाठशालाओं का तो अर्थ ही दूसरा है) लेकिन इस वक्त विद्यालयों और महाविद्यालयों में जितनी छूट मिली हुई है और जिस प्रकार का जीवन जिन शहरों में मैं रह रहा हूँ—लाहौर में और बम्बई में—वहाँ है उसको देखते हुए मैं समझता हूँ कोई विशेष अन्तर नहीं पड़ सकता, हानि घटने की सम्भावना अधिक है हानि बढ़ने की सम्भावना कम है, ऐसा मेरा निवेदन है।

**श्री निरजन वर्मा :** क्या आपके विचार से यदि यह रेशियो मान लिया जाय कि दस हजार में एक भ्रूण हत्या की अपराधिनी कोई स्त्री है तो क्या आप यह उचित समझेंगे कि 9999 आदमियों को दण्ड दिया जाय वनिस्वत इसके कि एक भ्रूण हत्या कराने वाली महिला का सुधार करे। क्या आप यह आवश्यक समझते हैं।

**साक्षी :** वर्मा जी, बात यह है कि मैंने अपने पूर्व वक्तव्य में कहा कि महल पर महल खड़े कर रहे हैं वे लोग जो कि गर्भपात कर रहे हैं, मैंने तो किसी को पकड़े जाते देखा नहीं। यही नहीं, मैं उन पर अंगुली रख सकता हूँ, मैं जानता हूँ उनको उस वस्था में से जिस अवस्था से उन्होंने इस चीज को आरम्भ किया, वहाँ से लेकर और जहाँ तक वह सम्पत्तियाँ, वह महल, खड़े किये, मैं जानता हूँ और वे चिकित्सक भी जानते हैं और मैं समझता हूँ कि पुलिस के अफसर भी जानते हैं और शासन भी जानता है। आपको भी मैं बहुत अच्छी प्रकार जानता हूँ वर्मा जी, आप ऐसे स्वच्छ वातावरण में उठे हैं कि मुझे कोई विस्मय नहीं होगा कि आप तक यह पूरी सूचना नहीं पहुंचती हो, जो आपका प्रश्न है उस से

भी ऐसा प्रतीत होता है। आपके जीवन को मैंने बहुत नजदीक से देखा है, प्रायः जब कभी विदिशा गया हूँ तो आपके घर में ठहरा हूँ और आपके घर में भोजन किया है, इसलिये नहीं कि आपने मेरा आतिथ्य किया है तो मैं आपकी कोई विशेष प्रशंसा करना चाहता हूँ, परन्तु मैं ऐसा समझता हूँ कि शायद आपका उतना सम्पर्क इस क्षेत्र में वास्तविकता के साथ नहीं है जितना कि मेरा है। इसके अतिरिक्त उस क्षेत्र में आपका जीवन व्यतीत हुआ है जो कि चरित्र की दृष्टि से सब से पवित्र क्षेत्र समझा जा सकता है, किन्तु दुर्भाग्यवश मेरा आधा जीवन लाहौर में कटा और पार्टीशन के बाद सारा जीवन बम्बई में कटा। लाहौर के सम्बन्ध में "सिविल एंड मिलिटरी गजट" के एडिटर ने जो अंग्रेज थे एक बार एक लेख लिखा था और उसमें कहा था— *Lahore is more English than London* लाहौर तो लन्दन से भी अधिक इंग्लिश है। तो उस वातावरण में रहते हुए मैंने जो कुछ देखा और अनुभव किया उसके आधार पर मैंने कहा। मैंने इसीलिये जापान और अमेरिका का उदाहरण दिया कि यूनाइटेड स्टेट्स में नियम सख्त हैं और जापान में नियम उतने सख्त नहीं हैं लेकिन मैं जापान के आचरण को अधिक नियंत्रित समझता हूँ, औसत जापानी में अधिक आत्म-नियंत्रण है औसत अमेरिकी की अपेक्षा। इसीलिये नियमों की कड़ाई के साथ इन चीजों को रोकना कठिन है। उसका सबसे अच्छा इलाज तो मैं यह समझता हूँ कि हम लोग जो नेता हैं हम अपने आचरण को इतना स्वच्छ रखें कि लोगों की हम लोगों में श्रद्धा हो और सत्य के प्रति अश्रद्धा उन लोगों को न हो। हम लोगों ने अच्छा आदर्श नहीं रखा। तो मेरा निवेदन है कि आपने जो कहा उसका ऐसा कोई भय नहीं है।

**श्री निरजन वर्मा :** पंडित जी, ऐसी चर्चा चल रही है कि शल्य क्रिया करने के लिये एलोपैथिक डाक्टरों को और

अधिक ट्रेनिंग दी जाये ताकि ऐसी महिलाओं के ध्रुण को गिराने के लिए वह अधिक उपयुक्त साबित हो सकें। तो क्या आपकी राय में बनारस हिन्दू यूनिवर्सिटी में या अन्य स्थानों में, मध्य प्रदेश आदि में, जो कम्बाइन्ड कोर्स चल रहा है, उन में भी शल्य क्रिया की ट्रेनिंग डाक्टरों को दी जाती है और ये मिश्रित कोर्स वाले जितने भी डाक्टर हैं, आयुर्वेद और एलोपैथी दोनों के हैं, उनके हाथ से इस शल्यक्रिया का किया जाना क्या अनुचित होगा ?

साक्षी : यह प्रश्न बड़े महत्व का मैं इसलिये समझता हूँ कि अधिकांश वह वह व्यक्ति जिनका हम गर्मपात करने वाला समझते हैं वह तो बिल्कुल ही प्रशिक्षित नहीं होते। यों यह कोई इतना कठिन क्रिया भी नहीं है और इस में भी कोई शक नहीं कि बीच में दहुत दुखजनक घटनायें भी होती हैं, मृत्यु भी हो जाती है, लेकिन फिर भी वह इस काम को चला लेते हैं। तो यह जो मिश्रित पाठ्यक्रम वाले हैं उनके लिए आप देखेंगे कि प्रायः पांच वर्ष में से या साढ़े चार वर्ष में से 80 प्रतिशत से ऊपर इनका एलोपैथी की ट्रेनिंग में लगता है। 1952 या 1953 में श्रीमान नन्दा जी बम्बई आये थे, उस समय वह लेबर मिनिस्टर थे, उस समय बम्बई में एक अजीब बात थी कि जिननी भी आयुर्वेदिक परिषदें थी सब के अध्यक्ष डाक्टरमं थे, स्टेट फ़ैकल्टी आफ आयुर्वेद के अध्यक्ष डाक्टर थे, बोर्ड आफ इंडियन मेडिसिंस के अध्यक्ष डाक्टर थे, आयुर्वेदिक रजिस्ट्रेशन ट्राइब्युनल के अध्यक्ष डाक्टर थे, आयुर्वेदिक रिसर्च बोर्ड के अध्यक्ष डाक्टर थे। उस समय ये चार पांच व्यक्ति इकट्ठे थे। मैं समझता हूँ कि नन्दा जी इसका समर्थन करेंगे, उन्होंने यह शिकायत की, यह पूछा कि ये किस प्रकार के आयुर्वेदिक विद्यार्थी, स्नातक निकल रहे हैं जो कि आयुर्वेद चिकित्सा

करते ही नहीं और केवल एलोपैथी चिकित्सा करते हैं, तो उनका जवाब था कि इस देश में तात्सुब इतना है कि जरा हम कह दें कि आयुर्वेद में कुछ बाकी नहीं रहा और इसको समाप्त करना चाहिये, इसका बिस्तर गोल करना चाहिये, तो जनता एकदम चौखला उठती है और क्रोध करती है इसलिए हमने एक ऐसा सिस्टम बनाया जिसमें कि हम यह कह सकते हैं कि आयुर्वेद का हम संरक्षण कर रहे हैं और जब ये विद्यार्थी स्वयं ही आयुर्वेद का प्रयोग नहीं करेंगे तो आयुर्वेद स्वयं ही समाप्त हो जायगा। तो जहाँ भी आप देखेंगे कि इस प्रकार का पाठ्यक्रम हुआ वहाँ ऐसा रहा। बम्बई में डा० गिलडर ने इसका बिल रखा था सन् 1638 ई० में और उसके अनुसार ही यह चला। यह सब मैंने इसलिए कहा कि यह पता चल जाये कि एलोपैथी के वे बुरे चिकित्सक नहीं हैं जिन को कि आप इंटेगरेटेड कहते हैं। ये हंसी उड़ाते हैं तो आयुर्वेद की, विरोध करते हैं, तो आयुर्वेद की। परन्तु एलोपैथी वे काफी जानते हैं। कई उनमें से भी, आखिरकार बुद्धिमान निकलते हैं। कि जब उनको जगह नहीं मिलती है एलोपैथिक कालेज में, और जब बैंकडोर से एलोपैथी ही की प्रैक्टिस करने के लिये आते हैं, तो फिर एलोपैथी में सभी मूर्ख निकलेंगे यह बात नहीं है। उनमें से कई ब्रिलियन्ट भी होते हैं। मैं उदाहरण देता हूँ कि बनारस हिन्दू यूनिवर्सिटी में जो आयुर्वेदिक कोर्स के लिये सजिकल डिपार्टमेंट है, शल्य विभाग है, उसके जो हैड आफ डिपार्टमेंट हैं, डा० देशपांडे, वह इस मिश्रित चिकित्सा प्रणाली की ही उपज हैं और उन्होंने भगंदर के ऊपर, फिस्टुला के ऊपर, कुछ प्रयोग किये। डा० कश्यप यहाँ बठे हुए हैं, आप बतायेंगे कि युनाइटेड स्टेट्स की जो फिगरस हैं, उनके अनुसार फिस्टुला के 100 आपरे-शन्स में से 30 से ऊपर फिर से करने पड़ते हैं। इस व्यक्ति ने यह सोच कर कि आपरेशन तो आपरेशन है, वह तो कोई आयुर्वेदिक और एलोपैथिक नहीं कि एक आयुर्वेदिक है एक एलोपैथिक चाकू है, एक एलोपैथिक

सुई और धागा है और एक आयुर्वेदिक सुई और धागा है, यह बात तो नहीं है, वह तो एक कला है, लेकिन उसमें जो औषधि लगनी है, खिलानी है, उसमें आयुर्वेदिक और एलोपैथिक कुछ भी चल सकता है। प्रधान कर्म तो सर्जरी है। तो जब उन्होंने सुश्रुत के अनुसार उपचार करके देखा तो वह जो 30 से ऊपर थे फिगर्स, उसको वह 2 परसेन्ट पर ले आए हैं, यानी यह आयुर्वेद के शल्य विभाग को श्रेय है कि वह फिर से आपरेशन करने की आवश्यकता चौतीस पैंतीस आदमियों के लिये जहां पड़ती थी, अब जो 250 केसेज उन्होंने किये उनमें केवल 4 पर आवश्यकता हुई फिर से आपरेशन की। इतनी उन्नति वह कर सके, और यह मैं विश्व श्रेणी की बात कर रहा हूँ।

इसके अतिरिक्त जो क्षार सत द्वारा टोटल आपरेशन है उसके दौरान में वह पेशेन्ट को चलता फिरता रखते हैं, हास्पिटलाइज नहीं करते हैं। इसी प्रकार प्रोस्टेट ग्लान्ड्स के केसेज में जहां 100 में से 14 लोगों को लाभ नहीं होता है, उस फिगर को वह सात, आठ पर ले आए हैं। यह आंकड़े मैंने इसलिये दिये कि अब तो यह प्रमाणित है। ये जो वहां के प्रिन्सिपल डाक्टर उड़्या हैं, जो एक एफ० आर० सी० ए० स० हैं, उनके द्वारा अनुमोदित ये आंकड़े हैं। जिन्होंने इतना काबू पाया है आधुनिक चिकित्सा प्रणाली के ऊपर उन्हें भी अधिकार मिलना चाहिये इस बिल में। तो यह सर्वथा अन्याय होगा यदि आपके पास बहुत से व्यक्ति जो योग्यता प्राप्त हैं उनको आप अलग रख दें। यदि आप इस सबजेक्ट्स में उनकी परीक्षा ले तो उतने ही योग्य सिद्ध होंगे जितनाकि कोई भी और। इस लिये मैं इस मत का हूँ कि उनको उतना ही भागीदार बनाना चाहिये जितना कि किसी अन्य आधुनिक चिकित्सक को और उनको अलग नहीं रखना चाहिये।

श्रीमती विन्दुमती देवी : पंडित जी, कृपया यह बताने का कष्ट करें कि क्या इसके अंदर एक बहुत बड़ी हिंसा अंतर्निहित नहीं है और यदि है तो उसको आप कैसे उचित समझेंगे ?

साक्षी : मेरा गांधी जी के साथ व्यक्तिगत सम्पर्क रहा है, बहुत नज़दीक से। एक बार एक देवी ने उनसे प्रश्न पूछा था और गांधी जी ने जो उत्तर दिया था वह मैं आपको बताता हूँ।

CHAIRMAN: All our Members under English. They may put their questions in English for my benefit and for the benefit of some Members who do not know Hindi. So it will be better if you can talk to us in English.

साक्षी : मैं आपकी सेवा में उपस्थित हूँ। आप अंग्रेजी या हिन्दी किसी में कहें, मैं उसमें बोलने के लिये तैयार हूँ। मैं अंग्रेजी में कह कर हिन्दी में या हिन्दी में कह कर अंग्रेजी में बोलने के लिये भी तैयार हूँ और यदि सब लोग अंग्रेजी समझते हैं तो अंग्रेजी में बोलने के लिये भी तैयार हूँ जिससे समय की बचत हो।

श्री बी० एस० मूर्ति : सवाल हिन्दी में पूछ सकते हैं परन्तु आप अपना जवाब अंग्रेजी में कहिये तो अच्छा हो।

साक्षी : आप तो मेरे बौस हैं स्वास्थ्य मंत्रालय में, मैं आपका किसी प्रकार विरोध नहीं कर सकता। अगर सभी अंग्रेजी समझत हैं तो मैं अंग्रेजी में कहूंगा।

WITNESS: I have been very close to Babuji. He has made very flattering references to me in some of his letters from Aga Khan Palace. Even a former allopathic Health Minister of India, Dr. Sushila Nayar, in her memoirs of Aga Khan Palace, has referred to a talk between Gandhiji and Dr. Gilder where Dr. Gilder had remarked, after my examination of Kasturba, that I should have been an allopath. Why did he enter the ayurvedic world?" he asked. He said, "It would have been much better if he had been an allopath? But Gandhiji had replied, "It is better that he has gone to the ayurvedic world. In allopathic and other fields you have many clever people.." It was Gandhiji who shot dead one calf, to save it from a painful and lingering death. This created a lot of furore in the country. I maintain that was an act of mercy and not of violence. And when one young lady asked Gandhiji, "You believe in non-violence. Supposing a Pathan from the frontier comes and wishes to rape me, what do you want me to do?", Gandhiji said, "If the intention in your violent action against him is purely the protection of your chastity and if you are doing it just to prevent any wrong from being done to you, even if that action kills him—and there is no anger in it—then, it is not violence. Violence is a matter of personal attitude, not of action. When we kill germs, we protect a patient. So, this is a matter where in the ethics depend entirely on how you look at it." So, personally I believe that considerable violence is averted, considerable suffering is averted, if progeny that is not needed is not permitted to be born. After all, suffering depends on how much a person feels the suffering. There is no suffering felt when abortion is carried out at the proper moment. As Shri I. C. Bose has found, even the plants have a nervous system of their own. They also are happy or unhappy. Finally it comes down to this that our concept of nonviolence should mean that we do not want to inflict physical or mental suffering on a person who does not deserve to suffer. I think a lot of

mental suffering is avoided by a timely action on part of the doctor. That is how I look at it.

श्री गंगाचरण दीक्षित : यह जो क्लॉज 3 के 2/ डी० में लिखा है कि :

"No pregnancy of an unmarried woman, who, being above the age of eighteen years, is a lunatic, shall be terminated except with the consent in writing of her father or of her guardian if her father is not alive."

इसका मतलब यह है कि अगर अविवाहित नारी स्वस्थ मस्तिष्क की है तो वह अपने पिता की या यदि जीवित नहीं है तो संरक्षक कि बिना सहमति प्राप्त किये डाक्टर के पास जाकर अपना गर्भपात करा सकती है क्या आप समझते हैं कि वर्तमान स्थिति में यह उचित होगा कि हम कानून के जरिये इस प्रकार की आज्ञा दें, कि वह गर्भ रहते हुए कभी भी अपनी डिमान्ड पर गर्भपात करा दे ?

WITNESS: Sir, I appreciate your apprehensions. The law in medicine is that when we have to choose between two evils, we choose the lesser evil. The whole thing revolves round that concept. Let us see what would happen if properly organised protection is not offered to her to save her from social ostracism and infamy which might even turn her into a prostitute. People who are in favour of giving protection to these people have the fear of legislation becoming too restrictive in which case they will completely fail to wear them away from criminal abortion. I speak from a position of possessing extensive information on the subject, having been in the medical practice for over 40 years in Lahore and Bombay. I would say that Lahore was the Mecca of criminal abortion. This girl who would now be able to walk into a Government hospital would have to walk into one of those places. Even some surgeons with good reputation are quietly taking up these cases and helping them out purely out of Compassion and consideration, and really you do not know even a

fraction of what is going on. Therefore, when I support this measure, it is to protect this woman from turning into a prostitute, if the society makes it impossible for her to exist within it. It is with the idea of protecting her from falling into the hands of criminal people who may blackmail the parents. I know cases where extortion has gone beyond the capacity of the parents and when such cases have gone into courts, there has been blackening of faces of innocent parents who are not guilty. Therefore, when I look at the tremendous damage that can occur, I would rather opt for extending the protection. I will be very unhappy if this kind of thing happens. To me this crime of passion is not as heinous as selling one's country to an enemy. To me, a woman who sells her body is not a patch on one who sells her party or her country. If further loses it sting when the uncontrollability of the urge replaces the sale. I feel that our stress, our emphasis, on the fact of crime, requires revision and I think this Bill is one of the best revisions which leads us it towards integrity and a sense of responsibility towards the individual concerned. I am not afraid that things will become worse. I have a feeling that things are very bad. I am reminded of what somebody said—I think it was the author of BULLDOG DRUMMOND. The man was driving. His wife said to him: "Do not drive fast. The Car and your face will be smashed." He replied "You have not looked at my face. It is so ugly that any change in it would be for the better." Therefore, my feeling also is that things are so bad that any change would be far the better. I am speaking subject to correction, because I may be wrong—that this is a legislation lesser evil compared to the greater evil that exist to stay. That is my view.

**श्री गंगाचरण दीक्षित :** आप क्या यह समझते हैं कि आज का समाज इतना तैयार है कि वह नारी को जो गर्भपात करायेगी और उसके बच्चे को वर्तमान परिस्थितियों में अंगीकार कर लेगा ।

**WITNESS:** Sir, this Bill, if carefully read, will show that abortion is permitted within a period where no loss of life is involved, nor is a living infant thrust upon the society. Therefore, that question does not arise.

**श्री गंगाचरण दीक्षित :** गर्भपात कराने के बाद उसको और उसके बच्चे को समाज में रहना पड़ेगा ।

**साक्षी :** मैंने यह निवेदन किया कि बच्चा उसका जीवित पैदा ही नहीं हो सकता उस समय में ।

**श्री गंगाचरण दीक्षित :** आप की राय यह है कि जो अवधि बताई है उस अवधि में ही गर्भपात होना चाहिये और उसके बाद गर्भपात कराना उचित नहीं होगा ।

**साक्षी :** उसके बाद गर्भपात को मैं इस लिये अनुचित समझता हूँ क्योंकि उसके बाद उसको हम जीवित व्यक्ति कह सकते हैं इस रूप में कि अवधि उसके पीछे जो बच्चे हुये हैं वे कभी भी जीवित रहे गए हैं । मैं आप को एक उदाहरण देता हूँ । एक बच्चे के खुजली है । मैं एक चिकित्सक के नाते बोल रहा हूँ । उसके खुजली के पोशन पर राख रख कर के अगर बांध दें तो वह उसको खुजला नहीं सकेगा । अगर बांधें नहं तो वह खुजला-खुजला कर के खून निकाल लेगा और उसके लिये उसको अपराधी नहीं समझा जा सकता । विभिन्न प्रकार के मनुष्य, स्त्रियां और बच्चे होते हैं । ऐसे भी मनुष्य और स्त्रियां हैं जिन की किसी प्रकार की कामेच्छा होती ही नहं है । औषधि भी देते हैं, उनके लिये तरह तरह के साधन बनाते हैं कि उनमें इस प्रकार की इच्छा उत्पन्न हो, फिर भी उनमें ऐसा नहीं होता है । उनके लिये ब्रह्मचर्य का पालन करना अत्यंत सरल होता है । इस प्रकार की भी शारीरिक प्रवृत्ति वाले व्यक्ति होते हैं जिन को रोकना उतना ही कठिन है जितना उस बच्चे को खुजलाने से रोकना कठिन है ।

I will put it in English for your information. I was referring to a child who suffers from scabies. You cannot stop the child from scratching. Many people are born with different quantum of sex-urge in them. There are some people who from their youth onwards are given intensive stimulant treatment to create some sort of sex urge, in them. But they are incapable of it because they have no desire for sex life. They can pass in society as those who have controlled themselves admirably and who are the greatest of Brahmacharis. They have zero sex urge. Another man has 100 per cent sex urge in him and he cannot control himself. He is just like the child who suffers from scabies. He will scratch. Perhaps a man with only 20 per cent sex urge may commit all the criminal acts, so that the man whose urge is at zero level may be a much bigger potential criminal than the man who has 100 per cent sex urge but who still exercise partial control. It is very difficult to say who inherits a more violent sex urge. There are certain parents who produce only those children whose sex urge is violent and difficult to control. There are certain parents whose progeny is not having a normal urge. It will be unjust to equate them and to punish one for the action which is involuntary and incurable because the latter is a diseased man. Personally, I consider murderers as diseased people. I consider even guilty politicians as diseased people because tendency to avail is a kind of immaturity. Every crime is an act of immaturity. Receiving bribes or selling one's conscience, etc. are all acts of immaturity. These crimes are committed because people have not grown morally. It is for the physician to look at these cases with objectivity.

साक्षी : तो मैंने यह चिकित्सक के नाते निवेदन किया था कि कुछ लोग ऐसे हैं कि जिन की जन्मजात प्रवृत्ति ऐसी है कि वह अपने शरीर को नियंत्रित नहीं कर सकते ।

इस लिये नहीं कि वह अपराधी हैं बल्कि वह प्रकृति ही ऐसी पाये हैं और इस कारण वे दया के पात्र हैं । इसलिये मैं इस बात को स्वीकार करता हूँ कि इस में मतभेद के लिये स्थान है ।

श्री गंगाचरण दीक्षित : कहें कहीं आयुर्वेद कालेजों में मिश्रित आयुर्वेद प्रणाली चल रही है, और वहाँ के आयुर्वेद के स्नातक निकल रहे हैं तो क्या आप उन निकले हुये विद्यार्थियों के लिये क्या आप समझते हैं कि वे यह गर्भपात का काम करवाना उचित समझते हैं ।

साक्षी : यह एक महत्व का प्रश्न है और आयुर्वेद के स्नातकों के भविष्य का प्रश्न है । आयुर्वेद में एक मनुष्य की संपूर्ण उन्नति किसी एक बात पर ही निर्भर हो । यह मैं नहीं समझता । मैं उम्मीद करता हूँ कि लोग एवार्शन नहीं करूँगे लेकिन जो लोग एवार्शन करते हैं उन से ज्यादा ऊँचा स्थान चिकित्सा के क्षेत्र में मेरा हो सकता है । मुझे उन लोगों के साथ न्याय करना चाहिये । इस संबंध में मैं कहना चाहता हूँ कि पहले तो गुरु शिष्य परंपरा थी शुद्ध आयुर्वेद की जिस में जो जंगल थे वही बनस्पति उद्यान थे । गुरु साथ ले जाते थे और बूटियों को दिखाते थे । मैं ने जिस पाठशाला में अध्ययन किया उस में कमरे ही केवल दो थे पटियाला में । और अब जो वहाँ गवर्नमेंट आयुर्वेदिक कालेज बना है वैसे तो महल भी उस समय नहीं बनते थे । परन्तु जो विद्यार्थी आज वहाँ से निकल रहे हैं उन की मांग आज उतनी नहीं है जितनी कि मांग हम लोगों की थी । हमारे समय में अस्पताल नहीं थे । अब कहते हैं कि साथ में शैया न हों तो वहाँ का पढ़ा हुआ विद्यार्थी चिकित्सा नहीं कर सकता । 'हमारे समय में गुरु के सेवी ही हमारे 'अस्पताल' के मरीज

होते थे और हम लोगों को अपने विषय का पूरा ज्ञान होता था, लेकिन यह बात ठीक है कि सर्जरी की ट्रेनिंग उतनी प्राप्त नहीं होती थी। उस समय शुद्ध आयुर्वेद का पाठ्यक्रम था उस समय के पाठ्यक्रम और आज की मिश्रित प्रणाली में इतना ही अंतर है और जो मैं कहता हूँ उस के प्रमाण में कहना चाहता हूँ कि शुद्ध प्रणाली की संस्था आज जामनगर में है और मिश्रित प्रणाली की संस्था बनारस में है। आप दोनों में जा कर अन्तर देख सकते हैं। पहले में सर्जरी नहीं है जब कि बनारस में उस का स्टैंडर्ड अच्छा है। लेकिन जो कहा जाता है कि यह तो चेंजर्स हैं, अत्यंत शुद्धता मानते हैं ऐसी बात नहीं है। एक ज्वायंट सेलेक्ट कमेटी इसी कमरे में बैठी थी और मैं भी उस का सदस्य था। उस के दौरान मिश्रित प्रणाली वालों से हम ने एक प्रश्न पूछा था शुद्ध प्रणाली में कौन कहता है कि सर्जरी नहीं होनी चाहिए। कोई उत्तर नहीं दूसरा अंतर केवल इतना है कि मिश्रित चिकित्सा प्रणाली में आरम्भ से ही दोनों चिकित्सा प्रणालियों का शिक्षा शुरू कर दी जाती है। डाक्टर आता है और पढ़ा कर चला जाता है और फिर वैद्य आता है और पढ़ा कर चला जाता है और दोनों एक दूसरे पर कुछ न कुछ कटाक्ष करते जाते हैं। जो बड़े से बड़े समर्थक थे मिश्रित चिकित्सा प्रणाली के यहां पर आये थे, उन के प्रतिनिधि आये थे और सब का यही कहना था कि 'इंटीग्रेशन हैज नाट टेकेन प्लेस'। सामंजस्य नहीं हुआ है। केवल दोनों चिकित्सा प्रणालियां साथ साथ चलायी जाती हैं और उस के लिये कांकरेंट शब्द का प्रयोग किया गया है। यह रिपोर्ट 700 पेज की है और मैंने सम्मेलन की पत्रिका को आदेश दिया है कि उस 700 पेज को 40 पेज में ला दिया जाय ताकि दूसरे लोग भी उसे पढ़ सकें। मैंने डाक्टर भिंडे जो पूना से आये थे उन से पूछा। उन्होंने कहा कि इंटीग्रेशन नहीं हुआ। श्री आश्रुतोष मजूमदार से पूछा। उन्होंने कहा :

"I do not recognise any such thing as integrated because no integration has taken place. They are concurrent and unco-ordinated."

तो उस में सामंजस्य नहीं है और उस में दोनों साथ साथ पढ़ायी जा रही हैं। आयुर्वेद का कहना है कि संपूर्ण संसार बुद्धिमानों के लिये गुरु है और मूर्खों के लिये शत्रु। बुद्धिमानों की अगर कोई बात अमिन्न अनफ़ैडली क्वार्टर्स से भी आ रही हो तो उस को स्वीकार कर लो। तो शुद्ध आयुर्वेद यह स्वीकार करता है कि जो ज्ञान जहां से भी आ रहा है उसे स्वीकार करना चाहिए उस को आयुर्वेद का अंग बना लेना चाहिए और वह आयुर्वेद के सिद्धान्त में आ जाना चाहिए। अगर कोई दूसरा सिद्धान्त आयुर्वेद के सिद्धान्त को काटता है तो दोनों का अध्ययन करना चाहिए और जो गलत हो उसे छोड़ देना चाहिये और नहीं तो उसे अपने में इस प्रकार मिला लेना चाहिए कि जिस में पढ़ाते समय यह बाहर की चीज न मालूम पड़े। सुश्रुत आप का सब से बड़ा सर्जन हुआ है। मैं फिर डाक्टर कश्यप को रेफर करता हूँ और उन की रोज एंड बालेंज को रेफर करता हूँ। उस के प्रिफेस में लिखा है कि हम ने भारतवर्ष से सर्जरी सीखी और हम उस की प्रैक्टिस करते हैं लेकिन अब हमारी सर्जरी इतनी उन्नत हो गयी है कि अगर इस को हम अब भी इंडियन कहते रहें यह उचित नहीं है। देयरफोर वी शोड दि वर्ड इंडियन सर्जरी। तो सुश्रुत का यह प्रभाव संसार पर पड़ा है। तो मैं समझता हूँ कि जितने शुद्ध आयुर्वेद को पढ़ाने वाले विद्यालय हैं उन में सर्जरी की क्षमता किसी दूसरे की अपेक्षा कम नहीं है और इस में तो आप ने परीक्षा रख ही दी है, यदि वे अयोग्य होंगे तो फेल हो जायेंगे। आप ने तो इस लाइसेंस को देने से पहले, वे एबार्शन कर सकें इस के पहले उन को एक परीक्षा लेने का विधान किया है और उस में यदि वे अयोग्य होंगे तो निकल



जायेंगे । मेरा उन में विश्वास है और मैं उन को योग्य समझता हूँ और मेरा मत है कि जो आयुर्वेद के स्नातक हैं उन को भी इस के लिए चांस मिलना चाहिये ।

श्री प्रताप सिंह : मैं आपका ध्यान बिल की धारा 2 की उपधारा (डी) पर ले जाना चाहता हूँ जिसमें कहा गया है—

“(d) “registered medical practitioner” means a medical practitioner who possesses any recognised medical qualification as defined in clause (h) of section 2 of the Indian Medical Council Act, 1956, and whose name has been entered in a State Medical Register.”

मेडिकल प्रैक्टिशनर की जो डेफिनेशन यहाँ दी गई है क्या आप उससे सहमत होंगे या उसके बारे में कुछ और कहना चाहेंगे ?

In the light of what I have stated before, I would like it to be supplemented so as to cover the categories which I have considered as deserving of inclusion.

वह स्वीकार करना चाहिए, एप्लीमेंट करना चाहिए, वे रजिस्टर्ड मेडिकल प्रैक्टिशनर भी लेने चाहिए जिनको सर्जिकल ट्रेनिंग मिली है, यद्यपि वे एलोपैथी एक्ट से बाहर के रजिस्टर्ड हैं । आप उस जोइंट सेलेक्ट कमेटी के भी मँम्बर हैं और आप के हस्ताक्षर से वह कौंसिल जब बने तो जिसको भी वह रजिस्टर्ड डिक्लेयर करे वे सब लेने चाहिए । मैं निर्भीक होकर यह इसलिए कह सकता हूँ क्योंकि आपने परीक्षा रखी है, यदि आप परीक्षा न रखते यह देखने के लिए कि उनमें योग्यता है तो दूसरी बात थी, लेकिन जब आपने परीक्षा रख दी है और वे लोग अधिकारी

हैं अपने चिकित्सा शास्त्र के तो उनको बाहर रखना अनावश्यक है, अन्याय है, ऐसा मैं समझता हूँ ।

श्री प्रताप सिंह : क्या आप इसमें एमेंडमेंट चाहेंगे ? अगर आप चाहेंगे तो क्या आप बताएंगे कि वह किस प्रकार से होना चाहिए जिससे कि वे लोग जो ट्रेनिंग लेने के बाद निकलेंगे उनको इसमें शामिल किया जा सके ?

WITNESS: We can add another clause (e) as follows:

“The term ‘registered medical practitioner’ will also mean a medical practitioner who possesses any recognised medical qualification as defined in the acts of the various States extending registrations to the graduates of indigenous systems of medicine.”

श्री प्रताप सिंह : आज साइन्स बहुत काफी डेवेलप हो चुकी है । क्या ऐसी दवाइयाँ किसी भी पैथी में निकली हैं चाहे वह एलोपैथी हो, आयुर्वेदिक हो, होम्योपैथी हो, यूनानी हो कि उन दवाइयों के इस्तेमाल करने से अर्ली स्टेजेज में गर्भपात कराया जा सकता हो ? अगर वे दवाइयाँ मुफीद साबित हुई हों तो उन दवाइयों का इस्तेमाल इस बिल में डाला जाना चाहिए या नहीं ?

साक्षी : वास्तव में भारतवर्ष का स्वास्थ्य मंत्रालय दिलचस्पी ले रहा है उन औषधियों के अध्ययन में जिनका प्रयोग किया जा सकता है मासिक धर्म को चलने रहने देने के लिए ।

The question boils down to this. Are there any medicines in the indigenous system which can ensure

the flow of menses which would automatically render abortion unnecessary? I will answer that question because it is relevant though this Bill comes in when those medicines have failed. Where those medicines have failed, the provisions of this Bill become effective.

CHAIRMAN: Are there medicines?

WITNESS: I am coming to that now. This country which produced the greatest of Brahmacharis and seers in the world also produced the greatest of experts on sex like Vatsyayana. The whole lot of works, such as Kandarpa Choodamani, Kama Sutra etc. Ananga Ranga, Pancha Sayalla, etc. are expert treatises on the art and science of sex. It is an endless library. Even when, other peoples were perhaps in the evolution stage this science had reached a level, in India, which, as yet has not been reached even by the most permissive societies of the world. You are only to read a book like Kama Sutra to recognise that fact. And yet Vatsyayana has written in that book: 'I am not advocating but describing all this because I am explaining a science, just as what is an absolutely tabooed food to people who are orthodox is described by Charaka in Ayurved simply because it was his duty to describe the properties of various foods.' Charak has referred to all types of foods as he is prescribing, not only for the Brahmins but for all others as well, in his pharmacopoea. When my Muslim and Christian patients ask about the various foods, have to tell them their effects because they constitute their diet and within that I have to advise them. Therefore "just as dog's meat is mentioned by Charaka, So I have to expound the entire science of sex. It does not mean I am preaching it." These are Vatsyayana's words. In that book naturally, there are chapters on the Dooti the woman who as to go and entice other females, on the promiscuity of relationship, etc. It is but natural that the ancients should have thought of this aspect

also and a number of formula have been mentioned in those books as well as in the Ayurvedic books. Speaking on the radio ones, I had mentioned one formula described in Bhavaprakash which contained three ingredients. The Minister of State, Shri Murthy, must have heard it *ad nauseum* while attending the meetings on Family Planning. One was Vidang, another was Kankar and third, I do not remember. This has been used by a large number of Vaidyas without the formula ever having failed. They use it when a woman misses her menstrual period. Before the onset of the new period, 5 days before, they use it and invariably the flow of menses is assured. There are other herbs which are being tried.

SHRI B. S. MURTHY: There is another thing called Pushpa.

AN HON. MEMBERS: Sank Pushpa?

WITNESS: Not shank Pushpa; I cannot recollect. There are a number of other things. As you are aware, pharmacologists of the all India the Institute of Medical Sciences have shown on rats and other animals that definitely the Ayurvedic drugs under study renders a very good protection against conception, and I think before long these things would be in the market. Perhaps one or two years' research in ayurvedic herbs will yield more definitely effective and more definitely harmless preparations which will reduce the need for medical termination of pregnancy. Such medicines do exist and the Government of India is actively busy, the Health Ministry is actively busy, and these things are practically ripe for release to the trade and the profession.

SHRI N. R. LASKAR: Dr. Sharma, as a doctor of the ayurvedic system of medicine have you had any personal experience of this abortion or not?

WITNESS: It is a very personal question.

SHRI N. R. LASKAR: That is what I would like to know.

WITNESS: Now, personal experience of abortion; in what respect? If a person happens to be a physician and if he does not want children beyond a certain number, the first subject of experimentation shall be his wife.

SHRI N. R. LASKAR: My question is more directly concerned with surgical operations aspect.

WITNESS: I have been many surgical operations which were illegal. But such people were involved that it was much better to have those abortions than to create uncontrollable scandals which would have poisoned the lives of many innocent people.

SHRI N. R. LASKAR: Do you consider that abortion is a simple operation or that it requires to be done by men with specialised training?

WITNESS: Today when they are changing hearts among the people, this is an extremely minor operation and in proper circumstances there is not the remotest fear of any harm coming out of it.

SHRI N. R. LASKAR: That means you want to say that any doctor can do this operation?

WITNESS: I think this idea of a preliminary examination is very correct. I have seen Barristers who manage to pass their Bar-at-Law examinations tramping the courts and writing applications for eight annas; they have failed in their lives. I have also seen affluent licentiates (there is one in Bombay) earning

about Rs. 10,000 to Rs. 15,000 per month, even though they are only L.M.Ps. Therefore I concede that there can be incompetent men, too, one in a hundred or so. Therefore the protection of the patient lies in a preliminary examination which satisfies us that the person is quite competent to do this job. It is a very good idea, and I think that will protect the patients and eliminate danger.

SHRI N. R. LASKAR: We have had before us very eminent doctors who have said that special expertise is required to do this operation which should not be done by an ordinary doctor. What is your view on this?

WITNESS: You may place those doctors on the examining body and let them weed out those people whom they consider inefficient.

SHRI N. R. LASKAR: So you suggest an examining body?

WITNESS: Yes; I do and that body should weed out in competent persons. If an eminent gynaecologist thinks that a person is incompetent let him keep out such people. Of course we shall have to compare between the competent and the incompetent.

SHRI N. R. LASKAR: You initially said that you were in full agreement with the proposed Bill.

WITNESS: Yes; I am grateful that this amendment has been brought forward.

SHRI N. R. LASKAR: But the whole concept in this Bill is that it allows only doctors who practise allopathy, and not other systems of medicine.

WITNESS: I have very good friends amongst the doctors and I would not like to say anything derogatory. Particularly one of my very dear friends is sitting opposite to me, Dr. Kashap, who is now head

of this Department. But there is a certain degree of trade unionism amongst the medical men. They would naturally like to keep others out. A peculiar situation exists that at the All India Medical Conference a doctor proposes that ayurveda should be wound up on the grounds that all that was good in it has been assimilated by modern medicine, and then he quietly comes and accepts the chairmanship of the State Faculty of Ayurveda and also becomes the head of the Board of Ayurvedic Education. This I cannot understand. Dr. C. S. Patel, who was elected President of the Indian Medical Council more than five times wrote a letter to the Government of India saying that Ayurveda should be completely abolished. A month or two after that he came to me with a proposal—I was Chairman of the State Faculty of Ayurveda of Bombay, composite Bombay State—and requested me to enhance the grant to the Nadia Ayurvedic College from Rs. 50,000 to Rs. 1 lakh per annum. I asked him a direct question. Have you not written to the Government of India to wind up Ayurveda altogether and now you want me to raise the grant to it from Rs. 50,000 to Rs. 1 lakh per annum? He said. "That I wrote as the President of the Indian Medical Council and this I am demanding as President of the Maha Gujarat Ayurvedic Society." So I have given you a very clear picture and on that basis you can evaluate the moral stand behind this closure of this field of activity to other competent physicians.

**SHRI KRISHAN KANT:** They are functional responsibilities.

**WITNESS:** You, as laymen, are in the best position to finally judge this. I am certainly not entering this field myself and therefore I have nothing to gain personally by your throwing it open to the Ayurvedic profession. But I want to bring to your notice the time-honoured convention of the Government of Great Britain that they never appoint a doctor as Health Minister.. I think so far as democracy

and parliamentary approach goes those people are far more mature than we are. There must be some point in always picking up a layman. He can detach himself and merely by the fact of his being a layman he can take up an attitude that Krishna asked Arjun to take up in Gita—*ana-sakti*, no personal involvement. It is our duty to bring to your notice our views without even insisting that we are right. I have throughout been saying that I am telling what I consider to be right. It may be utterly wrong and it is meaningless my saying that I am absolutely right because you are the final authority and my trying to say that I am right will not make any difference. So I had better be humble and concede that I may be wrong whatever may be my feelings and beliefs. I am sure—you are so many intelligent people—none of you is an enemy of this country. This is not a field where politics are involved and any decision you take would be a correct decision. But it is my duty to give you my views.

**SHRI N. R. LASKAR:** Will you please give us the number of students who are coming out of the Ayurvedic medical colleges every year?

**WITNESS:** I am not in a position to give this information. In the Joint Committee it was brought out that there are 32,000 institutionally trained graduates of Ayurveda up to date. We might be producing—subject to correction—about 2,000 graduates per annum. Perhaps we are producing them now, but the figure may not be quite correct.

श्री राम प्रकाश : मैं आपका ध्यान धारा  
3 के उपखंड (2) के (बी) की तरफ  
दिलाना चाहता हूँ :

"(b) not less than two registered medical practitioners, acting together where the length of the

pregnancy exceeds twelve weeks but does not exceed twenty weeks."

Is it necessary that two medical practitioners should be there to do this operation?

WITNESS: I believe that it is not so much for the success of the operation that this clause has been introduced. Even in those countries where abortion is permitted under certain circumstances, they bring two doctors together. Probably the idea behind is that one may be corrupt, but to find two of them corrupt would be a more difficult task. It does offer a certain degree of protection. I think some of the hon. Members asked me about too much permissiveness and this cuts at the permissiveness. It is a safeguard against the frivolity of one person.

श्री राम स्वरूप : क्या आप यह सजेस्ट करेंगे कि जो प्राइवेट नर्सिंग होम वाले हैं या जो दूसरे लोग इस कार्य में दक्ष हों उनको भी इस तरह का लाइसेन्स मिलना चाहिये, इस तरह के आपरेशन्स करने का ।

WITNESS: The actual fact is that for the highest medical needs some of the private nursing homes are far superior to the official institutions. This morning I was in Bombay and yesterday an incident occurred in a Government hospital. A large number of people were standing to receive some injection and in one tray all the syringes were lying. The head of the institution came and said to the doctor-in-charge, who was to look after them, that some Minister had got something and he should rush to his bungalow. So, this doctor left the hospital and went to his house with the tray of syringes. Another doctor, who was not on duty at that time, came. He found these people standing and languishing with nobody to look after them. He had a humanitarian approach. He could find no syringe, because the tray containing the syringes had been taken away. So, this doctor had a

syringe boiled and he attended to those people. Once a very big political meeting took place and plenty of medicines arrived in all the hospitals, with instructions that they should be used only if one of the bigger people needed them. After the meeting, the medicines were taken away from those hospitals. Sometimes quite a number of official institutions and the people therein behave like courts. I do not say that there should be no courtesy shown in courts, but somehow or other where there is some degree of officialdom, a considerable degree of callousness and lack of human feelings develops. It is tragic that this should be so. The private nursing homes are keen to protect their name because there is competition. Of necessity first class nursing homes must be included. I am sure that many people, people who can afford, would like to go to these private nursing homes instead of to official institutions.

श्री राम स्वरूप: शर्मा जी, आपने कहा कि हमारे आधुनिक कालेजों से काफी शिक्षित चिकित्सक निकलते हैं। तो क्या सर्जरी के लिये कोई सप्लीमेन्टरी या कोई दूसरा कोर्स आप एड्वाइज करेंगे ताकि उस कार्य में पूर्णतः दक्ष हो सकें ।

WITNESS: In practice, the amount of surgery taught to them is adequate. It hardly requires any additional course. In such matters I would use the legal term, i.e., abundant caution is always welcome. When this facility and when this privilege is extended to them, naturally these institutions will take special care to see that they become experts in this field.

SHRI S. A. KHAJA MOHIDEN: It is complained that in this Bill we have taken almost only two aspects, that is, the difficulty experienced by the mother, and the other aspect is the increasing population. Another aspect is the unborn child. It is said that just because it has no voice we

are legalising the termination of its life. What is your opinion on this?

WITNESS: I think I have answered this question already when the other hon. Member asked me this question. Quite often we are forced to choose between the greater evil and the lesser evil. I would say that it is a destruction of a possible life, but what is averted amounts to something much more. A woman not helped in this way might be thrown into disgrace. The publicity may result in the ostracism of the parents or the relatives of the whole family. I think our society is not mature enough to accept an unnatural child and, although it is absolutely innocent its life becomes a life of great misery. I think it was Bernard Shaw who said that the child is never illegitimate. It is the parents who are illegitimate. But the child suffers. Therefore, I think the sentiment behind this Bill is more humanitarian than permissive.

SHRI B. S. MURTHY: You were pleased to make mention of conscience. What is conscience? I will put another question. It may help you to answer. Is it a gift from God or is it a product of society?

WITNESS: You have asked me a very difficult question. Civilisation or maturity of human race consists of a series of self-imposed restraints on tendencies, propensities, proclivities, which are considered harmful to the society in general. I was present at a UNESCO meet where one of the speakers was dealing with blood vascular degeneration, and in the course of the discourse he mentioned that of all the animals we use in the laboratories for the study of blood vascular degeneration, the pig is the nearest to the human being. As soon as he said it, another eminent scientist, who was sitting next to me, giggled and laughed. I was to speak immediately after the scientist who had said that the pig was the nearest animal to the human being and I referred to his statement in my speech. I said that another scientist who was

sitting next to me, in spite of having worked all his life on animals and having been accustomed to extrapolate all those data gathered on animals to human beings, could not control himself and giggled as soon as his eminent colleague stated that the pig was the nearest animal to the human being. We the Ayurvedic physicians, who have to depend entirely on our own observation and do not possess the conveniences of these laboratories, cannot let this laughter pass unnoticed, as our guinea pig has always been the human being himself. We look at him and, through the centuries it is his behaviour that we have studied. His laughter is a proof, is an evidence of the fact that, in spite of having worked on animals all his life, deep in his mind he still rejects the absolute identity of response between the animal and the human being. Otherwise, he would not laugh. It is obvious that his mind wandered to certain types of human beings who, perhaps, in their behaviour, are closer to that much maligned animal. Otherwise, he would not laugh. What is the difference between that animal and the human being? The main difference is that the man can step out of himself and have a look at himself. If a dog bites, he never comes back and says "I am sorry", because he cannot step out of himself and cannot look at himself and sit on judgment on himself. It is the man along who feels repentant. It is said in Sanskrit that a man becomes a beast when he is angry because he cannot then get out of himself. The one great factor which makes man a man is his capacity to get out of himself and have a look at himself as other people can. The less we have this capacity the nearer we are to the pig, and the more this capacity we have this capacity to get out of ourselves and judging ourselves, detached from ourselves, the nearer we are to man or to God. Conscience, according to me, is this capacity to detach oneself, to come out of oneself and have a look at oneself and then judge dispassionately, shedding

one's self-interest altogether, and then guide one's actions. That is the only way I can define conscience.

SHRI B. S. MURTHY: The capacity to judge oneself and judge his own action.....

WITNESS: I go back to your earlier question: Is it (the conscience) God-given or is it the society that gives it? Actually so many factors are behind it. In certain families the incidence of lunacy is very high; not in others. There are hereditary factors; there are also other factors. There is that nursery rhyme: "What are girls made of? Sugar and spice and everything nice", There is, of course, about four sugar in every girl's body and in every man's body. There is phosphorus enough for twenty thousand match heads. There are so many other things iron, calcium, sulphur, etc.—but there is no spice in her body. Spice deals with the attitudes and not with the constituents of the body. Gandhiji also had four ounces of sugar and so many quarts of calcium. Chengiz Khan also had the same quantities. But Gandhiji would not hurt a fly, and Chengiz Khan will become very unhappy if he was not greeted with a pillar of heads which the advancing army had to prepare to welcome him. This difference between the attitudes, is what I would call spice, because the rest of the ingredients of the body are the same. And that becomes a question of influences, the background of the country, the background of the race, of the family the dietary, the environmental influence, and—I am old-fashioned enough to say—the grace of God.

DR. SUSHILA NAYAR: Is conscience not something which is acquired from one's environment? So far as the judgment and capacity to decide the right and wrong is concerned it is not entirely motivated by his environment. You may give it some other name. But there is something within the human being which can

rise above the cultural patterns and making which react in a particular manner and gives the judgment. Am I right?

WITNESS: Madam, it was for this reason that I had brought in the word "grace of God" or "Karama". It is very difficult to analyse what factors contribute. There are certain incidents like the birth of Prahlad to Hranyakashyapu. The father was a demon, the son a Saint. It is one such example. You are a very enlightened person who has read a lot. I know the vastness of her study and nobody could be more aware than her of law. Today the science has denigrated the free will altogether. It divests every individual of the responsibility of whatever he does because he could not but do it. He being propelled in certain directions by his actions is merely computerised. I remember a Belgian priest-scientist who said, "Oh, Pt. Shiv Sharma, you have studied the Vedas. You have studied Sanskrit. We want you to give us some argument establishing free will because today all argument in favour of free will is exhausted. These people (the behaviourists) have worked out their thesis with such perfection. But, for counter argument I would advise you to read a book by Dr. Kenneth Walker. It is a delightful book. You will enjoy it with your capacity and linking for literature."

SHRI B. S. MURTHY: I put this question, Panditji, because if you remember Dr. Kulande, when she came in for her evidence, she went on using this phrase "Oh, my conscience pricks". I think conscience is a faculty in the mind of the man and woman which is the product of the society and not a gift from the God. Grace of God is always there for everybody not only for an individual. I will give you two instances. Take the case of an idol worshipper. Whatever may be the religion of the Hindu whenever he sees an idol he folds his hands and seeks God's blessings. Whereas whenever a Muslim comes across an idol he curses it.

Secondly, it is considered auspicious among Muslims to celebrate marriage between brothers' children. But the Hindu can never think of such an alliance. Again, both go by conscience. The gift of God with this man 'X' and with that man 'Y' should have been the same. Therefore, as the society behaves so the mind and the conscience of the man also grow.

WITNESS: Sir, I may comment on it from another angle. Certainly, Hindus do believe in Moorti Puja or idol worship, as you put it. But it was the Hindus who produced Lord Mahavira. It was the Hindus who produced Lord Buddha. It was the Hindus who produced Charvak. And when I come for the next session of the Parliament I will bring with me one work of Charvaka's philosophy for you. No sceptic, no agnostic, no non-believer, can beat Charvaka in his brilliant arguments against the existence of Parloka. People born in the same family, having received the same education, the same training under the same parents sometimes grow up to be entirely different from each other. And I would say even their consciences, if I can use the plural, become so different from each other that the existence of other factors has to be accepted.

It is true that the child receives a sort of brain-washing almost on a totalitarian level amongst his religious family. But there is considerable rebellion even amongst the Muslims. I do not know whether it is the absence of conscience that makes converts, because in many cases it is poverty that leads to conversion. Then there are many people from the white races, from the most advanced countries, who embrace Hinduism, Islam, Buddhism. Variety does exist. The formation of conscience from that angle is purely the result of the influence of the society. But it is not so cut and dried that we can create patterns to order. By and large, people submit to influences. If you take two children of the same family and give one to a mullah and another to a very orthodox pundit,

they naturally will grow antagonistic to each other so far as the religious beliefs are concerned. But there exists a considerable amount of overlapping and changing also. Therefore, I would put it from the ayurvedic angle. Desha Kala, Bala, Vaya, Satua, Sara, and Karma, are a large number of factors that finally build up the body of the mind of a person, and the sum total of the personality cannot be pinned down entirely to the influence of the society. Of course, the concept of what is good will differ with different circumstances. For example, an American woman might refuse to sell her country might consider it a much bigger sin than to sell her body. But a woman from another country, might consider it nothing to sell the country and might consider it highly immoral to sell the body. Once the convictions are built up, the nature of character, the ideas about goodness, will differ. Of course, so far as the basic virtues are concerned, they are common to all the religions. I have not come across any religious texts of any country which say one should not tell the truth, one should not observe one's commitments.

DR. SUSHILA NAYAR: If it is to be a philosophical discussion, there is plenty of other time at our disposal.

SHRI B. S. MURTHY: Well, this is a hint for me to pass on to another subject. I would like to ask another difficult question, Panditji. Now, non-birth or cessation of birth is the ideal of Hindu life. The ultimate goal of the Hindus is non-birth or cessation of birth, or *mukti*. Then, is not family planning helping towards this ideal? The question is not at all put in a lighthearted way. In all seriousness, I was seeking guidance from a well-read and well-enlightened person like Pandit Shiv Sharma. All our philosophical treatises say that it is only knowledge that gives you *mukti*. Then, are we not with our knowledge to-day trying



to do something which is in tune with our highest philosophy?

WITNESS: In the first place, I have never opposed family planning. In Hindu *dharma*, there is a term called *apata dharma*. Suppose your *dharma* says that you should never tell a lie and you should never kill. Suppose a situation arises where a person like Mahatma Gandhi or any of his associates is being hunted by a police dog belonging to a power that is occupying your country and there is a danger of the person being detected whose life means much to the country. In such a situation, firstly I should kill the dog and secondly, I should tell a lie that I have not seen the person although I might be hiding that person. There, the *apata dharma*, the religion of the moment and the situation, takes precedence over the main religion. Situations arise when compromise with the truth is nobler than a foolish sticking to the truth. So family planning can be supported even on the basis of *apata dharma*, without our having to bend the basic religious concepts to support it. That would leave us freer to take all those steps which are beneficial. In fact, Ayurveda is more liberal in its view. Ayurveda says that the first duty is to keep your body healthy. That takes precedence over everything else. Charaka says that the three pursuits of a man who is born should be, first, acquisition of superb health, secondly, acquisition of a high place in society without having to depend on anybody and, thirdly, acquisition of a nice place in *parloka* (the next world). And since family planning falls in the field of health—that you ensure better health for a certain number of people rather than have bad health for a larger number of people—you are still within the correct approach. If I can see 30 patients in one day and look after them properly, and that is my capacity, and if out of greed I see 50 patients, then I will not be able to save those 30 patients also because the minimum necessary

attention that is needed for them will be divided and they will not receive the minimum necessary attention. If you look at it from that angle, you are justified. I have never spoken against family planning. It was perhaps in the late twenties that I was invited to speak in a debate at the King Edward Memorial Medical College, Lahore. On the opposite side was Dr. Kapoor, a gynaecologist, who opposed it. He said the birth control was very unnatural. That day it was raining and he had come with an umbrella. I asked him "Why do you have an umbrella to protect you against the rain? Why do you have behave unnaturally? If you want to protect yourself against the rain with an umbrella, why not have an umbrella for protecting ourselves from the rain of progeny also?" The fact remains that from every angle, I have supported it.

SHRI B. S. MURTHY: One more question. When do you consider a case as *bhrun hatya*?

WITNESS: In the first place, we do not use the term abortion for miscarriage. It is only when the foetus is better formed that we use the term abortion. In Ayurveda also the terms are *garbhasrava* and *garbhapata*. The first three months wherein the foetus has not been properly formed are usually considered to be the *garbhasrava* period. From the fourth month onwards, it will be *garbhapata*. If you ask me, I would include the fourth month also in *garbhasrava* period.

DR. SUSHILA NAYAR: *Bhrun hatya* may be even from the beginning.

WITNESS: The Sanskrit word "*bhrun*" means foetus.

DR. SUSHILA NAYAR: But the foetus is formed.

WITNESS: That is quite true. Yet the two terms are used.

DR. SUSHILA NAYAR: Will not *bhrun hatya* apply to both?

WITNESS: It would apply, but the implication is more from the fourth month onwards.

SHRI B. S. MURTHY: I put this question because Mahabharata says that if a woman approaches a man with the desire to have a child, and if the woman is rejected by the man, he commits *bhrun hatya*. Therefore, if mere rejection of a woman who is desirous of having a child is *bhrun hatya*, why not *garbasrava* at the third or fourth month be also *bhrun hatya*? This again arises out of what Dr. Kulanday had said. She quoted about UNESCO saying that every human being has a right to exist, and so on. Therefore, does it mean that *bhrun hatya* at this stage is permissible in the interest of the society?

WITNESS: Conventions have changed from time to time. No doubt some people even to-day would like that position of Mahabharata to be brought back again, that any woman can approach them saying that she wants a child, and they would love to oblige her. But to-day society would not permit it, even if Mahabharata permitted it. Many things were permitted during the period of Mahabharata which are not permissible to-day. In Egypt, for example, there was a problem if a sister was not born because Pharaoh would not be Pharaoh unless he married his real sister. These historical examples will be full of contradictions from time to time. And the best answer is given by the texts themselves when they say:

श्रुतयो विभिन्नाः स्मृतयो विभिन्ना नाम्नी  
मुनि यस्य वचः प्रभाषम् धर्मस्य तत्वं निहित  
गुहाया महाजना येन गताः स पन्था ।

If you look at the texts, the smritis are preaching different gospels; the srutis are preaching different gospels. There are hardly two munis who are not contradicting each other. There-

fore, the best thing to do is to follow the essence of dharma which is described in this one passage, "if the good and the leading men of a particular era are suggesting a particular path, follow that path." And I think you are good and intelligent leaders and we should follow the path suggested by you.

SHRIMATI USHA BARTHAKUR: As you are a doctor I want to know from you how many abortions you will allow in the life of a woman during a year without causing any harm to her health.

WITNESS: This is a question of experience. You have members on this Committee who could answer this question with much greater accuracy. But again the question is how perfectly the operation is performed. There are people, Shri Niranjana Varma will bear me out, having many children. There is one *mian* in Shri Varma's town who has nineteen children, no abortions performed. A former Chief Justice of India had eighteen children and had married only once in his life. The progeny was not from several marriages. And that lady outlived many younger ladies and she seemed to get better with every delivery. You have asked me a question in a field in which I have neither experience nor knowledge. I am not a gynaecologist, I am a general practitioner. I am not qualified to give a very accurate answer to this question.

SHRIMATI USHA BARTHAKUR: I think you will agree that there is a high probability of early pregnancy following an induced abortion. Do you not think it to be proper if the mother having three children already should be obliged to undergo sterilization? Or, what do you think, in whose case will it be easier and smoother for sterilization, husband or wife?

WITNESS: Human nature being what it is, I would say, if sterilization is to be done, it should be on both, to be fair.

SHRIMATI TARA SAPRE: Do you accept liberalisation of abortion as one of the family planning measures?

WITNESS: Yes.

SHRIMATI TARA SAPRE: Do you believe as an ayurvedic practitioner that there are hereditary diseases which may pass on to children in case termination of pregnancy is allowed freely?

WITNESS: Yes.

SHRIMATI TARA SAPRE: What are those diseases?

WITNESS: A list of such diseases will not be difficult to get from the medical texts. I could send you a letter afterwards. There are a number of diseases, mental aberrations, certain types of anaemia, etc.

SHRIMATI TARA SAPRE: Do you think that epilepsy, leprosy, schizophrenia, etc. are hereditary diseases?

WITNESS: There are some from which the progeny may completely escape.

SHRI B. S. MURTHY: Leprosy is not hereditary.

WITNESS: But it depends upon the place and the conditions.

SHRI B. S. MURTHY: It has been agreed internationally that it is not.

SHRIMATI TARA SAPRE: Do you advocate, according to your ayurvedic science, that some of the hereditary diseases can be terminated by giving medicines during the pregnancy period? Are there any ayurvedic medicines for that?

WITNESS: This is a question very difficult to answer. I had made a reference to Dr. Walker who was the King's physician and a Hunterian Professor of Surgery at the London Hospital and a very eminent authority. He has remarked, "who could

be entirely impartial while dealing with a subject which has been very vital to him. Consciously or unconsciously, I might lapse into partiality. I have great faith in the Ayurvedic science. Due to that faith I might overstate its claims. So, subject to correction, I do believe that intensive treatment, of the mother and taking care of the child from the very outset may help to ameliorate or eradicate some tendencies and one may fail to eradicate others.

SHRIMATI TARA SAPRE: Are you confident that without surgical operation through the ayurvedic medicine a foetus can be completely removed from the womb?

WITNESS: Many ayurvedic medicines are very effective and excellent and given early, in the first and second month, they more or less ensure the menstrual flow. But there are some cases where only surgical intervention may be helpful and medicines may fail. Experiments conducted by the Health Ministry through their Research Institutes—some of them, started during the Health Ministership of Madam Sushila Nayar—are bearing promise. And the results of some of the preparations are very, very promising. I hope soon the Health Ministry will be able to place in the hands of the profession and the trade some preparations which will considerably curtail the need for surgical operations.

SHRI MALLIKARJUNUDU: I wish to know whether the system of Ayurveda is totally opposed to abortion or does it allow abortion under certain conditions and if so what are those conditions?

WITNESS: When the earlier Ayurvedic text-books were written, people needed more children. The need for getting rid of children did not arise then except under circumstances when the good name of somebody was threatened, that is, only under promiscuous circumstances. It

was only under those circumstances that abortions were prescribed. Of course, we have to see the situation. Charaka lays great stress on celibacy. Brahmacharya has been used in two senses. Nowhere else is it used with similar two meanings. One is absolute celibacy. But Charaka also insists that it is your duty towards your family or elders or towards your country that you should have progeny. Therefore, the other sense is moderation. He uses the word Brahmacharya in that sense also. A number of diseases have been mentioned where impregnating a female is forbidden. In the case of pregnancy, attempt to restore menstruation is permitted. But Charaka says that situations will arise where the physician has to think for himself. I am quoting from Charaka himself. What has been described is only by way of guidance. It cannot take the place of decisions a physician has to take himself in exigencies, not mentioned here. Population explosion was not an exigency at the time of Charaka. In fact a large number of sons was considered a great asset because if I had 20 sons and my neighbour had only 2 sons, then my sons could go to his house and take away all his cows and other belongings. Therefore, persons in the villages with the largest number of issues could lord over others and frighten them. But today the population has become a liability. In the present context and in view of what I have stated, Ayurveda is in favour of terminating pregnancy under certain circumstances.

**SHRI MALLIKARJUNUDU :** I think that the first-born is alone considered as Dharma-Santana and others are Kama-Santanas. In view of that, there was nothing against limiting the population.

**WITNESS :** There are again and again, references, to the desirability of a single, very intelligent, grave and one son as against many.

वरमे को गृणी पुत्रो न च मूखशतान्यापि  
एकश्चन्द्रनेमा छन्ति न च तारा सहस्रकम्

"It is good to have one single Gifted son instead of having 100 idiots. It is good to have one moon in the sky instead of having thousands of stars." There is another principle emphasized in Ayurveda. There is one chapter on suppression of urges. An intelligent man should not suppress his urges. That is common to Unani also. You would have heard about the story of Hakim Lukman. Somebody went to him and complained against his son that he got down from his horse and urinated right in the middle of the road. He sent for his son and asked him: "What is this? He replied: "Father, you have told me never to suppress my urges even for a second". Then the father retorted "I agree. But why did you even get down from the horse to do it?" There should be no suppression of urges, particularly with regard to defecation and urination. But then certain urges should be controlled. There is a list of diseases arising out of suppression. But the principle is that nothing should be done to arouse the urge and nothing should be done to suppress it. It should be treated as a normal, natural appetite of the individual. Methods are prescribed for sublimation of urges, such as concentration, etc. Charaka had to be a physician in addition to being a preacher. Therefore, he looked into the dangers of undue suppression.

**SHRI MALLIKARJUNUDU :** Can I take it that the attitude of Ayurveda is not one of hostility to abortion?

**WITNESS :** As I have stated and interpreted Ayurveda, its attitude is not hostile.

**SHRI MALLIKARJUNUDU :** Is there any surgical treatment for inducing abortion in Ayurveda?

**WITNESS :** There is a list of 125 surgical instruments described by Susruta and his date is 1,000 B.C. or so. That is the consensus. These

instruments are being used in modified forms and operations have been performed with them.

**SHRI MALLIKARJUNUDU:** Is there any possibility of reviving surgery now?

**WITNESS:** As already stated, everything is a science when looked at from a systematic angle. But surgery is more an art than a theory. We can have ayurvedic medicine or ayurvedic application of oil or ayurvedic desensitizer, or their allopathic counterparts. But we cannot describe knives as the ayurvedic knives, or saws as the, allopathic saws, and so on. These are a sort of tailor's instruments and there can be no objection to a Vaidya who has had training in surgery being as good at this art as any modern surgeon. It depends on the quality of his training.

**CHAIRMAN:** Mr. Ghosh.

**SHRI GANESH GHOSH:** Panditji, don't you think that this Bill should be liberalised making such abortions, merely for the asking, available to all?

**WITNESS:** That is a very liberal attitude, no doubt. But I suppose that this is a measure which might justify the fears of the honourable Members that in the present context in this country, it would lead to excess of permissiveness. Let the country develop along these lines and let us have safeguards to start with. There will be plenty of time to reconsider.

**SHRI GANESH GHOSH:** I will ask you one question. From the experience you have got of the poorer people you may know that if one desires to terminate a pregnancy, it cannot be done because it is very costly. Now, with the provision in the Bill, do you think that people of lesser means, lower-middle class people, workers and peasants, can take this privilege or get this facility under the present circumstances?

**WITNESS:** Yes, Sir. I suppose this is a measure which will extend this convenience to people who cannot well afford. Now, the people who go to the criminal abortionist have to pay exorbitant fees through the nose, whether they beg, borrow or steal. There is no doubt that with the government taking it over in the interest of the country from the criminal abortionists who are doing it not in the interest of the country, the desire expressed by you that the poorer sections should also receive the protection will be considerably met.

**SHRI GANESH GHOSH:** Then, Panditji, the present medical set-up and the present medical facilities are not adequate in comparison with the demand?

**WITNESS:** I do not think at present it is adequate.

**SHRI GANESH GHOSH:** Then, will you please refer to page 5 of the Bill—the Financial Memoranda.

**WITNESS:** Yes, Sir. I have read that and it is in my mind.

**SHRI GANESH GHOSH:** Then, do you think that it is not enough?

**WITNESS:** Sir, this part of our activity is bound to suffer from the same drawbacks as other parts. This deficiency will be in good company because we are deficient in all other measures and it would be no different. There are our other efforts. We take these measures in the hope that in course of time the nation will progress and will be able to make up these deficiencies.

**SHRI GANESH GHOSH:** So, you can start with this?

**WITNESS:** Yes, Sir.

**SHRI GANESH GHOSH:** Thank you very much.

**CHAIRMAN:** Shri Krishna Kant, Shri Nair.

SHRI KRISHAN KANT: Panditji, please refer to page 2, Clause 2(b) (i).

WITNESS: Page 2—where is the clause?

SHRI KRISHAN KANT: Clause 2(b) and then come to 2(b) (i) which says “the continuance of the pregnancy would involve a risk to the life of the pregnant woman or of injury to her physical or mental health”. Now, in the British Law, the word “comparative risk” has been provided instead of the word “risk”—“comparative risk” where the risk will be less at the time of abortion or afterwards. So, this word “comparative” has been used in the British Law. What is your opinion about it?

WITNESS: Sir, it depends upon the actual implementation by the people concerned. I think terms can always be stretched. I have no objection to the use of the word “comparative”, because, finally, it will be the judgment of the physician who will say it was comparatively so. There are people who are sympathetic to this movement. Their attitudes cannot be arrested by the introduction of the word “comparative” and it will not make the least difference in actual practice. Therefore, I do not consider it of very great moment. If it please some people who want to add the word “comparative”, I have not the least objection because I feel it is not going to influence the course of events.

DR. SUSHILA NAYAR: Others may say, “we should put the word ‘grave risk’, that is, serious risk”.

WITNESS: Madam, even to-day, people are extending their help out of pure humanity and pity. Some surgeons operate on young ladies without anybody’s knowledge out of sheer pity and when this is going on now then the word “grave” shall not stop them from helping the unfortunates out.

SHRI KRISHAN KANT: It is a matter of interpretation.

WITNESS: I think it is not a matter of interpretation, but of attitude. They will interpret it according to their attitudes. But I do not attach much importance to such language as cannot effectively change the trend.

SHRI KRISHAN KANT: Do you consider this Bill as a measure of family planning or of population control?

WITNESS: I do not make any difference really between Family Planning and population control because both are inter-dependent. I support it on grounds of consideration and humanitarian approach. It involves much more. It protects some people for mistakes made at some unguarded moments, which may become a cause of repentance and anguish for their entire lives and may ruin more reputations than those of the persons directly involved. This Bill goes beyond family planning and population control. While fully contributing to these two ideals, it goes to protect the future of many individuals, whose guilt may not be as deep as the circumstances appear to show.

SHRI KRISHAN KANT: Will it not lead to more looseness in sex? You must have read about the conference of gynaecologists in London where the President said that one girl came to him for abortion and when asked the reason for it, she said that she wanted to go on a holiday and said that if he did not agree to do it, she would have it done by somebody else.

WITNESS: If a person is determined to get the abortion, she could easily get it and you cannot stop her. But the Bill does not extend the facility of abortion, in such a situation on the face of it. Nowhere does it say that it is for the asking.

SHRI KRISHAN KANT: If the doctors have the attitude, it will be done.

WITNESS: You can do nothing to stop it. Of course so far as the language of the Bill is concerned, it does not permit abortion in such a situation.

SHRI B. S. MURTHY: The Bill does not permit for holiday purposes.

SHRI KRISHAN KANT: With reference to clause 3, the Shah Committee said that the qualifications of the medical practitioner who will be allowed to perform abortion must be clearly specified. As at present it is not so. Do you think stricter qualifications should be prescribed, whether he is an allopath or ayurvedic?

WITNESS: The introduction of the examination at the preliminary stage, before permitting him to operate, will look after that problem. If it is not there it should be introduced. I may refer to an incident. Dr. Vishwanath was a very popular doctor in Lahore. He used to ask his compounder to give injections charging Rs. 1 per injection. The compounder used to go on a cycle and do about 50 injections daily. He was doing it perfectly, and there never was any complaint about it. Some people have a knack for it, but the protection of the patient is also very important. So preliminary training and qualifying examination should be there. That is protection enough.

SHRI KRISHAN KANT: The Shah Committee that the number of cases of abortion would run into millions to make a dent on population. What is the minimum amount you think, as an expert, should be provided for by the Government? The sum provided here is a paltry sum.

WITNESS: I have not studied this aspect. I have not the slightest doubt that the Ministry is keen to see that it becomes a success and they would

provide the necessary sum when required.

SHRI B. S. MURTHY: This is only a provisional amount and when more funds are needed, they would come.

WITNESS: I have great faith in the Minister. He will provide extracting the necessary funds. I am not an expert on financial aspects.

श्री जामेश्वर यादव : बिल में एवार्शन का अधिकार मेडीकल प्रेक्टिशनर को दिया है। इसकी परिभाषा में शुद्ध आयुर्वेद प्रणाली को अपनाने वाले भी आते हैं या नहीं या एलोपैथिक और आयुर्वेदिक दोनों प्रणालियों की धमता रखने वालों के लिए इसमें अधिकार दिया गया है। इसके बारे में आपका क्या ब्याल है ?

साक्षी : इसका उत्तर मैंने दिया है इस रूप में कि इस समय जो इस बिल की भाषा है उसमें आयुर्वेद के स्नातकों का वर्णन नहीं है। वह क्लाज मैंने सम्मानीय सदस्य जो इधर दायी ओर बैठे हैं उनको लिखवाया। इस समय जो आयुर्वेद के बड़े विद्यालय हैं उनमें सर्जरी का भी उच्च कोटि का प्रशिक्षण विद्यमान है और मैंने उदाहरण दिए कि सर्जरी के अन्वेषण में भी कुछ अच्छा काम आयुर्वेदिक संस्थाओं ने किया है। उन को पर्याप्त ज्ञान है इस क्रिया को सफलता से करने के लिए। इसलिए उन का इस में स्थान होना चाहिए यही मैंने प्रार्थना की है।

श्री जामेश्वर यादव : तो इसमें औषधि के द्वारा एवार्शन का अधिकार देने की जरूरत है या सर्जरी के द्वारा एवार्शन का अधिकार देने की जरूरत है ?

साक्षी : वास्तव में इस बिल का क्षेत्र वहां से आरम्भ होता है जहां औषधि के द्वारा गर्भपात का प्रयत्न असफल हो जाता है। उस स्थिति के बाद ही यह बिल लागू होता है। वह प्रयत्न होना चाहिए और इस बिल की या

एबार्शन करने की आवश्यकता नहीं रहनी चाहिए, लेकिन कभी कभी जिन को चरक ने उपेक्षावान कहा है ऐसे लोग सोचते रहते हैं और जो आवश्यक क्रिया काल है उस का उल्लंघन कर देते हैं और ऐसा होने पर उन को कष्ट होता है और बाद में एबार्शन की नौबत आती है। साधारण खांसी और ज्वर में भी ठीक होने में समय लग जाता है और यदि उस की उपेक्षा कर दी जाय तो काफी समय लगता है। ऐसे ही लोगों के लिए यह बिल है। पहले तो प्रयत्न होना चाहिए कि इस की नौबत ही न आये और इस प्रकार की औषधियाँ स्वास्थ्य मंत्रालय तैयार कर रहा है उस पर वह काम कर रहा है और वे शीघ्र ही जनता को और औषधि निर्माताओं को सुलभ होंगी।

**श्री जगेश्वर यादव :** आप ने जो शुद्ध आयुर्वेद प्रणाली के वैद्यों को एबार्शन करने की राय दी है तो क्या उस प्रणाली में इतनी क्षमता है कि वे एबार्शन कर सकें? जैसे एलोपैथी में खून, पेशाब और दूसरी बीमारियों के जर्म्स को एकजामिन करने की क्षमता है तो क्या वह क्षमता आयुर्वेद में भी है?

**साक्षी :** वास्तव में जामनगर को आज शुद्ध आयुर्वेद प्रणाली का सबसे बड़ा केन्द्र समझा जाता है और सुश्रुत काल में आज से 3000 साल पहले वे लोग यह सारे आपरेशन करते थे। बाद में वैद्यों के हाथों से सर्जरी निकल गयी। अब फिर आयुर्वेद के विद्यार्थियों को कुछ सर्जरी की ट्रेनिंग दी जा रही है मिश्रत और शुद्ध दोनों प्रणालियों में और वह ट्रेनिंग एल० एम० पी० के स्टैंडर्ड की है। उन का भी काफी अच्छा अस अध्ययन होता है और वह पर्याप्त है उन विद्यार्थियों को इस की ट्रेनिंग लेने के लिए और इस की परीक्षा में बैठने के लिए जो कि आवश्यक होगी इस के पहले कि वह एबार्शन कर सकें। जितने परीक्षण आपने कहे हैं वे इस प्राचीन प्रणाली का अंग बन गये हैं और शुद्ध आयुर्वेद के इस सिद्धांत को स्वास्थ्य मंत्रालय ने भी स्वीकार कर लिया है कि आयुर्वेद का ज्ञान और अन्य ऐसा ज्ञान उस में सम्मिलित करते हुए जो कि आयुर्वेद के सिद्धांतों का

अविरोधी हो, आयुर्वेद समझा जाता है, और इस के अनुसार बहुत से अंग आयुर्वेद का अंग बन गये हैं और उन की शिक्षा शुद्ध आयुर्वेद के कालेजों में दी जाती है। यह परिस्थिति है। एक ज्वायंट सेलेक्ट कमेटी जामनगर गयी थी, आप लोग भी अगर जायेंगे तो आप को यह देख कर संतोष होगा कि वहां सर्जरी का जो अंग है वह इतना है कि वहां के निकले हुए विद्यार्थी अब एबार्शन कैसेज में किसी से पीछे नहीं रह सकते।

**श्री जगेश्वर यादव :** जामनगर में जो इंतजाम किया गया है वह क्या सुश्रुत ने जो शल्य चिकित्सा के बारे में लिखा है उस के अनुसार है या उस में कुछ और भी है?

**साक्षी :** मूल आधार तो वही है लेकिन उस के पीछे बहुत से जो शल्य शस्त्र हैं उन को और सुन्दर बना दिया गया है। आधुनिक सर्जन्स ने काफी कुछ किया है। उस समय सिंह मुख फोरसेप था, उस का मुख ही सिंह मुख था, अब जो बना है उस में लायन फेस्ड शब्द नहीं है केवल लायन शब्द रह गया है, लेकिन फोरसेप वही है क्योंकि अब सिंहमुख बनाने की आवश्यकता नहीं। तो जितना आधुनिक ज्ञान इस क्षेत्र में बढ़ा है उस का समावेश अच्छी तरह से हुआ है। सर्जरी के साधन भिन्न नहीं हैं। अगर टांग लारी से बुरी तरह से कुचली गयी है और बचाई नहीं जा सकती, हड्डियां इतनी टूट गयी हैं कि जुड़ नहीं सकती तो उस को काटने के लिए आरी वही होगी, सिलने के लिए धागा वही इस्तेमाल होगा, उस को आप भले ही कोई संज्ञा में, केवल पहले और बाद के उपचार में भेद हो सकता है। बनारस में पाइल्स के आपरेशन में हमारे लोग अणु तेल का प्रयोग कर रहे हैं जो कि बहुत सफल हो रहा है।

**श्री जगेश्वर यादव :** सुश्रुत ने एबार्शन के लिए क्या व्यवस्था की है? और अगर कोई व्यवस्था की है तो उस के सहारे कोई आपरेशन होते दिखायी तो नहीं देता।



साक्षी : अब वह सुश्रुत के सहारे नहीं होंगे ।  
 वैसे तो संसार में सुश्रुत का ही सबसे पहला ग्रन्थ है जिस में मुर्दा शरीर को किस प्रकार तैयार किया जाय शरीर के अध्ययन के लिए, अनाटामी की स्टडी के लिए इस को बताया गया है और उस को हम 1000 बी० सी० का समय देते हैं । पश्चिम में भी फादर आफ वस्टर्न मेडिसिन हाइपोक्रटीज का जन्म 460 बी० सी० में हुआ । उन्होंने तो मनुष्य के मुर्दे शरीर पर चाकू लगाया ही नहीं । उन्होंने मोर पर प्रयोग किये, पक्षियों पर प्रयोग किये, लेकिन मनुष्य को नहीं छुआ । पश्चिम में अनाटामी की स्टडी के लिए एलक्जेंडरिया में तीसरी शताब्दि बी० सी० में हेरोफिलिस ने मनुष्य को काटा । सुश्रुत ने उस से बहुत पहले यह किया था । लेकिन आज कल डैड वाडी की सुरक्षा के लिए केमिकल्स हैं जिन में वह बहुत देर तक सुरक्षित रहता है । सुश्रुत उसे बहते हुए पानी में रखता था । ऐसा करने में कुछ अंग उस के फूल जाते थे और इस कारण स्पष्ट नजर आते थे । लेकिन मैं समझता हूँ कि अब इस प्रक्रिया को छोड़ दिया गया है इसलिए कि वह इतनी सुविधाजनक नहीं है जितनी कि आधुनिक प्रणाली है । आखिरकार हम को मुर्दे का अंग ही तो खोल कर देखना है और इस में कोई विरोध नहीं है । सुश्रुत की कुछ क्रियायें ऐसी हैं कि जिन को बदल कर अब हमें आधुनिक क्रियाओं को स्वीकार कर लेना चाहिए । अभी यहां सरहेराल्ड गिलिस, फादर आफ प्लास्टिक सर्जरी आये थे । उन्होंने प्लास्टिक सर्जरी के बारे में भाषण भी दिया । मैंने सुश्रुत का एक पाठ उन को खोल कर दिखाया । उन्होंने टूटो हुई नाक जोड़ने के बारे में भाषण दिया था, मैंने उन को बताया कि टूटी नाक के बारे में सुश्रुत का क्या कहना है । डाक्टर हर्षवर्ग एक पुराने सर्जन हुए हैं । उन के शब्द हैं :

“Our entire plastic surgery took an entirely new turn when the cunning devices of the Indian workmen became known to us.”

उन को फिर मैंने सुश्रुत का सारा श्लोक पढ़ कर सुनाया कि अगर नाक टूट जाय तो उसे किस प्रकार बनाया जाय । तो वह कहने लगे कि दिस इज प्रैक्टिकली एग्जेक्टली व्हाट आई एम इडिंग ।” लेकिन अब बहुत से एंटीसेप्टिक जिस प्रकार के हैं उनका प्रयोग कर सकते हैं, वह लेना चाहिये । विज्ञानों में इतना इंटरकोर्स तो होना चाहिए लेकिन वह बिना क्रम के नहीं होना चाहिये, वह फिट होना चाहिये आयुर्वेद के अन्दर, वह उसका अंग बन जाना चाहिये, जैसे कि आयुर्वेदिक औषधियां आधुनिक चिकित्सा प्रणाली में गई हैं और वह इस ढंग से ली गई हैं कि वह उसका अंग लगती हैं । तो सरजरी के क्षेत्र में जो बहुत बड़े आपरेशंस हैं वह नहीं लेना चाहिये बावजूद इसके कि हम सरजरी सीखते हैं । जो बहुत अच्छे डाक्टर हैं वह चाकू को हाथ ही नहीं लगाते हैं, वह तो उन केसेज को सर्जन के पास भेज देते हैं । तो जो ऊंचे आपरेशंस हैं, हार्ट के आपरेशंस हैं या किडनी पर आपरेशन करना है वगैरह वगैरह, वह तो हमें हाथ में नहीं लेना चाहिये लेकिन जो साधारण सरजरी है, माइनर सरजरी है उसको करना चाहिये और मेरा ऐसा विश्वास है कि ट्रेनिंग के बाद वह इस योग्य हो सकेंगे कि इसको कर सकेंगे । इसमें मुझ कोई शंका नहीं है ।

DR. (MRS.) MANGLADEVI TALWAR: I would like to have your opinion on this because Dr. Purandhare came here and gave his evidence on behalf of the Association of Gynaecologists of India. He said that they were against this Bill on the ground that if abortion is liberalised as is envisaged in the Bill the demand will be so great that with our resources we will not be able to meet it. Even if there are extra arrangements, there will be absolutely chaos in the field and we will not be able to cope with it. As a practitioner of the Ayurvedic system and as a very popular and high class physician you come into contact with people. You know their nature and you know their mentality. Do you think that after this measure

is passed and it become an Act, people will rush in for abortions in such large numbers that the medical profession will not be able to cope with it?

WITNESS: Firstly, Madam, I believe that large-scale abortions are already going on in this country behind the scene. If that has not brought chaos, I do not expect chaos to come when additional conveniences are offered. Only those people will come forward for abortion who need it. Even now only those people come forward for abortion who need it. I had given the example, before you came, of the monsters that were born after Thalidomide was taken by a large number of women. A poor American lady had to fly all the way to Japan to have the abortion done, because in America the laws did not permit abortion. The laws of the country insist that she should have a monster born to her and the monster that would be born should be forced to live the life of a monster. Now, have a look at the United States and another look at Japan and tell me whether the morals in Japan are worse than those in the United States. I think that covers the answer to your question.

DR. (MRS.) MANGLADEVI TALWAR: So, in your opinion, the number of abortions would not increase. Whatever is happening will continue to happen, but would not the number of abortions increase?

WITNESS: I would put it like this, Madam. Although the number of abortions might increase marginally, the knowledge about the abortions taking place will improve and it will show that more abortions are taking place. The abortions that are now taking place in the palaces of the criminal abortionists will come out. I may also add that perhaps the professional gynaecologist stands to lose professionally if the number of mature pregnancies is reduced.

DR. (MRS.) MANGLADEVI TALWAR: You have said that the students of the Ayurvedic colleges are

given surgical training up to the standard of an LMP. Do you think that this training is adequate to enable them to do abortions? I agree with you that abortion is a minor operation, but its complications can be very serious and grave. It is the considered opinion of the medical profession that where an abortion operation is done, there should be facilities for doing an abdominal operation. In case of any complication, some arrangements should be there to perform an abdominal operation. What do you think of it?

WITNESS: There is much in what you say, but I had given an example before you came of some surgical experiments that were done in the research department of the post-graduate Ayurvedic course. Take piles operation. About 30 to 35 per cent of the cases had to be re-operated after the operation. Those were the figures from the United States. The way the Ayurvedic surgeon handles piles cases, only in 4 cases it required reattendance out of 250 previously operated cases. Then, they had improved prostate operation. Dr. Despande is a graduate of the Ayurvedic College. Dr. Sushila Nayar would be happy to hear because she laid the foundation-stone and it was under her patronage that this work started. Susruta's terms are: Purva Karma; Pradhan Karma and Paschat Karma; Purva Karma is the preparation; Pradhan Karma is the main operation and the Paschat Karma is the after-care. He conducted an operation for the removal of the prostate glands, adhering to Ayurvedic routine. They have succeeded. Dr. Udupa, an F.R.Cs., the head of the institute, has endorsed the claim that, in the case of the United States, according to the figures, the number of failures is 15 per cent. Here they have reduced per cent. I have merely brought brought it to your notice. It does not mean that every Vaidya will be an equally good surgeon. But I have already mentioned that preliminary examination and training should in any case be there. Of course, bar-

ring eminent surgeons who can be trusted with any operation, need no additional training. But the preliminary examinations should be your safeguard. I repeat that I am only giving my views and I can be proved to be wrong by people who, perhaps know better. But I feel quite certain that there is an adequate amount of surgery in Ayurveda. The demand that wherever it is performed there should be complete arrangements for a full abdominal operation will so much curtail the utility and the area of these operations that that condition will defeat its own purpose. In any case wherever such institutions exist within a reasonable radius, these people should be permitted. Where such institutions do not exist nobody should be permitted.

DR. (MRS.) MANGLADEVI TALWAR: You agree then that there should be some arrangement?

WITNESS: I do concede that there should be a period of training and examination. Those who have passed that test should be permitted, and that the training course should not be closed to these people.

DR. SUSHILA NAYAR: Am I right in understanding that you would be in favour—whoever it may be, whether it is the general practitioner or an Ayurvedic practitioner who has his own private clinic; in case of complication they can call upon the experienced surgeon or the gynaecologist, whoever it is and shift the patient to that hospital for abdominal surgery—will you be agreeable to that type of arrangement as a safeguard and also to extend the area of facilities available for performing these operations?

WITNESS: Naturally, Madam, the greater the protection you can offer the better it would be for everybody concerned. Cases of emergency and complications will be few and far between but even a 1 per cent case requires protection. Permission should be given to all those who pass this test

so that they can make use of that convenience for the protection of the patient.

DR. SUSHILA NAYAR: In other words there should be some zonal arrangement....

WITNESS: I am one with you in opting for efficiency to the maximum extent practicable under the present circumstances.

DR. SUSHILA NAYAR: Am I right in understanding that you would like abortion to be resorted to in an exceptional case? For instance, in a case where it is required on humanitarian ground as you mentioned or in case of some difficulty or in case of rape or in case of some circumstance in which unless this woman or this girl is helped there may be considerable difficulty later on. That is one type of case. Another type of case is that the child may be deformed, and the third type of case is that in spite of persistent use of contraceptive methods or techniques they have failed and an unwanted pregnancy has come about. So far as the first two cases are concerned there may be no difference of opinion. With regard to the third type would the word of the couple be sufficient that they have used these methods or would you insist on further proof or would you insist on sterilisation as an earnest of their intention that in future they will not come over and over again for abortion as happens in Japan? Would you take any of these precautions?

WITNESS: I think that this demand of proof will add to tremendous difficulty and harassment. It is not even possible. Therefore I would suggest that their word should be accepted.

DR. SUSHILA NAYAR: Would you like this woman or this couple to undergo sterilisation. You see in Japan it is happening, every six months they have been coming for abortions. It will be a very dangerous thing for the woman to undergo repeated abortions.

WITNESS: If the person is prepared for sterilisation, I am for it, in view of the present trends of population explosion in this country. But if the person is not willing, I would not advise the State to force sterilisation on the person.

DR. SUSHILA NAYAR: There are others who have said let her go through the full pregnancy and then sterilisation can come rather than terminate the pregnancy. Have you any comments?

WITNESS: Personally I believe that the person concerned is the best judge and that it would not be fair to force our view on the person concerned I would err on the side of liberality.

DR. SUSHILA NAYAR: My last question, It is about the stigma attaching to the illegitimate child. It is very unfair on the child. We should educate our public on this aspect. What are your comments?

WITNESS: I had quoted Bernard Shaw that it is not the child but the parents who are illegitimate. The child is always innocent. The tragedy is that it is the child that suffers and a society which cannot so reform itself that it cannot afford absolute equality and full protection to a child which is born because of no fault of its own, that society should better not allow that child to be born.

CHAIRMAN: Pandit Sharma, we have taken much of your time. Thank you very much for your valuable evidence.

WITNESS: Thank you.

*(The witness then withdrew)*

*[Dr. (Kumari) Shiv Dua, Principal, Kalandi College, Delhi was then called in]*

CHAIRMAN: I welcome Dr. (Kumari) Shiv Dua, principal, Kalandi College, Delhi. We are extremely sorry to keep you waiting for a long time. You are welcome to give your

views. Whatever you say is confidential and it will be public by Parliament. After you give out your views Members will put you questions.

DR. DUA: Thank you very much for giving me this opportunity for appearing before the Committee and giving my views on this very important subject. Frankly speaking, I have no knowledge of the subject and I am not in a position to say anything about it. But I should like to express myself as an educationist with as much frankness as I can.

I would straightaway first say that I have absolutely know nothing about it except this that I am very much concerned about it. As a student of history who has done research work on social legislation in India in the second half of the 19th century with special reference to the position of woman, I have read a good bit of what was happening in the 19th century when Abortion Act was enacted. So also about this abortion business. I feel that although much injustice has been done, is being done and might continue to be done to the women, the legislation does not always take care of the need itself. More often than not the legislation has adverse effects. Instead of solving the problem the legislation creates further problems. Take for instance the case of the 1856 Widow Remarriage Act. I expect most of the legislators here should know and I hope they do know, what effect it did have. For a century it remained practically ineffective and nothing could be done and eventually the opinion came round the fact that it is education alone which is going to create an atmosphere in the society which would take care of this sort of a thing. Similarly, I feel that this attempt of medical termination of pregnancy has a very limited scope. There may be cases where women go and fall into hands which are not good hands and that leads to further problems. But I have doubts whether this Act would really take care of the

problems that the society suffers from. It has many aspects and many facets, if it dealt with the married women's problems it could take care of most of the complications and implications of cases. But going through the objects and the reasons for which it is being enacted, I feel that a good part of it has been not touched at all. Where it deals with unmarried women and widows, the Bill as it might come, and the Act when it has become the Act may not be able to take care of the problems as they are being faced by the society. We in India are passing through a very crucial, critical stage in the country's development, and any Act unwisely, injudiciously and hastily enacted shall lead to wrongs and mistakes which will take generations to rectify. We educationists are facing that in the field of education. One wrong leads to hundred others and it requires a herculean effort to redress that wrong. I would appeal to the Committee to go into the problems carefully in regard to the unmarried women and widows.

In the case of married women also I personally feel that where the woman does not want the child she and the father should have the right to decide. There is no doubt about it. Perhaps that is the fundamental right of the couple. But are we going to encourage this again and again to happen. I am not going into the technical aspect of it. The Members must have gone through it whether we have adequate arrangements, adequate enough, rational enough to deal with the problem. But I do feel that if there is to be medical termination of pregnancy in the case of married woman after the second child, as the spirit of the Act perhaps talks, I feel that at that very time there should be the question of sterilisation also. In the case of widows and unmarried women, it is an extremely serious problem. For that I for one have not had the time to get the data in the country as to how many women how many widows, have found themselves

faced with such a situation that they have to undergo this. How many unmarried women really face such a situation where they have to conceal pregnancy and have to get it aborted. These are perhaps the data that should be available to us before we express our opinion because if the data does not lead to the inference that it is a tremendous problem then it has to be looked at differently. If it is a very small percentage and if this Act is going to have an adverse effect and the percentage is going to increase the purpose of the Act will be defeated.

Again, I have been trying to look at it from another angle. What is the picture of the society that we are having? Are we envisaging a particular kind of society in India or are we in this connection, proceeding in a haphazard manner as is being done in many cases. I am not here to criticise anything but somehow we the educationists, who love their country feel in the depth of our hearts and who spontaneously without any goading just express themselves. I may be pardoned if I say something which may not be to the liking of the majority in the Committee because I do feel that we do not really envisage a society on the Western pattern with having any idea of values.

Again I am speaking perhaps in a very restricted field, for mine is an educationist's field and I have an obsession that the fundamental evil of this country is lack of education, improper education, and if you will forgive me, bad education. Given proper education, many of the problems would not have assumed the gigantic and tremendously complicated complexion that they have, and this problem is one of those. The family planning problem, connected very closely with this, also would have been a very different problem if there had been proper education, if the two decades had not gone by in the manner they have gone by with education neglected. Here again I come back to the

unmarried women with whom I deal all the time. Personally I feel that it is the tone of society that needs to be raised. No legislation, no enactment, I as a student of history feel, can compel a society to raise its tone. It takes generations for a society with good education to build an atmosphere and raise its tone and also have a colour of what it is going to be.

Reverting again to the Statement of Objects and Reasons of this Bill, there is a reference to the 19th century when the Act regarding abortion was made. I plead guilty and I beg your pardon for not having gone through it carefully. Otherwise, as a student of history I would have tried to collect information on whether abortion was allowed in the ancient days or not. With the limited knowledge which I can now recall, it was allowed in very restricted circumstances. Now, as I have said at the very outset, I have not at the moment got the exact data to quote here because I have admitted that I have not been able to collect that data. But I have grave apprehensions, doubts, misgivings and very serious fears that the Bill as it is put here leaves loopholes and latitude which may lead society in the direction of promiscuity and it might mean a licence. The youth to-day is inclined to talk in terms of rights and everything becomes a fundamental right. I deal with no less than 1,500 girls to whose education I attach the greatest importance. I feel that it is not education of the boys which is going to make the country. It is the education of the girls who are the mothers of tomorrow which is going to make the country and whatever a mother can do is the future of the country. Therefore, there must not be any loopholes in the law that we might enact now. Everything must be very specifically, explicitly and in unequivocal terms laid down. So that there are no loopholes leading to promiscuity anywhere. I know there can be no law which will

be foolproof. I know there are lawyers who make the laws and there are lawyers who shows the way to break laws. Even the judges who pass judgment on the makers and breakers of the law are lawyers themselves. Therefore, the law that is to be made has to be worded extremely carefully. In the manner in which it is being laid down here, I feel it is far too loose and vague and equivocal and leaves room for further complications which might create problems and then we might have to find ways to handle those problems and it may be far too late. I feel that we cannot afford any more to play with the society. It is a question of education again. In the case of a faltering woman, the society has to give her moral support. It is not a sin that a woman or a man commits. It is an expression given to the animal instincts of all living beings. The only difference between a human being and an animal is this, that the human being is expected to have a certain amount of restraint. And that restraint comes from education, the type of education that is given to the youth of that country. I know people say that the talk of brahmacharya is all bunkum. May be it is bunkum to a certain extent. But the difference between an animal and a human being is exactly this that an educated human being cannot be a dog. Every living being has a dog in him or her. But it should not be allowed to go loose. It has to be chained, leashed, controlled. It is education that can control those animal instincts. The law does not take care of that aspect. I do not want to talk in terms of morality and all that. The youths to-day in the universities are inclined to take this kind of morality as reactionary. They say that it belongs to the 18th and 19th centuries. I feel younger than themselves. I belong to the 20th century. My views belong to the 21st century. Yet I believe in one thing, that is, the difference between a man and an animal has got to be recognised. When you talk of this abortion and the woman being saved, I am all for it.

Being a woman my sympathies are with the women. Yet I feel that the law does not look to the responsibility of the man at all. The man escapes scotfree. The man-made laws are not perhaps meant to punish the man who is a greater culprit. More often than not an unmarried girl who is in her teens does not even know what consequences a particular flirtation might lead to. The man knows it. But the man has never to pay for it. What the law should lay down immediately is that in the case of widows and unmarried women, it is the man who is responsible has to be brought to book.

**SHRI B. S. MURTHY:** What is your remedy for it?

**WITNESS:** It is a statement that I am making at the moment. If you want me side by side to give remedies, I shall be glad to do so.

**CHAIRMAN:** You please finish your statement.

**WITNESS:** I am finishing. The last point is, the man has to be brought to book. It is the woman who suffers and the man escapes. Somehow the man-made laws are lenient to men. It is the same the world over. In India perhaps it is the women who have to show to the world that a time will come when women will dictate that the man who wrongs a woman shall have to be brought to book. Now, I am not a lawyer; I am not even a legislator. But I personally feel that wherever a provision has to be made, it cannot go unnoticed and ignored. It has to be laid down in clear-cut terms that the boy or the man or even the old man is not free from this. Let me tell you, in the case of very young unmarried girls it is mostly the old man who is supposed to be free from all this because he happens to be a grandfather. But father or grandfather, I am sorry to say, men remain men just as much as women remain women. I do not want to take too much of time because I am not

at all a speaker who would go on speaking endlessly and spontaneously. What I have had to say, I have humbly submitted to you that these are the few points that have to stress.

**SHRI B. S. MURTHY:** We are very grateful to you for your statement, especially the championship you are taking for the protection of Indian women. As for the information you wanted, I do not know why a copy of this report has not been sent to you. I hope before you leave this place a copy will be given to you. All the information which you wanted is contained in this report. On page 18 of this report, the Report of the Shantilal Shah Committee, in the first paragraph it is said, "In a population of 500 million, the number of abortions per year will be 6.5 million and out of this 2.6 million natural and 3.9 million induced." It is not given here as to how many are unmarried.

**WITNESS:** That is precisely what matters because in the case of married women the responsibility of the society is much less.

**SHRI B. S. MURTHY:** On page 39 again in the first paragraph it is said, "Most of these mothers are married women, and under no particular necessity to conceal their pregnancy."

**WITNESS:** That is a sentence which is quoted in the Bill also. I made it very clear in my lifle talk that I had that I am concerned more with the conditions prevailing in the case of unmarried women. Married woman have enough protection. It is the unmarried women who really need the protection of the society and it is the unmarried women to whom the society is most unfair and unjust because her future seems to come to an end when the society becomes cruel to such a girl because of the society itself. The society has to take to task the man who is responsible for being involved with the particular woman concerned.

**SHRI B. S. MURTHY:** Could you tell us what the new ideas are that should be incorporated in this Bill?

WITNESS: I wish this report had come to me earlier. I would have really sent you my amendments in writing. What I feel is that in cases where the man concerned were to stoop so low, if the penalty were really implemented, it would have a very salutary effect. It is the boys who go scotfree. And the society thinks of methods which are the easiest, let there be a termination of the pregnancy. Since this is going to be treated as confidential, I could give you an instance of how I handled the problem of this nature as an educationist. Needless to give you the names. I only want to tell you about what happened. I have been attached to the Delhi University's premier college of the Miranda House for nearly twenty years. I was in charge of the foreign students there. Foreign students anywhere, Indian students abroad and foreign students in India, sail in the same boat. And they need the most sympathetic, affectionate tender and loving treatment wherever they are. I have been in charge of the foreign students. Once I discovered that one of the girls was in this kind of a predicament. According to this Bill, perhaps the first reaction of a girl would have been that it is legal to go and have the pregnancy terminated or do something like that where she would have been, of course, in for further trouble. When I questioned her, she challenged me. Then we went to the Women's Hospital and the verdict was not at all to the liking of the student. We took her to the Medical Institute also. And girl could not challenge us then. We found it out. We found out the boy. He was a student of the medical college. And he knew the ins and outs of this. He probably told the girl that there would be no complications, that he had taken ample care of the consequences and which failed. I asked the girl to treat me as her mother and she confided to me and it was proved beyond a shadow of doubt. I had a talk with the Principal as to what could be done. We sent a telegram to

the student who was somewhere in Orissa; the boy also belonged to the same country, Indians settled abroad. That should be enough. And that boy came. We talked to him. He also talked of termination of the pregnancy. But I said, "No. Her morality, her honour, was at stake. What was at stake was her character." I appealed to his sentiment and he said, "All right. Within fifteen days I shall come and marry her." I said, "Nothing doing. Right in the room of the Principal the 'panigrahanam' should take place". We persuaded him. He did not have the means and he could not support her. He had yet to complete the course for which there were three years more. And the girl was only an undergraduate and she had to take the final examination that year. We saw to it that the ceremony was performed within twenty four hours. When the question came as to whether the girl was to be allowed to stay in the hostel or not, the cruel society's verdict was against her staying there. The students who were all up against me and would have almost pinned me that I had doubted the girl's integrity, were now demanding that she should not be allowed to stay in the hostel. They were all saying that the girl should be sent away to the YWAC. But I said "Nothing doing. The girl shall stay right in the hostel, shall take the examination along with the other girls. Till then she shall stay there." When that girl gave birth to a child after the examination all of us sent our blessings with a present to the child. And that girl sent a letter to me telling me that I was to be the child's God-mother. What I mean to say is this. It is the society that has to rise. If an educated society cannot rise to the occasion, if the university cannot rise to the occasion, what can you expect from rural areas and from uneducated people? This only shows that we are following a line of least resistance. Everywhere it is so starting from education. We have ruined our



university education today saying that this is not possible, that is not possible, and so on. And we raise the bogey of funds. We do not have funds to pay to our teachers. This is no argument.

I can give yet another example which will show that we are following a line of least resistance. In 1968 we decided that all high-school students would be promoted to the next class without examination. We in the University predicted at that time that the repercussions of this will be felt in Delhi University and it will not be possible to resist it. Today we in the university are facing the consequences of the steps that was taken all 1968....

SHRI B. S. MURTHY: You seem to have not appreciated the Objects and Reasons of this Bill. Have you got a copy of the Bill?

WITNESS: I have gone through it very carefully. It is only to safeguard the health of the mother. It leaves out completely the case of unmarried mothers.

SHRI B. S. MURTHY: Certain conditions have to be fulfilled. If those conditions are fulfilled, this legislation will become operative—whether they are married or unmarried. If you think that it will not cover the case of unmarried mothers, kindly give us your valuable suggestion which we are prepared to consider. If you simply say that this is not sufficient, that is not going to help us.

WITNESS: As it is, it is surely going to adversely affect some people and it is going to be used as licence. In urban areas and in universities, teenagers have complete freedom. We do not mind that. We cannot go on reverse gear now and say that boys and girls should not mix together. I am very much against that.

SHRI B. S. MURTHY: Take the case you have cited. If the boy had not come and having come had not agreed to marry the girl....

DR. SUSHILA NAYAR: Or, if the boy is of an undesirable character.

SHRI B. S. MURTHY: Yes. In that case, what would have been your course of action? Don't you think that this measure is a proof of the anxiety and concern of the State to go to the rescue of those girls or women who get into difficult situations?

WITNESS: But is termination of pregnancy the solution for that?

SHRI B. S. MURTHY: We are anxious to hear from you with all your experience, what else is the solution?

WITNESS: Mere abortion will not give any satisfaction to the unmarried mother. What is wrong will remain as wrong. I personally feel that the child born in such cases should be looked after by the State. If somebody comes forward to marry the girl, well and good. Otherwise, she also should be looked after by the State without loosing respect in any way.

SHRI B. S. MURTHY: Even in the case cited by you, if there was no facility to terminate that unwanted pregnancy, what would have been the fate of that girl? Why don't you look at it from this point of view?

WITNESS: I look at it from a positive angle. Will this lead to betterment of the society? Is it only to meet the situation as it is today? Are we not following a line of least resistance? We do not see things beyond our nose. We do not know what we really want the society to be. We are passing through a period of transition and we have to envisage a society that we are trying to make.

SHRI B. S. MURTHY: Law is only codified common-sense. Do you see any common-sense in this? If it is lacking with your intelligence and experience, can you give us some suggestions instead of saying that this is not sufficient?

WITNESS: That is for the legislators. My feeling is that this will

give licence to students who will adopt a conduct which we of the older generation....

**SHRI B. S. MURTHY:** I protest against that. Do we belong to older generation?

**WITNESS:** I am sorry. Compared to teen-agers, we are older. I am not a teen-ager anyhow.

**DR. SUSHILA NAYAR:** I want to ask you two or three questions. Firstly, as you have very rightly stated that there are three objects in this Bill: One is that if it is known that the child is likely to be deformed because of certain drugs that might have been taken or certain other things, there you have no objection to the termination of the pregnancy. Secondly, there is the case of rape. Surely, you do not want her to go through the full penance and then be reminded of the unpleasant thing in the form of a child that is born and put in some institution and it should be legal to perform abortion.

**WITNESS:** Agreed. I have stated at the very outset that insofar as the three objects that are laid down are concerned, there can be no two opinions. But, what I have further said in this: This Act might have implications which will mean further problems for society and it might lead to promiscuity and give licence to younger people. That is what I am trying to say and it has to take care of the unmarried women and widows who fall into this kind of critical situations.

**DR. SUSHILA NAYAR:** Now, I come to the question of morality. Now it is the woman who suffers and not the man and the man goes scot-free and in the act when there is mutual consent by the two parties and it is not a case of rape, how are you going to punish the man? You see you may want to change the norms of society and the attitudes of society and all that. But as things stand today, it is

the woman who has to go through pregnancy and the man, when it is through mutual consent and it is not a case of rape, cannot be punished nor can the woman be punished except that going through the pregnancy in itself is a punishment in the present social atmosphere. You agree with me?

**WITNESS:** That is precisely where I beg to differ.

**DR. SUSHILA NAYAR:** You differ?

**WITNESS:** Yes, if it is just playfulness on the part of both the boy and the girl and by mutual consent they have done something which normally they should not have done, then they must not be allowed to just get rid of it, the woman should go through it and there it is the society which has to go forward to have the child. Let the child be born and taken care of by the State or by the girl herself and let her face the consequences.

**DR. SUSHILA NAYAR:** In other words, when they have done something by mutual consent, they should not be allowed to get rid of that.

**WITNESS:** Let them get married, give it a legal seal.

**DR. SUSHILA NAYAR:** Yes, if they are fit for marriage. But there may be something else. Don't you envisage a situation in which a girl is seduced by somebody who is a very highly undesirable person or who has a wife and children at home? You are on the horns of a dilemma if you ask the man to divorce his wife and you are creating a social problem. If you let this girl go through the pregnancy which she got under some mistaken notion, then you are punishing the girl.

**WITNESS:** You are bringing in an entirely different issue. You are shifting the issue, I am sorry to say. You began with two people who mutually consented to do.

DR. SUSHILA NAYAR: No, here also there was mutual consent. But the girl, a young teen-ager was seduced; she fell under the vices of the undesirable man; she committed the mistake for the moment.

WITNESS: I do not happen to agree with you that anybody can be seduced like this. If she is a fully grown woman, she has to suffer the consequences of what she has done and the law cannot provide shelter. We have to see what sort of society we are going to build. If it is a minor girl, the man who has exploited her has to be punished. Has marriage as an institution any sanctity or not? Conjugal relations have a legal sanction before such a thing is done.

DR. SUSHILA NAYAR: Let me ask you another question. I entirely agree with you on others. But, here you seem to be a little bit carried away by emotion than by reason. I will say why. Take, for instance, the case of this girl, as I have already stated, being seduced by a much older man, the girl being 15, 16 or 17. She is not fully grown although there is physiological maturity for her to enable her to conceive and bear a child. And if she has been seduced and she did give her consent—it was not a case of rape—but in spite of that, here is this problem. Now, you yourself have stated that there should be equal standards and that women should not be punished when the men get scot-free. Now, I ask you one question on the same basis. Man does not have to be moral out of the fear of pregnancy. But, do the women want to be moral just out of fear of pregnancy? Is fear of pregnancy any legitimate incentive for morality? Should there not be better education, as you have stated yourself, better standards, given by the parents and teachers so that the girl is moral for the sake of being moral rather than that she is moral out of the fear of pregnancy?

WITNESS: I never meant this that she has to be moral for the fear of pregnancy. The type of instance you

have quoted is also not the general one at all. Such cases where the girl is a minor one and has been carried, say, by an old man, are not general cases. Even in these cases the man in question is to be taken to task.

DR. SUSHILA NAYAR: A girl of 17 or so and a man of 30 or 35 are not old people.

SHRI B. S. MURTHY: The point is that the man may be desirable, but he may be with encumbrances.

DR. SUSHILA NAYAR: The man may be undesirable, maybe desirable otherwise, but he has his own responsibilities.

WITNESS: If he has encumbrances and if he cannot marry, then law has to take care of that. Where he is not allowed to marry, that part of the issue Marriage Law has to take care of. If it is a question of indulgence of this nature, it is a separate issue altogether.

DR. SUSHILA NAYAR: What happens to the girl?

WITNESS: That is precisely what I said that in that case, if, as you say, it is a question of health, then, surely the guardian or the father of the girl comes into the picture. If it is by mutual consent, where does the law come in? Why does the law come in if she has consented?

DR. SUSHILA NAYAR: She was consented to it, but she has made a mistake. Now, as society stands today, she will be for the rest of her life living with the stigma. It does not make the least difference to the boy.

WITNESS: I do not understand this aspect of stigma. If it is a stigma, the stigma remains even if she has prevented the pregnancy. In society the stigma just does not get washed off and more often than not, even before it is done, the whole society knows

what has happened. If she gets rid of, she does not get absolved of it. That blot remains. It is here that the question of raising the tone of society comes in which this Bill as suggested will never succeed in doing.

DR. SUSHILA NAYAR: Should they go through the pregnancy? Is that your remedy? That is very kind for the woman.

WITNESS: We have to build a society where such a girl who has fallen a prey to this kind of a situation must not be made to suffer. The society has to accept her as a girl who has for some reason fallen a prey but that she is as good as any other and it is the man who has to be taken to task. The law should provide that he has to pay the penalty, pay for the maintenance of the child, etc. That is a separate issue to be considered. There should be a severe punishment for the man. The Scandinavian society was not always what it is today. We too can build a society better than that, and we have to make a beginning. Society can never be built or changed in a day. It takes generations.

DR. SUSHILA NAYAR: As a Doctor cases have come to notice where they have been badly begun by somebody. Often the woman dies because it is not permitted normally. Would you not let the doctors complete their job from the beginning rather than take it over when it is badly started by somebody else?

WITNESS: So I asked for the percentage. We cannot do it for a few.

CHAIRMAN: We can't get. Nobody will say: 'I am unmarried and I am pregnant'.

WITNESS: It is latitude of this nature that will lead to promiscuity in the young. I am not in favour of such a law.

DR. MANGLADEVI TALWAR: I agree mostly with your progressive views on education, particularly of girls. I refer to Explanation 2 on page 2 on termination of pregnancy of

married women. You have only objection to termination of pregnancy in unmarried women?

WITNESS: Yes. There may be some extenuating circumstances but it is difficult to say how it should be tackled.

DR. TALWAR: (Read out the Explanation) Do you agree with it?

WITNESS: I agree with it.

DR. TALWAR: You agree that the mental anguish to married woman because of unwanted pregnancy can be allowed to be terminated?

WITNESS: Yes.

DR. TALWAR: Do you think the mental anguish of an unmarried girl who had become pregnant by mistake, is any the less? If you allow in one case, I do not see why you do not allow in the other.

WITNESS: If you are referring to anguish, it does not appear with abortion. It remains as a torment and torture to a principled woman who has gone against her conscience willingly or unwillingly. That does not absolve her completely. A wrong remains a wrong. It does not change its gravity when concealed from being known.

DR. TALWAR: You have given an instance. I was also a warden in a medical hostel for many years. Cases have happened of this type. I too was very anxious to get it resolved but in one case the boy was either not desirable or not willing. The pregnancy was allowed to be terminated. The girl, after that, was not worse than others. After her studies she has been happily married. So, I do not think for one mistake you should condemn any young girl to suffering.

WITNESS: That is where my contention differ. I do not think it is a condemnation. The society has to be attuned to it. We have to see that society does not condemn the girl, but certainly does condemn the man.

DR. TALWAR: I agree the society should be changed not to condemn

this but as it stands girls as well as their parents feel that a child to an unmarried girl is a liability, economically and otherwise and the girl should not be compelled to have the child and it is not a kind thing.

WITNESS: I beg to differ. This may be a doctor's view. I have consulted informally many of the staff in my college as well as the final year students. When I told them that I was going to face a galaxy of legislators and doctors, they told me that they agreed with me and this measure is going to lead to latitude to the youth who are light-hearted and who indulge in this kind of thing for the heck of it or for the pleasure of it. They may think why bother about the dead yesterday and unborn tomorrow, when today is pleasant. Some may also think if the law has given us this why should we bother about what will happen tomorrow.

SHRI B. S. MURTHY: One question please, did you consult them in company or individually?

WITNESS: All of them together and also singly.

SHRI B. S. MURTHY: If you had consulted them individually definitely it would have been otherwise.

WITNESS: I can tell you this. When they came into the office individually I told them: incidentally what is your opinion on this? I am going to face the legislators of this country. It is for you and me for whom they are legislating. And when they came together I said this was what I was going to face. So both individually and collectively I have consulted them; I have consulted at all levels. Even those....

SHRI B. S. MURTHY: I want to quote another thing from Omar Khayyam. You said dead yesterday, unborn tomorrow but sweet present

and all that. But it is also there in Omar Khayyam that the moving finger writes and having writ moves on. Have you quoted this to them?

WITNESS: They know all this. The youth of today knows all this kind of thing much better than you and I do. Let us not forget that.

SHRI B. S. MURTHY: Therefore I thought we should not do injustice to Omar Khayyam because he has said everything there. He is dead and gone but we are alive and tomorrow is theirs. Therefore I thought I should draw your attention to this aspect.

Now, we are very thankful to you for your excellent exposition. On behalf of my Ministry I thank you.

श्री निरंजन वर्मा : पहली बात तो यह है कि ऐसे भारतीय समाज में जहां पर कानून तो बनते चले जाते हैं, लेकिन कानूनों का पालन नहीं होता, एक दो कैसेज इस प्रकार के आए हैं लेकिन उनके कारण पूरे भारतीय समाज के लिए इस प्रकार का लेजिस्लेशन लाना क्या इससे भविष्य में देश के लड़के-लड़कियों पर क्या हानिकार नैतिक प्रभाव नहीं पड़ेगा ?

साक्षी : मेरा विनम्र निवेदन यही था कि जो भी कानून बनाया जाये वह सोच-समझकर बनाना चाहिए क्योंकि एक गलत कानून बनाने पर देश का वह सर्व-सत्यानाश होगा जिसे आप कभी सुधार नहीं पाएंगे। जो शिक्षा प्रणाली हमारे यहां है वह केवल क्लर्क बनाने के लिए खड़ी की गई थी। वह शिक्षा पद्धति आज तक वैसी को वैसी चलती चली जा रही है और उसके सम्बन्ध में देश में जो कुछ दुःख व उल्टी तरफ होता रहा। यदि यह कानून नैतिक स्तर को किस प्रकार भी धक्का पहुंचाता है तो इसे बहुत सोच-समझकर हमें बनाना चाहिए। एक क्षति पूरी करने के लिए न जाने कितने और नुकसान का सामना करना पड़ेगा।

**श्री निरंजन वर्मा** : शांतिलाल शाह कमेटी की रिपोर्ट के आंकड़ों पर न जायं क्योंकि उन्होंने लिखा है कि व अनुमानों पर आधारित हैं । क्या आपका ख्याल है कि इस प्रकार की भूण हत्याओं और गर्भ गिराने के नामले बहुत मगण्य हैं ?

**साक्षी** : मैंने इसी के लिए आंकड़े मांगे थे कि ये नेगलीजिबिल हैं या नहीं । यह दिखाया जाता है कि भारतीय महिला इतनी अबला है और उसकी कोई शक्ति नहीं, उसके ऊपर यह अन्याय होता है, किन्तु जब मैंने आंकड़े देखे, 19वीं सदी के इतिहास को परखा और जो कुछ उसके लिए सामान इकट्ठा किया, उसे देखने के बाद मेरा निष्कर्ष यह था कि भारतीय महिला उतनी अबला नहीं है जितनी बना कर वह दिखा दी गई है । शायद भारतीय नारी शहरों और गांवों में उतनी ही सबला है—यदि अधिक नहीं—जितनी यूरोपियन देशों की है । मेरे पास आंकड़े नहीं हैं, यदि मेरे पास आंकड़े होते तो मैं ज्यादा कांफ़ीट जवाब दे सकती । फिर भी मैं समझती हूँ कि शायद यह इतना ज्यादा नहीं है जितना इसको बनाया गया है । इसे हम कंट्रोल कर सकते हैं यदि हमारी शिक्षा संस्थाएं इसकी ओर कदम बढ़ाएं । स्कूलों और कालेजों में शिक्षक लोग, महिला और पुरुष, दोनों अपना प्रभाव इस्तेमाल करें और बच्चों को सही रास्ते पर रखने का प्रयत्न करें । मां-बाप की इसमें बहुत जबरदस्त जिम्मेदारी है क्योंकि जो टीन-एजर्स 16-17 बरस के लड़के-लड़कियां हैं वे मां-बाप को देखते हैं, क्लब लाइफ में जो कुछ होता है उसका प्रभाव उन पर नैतिक रूप में कभी भी अच्छा नहीं पड़ता । क्या आप समझते हैं कि कानून बना कर आपकी जिम्मेदारी अदा हो गई ? मैं समझती हूँ कि कानून बना कर जिम्मेदारी अदा नहीं हो रही है, बढ़ रही है । हमें समाज का स्तर ऊंचा करना है । माता-पिता को इस चीज को समझना है कि कानून उनके साथ

नहीं चलेगा यदि वे अपने रोजमर्रा के चाल-चलन, कण्डक्ट को, शिष्टाचार को नहीं देखेंगे । इसमें कुसूर किसी का नहीं है, घर के वातावरण का है ।

**श्री निरंजन वर्मा** : अभी मंत्री जी ने पूछा था कि ऐसी लड़कियां जो क्रिटिकल कंडीशन में हैं, डा० सुशीला नैयर ने भी कहा था कि ब्लीडिंग होने लगे, प्रिकेरियस कंडीशन हो जाय तो आप इसके लिए आज्ञा देंगे । मैं इंडियन पीनल कोड की एक धारा का उल्लेख करता हूँ जिसके अनुसार जब मां की इस प्रकार की हालत हो जाय कि उसके बचने की सम्भावना न हो तो मेडिकल ट्रीटमेंट इस प्रकार दिया जा सकता है जिससे मां की रक्षा हो जाय, चाहे बच्चे की रक्षा इतनी ज्यादा न हो । उस कानून की उपस्थिति में इस नए प्रकार के कानून की उपलब्धि से समाज को कोई विशेष लाभ हो सकेगा ?

**साक्षी** : उस हालत में एवार्शन की तो बात ही क्या है, चाहे वह बूढ़ा हो, बचा हो, अनमेरिड हो, विडो हो, डाक्टर का प्रथम कर्तव्य है कि उसकी जान बचाए, चाहे बच्चे को बाहर निकाल कर या कैसे भी ।

**श्री निरंजन वर्मा** : आप इतिहास की विद्यार्थी हैं । आपकी दृष्टि से क्या समाज को इतने ऊंचे स्तर पर लाना चाहिए कि इस प्रकार के जो लड़के उत्पन्न हों उनके लिए कोई निन्दा का भाव समाज में न हो, उसकी मां के प्रति न हो जिस प्रकार महाभारत के जमाने में कर्ण के प्रति इस तरह का भाव लोगों के मन में नहीं था ।

**साक्षी** : निस्संदेह समाज को इतने ऊंचे स्तर पर ले जाना चाहिए । अगर इस देश को बनाने की व्यवस्था की जा रही है तो हमें पहले यह सोचना है कि समाज का स्तर क्या होना चाहिए । निस्संदेह समाज को इतना ऊंचा होना चाहिए कि यदि कोई गलती किसी से हो गई तो उसे कण्डम क्यों

किया जाय, उसे गले से लगा कर, उसका हाथ पकड़कर समाज का सदस्य मानना चाहिए।

**श्री गंगाचरण दीक्षित :** : आज की परिस्थिति में जैसा समाज है उस पर दृष्टि रखते हुए यह संभव है कि वह खुलेआम अपने यहां एवार्शन कराने के बाद उस लड़की को, अंगीकार कर लेगा ? आप की क्या राय है ?

**साक्षी :** अपनाना चाहिए ।

**श्री गंगाचरण दीक्षित :** चाहिए की बात अलग है, दुनिया में हम बहुत कुछ चाहते हैं लेकिन वह नहीं होता । क्या समाज ऐसा है कि वह उस लड़के और उसकी मां को वही स्टेटस देगा जो नार्मल डिलीवरी में होने वाले लड़के और उसकी मां को देता है ?

**साक्षी :** अगर सरकार इस तरह का कोई कानून बना दे कि जो बच्चा पैदा होगा उसको किसी प्रकार की डिसेम्बिलिटी नहीं होगी तो मैं समझती हूँ कि समाज इससे आगे बढ़ेगा । आज से 20 वर्ष से पहले एक विधवा दूसरी शादी करने में संकोच करती थी । अगर उस विधवा का कोई बच्चा होता था तो उसके कोई भी शादी करने के लिए पहले तैयार नहीं होता था । उस समय समाज में इस तरह की प्रथा थी, किन्तु वही समाज आज विधवा को शादी करने की आज्ञा देता है और विधवा को अंगीकार करता है । अगर उस विधवा के एक या दो बच्चे हों तब भी उसके साथ आज शादी करने के लिए समाज तैयार है ।

तो मैं यह कहना चाहती हूँ कि अगर समाज के चन्द लोग आगे बढ़ें और उनका साथ सरकार भी दे, तो हम इस दिशा में काफी आगे बढ़ सकते हैं । जो सरकार आज इस तरह का कानून बनाने जा रही है, वही सरकार यदि यह कानून बना दे कि इस तरह के जो बच्चे पैदा होंगे उनका ध्यान सरकार रखगी,

तो मैं यह नहीं समझती हूँ कि इस तरह के जो बच्चे होंगे और जो लड़की की शादी होगी उसको समाज अंगीकार न करे । अगर सरकार इस तरह का कानून बनाती है कि इस तरह के जितने भी अनवॉरन्टेड बच्चे होंगे उनके सारे पालन पोषण का खर्च सरकार उठायेगी तथा सारी जिम्मेदारी सरकार लेगी तो इसमें कोई भी शक नहीं है कि इस तरह के जितने बच्चे होंगे उनका भविष्य अच्छा होगा और लड़की भी साधवी के रूप में मानी जायेगी ।

**श्री गंगाचरण दीक्षित :** आपने कहा कि मैं इस कानून को मानने के लिए तैयार नहीं हूँ तो क्या आज ऐसी लड़कियां नहीं हैं जो गर्भ गिरवा रही हैं मैं यह जानना चाहता हूँ कि समाज में ऐसा हो रहा है या नहीं ।

**साक्षी :** कब नहीं हुआ जो आज हो रहा है, यह चीज इतिहास का विद्यार्थी बतला सकता है । आप अगर किसी चीज को इल्लोगल बनवा देते हैं तो तब भी वह चीज रहती है क्योंकि मानव प्रवृत्ति ही ऐसी है कि वह जल्दी में नहीं बदलती है चाहे आप 100 कानून बना लीजिये और फिर भी वह वैसी की वैसी रहेगी । आप कानून के जरिये किसी के विचार को नहीं बदल सकते हैं क्योंकि जाती तौर पर हर एक को अपने सिद्धान्त रखने का अधिकार है । लेकिन मैं यह कहने के लिए तैयार हूँ कि जब तक देश का नैतिक स्तर ऊंचा नहीं किया जायेगा तब तक हम इस काम में आगे नहीं बढ़ सकते हैं । यह काम एन्कौण्डिशनल है और अगर सरकार इस तरह का कानून बना दे कि जो ऐसे बच्चे होंगे उनको सरकार अपना लेगी और ऐसी लड़कियों को जिनके इस तरह के बच्चे होंगे उन्हें सरकार हर तरह से सहायता और प्रोत्साहन देगी तो इस तरह से समाज के अन्दर काफी जागृति पैदा हो जायेगी । जिस तरह से हम अपने बच्चों की गलतियों को भूल जाते हैं उस तरह से हमें भी इस तरह की लड़कियों की गलतियां

को भूल जाना होगा जिनके इस तरह के बच्चे पैदा हो जाते हैं। अगर सरकार और समाज इस तरह का रवैया अपनायेगी तो फिर इस समस्या का समाधान हो सकता है।

लेकिन देखने में यह आता है कि जो पैसों वाले हैं उनकी सब बातें छिप जाती हैं। किसी ऊँचे पैसों वाली लड़की को इस तरह की बातों का सामना नहीं करना पड़ता है, लेकिन जो मिडिल क्लास की लड़कियाँ होती हैं, जो मध्यम दर्जे की लड़कियाँ होती हैं, उन्हें हर तरह के कष्टों का सामना करना पड़ता है। जहाँ तक गरीब की लड़की का सवाल है उसकी परिस्थिति दूसरी है क्योंकि उनका स्टैंडर्ड बिल्कुल अलग होता है। इसलिए मैं यह कहना चाहती हूँ कि जो मध्यम दर्जे की लड़कियाँ हैं उन्हें सरकार आगे बढ़ाये और उनके लिए इस तरह का कानून बनाये कि जब इस तरह की लड़कियों के बच्चे होंगे तो सरकार उन्हें अपनायेगी।

हमारे यहाँ ऐसे मर्द हैं जो विधवाओं से शादी करने के लिए तैयार हैं और उन्हें अपनाते के लिए तैयार हैं, लेकिन उन्हें प्रोत्साहन और सहारा सरकार को देना होगा। अगर सरकार इस तरह की शादियों को प्रोत्साहन देगी तो बहुत से मर्द विधवाओं से शादी करने के लिए आगे आयेंगे। मेरा 20 साल का तजुर्बा है और मुझे पूरा विश्वास है कि हमारे देश के जो लड़के और लड़कियाँ हैं वे आगे बढ़ने के लिए तैयार हैं और मैं हमेशा उनसे कहती रहती हूँ कि पुरानी गलतियों को भूल जाओ और देश को आगे बढ़ाओ। मैं यह कहना चाहती हूँ कि केवल कानून बना देने से नैतिक स्तर देश का नहीं बढ़ सकता है जब तक कि सरकार इस बारे में खुद कदम आगे न बढ़ाये।

**श्री गंगाचरण दोक्षित:** एक तरफ इस कानून के बारे में आप को यह कहना है कि सरकार जो कानून बनाती है उसको कोई

नहीं मानता है और दूसरी तरफ आप कहती हैं कि अगर सरकार माता और बच्चे के संरक्षण का कानून बना दे तो इस तरह के बच्चों को और औरतों को समाज अंगीकार कर लेगी। अगर इस तरह का कानून बना दिया जायेगा तो क्या आप समझती हैं कि कानून का पूरी तरह से पालन हो जायेगा। आप यह कहती हैं कि इस तरह के कानून बनाने से नारी जाति का फायदा हो जायेगा तो आप किस बिना पर यह कहती हैं कि इस कानून को समाज अंगीकार कर लेगा।

**साक्षी :** आप के जितने भी कानून बनते हैं उनका कहीं पर भी पूरी तरह से पालन नहीं किया जाता है और यह देश की सब से बड़ी कमजोरी है। आप जब सड़क पर निकलते हैं तो देखते हैं कि जो ट्रैफिक ब्ल्स हैं उन्हें सरकार के बड़े बड़े आफिसर ही तोड़ते हैं जो कि एक मामूली चीज हो गई है। आज हालत यह हो गई है कि जो पढ़े लिखे आफिसर और जनता है वह आपके कानूनों को नहीं मानती है और इस बात की कोई गारंटी नहीं है कि जो कानून आप बनायेंगे उसको भी जनता मानेगी। क्या देश का प्रशासन इस आधार पर चल सकता है? कभी नहीं। हमें तो कानून बनाने ही होंगे। आज नहीं माने जायेंगे, बल नहीं माने जायेंगे तो उसके लिए हमें प्रयत्न करना होगा, लोगों को शिक्षित करना होगा कि इस तरह के कानून से समाज को क्या फायदा पहुंचने वाला है। बचपन से लड़के लड़कियों को इसके बारे में शिक्षित करना होगा अगर हमें अपने देश को बनाना है और आगे बढ़ाना है।

Rome was not built in a day. India has suffered and India which was great has come down. We have to raise her again to her heights. It cannot be done in the twinkling of the eye. It needs time. We cannot get impatient. An educationist known that 'impatience' is not a word in his dictionary.



श्री प्रताप सिंह : आपका इस लाइन में बहुत सा तर्जुमा है और आप इस चीज के बारे में बहुत सी बातें जानती हैं। लेकिन मैं यह कहना चाहता हूँ कि अगर कोई लड़का किसी लड़की से प्रेम करता है और इस प्रेम में उसका हमल ठहर जाता है और जब लड़के से शादी करने के लिए कहा जाता है तो लड़का कहता है कि यह मेरा बच्चा नहीं है। इस तरह से लड़की फंस जाती है और जब उस लड़के से शादी किसी तरह से भी नहीं होती तो वह घर उधर हमल गिराने के लिए दौड़ती है। आप जानते हैं कि हमारे देश में इस काम के लिए हर जगह पर बड़े बड़े अस्पताल नह हैं और न ही ट्रेन्ड दाइयाँ ही हैं। इसका नतीजा यह होता है कि वह बच्चे को गिराने के लिए हर तरह की कोशिश करती है और अंत में उसे अन्ट्रैड डाक्टरों और दाइयों का सहारा लेना पड़ता है। वह कभी पेट मलवाती है और दूसरी प्रकार की दवाइयाँ खाती है जिसका नतीजा यह होता है कि जो बच्चा होता है वह कभी अंगहीन हो जाता है, कभी उसकी आंख खराब हो जाती है, कभी पांव खराब हो जाता है और या कभी हाथ खराब हो जाता है। इस तरह का जो बच्चा पैदा होगा वह देश के लिए एक बोझ साबित होगा और उस लड़की के लिए भी एक बोझ साबित होगा। तो मैं यह जानना चाहता हूँ कि इन तरह की बात के लिए आप लड़कियों को क्या प्रोटेक्शन देना चाहती हैं। जैसा बिल में प्रोटेक्शन दिया जा रहा है उसको देने के लिए आप तैयार हैं ?

साक्षी : अगर आप पूरी तरह प्रोटेक्शन दे लेते हैं और उस समाज पर कोई बुरा अंतर नहीं होता तो मैंने आप से पहले ही कह दिया कि किसी अमेंडमेंट की जरूरत नह। दूसरी तरफ़ में जब कोई ऐसी लड़की पढ़वरी है डाक्टर के पास तो उसका इलाज तो करना ही होगा। लेकिन अगर कभी ऐसा हुआ कि वह इन्कार कर दे तो मैं ऐसा बड़ा सा लड़कों को जानती हूँ। ऐसी भी लड़कियाँ हैं कि जो यही काम करती हैं और इस में हजारों रूपा कमाती हैं और अगर किसी समय किसी से

फंस गयी और उन्होंने इन्कार कर दिया तो वह भने ही कहती रहें कि मेरी शादी हो गयी लेकिन उन का समाज में कोई सम्मान रहता नह। लेकिन अगर उन के पास पैसा है तो उनको कोई नह पूछता। उनको समाज मानता है। तो ऐसी लड़कियाँ प्रोफेशन में चल रही हैं। मैं ऐसे लोगों को जानती हूँ और इसी लिए मैं कहती हूँ कि सब कुछ समाज के हाथ में है। पंजाबी में एक कहावत है कि जिस के पास पैसा है उस के सारे कसूर छिप जाते हैं। तो यह सरकार के हाथ में है और उसे इस की व्यवस्था करनी चाहिए। वह समाज का स्तर नह इतना ऊपर जाये। यथीक है कि उत में थोड़ा समय लगेगा, लेकिन वह समय लगेगा कि कानून बनाया जाय जिसमें पीड़ित महिलाओं को शान्ति और राहत मिले किन्तु ऐसा रास्ता न खुल जाये कि जो समाज के लिए एक और खयी बन जाय और जिस जरिये समाज और समुद्र में चला जाय और जो कुछ उस का नैतिक स्तर है वह भी समाप्त हो जाय।

SHRI RAM SWARUP: You are an eminent educationist and student of his ory. You must agree with me that our womenfolk are deteriorating in their health from time to time and the present Bill is a measure to protect our womenfolk so that they might limit their family and lead a peaceful and healthy life in society. Is it not so?

WITNESS: As far as deterioration of health is concerned, it is not women only who are deteriorating in health. The health problems are common to all. That is the point. As far as the question of family planning and limitation of family is concerned, there can be no two opinions about it. I am all for it. That is why I said that if it is a question of family planning and limiting the family, surely we must make all effort. I would like to tell you that even the family planning problem among educated people has

got much smaller dimensions than the problem among the uneducated people. There again my contention is that it is primarily a question of education. "The fundamental evil in this country is education, let me tell you. The greatest evil that we are doing is that we are not educating them properly. Where we are extending education it is quantitative increase and it is not qualitative increase, and this question of planning brings me back to this. The fundamental evil is, let me reiterate and repeat and rub and press, lack of education, improper education, inadequate education. Even the family planning question, as I have said, is more gigantic among uneducated people. Give them proper education, even sex education which the children do not have at all. Even in ultra modern families where all sorts of things are being allowed, even there sex education is nil as far as children are concerned. If the parents are wise and judicious, I assure you that these problems will be much less. I can tell you where children have gone wrong. It is in those families where the parents are out the whole day. I have not got the time, nor have you, you call me at such an awkward time, it is now lunch time, but let me tell you this. I have got concrete cases of boys and girls, girls particularly, and they say:

"What are we to do in the afternoons when mummy and daddy come at 1 o'clock at night? What are we to do when they are at the clubs having a nice time? We are bored".

They are bored. If they are given proper education, I tell you your problems will be much less. It will be education, education and education. Let me repeat that this is the fundamental evil in this country. Even this law will have an entirely different colour and complexion if education is properly extended, the qualitative aspect of it. The quantitative extension of education has led only to one thing,

and that is mass production of worthless graduates. We are only producing graduates to go and sell milk at milk booths, graduates to work in telephone exchanges, at telephone operators and to work at counters in the Cottage Industries Emporia. Is this the purpose of university education? As far as sex education is concerned it is nil. Getting up from these booths where do they go? Girls of good families go back to homes where their father and mother are both at clubs. Girls of middle class go back to home to cook a meal. If any man comes and says, "Come with me and let us have tea", she is misled. So it is not difficult to envisage, and I who live with the young people know the problem, and that is bad education.

**CHAIRMAN:** Mr. Mallikarjunudu. Please be brief. Witness may also be brief. You have already dealt with education. There is no need to repeat it again.

**SHRI K. P. MALLIKARJUNUDU:** You seem to be opposed to the provisions relating to unmarried girls and widows so far as the Bill goes, and according to you I believe the fundamental objection is that it may lead to promiscuity. At the same time you were telling just a little while ago that you were not opposed to family planning and the adoption of contraceptive methods. Don't you think there is a contradiction in these two points of view? If permitting abortion in the case of unmarried girls and widows leads according to you to promiscuity, will not adoption of these family planning devices also lead to similar kind of promiscuity? If you allow it there, why don't you allow it here?

**WITNESS:** I said at the very outset that if it is after a second or third child there should be sterilisation straightway so that the question of again another abortion does not arise. That again is in a family where they are trying to plan it. They cannot just say that in a married life they are

going to lead the life of unmarried people. Certainly nobody expects that. After all marriage is an institution to which a certain amount of sanctity is attached not only by us but also by society. You name a society where marriage is not looked upon as a sacred institution. Is there any society in any part of the world where marriage is not looked upon as a sacred institution? There may be a difference of degree, I am prepared to concede that but....

**SHRI K. P. MALLIKARJUNUDU:** But as pointed by Dr. Nayar, marriage may not be possible in cases where the boy may be undesirable or there may be several cases where marriage is not feasible. Under those circumstances unless you allow abortion where is the remedy?

**WITNESS:** I beg to differ. As I said before. I would not force abortion. On the contrary I would suggest that the society should rise up the occasion. If the parents are not rising and if they are narrow-minded and small-minded it is for the society and the Government to legalise the child, to say that such a child is legal citizen of free India, and there is a home for him to bring him up. A woman should also be looked upon as a woman who has not committed a sin. I am certainly not in favour of abortion. There are people who want to adopt children, rich people who want to adopt children. They should come forward and adopt children who are unwanted, who have come into the world unawares.

**SHRI K. P. MALLIKARJUNUDU:** Do you mean to say that permission should not be granted for conducting abortion in the case of unmarried girls?

**WITNESS:** I would not put it that way because there may be attenuating circumstances in which abortion may be needed for an unmarried girl. I do not like giving them loops.

**SHRI K. P. MALLIKARJUNUDU:** You agree to some kind of exceptions. What are those attenuating circumstances that you are having in your mind.

**WITNESS:** Circumstances which would be rather unforeseen. By and large I would not want this to be granted.

**SHRI KRISHAN KANT:** Would you suggest some amendment or addition to sub-clauses (b), (c) and (d) of section (4) of clause 3 of the Bill on page 2 wherein they say:

“(b) No pregnancy of a widow, terminated except with the consent in writing of the guardian of such widow.

(c) No pregnancy of an unmarried girl, who has not attained the age of eighteen years, shall be terminated except with the consent in writing of her father or of her guardian, if her father is not alive.

(d) No pregnancy of an unmarried woman who, being above the age of eighteen years, is a lunatic shall be terminated except with the consent in writing of her father or of her guardian, if her father is not alive.”

**WITNESS:** For me these are no restrictions. This is the line of least resistance. These are man-made laws and the man wants to escape the responsibility. The man has always tried to escape the responsibility. This is a clear picture of how the man behaves like a person who does not want to face the responsibility. I have had students, both men and women. I have taught men for very, very long years. Today there are many Deputy Secretaries also who have been my students in the Government of India. Educated parents have greater responsibility than uneducated parents. This is an illustration of the fact that the man wants to avoid and shirk responsibility by saying “give the guardians” consent

and be done with it." I am dead against this.

**SHRI KRISHAN KANT:** Do you think sex education should be part of college education?

**WITNESS:** No. I do not think so because we are not yet that advanced. The level of education has not reached that stage where it can be taught in the colleges. I cannot be in the curricula or the text-books. Text-books cannot do justice to this subject. It is the parents, it is the student teacher relationship which we are trying to have and which we should have at proper level where this problem could be talked about. I have done it in the case of many students. When I was a teacher living in a hostel and when I discovered a boy and a girl, who was my ward, moving together, I called the girl to my room and I asked her to invite her friend to my room instead of roaming about on the road and going and sitting in the restaurants. I told her, "Let me have the pleasure of knowing the boy. Let me have the pleasure of talking to him over a cup of tea and forming my own opinion about him". The teacher has to do it. The Acharya has to justify *Devo Bhav*. It is not only the girl, I have invited boys to my house and I have talked to them. I have told them, "If you love the girl, you cannot roam about on the roads and have the people raising fingers at the girl. If you love the girl, call the girl to my house. Sit down here and talk it over rather than go in the restaurants and coffee houses". This malady is found in homes where the parents have no time to give to their children who are busy in clubs till midnight. The youth is heading towards abyss. I give you a warning. We are not taking care of our youth.

**SHRI KRISHAN KANT:** Do you think it should be part of the education of teachers' training colleges so that they are told how to deal with

the students so that they can take the students into confidence?

**WITNESS:** Such a thing cannot be part of the teachers' training course. The word "education" has to be understood in its meaning, in the spirit of it. Education implies all this. You cannot put it down in the text-books. An educator is one who not only prepares a student to get 40 per cent. marks and get a degree. But an educator is a person who prepares a ward to face life and educates that person, boy or a girl, in every sphere of life. That is what I am trying to do. That is where I feel the Government also comes into picture, to see which of the institutions are able to do and which are trying to do, which one is making an effort. Oddly enough and stringently enough this is never done. Speeches gallore about the problem, but who has ever asked as to what is being in any institution.

**CHAIRMAN:** Dr. (Kumari) Dua, thank you very much for your valuable evidence.

*(The witness then withdrew)*

*(Shrimati Dhanvanthi Rama Rau, Ex-President, International Planned Parenthood Association, Bombay, was called in).*

**CHAIRMAN:** I welcome Shrimati Dhanvanthi Rama Rau, Ex-President, international Planned Parenthood Association Bombay, to give evidence before this Committee. Mrs. Rama Rau, whatever you say is treated as confidential till it is published by Parliament. Now you are welcome to make your comments. Then our Members will put you some questions which you can answer.

**SHRIMATI RAMA RAO:** I personally think that this Bill has been long overdue after the report of the Committee appeared four years ago.

The Committee itself took a great deal of time in collecting evidence throughout the country. We were linked up with Mr. Shantilal Shah Committee in which we were deeply interested. We think that this report is long overdue.

I have read the Bill with great care. I find it simple and to the point with the exception of a few things which I would like to raise. For instance, again and again we have mentioned the word "registered medical practitioner." In a matter such as this we should be specific with regard to the qualifications of a medical practitioner who will undertake the responsibility of dealing with a pregnant woman.

Also you have all the time mentioned in the terms under pregnancy on page 2 in sub-clause (4) of clause 3 about the consent of husband, guardian or father. Nowhere does this Bill show that a woman herself should be the applicant for abortion. Her consent is taken for granted. It ought to be specifically stated that an application from a woman is necessary, supported by either her husband or the guardian or whatever it is and in each case the consent of the pregnant woman is essential.

Apart from these two particular points I would also like to add that I think this ought to be the right of the woman to decide whether she should wish for abortion without having the consent of her husband or her guardian provided she is not a minor. I have been told that this is likely to create difficulties because of the marital status of our women. Our women are still, in spite of the freedom that we claim, under the subjection of the husband or the guardian in the Indian society. Apart from that, I would support this Bill while-heartedly.

**SHRI SAWAISINGH SISODIA:**  
What is your opinion regarding the qualifications of the doctor who is to deal with the termination of pregnancy?

**WITNESS:** He must be a gynaecologist or an obstetrician. It is essential that he should know something about the work he undertakes to do. He should be a specialist in the work he undertakes. A 'qualified medical practitioner may mean anything. He may even be a dentist. I would not entrust this type of work to those who are not qualified as gynaecologists or obstetricians, or those who have not been specially trained for the purpose. That I think is very much a medical point. We as lay people would depend on the advice of the gynaecologist as to who is capable of performing an abortion and who is not.

**SHRI SAWAISINGH SISODIA:**  
You have just mentioned that in all the cases, the consent of the woman concerned should be necessary. But if the woman is a minor, then her consent is not legally sound. So, in that case, the consent of the guardian or the husband, as the case may be, will be necessary.

**WITNESS:** I think it should be with the concurrence of the woman in every case. I do not think that a guardian should be in a position to decide, or a husband should be in a position to decide, even in the case of a rape. I think it is first the woman herself who should desire an abortion.

**SHRI SAWAISINGH SISODIA:**  
Even if she is a minor?

**WITNESS:** What do you mean by a "minor"? If it is a girl of 11 or 12, then of course I have no objection; there I think it is the duty of her elders to decide it for her. But a girl of 17 will also be a minor. I think in that case, her wishes should be consulted.

**SHRI GANGACHARAN DIXIT:**  
It is mentioned in Explanation II on page 2 of the Bill.

"Where any pregnancy occurs as a result of failure of any device used by any married woman or her husband for the purpose of limiting the number of children,...."

Now, do you think that in every case it is possible for a doctor to certify that a contraceptive device has been used or not?

WITNESS: No, I do not think it is possible for you to say whether any device has been used or not. I think it is merely one way of getting the excuse that we require. Any woman can come and say that she had been using a contraceptive device and it had failed. I think it will be taken just for what it is worth, whether she had in fact been using a device or not.

SHRI GANGACHARAN DIXIT: That means this provision about failure of a contraceptive device is redundant. Even if it is removed, the purpose will be served.

WITNESS: Yes, I personally think so. I do not think that it has any validity at all. But one thing which I find is lacking in this Bill is that some method should be thought of for providing a deterrent for repeated abortions. There is nothing in the Bill which gives you the idea that this Bill will prevent a woman from coming again and again for abortion. And we know, as we have read from experiences in countries where abortion is very common and easily procurable, that women do come in three times during a year for abortion. And this does have a deleterious effect on the health of the woman. I wish some provision could be introduced in this Bill that will act as a kind of deterrent. You might say, for instance, that a woman may seek only three abortions after which she will be sterilised. Some such provision should be made to prevent her from coming again and again for abortion.

SHRI PARTAP SINGH: In clause 6(1), the punishment for violation of the provisions of this Act is given as a fine of Rs. 1000, only. Do you think that this punishment should be more severe.

WITNESS: I am not competent to comment on that at all. I think this was meant more for the States to decide. Would not this be again supervised by the different State Governments before it becomes law? I am not sure what the procedure is.

DR. SUSHILA NAYAR: Here the States would not come into the picture; the magistrates will. The maximum punishment that the magistrate can give under this Bill is a fine of Rs. 1,000. The question is whether for deliberate contravention of the law, this is sufficient punishment, or whether we should make it more stringent so that there is no deliberate contravention of his law.

WITNESS: I am afraid I would not have an opinion on that at all.

SHRIMATI USHA BARTHAKUR: According to some witnesses, this Bill is primarily meant to cover the registered medical practitioners from the charge of illegal abortions and their consequences, and thereby extend to all women the safety and security of an abortion, without fear and under optimum surgical conditions. This means, I think, this Bill will give emancipation to women to some extent. If that is so, do you not think that this Bill should extend to the whole of India?

WITNESS: To Jammu and Kashmir also?

SHRIMATI USHA BARTHAKUR: Yes. If it is emancipation of the women, let the women of Jammu and Kashmir also be included.

WITNESS: I agree with you. But I do not know what the political

situation there is. That is why I did not comment on that.

SHRIMATI USHA BARTHAKUR: Then, there are mainly three reasons given in the Bill for terminating a pregnancy. One is danger to the life of the mother; the second is danger to the life of the child; and the third is environmental conditions. Now about environmental conditions, who will judge it?

WITNESS: I think this ought to be left entirely to the woman who seeks such an abortion. Different people have different standards. I consider that I should maintain a certain degree of standard in my home. My husband is earning so much money and I would like to provide certain amenities for my children; I would also like to give them a better education, more comfort in the home, better food and better thing, etc. etc. Therefore, it should be entirely left to my judgment to what extent my environment allows me to produce, one or two or three, children, as the case may be. I do not think the State can fix this particular factor because this should be left entirely to the individual desire of a married couple or of the woman who is mainly concerned with the production of children.

SHRIMATI USHA BARTHAKUR: Then you do not agree with this, that there should be some committee to judge the environment.

WITNESS: I do not think so because there are couples who are very anxious to have children, who would like to have one or two or three children, even though their circumstances, according to some other couple, would not justify such a family. The size of the family, I think, should be left entirely to them because it is for them to be prepared to make the necessary sacrifices for the welfare of their children. You cannot interfere in individual conditions, the in-

dividual circumstances, of couples and this should be entirely left to them.

SHRIMATI TARA SAPRE: I would like you to refer to Explanation II page 2. You have just now said that this is not the intention because you cannot say whether they have used any device or not by medical examination. Without this wording it will be taken for granted that abortion is allowed on demand. Don't you think so? Because, here we want to create an opinion in the general public that if they are using family planning methods and if there is failure, a genuine failure—even in cases of sterilization there are failures—they should be allowed the termination of pregnancy. Only those who are using family planning methods should be allowed the termination of pregnancy in case there is a failure of the contraceptive device, not everybody and anybody who wants an abortion.

WITNESS: How does one prove that family planning methods are being used?

SHRIMATI TARA SAPRE: If we delete these things from the Bill, the public opinion will be like this that you get the abortion done on demand. Don't you think so?

WITNESS: I personally feel that abortion on demand should be allowed. That is my personal opinion. And this is merely a plea, an excuse, that it is a failure of the contraceptive. I consider that a woman does not normally seek an abortion unless she is really under stress, unless she is really feeling that her health will not permit it or she feels that her family is large enough and she does not want any more children. That is my personal feeling and it is my experience in life also. It is merely a plea that they have been using contraceptive methods but they have failed and therefore, they want an abortion. I personally feel that when a woman comes for an abortion, she ought to be allowed that.

**SHRIMATI TARA SAPRE: For spacing of the children also?**

**WITNESS:** There was a radio talk the other day in Bombay and a question was asked whether a newly married couple should have any children at all. Supposing the wife seeks an abortion. Should she be allowed it even though she has no children at all? In my opinion she should be allowed an abortion, because even though they are newly married, they are just beginning their life and when the wife feels that it is rather early and that they should wait for some more time to begin their family, he ought to be given the benefit of an abortion. The couple is thinking about the family that it is going to produce and the couple wants to produce or provide for the right circumstances before the family begins. Therefore, I consider that this should be entirely left to the married couple to decide the circumstances under which they are seeking it. Whether they have been using contraceptives or not, I do not think we should worry about that.

**SHRIMATI TARA SAPRE:** Then, please see sub-clause (4)(a), (b), (c) and (d). Here I would like to ask you why, in case the father does not want to consent, we should not take the consent of the mother. Why should we take only the father's consent? Or why not we take only the mother's consent?

**WITNESS:** So long as the law lays down the father or the husband is the guardian, we have to take his consent. In case there is no father and the mother becomes the guardian, then it would have to be the guardian's consent.

**SHRIMATI TARA SAPRE:** Here instead of saying father's consent, why not we say only mother's consent is necessary?

**WITNESS:** If the mother is the guardian, well, it will be her consent.

**But the general set-up in our society is such that the father is always considered the head of the household. We are under a patriarchal system.**

**SHRIMATI TARA SAPRE:** In case the father disagrees and does not consent while the mother wants her daughter to get rid of the conception what should be done? The mother cannot do anything.

**WITNESS:** This is something which did not strike me at all. I personally feel that while we live in a patriarchal society and while the father is still considered the head of the household in our society, automatically we put down the father's name. In Malabar perhaps where they have a matriarchal society, it would be the mother instead of the father.

**SHRIMATI TARA SAPRE:** Can we not say father, mother or guardian or parent?

**WITNESS:** I think this will be difficult legally to point out. Generally it is the impression that women are more orthodox, more conservative than men. Men have to be more experienced; they have more knowledge of the society, of the world outside, than most Indian women have. Therefore, I consider that it would be safer to depend on the father than on the mother.

**SHRIMATI TARA SAPRE:** Then please see page 3, Clause 6(1) (c) and 6(2) also.

**WITNESS:** I think the whole purpose of this Bill really is to prevent the disaster of illegal abortions. That is my feeling. And that is the reason why I said that we should introduce such provisions which could prevent a great deal of harm being done by the prevalence of the incidence of illegal abortions in our country. It is stated in the Bill that the notice given and the information furnished shall be given or furnished, as the case may be, to the Chief Medical Officer of the State. In view



of our social conditions, this information should be kept secret; According to you, this information should be kept by whom? In the case of court cases, should this information be made available as evidence in writing or only orally? One eminent person suggested that this information should be made available to a Judge only in his chamber and it should be used only as oral evidence and not as written evidence. What is our opinion on this?

WITNESS: I do not know in whose hands it should be. I am not sure about it.

SHRI K. P. MALLIKARJUNUDU: Some witness seem to think that provisions of this Bill, so far as liberalisation of abortion is concerned, may lead to promiscuity and may adversely affect sexual morality. Do you agree with that view?

WITNESS: To be quite honest, I have no doubt that you may be right there and it may lead to promiscuity. But then every time we have taken steps towards progress in our country the same charge that it will lead to promiscuity has been levelled against us. When I was a young girl and when I first went to school, elders in my community said: "Oh! Sending daughters to school? That is going to lead to promiscuity." When young girls were for the first time taught to read and write, people said: "Oh! you are giving them weapons with which they will write love letters". When we sent out our daughters to schools and colleges, the same people said: "You are allowing your daughters to mix with young boys and this is going to lead to promiscuity". When our young women went to work rubbing shoulders with young men, the fear of the orthodox section was that this too was going to lead to promiscuity. When we began advertise family planning methods, the same charge was levelled against us. In this manner, you can never make any progress. No matter, what step you take towards progress, you are giving free-

dom to your men and women and it will depend entirely on their training and upbringing and on their ethics and morals, whether they are going to live clean lives or not. Therefore, it is high time that we took courage in both our hands and moved forward.

SHRI K. P. MALLIKARJUNUDU: Do you want this Bill to be an integral part of family planning programme?

WITNESS: I think this Bill has really been thought of only in the context of family planning. It is linked with the question of family planning and the question of over-population in our country. But I do not think that it should be an integral part of family planning programme because this Bill has a right to stand entirely on its own as a measure which is a measure of relief for those who are in distress.

SHRI K. P. MALLIKARJUNUDU: On page 2, Explanation II to Clause 3, it is stated: "Where any pregnancy occurs as a result of failure of any device used by any married woman or her husband for the purpose of limiting the number of children, the anguish caused by such unwanted pregnancy may be presumed to constitute a grave injury to the mental health of the pregnant woman". If you want this Bill to stand on its own merits, do you advise the retention of this Explanation?

WITNESS: As far as I am concerned, I would not mind if the whole clause is deleted. It is redundant.

SHRI K. P. MALLIKARJUNUDU: But that is taken advantage of by the woman because under the cover of failure of any device, they can secure abortion.

WITNESS: It is a very minor point I would not attach much value to that.

SHRI K. P. MALLIKARJUNUDU: When you welcomed the Bill, you wanted some restrictions to be put by

introducing the consent of the husband in cases where a married woman wants termination of her pregnancy. You wanted that to be incorporated. Is that so?

WITNESS: I believe that a woman who is the mother of a family should have the right to take a decision in this matter on her own authority. Even if her husband objects to that, but if she feels that she cannot bear another child, I think her word ought to carry more weight. That is my personal view.

SHRI K. P. MALLIKARJUNUDU: So, the husband's consent is not necessary?

WITNESS: It should not be necessary.

SHRI K. P. MALLIKARJUNUDU: From your previous statement, I imagined that you were in favour of introducing a clause that husband's consent also is necessary.

WITNESS: I am not in favour of it. In case her husband disapproves, he is in a position to throw her out and because she is economically dependent on her husband, she will be the sufferer. Well, considering that, I leave the matter. But, my own personal opinion is that the woman should have a right to take a decision in this matter on her own authority.

CHAIRMAN: Mr. Ghosh. No, Mr. Minister (he wants to go).

SHRI B. S. MURTHY: I welcome you, Mrs. Rao. I would like you to kindly see page 2 of the Bill and see here Clause (4) (a), (b), (c) and (d), wherein the words "guardian", "father" and "husband" have been used. I think you are not very particular about the consent of the husband. Now, there will be a case where the woman feels that her husband would not permit her to terminate the pregnancy, may be because he has all the three sons or all three daughters and he wants to have a girl

or boy in the fourth pregnancy. There may be a sort of disagreement there. Then, he insists that the pregnancy should have its course whereas the wife says, "I would not like to have it". Then, the husband will not consent. What is your remedy in such a case?

WITNESS: Well, as you know, I have expressed my views as regards this earlier. I personally feel the woman should have the right to take a decision with regard to such a contingency on her own authority. In this case, well, she would have to use her womanly devices to persuade.

SHRI B. S. MURTHY: In case he fails? I am only asking.

WITNESS: Then, it is just bad luck.

SHRI B. S. MURTHY: His device may not prove worthwhile. Then? Take another case. Suppose, let us say, a man has been sterilized. The woman is fully truthful and faithful to him and feeling that this man will suspect that this pregnancy is not by him, the woman would like to get rid of this pregnancy. Then, naturally the husband will be in doubts. She will not like to get his consent. But, somehow or other she would like to get rid of it. What is your remedy for such a woman?

WITNESS: Illegal abortion. She would go in for illegal abortion.

Shri B. S. MURTHY: What I mean to say is this: Here the law does not prescribe the consent of the husband necessary. She can easily go and seek legal abortion. What is your suggestion here? She is entirely faithful. Such cases come to the notice of the public also. The man would divorce her. But, according to this, he has no remedy.

WITNESS: There is no answer, Sir.

SHRI B. S. MURTHY: On another case also I would like to take your advice. You see in the case of an unmarried girl, 18 and above, the father looks to his prestige in the society, the mother looks to the life of the daughter and if you say 'father', the father may not give the consent. The consent may not come because of the nature of our society as you have have been telling us. Therefore, what do you think? Your argument is that the husband's consent may not be necessary. Here, why not we say 'father' or 'guardian', mother being the natural guardian, let us say? It is true that in all the communities, from the highest to the lowest, father looks to the prestige in society whereas the mother feels, "After all the girl has committed a mistake. I cannot lose her. I must help her out of the difficulty." Therefore, don't you think that, as Mrs. Sapre has rightly argued, the mother must also be brought into the picture so that if the father is not willing, the mother would come to the rescue of the girl who has gone wrong.

WITNESS: If it is predominance of one over the other, mother's consent, according to Mrs. Sapre, should also be there along with father's.

SHRI B. S. MURTHY: I say 'mother' or 'father' as the case may be.

WITNESS: Equally?

SHRI B. S. MURTHY: Yes.

WITNESS: Say 'parent concerned'. Then, I would not object to it.

SHRI B. S. MURTHY: Not objecting is one thing and consenting is another.

WITNESS: This is complicated.

SHRI B. S. MURTHY: Thank you, madam. I know in many cases the father says, "Let her die, it does not matter. Let not my prestige be affected." But the mother will go to

the doctor saying, "I must save her. If necessary, I will quit this village or community". Therefore, I think you should include mother also in this. Then, there will not be any difficulty.

WITNESS: You would put 'father' or 'mother' or 'guardian'. I accept it.

SHRI B. S. MURTHY: Thank you.

DR. SUSHILA NAYAR: May I continue from this and say that it has been suggested by several witnesses that in this clause on page 2, where there is a mention of what should be done in the case of married woman or unmarried woman, where there is the explanation or mention of different categories as undesirable for one thing or other, some people object saying that it gives the impression that it wants to introduce abortion for such categories of people and secondly, this business of husband's permission being necessary to terminate a pregnancy resulting from a rape may cause an embarrassing situation. Therefore, it has been suggested that we simplify this clause and say that the woman's consent should suffice except in cases of minors and lunatics or people out of their minds in which case the consent of the parent, without specifying which parent concerned, or guardian should be there.

WITNESS: Mr. Murthy's objection would hold good. You should say 'either parent'.

DR. SUSHILA NAYAR: If the Mother gives, that would be enough. You would approve that?

WITNESS: Yes. This facility should be freely allowed.

DR. SUSHILA NAYAR: Not only for married?

WITNESS: Yes.

**DR. SUSHILA NAYAR:** You had mentioned that there should be a deterrent. I entirely agree. It was your Association that had insisted on sterilisation when we gave abortion for failure of contraceptives which means they will already have 2 or 3 children. Instead of saying after 3 children, would you not say that if we agree to give abortion facility for failure of contraceptives, it should be at the same time agreed that sterilisation will also be done?

**WITNESS:** There should be some deterrent. I am not sure of the wording. I would not say that on the plea of failure of contraceptives, abortion should be given. It is quite possible that a young couple may have a child and after failure of contraceptives may seek abortion. There is the case of a young couple wanting no child for 2 or 3 years till their circumstances are better and the girl might find herself pregnant and she may want abortion. I am in favour of allowing her abortion. There you cannot say that immediately the woman seeks abortion, she should be sterilised. But a woman should be warned on each occasion that on the third occasion sterilisation will be done, and so contraceptives should be used till she desires another child so that it would act as a deterrent and make her more conscious of the correct use of contraceptives.

**DR. SUSHILA NAYAR:** You would let them have abortion rather at the beginning of family life?

**WITNESS:** I am in favour of allowing young people to get married but still if they feel they are not in a position to bear children they should be allowed abortion. Large number of clerks live in single rooms and do not want a family. I know of cases where a girl has become pregnant and is suffering great distress because she does not want a child till she is able to provide for a family. In that case a girl should be relieved of that pregnancy so that she should work harder to improve her condition before getting a family.

**DR. SUSHILA NAYAR:** Would you want the doctors who performed the operation to be trained? You refer to clause 6. You would like some regulation to be introduced to ensure that people doing the operation have regular training?

**WITNESS:** Of course because the term 'regular medical practitioner' is too vague. I would not like to entrust any practitioner to undertake this very serious operation and in some cases it can become very serious.

**DR. MANGLADEVI TALWAR:** As the years go by after marriage, fertility decreases and sometimes it does happen that if the child birth is postponed for more than 4 years the couple finds it difficult to have a child later on. Do you have any opinion on that?

**WITNESS:** I do not think it is medically correct.

**DR. TALWAR:** That is roughly the idea and the earlier a child birth takes place, it is better.

**WITNESS:** I do not think that is correct.

**DR. MANGLADEVI TALWAR:** You said that women do not seek abortion unless they have to under difficult circumstances but there has been medical opinion here that there would be an increase of abortions to such a degree that after this measure becomes law, the present medical set-up would not be able to cope up with it and there would be an utter failure of our means if we allow abortions on demand. Your opinion has been quite contrary to that. Would you like to modify your opinion?

**WITNESS:** I personally think that our medical set-up is so poor that our people, especially people out in the villages, are not being served as they should be served. And wherever such facilities are to be provided special arrangements should be made

for this particular purpose. It will be for the Government to see to it that such arrangements are made. There is no doubt that there are going to be a large number of applications. Automatically they will begin to come in large numbers; they will begin to increase. It has been proved by various research studies that the incidence of illegal abortions exists in our country and naturally all those people who are today seeking illegal abortions will seek them under the provisions of the law. So special facilities will have to be set up by the Government and the Government is undertaking to do that as far as I can see from this Bill. I consider relief to those who desire this kind of facility would have to be in like measure as we are able to provide relief to those who are genuinely ill and who need medical attention. But they are not being fully served as far as the medical field is concerned and it is a matter of great regret to us.

DR. (MRS.) MANGLADEVI TALWAR: So you agree with the opinion that for the number of operations that would require to be performed....

WITNESS: ...you will not be able to provide facilities.

DR. (MRS.) MANGLADEVI TALWAR: If I refer you to the Financial Memorandum of this Bill you will find that they are contemplating to provide only Rs. 24 lakhs as recurring expenditure and Rs. 19.30 lakhs as non-recurring expenditure. Don't you think it is a very meagre sum?

WITNESS: I quite agree.

DR. (MRS.) MANGLADEVI TALWAR: I think for what we are contemplating to do, even for expanding the existing facilities like provision of more beds in the gynaecological sections of the hospitals etc., this sum is totally inadequate and I hope you agree with that.

WITNESS: I quite agree.

DR. (MRS.) MANGLADEVI TALWAR: This amount has to be increased if they really want to give relief to all women who want abortion. Facilities will have to be increased and very fast; otherwise the whole country would be in a kind of distress.

WITNESS: I quite agree that the financial calculation is completely incorrect here; I think that the Finance Department will have to revise it.

DR. (MRS.) MANGLADEVI TALWAR: I think it should be as many crores.

WITNESS: Just as we are setting up contraception camps for the distribution of contraceptives all over the country we will have to set up mobile hospitals for this purpose. Even there difficulties will arise because after all women in the villages are not in a position to keep correct calculations with regard to dates and months and they are going to find it very difficult to present themselves within the period prescribed in the Bill of 12 weeks. So we are going to be faced with a great many difficulties but as in the case of any new measure we will have to try and work out ways and means whereby we can meet those difficulties. Liberalisation of the abortion law is the main point and I think that is more or less covered by this.

SHRI KRISHAN KANT: Don't you think that promiscuity will increase by this? In the morning also I referred to a news item which I read in the London Times three weeks back about a conference of British Gynaecologists. And the headline was 'Abortion for Holiday Purposes'. The President of the Conference said that a girl had come to him that she wanted to have abortion because she wanted holiday. You said that a girl or a woman comes only when she is forced to it or when she is in distress. But there is the experience in

Britain and then he said that such cases are growing. Don't you think, whatever may be the arguments for the sake of pushing through this Bill, that ultimately this will lead to an increase in promiscuity?

WITNESS: Well, you see, I have just recently been both in Europe and America and I am myself amazed at the complete disappearance of all moral codes in both those countries. It is very distressing indeed to those who belong to India and especially to people like me who have been brought up under very strict conditions. I am afraid we have to take more care in the upbringing that we give our children and try to keep them away from attitudes that do not suit us or that do not suit our society. So far we have more or less succeeded, certainly in the villages where these new styles and fashions have not reached. What the future holds in store for us neither you nor I can say. All society's laws and regulations are loosening; we see that with our own eyes. If you come to a big city like Bombay and if you happen to go to one of those so-called hot night spots you will be surprised at what our young Indian boys and girls are doing in our big cities. I have no doubt that you have such hot night spots even in Delhi. Now it all depends entirely to what extent we can maintain the values that apply to our society and impress them on our children in a way that will not create a sort of rebellion that has been created in societies in foreign countries. But this is something that we have to face; we cannot get away from it at all. Otherwise your morality will depend entirely on locked doors. You will have to keep your young men and young women behind bars. You will have to give them a certain sense of integrity and give them the freedom. Of course the freedom they will have, whether you give it to them or not; that they will have, but you will have to give them a sense of integrity, a sense of balance, a sense of religious values, which are so essential.

SHRI KRISHAN KANT: You have rightly put it. But don't you think when we are enacting such a law side by side we should take up the other steps also? This Act, will release such forces and unless the counter-forces which you have mentioned are also pushed through there will be imbalance in society. When the Government is doing this, is it not the duty of the Government to see that somehow those values and those forces are also set in motion to counteract the effects of this measure? Otherwise don't you think there will be imbalance in society?

WITNESS: The very same argument was levelled at us years back when we started family planning on a big scale. I think Dr. Sushila Nayar was our Minister then. When those great posters were put up showing what a condom looked like, what a diaphragm looked like, etc. we were told that morality in this country was going to the dogs and the young men and women were going to have more promiscuity.

SHRI KRISHNA KANT: Don't you think that promiscuity has increased; or do you think it has decreased?

WITNESS: I do not say that it has decreased. Promiscuity has been in the country from time immemorial, if you go back to the days of your grandfather or to the days of my grandfather.

SHRI KRISHNA KANT: Even in Vedas it is there.

WITNESS: Yes, promiscuity has always been in the country but the breaking down of the moral laws in the society has not reached that stage here today that has been reached in foreign countries.

SHRI KRISHAN KANT: Do you not think that it will quicken the process?

WITNESS: No, I do not think so. A Bill of this nature will not quicken the process. It is quite possible that

promiscuity will increase in our country also, but that is in the air. Our young men and women are travelling all over the world.

SHRI KRISHAN KANT: That is what I am saying. Side by side, when you are doing this, is it not necessary that an equally forceful move and a push should be given to a balanced force?

WITNESS: That is up to you. You draft another Bill.

SHRI KRISHAN KANT: Bills do not do it. These values are not created by Bills.

WITNESS: Your education has got something to do about it. You should introduce decent principles.

SHRI KRISHAN KANT: Do you think that sex education should be introduced in colleges?

WITNESS: I do. I do consider that the fact that we draw a Purdah on the whole question of sex is a mistake. People cannot acquire responsibility which every married man and woman should acquire if you are constantly screening them.

SHRI KRISHAN KANT: In the same way, have you thought of some other steps which will open up things in a balanced way?

WITNESS: We are constantly working on that. We are trying to introduce sex education. When we talk of sex education we do not think that sex education should be imparted to the child in the school. The whole idea of family life education is based on the idea of introducing decency within the family, decency within the society and decency in every sense of the word. Population education will lead to family life education and family life education will lead to sex education at a time when our young men and women are prepared for it. We have our programme in that connection and if you are interested I will send you material on that.

SHRI KRISHAN KANT: How far have you been successful in it?

WITNESS: We have to get our Government moving.

SHRI KRISHAN KANT: At this rate it will take twenty years for them to move.

DR. SUSHILA NAYAR: Do you think that such types of education as the preservation of the moral standards and moral values can be done by Governments?

WITNESS: By your schools, by your education department.

DR. SUSHILA NAYAR: I do not think it can be done by the Government. It has to be done by the parents.

WITNESS: Parents, of course. Our children are away from the home for the greater part of the day. I think it is the educational system which has to be attuned towards introducing the basic principles in the education of our country. It is very essential.

DR. SUSHILA NAYAR: There is the child's background. The School cannot take the place of the home.

WITNESS: I would like to talk to you about our Indian homes. We come across a great many Indian homes today where there is so much distress. The woman is so burdened with the responsibilities that she is shouldering and the man is also burdened with the responsibilities that he is shouldering. The children have no training whatsoever within the home, except for the fact that the child gets a certain amount of care at home, the child spends most of the time in the school.

CHAIRMAN: Thank you very much for the valuable evidence given to us.

*(The witness then withdrew)*

*[The Committee then adjourned]*

Wednesday, the 15th July, 1970.

PRESENT

*Rajya Sabha*

1. Shri Mulka Govinda Reddy—Chairman.
2. Dr. (Mrs.) Mangladevi Talwar
3. Shri M. Srinivasa Reddy
4. Shrimati Usha Barthakur
5. Shri Krishan Kant
6. Shri Sawaisingh Sisodia
7. Shri K. P. Mallikarjunudu
8. Shrimati Bindumati Devi
9. Shri Niranjan Varma
10. Shri G. Gopinathan Nair.

*Lok Sabha*

11. Shri Vidya Dhar Bajpai
12. Shri Gangacharan Dixit
13. Shri Ganesh Ghosh
14. Shri S. Kandappan
15. Shri P. Viswambharan
16. Shri N. R. Laskar
17. Hazi Lutfal Haque
18. Shri B. S. Murthy
19. Shrimati Shakuntala Nayar
20. Dr. Sushila Nayar
21. Shri Partap Singh
22. Shri Ram Swarup
23. Shrimati Tara Sapre
24. Shri M. R. Sharma
25. Shri Babunath Singh
26. Shri Jageshwar Yadav.

REPRESENTATIVES OF THE MINISTRIES

*Ministry of Law*

- Shri R. N. Shinghal, Deputy Legislative Counsel.  
Shri S. Ramaiah, Deputy Legislative Counsel.



*Ministry of Health and Family Planning and Works, Housing and  
Urban Development*

Dr. K. N. Kashyap, Commissioner (FP).  
Dr. I. Bhushan Rao, Deputy Commissioner (FP).  
Dr. (Smt.) S. F. Jalnawalla, Deputy Director (I).  
Shri A. P. Atri, Under Secretary.

SECRETARIAT

Shri S. P. Ganguly, Deputy Secretary.  
Shri M. K. Jain, Under Secretary

WITNESSES

- (1) Dr. Diwan Harish Chand, New Delhi.
- (2) Dr. P. N. V. Kurup, Adviser Indigenous Systems of Medicine, Ministry of Health and Family Planning and Works, Housing and Urban Development, New Delhi.
- (3) Dr. (Smt.) H. M. Sharma, Retd. Director of Health Services and Family Planning, Tamil Nadu, Madras.

[*Dr. Diwan Harish Chand, New Delhi.  
was called in*]

CHAIRMAN: I welcome Dr. Diwan Harish Chand to give his evidence before this Committee. I apologise to him for the delay of five or six minutes in starting the meeting.

Dr. Diwan Harish Chand is a well known Homoeopathic Doctor. He was President of the International Homoeopathic Congress, 1967. He is a member of so Homoeopathic organisations. He is now President of the All India Institute of Homoeopathy. In addition to this he is an M.B., B.S., L.R.C.P. (Edin.), D.T.M. & H. (L'Pool), F.F. Hom. (Lond.). So he is qualified eminently in both the fields of medicine

Dr. Diwan Harish Chand, whatever you say before this Committee is treated as confidential till it is published by Parliament. I now request you to proceed with your preliminary remarks. Then our Members would put you some questions which you may please answer later.

DR. DIWAN HARISH CHAND:  
Mr. Chairman and hon. Members of the Committee: First of all I would like to thank you for this opportunity of giving evidence before this Committee of Parliament. I am not sure what capacity I have been called here, but just as the Chairman has just read out, I am closely associated with Homoeopathy and the Homoeopathic take it that on their behalf also I will give my viewpoint.

I am sorry I could not send an advance note as I was out of the country and had gone to attend an International Homoeopathic Congress, and therefore I learnt of this only on my return on the 5th evening, and hence I could not send any advance note for the consideration of hon. Members. In general, I am in full agreement with this Bill and I endorse the reasons which have prompted it. In my practice as a consultant for 25 years and odd—and more particularly being a Homoeopath, I am used to a very detailed history of the patient—I have found that as outlined in the reasons for the Bill, the previous regulation of

the Indian Penal Code had been observed more in the breach. Almost seven out of 10 ladies who come to me for consultation admit, after a little confidence is gained, that they have had induced abortion once or more often than that, and sometimes even four or five times. Of course, this is confined mostly to the urban population—four or five times. Of course, this is confined mostly to the urban population of Delhi and other larger cities of India from which my chennille is drawn. So I would not say that this is widespread in our rural areas also. But certainly it means that inspite of the regulations in existence, there has been a very great need for it and since it has been banned, by and large, they have taken recourse to untrained people and midwives, with very disastrous results, sometimes even fatal, as has been mentioned in this Bill.

Coming to the Bill as such, I am no politician, but as a member of the public (I am connected with many public organisations) and with no wish to dabble in politics, I see no reason why the State of Jammu and Kashmir should be left out of this very beneficial measure. If it is beneficial, it is beneficial to all, and it is beneficial to the people of that particular State also.

It has been mentioned that if this is enacted, it would be open only to registered medical practitioners to take the necessary measures for evacuation of the uterus or termination of the pregnancy. I would submit, particularly on behalf of my colleagues, the Homoeopaths of the country, that the curriculum which is followed in the recognised Homoeopathic colleges of India, there is scope for surgery as also obstetrics and gynaecology. As such, they are also reasonably competent to take part in this programme. And considering that we have a great shortage of medical personnel in the country, I see no reason why their services should also not be utilised. I am not quite aware whether it can be said for the Ayurvedic and Unani practitioners also. Since I am not

competent to speak on their behalf, I would not say anything further. But certainly I know of homoeopathic doctors who are carrying out vasectomy; that means they are fully conversant with the surgical techniques. I know of many lady Homoeopaths who are even at present carrying out D & C which is the normal procedure for termination of pregnancy. It is possible that they might need a little refresher course, a little extra training. But we have about 20,000 to 30,000 trained Homoeopaths. I do not mean those Homoeopaths who have had no institutional training. I mean only those who are properly trained. With a little supplementary course or refresher course, they should be able to take part in this programme. For that matter, I would also submit that every M.B.B.S. doctor—and that includes me also—is not capable of doing D&C because everyone has not specialised in that line. Therefore, just as an M.B.B.S. doctor needs a little refresher course for this purpose, so also a Homoeopath with a little refresher course should be able to carry out these procedures.

Then, it has been mentioned that if termination of pregnancy is to be done, it has to be carried out only in Government institutions or places which the Government might subsequently specify. On the one side, it is said that we are liberalising or legalising whatever the term we might use abortion, and on the other, we are making it very restrictive. Considering that the facilities of Government hospitals and Government institutions are not enough at present, although a provision is made that it could be carried out in the places specified, I think there should be a possibility of making it a little more general.

For the guidance of the profession and perhaps the social workers, we might, as has been done in countries like Japan and Bulgaria, list out the conditions both in regard to the mother's health and in regard to the eugenic considerations—heredity of the child to be born—so that it may be more generally known as to what

would be the conditions under which it would be permissible. There is already in the explanatory note of this Bill one good explanation which really liberalises termination of the pregnancy, and that is, if there had been a failure of contraceptive measures used by the married couple, that would be a sufficient ground to have an abortion done because it constitutes a great mental strain to the parents. Although I do not mean in any way to sanction immorality, I suppose we might also add in the explanatory note one clause for the unmarried women who might suffer more torture mentally in consequence of a pregnancy from an unfortunate lapse on their part. In the Act of Bulgaria, they have a clause that if a lady becomes pregnant by a person she cannot be married to—of course, they have mentioned the relationship of blood; however, there may be other reasons also when a lady cannot be married to the person from whom she has conceived in an unmarried state—then that might also be taken as a reason for termination of pregnancy, with of course the consent of the guardian or the person concerned, according to the age factor and other factors outlined in the measure.

Now I shall be very glad to answer questions.

**SHRI B. S. MURTHY:** We are thankful to you for the exposition you have given about our Bill. Do you think that this Bill will help the family planning programme or irrespective of any benefit that may accrue to the family planning programme, do you think that a Bill like this is a necessity?

**WITNESS:** Regarding the first question I do feel that it will be a help to the family planning programme because as has been mentioned earlier. As it is, even when it is criminal, people are resorting to it in a fairly large measure which I can say from my personal experience from my patients. To that extent it would be a help to family planning because in the Explanatory notes of this Bill it is there that

if for any reason the parents have used some contraceptive measures, but have failed, it is considered enough ground for them to approach the authorities and request the termination of the pregnancy. So, to that extent certainly this will help in the family planning programme. Even if this aspect is not taken into consideration, I feel it would even otherwise be desirable because it would enable people to go to the right places and have the termination of the pregnancy done under proper sanitary conditions from expert hands rather than go into the hands of quacks, i.e. into the hands of people who do not have the necessary knowledge or the facilities to go about with this job.

**SHRI B. S. MURTHY:** There are a number of desirable things. But for every such desirable thing we are not passing a legislation. So, when you say that it is a desirable thing, do you mean to say that it is just a desirable thing and no more about it or would you say that it is a desirable thing and therefore, it must be attended to for the social well being?

**WITNESS:** I may have been wrong in the choice of my words; I say there is need for such things. They are not only desirable, but they must be attended to.

**SHRI B. S. MURTHY:** You said there must be an orientation even to the allopathic doctors before they are called upon to handle the termination of pregnancy cases. As you are yourself an M.B.B.S. doctor, very well trained and well equipped, you may be aware that the subject of midwifery taught to an ordinary M.B.B.S. is not much and, therefore, every allopathic doctor that gave evidence here insisted that there must be training at least for six months when you want to employ doctors for the termination of pregnancy. What do you, therefore, think the period of training should be for homoeopathic doctors?

**WITNESS:** Number one: the period of training is always bracketed

with the intensity of training and I feel that the period of six months is far too long a period to be wasted for this extra training. As far as an M.B. B.S. is concerned, I think, as a preliminary persons, not the high specialist who will give opinion in very special cases, that with the training that they have already had, one to two months' training is quite enough, and as far as the homoeopaths are concerned, may be, an extra period to that of a month is enough. It is very much a mechanical, practical, thing. Both the M.B.B.S. as well as the homoeopathic diploma-holders have had the necessary background in theoretical training. All they need is a little more practical training and for that I do not think you need such a long period of training.

**SHRI B. S. MURTHY:** Is there any medicine in homoeopathy for spacing or stopping pregnancies?

**WITNESS:** You have touched on a very difficult point. . . .

**SHRI B. S. MURTHY:** We are ourselves in a very difficult position.

**WITNESS:** I have always maintained that homoeopathy is a system of treatment of diseases and pregnancy is no disease.

**SHRI B. S. MURTHY:** Correct.

**WITNESS:** As a matter of fact, we have more medicines for sterility than for avoiding conception. However, there has been some research in this line. And I have, as a member of the screening committee for homoeopathy on family planning methods, understood it very thoroughly. It has been done both in animals and for human beings. There are only suggestions that there are medicines which have the potentiality. But I am one of those who do not quite agree with the oral contraceptive pills (allopathic) as are being used for the simple reason that it is a hormone which, whether it is more harmful or less harmful, cannot be said to be completely harm-

less. There are certain side-effects which are like the symptoms of early pregnancy. So also I am not one who would jump at any homoeopathic remedy and say, "Yes, you can use it." We have to study the long-term possibilities of any ill-effects on the system which cannot be found out particularly for homoeopathic remedies, immediately. The effects may be more subtle and they may show up only after a considerable time after the use of those medicines. So, I say that the whole question is *sub judice*. Through that committee I have already requested that the Government may provide some facilities, may be, in the ICMR or in certain other institutions where this could be experimented in greater detail, first on animals and then possibly on human volunteers.

**SHRIMATI USHA BARTHAKUR :** The termination of pregnancy is a very complicated thing and it requires so many things—expert doctors, well-equipped hospitals, etc. etc. Moreover, there is a dearth of medical help and health services are poor in our country. So, what do you think the approximate expenses would be for beginning the campaign of the termination of pregnancy?

**WITNESS:** It is a very good question, but I must confess that I have always been poor at mathematics and I cannot keep even my accounts properly. Therefore, I cannot answer the question so well.

**SHRIMATI USHA BARTHAKUR :** You can just guess or imagine.

**WITNESS:** With the expansion of the health services in our country, it has to be weighed against the benefits that come. We are told by good statisticians that all the gains that have come about in this country in the last twenty years or so have either been neutralised or been negated by the increase in the population. If that be so, we can certainly lay apart some funds for this programme and within the funds presently earmarked for family planning purposes, may be some-

thing of that nature can be done. For instance, it is a lot more difficult to do Tubectomy or at least as difficult as D&C or termination of pregnancy. When we cannot find a large number of Doctors to do Tubectomy or Vasectomy, we give them incentives or coax them to perform more and more of such operations. So also, this can be tackled as and when medical and health services expand. But I feel this beneficial measure should not be withheld.

**SHRIMATI USHA BARTHAKUR :** Do you suggest that when we liberalise abortion, we should have separate hospitals for attending abortion cases. Suppose there is large-scale abortion, even the largest hospital will not be able to accommodate them and in that case do you think that more amenities should be provided in other hospitals?

**WITNESS:** That was one reason why I was suggesting that it should not be restricted only to Government hospitals and a few better-equipped hospitals. There should be the possibility of utilising other places also. For a day or so, patients can be kept in a Doctors clinic and later sent home with proper escort in an ambulance. Of course the ideal condition will be to have all arrangements including those for blood-transfusion. But imagine how things are happening today. In the dirtiest of streets and dirtiest of houses, these operations are being performed, of course with grave risk. I am not suggesting that that is the proper thing. But when we start something, we have to start from rock bottom, we have to start from the ground.

**SHRIMATI TARA SAPRE:** As far as I know, Homoeopaths do not believe in surgery. Is it true that they do not teach surgery in Homoeopathic colleges?

**WITNESS:** It is only to get rid of that idea that I had written a whole article titled 'Homoeopathy and Surgery'. There I said that surgery is

needed by any system of medicine, when medicine by mouth or even by injection fails. Since, there is a surgeon here, I may give the example of Gastric Ulcer. Initially, it was not safe to treat it surgically and therefore it was being handled by physicians. Then, it moved on into the hands of surgeons and they treated it. Subsequently, again it tended to go back to the physicians. If there is a simple boil and if it could be cured by allopathic medicine like Achromycin or by any Homoeopathic medicine, nobody would like a pin to be inserted into his or her body. Therefore, surgery is liquidation of medicine. When medicine cannot do it, surgery comes in. Homoeopathy treats a wider panorama of diseases than allopathy and hence their need for surgery is less. It is not nil in Homoeopathy. For the information of my fellow Homoeopaths, I had quoted from the time of the person who started Homoeopathy. He had given examples where surgery was needed. Just as your house sometimes needs repairs for which a carpenter or a mason may be required, you need surgeons also to repair your physical bodies. Suppose it a case of calculus in the urinary bladder, you must have recourse to surgery. In our Indian philosophy there is an inner man—a man who lives inside this body. For him you need medicine. But surgery is definitely needed. If penicillin could cure Appendicitis, nobody would go in for an operation.

**SHRIMATI TARA SAPRE:** Is surgery taught in Homoeopathic colleges?

**WITNESS:** Yes, but not to the same extent as it is taught in allopathic colleges. But the text-books are the same. Gynaecology is also taught there.

**SHRIMATI TARA SAPRE:** With that knowledge and experience, will the homoeopathic practitioners be able to perform abortion operations?

**WITNESS:** Without very considerable training, even a MBBS Doctor cannot perform a major operation

like Caesarian. As far as D&C is concerned, Homoeopaths with some refresher course will be able to do it.

SHRIMATI TARA SAPRE: Then they require more training?

WITNESS: May be for a month or so more than the allopaths.

SHRIMATI TARA SAPRE: Do you accept liberalisation of abortion as a family planning programme?

WITNESS: Yes, also as a measure of family planning.

SHRIMATI TARA SAPRE: Do you believe as a Homoeopathic practitioner that there are certain hereditary diseases which may pass on to the children and do you also believe that in such cases abortion or even sterilization is permissible? Can you tell us what are such diseases?

WITNESS: We differ from practitioners of other systems of treatment only with regard to therapeutics. Diagnosis is the same. Homoeopathy recognised hereditary principles lot earlier than other systems. As a matter of fact, our system was made fund of for expounding this principle. Now with all the extra knowledge of science, we are trying to incorporate the same principles. But at that time when this realisation came to Homoeopaths, it was only in the realm of philosophy and not the realm of science. There is an interesting article by a teacher of mine from Switzerland who has labelled it "Privilege of liberation through Homoeopathy". He expounded the principle that by treating a patient through Homoeopathy, the patient is liberated from his past. In the same line as that article, I wrote that he is not only liberated from his past, but also from the future.

SHRIMATI TARA SAPRE: Can you treat such hereditary cases by preventive medicines?

WITNESS: We can make an attempt in a limited number of cases.

SHRIMATI TARA SAPRE: What are those diseases?

WITNESS: We do not treat diseases directly by their names. We try to restore harmony in the human system and help the patient to get rid of the disease. Therefore, the need for taking such measures on eugenic considerations and improving the heredity and improving the generations to follow will always remain.

SHRIMATI TARA SAPRE: Now, my last question. Please refer to page 2 of the Bill wherein it is stated, "No pregnancy of an unmarried girl, who has not attained the age of eighteen years, shall be terminated except with the consent in writing of her father or of her guardian, if her father is not alive". That is at p.2, clause 4(c).

WITNESS: Yes.

SHRIMATI TARA SAPRE: Here, consent of the father or guardian is mentioned. No mention of mother is made. I would like to ask you as a Doctor whether you would like to have instead of only 'father, 'father' or 'mother' or guardian'. If father and mother are not alive, then the consent of the guardian should be there.

WITNESS: Yes, it is impolite for the mother not to be mentioned.

SHRIMATI TARA SAPRE: You feel that mother's name should be there?

WITNESS: Well, so far as the responsibility is concerned, father is considered the head of the family. I am not by any means suggesting that he is or he is not or he should be or he should not be. But it has so far been considered like that. Now, for instance, in my family, if there is a report of my child from the school, there it is written "Signature of the parent|guardian" and my wife always says, "You sign it". But, I say, "Why don't you sign it?". If she signs it, they send it back to us saying.

"Why the father has not signed it?". Children are supposed to be more afraid of the father than of the mother although often times it is the reverse. Therefore, it can be mentioned 'father' or 'mother'.

**SHRIMATI TARA SAPRE:** My idea in asking you this question is that if the father does not consent, then with the consent of the mother the girl must get the pregnancy terminated.

**WITNESS:** Yes, I think it would be made easier if either one of them consents.

**SHRIMATI TARA SAPRE:** That is what I want. If the father objects to it, mother can help.

**WITNESS:** We are liberalising it. Let us be honest about it and let us liberalise it.

**SHRIMATI TARA SAPRE:** Thank you very much.

**CHAIRMAN:** Shri Mallikarjunudu.

**SHRI K. P. MALLIKARJUNUDU:** Some eminent doctors who have come here to give evidence seem to be of the opinion that this operation of terminating pregnancy is not so easy as is believed ordinarily to be. It is an operation done in the region not visible to the eyes and hence, sometimes expertise is necessary for undertaking this operation. In view of this statement, I would like to know whether sufficient training is given in homoeopathic institutions to enable the students to undertake such operations even as some kind of a refresher course. Is it not risky to entrust these operations to such people? Whatever the legal risk involved, we are dealing with the human being and so, we should avoid all possible risks. In view of that, don't you think that only allopaths who have specially gained knowledge in this can be permitted to undertake these operations?

**WITNESS:** My opinion, Sir, is that the operative or mechanical part of the

technique is not so difficult and it is not that all ill effects come from operation. They are only partly due to bad handling at that time. They are due to some unknown disturbances in the hormone balance and subsequently, many women have suffered from an operation even under very good conditions for other reasons. As far as the mechanical or the direct technical part is concerned, I somehow do not feel that it needs expertise or training and whatever it does need, I submit again is that both in the M.B.B.S. Course and the Diploma Course in homoeopathy, the theoretical part of the training is sufficient. I think at the outset I admitted that although I am an M.B.B.S., I would not handle it, I would not do it, because I must have direct practical training under an expert hand, and only after that I or somebody can undertake. I have a relation who is a CMO. He is from Indore. He is a CMO in a place like Panna. He was carrying out post-mortem examinations, he was conducting operations for appendicitis, gall bladder and so on and so forth, which nobody in a large city would dream of doing. I am only suggesting that since there is paucity of medical people, these doctors who have come from homoeopathic institutions and have the theoretical background, with a little extra training they can certainly do the mechanical part and there are lady doctors from these institutions who are already doing it. It is not something which has produced bad results or created complications.

**SHRI K. P. MALLIKARJUNUDU:** Have you got any idea of the percentage of cases where risk is involved, some kind of risk to the patient?

**WITNESS:** It would rather be difficult to calculate the percentage. As has been mentioned in some of the literature here, it is something criminal and it is something people normally do not talk about. You know they do not give out this information so easily unless they have great confi-

dence in the doctor. Otherwise, they would not say that they have gone in for an induced abortion and so, it is difficult to calculate the percentage of risk. In some cases where it has been performed for certain other diseases and it was necessary to undergo such a risk, then, sometimes the risk is coupled with the risk of the original disease—I mean the patient had a heart disease or tuberculosis or with the additional loss of blood, other risks involved in an ordinary operation. So, I would not be able to give any percentage of the risk involved.

**SHRI K. P. MALLIKARJUNUDU:**

It is said that the removal of pregnancy is easier if undertaken within 12 weeks. Is it true?

**WITNESS:** That is quite true. Before the placenta is fixed, i.e., before the safe limit of 12 weeks it should be done.

**SHRI K. P. MALLIKARJUNUDU:**

In the Bill a distinction is made between cases of 12 weeks and those of more than 12 but below 20 weeks. Will it be possible with any degree of accuracy to say that a pregnancy has taken place?

**WITNESS:** Yes, with a reasonable degree of accuracy. Of course you can have the services of an expert gynaecologist.

**SHRI K. P. MALLIKARJUNUDU:**

There is another clause saying that the operation can be undertaken if the child to be born is likely to be abnormal. Will it be possible to know it before hand?

**WITNESS:** It may not be foolproof but with reasonable certainty it can be said for many diseases. I had suggested that we might publish a list as other countries have done. Take, for instance, Pseudohyperstrophic muscular dystrophy. It is known that it is transmitted only to make offsprings, The female gets married but they do not suffer from that but their male

offsprings may suffer from that disease. It is the maternal uncles and the nephews that get it. Whenever such patients come we can find out from the history. When it is known it is certainly a great misery both to the patient and the parents as they will know that the child will die after a few years. Under those circumstances it is quite legitimate to sterilise the woman so that she has her other enjoyment but she does not vitiate the society. It is a good ground for terminating pregnancy so that the woman can be saved from the burden of having to rear children who are going to die.

**SHRI MALLIKARJUNUDU:** Can I take it that there are some cases where it is possible to say that the child to be born will be one with abnormalities? Don't you think that those cases should be listed, to avoid abuses?

**WITNESS:** Those diseases should be listed but the list should be kept open to include other diseases. In other countries they have two sections. There are some diseases which have a recessive character of inheritance like diabetes. There it is not necessary that the children must suffer and they may not be grounds for abortion. There are others that are sufficient grounds. Whenever a new measure is undertaken, we should be prepared for some abuses in the beginning as in the case of National Health Service in England when everybody resorted to it but later people get used to it and the abuse disappears.

**SHRI GANESH GHOSH:** We find that you have wholeheartedly welcomed the Bill. The Bill has put restrictions on termination. Are you of the opinion that this should be sufficiently liberalised and made available for the asking?

**WITNESS:** If a married couple, after having one or two children asks for abortion, it should be granted otherwise the criminal part of it will continue. I have found in countries like



Yugoslavia they have given statistics of abortions in institutions and still on the sly they are having it. So even where it is liberalised, people resort to clandestine methods. There are couples who go in for it by paying through their nose and others who cannot afford it go to undesirable places. Somebody will come and say: 'We were using one of the family planning methods but it has failed and pregnancy has occurred and therefore terminate it.' It is only begging the question. If he is not using any method and still he says he wants termination of pregnancy it comes to the same thing. It will make no difference.

**SHRI GANESH GHOSH:** Do you not think that if this Bill is enacted into law, this will serve as an inducement or encouragement to immorality and promiscuity?

**WITNESS:** Well, Sir, this question is linked with the question of promoting family planning and giving it wide publicity. When you are giving wide publicity to family planning measures, that is a greater inducement to immorality. They take away the one great fear i.e. of pregnancy. So, to that extent it is a greater inducement than this Bill. Here it means at least something is exposed or it has some discomfort to the lady. In the initial period everything must have its novelty and it would be abused. We are at a point of change in our concept of society, whether it is because of our coming into contact with the West with greater emphasis on materialism or whatever it is. For good reasons women are now coming forward more and more to work in different professions and with the change in the social structure, with the change in the social outlook, the youth of today have a different outlook. They ask why should anything be forced on them. They want to do things openly. The other day I was reading an article in the *Readers Digest* saying how sex should be explained to the youth. To that extent there will be an inducement, but I do not think that this Bill

would be a greater inducement. By and large it is being taken recourse to by married people. As has already been very rightly pointed out, they have nothing to conceal. They are lawfully wedded. They have every right to have a child, but for reasons of the family and environments they wish to have termination of pregnancy. One fact I forgot to mention in the beginning and which some other countries have specified. Apart from physical dangers and mental torture to the parents, for which they want termination of pregnancy environment has not been clarified in the explanatory note or otherwise. Environment has been mentioned, but it has not been specifically mentioned whether it includes financial and economic considerations.

**SHRI GANESH GHOSH:** You are of opinion that pregnancy can be terminated also on economic grounds.

**WITNESS:** Yes, just as family planning is practised on economic grounds. The two are linked together. I want two or three children. That is family planning. It is not something that has come by accident. I adopt family planning methods to prevent pregnancy. This also seeks to limit family in the same way.

**SHRI GANESH GHOSH:** You know that a very large number of cases—of termination of pregnancy is done clandestinely or secretly in our country every year. Do you think that with the present facilities available in our country we will be able to cater to the large demand that will come up after this Bill is enacted into law?

**WITNESS:** They are being undertaken at present also and may be they will be done under better conditions after this Bill becomes law. Even now—I am ashamed to admit it—my colleagues in the profession are doing it. Whether it is for money or for some other consideration is beside the point. They are doing it now and the same medical personnel will do it in the open. The clandestine practice is not

only limited to the midwife and other unscrupulous people. It is also being done particularly by the lady doctors.

SHRI GANESH GHOSH: What is your suggestion about meeting the demand of the village people?

WITNESS: The rural people must first of all have medical facilities. This may be made a part of those medical facilities. According to the Mudaliar Committee there is a large number of villages in the country which have no medical facilities. If I remember correctly, 13,000 are served by allopathic practitioners, 17,000 by homoeopaths and 26,000 by Ayurveds. The rest, out of the 83,000 villages have no medical facilities of any type or of any system.

SHRI M. SRINIVASA REDDY: I will put one or two questions of a general nature. Do you think that every case where pregnancy is terminated has to be recorded officially?

WITNESS: Except from the legal point of view of certain cases, the routine cases need not be recorded. There is no special need and it may be very cumbersome. We have to keep all our records secret. Only where there is some deep involvement of inheritance of property, etc. it is necessary to keep some record. Otherwise, I do not think it is necessary to keep any record.

SHRI M. SRINIVASA REDDY: Are there clauses in the Bill to guard against such cases?

WITNESS: I think there is some clause mentioned saying that it is not to be divulged.

SHRI M. SRINIVASA REDDY: You know that in some cases where students get pregnant or unmarried girls get pregnant they may not like their names to be disclosed when they want their pregnancy to be terminated. If any record is kept, it will be detrimental to their future marriage.

WITNESS: It should not be divulged.

SHRI M. SRINIVASA REDDY: It can be mentioned that those who do not want their names to be recorded should not be recorded. There should be no evidence available.

WITNESS: For that matter except for purposes of statistics these things need not be recorded in great detail giving their names and addresses. Even in the other case information about the diseases of patients is kept secret. More particularly in this case there should be complete secrecy.

SHRI M. SRINIVASA REDDY: Especially unmarried people.

WITNESS: Even in the case of married couples as far as the medical practitioners are concerned, they keep things secret normally. If a patient comes for the treatment of VD, that fact is kept secret even from his wife. It will not be divulged to his wife, in the interests of the family. In the case of diabetes or tuberculosis, such information is kept secret. I happen to practise in the same premises where my residence is on the first floor. If any one in my family asks me about the illness of any person I tell him or her that I have forgotten it. I am not supposed to tell it to anybody else.

SHRI KRISHAN KANT: Do you think that the whole of clause 6 should be deleted? It says that the State Government may require any such opinion to be certified by a registered medical practitioner.

WITNESS: I do not see much point in keeping such records except for some legal implications, which the legal men may explain.

SHRI KRISHAN KANT: Unless some record is kept how will we know whether abortions have increased or decreased?

WITNESS: For general purposes you can keep a record. For instance, you

are performing vasectomy or tubectomy. There is a general record, but there is nothing like having particulars of some special significance. You have a record showing which patient is going to whom. For example, the New Delhi Family Planning Association Centre has a record which would merely show how many abortions have taken place. The names and addresses of the patient are not recorded.

**SHRI KRISHAN KANT:** The lady may come again and again after three months. There should be some restriction or else she may come two or three times.

**WITNESS:** To that extent only the record should be kept. But it should be for obvious reasons secret not only because it is an abortion but as I said for all medical measure it is supposed to be secret.

**SHRI KRISHAN KANT:** You have said about Homoeopaths that they can do such cases. We do not have a word about surgery in Homoeopathy. I want to know how you say that.

**WITNESS:** The reason is that they are so busy in treating the patients, which is by and large their main field, that they have not so far in any way specialised in surgery, and therefore you have not heard much about it. There were colleges in the United States where they were practising surgery. There were Professors of Surgery. Even now in the London Homoeopathic Hospital where I have been trained they have a surgical ward, and the surgeons operating there or working there are so good that they are examiners for F.R.C.S. While I was there as a Resident Medical Officer, I have had colleagues who have been getting training for surgery in that hospital. So that it is nothing out of their purview. It has nothing directly to do with Homoeopathy. My contention is that surgery is neither Allopathic nor Ayurvedic nor Homoeopathic. Surgery is a mechanical medical science. Surgery is something auxiliary. It is a branch of the medical sciences. It

may be needed by an Allopath when he has no further possibility of treating by medicine. It may be needed by a Homoeopath. Therefore, within their strict purview there is no surgery. Allopathy is a system of treatment in medical science; so also Homoeopathy is a system of treatment of diseases so far as they are treatable by Homoeopathic medicines.

**SHRI KRISHAN KANT:** The question is the general public goes by the reputation or the general information it gets. Up till now there has been no such information.

**WITNESS:** That is a misconception amongst the general public partly encouraged by those Homoeopaths who have had no training. I have heard that a Homoeopath testified in a law court that a Homoeopath has no need for a stethoscope. What I mean is that the misconception can be so much.

**SHRI KRISHAN KANT:** The only question here is whether the Government should allow them to do this.

**WITNESS:** I definitely feel that they should allow them because they have that training. They can be incorporated in that programme. They are quite capable of doing it. They have the theoretical background.

**SHRI KRISHAN KANT:** Do you think that a test or an examination should be held before such people are allowed?

**WITNESS:** That can be held for both. You can certainly have examinations.

**SHRI KRISHAN KANT:** One point. You just said something about promiscuity and other thing.

**WITNESS:** What is more embarrassing for our children is. When we go to Connaught Place there is displayed, the big loop.

**SHRI KRISHAN KANT:** That is true but still in using the contraceptive methods there is still a chance that conception may take place. But with the permitting of this thing the unmarried women or widows will have no inhibition. Whatever they may do nobody can catch them. They can be safe. Will this thing itself not increase the incidence of promiscuity?

**WITNESS:** There have to be indirect methods of education or awakening which might control. A fear complex is not enough. It is true that if the fear that I may be hanged is there, though I may want to murder somebody, I would not murder him. That is true. Even when there are other methods being offered, even then if unfortunately it has occurred, when you weigh that against what would be the consequence if you do not do it, you will encourage this person to go in for it. Secondly, if that person has not got the courage or if facilities are not available, that cannot be done. What would happen if an unmarried girl happens to get a child and may be from an unwanted source or a widow happens to get a child? Think of the repercussion of that on that particular person and on the future of that particular child. This is not a medical problem. I am talking as a member of society. You have to weigh this aspect against that other aspect.

**SHRI KRISHAN KANT:** Don't you think that with the enactment of this Bill such cases will increase more and more? Fear complex is there. Still will this not open up more avenues of promiscuity?

**WITNESS:** Indirectly it would mean that I am morally depraved, I want to have promiscuous relations, but I hold back for fear of pregnancy.

**SHRI KRISHAN KANT:** That is a part of life.

**WITNESS:** That means morally I am already degraded. If it has occurred, if I was to weigh the harm that this continuance of pregnancy would cause against the little

laxity that it might encourage, I would rather encourage that little laxity than bringing out a child into this world who will specially in this country be throughout his life looked down upon everywhere. Everywhere he will be an outcaste from society, much worse than the system of outcastes that we have been trying to get rid of. In other societies of course it is slightly better. They gradually forget about it. Nowhere else he receives the same attention. In this country particularly it is most unfortunate; it may be unfortunate for the mother but it is more unfortunate for the child.

**SHRI S. KANDAPPAN:** I appreciate the candour with which you have made the points and the feeling that you have expressed that we need more liberalisation and not restriction of things further. What we are trying to achieve is to legalise what is already happening in this country, the further advantage being that the psychological inhibition and the exorbitant cost because of the illegality are being reduced. That is rather the advantage by enacting this, and if we are going to make it more rigorous, I think you will agree with me that we are not going to put an end to this problem but we will be only adding more burden to the people who are already resorting to it. My only question is—and with regard to this Mr. Ghosh has already put it but I wanted to be a little more categorical and open about it—do you think that there will not be any complication if we totally liberalise this thing and do not put any condition whatsoever on those people who demand abortion?

**WITNESS:** That is a very difficult situation, and my feeling is that as a first step it should not be just for the asking. There should be at least some semblance of restriction so that it is not like you can just go to a doctor and say, "Look here, I want to terminate it" and he terminates it without any sort of restriction like in any other illness.

SHRI S. KANDAPPAN: Do you mean that we ask them to produce some kind of certificate that they are having two or three children or some such thing? As far as the doctor is concerned, if there is any question of disease, then obviously the doctor is knowing about it. With regard to the economic position and other things they have to acquaint the doctor. For that, perhaps, a certificate will have to be required from somebody in the locality. What do you mean by this?

WITNESS: Just saying that the contraceptive has failed should not be enough. So also with regard to economic position there should be a very general idea. No hard and fast rule can be made. If they feel the difficulty, it is a good point. In Bulgaria they try to coax the people not to have it. But if they insist they do not stand in their way.

SHRI S. KANDAPPAN: What is your opinion about unmarried girls?

WITNESS: Not that one is sanctioning immorality. But if it does happen termination of pregnancy should be possible.

SHRI S. KANDAPPAN: Would you like to fix an age-limit there?

WITNESS: Yes, of course, particularly when they are under 18. But even after that age if it happens, I think they should have the termination facility.

SHRI S. KANDAPPAN: Do you think the provision in the Bill is sufficient?

WITNESS: There is no explanatory note about it. It says, "if it poses a serious problem to the physical health or the mental health of the parent and so on" An explanation should be added. I think it is a strong enough ground. She is suffering in a mental way.

SHRI S. KANDAPPAN: With regard to the question raised by homeopaths, the general impression that they have not much to do with surgery. But you have been claiming that they do have this theoretical background. Do you think they have surgical training also?

WITNESS: Yes, they have practical training though not to the extent as an M.B.B.S. has. In the M.B.B.S. also it varies, and in the homeopathy also it varies. I have said openly that all of these institutions are not standard institutions. I have even advocated their scrapping the sub-standard ones so that they do not fritter away their resources. There are 46 homoeopathic institutions. A British doctor in 1967 recommended that only six of them, which he considered as having reasonable standards, deserved to be recognised. He recognised those alone for admission to their course in London. He did not agree to admitting students from all the other institutions. Like that there are training institutions that are good. They have theoretical as well as practical training. For that matter, the Professor of Gyneacology in the Calcutta Homoeopathic Medical College is not only an M.B.B.S. but an M.R.C.O.G. from England. It is supposed to be one of the highest qualifications. He had a very flourishing obstetric and gyne practice. Therefore, whatever training they are already having can be further increased. Some of these colleges have the same text-books and the same course as M.B.B.S.

SHRI S. KANDAPPAN: Am I correct in drawing the inference that you are widening the scope and including homeopaths also for the simple reason that there is dearth of qualified doctors in the country while the measure is very urgent and important. Therefore, you want some kind of emergency training given to all these people and have them equipped for the necessary surgical training. Do you feel that it is safe to

empower the doctors who are highly qualified and the institutions which have got the needed minimum necessary equipment only to go ahead with this sort of operations?

WITNESS: I would not say that it is only because of dearth of doctors. It is all a matter of comparative degree. As I already put it, an average M.B.B.S. is not at all competent to perform this operation.

SHRI S. KANDAPPAN: But you have already conceded that they have got more surgical training.

WITNESS: It is only a matter of degree. Infants we should have highly trained people, nothing short of F.R.C.S. and M.R.C.O.G. Even an M.B.B.S. needs supplementary training. Though they have some surgical training but they have not enough training in gynaecology.

SHRI S. KANDAPPAN: Last question. About the limited scope of the practical aspect of the operation you have been repeatedly telling us that the technical side of it is very simple. But one of our members has put the question that according to some experts this being an invisible operation it has to be handled very carefully and the after-operation care should be provided for. For that we need a certain minimum equipment. Your argument seems to be that that side of it is not so complicated. Are we to understand that the human mechanism as a whole does not involve a more entangled thing in this sort of operation; it is a detached sort of thing which may not have any damaging effects in the other system of the body. Could you elaborate on it?

WITNESS: There is need for efficient handling and there is no minimum. The minimum also goes on varying according to the facilities available. There was a time facilities there were no fans. Then the fans were provided to others but not to peons. Later on fans were provided even for the peons. Now they say

this is a very outdated and crude thing. There should instead be air-conditioning in this kind of hot weather. So the minimum goes on rising. There is no minimum. The hospitals and clinics where major operations are being performed today, do they have all facilities, such as for blood transfusion and after-care? Although equipment is a basic need. By and large in an average case it is not needed. As for the possible harm, you have always to weigh it in relation to what benefits are likely to accrue, what damage could be done and so on. In that context it may be that is weighted on the side of the termination of pregnancy.

SHRI S. KANDAPPAN: My point is only this. After all, we know that because of the advance of medical science and so many researches even our country can afford to have a certain minimum. We already have district and State hospitals. Knowing full well the complications that are involved, while trying to extend as much facility as we can, we should try to extend the advantage to the maximum number of people. I think we should provide that the doctor or the man who is running the clinic should have the minimum implements.

WITNESS: I would put it this way. It should be said that the maximum possible facilities should be provided. There cannot be a minimum.

श्री जनेश्वर यादव : डाक्टर

इस एवार्शन बिल के अन्तर्गत जो अनमैरिड गर्ल्स का एवार्शन होगा तो इस एवार्शन की वजह से कहीं बाद में आगे चल कर कुछ बच्चेदानी में कोई कमजोरी तो नहीं आयेगी कि सन्तान पैदा करने लायक नहीं रहे । इसके बारे में क्या आप कुछ कह सकते हैं ।

साक्षी : अगर कोई उसमें काम्प्लीकेशन न हो तो कुछ ऐसा इमकान नहीं है ।

श्री जगदीश्वर यादव : इस एवार्शन की आजादी की वजह से, जबकि हमारे देश में दहेज की प्रथा एक बहुत बड़ा दोष बनी हुई है, क्या शादी करने में लड़कियों को ज्यादा डिले नहीं होगी क्योंकि तीस, तीस साल तक लड़कियाँ कुम्भारी बैठी रहती हैं, जब कि 18 साल में वह शादी के योग्य हो जाती हैं ?

साक्षी : मेरा ख्याल है, और बजूहात से तीस, तीस साल तक बैठी रहती हैं। उनके काम करने का तरीका, रहने का तरीका, और जैसे सोसाईटी बदल रही है वैसे ही वह चीज भी बदल रही है। इस चीज को खोलने से तो ऐसा नहीं होगा कि वह कहेगी अब शादी की जरूरत नहीं है, कि सारी उम्र ऐसे ही रह जायेगी।

श्री यादव : जो मेरेज करेगा क्या उसको पता रहेगा कि मैं कुमारी के साथ शादी कर रहा हूँ। इसका एवार्शन हो गया है तो क्या उसका कुम्भारीपन का सर्टिफिकेट रहेगा, या जो मेरेज करेगा उसको पता रहेगा कि मैं कुमारी के साथ शादी कर रहा हूँ, इसका एवार्शन हो गया है इसके बाद भी कुमारी के साथ शादी कर रहा हूँ।

साक्षी : वह तो ऐसा है कि एवार्शन कराने से उसकी वर्जिनिटी या कुमारीपन खत्म नहीं हुआ, एक आदमी के पास जाने से ही खत्म हुआ क्योंकि अगर वह दूसरे फेमिली प्लानिंग के मेजर्स का इस्तेमाल करती है उससे भी तो उसका कुमारीपन खत्म हो जाता है। यह ठीक है कि यह जो कदम उठाया जा रहा है उससे एक दर्जा आगे हो गया लेकिन इससे यह मतलब नहीं कि इसी वजह से उसका कुमारीपन खत्म हो जाता है।

श्री यादव : क्या इसका कोई सर्टिफिकेट नहीं होगा कि एक बार एवार्शन हुआ, दो बार एवार्शन हुआ। क्या इस तरह की एवार्शंस लिये कोई बाईंडिंग होगी।

साक्षी : यह तो जैसा रिकार्ड वह रखेंगे वैसा रखेंगे। लेकिन मैं नहीं समझता सर्टि

फिकेट देने से ही जिस वजह से उसने एवार्शन कराया हो कुछ हद तक वह वजह खत्म हो गई। उसने इसलिये एवार्शन कराया कि एक गलती हो गई। तो उस गलती को किसी तरह से उसको छिपाना है या दबाना है। तो वह सर्टिफिकेट लेकर उसको अखबार में तो नहीं छपायेगी।

SHRI G. GOPINATHAN NAIR:  
According to the provisions of this Bill, a pregnancy is allowed to be terminated upto a period of 20 weeks. There is difference of opinion among the medical men about the period up to which a pregnancy can be terminated. What is your view?

WITNESS: I take it that you ask for my opinion about the period up to which a pregnancy can be terminated *safely*, because it can be terminated at any stage. It can be terminated with considerable safety or absolute safety up to 12 weeks and with reasonable safety up to 20 weeks. Thereafter, both from the medical point of view as well as from the social angle, the infant becoming viable, there are many more complications.

DR. SUSHILA NAYAR: On page 1 of the Bill, clause 2(a) says:

“guardian means a person having the care of the person of a minor or of his property or of both his person and property;”

Do you think it will be a safe or desirable thing to invest the right of decision with regard to an abortion being performed, or not being performed, in a person who has the charge of a minor's property?

WITNESS: I think the inclusion of property in this can have many complicated legal aspects and this should certainly be re-examined. There is also the possibility that somebody who is in charge of only the property and for reasons of human weakness, as Bernard Shaw puts it, it would be most unsafe to leave this decision in the hands of that guar-

dian. He would rather see that the property stays with him than with the offspring.

DR. SUSHILA NAYAR: You have said that termination of a pregnancy is absolutely safe up to 12 weeks and reasonably safe up to 20 weeks. May I put it to you that termination of a pregnancy is not safe at any stage? There are certain risks involved in the termination of a pregnancy at any stage. Will you agree with me?

WITNESS: That is why I said "reasonably safe", because the risks are from the first day. Some hormonal changes start. Then there are psychological aspects which are individual, which cannot be generalised. Therefore, it would be better to say "reasonably safe from the medical point of view." Otherwise, it can never be said "yes, just nothing happens." It is not like somebody passing urine or passing motion. It is not taken in the same sense. There is some risk. But for practical purposes, weighed against the risk of continuance of that pregnancy, it is reasonably safe. So it is very much weighted in favour of termination of pregnancy up to 12 weeks because at least the physical risks are much less.

DR. SUSHILA NAYAR: But apart from emotional and psychological aspects, perforation of the uterus is fairly a common occurrence even in the hands of well qualified gynaecologists and obstetricians. So, it is something that has to be treated with respect.

WITNESS: Yes, it certainly needs to be treated with care. But I would put it this way that perforation of the uterus is not a common occurrence. It does occur at times.

DR. SUSHILA NAYAR: Now, having agreed that termination of pregnancy can result in perforation of the uterus and some serious complications of that nature, would you also agree that all abortions should be performed in a place where facili-

ties for an abdominal operation are available, or at least where there is some kind of a link-up with a hospital where such facilities can be made available at a moment's notice at the call of the doctor who is performing the operation, where facilities for blood-transfusion, etc. will be available?

WITNESS: The link-up is, of course, very desirable. In an emergency if the aid of expert personnel, expert surgeon and other people, is available, it is good. But to my knowledge it is not of such frequent occurrence that it should be made a must. I would say that it is an uncommon occurrence. Certainly it is a complication to be kept in mind....

DR. SUSHILA NAYAR: But every human life is precious.

WITNESS: But that value also varies from place to place and from country to country. Please look at what we are doing to 80 per cent of our population in rural areas. We somehow or other are unable to provide them with the barest medical needs.

DR. SUSHILA NAYAR: Then please see clause 6. Would you be in favour of including in these regulations the minimum training required for a doctor, the minimum facilities to be made available for the performance of abortions, etc.?

WITNESS: I think this may have been added for certain administrative reasons because health is a State subject. I do not see any reason why all that should not be made here itself. It need not be left to the States when all the States are represented here in Parliament. All this can be centralised and some minor modifications can be made at the State level. And you are quite right that it may be incorporated as to the basic training and the basic things of such a set-up.



DR. SUSHILA NAYAR: You have said something about sub-clause (2) (a) and (b) of Clause 3 about the distinction between 12-20 weeks and above.

WITNESS: Yes, another sub-clause (c) can be added saying that if it exceeds 20 weeks, it must be done at a specialist hospital for more complicated medical reasons. There should be a specialists board or agency for a more advanced stage just as we have provided for the initial stages of pregnancy.

DR. SUSHILA NAYAR: Please read the Explanations. There are two questions: (1) would you like to add the words "grave injury..." as it is being mentioned here? and (2) Is it necessary to spell out the specific conditions, such as rape?

WITNESS: Before you came I had mentioned in my opening remarks that in countries like Japan and Bulgaria there are lists of conditions. We might also make some such lists. We can, of course, go on making suitable changes in those lists.

DR. SUSHILA NAYAR: But should we specifically mention rape as a cause for mental anguish? There may be other causes also for mental anguish.

WITNESS: Yes, there may be other causes also resulting in grave injury to the mental health of the woman. Anyway, I do not see any reason why we should not be more liberal on this point. In Bulgaria, I think, one of the reasons allowed is that the pregnancy is caused by a person to whom the girl cannot be married for reasons of relationship of blood. So I say if for any reason she cannot be married to that particular person that should be one of the reasons for performing abortion.

DR. SUSHILA NAYAR: By mentioning this we are more or less limiting the scope of this Bill.

Therefore, I think it should be removed.

WITNESS: Yes, it should be more liberal.

DR. SUSHILA NAYAR: Then please read Explanation II. The same thing applies here.

WITNESS: I have already said earlier that there should be no need for any person specifically to say that he has used contraceptives but they have failed him. That way, whether one has really used contraceptives or not, one can come and tell a lie that one has used contraceptives but they have failed and that one has already got two or three children and so would not want any more.

DR. SUSHILA NAYAR: Would you be in favour of insisting on sterilization on one or both the partners if they have already had two or three children so that the risk of repeated abortions can be avoided?

WITNESS: That could only be a matter of coaxing the partners to undergo that. I suppose it would be a little difficult to force people like that in a democratic regime, that they must both get sterilized or at least one of them must get sterilized. When they themselves come for an abortion, it means that they are in a receptive frame of mind. They already say that they have two or three children and do not want any more or for reasons of the health of the mother they want to space the pregnancy. But otherwise, we cannot interfere. But there should be enough coaxing and education. We have to tell them: "Look here. There is some risk in this measure and it should not be undertaken again and again". That kind of education should be given to them.

DR. SUSHILA NAYAR: Do you think that some step is necessary to prevent the risk of repeated abortions in view of the effects of such a thing on the health of the woman and the

present low standard of health of a majority of our people?

WITNESS: Some step is necessary. It could be partly education and partly by way of prescribing some deterrent in the Bill itself. It is the deterrent factor that is likely to work.

DR. SUSHILA NAYAR: Would you agree that the financial provision made in this Bill for this purpose is most inadequate?

WITNESS: I said in the beginning that I am very poor in arithmetic and I will leave it to others.

DR. (MRS.) MANGLADEVI TALWAR: You have been given very good replies to all the questions. I would like to refer to your statement that in the Homoeopathic Hospital in London there is a surgical unit manned by highly qualified staff who are even examiners for FRCS. When I was in London I had occasion to visit the Henderson Hospital. Now the health system in India has changed. In olden days there used to be hony. physicians and surgeons attached to various hospitals and therefore the surgical unit run in other hospitals was similar to your Homoeopathic hospital. That does not mean that a person who is appointed examiner for FRCS is himself a FRCS. Therefore, the surgical unit to which you have referred was a general surgical unit and students who are trained there will not be of the same standard as elsewhere.

WITNESS: My reference to that was in the context of relationship between homoeopathy and surgery.

DR. (MRS.) MANGLADEVI TALWAR: You have also referred to the Calcutta College and the degree given there. It is a recognised degree. But I would like to know what was the standard of surgical training and training given in anatomy there?

WITNESS: The standard is somewhat equivalent to the old LMS or may be slightly less. It is a four year course as against the five year course of MBBS. By and large F.Sc. and B. Sc. boys join there even though the minimum qualification is only SLC with science.

DR. (MRS.) MANGLADEVI TALWAR: What about post-graduate course?

WITNESS: Only a provision has been made by the Central Government on paper. There is only one institution in U.P. which is affiliated to a university. There, the standard is almost equal to MBBS, may be slightly, less in surgery. Only F.Sc. and Pre-medical students seek admission. It is a five year course. Previously it was under Agra University. Now it comes under Kanpur University.

DR. (MRS.) MANGLADEVI TALWAR: Excuse me for asking a personal question. Do you do surgery yourself?

WITNESS: I had written about it in my article. When I started my practice, there was plenty of time and I used to receive all kinds of patients. Once I put a plaster on the leg of a person for a crack and in the tibia on another occasion I stitched a wound in the case of a person who met with a motor-cycle accident. Later, people surprised me with this question: Have you got surgery in Homoeopathy? Now, though I have some surgical equipment, nobody comes to me for such cases and the instruments are rusting. I do not think I will get such cases hereafter.

DR. (MRS.) MANGLADEVI TALWAR: Do you think that the graduates who come out from homoeopathic colleges have got good standard of surgical training and they can be entrusted with abortion operation cases? Although it is a minor operation, its complications can be very serious and grave. Unless the person handling such cases is really

an expert, there can be mistakes. Do you think after some training they can undertake this work? If so, what should be the prescribed course of training? I am referring to graduates coming out of Indian colleges, not London College.

WITNESS: Before you, I think the Hon'ble Minister had asked the same question and I had said that the period of training is intimately connected, intimately coupled with the intensity of training. We are sometimes used to thinking in terms of length of time only and not the depth of training and the intensity of training within that period. If it is intensive training, I think three months should be fair and there can be a little examination. Those who are not so good and do not complete in three months can go in for another period of training also, because it is necessary that we must have people who know their job, who should then be subsequently, allowed to handle this kind of work.

DR. (MRS.) MANGLADEVI TALWAR: You have stated that women have suffered from some condition due to other reasons even if abortion has been conducted under the best conditions. I would like to know what those conditions are according to you.

WITNESS: Well, very usually they are gynecological, I would admit—when I mean it was done under sanitary conditions with proper expertise—and menstrual disorders which are not really gynecological problems, they are connected with hormone balance.

DR. (MRS.) MANGLADEVI TALWAR: Nothing specially from homoeopathic angle?

WITNESS: Nothing of that kind. The only thing I mentioned was that as homoeopaths we are used to very very detailed history and we have the opportunity of asking for greater detail than is possible in a casual examination.

DR. (MRS.) MANGLADEVI TALWAR: I know it. Thank you.

श्री निरंजन वर्मा : अभी आपने यह बताया कि होम्योपैथी के सर्जरी के कोर्स के लिए आगरा यूनिवर्सिटी में कोई स्थान था। क्या आप बता सकेंगे कि भारतवर्ष में कितने ऐसे स्थान हैं और वे कहां कहां हैं जो होम्योपैथी में सर्जरी में भी शिक्षा देते हैं।

साक्षी : यह जो मैंने आगरा यूनिवर्सिटी की बात कही वह यह थी कि ये लोग पढ़ते अपने इंस्टीट्यूशन में थे, वह आगरा यूनिवर्सिटी से एफिलिएटेड था। बाकी डिप्लोमा दे रहे हैं। इनका लम्बा कोर्स है और ये डिग्री देते हैं, यह नहीं था कि सर्जरी आगरा यूनिवर्सिटी के किसी एलोपैथिक कालेज में पढ़ाई जाती थी, उसकी ट्रेनिंग उनके अपने कालेज में होती थी। होम्योपैथिक कालेज में एनाटोमी, पैथोलोजी, सर्जरी और गायनाकोलोजी सब सबजेक्ट्स पढ़ाए जाते हैं। कई दफा लोग पूछते हैं कि आपने एम० बी० बी० एस० किया, पांच साल जाया हो गए, मैं कहता हूँ कि जाया तो एक दिन भी नहीं हुआ। आप यह कह सकते हैं कि जिस चीज का मुझे पूरा लाभ नहीं हो रहा है वह 3-4 महीने का समय है क्योंकि जो थेरापिस्टिक का हिस्सा है वह अलग अलग है, लेकिन जो बाकी डायगनोसिस का पार्ट है, वह जो वेस्टर्न सिस्टम आफ मेडीसिन में है वही है, जैसे आयुर्वेदिक में नब्ज से पहचानते हैं वैसे कुछ नहीं है। यह जो बैकग्राउंड है वही है जितनी होम्योपैथिक डाक्टर्स ने किताबें लिखीं, टीचर्स ने किताबें लिखीं, जितनी फाउंडर ने किताबें लिखीं। उन्होंने यह कहा है कि यह सबजेक्ट्स उतनी ही गहराई में पढ़ना चाहिए, कइयों ने कहा है कि नर्वस सिस्टम इतसे भी ज्यादा पढ़ना चाहिए, तब आप अच्छी तरह से होम्योपैथी कर सकते हैं। हेनीमैन, प्रोफेसर आफ मेडीसिन एलोपैथिक कालेज में था, शुरू से ही होम्योपैथ नहीं था।

**श्री निरंजन वर्मा :** जैसे आयुर्वेद और एलोपथी के मिक्सड कालेजेज चलते हैं वैसे वर्तमान में आपके कोई हैं ?

**साक्षी :** न हैं और न हम चाहते हैं ।

**श्री निरंजन वर्मा :** अगर कोई गर्भपात कराने के लिए आए तो वह केवल एक ही डाक्टर के पास जाए वा वह एक दो-तीन डाक्टरों के बोर्ड के पास जाय जो गर्भपात की अनुमति दे ?

**साक्षी :** अगर सोसाइटी को इस चीज का निश्चय है कि डाक्टर अपनी जिम्मेदारी समझेगा तो एक भी काफी है लेकिन अगर नहीं समझेगा तो दो भी काफी नहीं हैं । यह चीज जरूर है कि दो होंगे तो थोड़ा ज्यादा पता हो जाता है लेकिन जब एक गलत सर्टिफिकेट दे सकता है तो इसमें भी गलत डिजीजन कर सकता है । यह तो पब्लिक के जनरल मोराल के साथ ताल्लुक रखता है ।

**श्री निरंजन वर्मा :** अभी आपने बताया कि आप डाक्टर भी हैं और सामाजिक कार्यकर्ता भी हैं तो बताइए कि इन दोनों दृष्टियों से एक मैरिड कपल स्वेच्छा से गर्भ को गिराने के लिए आए उनके लिए तो अज्ञा दे दो जाय लेकिन व्यभिचार या अन्य कारण से भ्रूण रह जाय, कूआरी लड़कियां जिनकी आयु 18 वर्ष से कम की हो या ऐसी कूआरी लड़कियां जिनकी आयु 18 वर्ष से अधिक की हो वे गर्भ गिराने के लिए किसी डाक्टर के पास जाय और डाक्टर गर्भ गिराएगा तो वर्तमान परिस्थिति में उससे समाज में अनैतिकता नहीं फैलेगी ?

**साक्षी :** शुरू में जब भी कोई नया सिल-सिला आत है तो जरूर कुछ न कुछ एव्यूज होता है कुछ न कुछ गलत इस्तेमाल होत है, लेकिन मेरा कहना है कि जब हम फैमिली

प्लानिंग मैसैज को इतना ओपिनली बता रहे हैं जब हम लेक्चर दे रहे हैं तो उसके मुकाबले इससे ज्यादा फर्क नहीं पड़ेगा । वे चीजें इम्मोरेलिटी के लिए ज्यादा रेस्पॉन्सिविल हैं । इस लिहाज से सोचें कि पिछले जन्म में कुछ ऊंचे-नीचे कर्म किए थे उनको दंड मिले तो वात और है । दूसरे इस तरह भी सोच सकते हैं कि इनसान से गलती हो गई है, हो सकता है कि औरों से गलती हुई हो लेकिन छुट जाते हैं । बच्चे का कोई दोष नहीं है, दंड अगर मिलना ही चाहिए तो मां को या पिता को लेकिन जिस बच्चे का दोष नहीं उसको भी सारी जिन्दगी तोहमत लगी रहेगी ।

**श्री निरंजन वर्मा :** आपके दृष्टिकोण से फैमिली प्लानिंग में जो उपाय हैं वे इससे ज्यादा अपराधी हो सकते हैं । फैमिली प्लानिंग में तो माता-पिता दोनों के संयुक्त एग्रीमेंट से गर्भ गिराया जाता है ।

**साक्षी :** आपका यह ख्याल गलत है । फैमिली प्लानिंग का प्रचार मैरिड कपल्स तक महसूस नहीं रहता, वह सारी सोसायटी में फैल जाता है ।

**निरंजन वर्मा :** कानून की दृष्टि से तो मैरिड कपल फैमिली प्लानिंग मेथड्स का इस्तेमाल करते हैं इसलिए कि बच्चा न हो और वह ठीक भी है लेकिन कूआरी लड़कियां अगर व्यभिचार की दृष्टि से इस प्रकार का अपरेशन कराये और भ्रूण हत्या कराये तो क्या यह दोनों एक ही स्तर की चीजें हैं ?

**साक्षी :** यह एक ही स्तर की बात नहीं है क्योंकि बहुत कम ऐसी चीज होगी । फैमिली प्लानिंग के लिए इस का कोई ज्यादा फायदा नहीं है लेकिन क्योंकि इस बिल में ये सारी चीजें हैं और उस पर गौर भी हो रहा है इसलिए उस के मुताल्लिक मैंने यह कहा कि फैमिली प्लानिंग का यह कोई खास तरीका नहीं है ।

**श्री विद्याधर वाजपेयी :** डाक्टर साहब, आप होम्योपैथ हैं और होम्योपैथी में सर्जरी है ही नहीं और न ही अर्वाशंस के लिए स्पेसिफिक मेडिसिन हैं और न गर्भ गिराने के लिए कोई खास दवाईयां हैं तो इस बिल के आधार पर होम्योपैथस की सेवायें कैसे अबेल की जा सकती हैं ?

**साक्षी :** जो होम्योपैथ है वह भी एक फिजिशियन है। जब वह सर्जरी कर सकता है तो उस की सेवायें भी इस के लिए इस्तेमाल की जा सकती हैं और गर्भ गिराने के लिए उस में दवायें हैं या नहीं यह तो देखने की बात है। नार्मल यूटरस के लिए तो एलोपैथी में भी ऐसी दवायें नहीं हैं कि जो गर्भ को गिरा दे। वे तो कुनन से या अरगेंट से उस को गिरा सकते हैं। वटू तो एडीशनल ग्यानाकालोजी है, एक साइंस है जिसका इस में वे इस्तेमाल करते हैं। कई बार ऐसी एफेक्टिव दवायें होती हैं कि जिन से अगर बच्चे की पोजीशन गलत हो जाती है तो वह भी ठीक कर ली जाती है। कई ऐसी दवायें हैं कि जिन से रूके हुए मेसेज चालू हो जाते हैं। मेरा अपना ख्याल है कि कई बार मेसेज किंसी वजह से डिलेड होते हैं और दवा की वजह से आ जाते हैं। तो खास एवार्शन के लिए ही वे दवायें होती हैं यह नहीं कहा जा सकता, लेकिन जो हैल्दी यूटरस है वह आसानी से गर्भ नहीं गिराती। जहां तक फेमिली प्लानिंग मेजर्स की बात है वे तो मेकेनिकल मेजर्स हैं वे कोई होम्योपैथिक या एनोपैथिक मेजर नहीं है।

**श्री विद्याधर वाजपेयी :** होम्योपैथस को सर्जन नहीं समझा जाता और उनको सर्जरी सिखायी नहीं जाती। कोई होम्योपैथ सर्जरी सीख ले यह दूसरी बात है। लेकिन एलोपैथस में जिस के पास एम० बी० बी० एस० का सर्टिफिकेट है चाहे वह सर्जरी में कमजोर ही क्यों न हो लेकिन उस को इजाजत होती है आपरेशन करने का और यह गर्भ गिरा सकता है लेकिन होम्योपैथस को कैसे यह इजाजत दी जाय ? ज्यादातर तो होम्योपैथ में जो कैंस

हैं उन को ही सर्टिफाई कर दिया गया है प्रेक्टिस करने के लिए। ऐसी अवस्था में क्या होम्योपैथस को इस बिल के अनुसार अनुमति मिलनी चाहिए कि वह गर्भपात कराने के काबिल समझे जाय ?

**साक्षी :** अगर यह कमेटी चाहे तो मैं किसी कालेज के सलेक्स को कांपा भेज सकता हूँ और उस में कमेटी देख सकती है कि वहां वे लोग अपने विद्यार्थियों को कितनी सर्जरी पढ़ाते हैं या कितनी सर्जरी का बैकग्राउण्ड उन को है अनाटामी वगैरह को। मैं यह नहीं कह रहा हूँ कि जो होम्योपैथस केवल लेथ आफ प्रेक्टिस का बिना पर रजिस्टर हो गये हैं उन को इजाजत दी जाये। ऐसा होगा भी नहीं क्योंकि हम ने यह सोचा है कि उन में जो स्पेशल ट्रेनिंग लेंगे उन्हें को इजाजत मिलेगी और ट्रेनिंग उन्हें को मिलेगी जिन के पास कुछ बैकग्राउण्ड होगा। और सर्जरी होम्योपैथी में है या नहीं इसे ले कर एक बड़ी भलतफहमी है। जो कि ग्राम लोगों में भी है। हिन्दुस्तान में 3 लाख होम्योपैथस हैं प्रैक्टिशनर और उन में 80,000 रजिस्टर्ड हैं। उन में केवल 20 या 25 हजार ऐसे हैं जो किसी इंस्टीट्यूशन में गये हैं और उन में भी बहुत से किसी अच्छे इंस्टीट्यूशन में नहीं गये। तो 8, दस या 15 हजार ऐसे बचे होंगे जिन को प्रापर सर्जिकल ट्रेनिंग है और उन का इस्तेमाल इस के लिए हो सकता है। मेरे खुद कोलीग्स हैं जो कंट्रैक्ट और वाइसकटमी और दूसरे आपरेशन करते हैं।

**SHRI PRATAP SINGH :** Is it not a fact that the provisions in this Bill are meant for registered medical practitioners covered under Section 2(h) of the Indian Medical Council Act of 1956? If so, what suggestions you would make so that the homoeopathic medical practitioners who are specifically qualified in surgery be taken in this? I would refer you to clause 2(d) of this Bill. You have said that there are some homoeopathic surgeons who can perform operations under this Bill. I want to know

whether they are covered under this; if not, do you suggest some amendments ?

**WITNESS:** Yes, I do not agree with this and I suggest that it should be so amended as to include those registered homoeopath who have passed out of institutions so approved for the purpose and considered to have had the requisite surgical and other background training with an additional course. They should be included in this scheme. It should not be restricted to those registered under the Indian Medical Council Act when in this country the Government in the States and in the Centre recognise the practice of homoeopathy and are giving it adequate encouragement and it is within the syllabus of these institutions and they are receiving adequate training, which can of course, be improved, If necessary they can have additional course, the length of which can be determined by experts. Thereafter they are quite competent to be utilised for this service.

**श्री प्रताप सिंह :** आज भी गर्भपात होते हैं तो क्या मैं जान सकता हूँ कि इस प्रकार के एक एनालिसिस पर जो कि होम्योपैथिक सर्जन करते हैं क्या खर्च होता है ।

**साक्षी :** खर्चा तो डाक्टर की फीस होती है और तो कोई ऐसा लम्बा चौड़ा खर्चा नहीं है । बाकी थोड़ी सी रुई कोई इस्तेमाल होती है उसका खर्चा है । जहां तक कि इंस्ट्रुमेंट्स की बात है जैसे कि डाइलेटर्स हैं या क्युरेटा है या स्ट्रिलाइजर्स हैं वह कोई एक आपरेशन के लिये तो है नहीं, एक दफा खरोदते हैं और फिर वह दूसरे काम में भी आता है । इक्विपमेंट का जो इन्वेंचरी खर्चा है वह है लेकिन वह अलहदा चीज है, कोई इमोडियेट खर्चा उसका हो ऐसा नहीं है, हां हो सकता है कि थोड़ा सा एनेस्थीसिया दिया है तो उसका खर्चा है और अगर कोई दवा इस्तेमाल की है तो उसका थोड़ा खर्चा है लेकिन कोई ऐसा लम्बा चौड़ा खर्चा नहीं है ।

**श्री गंगाचरण दीक्षित :** डाक्टर साहब, अभी आपने कहा कि होम्योपैथ को इसके लिये इंकलूड कर सकते हैं लेकिन अगर मिश्रित प्रणाली में कोई आयुर्वेदिक पास है जिसमें कि सर्जरी को कोर्स रहता है तो वह भी इंकलूड किया जा सकता है या नहीं ।

**साक्षी :** मेरा खयाल है कि जरूर उनको इंकलूड किया जाय । इसके लिये मैंने इसलिये नहीं कहा क्योंकि मुझे पूरा ज्ञान नहीं है कि उनके कोर्स में कितनी एनाटॉमी या कितनी सर्जरी पढ़ाते हैं ।

**श्री गंगाचरण दीक्षित :** अगर उनके कोर्स में सर्जरी का प्राविजन हो तो ।

**साक्षी :** हां, इंकलूड करना चाहिये, जो कि इंटग्रेटेड कोर्स के है और आयुर्वेदिक और एलोपैथिक के हैं और सर्जरी पढ़ते हैं तो करना चाहिये । अगर एक आदमी काम्पीटेंट है, उसकी ट्रेनिंग ऐसी है कि वह आसानी से और सेफली इस चीज को कर सकता है तो उसका इसके लिये इस्तेमाल किया जा सकता है ।

**श्री गंगाचरण दीक्षित :** पेज 2 पर एक्सप्लेनेशन 2 है और इसमें वह मान्यता मानी गई है कि परिवार नियोजन का कोई मेथड असफल होने पर स्त्री को मानसिक वेदना रहती तो क्या यह प्रिंसिपल हर एक केस में लागू किया जा सकता है । अगर कोई डिवाइस फेल हो जाता है, अगर कोई मेथड परिवार नियोजन का फेल हो जाता है तो उसको क्या मानसिक वेदना होगी—यह मानसिक वेदना का पैदा होना क्या हर एक डिवाइस में लागू होगा ।

**साक्षी :** मैं तो इस खयाल का हूँ कि यह जरूरी ही नहीं है कि कोई आकर कहे कि कोई डिवाइस का फल्योर हुआ है ।

**श्री गंगाचरण दीक्षित :** आपका मतलब यह है कि डिवाइस का जो शब्द है वह निकाल दिया जाय ।

साक्षी : इसकी कोई जरूरत नहीं है, यह रिडंडेंट है। अगर कोई आभार कहे कि डिवाइस फेल हो गया है तो फिर क्या एक्स्ट्रा इंफार्मेशन मिली।

श्री गंगाचरण दीक्षित : उसके बारे में डाक्टर पता लगा सकता है। डाक्टर बता सकता है कि ऐसा हुआ या नहीं।

साक्षी : यह डाक्टर नहीं बता सकता। मुझे इजाजत हो, मैं यह कह सकूँ, कई लेडीज़ यहां बैठी हुई हैं, अगर एक आदमी एफ० एल० यूज करता है और वह फेल हो गया है तो वह उत्तम छोटा सा सूराख कर दे और कह दे कि मैंने यह इस्तेमाल किया था, फट गया, तो उनका क्या उपाय है, उसके क्या फायदा है सिवाय इसके कि एक लम्बा चौड़ा स्टैटिस्टिक्स बनावें कि फ्लाई डिवाइस फेल हुआ है, इससे ज्यादा और कोई फायदा नहीं है और डाक्टर कोई वर्काल के मानिन्द क्रास-एग्जामिन करना शुरू करे कि यह ओरल पिल तुमने ली, यह तो कभी आगे फल हुई नहीं, जरूर तुम भूल गये होगे और वह मान ले कि हाँ एक दिन भूल गया तो उसकी फांसी तो नहीं चढ़ा देंगे, भूल गया तो क्या करना है। इसलिये मेरा कहना है कि यह रिडंडेंट हो जाता है।

श्री गंगाचरण दीक्षित : मैं आपका ध्यान धारा 3 की उपधारा 4 के सबक्लाज़ (बी) की ओर दिलाना चाहता हूँ। इसमें यह लिखा है :

"No pregnancy of a widow, who is a minor or lunatic, shall be terminated except with the consent in writing of the guardian of such widow."

तो यह कंसेंट का सिद्धांत केवल विडो और ल्युनेटिक पर ही न लागू होकर माइनर गर्ल जो है उनके ऊपर भी लागू होना चाहिये। तो इसके बारे में आपको क्या कहना है ?

साक्षी : यह ठीक है कि लागू होना चाहिये वैसे तो इसको और इम्पूव किया जा सकता है लेकिन आगे जो सबक्लाज़ (सी) है उसमें थोड़ा बहुत इसको कवर किया है।

श्री गंगाचरण दीक्षित : इसमें लिखा है कि विडो एण्ड ल्युनेटिक, विधवा या पागल, लेकिन अगर कोई लड़की माइनर है, विडो नहीं है ल्युनेटिक नहीं है तो उसके लिये क्या आप समझते हैं कि कंसेंट लेने की जरूरत नहीं है ?

साक्षी : उसको भी कंसेंट लेने की जरूरत है लेकिन वह आगे सबक्लाज़ (सी) में आ गया है, जो अपला क्लाज़ है उसमें वह कवर हो जाता है, उसकी भी गार्डियन वर्गह का वही इजाजत लेना है।

SHRI N. R. LASKAR: Is there any homoeopathic hospital in the country where they are doing surgical operations also?

WITNESS: Yes. For instance, the Calcutta Homoeopathic Medical College, I know for certain. Then, there is the Gudivada Homoeopathic Medical College which is now called the Dr. Gururaju Government Homoeopathic Medical College and Hospital, Gudivada (Andhra Pradesh). They are also doing it. Dr. Sushila Nayar has visited many of these institutions and she may be able to say whether they are doing surgery or not. Some of them are definitely having surgical wings.

SHRI N. R. LASKAR: Do you have any idea of the number of persons who are visiting such hospitals for surgical purposes?

WITNESS: There is one little difference (in a homoeopathic institution) and what happens is this. Firstly, a patient sees a physician. If he finds that it needs surgical care, he gives it over to the surgical wing. Some of them may be frankly surgical cases like accidents, etc. In the so-called surgical cases which are considered

as surgical cases by allopaths, for example, appendicitis, it is not initially decided that there should be surgery. He is given competent medical care and the doctor for a while sees how the patient responds. This is not unique to homoeopathy. If an appendicitis case goes to an allopath, a doctor if he is of the conservative line of thinking, will try to treat it with penicillin or other antibiotics. He will see if he can control the inflammation. Thereafter there would be two lines of thinking, whether to operate it or not to operate it. Some doctor will say that it is better to operate it there and then and some other doctor may say that if the appendix gives trouble again, it can be operated. Otherwise the patient can forget about it. If it is a surgical case, the patient is handed over to the surgeon who is attached to the institution concerned. They do these operations there.

SHRI N. R. LASKAR: It comes to this. Apart from one or two hospitals in the country, there are no other hospitals in the country for doing surgery under homoeopathy.

WITNESS: Not one or two. There may be eight or ten. I will not say that all the 46 homeopathic institutions are up to this standard. If I am to put forward an amendment in black and white, I would say: those registered homoeopaths who have passed out of institutions approved for the purpose on the basis of the training or supplementary training they have received should be absorbed in the scheme.'

SHRI N. R. LASKAR: In sub-clause(2) (a) instead of 'a registered medical practitioner', if we say a registered medical gynaecologist, will your homoeopathic practitioner be covered by that?

WITNESS: That would lead to more complication. We do not have a separate register showing gynaecologists. I am an MBBS, but we do not

have a separate register. Even if I undergo special training in gynaecology, I do not go to another register. My registration remains the same. For instance, I am registered in Punjab and I am entitled to practise anywhere in the country. I may have other post-graduate qualifications. I may be an FRCS, but it does not make any difference. I do not go on to another register or separate chapter of the register. Since there are none (of such registers), it will mean an additional burden of classifying as to where they belong. That would mean a great restriction because they will have very few people who will be recognised gynaecologists.

SHRI N. R. LASKAR: Last question. If in the initial stage we restrict these operations to district hospitals where there are the minimum facilities available, will you have any objection?

WITNESS: I agree the district hospitals may have the minimum facilities, but I must also at the same time point out that there may be private institutions that have better facilities and better services than the Government hospitals, and it is common knowledge that people who are entitled to free services under different schemes, CGHS and so on, they would rather pay to a private practitioner than undergo all the difficulties in a district hospital. It is not that the district hospitals has better amenities than many of the private institutions. Though they may have the basic requirements needed for this particular purpose, it should not be kept restricted. If it is from the point of view of some legal implication or from the point of a restrictive clause, if at the back of our mind we are keeping a reservation that we are not really going to liberalise abortion, than that clause is all right. Going to a Government institution may mean something codified. Those places which have some basic amenities and equipment available should under take this.



**SHRI N. R. LASKAR:** About those private institutions or clinics, whether they are registered or not, may I know how many of them are existing in the country?

**WITNESS:** There has been a haphazard kind of registration. In Delhi if you are running a nursing home, you must register it and fulfil certain requirements. It may not be existing everywhere. Anybody who wants to undertake this work should supply the information and may be the inspector can go and see.

**SHRI SAWAISINGH SISODIA:** After conception what is the minimum period within which the existence of pregnancy can be detected by Homoeopathic science?

**WITNESS:** The possibility of detection of pregnancy is not speciality of Homoeopathy and there would be no different test for the detection of pregnancy other than what is normally available. Test is carried out at a very early stage. The technicians would know the test technique of annual tests. Then there is for instance, the injection of hormones. Within seven to ten days of injection there is occurrence of the menstrual period. Its non-occurrence is almost 95 to 99 per cent pregnancy. There would be nothing specially in the Homoeopathic field as a means of testing of early pregnancy.

**SHRI SAWAISINGH SISODIA:** What is the minimum period?

**WITNESS:** For this particular test I suppose there is no reason to apply it earlier than missing the first menstrual period; otherwise as early as I think about four weeks of pregnancy, and I stand to correction, these tests can be positive.

**SHRI SAWAISINGH SISODIA:** For the sake of information—you have casually referred but I want to know definitely—is there any harmless medicine available in Homoeopathy which can be used for termination of pregnancy?

**WITNESS:** I would say that there are certain medicines which have some field in this direction, and when they have been used, they have certainly not caused any harmful side-effects. But I must confess that this is possible only in very early cases. And when it so used. I would say in all honesty that statistics have not been made as to whether they were cases of real pregnancy or they were only cases of delayed menstrual period. My own feeling is, as I have mentioned earlier, that a normal uterus does not easily evacuate its contents and it is only when there is some weakness in the body or it is a delayed period of something of that nature with a possible early conception that these medicines might act. In many instances patients have come for that and that has acted but also I would say that there are 50 or 40 per cent failures in the case of such medicines also.

**SHRI SAWAISINGH SISODIA:** On an average there are chances of per cent failure?

**WITNESS:** I suppose there could be chances of that, and it is also possible that a little more work can be done in that direction. When finally this Bill is put into operation, in the very early cases before the more drastic measures are taken, actual surgery, it may be that these medicines can be tried as a first step and seen whether they would not do the desirable. If they do, certainly it is correct to surmise that there will not be so many side-effects and so much harm done and so much expense. You know the period for which the patients must lie in bed.

**SHRI B. S. MURTHY:** Here at page 2, section 3(2), there is an explanation No. II and there it is said "as a result of failure of any device used by any married woman or her husband for the purpose of limiting the number of children". This clause is being used by others to say that the whole Bill is only for the family

planning purpose. Many people have also given evidence that this Bill will not help much as far as the family planning programme is concerned. Therefore, after reading the whole section and coming to the explanation, do you think this explanation is necessary or it can be deleted?

WITNESS: I feel that in this explanation in that part that they were using some contraceptive methods or they were not using, that makes no difference. That part can be deleted. I think the feeling in some quarters that this may not be an adequate family planning measure is for the reason that those people who are to be brought within the purview of this are really doing it secretly and clandestinely.

SHRI S. KANDAPPAN: Actually even those people who are not taking to family planning traditionally they have been indulging in this sort of abortion which they continue to do even today in the rural parts as well in the urban areas. So whether we like it or not, whether we call it as such or not, I am in agreement with the witness when he says that it will definitely help family planning, though we may not call it by that name or we may not claim such a credit for this Bill. I have already given my point earlier. Also Dr. Sushila Nayar was very categorical and clear on this point. With regard to unwanted pregnancy it would be better not to have any definition at all. the same time we should not stretch it to extreme limits so that we encourage immorality. With the experience and background we shall be obliged if the doctor could suggest some kind of definition broad enough to cover all aspects, at the same time put some check on too-easy approach to abortion which would encourage immorality. If he cannot suggest a definition right now he can sent it later.

Another point is with regard to the question of sterilisation. I do not know whether the Minister would recall the

furor in the House when the question was raised there. I do not know whether the Members are receptive to such kind of a measure in this country. Personally I would welcome to such a feeling. It does not take much difference practically but a psychological approach has been made. Again, as it is, with your experience and knowledge, do you think that the public in India would be receptive enough to coaxing? Legality would be too much. Do you think coaxing would achieve some results? Do you think the country would be receptive enough if we think in terms of putting some norms on the number of children to limit the family?

WITNESS: Regarding the resolution make this abortion earlier and yet not encouraging immorality, I am afraid I cannot offer anything immediately, and it is possible that I may not be able to do it eventually because I am not as competent as a Parliamentarian to do it. But in principle I agree with it. However, I will make an honest effort if I can send it some time later.

Regarding family planning, I think it has been rightly said that a man should have as many children as he has the capacity to look after both from the point of view of his psychological make-up and the financial resources; they should have only as many as they plan. In our democratic and other social set up we can only help them in planning their family. But so far they have the right to have as many as they like. We can offer them the means to have as many as they plan. In a symposium where our hon'ble Minister was present, I had put in a point about the rebuttal of which I am still not convinced that so far family planning is touching only a section of urban population, and by and large the middle section of the society or, you might say, the white-collar class. The reason is not far to seek. In the School of Tropical Medicine and Hygiene in 1947, my

Professor, Dr. Davis of Liverpool, had given us a written paper on the problems of population in the tropics. He said that in view of the practice of family planning more in urban areas and that too by the middle section of the society, in the coming twenty or thirty years there would be less of the intellectual class than the other sections of the society. I do not mean that intellect is by any means the monopoly of a certain section of society, of the affluent section of society. It is a fact that this section is the most conscious one of family planning, and for reasons not far to seek. In this society a child does not earn until he is in the twenties or even late twenties. Take, for instance, a medical man. The minimum age at which he can qualify is 22. Thereafter he has his house job for another year or six months. Thereafter, if is graduate, he does some post-graduate work also it means another two or three years. This happens with the child of a middle class family in the tropics.

In the case of a lower middle class or poor family in the rural area, there is not so much of a question of clothing. A loin cloth is enough. If the boy is five or six years of age, he takes food for his father to the fields. If he is slightly elder in age, he sells oranges or some such things by the roadside. In this way he shares the burden of the family. He receives no education, worth the name. This is what obtains in the cases of menials also in the cities. I have had long discussions with my own sweeper and the malee. It is very difficult to persuade him to cross the wall and go to the family planning centre next door. They will also get medical help there in other ways. But the man says that family planning is not for him; it is for me.

**SHRI S. KANDAPPAN:** There is one difference. I had been inclined to agree with you probably in the beginning. It is all correct when the family planning was started. Now with the incentive given in the rural areas and particularly after the Government

has brought primary health centres into the picture, judging from my experience in my State, it is very effective in the rural parts. It is really a social problem as you say. The population no doubt in the intellectually higher level is checked. Now the staff engaged in this work are coaxed to proliferate the idea amongst uneducated people to see that they put a stop to further expansion of their families.

**WITNESS:** The doctors so far trained (qualified) are not oriented. If I have some knowledge of this problem or contact with this problem and have made some study into it, it is because I have been Chairman of a family planning committee in the Rotary Club of Delhi. Otherwise doctors are not oriented. Many of them are not even conscious of the need. And I must say that they need as many lectures as the society needs first of all to get convinced of the magnitude of this problem. Dr. Kashyap has now taken over. I have heard one lecture from him--I have lectured many times myself--and it was revealing. His lecture was very well worded in the sense that it emphasised the future of our children--"the tomorrows of our children"--and it was convincing that we owe it to the next generation that we must practise it. It is not that I should do it for my own comforts or because I cannot give them more money, etc. It is because a time will come within the lifetime of my children when, if I do not practise it to-day, they will have problems which just will have no solution at all. Therefore, the doctors have to be oriented. Secondly, I must admit that doctors in this country are really hard-worked. They have no time to give a long lecture to the patient people. In the earlier seminars I had suggested that at least the Government should provide some placards to be put in our waiting rooms, so that the patient can approach the doctor and ask about it. Then the doctor is bound to give all the information needed or refer him to a proper agency. Otherwise, the

patient just tells you the disease and you give him the medicine and the matter ends there. As I have mentioned earlier, we Homoeopaths are used to taking a more detailed history of the patient. I ask the patient how many children he has. If he says six, then I indirectly ask him whether it was accidental or he planned those six children, what he would do for their future and so on. Then I make some suggestion that he can go in for family planning. Therefore, it would be really the cadre of social workers who can bring about more consciousness of family planning. Doctors are, of course, respected members of the society. That is why I suggested that Homoeopaths also should take a more active part. These people who have approach to all sections of the society can be utilised for promoting what we call the motivation part of the programme.

**SHRI S. KANDAPPAN:** You can do it better than the Government.

**SHRI B. S. MURTHY:** Dr. Dewan Harish Chand, you have raised a point with which many may not agree, that after 20 years India will have persons with lesser intelligence. That has not been the case in the world.

**WITNESS:** I hope not.

**SHRI B. S. MURTHY:** Shankaracharya is supposed to be one of the finest intellectuals in the world and he has taken a Chandala as his guru. A Chandala comes from the lowest of the low. Such cases can be multiplied. Even Valmiki, who is the author of Ramayana and whom we worship—people say that there is no other *kavya* like Ramayana— is not from the high-caste. Even Vyasa is not from a very high caste; he is the son of a fisher-woman. Therefore, this argument that all the middle classes will be wiped out and, therefore, the intelligence of Indians will suffer does not hold good. The Negroes were considered to be half nitwits. To-day the latest song, the latest dance, the

latest acting, everything is coming from the Negroes. And the best sportsmen in the world are the Negroes. Therefore I must say that I am not able to agree with you.

As far as orientation is concerned, there are two types of orientation. One is motivation and the other is sterilisation. Regarding sterilisation, there is need for orientation for doctors. For motivation work, to educate the public on the need for family planning, we have different types of family planning educators. They take care of the patients both in the hospitals and outside. There is another point that you have raised, that is, it is only the middle class people who are taking to it and not the lower classes, and that people are taking to it only in the urban areas and not in the rural areas.

**WITNESS:** Comparatively speaking.

**SHRI B. S. MURTHY:** That is also not quite true because we have switched over to tubectomy a year and a half ago and all these tubectomy camps are held mostly in the villages. I would like to take you next time when any camp is being run in any part of the country. Even recently I had been to Patiala. A lot of women were coming and asking for tubectomy, not for the money of it, but because they have now realised that with lesser number, they will be happy, the family will be happy and the children will be happy. That sort of motivation has gone into the villages. Then, people are unnecessarily creating doubts whether this community or that community is doing it or not, that in course of time this community will be wiped out and that community will come up. This again is a wrong thing. We have taken sample census in places where one community is predominant. So, there is no question of overlapping and no question of any community taking advantage of family planning. These are some of the unfounded fears which I thought I must tell you because you are one,

of our dependable champions of family planning.

**WITNESS:** I greatly appreciate these enlightening remarks and it is very encouraging that the point has gone home in the rural areas. As regards the urban population, it is not that the Government motivates the people. The people are motivated by their pockets. That is one great difference. Here the family planning programme is mostly linked up with the economic aspect.

**SHRI B. S. MURTHY:** There is a *śloka* in the Gita which says that as the leaders act, the lower sections act. If the enlightened middle classes take to family planning without any inhibition, naturally the masses will follow.

**SHRI S. KANDAPPAN:** In his opening remarks, our witness raised the question why we have not included Jammu and Kashmir in the Bill. I would like the Minister to say something on that.

**SHRI B. S. MURTHY:** In due course, we will take it up.

**WITNESS:** I said, if it is a good measure, that goodness should not be denied to the residents of Jammu and Kashmir.

**CHAIRMAN:** It is not going to be denied. There are some constitutional difficulties. The Assembly of Jammu and Kashmir should pass it first and then it should be taken up here. Because of the constitutional difficulties it cannot be made applicable to Jammu and Kashmir straightway.

Thank you very much for your valuable evidence.

**WITNESS:** I thank you for having given me this opportunity. I have certainly become more enlightened by the questions that have been asked.

*(The witness then withdrew)*

*(Dr. P. N. V. Kurup, Adviser, ISM, Ministry of Health and Family Planning and Works, Housing and Urban Development, New Delhi, was then called in.)*

**CHAIRMAN:** Dr. Kurup, whatever you say before this Committee is treated as confidential till it is published by Parliament. You may please make your preliminary remarks and later when Members put questions, please answer them.

**DR. KURUP:** Before tendering my evidence, honourable Chairman and Members, may I submit that the views that I am going to express here are my personal views and are not necessarily the views of the Government of India?

While I strongly support the Bill I would like to make some suggestions regarding one or two clauses. Before making the suggestions I would like to give some background about the idea of abortion. Termination of pregnancy is known to India since the early periods. You will agree that the Vedas are the oldest literature available to us. Among the Vedas the Rigveda is considered to be the oldest. References regarding abortion are available from the Rigveda. I could give you a few references. In the tenth chapter from 162nd sloka onwards a full description and discussion of abortion and its various aspects is given. . .

**CHAIRMAN:** Our Members would like you to send us a note later on giving all these references and quotations relevant to this discussion.

**WITNESS:** Yes, Sir. You can see such references in puranas. There are clear-cut references available in the standard text-books of Ayurved written in 300/500 B.C. by Charak and Suchruth—what the circumstances are in which abortion should be done, how it should be done, etc. There are also discussions both on surgical methods as well as medicines. Of

course, all these are not much in practice now. There is one very important thing regarding abortion for the purpose of family planning. There is a clear-cut reference and this is a quotation from Charak. It says that the man, who has got no circumstances to live, no facilities to live, had better not live at all. That is in fact our real condition. We cannot really afford the growing population. So it is better not have more population. Of course, this reference is given not exactly for the purpose of family planning. The reference is to some other thing. But in principle Ayurved agrees that the method of abortion can be utilised for the purpose of family planning. There are so many other references also. I will give those references separately for circulation to Members.

Regarding the Bill firstly I do not agree with the definition of a "registered medical practitioner" given in clause 2(d). In India, I would like to say, there are not only people registered with the Indian Medical Council. There are ayurveds, homoeopaths, unani physicians, siddha physicians, also who are already holding the mass. Today 85 per cent of the people are depending on these people. So they also should be permitted to do abortions. Of course, the question will be posed to me; How far will they be able to perform the surgical methods? My answer is this. For the present at least 40,000 people are available in the country and a majority of them are practising in the villages or are attached to Government Unani or Ayurved or Siddha hospitals. They are trained in surgery as well as in gynaecology and they are competent enough to do this job. So I see no reason why they should not be entrusted with this job. Even the MBBS doctors also are, perhaps, not specially trained for this job in modern methods. Just as you are giving them specialised training for some period, these ayurveds and others also should be given intensive training and after that they should

be employed for this purpose. In Ayurved as also in Unani and Siddha systems we have seen a number of references to drugs, single as well as compound, and preparations which appear to be harmless for purposes of abortion. However, I do not say that this matter should be included in the Bill. It is a matter of details. I feel that if we make an intensive research on this, we will be able to find out better remedies for abortion. Incidentally, I might say that even today the village vaidas are using such medicines. So far as I know, quite a number of such drugs are being used without there being any harm; and those drugs are giving good results. According to law they are not permitted to be used. That is why the vaidas keep the drugs secretly and they do not divulge the secrets.

As regards the written consent of the guardian where a woman seeks the termination of her pregnancy, according to me, husband's permission also should be taken. That is my view.

**CHAIRMAN:** Which clause are you referring to?

**WITNESS:** I think it is 3(2) (b) of the Bill. It should be made a little liberal.

**SHRI B. S. MURTHY:** Ayurveda is known for wonder remedies. As a matter of fact in the part of the country from which I come, there is a sterile medicine, which is not practised by qualified physicians. Has any attempt been made by Ayurvedic practitioners or Ayurvedic colleges or Ayurvedic University at Jamnagar to find out what exactly is this method? Or, has any attempt been made to find out other remedies to stop pregnancy or terminate pregnancy?

**WITNESS:** We have collected more than 800 recipes which are prevalent among the Vaidyas in the rural areas.

We are going to conduct research on these to find out the efficacy and the toxic action, if any. There are some common drugs which are available in every kitchen and there is no necessity to experiment them on animals because they are not toxic. In Ahmedabad college this was tried and some of them are 80 per cent successful as anti-fertility drugs. However, it requires further intensive research. In addition, there are some more drugs which are under research and I hope within a short time, they will be available to the people.

SHRI B. S. MURTHY: Within how many months?

WITNESS: When something is under scientific study, you cannot specifically lay down a date.

SHRI B. S. MURTHY: At what stage is it now?

WITNESS: They are in the final stage. They have been tried at higher level animals. They are going for clinical trials and chemical and pharmacological trials.

SHRI B. S. MURTHY: I am told that if raw papita is cut in o pieces and eaten, pregnancy of 10 to 12 weeks will vanish.

WITNESS: No trial has been done on this. I also know the efficacy of papita. But unless an intensive study is undertaken, we cannot present it to the world. There are a number of items like Kumari Tablets. They are harmless.

DR. SUSHILA NAYAR: Why don't you try it?

WITNESS: This problem was not before Ayurveda before. Now only this problem has come before it. We are taking up. But it requires intensive research.

DR. (MRS.) MANGLADEVI TALWAR: What about ordinary beans?

WITNESS: I do not exactly remember. There are quite a number of drugs used by village people.

SHRI B. S. MURTHY: Which are your research centres where they have taken up these for investigation?

WITNESS: We have one centre at Banaras and another at All India Institute of Medical Sciences.

DR. SUSHILA NAYAR: One or two drugs have been mentioned here. Why don't you have them tried at least in 1000 clinics so that we will know whether they are 100 per cent effective or 50 per cent effective?

WITNESS: Legally, we cannot try them on human beings. We can try them only on animals. We can try anti-fertility drugs. But we cannot try abortive drugs on human beings.

DR. SUSHILA NAYAR: A number of women, for instance, take this magnisium sulphate. It is not effective in all cases. Now the drugs mentioned here are harmless. Why don't you try them?

MR. CHAIRMAN: Unless you pass this law, he cannot try them.

DR. SUSHILA NAYAR: If they are harmless, he can try. We were given some anti-fertility drug in Calcutta and we did try it. We did use it on a large number of patients. Then it was pointed out that it was only 50 per cent effective or 33 per cent effective. But the fact remains that when a particular drug was suggested by somebody, it was tried in a large number of cases.

WITNESS: Anti-fertility drug we are trying. But we cannot try abortive medicines on human beings.

MR. CHAIRMAN: I think he is right.

DR. SUSHILA NAYAR: In the meantime, have you tried it on animals?

**WITNESS:** We have not started trying abortive medicines.

**DR. SUSHILA NAYAR:** Have you selected any centres for using it?

**WITNESS:** We are having 10 clinical screening centres under the newly constituted Council. In addition, they have established three centres for pharmacological and chemical studies—one in the All India Medical Institute under Prof. Arora, another in Gujarat at Jamnagar and the third one in Banaras.

**DR. SUSHILA NAYAR:** In Lucknow animal experiments have been conducted. Could you not ask them to screen some of these drugs?

**WITNESS:** I think, Madam, we can collect the information from Lucknow and other places. They have not done the abortive type, but they have done only for the anti-fertility type.

**DR. SUSHILA NAYAR:** That will be helpful today. You see to find out the mechanism of the functioning of the IUC, to find out how it really works, experiments were done on monkeys. Similarly, in the All-India Institute, the Chandigarh Institute, perhaps the Pondicherry Institute, Lucknow, Banaras and a number of other places. I think it is a very important matter. If you could avoid surgery and find ways of getting rid of early pregnancy through harmless medicines, you should find out those ways.

**WITNESS:** I will specially take care of this and make enquiries and if required, the information will be submitted to the members. Meanwhile, Madam, I will give you some references which I have prepared from the standard books, not all, regarding abortive medicines.

**SHRI NIRANJAN VARMA:** Since you are a government servant and your government supports the bill, you are supporting it strongly. Is it the reason?

**WITNESS:** No, Sir. I have clearly told that I am expressing my personal views and not necessarily the government's views.

**SHRI. NIRANJAN VARMA:** Will you please tell us in what context you were telling that in olden days it was practised?

**WITNESS:** It was about abortions due to so many reasons, not legal abortions which I have now told. So far as legal abortions were concerned, as far as I know, legal abortions were not the problem in those days and family planning was not a problem. Family planning devices as well as the abortions, may not be legally, but illegally, they were doing in olden time, because, as you know, in the science of sex, India has made more contribution than any other country. In Indian literature, we can see the sexual life is not only to produce children, but it is for enjoyment. You can see that in quite many references, in so many books. So, in such circumstances they were aware of what the contraceptives were. They were doing the abortion also. In ayurvedic books, I say, abortion is mentioned not as a family planning measure, but in certain circumstances, it may be necessary to give abortion. There are beautiful descriptions as to how it should be done, both mechanically and medicinally.

**SHRI NIRANJAN VARMA:** You have quoted, I think, 'Shushruta'. This is about legalisation of abortion.

**WITNESS:** I have told this not for legalisation of abortion. I have told that in ayurvedic and unani systems, we are aware of abortion, we know the techniques. That is not for supporting that it is to be done. For that I have given other references.

**SHRI NIRANJAN VARMA:** Any mention in Rig Veda.

**WITNESS:** In Rig Veda there is no mention.



SHRI NIRANJAN VARMA: In these days it was generally used. But the Rishis and Munis used to say:

ऐसा कहा जाता था कि जग कोई ऋषि किसी को थाप देता था तो कह देता था कि आपके ऊपर भ्रूण हत्या का सारा पाप लगे ।

WITNESS: I would like to tell that 'hbrun hatya' is described as a serious crime and there are punishments for 'bhrun hatya' mentioned in Nyaya Shastras, in Kautilya Shastra, etc. It is described that it was prohibited, but it was practised.

SHRI NIRANJAN VARMA: How can you justify that?

WITNESS: If it was not practised, there is no question of any 'dand' being mentioned. It means illegally they were doing. Otherwise, the question of punishment will not come.

DR. (MRS.) MANGLADEVI TALWAR: I was looking at the references.

WITNESS: Madam, these references are concerned with only drugs. They are purely classical references. I cannot say that these references are effective because we have not done any scientific investigation.

DR. (MRS.) MANGLADEVI TALWAR: I think it is necessary to do so.

WITNESS: I agree.

DR. (MRS.) MANGLADEVI TALWAR: It is essential that if any drug from any seed or any other material for that matter is found and if it is supposed to be harmless—herbs would be more harmless than others—they should be tried.

WITNESS: Yes. In this connection, I would like to say that even in our classical references there is a mention about a medicine. If this particular pill is taken, it will act upto one month. If it is immediately

taken, pregnancy will go. But we have not scientifically tried.

DR. (MRS.) MANGLADEVI TALWAR: It should be scientifically tried. There should be no secrecy about such things as it used to be in olden times. There are some effective drugs with Vaidis, some local practitioners, quacks, etc., and they do not know all the implications or side effects of the drugs. They may do great harm to the mothers also.

WITNESS: There are some remedies with the villagers also. It is our duty to find them out. We have already envisaged a method and we are going ahead with it to find out such remedies.

SHRI S. KANDAPPAN: Can you elaborate that method? You have stated that you have collected a lot of material for research for preventing pregnancy?

CHAIRMAN: You can note down that.

DR. SUSHILA NAYAR: Are you a Ph.D.?

WITNESS: No. My view is either one should be a Ph.D. or all the systems should be allowed to have 'Doctors'. The meaning is the same. I am an Ayurved since 25 years.

DR. TALWAR: You are Adviser to the Ministry of Health? What is ISM?

WITNESS: Indian Systems of Medicine—Ayurved, Siddha, Unani and I am also dealing with Yoga not Homoeopathy because it is not an Indian system.

DR. TALWAR: How do you give advice on Unani?

WITNESS: I have experts under me to guide, also expert committees.

DR. NAYAR: Is Siddha part of Ayurved?

WITNESS: It is an off shoot of Ayurveda. About Siddha and Unani, there is not much difference from Ayurved but for various reasons we may have to keep them separate.

DR. TALWAR: Siddha is only in Tamilnad?

WITNESS: Also in Kerala and to a certain extent in Mysore and Andhra.

DR. TALWAR: What is your opinion on the Bill?

WITNESS: I have said about the medical practitioner definition and I have said Ayurvedic and Unani practitioners may be included provided they have undergone the training.

DR. TALWAR: About the integrated graduates, the number is to be 50,000.

WITNESS: There is no integrated course. There is no integration. I do agree that since independence in some colleges we are running concurrent courses of modern medicines and ayurved. The percentage of modern medicines may differ from college to college, from 30 per cent to 35 per cent. There is another school of thought called Suddha Ayurved. The modern subjects are also taught in those colleges. As a whole though there are two groups, out of 115 Ayurvedic, Unani and Suddha colleges, all the colleges are teaching the necessary modern subjects but I would add that in certain colleges, even though it is in the syllabus, they are not having the basic facilities to teach. They may get the so-called integrated degree from a State Board or University but they do not have the facility even to teach anatomy practically. They have no qualified teachers. So I cannot group them. It should be on the basis of the institutions where they are trained and not on the basis of syllabus. There are integrated courses run without hospitals. How can a medical course run without hospitals?

DR. TALWAR: How many colleges are there like that?

WITNESS: There are 115. Out of that hardly 35 have the basic facilities, others do not have it. Among the Unani, hardly we have 3 colleges with basic facilities and among Ayurvedic approximately 28 have the basic facility, others do not have.

DR. TALWAR: I would like to have a note from the Ministry about the Ayurvedic training and syllabus.

WITNESS: I will give in a day or two.

DR. TALWAR: You think there is no difference between an integrated course and the ayurvedic college course or Siddha course or Suddha course?

WITNESS: There is difference from college to college. It is on the basis of facility available. If they want to have dissection by every student how many colleges are having that facility? They may give the degree but they never have the staff and they have never grabbed a knife in their hands. On the contrary in the Jamnagar institution, they have the facility for pathology, etc. So we cannot classify as Siddha and integrated. It should be on the basis of institution.

SHRI PRATAP SINGH: Do you think this Bill covers family planning?

WITNESS: It should cover according to me.

SHRI PRATAP SINGH: In the Statement of Objects and Reasons family planning is not mentioned. Are you in favour of its being mentioned?

WITNESS: I am not so particular. Even if it is not included, in the clauses it comes. The purpose is served. Anyhow there is no harm in including it but even if it is not included, the purpose is served.

SHRI PRATAP SINGH: As a result of this enactment, do you think there

is any chance of birth control and if so, what percentage is possible?

WITNESS: I will not be able to give a correct answer because I do not deal with that.

SHRI PRATAP SINGH: Is it a fact that those dealing with surgery can also undertake termination of pregnancy and if so, how much amount is involved for such operations

WITNESS: Persons who are post-graduates in gynaecology or surgery can straight away take up this job and others of homoeopathy may be given intensive training for 2 to 3 months and I do not think there is much financial commitment in that because they are already employed and here are hospitals available.

SHRI PRATAP SINGH: Are you satisfied that this Bill covers all the systems of medicine which you represent here?

WITNESS: It does not and that is why I have said that it should be covered.

SHRI PRATAP SINGH: If it is not covered, what amendments do you suggest? If it is not ready at present, will you please give it at a later stage?

WITNESS: I can give it to you in brief now and I shall give the amendments in detail later on. Perhaps as hon. Members are aware, we have got another Act called the Drugs and Cosmetics Act. There also the words 'medical practitioner' are given, but no definition has been given. We had left it to be given in the rules under the rule-making powers of the Government. Here also, we can exclude it from the Bill and put it under the rules.

SHRI PRATAP SINGH. It is difficult to cover all such cases in the rules. In clause 2 (d) it says:—

“registered medical practitioner” means a medical practitioner who possesses any recognised medical

qualification as defined in clause (h) of section 2 of the Indian Medical Council Act, 1956, and whose name has been entered in a State Medical Register.”

WITNESS: That is why it has to be changed. Either the clause may be deleted entirely or it may be left to be defined under the rule-making powers of the Government. Under the rules let us add practitioners of Ayurveda, Sidda, Unani, Homoeopathy, those who have undergone a regular course of four years and also during their studies have undergone intensive training as a part of their studies. Those who have studied surgery and gynaecology also should be added or it can be left to the State Boards. They have the registers and they can give the correct information. The profession should be consulted. Even today they have got contact with the masses.

SHRI PRATAP SINGH: Last question. Do you suggest that some provision regarding oral contraceptives be added in the Bill? Can you suggest some amendment?

WITNESS: At present they are not having any such medicine. So, is it necessary to have any such amendment? If tomorrow there is any scientifically approved oral medicine, we shall include it. I know that the profession is using some medicine, but it is kept a secret because it is an offence. Tomorrow if something is discovered, only then the problem will arise. Provision can be made for something in the future, but there is no need for it at present.

SHRI GANGACHARAN DIXIT: May I know whether in the Banaras Hindu University Ayurvedic College surgery is being taught or not?

WITNESS: In the BHU Ayurvedic College surgery has been taught fully and the graduates of the Ayurvedic College are quite competent. They can do any major surgery. Today that college has been closed. We are

having there a post-graduate institute. The head of the institute is one of the top-ranking surgeons. Even the post-graduates who are undergoing training are capable of doing any surgery. That is my view.

**SHRI GANGACHARAN DIXIT:** Is there no basic college where surgery is being taught.

**WITNESS:** So far as I know even today they are doing major surgery. It may be permitted or not, but that is a different thing.

**SHRI GANGACHARAN DIXIT:** In Explanation II at page 2 it is presumed that there is mental anguish when there is failure of any family planning method. Would you suggest that this presumption should be applied in each and every case?

**WITNESS:** It depends on the human constitution. Certain ladies have no mental anguish. It is possible that certain ladies may have more mental anguish.

**SHRI GANGACHARAN DIXIT:** Do you mean to say that the presumption is wrong.

**WITNESS:** Generally it is there, but there may be certain ladies who may not be having any mental worry about it.

**SHRI GANGACHARAN DIXIT:** So, there is no meaning in having this provision that they have mental anguish. It may or may not cause mental anguish.

**WITNESS:** Now-a-days there are so many devices. They are all using devices and they do not want more children. Naturally some device may fail. All the devices are not perfect. Some percentage of failure is there. Naturally when there is failure the lady becomes very worried. It is quite natural and it is happening. It is happening especially in the case of middle-class families. I think it must be allowed to remain.

**SHRI GANGACHARAN DIXIT:** If we take away the word 'device', what have you to say about it? It has been put in to serve the purpose of family planning. Do you want to bring about family planning by the backdoor?

**WITNESS:** It is not—I am sorry to say—family planning by the backdoor. According to my personal view it should be there.

**SHRI GANGACHARAN DIXIT:** Then, why is the Government shy of mentioning it as one of the objects in the Statement of Objects and Reasons?

**CHAIRMAN:** He has come here as a witness to give evidence. He has nothing to do with it as to why the Government is not mentioning it.

**WITNESS:** According to me, if it is mentioned, well and good. Even otherwise the purpose is served. In this Bill there should be provision for family planning. It is a 'must' and it is a necessity of the times. Perhaps you know that already abortions are happening. Why cannot it be done properly? Even under the family planning programme it is happening especially in cities like Delhi. It is a common feature. Why cannot you have it honestly. Let us have it. It is a necessity of the times.

**SHRI N. R. LASKAR:** If we enlarge the definition of 'registered medical practitioner' in clause 2 (d) at page 1 of the Bill, to cover Ayurveda, what will be the number of qualified practitioners available?

**WITNESS:** About 50,000 of them will be available.

**SHRI N. R. LASKAR:** Just now you said that at the moment the surgical side is not being taught or it is only in one place in Banaras.

**WITNESS:** We have got a number of good institutions in the country. Out of a hundred Ayurvedic colleges, nearly 29 colleges are having surgical facilities.

**SHRI N. R. LASKAR:** Can you cite any such registered practitioner anywhere in Delhi having the surgical side in his clinic?

**WITNESS:** In Delhi I cannot say. If you want I can give references to other places. In the Bombay Ayurvedic Medical College, they have got all facilities. In the same way Poona. Then Jamnagar, Ahmedabad, Surat. In U.P. side the Lucknow Government Ayurvedic College are doing all operations, and that too an Ayurvedist is in charge who passed from Banaras. Then Indore, Gwalior. There are such colleges. Even major surgery they are doing.

**SHRI N. R. LASKAR:** That means that where the colleges are situated these people can be helped; otherwise not; not in the countryside.

**WITNESS:** We are having 180 hospitals all over the country, purely Ayurvedic hospitals. They are either Government or semi-Government hospitals. They are having this thing. I personally feel that for pregnancy up to three months this much of big facility is not necessary. Nowadays village people are doing. If it is an emergency case, it can be immediately rushed to the hospital. After twelve weeks it may not be done in the ordinary way.

**SHRI SAWAISINGH SISODIA:** You have stated that in olden times women used to resort to abortion and you have referred to Rig Veda. What was the method they used?

**WITNESS:** There are two methods for which I have got reference. Unfortunately I could not go through all books. One method is really surgical method. It is not mentioned specially for the purpose of abortion, but from that we can understand that the same method is used for abortion also. It is the reference from Susruta. It is a spoon-like instrument which was used for dilation. I can say actually from books that they were doing. This is one method.

Then, quite a number of references about the drugs are mentioned. Other than this I am not having any other thing at present with me. I will try to find out again if possible.

**SHRI SAWAISINGH SISODIA:** As the law of our country stands today and according to the I.P.C. in order to save the life of the mother abortion can be induced. There is a law.

**WITNESS:** I know that.

**SHRI SAWAISINGH SISODIA:** According to the I.P.C. abortion can be induced to save the mother's life. You have referred to Rig Veda and other Grantha. What sort of research has been done by your Department throughout the whole of India on this subject?

**WITNESS:** On this particular subject of abortion from my Ayurvedic side we have not done any research. But we are doing research to find out, an effective oral contraceptive. For the abortion case we have not done any research. But I can certainly say that that when we studied for contraceptives, we found certain drugs. At that level we have done some work. It is not time to speak of that now because it is too premature to say anything now. Our purpose at that time was to find out an effective oral contraceptive. Simultaneously we have seen certain drugs which are not really contraceptive but they are abortive. Some study we have done but it is too premature to give it out at the present stage.

**SHRI SAWAISINGH SISODIA:** It is said that there are 50 per cent cases in which the use of drugs is successful in order to have abortion. So I want to know whether this process is less harmful to the woman than an operation.

**WITNESS:** I cannot give you an answer without studying scientifically these things. We know that abortions are being done by qualified and unqualified Vaidyas, Hakims and also Allopaths. They are doing it by

medicines, by injections, by so many other processes. A proper statistical analysis of the medicine which has been used, its reaction, and so on has not been made, so far as I know from my part. I do not know about the other parts. I may not be able to give a clear-cut picture because the main difficulty with us is this is kept as a secret. The news is not coming out. It is not possible for us to say whether this medicine will have any reaction or the other medicine will have no reaction. We cannot say that.

**SHRI SAWAISING SISODIA:** According to your knowledge I want to know whether the use of drugs for the sake of abortion is less harmful and easier than the use of the operation method.

**WITNESS:** That is what I have told you. I have never used this. I have got records only. How can I give you? I have never used any mechanical methods or other devices. I am not a specialist in that branch. I have not used them. So I cannot say. The information I am getting is from the people who are using that. That may not be a reliable one. I cannot give the answer correctly.

**SHRI S. KANDAPPAN:** The information that Dr. Kurup has given us about the various references in the Rig Veda and the prevalence of the practice, whether it was socially upheld in the olden days or not, will definitely help us to counter the resistance we have in this country. To that extent I think it will be very useful. But leaving that aside I am very much interested in the passing reference that he has made about the method that was evolved to bring these people out who are very secretive about the methods they are using. I am very keen on this particularly because as he has been referring to Siddha, for the past two or three years

the Tamil Nadu Government is attempting and we have got a very vast literature on Siddha and even people like me who are students of language and literature, who have studied the language very thoroughly, cannot decipher the language, we cannot understand the language at all. Even the Siddha medical practitioners, as the Siddha books are published, are finding it very difficult to understand the books, because in the olden days the practice was they used code words, and it is in the form of poetry and all the poetry is now being published. In Tamil Nadu 18 people were considered to be very great experts in Siddha medicine and they have all written in the code form, and the poetry is available and it is published now. They have set up an Institute and some research is being carried on to decipher those poetries and understand the reality and what is the herb that is being mentioned there. Certain words that we normally use in the common usage, when we find those words in that particular text, they have got a different meaning. It was an old tradition. Even today, as I said, the practitioners in rural parts are very reluctant to divulge for reasons best known to themselves their methods and the herbs they use. Sometime it is very surprising to come across a practitioner who is not qualified and even when the patient attempts to know the name of the herb, he will say, "If I divulge the name, then the use of the medicine will be ineffective; so I will not divulge it. Only when I do it without divulging it, it will be effective". It is effective but you cannot by any stretch of imagination force the man to divulge the method. What is the method you have found so that it may be useful for all of us?

**WITNESS:** We have found a different method. We are establishing some sort of mobile clinical research units in the remote village and hill areas. These people who are employed will be maintaining a close relationship with the villagers, with their

social and economic aspects. These people will be closely associated with them. In that way we can get to know that.

**SHRI S. KANDAPPAN:** Indirect method.

**WITNESS:** Directly you cannot get. Perhaps as you know we have established an autonomous Council for research in Indian medicine. Not only for getting to know certain herbs but to gather so much of knowledge from the village people, especially from the tribal people, we will be putting a band of workers along with experts and they will be residing in that particular area and have a close association with the village and tribal people and mix with them so that slowly we will be able to find out what they are doing. We are seriously thinking of how to get it.

About family planning also, there are very valuable herbs with the tribal people but it is very difficult to get them. There is another point why they do not give it. They feel that once this is disclosed the medicine's effect may go away and some punishment will come from the God. This superstition is not only in the villagers and tribals but also in educated people.

**SHRI S. KANDAPPAN:** My second question is this. If I heard you aright, you have been doing reserach with regard to oral contraceptive and that research will yield good results. Some of the drugs, you said, have already been put into use. We know the State Governments and the Centre are interested in promoting contraceptives. Even with regard to the effective contraceptives that you might have found out I do not find them being used in the clinics. Will you please tell us whether you have got any difficulty in popularising or promoting this research. You have been

saying it is your personal thing. Now that the Minister is not here you can be very candid in giving your views.

**WITNESS:** Even without any influence, the Government is so particular. They have given all freedom to conduct intensive research. They have given sufficient money. But the difficulty is our people are not coming forward. Not that we have dearth of manpower. But even those who are doing it are not much interested.

**SHRI S. KANDAPPAN:** I am inclined to disagree with you because you yourself have stated that with regard to institutions that are spread all over the country, numbering about 115, hardly 350 of them have got all the surgical facilities that are needed for this course. Now some of the colleges like Lucknow which had previously these facilities have closed down. My impression is that the States as well as the Centre are not very favourable to encourage the indigenous medicine. They seem to think that modern medicine, allopathic, is more effective and they could concentrate better on that instead of encouraging and spending money on this aspect which is dubious. Will that not be correct?

**WITNESS:** I am sorry that is not a correct statement.

**SHRI S. KANDAPPAN:** Why have they not encouraged this surgical thing?

**WITNESS:** Let me explain the main difficulties before us. We were not having a proper statutory body to regulate on all-India basis the standard of education. Now the Government have already introduced a Bill in Parliament and the Joint Select Committee is sitting. Now they are going to establish a Medical Council

of India. Under their guidance the Central Government will be able to give more financial assistance. Until such time it is not the mistake of the Government. For the last so many years there has been going on group fight between siddha and integrated. I say there is no difference between the two. I am sorry our own people are fighting each other. Perhaps one group is strongly opposing the Bill. The vaidya profession is itself opposing it. The Government is always favourable. I am not saying that because I am a Government servant.

SHRI NIRANJAN VARMA: You have said that when the disease becomes intolerable to the mother it is better to sacrifice the child to the mother and it is better to resort to abortion. Please tell me if you could any reference in the old books to abortion to save the life of the mother.

WITNESS: Abortion was mentioned only to save the mother. In later books there are some references. There it is not strictly mentioned that it is for abortion. But the medicines are mentioned. As I told you, preciously family planning was not a problem in India. In those days, on the contrary, produce more was our problem. But there is a reference in Charak that if you are not having sufficient facilities to live it is better to die. Other than that, there is nothing, Sir.

SHRI NIRANJAN VARMA: From your knowledge could you find any reference other than Charak where the purpose of abortion is other than to save the mother's life?

WITNESS: It was not a problem before us. But in later books some references are there. But I have not made much effort. If the hon'ble Members want I will make an effort to find out.

CHAIRMAN: We have requested you to submit a note regarding all these points. You make further research.

Thank you very much for your valuable evidence.

*(The witness then withdrew)*

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[Dr. (Smt.) H. M. Sharma, retired Director, Health and Family Planning, Tamil Nadu, was then called into]

CHAIRMAN: Dr. Sharma, I welcome you to give evidence before this Committee. Whatever you say will be treated as confidential till it is published by Parliament. Your note has already been circulated. If you want to add anything or elaborate anything, you can do so now. After that, Members will put some questions and you can answer them.

DR. SHARMA: The point that I would like to stress here is, at present our society is not a permissible society and so much so, it is not ready to accept the changes that you have in mind, i.e., liberalising the reasons for abortion as a therapeutic measure. You have also listed the reasons. We want to make sure that the reasons are specific and definite and one does not take umbrage under those reasons for making therapeutic abortion a family planning device. If it is the intention to have it as a family planning device, that should also take its own time for the simple reason that since the society is not ready to accept therapeutic abortion, that it should be a family planning device would take much more time. In the meantime, what has happened to the contraceptive measures? These two go side by side. As the society is not permissive, how far would this therapeutic measure serve the need of women, especially those women who have children born out of wedlock, when they can make it a secret and when they are not prepared to come out and establish the



fact that they are in a pregnant state? However, there is a certain amount of, shall I say, criminal abortion or induced abortion going on. In any case, it exists. And whether you introduce abortion as a legalised measure or not, this percentage of criminal abortion will still continue. Therefore, if a therapeutic measure is introduced, it is not going to be an absolutely new thing to the population which is accustomed to this; that is, those who will have it, will have it in any case. It will be a reasonable thing to have abortion legalised for those people for whom the reasons are listed, taking care that at least two doctors are brought as advisers to decide whether the abortion should take place or not. Another point I would like to stress is that under the reasons listed categorically for legalising abortion have we ever thought of sterilising the woman for the treatment given to her? Abortion is a treatment for the various reasons given. Should we not at least sterilise those women so that we do not have to repeat it for the same reasons? These are the two points I wanted to make.

DR. SUSHILA NAYAR: You have made some suggestions to different clauses which are very welcome and unique. I want to ask you one or two points for clarification. You have rightly said that termination of pregnancy beyond twelve weeks is a risky job and you would rather not do it. Now, would you like to say that if it is necessary to do it, it should be done in a hospital rather than by two general practitioners?

WITNESS: I would like to say that if this Bill is to be enacted, it should first be tried in a hospital rather than by two private institutions or private practitioners. In any case the work that has been done in the hospital has to be reviewed every year even before you get permission to continue it in the same hospital the next year. I would not advocate its being done by private practitioners or private nursing homes at this stage. Termination of pre-

gnancy beyond 12 weeks requires a great deal of consideration and thought. I am not thoroughly against it. It should not be recommended as a general practice. That is what I would like to emphasise. We are all aware of the dangers that are inherent after the extended period of pregnancy.

DR. SUSHILA NAYAR: So you would say that this second line is artificial and has no meaning and should be removed. But, even in exceptional cases there are certain indications for terminating pregnancy at a later stage. We do not make a distinction between 20 weeks and 22 weeks. It may be 22 weeks, 24 weeks. . .

WITNESS: But you get into the period of viability.

DR. SUSHILA NARAR: Viability is generally 28 weeks. So 20 weeks has no meaning. It should be something like viability period. Would you agree to that?

WITNESS: As I said, I am not totally against it. But I would not like it to be accepted as a practice.

DR. SUSHILA NAYAR: You agree that normally speaking there are certain risks involved in every abortion. In an abortion of beyond 12 weeks' pregnancy the risks involved are considerable much more. However, this distinction between 20 weeks and all that has no particular significance. Would you agree with that?

WITNESS: Anything beyond 12 weeks has its risks. There is no gainsaying for anything below 12 weeks the risks are minimised. There is always a risk involved in an abortion and as the period of pregnancy increases the risk grows greater. But this aspect has to be very carefully studied before a decision is taken on that. We shall not rule it out altogether.

DR. SUSHILA NAYAR: In your opinion all the abortions should be carried out in the hospital.

WITNESS: In the first instance, as an experiment, they should be done in a hospital.

DR. SUSHILA NAYAR: Then you please see Explanation I. In that one of the substantial reasons mentioned is "...grave injury to the health of the pregnant woman." Here it has been suggested that we should say "grave injury to her physical and mental health". Would you like to put "grave injury" or "injury"?

WITNESS: It has got to be a "grave injury."

DR. SUSHILA NAYAR: Then let us come to another point in Explanations I and II. Here it is said "... pregnancy as a result of rape causing grave injury.....". Do you think that these two Explanations are necessary because if anything it becomes restrictive. Some witnesses have suggested that these Explanations should be deleted because there is no particular advantage by having them.

WITNESS: Explanation I may remain. But in the case of Explanation II, as I said in my note, people are likely to take umbrage under it as a family planning device.

DR. SUSHILA NAYAR: You are not in favour of it as a family planning device because of the risks involved.

WITNESS: Not at the present moment.

DR. SUSHILA NAYAR: But don't you think that it will have a deterrent effect on other family planning procedures?

WITNESS: I do not say so.

DR. SUSHILA NAYAR: So you would not like to keep the second Explanation. You said yourself that there should be sterilization when you offer an abortion. Are you saying that in order to prevent the risk of repeated abortions?

WITNESS: I am saying that to prevent the risk of the causes of the abortion. You have listed things like mental defects or grave injury to the child, etc. Grave injury to the child may be due to other reasons.

DR. SUSHILA NAYAR: You say that we should see that there are no repeated abortions. What do you think should be done to prevent repeated abortions?

WITNESS: I cannot suggest an amendment at the moment. My fear is whether you restrict them or not, if the mother or the father wanted it, in any case, they would do it.

I do not know by what amendment we can restrict it. But if we put a restriction, some percentage may be stopped. Something should be done to safeguard against repeated abortions.

DR. SHUSHILA NARAR: Do you think that people who perform abortion should have some training for it?

WITNESS: Positively.

DR. SUSHILA NAYAR: Training for how long?

WITNESS: About ten days, depending upon the method one is going to use for the abortion technique.

DR. SUSHILA NAYAR: Gynaecologists have suggested six months.

WITNESS: For suction method, ten days are enough.

DR. SUSHILA NAYAR: Would you like this to be prescribed in the Rules and Regulations?

WITNESS: Yes.

DR. SUSHILA NAYAR: What other facilities should be provided in the hospitals where this is done?

WITNESS: Blood-grouping facility; blood-transfusion facility; resuscitation facility and sometimes even psychiatric rehabilitation facility be-

cause the environment of the mother must be studied before you can apply this therapeutic operation. There should be some analysis by social workers and health visitors on the situation and there should be facilities for follow-up also.

**DR. SUSHILA NAYAR:** Suppose you perforate the uterus?

**WITNESS:** That depends on the gynaecologist.

**DR. SUSHILA NAYAR:** Do you want all these facilities to be incorporated in the rules and regulations?

**WITNESS:** That would be better.

**DR. SUSHILA NAYAR:** For those who contravenes the rules, would you prescribe a fine or penalty of Rs. 1,000/-?

**WITNESS:** I am not in favour of fine or penalty monetarily. Penalty should be psychological or educational. Paying Rs. 1,000/- may not mean anything to some persons who want to get this done. It should be only persuasion and education and not any fine or penalty.

**DR. SUSHILA NAYAR:** Are you in favour of sending the person to jail?

**WITNESS:** No jail either, unless of course it is criminal; but not so in the case of therapeutic measure.

**DR. SUSHILA NAYAR:** Do you think that the financial provision of 20 lakhs of rupees is enough? If not, how much should it be?

**WITNESS:** In the initial stage, it should be Rs. 1 crore.

**SHRI K. P. MALLIKARJUNUDU:** In amplification of what you said to Dr. Nayar's questions, I would like to put one or two questions. If you read sub-clause (2) of clause 3, you will see that the Bill makes a distinction

between two kinds of pregnancy depending upon the length. (a) refers to cases where the length of pregnancy does not exceed 12 weeks, but in (b) the reference is to cases of pregnancy not exceeding 20 weeks. Do you wish to maintain that distinction, or would you like to remove that distinction?

**WITNESS:** I have already said that in any case you must have two medical practitioners. I have already listed reasons for that.

**SHRI K. P. MALLIKARJUNUDU:** But clause 5 provides only for one medical practitioner.

**WITNESS:** That is an extreme case of emergency. Otherwise, I am in favour of a minimum of two medical practitioners.

**SHRI K. P. MALLIKARJUNUDU:** Do you want any change in the definition of registered medical practitioner' as given in 1(d)?

**WITNESS:** Definition is all right.

**SHRI K. P. MALLIKARJUNUDU:** Some witnesses have suggested that even homoeopaths and Ayurvedic Doctors, after some training, should be permitted to do this operation. Do you agree with that view?

**WITNESS:** I know only the type of training given to allopaths. I am not the type of training given to others. So, I cannot say anything on that.

**SHRIMATI USHA BARTHAKUR :** It is said in sub-clause (3) of Clause 3: 'account may be taken of the pregnant woman's actual or reasonably foreseeable environment'. What do you mean by 'environment'? There are different interpretations to this word. Do you want to say that this word can be substituted by "social economic conditions"?

**WITNESS:** The basis of the abortion is primarily a therapeutic one. So the question of socio-economic conditions does not arise. Irrespective of whether it is sanitary environment or

insanitary environment or of the social status, it is a therapeutic measure and so it has to be applied. The question of class distinction or marital or non-marital position does not arise at this stage. What we are dealing with is this question: Are you treating that case as a measure of health? So, we have to rule out socio-economic status altogether.

**SHRIMATI USHA BARTHAKUR :** Who will judge the actual or the foreseeable environment, the doctor or somebody else?

**WITNESS:** I suppose a social worker or a health visitor. They will judge the status of the person coming up for such an abortion. The doctor cannot do it because he will not go into the area himself. That is why I have stated in my note that as long as health visitors and social workers are not attached to institutions, this aspect of the question remains an academic feature. Unless these people are employed as part of an hospital institution to follow up the case and give you the history of the case, you cannot say whether it is a lower socio-economic or upper socio-economic status or marital or non-marital.

**SHRIMATI USHA BARTHAKUR :** Shall we eliminate this Clause?

**WITNESS:** I think so. I think it would be desirable to eliminate it.

**SHRIMATI USHA BARTHAKUR :** Thank you.

**DR. (MRS.) MANGLADEVI TALWAR:** This Bill relates to the medical termination of pregnancy and liberalisation of such existing provisions as are necessary purely as a health measure. Well, you are right to a very great extent in feeling that way. But, I think this Bill means a little more than that and that is why, I think, the honourable member referred to environment. It is Section 3, wherein it says, "In determining whether the continuance of a pregnancy

would involve such risk of injury to the health as is mentioned in sub-section (2), account may be taken"—kindly note these words—"account may be taken of the pregnant women's actual or reasonably foreseeable environment". This sentence means something very different from what you have been advocating in your note just now. I would refer you, Madam, to the Abortion Act, 1967 of England. I do not know whether you have read it or not. But I will read the portion for your information. I think it is Clause 1, Section 1(a). It is a big paragraph, but I will give you the gist. It reads "if continuance of the pregnancy would involve risk to the life of the pregnant woman or of injury to the physical or mental health of the pregnant woman or any existing children"—they have included children also—"of her family more than if the pregnancy were terminated". So, it includes the socio-economic factor. It does not include health only. It includes the mental health, it includes the well-being of her family, her surroundings and her children. Do you now agree or not? That is the point. It is liberalising the existing law. But it does something much more than that.

**WITNESS:** I know you are referring to the 1967 Abortion Act of England. I have seen that also. The society they deal with there is a permissive society and they know the social class from which such conditions arise. I know the conditions under which the social class distinction is made there and it was for them that it was created more as a measure of protection for the unmarried girl. That is their intention.

**DR. (MRS.) MANGLADEVI TALWAR:** It says 'existing children', may be existing children of unmarried girls. But they are not socially recognised and the Act certainly does not mention. So, it definitely indicates the situation of the married woman and married couple, not only unmarried woman. That is the point I would like to make.

**SHRI PARTAP SINGH:** Would you agree with me that private nursing homes are giving more useful service than many of the government hospitals and that is why rich people avail of their services?

**WITNESS:** I cannot say because I do not know on what basis you state that they are giving better service. Such private nursing homes have no standards. Some may be exceptionally good, but there are nursing homes which are really and positively bad and that is why any therapeutic and that is why any therapeutic measure of this nature undertaken in a private nursing home is not to be recognised at this moment.

**SHRI PARTAP SINGH:** Please see Clause 4 at p. 3. I think you will have no objection if they are allowed this practice.

**WITNESS:** As I said already, it may be done in recognised government hospitals first where all standards and equipment are upto norms. After evaluating the work done in these hospitals, we may consider extending it to private nursing homes.

**SHRI PARTAP SINGH:** Could not the doctor in the district hospitals undertake this termination operation?

**WITNESS:** If he is a qualified gynaecologist, he can, but some of the district hospitals are not well-equipped as the HQ hospitals in the States. I would not go beyond the State HQ hospitals in the first year.

**SHRI PRATAP SINGH:** May I know whether termination of pregnancy is included in the FP centres now?

**WITNESS:** They have not as yet accepted the therapeutic method of abortion. Have we proved that the contraceptive method has really spread so that you can start the operation? That has not yet been proved.

**SHRI DIXIT:** May I know whether the consent of the pregnant woman be-

fore submitting herself for operation is essential?

**WITNESS:** It is very essential.

**SHRI DIXIT:** In clause 4(e) it says: 'Save as other provided' which implies that under some circumstances it is not essential. What does it mean?

**WITNESS:** It is more legal than medical.

**CHAIRMAN:** We will ask our legal experts.

**SHRI LASKAR:** You are in favour of deleting Explanation ?

**WITNESS:** That indicates that you want to use this as a FP device but now you say it is a measure of therapy. So that explanation does not arise.

**SHRI LASKAR:** There is mental anguish.

**WITNESS:** That is not adequate reason. They should have practised contraceptives. Otherwise one million people who remarried may want to have abortions under that. That cannot be accepted.

**SHRI LASKAR:** Do you not agree that the mother is the deciding factor?

**WITNESS:** It is not a therapeutic measure. This is a measure of treatment. This is not a F.P. measure.

**SHRI LASKAR:** How do you expect that all people will come under this? Some may want some time to elapse and should they not be permitted to have this?

**WITNESS:** I would not like all the couples to come under this only because there is a measure like this to terminate pregnancy.

**SHRI LASKAR:** Suppose there is a case where contraceptives have failed.

WITNESS: That percentage is very small. Even if it has failed, this should not be a measure for family planning.

SHRI LASKAR: If contraceptive has failed and there is mental anguish, would you not agree?

WITNESS: No.

SHRI RAM SWARUP: Would you require the consent of the mother also?

WITNESS: I would first put the mother because an unmarried girl confides in her mother. She may consult the father if necessary. You should include the mother first. If the guardian happens to be the woman if there is no father, probably then she becomes the mother but why leave out the mother at all? I want to give preference to the mother.

SHRI BAJPAI: You have stated the period for termination beyond 12 to 16 weeks as an unwise practice. Why?

WITNESS: Because it will add complications. There are complications in abortions after 12 weeks as a general measure but as a measure of extreme emergency if there is no other alternative, you may have but that would be a case of extreme emergency and not a normal practice.

Twelve weeks is a long time for a mother to know about pregnancy.

SHRIMATI TARA SAPRE: You accept medical termination as a health measure and not as a F.P. measure?

WITNESS: Not now. As a therapeutic measure it has limited application now. It has to be accepted by the society before you give it even as a therapeutic measure.

SHRIMATI TARA SAPRE: Suppose there is a woman of 40 having already 2 or 3 children and she has failed in contraceptives and she wants termination of pregnancy, are you not in favour of terminating the pregnancy?

WITNESS: I do not think so. What prevents her from bringing up another child at the age of 40?

SHRIMATI TARA SAPRE: She has already had three or four children.

WITNESS: In other words, you are advocating this measure as a family planning device.

SHRIMATI TARA SAPRE: I want to know from you whether you would advocate it.

WITNESS: No.

SHRIMATI TARA SAPRE: As a doctor you must be knowing that abortion is prevalent more among married ladies than among unmarried women. According to Explanation II, if there is failure of the device for limiting children, you do not want to give the advantage of this measure to a married woman, even if she is ready for sterilisation after abortion.

WITNESS: I have said where abortion is resorted to as a therapeutic measure, there is a definite indication. If it is a mental case or if there is some inherent disease you are not going to repeat the abortion. You will resort to sterilisation for which there is an indication.

SHRIMATI TARA SAPRE: It is already provided in Explanation II. Now, we want to liberalise it.

WITNESS: If it is used as a family planning measure, I say 'No' Liberalisation does not come into the picture. Contraceptive measures have not been practised widely. When that is the case, how can you resort to abortion as a family planning device? Have you established the use of contraceptives before resorting to abortion?

SHRIMATI TARA SAPRE: That means that you want to deny this measure to married ladies. Is it not?

WITNESS: Yes.

**SHRIMATI TARA SAPRE:** One of our aims is to restrict the population.

**WITNESS:** If you say that this measure is going to be used as a family planning device, then certainly include it but if you say it is a therapeutic measure, it has no place in the Bill.

**SHRI S. KANDAPPAN:** I did not have the opportunity to examine many witnesses, but the few witnesses that I had occasion to examine in the morning presented a different picture altogether. I would like to put a few fundamental questions before I come to the Bill as such. To my mind, from what I could gather from what you have stated in your preliminary observations as well as in your answers to various questions, you seem to be very conservative and you seem to be very rigid and you want to confine the Bill to the therapeutic aspect only. My first question is, even if it overlaps with the family planning measures, where is the harm. Although the Government is very keen to proclaim that this Bill is a health measure, and not a family planning measure, if it indirectly helps the family planning aspect also, where is the harm?

**WITNESS:** The harm is that it will undermine the therapeutic value and it will be practised more as a measure for family planning. If you say, in the first instance, that it is a therapeutic measure, then its scope is restricted. But if you resort to this as a family planning measure, then everybody would stop with one child. It cannot be accepted as a general practice. Your total contraceptive measures have not spread to the entire population. Only ten percent of the population is using contraceptives. What about the remaining 90 per cent?

**SHRI S. KANDAPPAN:** Are you opposed to family planning.

**WITNESS:** I am in favour of family planning within limits.

**SHRI S. KANDAPPAN:** My next question is this. I hope you are well

aware because of your previous post and experience in the field that not only in Tamil Nadu but throughout India in many States in the rural parts people have been practising abortion unfortunately by resorting to crude methods. Consequently they suffer and sometimes it proves fatal also. To my mind it is rather widely prevalent in certain quarters. I find that in resorting to these crude methods there is not much resistance, but for adopting contraceptives or family planning measures there is resistance. People seem to be receptive to the traditional methods prevalent in certain rural parts, but they are averse to adopting family planning methods. Because they are used to the old methods and they have been brought up in that environment, they resort to crude methods. I belong to a village. There are hundreds of such cases very year. Even if I am not in my village all the time, people come and tell about it. This sort of thing is widely prevalent. When such is the position, do you not think it advisable to make it legal and liberalise it, so that the health hazard is reduced to the minimum?

**WITNESS:** In any case the health hazard is there, as a result of practising crude abortive methods, you want to minimise it by bringing in refined methods of abortion?

**SHRI S. KANDAPPAN:** That is right. It is on the same lines as people arguing for the scrapping of prohibition. The manufacture of illicit liquor and the raw materials are harmful to the health of the people. So, it is better to remove prohibition rather than endanger the life of the people. There can be mental reservations. Even in Parliament there would be some resistance. Otherwise, the previous Health Minister who was in charge of this Bill would have got this Bill passed in the last Session itself. There was some resistance. As a compromise it

was referred to this Committee. I do not know in what shape the Bill would emerge from the Joint Committee or from the House. It is a question of political and social feelings and the resistance of the groups that are represented on the floor of the House. Speaking for myself, is it not good for the society as a whole, whatever be our mental reservations because of the widely prevalent crude methods? When this Bill is passed in a more liberalised form and we rather legalise the whole thing, will not the health hazards be restricted to the minimum?

WITNESS: I do not know if any studies have been made. What is the percentage that is using these methods. What is the percentage of deaths as a result of using crude methods? Before you think of introducing this as a family planning measure, you must have certain data. We must know how much percentage of the rural population has resorted to these methods. These factors have to be examined, before we consider this as a family planning measure.

CHAIRMAN: The Shantilal Shah Committee has given certain figures in this respect. I think you must have read it. They say that roughly 3.5 million abortions take place every year.

SHRI S. KANDAPPAN: What is your view on that?

WITNESS: Though you are very keen on introducing this as a family planning measure, are you ready for it?

SHRI S. KANDAPPAN: I am prepared to give a secondary place to family planning, but do you not think that their health is endangered by adopting crude methods?

WITNESS: I do not think so

SHRI S. KANDAPPAN: You are very strict and you are inclined to say that it should not be brought down to

the level of the district headquarters hospital. You are not prepared to concede that this position should be given to a district headquarters hospital. When we keep it at the State level, do you think that the people spread over 200 or 300 miles in the entire State can really be benefited? Even in the extreme cases you have in mind can they have access to the State headquarters hospital and can they avail of this facility?

WITNESS The point is I have mentioned here *in the first instance* the State headquarters. After you have made your study and evaluation of the results at State headquarters, because you cannot do it all in one year, then you extend it to other hospitals, and it goes on like this, because it is over a period of time that you are going to work. It will not be finally limited to State headquarters. But as a first step let us confine ourselves to State headquarters, see how it works, evaluate it and then other hospitals are to be included. The meaning of my saying State headquarters is really for the beginning only. I do not say it shall be hereafter for State headquarters only.

SHRI S. KANDAPPAN: You seem to be very much guided by the mental reservation we find in certain quarters to family planning as well as this kind of measure. You seem to think, that is my reading, that if we make it broadbased, then probably the public may not be receptive enough for such a measure at the present stage. But my feeling, my impression, is that by and large the enlightened public would like to have a broadbased and liberalised measure of this nature so that the crude abortive methods and the consequent danger to the health can be reduced, and as a by-product if it would help family planning, of course nobody is going to lose on that. But even if we keep it mainly as a health measure, as you would like to confine it, even then I would like to say that we can make it broad-based. Before this measure can be brought about or an institution can be



asked to carry it out will it be all right if the Government could prescribe certain rules and see that every hospital which is permitted to carry out these operations is strictly controlled in the sense that it should be properly equipped and properly trained medical practitioners must be there, whether it is district level or even the rural level. Suppose proper doctors as well as adequate equipment are there, then I think you have no objection to bringing it to that level.

WITNESS: Not in the initial stage because the experience from vasectomies that were done starting at State headquarters and going down to taluk level or block level had been a very sad one. We know what has happened at the primary health centres as a result of all this. This Bill will go into abuse if you are going to start on a broadbased level in the beginning. Let us start at the top, work it out, evaluate it, see the results. Even regarding the doctors at State headquarters you cannot really say they are hundred per cent good, bad or indifferent. Who is going to supervise their work at primary centres or taluk headquarters? Every abortionist or qualified doctor doing the operation of abortion requires a lot of care, and who is to supervise them? As I have said also the mortality that may occur from criminal abortion or therapeutic, the margin in that is very narrow, so much so the doctors who are doing the criminal abortions may not admit it, they call it therapeutic abortions. That is why the figures are increasing. If you are going to allow doctors in the rural level even as a health measure, you are going to ask for trouble.

SHRI S. KANDAPPAN: One thing is still not clear to me. I do not know what you mean when you say that the vasectomies have brought in lot of difficulties. I should think the results we have achieved is quite good.

WITNESS. There were many difficulties experienced.

SHRI S. KANDAPPAN: There may be exceptional cases.

WITNESS: What happened in Madras State in the rural areas? There was no follow-up. The scar was not noticed. Again the same man had a second operation. There were cases of young boys and old men being operated.

SHRI KANDAPPAN: They must be rare. You must be knowing the figures better than me.

WITNESS: It is the rare exception that causes havoc in the newspapers. Public opinion goes by what happens.

SHRI S. KANDAPPAN: Is it very difficult for the doctors to find out when they come up for a second time that they have already undergone that?

WITNESS: It becomes a practice, it becomes a habit. The doctor loses that instinct of examining every patient carefully

SHRI S KANDAPPAN: Now we have come to the position of agreeing to have a family planning clinic at every block level. That is being implemented in our State, I think in some other States also.

WITNESS: Is it a surgical clinic or is it a contraceptive clinic or an advisory clinic or educational clinic? We are not disputing the point....

SHRI S. KANDAPPAN: Likewise why not we do it here?

WITNESS: Not abortion at the primary health centre level.

SHRI S. KANDAPPAN: At district headquarters?

WITNESS: Not even that.

SHRI S. KANDAPPAN: Where they have got blood transfusion and all the things you narrated, by and large they have it.

WITNESS: Blood transfusion is not available even in some of the State headquarters hospitals. You know some member was not able to get some blood at some place and he just died. First blood grouping and then blood transfusion. Not everybody is familiar with the technique of blood transfusion. You cannot have it even at the district headquarters hospital. That is why I said for the beginning let it be at State headquarters. Let us supervise, adhere to certain rules, and evaluate the results. If we are satisfied then we can proceed to other areas.

CHAIRMAN: You can go into the next question.

SHRI S. KANDAPPAN: I do not have more questions to ask, excepting that I would like to make the observation that if the resistance is so much in this country, then I am afraid we cannot pass this Bill at all. Day and night thousands of people are endangering their lives.

CHAIRMAN: We will discuss it later. Mr. Yadav.

श्री जांगेश्वर यादव : क्या यह एनार्शन बिल जो है वह बर्थ कंट्रोल में सहायक होगा ?

WITNESS: We know how Japan reduced its birthrate from 34 to 17 per thousand over a period of ten years using abortion as its main operational measure. But then the same woman would come during the same year for three or four abortions. Are we to also go on with such a programme for the sake of family planning?

श्री जांगेश्वर यादव : अगर यह बिल बर्थ कंट्रोल में सहायक है और अगर गर्बनेट चाहती है कि हमारे यहां पूरी तरह से बर्थ कंट्रोल हो तो जिन बातों की सहायता से बर्थ बढ़ती है और दिन पर दिन बढ़ती जा रही है उन का प्रयोग बर्थ बढ़ाने के लिए क्यों न किया जाय । जैसे सिनेमा है या

रेडियो के गाने हैं या नया बढ़ता हुआ फेशन है जिस में स्त्रियां अपने खुले अंग दिखातीं फिरती हैं और वह बर्थ बढ़ाने में सहायक होता है और उस को वजह से ही पुरुष उन को अट्रैक्ट होते हैं तो इस सब को रोकने के लिए क्या सिनेमा का प्रयोग इस प्रकार नहीं किया जा सकता कि जिस से लोगों में ब्रह्मचर्य की भावना बढ़े, और सिनेमा में लविंग पिक्चर्स की जगह ऐसी पिक्चरें दिखाया जाय कि जिस के कारण लोगों का चरित्र ऊंचा हो और इस प्रकार गर्बनेट फेशन को रोकने का प्रयत्न करे । तो क्या यह संभव है कि इस सब के लिए सिनेमा और रेडियो का प्रयोग किया जाय ?

WITNESS: I totally agree with him. Education is the first measure in any planning or in any programme.

SHRI VIDYA DHAR BAJPAI: About obscenity the Government is bringing forward a Bill. It is before the Joint Select Committee now. Since the hon'ble Member is not on that Committee, his question should be included therein. I give the hon'ble Member this information because the Government is also considering about obscenity in books.

SHRI S. KANDAPPAN: The Bill proposes the presence of two doctors to prevent abuse. Why can we not rely on one doctor. Would there be no abuses even with two doctors?

WITNESS: I think with two persons there will be check. I think it is an effective measures.

SHRI S. KANDAPPAN. You are envisaging to leave this matter only in the hands of district headquarters. I wonder if there cannot be scope for abuse.

(No reply)

CHAIRMAN: Dr. (Smt) H. M. Sarma, thank you very much for your valuable evidence.

(The witness then withdrew.)

Thursday, the 16th July, 1970.

PRESENT

*Rajya Sabha*

1. Shri Mulka Govinda Reddy—*Chairman*.
2. Dr. (Mrs) Mangla Devi Talwar
3. Shri M. Srinivasa Reddy
4. Shrimati Usha Barthakur
5. Shri Krishan Kant
6. Shri Sawaisingh Sisodia
7. Shri K. P. Mallikarjunudu
8. Shrimati Bindumati Devi
9. Shri Gopinathan Nair.

*Lok Sabha*

10. Shri Vidya Dhar Bajpai
11. Shri Gangacharan Dixit
12. Shri Ganesh Ghosh
13. Shri Kameshwar Singh
14. Shri S. Kandappan ,
15. Shri P. Viswambharan
16. Shri N. R. Laskar
17. Hazi Lutfal Haque
18. Shri Mohammad Yusuf
19. Shri B. S. Murthy
20. Shrimati Shakuntala Nayar
21. Dr. Sushila Nayar
22. Shri Partap Singh
23. Shri Ram Swarup
24. Shrimati Tara Sapre
25. Shri M. R. Sharma
26. Shri Babunath Singh
27. Shri Jageshwar Yadav

REPRESENTATIVES OF THE MINISTRIES

*Ministry of Law*

Shri R. N. Shinghal, Deputy Legislative Counsel.  
Shri S. Ramaiah, Deputy Legislative Counsel.

*Ministry of Health and Family Planning and Works, Housing and  
Urban Development*

Shri R. N. Madhok, Joint Secretary.  
 Dr. K. N. Kashyap, Commissioner (FP).  
 Shri D. N. Choudhri, Deputy Secretary.  
 Dr. I. Bhushan Rao, Deputy Commissioner (FP).  
 Dr. (Smt.) S. F. Jalnawalla, Deputy Director (I).  
 Shri A. P. Atri, Under Secretary.

SECRETARIAT

Shri S. P. Ganguly, Deputy Secretary.  
 Shri M. K. Jain, Under Secretary.

WITNESSES EXAMINED

- (1) Shri Khushwant Singh, Editor, Illustrated Weekly of India, Bombay.
- (2) Shrimati Uma Agarwal, ex-Pratinidhi, Kasturba Gandhi National Memorial Trust, 16, Ram Kishore Road, Delhi.

*Shri Khushwant Singh, Editor,  
Illustrated Weekly of India,  
Bombay was called in*

SHRI KRISHAN KANT: You are reading from the Shantilal Shah Committee's Report?

WITNESS: Yes.

SHRI KRISHAN KANT: But I think our Bill is different.

CHAIRMAN: Mr. Kushwant Singh, has not a copy of this Bill been sent to you?

WITNESS: I do not seem to have got it.

CHAIRMAN: We shall give you a copy now.

*(A copy of the Bill was given to the witness)*

CHAIRMAN: Mr. Kushwant Singh, I welcome you to give evidence before this Committee. Whatever you say before this Committee is treated as confidential till it is published by Parliament. Your note, which is very precise and to the point, has already been circulated to our Members. If you have anything more to say, you are welcome to say it now. Then our Members will put some questions to you. Please answer them.

SHRI KHUSHWANT SINGH: Mr. Chairman, I find that the provisions as suggested by the Committee are extremely conservative. I would like to make a few suggestions, subject to your views; how they are to be worded, I do not know. In your first recommendation, you have mentioned:

“abortions authorised under the above recommendation can be performed only by a person who holds a qualification granted by an authority specified or notified in any of the schedules.....”

WITNESS: With regard to the qualifications for carrying out an abortion, it is being said that it requires considerable medical skill. But with the little experience that I have had of seeing abortions—I have seen a few—I find it does not seem to bear that out. I think if nurses can be given training in carrying out abortions, this should be extended to include them also, and it should not necessarily require the presence of doctors. So the

provision should be further liberalised. Regarding the provision for wanting it in hospitals, we have not enough hospitals to go round and not within the foreseeable future are we likely to have them. A large number of deliveries take place at home even now in the villages. I do not see why an abortion cannot be carried out in a private home.

The other thing is a girl under 18 is being required to get the permission of her guardian in the case of an abortion. I think one of the important factors of abortion is secrecy and she may not want to get the permission of her guardian; she may not want to consult her guardian. If she has conceived, she has conceived illegitimately. I do not see why this provision should be imposed upon a girl who wants to terminate her pregnancy. My own view is simply this should be treated as a fundamental right of every woman to decide whether or not she wants to have a child. It is on that basis that I put my arguments. Anything that infringes what I would describe the fundamental right of any woman to decide whether or not she wants to have a child, is a denial of that fundamental right to her in spite of the fact that she is a minor. Any girl who is old enough to have sexual intercourse is old enough to decide whether or not she wants to have a child. We tend to be moribund and caught up in this concept of majority or minority. After all, girls of 18 years or 21 years do have sexual intercourse; whether it is with or without anybody's consent does not matter. We have to provide for that. If a girl is old enough to have sexual intercourse and is capable of becoming a mother, I think, she is also capable of deciding whether or not to have her pregnancy terminated. That is all what I have to say.

SHRI S. KANDAPPAN: You have mentioned something about certification.

WITNESS: Well, I based it on what I read from this report requiring doc-

tors to certify whether an abortion should be carried out or not. I think all these things are unnecessary because what happens in this country leads to untold hardship for the illiterate and the poor. And my own suspicion is the way this has been drafted, it still remains a privilege of the rich and the educated.

SHRIMATI USHA BARTHAKUR: It seems that you are supporting the Bill, of course, with certain suggestions.

WITNESS: Yes, I support the Bill. And I think it should go much further.

SHRIMATI USHA BARTHAKUR: In clause 2(d) a "registered medical practitioner" has been defined. According to some witnesses all medical practitioners are not competent to appreciate the gravity of the problem arising as a result of the termination of pregnancy. They say that most of them are incompetent to perform the actual abortion. Similarly, allopaths who are only general practitioners may lack in the above knowledge. So, they say, it is necessary to give a special training before a medical practitioner is declared competent to advise or carry out an abortion. It is also felt that no doctor should be allowed to carry out abortions unless he possesses a certificate of having undergone the special training in surgery. What is your opinion about this particular aspect?

WITNESS: The only thing that I wanted to say is that this should not be restricted only to doctors. This training should also be imparted to *dais* and nurses in their training period and they should also be made competent to carry out abortions because as a matter of fact, in a large number of cases even in villages children are brought into the world by *dais* who are much qualified to do this job. And I do not think performing abortions, with due respect to what the doctors have said, is such an extremely complicated process that it cannot be done with a certain amount of training. I

am not quite certain in my own mind but I have also had the privilege of knowing of abortions being carried out with a small amount of training by qualified women and they should be able to carry out this without any real hazard to the life of the mother.

**SHRIMATI USHA BARTHAKUR:** As you are an editor of some paper, may I know from you whether those countries, which have legalised or liberalised abortions have succeeded in their purpose?

**WITNESS:** An eminently successful example is quoted in your own committee's report about Japan where they have brought the birth rate down by 50 per cent. And our problem is more acute and therefore, we should take even stronger measures in bringing down the birth rate. That is why I said this measure is still an extremely conservative measure. Our problem are unique to ourselves I do not think our problems in India can be compared with those of other countries. We have our own problems and I think we know our answers. We should produce the answers ourselves. That is why I said it is my view that we should make it more easy and accessible to the poorer people in the villages, and for that purpose I do not see how the measure that you are proposing restricting the ways in which it can be carried out, will really benefit the poorer people in the villages.

**SHRIMATI USHA BARTHAKUR:** Do you think this Bill, when enacted, will benefit our country?

**WITNESS:** I have not the slightest doubt about it. In fact I feel that if it is liberalised a little more, it will be still more beneficial to our country.

**SHRIMATI TARA SAPRE:** Mr. Singh, I want to know from you whether this Bill has received sufficient publicity. Secondly, you must have received a lot of letters from various types of leaders regarding this Bill. I would like to know from you whether public opinion in general is favourable to this Bill as a family planning mea-

sure or as a measure to stop illegal abortions.

**WITNESS:** I feel the Bill has not received enough publicity from the press. I think we are to a large extent guilty of that. I, as an editor of a journal, am making amends and we are producing a special issue on family planning based on this Bill. I am quite sure other papers will also take it up. As far as the other thing is concerned, I think we should bear clearly in mind that although we are a democracy, there are certain aspects in which the leaders of the country have forced their ways from above on a somewhat reluctant people. I can only recall the way in which the Hindu Code Bill was pressurised on the country by the leadership of our late Prime Minister, although I am quite sure, if it had been thrown open to discussion in the country, the conservative opinion was against it at that time. Therefore, I feel that in a measure like this which is of the great importance—as important as the Hindu Code Bill—all the leaders of this country and formers of public opinion like the Press should force the pace in this matter. I have no doubt that people will be behind it because they have seen the suicidal rate at which our population is increasing.

**SHRIMATI TARA SAPRE:** There is an opinion that this Bill will lead to permissiveness. Are there any suggestions from your readers regarding the safeguards to be put in the Bill against immoral abortion?

**WITNESS:** I have received a few letters from people. They are largely not against abortion as such because it is a sort of post-facto. It comes after conception has taken place and immorality has been committed. They are against loop, pill and selling of contraceptives and personally I do not attach much importance to that kind of criticism. We are now talking of a problem which arises after an immoral act is committed.

**SHRIMATI TARA SAPRE:** This Bill is not as a family planning measure, but as a health measure to protect women from exploitation by quacks.

**WITNESS:** You can call it what you like. It is so many things. Let us say it is a cafeteria measure. It does not matter what label you put on it.

**SHRIMATI TARA SAPRE:** You said that you want this Bill to be more liberalised. Are you confident that our society is ready to accept such a liberal social measure like this at the present stage? Our educational and religious leaders are emphatically against this measure and some of them who appeared before us told us that they would not like it to be so much liberalised. How do you say that this Bill should be more liberalised?

**WITNESS:** I again quote the instance of the Hindu Code Bill. That is the exact analogy. I think at that time it was primarily Pandit Nehru and his personality and the force which he wielded at that time that got that measure passed. Even if a few leaders continue to hold a very conservative opinion, it is of no consequence because I know that our young people who are our citizens of tomorrow will definitely support this measure. I think we should force the pace.

**SHRI K. P. MALLIKARJUNUDU:** Some witnesses have expressed an opinion that this liberalisation will be dangerous in the case of a unmarried girls and widows and therefore it is not desirable in their case. The reason given was that it will lead to promiscuity and sexual immorality. The Bill is all right in the case of married women on the ground of her health. Do you agree with that view?

**WITNESS:** Would you in that case like unmarried women and widows to bear illegitimate children?

**SHRI K. P. MALLIKARJUNUDU:** They should undergo full period of pregnancy and some organisation must be set up to look after the welfare of

such children. We should also education public opinion in such a way that no stigma is attached to such children or their mothers.

**WITNESS:** This is just visiting the sins of the parents on the children, because the stigma of bastardy will be on the children. I do not see much sense in this kind of argument. An immoral act has already taken place and we have not been able to check that immorality. After that abortion is the only remedy.

**SHRI K. P. MALLIKARJUNUDU:** We must or the society must legitimise the child.

**WITNESS:** How can you legitimate the child unless the father of the child is prepared to marry that woman? How can you legitimise the child when public opinion is in favour of bastardy? To change that is not easy. It will take centuries. Even in Europe in countries like Switzerland where the rate of bastardy is the highest, some kind of social stigma is attached and it is the child who pays for the sins of others.

**SHRI K. P. MALLIKARJUNUDU:** Would you allow abortion on eugenic grounds?

**WITNESS:** Sir, my view is very simple and that is simply that it is the fundamental right of a mother to decide whether or not she is to have a child and there is no other third party involved in this. It should not be the concern of the Doctor or Parents. Any woman who has an illegitimate sexual intercourse should have the right to decide that. It is her fundamental right.

**SHRI K. P. MALIKARJUNUDU:** Should that fundamental right be carried to the extent of killing a child in embryo?

**WITNESS:** We are talking of abortion only within the safe period of six weeks. I would draw a line there. But it is a matter of detail. The right to

terminate a pregnancy is that of a woman.

**SHRI K. P. MALLIKARJUNUDU:** There is a clause which says that before termination of pregnancy you should get the consent of the husband or his guardian, if he is minor.

**WITNESS:** I do not see the problem of minority in this case. Here I am only concerned with puberty. When the girl has attained the age of puberty and has had a sexual intercourse, she should have the right to decide about the termination of pregnancy.

**SHRI K. P. MALLIKARJUNUDU:** Therefore, you want deletion of that clause?

**WITNESS:** Yes.

**SHRI GANESH GHOSH:** It appears that your idea on termination of pregnancy has gone far beyond what has been done even in other progressive countries of the world. I do not know whether you have got any idea of the seriousness and complications arising arising out of abortion. All the Doctors, almost all, who appeared before us told us that very serious risks are associated with premature termination of pregnancy. It is not as easy as removing something from your skin. All of them have told us that this operation cannot be done anywhere else other than a Hospital after making arrangements for bloodtransfusion etc. If it is to be done at some other place, then that place should have direct contact with a nearby hospital where all these arrangements should be there. But you want this to be done by ordinary nurses and dais after giving them a little training. What reasons have you got to support this stand?

**WITNESS:** I have only two reasons. One is that as a lawyer I have seen two or three operations performed. With due respect to the medical evidence, I still do not think it requires such a complicated operation.

**WITNESS:** Number two: I think that if the 'dhais' and nurses, as it happens in many of our villages, can bring about normal deliveries of children, which I think is a complicated matter at times and it can lead to many hazards of health, I do not see why they cannot, with a short training, be permitted to do this, to perform an abortion. I know the medical evidence is against it. I think I can also produce evidence to the contrary also if you give me time that these things can be done safely with a little training.

**SHRI GANESH GHOSH:** Almost every person who has come here to give evidence before this Committee has said in unequivocal terms that not all medical practitioners, but only selected or specialised gynaecologists or obstetricians and they also with special training in this, should be entrusted with this.

**WITNESS:** I think they were more-cautious. That is all I would say. Our problem is acute enough to take chances of training people in short-term courses entitling them to perform the operation. If there are a few accidents, I think the risk is worth taking.

**SHRI GANESH GHOSH:** Is it your opinion that this Bill should be liberalised enough to make abortion available merely for the asking, that is, whoever comes and says, 'I do want to bear a child'?

**WITNESS:** That is my idea.

**SHRI GANESH GHOSH:** Have you get any idea of the number of secret abortions done in our country or in any region or state or district of the country?

**WITNESS:** Such figures are what are often quoted by the doctors and such figures are not reliable nor have been cross-checked. So far as India is concerned, I cannot answer nor can anyone else.

**SHRI GANESH GHOSH:** Being the



Editor of a popular journal, have you got any apprehension that this Bill, if enacted into law, will act as an incentive to immorality and promiscuity?

WITNESS: I disagree entirely.

SHRI GANESH GHOSH: So, this will be a measure to control our population explosion. This is your idea?

WITNESS: Yes.

SHRI GANESH GHOSH: The second thing and more important is that you accept and recognise legally the fundamental right of a woman to have control over her body and progeny. Is it not?

WITNESS: Yes, Sir.

SHRI GANESH GHOSH: Thank you very much.

SHRI KRISHAN KANT: After hearing your views, will it not be better that we don't bring this bill and only Section 312 of the IPC is removed? Will it not suffice?

WITNESS: It may. Section 312 of the IPC? I think that would suffice.

SHRI KRISHAN KANT: Just as we are bringing an amendment to the provisions regarding Privy Purses, we also delete Section 312(2) of IPC and do not bring this bill?

WITNESS: I think it would serve the purpose. It would go a long way.

SHRI KRISHAN KANT: You think this is not required?

WITNESS: That is right.

SHRI KRISHAN KANT: So, everybody should be free according to you to do whatever he likes. Is it not?

WITNESS: Yes, Sir.

SHRI KRISHAN KANT: Now, supposing a woman, following the full freedom, as you say which she should have, has one abortion; after three

months she again comes for the second abortion and after three months she comes for the third abortion. I think there should be no restriction.

WITNESS: None.

SHRI KRISHAN KANT: Even if the doctor says, "This is not a good thing. If you do not want children, why not sterilize? Why do you want to have abortion?"

WITNESS: I think it would be better for her to be sterilized rather than have continuous abortions.

SHRI KRISHAN KANT: That is what I say. When the government brings a bill or the Committee goes into it, the Committee has not only to go into the question of fundamental rights, but has to go also into the question of health of the nation as a whole. So, you may be free to say that everybody may come and have abortion because her health is her own problem.

WITNESS: That is right. But the doctor is there to advise.

SHRI KRISHAN KANT: I was referring to a conference. Gynaecological Conference in England—you might have read about it in "The London Times"—about two or three weeks back. The Chairman of the Conference said: "A girl had come to me saying 'I want abortion because I want to have a holiday, I want to go on a holiday' ". That is her fundamental right.

WITNESS: Yes, Sir.

SHRI KRISHAN KANT: She wants to go and enjoy. She wants to have abortion. Even the doctors in England say that this is a dangerous trend. It is not healthy for the society, not from any moral point of view, but from the physical health point of view. Don't you think that the government, when it passes, this bill, has also a primary duty to consider this aspect?

WITNESS: I think it is purely between the patient and the doctor. I think any person with any intelligence could be persuaded by the doctor who can say, "Don't do this, it will injure your health". I think the person will agree that perhaps the doctor is right.

SHRI KRISHAN KANT: I was referring to the same example. The girl says, "I should have it. I want to go and enjoy." But the doctor says, "You should not have it." She says she will go to some other doctor.

WITNESS: That is all right.

SHRI KRISHAN KANT: So, it has to see both from the health point of view and from the point of view of the freedom of the individual. Is it not?

WITNESS: Yes, Sir.

SHRI KRISHAN KANT: So, if restrictions are put on the basis of health point of view or the present social environment, don't you think the Bill reflects the society in which this should be promulgated?

WITNESS: No, I do not think so. I am quite certain that it is a matter between the doctor and the patient and I will leave it to them.

SHRI KRISHAN KANT: Even at the risk of health?

WITNESS: The doctor is there. I would trust the doctor.

SHRI KRISHAN KANT: How is the doctor concerned? He gets money and he does it. As a matter of fact, according to you, even 'dhais' and nurses can do it.

WITNESS: Yes, Sir.

SHRI KRISHAN KANT: As a matter of fact, what you are saying is what is happening in the country illegally and because of the illegal abor-

tions, health hazards take place, sometimes bleeding takes place, and also because the present hospitals and the present facilities of the doctors are not sufficient to cope with the problem, what you are saying is only that what is happening illegally should be legalised.

WITNESS: That is right. But training should be given. Couple with it the training of nurses and 'dhais' to per form abortion under sanitary conditions.

SHRI KRISHAN KANT: Do you want this to be provided in the Bill or not?

WITNESS: Yes, Sir. I would have it provided.

SHRI KANDAPPAN: Mr. Kushwant Singh, your view-point is very clear because you have started from the base that it is the fundamental right and no man has got any right or prerogative to intervene or impeach the basic right. I would like to pose a few questions on similar lines as posed by Shri Krishan Kant. As you yourself have admitted in your preliminary remarks, the Press has not done much to publicise the health hazards that are there because of the crude methods that are indulged in and to create a popular opinion in the country and if you compare it with the performance of the Press with regard to lifting of prohibition, they have done very much in favour of scrapping prohibition on the plea that the illicit liquor and the raw material that goes into making the illicit liquor is more dangerous than what would happen to the society as a whole if prohibition is lifted. On similar lines something should have been done by the Press. I would like to know from you as to why the Press is completely silent on this point. Is it due to the fact that the Press which normally keeps the pulse of the people is of the opinion that our society is not a permissive society and there is considerable resistance to this sort of thing? If my assessment is correct, then would you venture to suggest that the govern-

ment should go in for such a complete liberalisation as you have been suggesting if the society is not receptive enough for that? Is it not more important to create the atmosphere and to be more careful before we provide for such a sweeping liberalised Bill ?

WITNESS: With your first statement I agree that the press has not done its duty in educating public opinion either against the crude methods adopted so far or in creating an opinion in favour of liberalisation of abortion. That is largely due to the fact that we have not been really well-informed ourselves—the press people—because it becomes a little boring to repeat *ad nauseum* you are adding a baby'. If we had newer stories of life or crude acts of abortion leading to the deaths of the mother, then we can go ahead much further. It is for the Government to feed the press with such stories and we will certainly publicise them. After contacting Dr. Kashyap we have decided to produce a special issue on the deliberations of your Committee, subject to not crossing the Parliamentary privileges to popularise as much as we can about the desirability of having a measure of this kind and since my views are extreme, I will ram views as well, being the editor but I do not think the fact we have not written much about it is because we think people are against it. We have been just lazy and we have not been fed properly. I have hardly met any young man who is against it. They are more progressive than the elders. We tend to give more weight to the conservatives.

SHRI KANDAPPAN: I agree with you when you say there is a lot of abortion taking place in the country in the urban and rural areas though we do not have the exact figure but for that matter, in any field, even in prohibition, in spite of the taboo there, there was always trespassing but when you make it legal and permissive and remove the taboo in the society by convention which may be healthy, then there is no limit to this traffic.

Don't you think that the trend that we may let loose will eventually lead to a situation where our society will become more permissive than even some of the Western countries? Don't you really feel that it may have a dampening effect on the harmony of social life and family?

WITNESS: I do not think so. Regarding prohibition it is common knowledge what a silly thing we have done regarding prohibition. I come from Bombay.

DR. SUSHILA NARAR: Several of us do not share your view. Let us have a separate discussion on that.

WITNESS: I have several advantages. I am a drinking man.

DR. SUSHILA NAYAR: We know that abortions take place all the time and are cause of great hazard to the health of the mother. It is common-sense that we should at least avoid those hazards that can be prevented and do the best we can for the people who need such help.

SHRI KANDAPPAN: I take prohibition. I come from Tamilnad. We are sticking to it in spite of opposition from our neighbours and in our own State from the press and elsewhere. I come from the rural area and our experience is soon after we assumed power, we had a very detailed discussion over this. There was strong but alternatively there another group opinion within our party to lift this in favour of retaining it. I am one of those who favour of retaining prohibition for the simple reason that I represent a constituency which comprises of small villages. My experience is when there was no prohibition, the wage-earner usually neglected the family and he never brought back to the house wife and children any money and he never provided them with the basic necessities of life. After imposition of prohibition, though there may be breaches here and there, we find that it is having a healthy effect in the sense that they are providing for the family. Once we lift it the entire economy will be upset. We

do not have the exact statistics. On similar lines we look at this problem also. Even in the Western countries there is this problem and the students are indulging in it and it may endanger the health of the society and they want to have some check. Of course we have no such apprehension in the near future but learning from the experience of Western countries which have already taken to this road, is it not advisable for us to be a little cautious in this?

WITNESS: Let me now explain. Since you quoted foreign countries—and I suspect you are quoting the United States....

SHRI S. KANDAPPAN: That is right.

WITNESS: I have had the privilege of teaching there in American universities for the last twenty years and I can only give you my experience in the last ten to fifteen years when I have been teaching there. There is enormous freedom of the sexes. In many universities boys and girls even share the same rooms and not only the same hostel. There are no rules as to what time they should leave each other's rooms. The boys and girls have complete sexual freedom to enjoy but it has not even in the slightest way impaired their morality. They work much harder; they are more honest and more truthful. The whole concept is changed. We tend to attach an exaggerated importance to chastity and to rigid laws of sexual freedom. I do not think they have anything to do with morality. These are compulsions of the body and the more freely they are expressed, subject to causing no hurt to other people, the healthier the society will be. I think much of the trouble in this country comes from an extraordinary suppression of our physical desires, from this kind of bottling up and from having false values. I can give you the example of the United States where there is this freedom. And as I said they work much harder. They are more honest and truthful. I

am all for scrapping of these false values that we are having in this country.

SHRI S. KANDAPPAN: You mean we should not suppress the urges?

WITNESS: Let us have no illusions about our own standards of morality being higher than in other countries; it is not so.

SHRI S. KANDAPPAN: My third and last point. I do not disagree with you on the point that this is not a very complicated business, this performance of abortion. To my view it looks that it all depends upon the health of the family. The experience is that in rural areas those females who are sturdy, who work in the fields, who put in physical labour, it is always easier in their case—even the question of delivery—than in the case of woman with delicate health who live in the urban areas and who do not exert themselves much. Possibly that would be the same with regard to abortions also. These abortions may not be difficult in the rural parts whereas in the urban areas it may need the care of medical practitioners and that sort of thing.

With regard to the other point that you raised as to the fundamental right, would you really believe that though we are a democratic society we should not have any sort of guidance of directives given to those people who are not mature enough or would you prefer to call these girls as mature because they are capable of having sexual relations? So far as certain age groups are concerned don't you think it would be advisable to have in their own interest and in the interests of the society at least some guidelines if not a complete check over their activities?

WITNESS: The only guideline that I would accept in this case is the family links. The Government have no business to interfere in matters like this. My own view, as I have repeatedly mentioned again and again is that if the girl is old enough to agree to have sexual intercourse she is

old enough to be able to make up her mind whether she is going to keep the baby or not which is going to follow. The only people who have any right to take any interest in this matter are her parents, her elder brothers or her lover if necessary and the doctor who comes in his professional capacity. The Government has no business to interfere in these matters.

**SHRI S. KANDAPPAN:** When you say that she need not even consult or get the permission of the mother, or...

**WITNESS:** If the child is illegitimate I think it is her right to keep that illegitimacy secret and it is for her alone to decide.

**SHRI S. KANDAPPAN:** She need not consult her parents?

**WITNESS:** That depends on how close her parents are; it all depends upon the family environment.

**श्री जगेश्वर यादव:** सरदार जी, इस एवार्शन बिल में गर्भपात के लिये रूल्स बनाये जा रहे हैं लेकिन इससे अधिक गौर कामयाबी के लिये कि गर्भ रहे ही नहीं इसके सम्बन्ध में क्या गवर्नमेंट और रास्ता नहीं निकाल सकती, खड़ आदि के प्रयोग के लिये कोई नई ईजाद नहीं की जा सकती जिससे कि गर्भ रहने का रेट ही कम हो जाय।

**साक्षी :** वह तो कर रहे हैं, यह पिल्स और लूप वर्ग रह जो हैं उसके लिये कर रहे हैं और जैसा कि कृष्ण कान्त जी ने कहा कि यह सेक्शन पीनल कोड को इसमें से हटा दिया जाय तो इस बिल के जरिये से करना चाहते हैं वह तेजा से हो सकता है।

**श्री जगेश्वर यादव :** इसमें तो तंदुरुस्ती के लिये भी खतरा है और रूलन एरियाज में तो इस चीज का प्रचार भी बहुत कम है इसलिये अगर गवर्नमेंट इसकी और ध्यान डे तो इस खतरे से भी बचा जा सकता है।

**साक्षी :** जी, बिल्कुल ठीक है।

**SHRIMATI SHAKUNTALA NAYAR:** You yourself have said that we do not have the necessary medical staff to meet the requirements of this piece of legislation at the moment and you suggested that *dhais* and nurses should be trained. Their training will take some time; it may be six months or it may be even one year. In that case don't you think it would be better for us to wait for another year and have the necessary medical staff to meet the demands of this piece of legislation so as to prevent the accidents which you said could take place at this time?

**WITNESS:** Yes; I agree with you if you agree on principle that this should be done. The point is we should agree on principle that this should be done; how long it will take and how the necessary facilities should be developed is a matter for the Government.

**SHRIMATI SHAKUNTALA NAYAR:** We are a very restrained nation and I think we could wait for another year.

**WITNESS:** Anyway I think it will take that much time for you to get this Bill through parliament. In any case we could wait till the *dhais* and nurses are trained. If you are agreed on principle, I say 'yes' to your suggestion.

**SHRI SAWAISINGH SISODIA:** There is fear in the minds of many social workers that due to such sort of legislation which permits abortion freely, the number of abortions will increase tremendously and it will have a very bad effect on the morality of our society. What is your opinion on this?

**WITNESS:** I personally think that the number of births will decrease very much and that is one of the ob-

objectives for which I say I am supporting this. I am not really concerned with questions of morality because I think it is an absolutely wrong way of looking at things; it is just wrong to say that sexual freedom or permissiveness will lead to immorality.

**श्री प्रताप सिंह :** क्या बाहरी दुनिया के कई मुल्कों में इशितहरा के जरिये या अखबारों के जरिये एसा प्रोपोगैंडा किया जाता है कि हमल गिराने के लिये कोई बड़ बड़े एक्सपर्ट्स को जरूरत नहीं क्योंकि आपने कहा कि दाई के जरिये करला लिया जाय यह छोटी छोटी नर्सों के जरिये नर्सों करा लिया जाय । तो इस किस्म का प्रोपोगैंडा क्या बाहर की दुनिया में होता है, जैसे कि उम्मीद है कि आपने अखबारों में देखा होगा कि सोवियत यूनियन में हमल गिराने के लिये सक्सन पम्प का इस्तेमाल किया जाता है जिससे बहुत आसानी से हमल गिराया जा सकता है और उसकी टूर्निंग के लिये बहुत कम अर्सा लगता है और उसकी लागत भी बहुत कम र । क्या आपके ध्यान में ऐसे इशितहार अपने देश में भी देखने में आये हैं, किसी अखबार में इस किस्म के इशितहर दिये गये हों ।

**साक्षी :** मुझे इसका ख्याल तो नहीं, अगर यह बात है तो इसको पबलिसिटी हम करेंगे जो आप कह रहे है कि इतनी आसानी से हो सकता है और अगर इतनी आसानी से हो सकता है तो यह दाइयां और नर्स भी जरूर कर सकेगी । अगर दसकीं हमको इत्ति ला मिलेगी तो हम अपने अखबारों में इसकी जरूर पबलिसिटी करेंगे ।

**श्री प्रताप सिंह :** क्या आप अपनी तौर पर, एज एन एडिटर, इस स्किम को मालूमात करने की कोशिश करेंगे . . . .

**साक्षी :** जी मैं जरूर करूंगा ।

**श्री प्रताप सिंह :...** और इस बिल में लिखा गया है उसके मुताबिक लोगों को ज्यादा से ज्यादा फायदा पहुंचे । उस के बारे में आप क्या मदद करेंगे ।

**साक्षी :** जी, मैं तो जरूर करूंगा लेकिन जैसा हमारा अखबार है, इलस्ट्रेटेड वीकली, यह सिर्फ शहरों में पढ़ा जाता है, सिर्फ अंग्रजी पढ़ने वाले लोग पढ़ते हैं, और उनको कोई खास एसी तकलीफें पेश नहीं होतीं, उनके यूही बच्चे कम होते हैं, अमूनमन ऐसा होता है, व अस्पतालों में और डाक्टरों के पास जा सकते हैं । अगर पबलिसिटी की जरूरत है तो अपनी भाषाओं में, उर्दू में, हिन्दी में, पंजाबी में, दूसरी जवानों में, जो अखबारात चलते हैं, उनके जरिये । मैं जरूर चाहता हूं इस चीज की पबलिसिटी हो ।

**SHRI N. R. LASKAR:** Mr. Singh, I am in doubt as to whether this abortion is a technical operation or not. I am just asking you whether it is simply a technical operation.

**WITNESS:** I think it requires some technical handling, but they are exaggerating it too much.

**SHRI N. R. LASKAR:** Only technical experts are competent to say who are the people who should handle this operation.

**WITNESS:** Yes, Sir, but amongst them I would include the *Dais* and nurses as competent.

**SHRI N. R. LASKAR:** Only technical experts, the medical people are entitled to say who should be entrusted with this job.

**WITNESS:** That is right.

**SHRI N. R. LASKAR:** In that case if the medical profession suggests certain categories, will you object to that?

**WITNESS:** No. But I am only exhorting them to liberalise it in such

a way that this service is available to the poor people in the villages. At the moment the way it is being done, this will remain an urban phenomenon among the well-to-do people where it is, in fact, not necessary as it is amongst the poor in the villages.

SHRI N. R. LASKAR: You agree that we should agree with the experts opinion on the subject. Suppose the medical profession as a whole object to giving it to the *Dais* and nurses, will you agree?

WITNESS: I would try and exhort them. I would argue with them. That is what I am doing. I would try to impress upon them the need for liberalising abortions if we want this measure to really have any impact on the country.

SHRI N. R. LASKAR: Are you in any way connected with any organisation of nurses in our country.

WITNESS: No. As an adviser to the WHO and UNICEF I have done a certain amount of writing.

SHRI N. R. LASKAR: Before coming here as a witness have you consulted this organisation as a whole or not?

WITNESS: This problem has been of consuming interest to me, the population problem. Since I have had the privilege of being asked by organisations like WHO and UNICEF to write on different aspects, I have seen these things in action. On that basis I do not think it takes long to train a person.

SHRI N. R. LASKAR: Not a single organisation of nurses has asked you to say anything to say that they are also competent to do this thing.

WITNESS: I say it as the editor of a journal.

SHRI GANGACHARAN DIXIT: You are of the opinion that so far as

the question of health is concerned, the subjective satisfaction of a doctor is enough and that it should not be governed by any relevant factors.

WITNESS: Yes, Sir.

SHRI GANGACHARAN DIXIT: Do you know of recent rulings of the Supreme Court where they say that the subjective satisfaction of a man is not enough, but it must be governed by some relevant factors also?

WITNESS: I did not follow the question.

SHRI GANGACHARAN DIXIT: You say that if a doctor is satisfied only, it is enough and the abortion may be done only on this basis. It is his subjective satisfaction only which is to be considered and no relevant factors governing it should be taken into consideration.

WITNESS: I suppose it means the doctor's satisfaction regarding the health of the mother and the mother's willingness to undergo the operation.

SHRI GANGACHARAN DIXIT: According to your opinion, if a minor becomes pregnant, then she should be taken as a major.

WITNESS: In this case the word 'minor' does not mean anything.

SHRI GANGACHARAN DIXIT: It would then come into conflict with the Indian Majority Act and the definition given therein of a major.

WITNESS: I do not think that definition should apply in this case. Here it is a simple biological fact. When a girl is capable of being a mother, she is old enough to decide whether or not she should undergo an operation for abortion.

SHRI GANGACHARAN DIXIT: Though it may go against the Indian Majority Act?

WITNESS: That definition should not apply in this case.

SHRI P. VISWAMBHARAN: Is it your case that there should be no restriction on sexual intercourse?

WITNESS: I do not see whose business it is to put restrictions if two consenting adults decide to have sexual intercourse. It is their right to have sexual intercourse.

SHRI P. VISWAMBHARAN: In that case do you agree that there will not be any difference between animals and human beings in this respect?

WITNESS: I do not think there is any difference between animals and human beings in this respect. You are unnecessarily assuming certain standards of morality which, in fact, do not apply and which really are not observed.

DR. (MRS.) MANGLADEVI TALWAR: You are for absolute liberalisation and for abortion on demand. To a certain extent I agree with you that the mother is the person to decide and none else. Regarding the age that is a minor details. You anticipate greater demand after this measure becomes an Act than there is today.

WITNESS: I expect and hope so.

DR. (MRS.) MANGLADEVI TALWAR: You even advocate that *Dais* and nurses should be allowed to do this abortion. You are the editor of an outstanding weekly and have been abroad. To begin with, do you think that a *Dais* and nurse can be compared in their basic training? Do you not think that to do this operation a person, whoever does it, needs an anatomical background? So far as I know, the nurses do have a certain anatomical background, but the *Dais* do not have that background. I have personal knowledge of it. You want to proceed on scientific lines. Why do you not consider that only people who have the basic training or anatomical background or physiological background should be

given the training? Everyone cannot be trained to do this operation, in order to ensure the safety of the mother. You say that *Dais* can conduct deliveries. They do, but uninduced abortion is quite another matter. Delivery can take place even if there is no *Dais* or nurse. But an uninduced abortion cannot take place like that. Nurses I can understand but why do you think that *Dais* can do the job? Nurses get a certain amount of training. *Dais* certainly cannot undertake this job. Why do you advocate them?

WITNESS: Only on two grounds, I have been under the impression that even now *Dais* have to undergo a certain amount of training. Even today they are presiding over deliveries.

DR. (MRS.) MANGLADEVI TALWAR: Very little. They are illiterate. They do not pass any standard of general education. *Dais* are those who are practising in villages or rural areas. By practice they have learnt a certain amount of midwifery. You teach them how to sterilise, how to clean out, how to look after the new born. That training is given. That is only that much and no more.

WITNESS: My own impression is that this is not a very complicated process. They could be perhaps trained. The other important reason is that they are in fact the only women really available to the village women. Otherwise their services would not be available.

DR. (MRS.) MANGLADEVI TALWAR: Is that the only criterion that anybody who is available in the village should be given this authority to do whatever he or she likes? Is that the only criterion? Don't we have any responsibility to safeguard the health of the people?

WITNESS: The only alternative is that they will not get any benefit out of these privileges.



DR. (MRS.) MANGLADEVI TALWAR: That is another matter. But we should try to give the correct type of help. I cannot understand your advocating the cause of those people. Dais are not trained people. Suppose there is somebody who has worked for some years in a ward, he knows how to give medicine, how to apply tincture, and so on; but you cannot give him any more authority on human life that he can do the operation of abortion.

WITNESS: The only reason I said that is after training I think he should be entitled to do this.

DR. (MRS.) MANGLADEVI TALWAR: I do not agree with you. Anyway there is another question. You have said that you have been in contact with a large number of young people in America, teaching even in medical colleges there.

WITNESS: Not medical colleges. Teaching in American universities, not in medical colleges. I did not have anything to do with medical colleges.

DR. (MRS.) MANGLADEVI TALWAR: Any college. Any young people. That does not matter. I thought you said medical college. You have come across young people. I too have had a two-year stay in the United States among medical people, doctors, students, young people, and all that. But they have no doubt this freedom. All of them are utilised by people. There among coloured women there is no stigma of illegitimacy. A coloured woman comes and says, "I am going to give birth to an illegitimate child". She has no feeling of shame. But the white woman would not do that. Among the whites there is still sanctity of marriage though these things may happen. I would like to know within your knowledge what was the incidence of abortion among young girls who were in colleges.

WITNESS: Madam, you mention the question of the coloured people. You know in the United States it is

really in some respects a matriarchal society. The woman herself has a job. Most coloured men do not find it easy to get jobs. Hence it is a floating population of men who will come and live with women who bear children. When you say no stigma attaches, I am afraid that is not quite true. Stigma does not attach to bastardy. When you mention abortions, I know of very few cases of abortions because most of the girls are taking pills. I took a group of American students with me round the world, half of them women. Before they set out on this course, they were given instructions on birth control. They were freshmen age 18-19. They were all given instructions by their doctor on the use of contraceptives, particularly the pill. I think out of the group that I know and taught, and I had evidence from the doctor, there was not one who by the age of 19 was not familiar with sexual intercourse and how to prevent conception. Abortion did not come in.

DR. (MRS.) MANGLADEVI TALWAR: So not many abortions. You think the Bill is quite effective?

WITNESS: I have no reason to think otherwise.

DR. SUSHILA NAYAR: I would like to ask you. Suppose in the village a child gets appendicitis. Would you advocate the child being taken to the nearest hospital where there is adequate medical aid or would you allow somebody who has worked with a surgeon and has set himself up there as a practitioner to open up the abdomen and operate irrespective of whatever complications might result from it?

WITNESS: I would advocate the best medical service available at the closest quarter.

DR. SUSHILA NAYAR: Then what is the reason for which you wish to deny the best medical attention to the poor woman who happens to conceive needs an abortion.

WITNESS: Because it is not available. This is purely academic. When you say I deny, I do not deny. I know in the villages nothing else is available.

DR. SUSHILA NAYAR: But for the child also in the village good medical care is not available and you decide take the child to the district hospital.

WITNESS: One of the most important things about what we are talking is also secrecy.

DR. SUSHILA NAYAR: You are advocating a permissive society. Where is the need for secrecy?

WITNESS: When a woman conceives and wants to get rid of it, she wants secrecy.

DR. SUSHILA NAYAR: Why does she want secrecy, particularly a married woman, when the law allows abortions? There is no question of secrecy. Today abortions is illegal, tomorrow it is not so.

WITNESS: That is not so. Even where it is legal the women requires a certain amount of secrecy. If she is unmarried, she would require secrecy.

DR. SUSHILA NAYAR: Let us first take the married women because family planning is primarily meant for married women.

WITNESS: Married women are also known to conceive from people other than their husbands. I am only talking of secrecy.

DR. SUSHILA NAYAR: A married woman as a general rule may not conceive that way. She may have conceived from anywhere but her husband is there as the legitimate reason for her pregnancy, and therefore if the law permits abortion, she can have abortion. Why not take her to the hospital?

WITNESS: If it is available, I do not say do not take her to the hospital.

DR. SUSHILA NAYAR: I want you to understand that abortion is not such a minor thing. It is not like opening a boil. Abortion is something which can go wrong in the hands of even the best gynaecologist, and the teaching of abortion in all medical colleges is that abortions is not such a simple thing. It may be a few cases develop complications. That is no reason to think in terms of leaving the case in the hands of anybody. To leave it to *Dais* and nurses and so on would be asking for disaster.

WITNESS: Madam, this is really a matter of details. I do not say any *dai* as the *dais* now are. I say train the *dais*.

DR. SUSHILA NAYAR: As to the necessary training for the *dai* who will decide?

WITNESS: Let the doctors decide how much training they would need.

DR. SUSHILA NAYAR: The minimum basic medical training according to doctors has to be there in the first instance. Surely the doctor has greater knowledge than the *dais*. Not every M.B.,B.S cannot be entrusted with this operation. They too must have training

WITNESS: I disagree with this.

DR. SUSHILA NAYAR: I wish to leave this thought with you. By liberalising sterilisation, taking them to primary health centres—Shri Kandappan will bear me out—Madras which was leading in sterilisation has had a serious setback. Because a few cases go wrong there is so much publicity given to these few cases that the public gets frightened. Sterilisation of the male is really one of the simplest operations. Abortion is much more complicated. I would decide the criterion.

WITNESS: I say it should be performed by people who can perform it.

DR. SUSHILA NAYAR: Please do not ask the general public to decide the criterion.

WITNESS: I do not agree. But I keep quiet.

DR. SUSHILA NAYAR: Another question. You say that woman or a young girl who is old enough to conceive should be old enough to decide whether she should get an abortion. In the so-called upper strata of society little girls have been left at home to be spoiled and exploited by servants and by unscrupulous people visiting the house. The little child knows very little about these things. Do you think that the parents should have no hand in guarding the child against the consequences of type of thing and further neglect their duty as to what is to be done for the child, and leaving the child to the mercy of the exploiting people?

WITNESS: If the child is subjected to rape you are providing for that in the Bill. But where the parents have already neglected the child and allowed her to have an intercourse I think it is with the consent of the child, and such a child should be considered old enough to decide whether or not she is prepared to have an illegitimate baby.

DR. SUSHILA NAYAR: The parents have already neglected their duty. Should they further neglect their duty? The child is too young and her consent means very little.

WITNESS: And burden the child with a bastard and say, "No, you should have the child," or force the child to marry such a trickster.

DR. SUSHILA NAYAR: I agree that such an illegitimate union should not be forced into a marriage.

Marriage cannot undo the wrong. A man who has taken advantage of the girl in that manner is not worthy of being made the husband of that girl. Here I am one with you. That is no solution. But what I am saying is that the child might be persuaded by this person to keep the child for certain reasons. In such a situation should not the parents be allowed to decide the child that the child mother to decide should get rid of the pregnancy. The child in her immaturity might say that she would like to have it. Would you not give that much responsibility to the parents to decide for this minor girl?

WITNESS: Under the circumstances "No". I would still leave it to the child to decide.

DR. SUSHILA NAYAR: I think you are a bit academic if you will forgive me.

WITNESS: I have been academic since I have been a teacher all my life.

DR. SUSHILA NAYAR: What about lunatics?

WITNESS: That is provided for. That right should be with the guardians when she is not an ordinary human being; otherwise I would like you to extend the full right, full freedom to the child to decide. I think the child who conceives is old enough to decide about herself.

DR. SUSHILA NAYAR: You know that there are cases in history where a child of seven or eight has conceived. This child is not mature enough to decide.

There is another thing. You have mentioned about the compulsions of the body and so on. I am not going into philosophical discussion with you. But I would like to say that the only difference between a human being and an animal is that the animal rushes whenever appetite comes for anything whereas the human being can control it.

WITNESS: You are quite wrong. The animals have their mating season and they are regulated by nature. They behave with far more decorum than the human being. Man is the only animal about whom this is not correct. In this matter he is much more of an animal than animals themselves.

DR. SUSHILA NAYAR: In animals there is some kind of natural regulation and human being have got to exercise self-restraint and self-control.

WITNESS: The only restraint is that if the two parties are willing they have every right to indulge. If they are not willing there is no question of thinking of any regulation. I do not see why third people are involved. If the two adults are wanting relationship it is their business. I do not see why other people should make it their business to interfere.

DR. SUSHILA NAYAR: Well, we have traffic regulation. If some people want to break the traffic regulations we do not give them that freedom.

WITNESS: I am afraid the analogy about traffic regulation is not correct.

DR. SUSHILA NAYAR: It does, You can have freedom so long as it does not interfere with or harm another person. A very wise men like Louis Fischer said once that it is a common belief, and there is something in it, that so long as the wife or the other partner does not know about it, promiscuity does not harm. But he also said that the fact remains that these things cannot be hidden for long. They do come out and the consequences have to be faced.

WITNESS: He was not an example of what you said. We radically differ on this issue.

SHRI B. S. MURTHY: Please see the first part of your memorandum which says:—

“I believe it to be the fundamental right of every woman, married or otherwise, to decide whether or not she will have a child she has conceived and the State must provide her free medical facilities to undergo abortion.....”

Can you cite any society where this type of freedom is available?

WITNESS: I cannot cite anything, but I feel very strongly that this should be so.

SHRI B. S. MURTHY: This leads to another question. In the beginning of society, I think, there was promiscuity. There were no rules, no regulations. Later on, society itself made certain laws so as to remove, or control as far as possible, promiscuity. Now, do you think that this promiscuity will be re-introduced if a law like this is made?

WITNESS: I do not even use the word “promiscuity.” I would call it “sexual freedom.” I think every society should have as much of that as the individuals desire.

SHRI B. S. MURTHY: I agree with you when you say that man is as much an animal as any other animal. But man has imposed on himself certain rules and regulations. That way he is better than an animal. What we are now trying to do is again to see that we control certain things without making it a sort of licence. Where do you think we should draw the line?

WITNESS: I think these lines are drawn by the individuals themselves, by their customs, traditions and so on. I do not think the State should come into these things. All these are self-imposed regulations as to how much freedom people should enjoy.

SHRI B. S. MURTHY: Again another question follows. Will the present

society agree with your view of giving full freedom to any woman to do what she likes?

WITNESS: I have not the slightest doubt that they will agree. I think the younger generation would accept this without any demur.

SHRI B. S. MURTHY: I think you have forgotten what you said some time back, that every woman has got a sort of fear about this and, therefore, she would like to have it secret. What is the reason for this secrecy?

WITNESS: Because of her reputation, because of the stigma attached to bastardy.

SHRI B. S. MURTHY: That is, she tries to keep it secret because of the society. So, don't think that you must also give her a remedy which will not effect the susceptibilities of the society?

WITNESS: I do not honestly see any contradiction between these two things—that she should have the freedom to do what she likes and yet avoid the censure of society. I think they can exist side by side.

SHRI B. S. MURTHY: I agree with you entirely that the society must be changed and it should go on changing. But don't you think that we must be as careful as possible to see that the society is taken step by step, if possible without any jerks?

WITNESS: Quite honestly, I do not think you are taking a very big step. I think it is a very minor step. We are exaggerating its importance.

SHRI B. S. MURTHY: Yesterday, we had a witness before us who quoted the Vedas and great classics of Ayurveda to say that mention has been made about abortion even in those texts. Can you kindly tell us whether Sikhism has any idea about abortion?

WITNESS: I do not think the Sikh faith has mentioned anything. All its basic tenets are from the Hindu religion and to that extent, it will probably share the same sentiments without specifically stating so.

SHRI B. S. MURTHY: No guru has ever said anything about it?

WITNESS: None whatsoever. I do not think this question ever arose.

SHRI B. S. MURTHY: You were frank enough to say that you have seen three abortions. Can you tell us the number of abortions a woman can be permitted without risk to her health?

WITNESS: Of that I have no idea. I only saw three abortions and in all these cases they were married women who had already some children.

SHRI B. S. MURTHY: Can you, with your experience of the Western society, tell us whether the Hippies are the progeny of the liberalised sex life of the West?

WITNESS: No, Sir, I do not think so. They are the progeny of an affluent society without any specific objective. It is the lunatic fringe. Hippies are a very very small proportion of the social life of a Western country. I can mention three or four universities in which I have taught in the United States. For instance, in Princeton there were hardly any Hippies at all. These people come from outside. They are what are known as "drop-outs." It is a desire to express their freedom against the administration. I do not think it needs to be taken very seriously. It has nothing to do with freedom in sex, because freedom of sex is enjoyed by every one. The younger generation in the cities of the United States enjoys almost unrestrained freedom of sex. They become a very healthy young generation.

SHRI B. S. MURTHY: I accept your explanation, but I would like to have a clarification. Is not sexual licence

and sadism an infra-structure built in an affluent society?

WITNESS: I think it is the other way round. I think sadism, which is far more in evidence in this country is the result of repression of sexual desires and instincts and imposition of artificial taboos. I see more violence in students here. The way they make passes at girls always takes a violent form of hitting them. I think it is we who have a great deal to answer, and not the Western society. They treat their women with far greater courtesy than we do here because of our suppressed instincts.

SHRI B. S. MURTHY: I think you must have seen the Statement of Objects and Reasons. There are three reasons given here—first, as a health measure, secondly on humanitarian grounds and thirdly on eugenic grounds. But the orthodox society seems to find fault with us saying this is not a fact and that only in order to step up our family planning programme we have brought this legislation. What is your honest opinion as to the benefits that the family planning programme can derive from a legislation like this?

WITNESS: Well, I think it will be very beneficial if the example of Japan is any indication. When the other family planning measures have made so little headway, we must try every single measure we can and I would set a great deal of store by the liberalisation of the abortion law and the necessary changes in the Indian Penal Code as perhaps yet another measure in checking our suicidal increase in population.

SHRI B. S. MURTHY: My question has not been answered. I am requesting you to give your honest opinion as to the benefit that the family planning programme will receive as a result of this enactment.

WITNESS: You want me to calculate how much....

SHRI B. S. MURTHY: No" I am asking generally.

WITNESS: If the example of Japan is any indication, it should be very considerable. They brought down their rate of births by 50 per cent. They are a more organised society. We are not. We have much bigger problems. We are very scattered. Even if we could bring it down by 10 per cent it will be an enormous achievement.

SHRI KAMESHWAR SINGH: I would like to congratulate you for your views. In the context of your views, you have just now mentioned about Japan that it has succeeded in bringing down its birth rate by 50 per cent. Should we plan our population growth rate at zero? I mean, there should be just as many births as there are deaths. Only then can we achieve that 50 per cent.

WITNESS: I am not quite sure about the figures of what we can achieve. But for some years if the rate of births is less than the rate of deaths, it will be very helpful in solving the problem in our country.

SHRI KAMESHWAR SINGH: So you agree with the theory of zero growth rate in population.

WITNESS: Yes.

SHRI KAMESHWAR SINGH: In one of your answers you mentioned about secrecy. Do you think that any record of an abortion in the hospital should not be maintained in the form of the name of the person, but that it should be maintained only as a case history and the records should not be made available to the courts when they call for them as evidence because if they are called, all those girls and married women.....

WITNESS: I entirely agree with you.

SHRI KAMESHWAR SINGH: I am glad you have agreed with me even before I completed my question. Then, do you think there would be any harm from legal point of view?

WITNESS: I do not see any harm at all.

CHAIRMAN: Thank you very much, Mr. Kushwant Singh, for your valuable evidence.

(The witness then withdrew)

[Dr. (Smt) Uma Agarwal, Delhi, was called in]

CHAIRMAN: I welcome Dr. Uma Agarwal. She is a social worker. She has not submitted any memorandum for the consideration of this Committee. So she will make her preliminary remarks first and then Members will put questions and she will answer them.

Dr. Uma Agarwal, whatever you say here is treated as confidential till it is published by Parliament. You are now welcome to make your preliminary remarks. You can speak either in English or in Hindi.

श्रीमती उमा अग्रवाल : मैं सर्वप्रथम एक स्पष्टीकरण कर दूँ कि मैं डाक्टर नहीं हूँ । शायद यहाँ डाक्टर ज्यादा बुलाये गये हैं और इस लिए मुझे भी डाक्टर की पदवी मिल गयी है । मैं एक आडिनरी हाउस वाइफ के नाते ही यहाँ आयी हूँ ।

मैं एक छोटा सा नोट लायी हूँ जो इस प्रकार है :

'मेडिकल टरमिनेशन आफ प्रेग्नेन्सी बिल के सिलसिले में जहाँ तक मैं समझी हूँ शुरू में दिए हुए कानूनी कार्यवाही के बारे में जितने प्वाइंट्स हैं वे तो उचित प्रतीत होते हैं । यद्यपि इस पर तो कोई अधिकारी व्यक्ति ही कुछ राय दे सकता है । आब्जेक्ट्स और रीजन्स के अंतर्गत दिए हुए कुछ प्वाइंट्स जरूर सोचने के लायक हैं ।

अब तक हमारे यहाँ एबार्शन गूनाह माना जाता है । इस बिल के पर्व में दी हुई जानकारी से मालूम होता है कि इस कानून का खंडन काफी मात्रा में हो रहा है । यह एक बड़ी गंभीर समस्या है । यह हर प्रकार से ठीक है कि हम जोभी कानून बनावे वह ऐसा सोच समझ कर ही बनावे कि जिसका जनता अधिक से अधिक पालन कर सके । यद्यपि कानून भंग की कुछ आदत तो हमारे खून में ही है । इसी ने हमें अजादी भी तो दिलायी । खैर, आज हमारे देश के सामने बड़ी गंभीर समस्या है जनसंख्या की वृद्धि को रोकना (1) देश में सहने के स्थान व अन्न की कमी है (2) जिन्दगी के स्वर हो ऊंचा उठाना है। (3) गरीबी, बीमारी और निर्बलता को रोकना है । इन सब का जवाब है जनसंख्या को बढ़ने से रोकना । योजना पूर्ण छोटा परिवार हर हालत में आर्दश है ही, इस के लिए हमें नैतिक बल बढ़ाना होगा । यदि हमारा नैतिकता का स्तर गिरता है तो हमारे बच्चों का गिरता है यानी हमारे भावी नागरिकों का गिरना है यानी सारे देश का नैतिक पतन होता है । देश की संस्कृति को पुनर्जीवित करने के नाम पर हम करोड़ों रुपया खर्च कर रहे हैं । वेशभूष, इमारत सजावट, फरनीचर आदि उपरी चीजों में हम खंडहरों को खोदकर उन की नकल में व्यस्त हैं । इधर हजारों वर्षों की हमारी उज्ज्वल संस्कृति की नींव में हम खुद ही देश के चरित्र बल को कानून स खतरे में डाल कर धुन लगाना चाहते हैं । यह उसी तरह से जैसे कोई किसी इमारत की नींव को तो खोदता चले और उस की बाहरी दीवारों पर आयलपेंट करता रहे ।

यह ठीक है कि गांधी जी के बनाए हुए संयम के पथ पर चलना आज के समाज के लिए असंभव सा हो रहा है, लेकिन क्या हम ने कभी स्कूल के स्तर से बच्चों को संयम

श्री एम. सी. चामला जी ने एक जगह  
 कहा है कि लीजलडिजिग ए बायन देन नी  
 सिन । किती प्रणी की जान को धरम करने में  
 पाप लगता, इस भावना को हम छोड़ें भी  
 दे नी भी लीजलडिजिग आफ एवायन में  
 लीज दे सुसुभल लीजलडिजिग देन अनमिडिज  
 लडक और देस देम कसे वन सके है ।  
 देन के उज्जवल देनिसम की थीने म । १२

संयम के अभाव में यदि हम अपनी सारी  
 इच्छियाँ की खेचो बिहार के लिए धरकने  
 दे नी क्या फिर ठोकरें खा कर देसं जलदी ही  
 करी कोई मयदा नही लगानी होगी वन  
 हम पढ़ने से ही क्या न संभव । आज की  
 हमारी परिस्थिति और इतिहा की देवा  
 के ख को देखते हुए कुल खस परिस्थितियाँ  
 में गणपान की कानूनी रखा मिलनी चाहिए  
 देससे नी में संभव है । इस विन के अभाव  
 कसे और रीजस के शीर्षक के नीचे दिए  
 नं० ३ में दी हुई तीनों परिस्थितियाँ संभवत  
 की संश्लिष्यन देनी भी रण्य में प्रीय ही होगी  
 लीज जनसंख्या की रीकोने के लिए भी हम  
 गणपान का सरोर लें यह देन की परंपरा  
 व संस्कृति के लिए किताम धलक होगी वने  
 हमारे सीचने की चीज है । एक स्थिन  
 अपनी जीष की लिए देन देन देन देन  
 करनी जाना है पर वददेनमी के डर से खान  
 देन उठती करती रहती है इसी प्रकार विनयाँ  
 की वीन के लिए एवायन पर धरीसा उठना  
 एक ऐसा ही भरी लीका होगा ।

बोमारी, निर्बलगी अपने आप कम होगी । इससे  
 जीवन का स्तर बढ़ेगा । यह सिद्ध ही बकी  
 बात है कि जीवन स्तर बढ़ने से जनम संख्या  
 कम हो जाती है । दूसरे, स्कूलों के स्तर पर  
 संयम के सहारे के संस्कार बच्चा में डालन  
 के लिए देस गुणकियों का आधार बना चालिये ।  
 इन गुणकियों की नए सिरे से आज की आवश्यक-  
 कता के मूर्ताविक डाला जा सकता है ।  
 देन में कुल एसी शिक्षा संस्थाएँ आज भी  
 कार्य कर रही हैं ।

हमारी सरकार बार ऊँटिया पर बंध  
 कर्तोल का प्रचार कर सकती है । परिवार  
 नियोजन का प्रचार भी बंध रहा है ।  
 आज की वृदावार बढ़ने की और भी ध्यान  
 है । लेकिन क्या सरकार बार ऊँटिया पर  
 ही आज के वददेन की नही रीक सकती ।  
 आज पूर्ण और सरता मिलने पर गरीबी,

का पठ पढ़ने की कोशिश की है ? क्या  
 आज की विज्ञान विना संयम की परीक्षा  
 मियु है ? आज बंध रहा है ? मरत्य क्या  
 कठोर संयम और नय के बिना ही बंदमा  
 पर पढ़व सका है ? गीर्षा जी ने कहा है  
 कि दिव्या जीवन में जो कुल शूद और  
 धार्मिक है उस की विशेष संरक्षिका है ?  
 इसी से शत्रुय स्त्री के शेष में है । यदि  
 हम अपने लड़की, लड़की की बरिब और शील  
 रखा की तालीम नही दे सकते नी क्या उन्हें  
 हम गणपान का आसन पर हीन उपाय सुझा  
 कर पशुविक बसना की पूँठ के लिए बेलगाम  
 छोड़ दें । अपनी शिवाहिता लड़कियों की  
 गणपान के कानून का कवव पढ़ना कर निबंध  
 कर दें । सनातन काल से लड़की के शरिब  
 की रखा और पविण में लगी  
 माँ बाप की जगह शिखी पर क्या अब हम  
 पढ़ी बांध देना चाहते हैं ? फिर बच्चों का  
 गलत वृत्त पढ़ने पर माँ बाप के दिल की भी  
 उध कयी लगीगी ? कठम होने पर स्वारथ्य  
 कठम में जा कर जैसे कोई एनिमा में सफाई  
 करवा लेते हैं वैसे ही गणपान भी होने लगीगी ।  
 कल का बच्चा आप से पूछेगी कि शिखर  
 हम दोनों में फर्क ही क्या है । हम आज केवल  
 एवायन की बात कर रहे हैं । विदेशों में  
 बंध कर्तोल मिस फार अनमिडिज गलस का  
 प्रचार ही रहा है । क्या कल देसं भी यही  
 सही करनी होगी ? फिर इस पविब  
 विवाह बंधन का स्थान कहा रहे जाला है ?  
 जिसकी नीतिक धरती पर आज हम सीना  
 गीने खड़े हैं ? और नीतिकता के विनाया  
 के अभाव इसमें क्या शारी मालाओं का  
 स्वारथ्य भी खतरे में नही है ?



उसके उन्नत भविष्य पर धब्बा लगाने का हमें कोई हक नहीं है । इसलिये मेरी राय में एबार्शन की छूट केवल विशेष परिस्थिति के लिए ही सीमित रखनी चाहिये ।

आप लोगों ने मुझे अपने विचार प्रकट करने का मौका दिया इसके लिये मैं अभारी हूँ । साथ में इस कमेटी के सदस्यों को जानकारी के लिए एक पेपर कटिंग है । धन्यवाद ।

**चेयरमैन :** वह जो पेपर कटिंग है उसको पढ़ कर मुना दें तो अच्छा है । वह बहुत लम्बा तो नहीं है ।

**साक्षी :** यह इसकी हैडिंग है "बर्थ कंट्रोल पिल्स फार अनमैरिड गर्ल्स" । मैं इसको यहाँ दे रही हूँ, आप पढ़ लीजिये ।

**DR. SUSHILA NAYAR:** I shall just give a brief summary of what the witness has said.

She says that she agrees that on medical grounds or for eugenic, or humanitarian and health reasons, abortion can be resorted to. But she is strongly opposed to the use of this method for controlling population. She realises the problems of poverty need not improving standard of living and over coming disease, etc. But in order to get rid of these problems, she says that we should not sacrifice our moral standards and we should not indulge in cheap imitation of the West. We should not give up our own culture and heritage. Otherwise, it will be like undermining the foundation of a building and putting up pointings on the walls to hide the defects. She says it is difficult to follow the methods of self-control or Brahmcharya as preached and practised by Gandhiji. She realises that. But have we tried to educate our children about the values of self-control. If we give this dangerous weapon of abortion to our young girls, then they will use it to empty their Uterus just as people use enema to empty their bowels. Then she gives the analogy of some people who have a passing to eat good

food. In order to eat more and more of good and tasty food, they go out and vomit to eat again. Legalised or liberalised abortion will be like that. Then she says that in the WEST young people use pills to prevent pregnancy. Gradually we will also have to resort to this method if we follow western ways: This will only undermine the very sanctity of the institution of marriage and will lead to such laxity that the social fabric of our society will be damaged. According to her the real remedy will be to raise the standard of living because that will act as a check on rise in population. With the rise in the living standard, the birth-rate will go down and for this purpose our people should be educated. She is not at all in favour of liberalised abortion as a family planning method or population control method.

**MR. CHAIRMAN:** You can pass on that newspaper cutting to one of us so that it can read.

**DR. SUSHILA NAYAR:** This is a newspaper cutting. The name of the paper is not there. Anyhow, I will read out:

**"Birth control pills for unmarried girls"**

All unmarried girls are to be provided with contraceptives soon. The U.K. Minister of health is seriously considering the proposition to prevent unwed motherhood.

Faced with a steep rise in the number of illegitimate births, Mr. Kenneth Robinson, Minister of Health, is giving urgent and sympathetic consideration to proposals that local authority clinics should give birth control advice to single girls. Mr. Robinson told the Commons that he is in process of revising the Ministry's circular to local authorities on all aspects of family planning.

Politicians believe that the Minister personally favours a considerable extension of family planning services beyond the present limit, which is to give advice and assistance only to married women when there are medical grounds. But it is recognised that this issue could give rise to sharp

political and religious controversy. Mr. Robinson is likely to seek Cabinet authority for any major change in the authority for any major change in the existing policy.

Last year, Britain had the highest number of children born out of wedlock for 20 years. For the first nine months of 1964, there were 52,607 illegitimate births compared with 49,477 in the same period in 1963.

Earlier this month, Mr. Robinson saw a deputation from the London County Council which had decided to seek powers for setting up centres and offering birth control advice to unmarried women.

The Chairman of the Health Committee told a Reporter, "At the moment, we can only give advice to married women. We asked for government permission to go much further because we believe the climate is ripe for such a step."

"The question of setting up the clinics would be decided by Greater London Boroughs when they take over in April."

"There would be no question of handing out contraceptives to Sixth Form School girls."

**CHAIRMAN:** By reading this paper cutting, what is it that you wanted to impress upon this Committee?

**साक्षी :** इस पेपर कटिंग से हमें यह सोचना होगा कि क्या आगे चलकर हमारे देश में भी यही करना होगा। हमारी माताओं और बहिनों की हैलथ पर और मौरल स्टैन्डर्ड पर जो कुप्रभाव पड़ेगा उसकी तो कोई सीमा ही नहीं रहेगी।

**श्री विशाखर वाजपेयी :** आपका वक्तव्य सुन कर मुझे ऐसा लगा कि आपको इस बिल के बारे में यह भ्रांति है कि यह फेमिली प्लानिंग का अंग है। यह एक ऐसा मेजर है जो जरूरतमंदों के लिये इलाज

मात्र है; मुसीबतज्ञदा व्यक्तियों को मुसीबत से छुटकारा देने के लिए। जो आदर्शों पर चलते हैं उन्हें तो आदर्श पर चलने का हमेशा ही हक है। जो आदर्श सेच्युत हो गये हैं, किसी कारण, से क्या उपेक्षा कर दी जाये और यह बिल उनको सहारा न दे। आपकी क्या राय है? क्योंकि जहां तक आदर्श-हीनता का सवाल है, वह भी सदियों से चली आ रही है। यहां वाप दादाओं के पुण्य कर्म से वह ज्यादा नहीं होगी और जैसा कहते हैं वेस्टर्न सिविलिजेशन ने इस देश में ज्यादा असर किया है। लेकिन पापुलेशन के बढ़ जाने से ही समस्या बढ़ी है। तो उसके यह तो माने नहीं है कि जो आदमी नीचे गिर जायें उनकी कोई सहायता न की जाये।

**साक्षी :** मेरे कहने का अभिप्राय भी यह नहीं था जैसा आपका ख्याल है। जैसा क्लोज के आब्जेक्ट्स एण्ड रोजन्स में दिया गया है उस दृष्टि से मैंने अपनी राय प्रकट की है कि विशेष परिस्थिति में, जैसे कोई रेप का केस है, या पागल आदमी से पाला पड़ गया है, ऐसी परिस्थितियों में एवार्शन करना ठीक है। मैडिकल ग्राउन्ड में या हेल्थ ग्राउन्ड में तो शायद अभी भी अलाऊ करते हैं। जो आदर्श में मानने वाले हैं वे, आप चाहे गर्भपात को लीगलाइज कर भी दें, तो भी डिगने वाले नहीं हैं। मगर कुछ थोड़े से केसेज के लिये उसका लीगलाइज करना ठीक नहीं है। चोरी, डकैती, खून करना, यह लीगल नहीं है, गैर कानूनी है, लेकिन फिर भी ये होती हैं, तो क्या उन्हें लीगलाइज कर देना चाहिये। इसी तरह से अगर कोई और गड़बड़ियां होती हैं उनको भी हम लीगलाइज कर दें तो क्या उनका रास्ता आसान नहीं हो जायेगा। वह बल्कि खुले आम चलने लगेगी। यह कह कर कि जो आदर्शवादी हैं वह अपने रास्ते से डिगेंगे नहीं। हमारे बच्चों को ऐसी शिक्षा मिलनी चाहिये कि आगे चलकर उनका नैतिक पतन न हो। इस कानून से

तो हम उनके नैतिक पतन के लिये रास्ता खोल देते हैं, ऐसा मुझे डर है ।

**श्री विद्याधर वाजपेयी :** क्या आप यह समझती हैं कि शिक्षित व्यक्तियों को ही उन चीजों की ज्यादा आवश्यकता है । शिक्षित आदमी रूढ़िवादी भी होते हैं । आज जो कालेजों में लड़के लड़कियां पढ़ते हैं उन्हीं को एबार्शन की बहुत जरूरत है । तो शिक्षा जितनी भी दी जाये लेकिन वास्तविकता से तो मुंह नहीं मोड़ा जा सकता है । जत्र को एजुकेशन है, जहां पर दो सेक्स मिलते हैं, यह नेचुरल है कि कोई न कोई उस जाल में फंस जाता है । तो अगर फंस ही गया तो उसकी रक्षा नहीं करनी चाहिये क्या, और क्या उसे एबार्शन का हक हासिल नहीं होना चाहिये ।

**साक्षी :** देखिये, करोड़ों में से कितने लोग ऐसे फंसते हैं । परसेन्टेज की आप कल्पना कीजिए और अगर कुछ परसेन्टेज की गलती होती है तो उस के लिये उन से सहानुभूति का व्यवहार करने के बदले क्या हम उस गलती को ही लीगलाइज कर दें । यह कहां तक ठीक है । हमें चाहिये कि जो गलती करते हैं उनको हम परेशान न होने दें । जैसे जो इल्लीगल बच्चे जन्मते हैं उनके लिए "होम्स" बनाएं, उनको स्वावलम्बी बनाएं, और जो मताएं बहिर्न गलती कर बैठी हैं उन बहिर्नों को सहारा दे सकें, ऐसा हम सोशल प्रचार करें और ऐसी संस्थाएं भी खोलें । लेकिन यह मतलब नहीं होना चाहिये कि लाखों में पचास की गन्ती होती है तो सभी के लिए ऐसा रास्ता खोल दें कि जिससे उन्हें गलती महसूस न हो । यह तरीका तो मेरी समझ में नहीं आता है ।

**श्री सवाई सिंह सिसौदिया :** इस बिल में यह जो उद्देश्य और कारण हैं उनकी पूर्ति के लिये यह बिल पेश हुआ है, आप इस बात सहमत हैं ।

**साक्षी :** नहीं, जो उसमें कुछ विशेष परिस्थितियां हैं ...

**श्री सवाई सिंह सिसौदिया :** मेरा प्रश्न आप सुन लें । मेरा प्रश्न यह है कि इस बिल के अखिर में जो उद्देश्य और कारण दिये हैं उन उद्देश्यों और कारणों की पूर्ति के लिये ही यह बिल बनाया गया है और उन विशेष परिस्थितियों में गर्भपात को कानूनी रूप दिया गया है । क्या आप इस बिल के प्रावधान से सहमत हैं ?

**साक्षी :** जी हां, लेकिन कुछ विशेष परिस्थिति में जैसा कि मैंने अपने नोट में अभी बताया है । बिल के उद्देश्य और कारणों में, दो, तीन बातें जो दी गई हैं कि इस परिस्थिति में एबार्शन होना चाहिये उससे सहमत हूं ।

**श्री सवाई सिंह सिसौदिया :** इसके अतिरिक्त और कोई दूसरा प्रावधान इस बिल में नहीं है । दूसरे किसी कारण के आधार पर गर्भपात को कानूनी रूप नहीं दिया गया है इसलिये आपका विरोध इस बिल से नहीं है ।

**साक्षी :** ऐसा नहीं कहा जा सकता क्योंकि मुझे लगता है कि इस बिल से जो वातावरण पैदा होगा उससे इस देश की हवा बिगड़ेगी ।

**श्री सवाई सिंह सिसौदिया :** यह बिल के बाहर की बात है, इसको मत कहिये । बिल को आपने देखा है, उसका अध्ययन किया है .

**साक्षी :** थोड़ा ।

**श्री सवाई सिंह सिसौदिया :** तो इस बिल में जो कारण बताये हैं, जिन आधार पर गर्भपात को कानूनी रूप दिया गया है, वह इस बिल में बतलाया है और वे सब वही हैं जिनका आपने जिक्र किया है । आपने अपना कथन जो पढ़ा और चर्चा की उसके आधार पर मेरा यह मत है कि आप बिल के सिद्धांत से सहमत हैं । क्या यह सही है ?

साक्षी : लेकिन उसके लिये इस बिल को लाने की ज़रूरत ही क्या है। ऐसा तो हम आज भी कर सकते हैं ।

श्री सवाई सिंह सिसौदिया : नहीं करते हैं । केवल एक ही आधार पर कर सकते हैं, जैसा कि हमारे इंडियन पीनल कोड में एक सेक्शन है जिसके अनुसार गर्भवती माता की जिंदगी को यदि खतरा है तो गर्भपात हो सकता है । अन्य आधार पर गर्भपात कोई कानून में प्रचलित नहीं है । इसलिये मेरा प्रश्न है, आप विचार कर लीजिए, मेरा ख्याल है कि आप समझ नहीं पायीं । एक तरफ आपका कहना है कि बिल में जो कारण और उद्देश्य दिये हैं..

साक्षी : जी हां, दो तीन कारण हैं ।

श्री सवाई सिंह सिसौदिया : दो तीन कारणों के आधार पर ही यह बिल बना है । दूसरे कोई कारणों पर गर्भपात को कानूनी रूप नहीं दिया गया है । इसलिये मेरा प्रश्न यह है कि बिल के सिद्धांत से आप सहमत हैं या नहीं हे ।

साक्षी : अगर इन्हीं दो, तीन कारणों से आप इस बिल को पास करना चाहते हैं तो मेरे ख्याल से ये दो तीन बातें मेडिकल ग्राउन्ड में भी आ सकती हैं और किसी को भी इन कारणों के बारे में विरोध नहीं होगा ।

श्री सवाई सिंह सिसौदिया : मेडिकल ग्राउन्ड में रेप कोई कारण नहीं है ।

साक्षी : यह तो एक बड़ा सवाल है क्योंकि एसी हालत में यह प्रूव करना होगा कि रेप है या नहीं और इस चीज को साबित करना बड़ा मुश्किल काम है ।

श्री सवाई सिंह सिसौदिया : दूसरी बात मुझे आप से यह पूछनी है कि क्या आपका यह मत है कि आज जबकि इस तरह का विधान लागू नहीं है तो हमारे समाज में इस तरह से गैर कानूनी गर्भपात नहीं होते हैं और अगर होते हैं तो गलत दवाइयों को लेकर और दूसरे

आधारों को लेकर गर्भपात कराये जाते हैं । जिन मताओं का गर्भपात कराया जाता है उनकी तन्दुरुस्ती खराब हो जाती है, काफी रुपया उन्हें व्यय करना पड़ता है और तरह-तरह की परेशानियां उठानी पड़ती हैं । बिल में जिन कारणों द्वारा गर्भपात कराये जाने के बारे में कहा गया है, क्या उस तरह की बात होनी चाहिये ।

साक्षी : जो बातें आपने कहीं हैं वे अब पुरानी पड़ गई हैं क्योंकि एक तो जनता काफी शिक्षित हो गई है और देहाती लेवल पर डस्पेंसरियां खुल गई हैं । हमें इस चीज के बारे में अपनी बहिनो को बतलाना चाहिये तथा इस संबंध में प्रचार करना चाहिये । आज बहिनों को इसके बारे में शिक्षित करने की आवश्यकता है । पहले जमाने और आज के जमाने में बहुत फर्क आ गया है । अगर आप आंकड़े देखेंगे तो आपको मालूम होगा कि यहां पर पहले चुपचाप गर्भपात कराया जाता था, वहां अब ऐसा नहीं है और यह चीज आपनली भी होने लगी है क्योंकि लोगों में हिम्मत आ गई है । शिक्षा की वजह से भी काफी फर्क इस बारे में आ गया है । यहां मेरा मतलब केवल विवाहित बहनों से ही है ।

श्री सवाई सिंह सिसौदिया : आपकी दृष्टि में क्या इस बिल को छोड़ दिया जाना चाहिये । इसके साथ ही साथ आपकी दृष्टिकोण से किन-किन परिस्थितियों में गर्भपात को कानूनी रूप दिया जाना चाहिये ?

साक्षी : खास-खास हालतों में गर्भपात कराया जाय तो इसमें कोई नुक्सान नहीं है लेकिन हमें इस चीज को एक कानूनी रूप नहीं दे देना चाहिये क्योंकि कानूनी रूप देने से ज्यादा नुक्सान होने का डर है । विशेष परिस्थितियों में हम गर्भपात की इजाजत दे सकते हैं । हमें इस बारे में प्रचार करना चाहिये और लोगों को संयम से रहने के लिए कहना चाहिये । सत्य बोलना एक अच्छी चीज है लेकिन इसके लिए कहीं भी कोई कानून नहीं

बना हुआ है कि सबको सत्य बोलना चाहिये और सत्य बोलना अच्छा है। इसलिए हमारा यह कर्तव्य होना चाहिये कि इस बारे में प्रचार किया जावे। लोगों की नैतिक भावनाओं को बढ़ाना चाहिए और यह काम हम बिना कानून के भी कर सकते हैं।

**श्री सवाई सिंह सिसौदिया :** किसी भी कारण से, किसी भी हालत में क्या आपकी दृष्टि में गर्भपात को कानूनी स्वरूप दिया जाना चाहिये या नहीं ?

**साक्षी :** केवल कुछ परिस्थितियों में।

**श्री सवाई सिंह सिसौदिया :** वे कौनसी परिस्थितियां हैं ?

**साक्षी :** अगर किसी माता की जिन्दगी को खतरा हों, किसी पागल आदमी ने इस तरह का बुरा काम किया हो या कोई रेप का केस हो जिसमें उस माता को सहारा देना आवश्यक हो। इस तरह की कुछ परिस्थितियां हैं जिनमें गर्भपात कराया जा सकता है और उस माता को सहारा दिया जा सकता है।

**श्री प्रताप सिंह :** आप एक सोशल वर्कर हैं इसलिए मुझे बहुत खुशी है। आप यह मानती हैं कि आज भी देश में गर्भपात होते हैं, तो ऐसी हालत में मैं समझता हूँ कि एक सोशल वर्कर के नाते आपके सामने इस तरह के केसेज आये होंगे दिल्ली में जहाँ इस तरह से गर्भपात कराये जाते हैं।

**साक्षी :** मैं इस बारे में व्यक्तिगत रूप से यह नहीं कह सकती हूँ कि मेरे सामने इस तरह के केसेज आये हैं लेकिन इस तरह के केसेज के बारे में मैंने सुना है।

**श्री प्रताप सिंह :** जब आप यह जानती हैं कि इस तरह के केसेज बराबर होते रहते हैं और अनट्रेन्ड दाइयों के हाथों से बहुत सी माताओं की तन्दुरुस्ती पर असर पड़ता है तो इस बिल में जिन कारणों के द्वारा गर्भपात कराने की इजाजत दी गई है क्या आप उसको

उचित नहीं समझती हैं जबकि आप यह जानती हैं कि अनट्रेन्ड दाइयां जो इस तरह का काम करती हैं वे इस काम को अच्छी तरह से नहीं कर सकती हैं जिसका नतीजा यह होता है कि जो माता गर्भपात कराने आती है उसकी तन्दुरुस्ती पर असर पड़ता है और उसे तरह-तरह की परेशानियों का सामना करना पड़ता है। तो आप क्या इस तरह की माताओं को सहायता देने के लिए तैयार नहीं हैं ?

**साक्षी :** उनको सहायता अवश्य दी जानी चाहिये लेकिन मेरा यह कहना है कि जितनी अनट्रेन्ड दाइयां हैं उन पर कंट्रोल किया जाना चाहिये ताकि वे इस तरह का काम न कर सकें। इस तरह का काम जो अनट्रेन्ड दाई करती है उसके ऊपर रोकथाम होनी चाहिये और दंड देने की व्यवस्था होनी चाहिये। आप इस बहाने कोई जनरल नियम नहीं बना सकते हैं और उसको कानूनी रूप नहीं दे सकते हैं। जो भी बहिन अनट्रेन्ड दाई के पास जाती है वह अपनी गरीबी की वजह से जाती है। यह तो हेल्थ मिनिस्ट्री का काम है कि इस तरह का कार्य जो अनट्रेन्ड दाइयां करती हैं उन्हें रोका जाना चाहिये। हेल्थ मिनिस्ट्री की कमजोरी की वजह से आज इस तरह की बात देखने में आ रही है और इस तरह के केसेज होते हैं।

**श्री प्रताप सिंह :** जहां तक हमारी जानकारी है कि जो भी बहिन ऐसी दाइयों और छोटे-छोटे डाक्टरों के पास गर्भपात कराने जाती हैं वे अपनी शर्म को छिपाने के लिए, समाज में बदनामी से बचने के लिए जाती है। ऐसी बहिनें कभी भी तैयार नहीं होगी यह बताने के लिए कि वे अपना गर्भपात कराने जा रही है चाहे यह बात सरकार पूछे या पुलिस वाले पूछें। तो डर और शर्म की वजह से वे स्त्रियां अनट्रेन्ड दाइयों और डाक्टरों से गर्भपात करवाती हैं जिसका असर उनकी तन्दुरुस्ती पर पड़ता है। इन सारी बातों को दृष्टि में रखते हुए भी आप नहीं चाहती हैं कि गर्भपात कानून के जरिये हो।

**साक्षी :** ऐसे केसेज 10 करोड़ में 50 होंगे या लाख में पांच होंगे । मगर जब आप कानून के जरिये इसकी इजाजत देगे दें तो वह एक नियम हो जायेगा । इस तरह के केसेज जनरल होते हैं यह कहना मुश्किल है, लेकिन मैं फिर यह कहना चाहती हूँ कि इस बारे में हमें जनता को शिक्षित करना चाहिये । यह गांव पंचायत का काम है कि इस तरह की बहिनों को सहारा दे तथा उनकी सहायता करे और उन्हें अस्पताल में ले जाने में सहायता दे । जहां तक शर्म और डर का सवाल है अब यह चीज पहले से कम हो गई है ।

**श्री गंगाचरण दीक्षित :** अभी आपने जो नोट पढ़ा है उससे ऐसा मालूम पड़ता है कि परिवार नियोजन के लिए आप गर्भपात को इस बिल में रखना पसन्द करती हैं ।

**साक्षी :** जी नहीं, जहां तक परिवार नियोजन के प्रचार का संबंध है उसको मैं पसन्द करती हूँ ।

**श्री गंगाचरण दीक्षित :** जहां आप यह कहती हैं कि फैमिली प्लानिंग का प्रचार ठीक है तो इसका अभिप्राय यह है कि आप बर्थ कंट्रोल की बात को मानती हैं ?

**साक्षी :** यह तो एक व्यक्तिगत सवाल है । यहां तक इस चीज का संबंध है हम यह चीज पसन्द करते हैं कि अपने आप में मनुष्य को संयम रखना चाहिये और सोच समझकर उतने ही बच्चे पैदा करने चाहिये जितनों का वह अच्छी तरह से पालन पोषण कर सके । यह बात सबके लिए सम्भव नहीं है । आज बहुत से लोग तरह-तरह की गोलियां और दूसरी तरह की चीजों का सहारा लेते हैं और उनको रोकना हमारे लिए असम्भव बात है और जो चीज हमें पसन्द नहीं होती है उसके लिए बुरा रहना ही उचित है ।

**श्री गंगाचरण दीक्षित :** लेकिन मान लीजिये कोई दम्पति जाता है किसी डाक्टर के पास और जो बच्चा उस स्त्री के पेट में है

उसको फैमिली प्लानिंग के लिये वे चाहते हैं कि गिरा दिया जाय, तो इस फैमिली प्लानिंग के रूप को क्या आप पसन्द करेंगी ।

**साक्षी :** उसमें फर्क है । जहां तक मेरिड औरतों का सम्बन्ध है, यह उनकी इच्छा पर छोड़ देना चाहिये कि वे जंसा चाहें, वैसा करें । यह उनके सोचने की बात है और यह हमको उन्हीं पर छोड़ देना चाहिए । यदि उनके तीन बच्चे हैं और वे और अधिक बच्चे नहीं चाहती हैं तो वे एसा अपनी इच्छा से करा सकती हैं ।

**श्री गंगाचरण दीक्षित :** : जहां तक विवाहित दम्पति का सवाल है, वहां तक आप इसको पसन्द करती हैं ।

**साक्षी :** जहां तक पसन्द करने का प्रश्न है, आपके कहने में और मेरे कहने में फर्क है । व्यक्तिगत रूप से तो मैं इसको भी पसन्द नहीं करती हूँ, लेकिन जो मेरिड कपुल्स हैं यह डीसीजन में उन्हीं पर छोड़ देना चाहती हूँ । अनमेरिड का सवाल अलग है और मेरिड का सवाल अलग है । यदि कोई मेरिड स्त्री तीन बच्चे से ज्यादा नहीं चाहती है और एवार्शन करवाना चाहती है, तो इसका फैसला उसी की इच्छा पर छोड़ देना चाहिये । लेकिन उस पर भी मर्यादा तो लगानी ही होगी ।

**डा० (श्रीमती) मंगलादेवी तलवार :** आपसे अभी पूछा गया कि क्या विशेष परिस्थितियों में आप गर्भपात को, ठीक समझती हैं और जहां तक मैं समझ पाई हूँ आपने जो वक्तव्य पढ़ करके सुनाया और अब तक जो आपने अपने विचार प्रगट किये, उनसे ऐसा मालूम पड़ता है कि आपका ज्यादा जोर इस बात पर है कि यह जो एनः बनने वाला है यह कुमारी लड़कियों पर लागू न हो । आपने इस बिल को पढ़ा हो है । इसमें एक धारा है जिस पर मैं आपकी राय चाहूंगी । पेज 2 पर धारा 3 है और उसके गोबे बहुत सारे सबक्लाज्ज हैं । उन सबक्लाज्ज में जो सबक्लाज्ज 4 है उसके भी "ए" "बी" "सी" "डी" आदि कई

सब-क्लाजेज हैं। एक तो "विडो" के लिये है। एक "ल्यूनेटिक" के लिये है। अगर कोई पागल औरत हो तो उसको क्या आप अलाऊ करती हैं।

साक्षी : अपने कथन में मैंने उसी का जिक्र किया है। कुछ विशेष परिस्थितियों में अगर वैसा करना पड़े तो मेरा उससे विरोध नहीं है।

डा० (श्रीमती) मंगलादेवी तलवार : उससे आप का विरोध नहीं है। बहुत सी माताएं जिन से हमने व्यक्तिगत रूप से बात-चीत की वे यह कहती हैं कि यह "विधवा" शब्द नहीं होना चाहिये और आगे चलकर "सी" और "डी" में जो "अनमेरिड" शब्द आया है वह भी नहीं होना चाहिये क्योंकि जैसे कि आप को भी डर है कि इन शब्दों को रखने से ऐसा मालम पड़ता है कि यह बिल अविवाहित लड़कियों और विडोज के लिये बनाया जा रहा है ताकि उनको खुली छूट मिल जाय और वे जय चाहें तब गर्भपात करा सकती हैं। आपके विचार में ये शब्द रहने चाहिये या ये शब्द हटा देने चाहिये।

डा० मुशीला नयर : थोड़ा सा स्पष्ट कर दूं। बजाय यह कहने के कि विधवा हो या कुमारी लड़की, हो, उसकी जगह पर कुछ लोगों ने यह कहा है कि जो मेजर है, पूरी उम्र की है उसका एक ग्रुप हो और जो माइनर है उसका एक ग्रुप हो। जो स्त्री मेजर है वह यदि इस बिल के अन्तर्गत दिये गये कारणों से एवार्शन करवाना चाहती है तो वह अपना फैसला खद करे, उसके पति या पिता के पास जाने की जरूरत नहीं है लेकिन जो माइनर है जिसका दिमाग ठीक है उसके मां बाप की सलाह ली जानी चाहिये। ये दो ग्रुप रहे हैं। विधवा व कुमारी इत्यादि के जिक्र से ऐसा दिमाग पर अंतर पड़ता है कि शायद विधवा और कुमारियों को छूट देने का इरादा है।

डा० (श्रीमती) मंगलादेवी तलवार : मेरा मतलब यह है कि क्या ये शब्द रहने चाहिये या नहीं रहने चाहिये। कोई भी औरत यदि विडो है.....

साक्षी : क्या आप इस क्लोज के सम्बन्ध में जानना चाहती हैं :

"No pregnancy of widow who is a minor or lunatic, shall be terminated except with the consent in writing of the guardian of such widow."

डा० (श्रीमती) मंगलादेवी तलवार : कुछ का यह कहना है कि इसको डिलीट कर दिया जाय और आगे चल कर के दो ग्रुप खाली रखे जायें। उनमें एक तो वे औरतें होंगी जो 18, 20 साल से ज्यादा की हैं। चाहे विडो हों, मरिड हों, अनमेरिड हों, उनको एवार्शन कराने की छूट होनी चाहिये। उसी तरह से जो माइनर हैं, नाबालिग हैं, यह शब्द उड़ा देना चाहिये। आपकी इसमें क्या राय है ?

साक्षी : इस पर मैंने अभी कुछ सोचा नहीं है। एक विडो माइनर भी हो सकती है और मेजर भी हो सकती है।

डा० (श्रीमती) मंगलादेवी तलवार : इसलिए क्या दो ग्रुप रखे जाय एक माइनर का और एक मेजर का और ये जो "विधवा" और "कुमारी" शब्द हैं इनको न रखा जाय जिससे कुमारी लड़कियों पर यह असर न पड़े कि उन्हीं के लिये ज्यादा छूट है।

साक्षी : शब्दों का लीगल अर्थ क्या है उसको देखना होगा। केवल सेंटीमेंट्स से काम नहीं चलता है।

डा० (श्रीमती) मंगलादेवी तलवार : सेंटीमेंट्स का सवाल इसलिये आ जाता है कि बहुत सी औरतों ने इन शब्दों के बारे में कहा है।

**साक्षी :** यह बल ही बड़ी चीज है। शब्दों की ये छोटी-मोटी चीजें हैं, इनपर तो बाद में भी सोचा जा सकता है।

**डा० सुशीला नैयर :** अगर कोई शादी-शुदा औरत बच्चे कम रखने के लिए एवार्शन करवाना चाहती है तो आपको इसमें कोई आपत्ति नहीं है।

**साक्षी :** आपत्ति नहीं है यह तो मैं नहीं कहूंगी। उसकी मर्जी है, लेकिन मेरी राय में तो कराना नहीं चाहिए। वैसे तो प्रचार भी ऐसे करना चाहिए कि तीन से ज्यादा बच्चे नहीं हों लेकिन बच्चा हो रहा है, एवार्ड नहीं कर सकते हैं और अब रुक भी नहीं सकते तो उतनी व्यक्तिगत छूट देनी पड़ेगी।

**डा० सुशीला नैयर :** जो शादीशुदा औरत कहती है कि मैं अभी बच्चा नहीं चाहती हूँ, दो-चार बरस बाद चाहती हूँ, अभी प्रग-नेन्सी आ गई है, इस लिए एवार्शन करवा दूँ। उसका मतलब यहीं होता है कि वह फैमिली प्लानिंग का साधन बन जाय। शुरू में आपने कहा कि फैमिली प्लानिंग के रूप में नहीं, मेडिकल रीजनस पर, उसकी जान का खतरा है, बच्चा डिफार्ड होगा तो ही कराना चाहिए, बाद में आपने यह कहा कि शादीशुदा औरत चाहती है तो वह करा सकती है तो दोनों में कुछ विरोधाभास मालूम होता है। आपकी क्या राय है ?

**साक्षी :** आप ठीक कहती हैं कि इसमें विरोधाभास मालूम देता होगा। शादीशुदा औरत, जसा आपने बताया, कभी उसको समय सूट नहीं करता, कभी बच्चों की संख्या सूट नहीं करती इसलिए एवार्शन करवाए तो इसको मैं पसन्द नहीं करूंगी। जैसा मैंने पहले कहा, विशेष परिस्थिति में ही एवार्शन होना चाहिए।

**श्री जामेश्वर घादव :** मैं इन्हीं की राय सपोर्ट करता हूँ।

**SHRI S KANDAPPAN:** Mrs. Agarwal, I respect your sentiments, but I beg to differ on many points. Probably the way you feel, the majority of our Indian women may feel. Probably if I asked my wife, her answer might be the same. Still, I am afraid looking at the stupendous problems that we are facing because of the crude methods being adopted for abortion, illegal and criminal in the rural areas, as well as in the urban centres in India, we have got to provide for liberalised abortions so that there will be the minimum of health hazard. With that in view I would like to ask you some questions. I hope you accept the family planning methods and the necessity for family planning in India. As a social worker and as one connected with the problems of society and families in India, you accept the suggestions that family planning is a necessity in India.

**साक्षी :** जी हाँ, परन्तु उसके तरीके में फर्क हो सकता है।

**SHRI S. KANDAPPAN:** I appreciate your argument. It all depends on how one could control himself or herself. Gandhiji advocated it and he did a lot of propoganda. I do not think that he succeeded to any great extent in spite of his best efforts at preaching Brahmacharya and self-control.

**साक्षी :** लेकिन मैं यह पूछना चाहती हूँ कि गांधी जी के नाम से हमने कितना प्रचार किया ? वे सबसेसफल नहीं रहे, लेकिन हम कितने थे जो उसके लिये घूमे। कितना रुपया हम खर्च करते हैं फैमिली प्लानिंग पर, हेल्थ मिनिस्ट्री पर और कितना रुपया हमने खर्च किया, ब्रह्मचर्य के प्रचार के लिये। बहुत बार कहा जाता है कि गांधी जी का कहा हुआ रास्ता बहुत मुश्किल है, कोई सफल नहीं होता। यह ठीक है, 40 करोड़ आदमी तो गांधी जी नहीं हैं। हमने अपनी तरफ से स्कूल लेवल पर, त्रिलेज लेवल पर, परिवार लेवल पर कोई प्रचार नहीं किया ई, केवल किताबों में है ब्रह्मचर्य।



**SHRI S. KANDAPPAN:** I do concede the point that we could have done much more to propagate Gandhiji's ideals and in giving it an honest trial. But in this as in other things Gandhiji's ideals have not been followed by us probably because of the impact of modern education and other things. But within the limited scope of this Bill, in addition to this Bill being a health measure, what is the harm and damage which Mrs. Agarwal envisages if, as a side effect there is some sort of family planning measure also involved in it. If you liberalise it, do you not agree that to a great extent we will be helping the rural folk who are resorting to crude methods? Another point I would like to get clarified. You may have some experience because of your contact with the masses and illiterate people at the lower strata. I find that though psychologically there is resistance to family planning methods in certain sections, I find them adopting abortive methods in a crude form.

**साक्षी :** अभी आपने कहा देहात के लोग दाइयों के पास जाते हैं, क्रूड फार्मस, इस्तेमाल करते हैं। यह तो हमें देखना है कि ऐसे कितने केसेज हैं, उसके लिये जनरल लीगल चीज करें यह भी समझ में नहीं आता। उसका हम सुधार कर सकते हैं, ऐसा कर सकते हैं कि दाइयाँ ऐसी न कर सकें, सोशल वर्कर ऐसे बढ़ायें कि वे बहनों को प्रापर जगह पर ले जायें, संकोच हटाएं उसके उपाय हम बहुत कर सकते हैं। सोशल वर्कर ऐसे बहुत से उपाय बता सकते हैं अगर आप उन्हें अमल में लाने की कोशिश करें।

**SHRI S. KANDAPPAN:** Of course I am clear in my mind as to her position. I appreciate her sentiment. I respect her sentiment. Still I would like to know if she can shed some light on these points. Her analogy about roaming and eating and vomiting was a good analogy. In her preliminary remarks she said about people's eating habit, and since they are so habituated, since they are so

much interested in it, they are not able to suppress that feeling. I do say that among drunkards also that habit is there. They vomit but still they again go to drink. But to equate it with sex urge—it may be right, but still as a social worker can she suggest any sort of remedy to arrest this trend? Does she believe that with the best efforts on the part of the Government as well as the social workers and the private agencies, by the press and by all the media that are available to us it will really be possible for us to suppress that urge and to channelise it on rational or healthy lines as we like to put it? I am putting this question because even educated people in the cities, those who are employed, the middle class, they all know that there should be a sort of minimum period between the first and the second birth, say 5 years or 6 years, which would be good for the health of the mother as well as the child. But with the best intention they are not able to restrict the period. There are mishaps. So will it really be possible? That is my question.

**साक्षी :** इस कमजोरी के लिये हम किसी लीगल प्वाइंट का सहारा कैसे ले सकते हैं? यह तो एक मनुष्य की कमजोरी है जो हजारों सालों से है और आगे भी है रहेगी। इसके लिये कोई बिल नहीं लाया जा सकता। आप मनुष्य की भावना को रोकने के लिये कोई कानून नहीं बना सकते। और वह लीगलाइज भी नहीं हो सकता। इसके लिये तो प्रचार ही हो सकता है और इस के बाद भी अगर वह गलती करेंगे तो उनको भुगतना पड़ेगा।

**SHRI S. KANDAPPAN:** There is one limited question arising out of this. You know very well about the Prohibition Committee which has gone into the question very thoroughly, which has suggested about the substitutes, about the alternates, that we could provide by way of soft drinks to help them to forget that habit. Like that have the social workers tried any sort of method whereby we could

minimise the struggle to suppress one's urge?

DR. SUSHILA NAYAR: She can answer that for herself but I might say that healthy recreation, healthy games, physical labour and a number of these outlets for the creative energies of human beings are of very good assistance for this.

साक्षी : मैं भी यह कहना चाहती हूँ कि स्टैंडर्ड आफ लीविंग बढ़ने से और कई साधन हम को मिल जाते हैं कि जिस में हमारा खाली समय व्यस्त रहता है। कुछ इस प्रकार के रिक्तिएशन हम को मिलें तो इस स्थिति में फर्क पड़ सकता है और हम देखते हैं कि लेब क्लास में, स्लमस में जितने बच्चे पैदा होते हैं उतने जहां स्टैंडर्ड आफ लीविंग ऊंचा है वहां नहीं होते। यह बात शो करती है कि उन के पास अपना मन लगाने के और अन्य साधन भी हैं। हमारे देश में ऐसे साधन बढ़ रहे हैं और वे और ज्यादा भी बढ़ाये जा सकते हैं।

SHRI S. KANDAPPAN: Another question. I may tell her that I am following Gandhiji's methods. But my difficulty is whether our countrymen can be compelled to follow them.

WITNESS: I could not follow.

SHRI S. KANDAPPAN: I am rather in favour of Gandhiji's principles. But the practical application of them in the past twenty years in India rather goes to prove that we have got to have some kind of alternatives. Though we may respect Gandhiji's ideals, though they may be good, we have almost reached the stage where they have failed by and large in India. Personally I am trying to propagate them.

श्री कृष्ण कान्त : राजकुमारी अमृत कौर जब हेल्थ मिनिस्टर थी तो उन्होंने फैमिली प्लानिंग के लिए इस दिशा में प्रयास किया था और कुछ दूसरी बातें भी की थीं लेकिन वह चल नहीं सका और इसलिए इस प्रकार का बिल लाना पड़ा।

साक्षी : सत्य पर चलना चाहिए, यदि कोई हम को मारे तो हम उस को बदले में न मारें। यह सब आदर्श हैं और इन का पालन अपनी-अपनी शक्ति पर निर्भर करता है। अगर अपनी कमजोरी के कारण हम अपने आदर्श को नहीं निभा सकते तो यह कुछ दूसरी बात है लेकिन उस की वजह से हम अपने आदर्श को ही बदल दें यह तो ठीक नहीं होगा।

श्री कृष्ण कान्त : राजकुमारी अमृत कौर जी ने बड़ी कोशिश की ...

डा० सुशीला नयर : नहीं, नहीं, किसी ने नहीं की और न किसी ने कोआपरेट किया। जो उमा जी ने कहा वह दूसरी बात है। उन्होंने कहा कि एजुकेशन राइट फ्राम दि बिर्गनिंग होनी चाहिए। स्कूल में भी होनी चाहिए और बाहर भी होनी चाहिए। हम लोगों ने थोड़ी-थोड़ी इधर उधर कोशिश की।

साक्षी : मुझे तो आप की कोशिश की परिभाषा ही समझ में नहीं आती। आप जिस को कोशिश कहते हैं उस की लिमिट क्या है यह तो पहले मालूम हो।

श्री कृष्ण कान्त : जो सरकार है वह आप के सामने है और वैसे ही है, जो ब्योरो-क्रेट्स हैं वे भी आप के सामने हैं और वैसे ही हैं। क्या उन को बिलकुल बदल दें? हम इस के लिए आज तैयार हैं। लेकिन जब राजकुमारी अमृतकौर आर डा० सुशीला नयर जैसी इस तंत्र में कुछ ज्यादा नहीं कर सकीं तो क्या कहना है आप को?

साक्षी : सरकारी स्तर पर जो कुछ किया गया वह एक अलग चीज है, लेकिन फैमिली लेविल पर और प्राइवेट लेविल पर इस के लिए कोशिश होनी चाहिए।

SHRI B. S. MURTHY: Should any effort be made to control our population?

स.क्षी : जी हां, यह तो करना ही चाहिए।

SHRI B. S. MURTHY: In your statement you also said we must control the population, but towards the end you said that this Act should not be used for the purposes of family planning. How do you reconcile both these statements?

स.क्षी : मेरा मतलब यह है कि जनसंख्या का कंट्रोल तो करना चाहिये लेकिन उसका तरीका दूसरा होना चाहिये, यह तरीका नहीं होना चाहिये। उसके लिये हमें प्रचार का, शिक्षा आदि का सहारा लेना चाहिये। यह सब हमें करना चाहिये। मेथड के बारे में हमारा आबजेक्शन है जनसंख्या की लिमिट के लिये हमारा आबजेक्शन नहीं है।

SHRI B. S. MURTHY: Do you think this termination of pregnancy will help in the burning question of family planning?

साक्षी : एवार्शन के द्वारा पारिवारिक लेबिल पर तो प्रतिबन्ध लगाया ही जा सकता है लेकिन उसका भी दुर्हपयोग होगा। किसी के तीन बच्चे हो गये और फिर वह मां एवार्शन पर एवार्शन ही कराती जायगी तो फिर तीन बच्चे से ज्यादा परिवार तो नहीं होगा। इस तरह से जब एक घर में प्रतिबन्ध लगेगा तो फिर उसी घर में लगेगा, एक घर में फर्क पड़ेगा तो फिर सौ घर में फर्क पड़ेगा और फिर हजार घर में फर्क पड़ेगा और हजार में फर्क पड़ेगा तो लाख में भी फर्क पड़ेगा और इस तरह से जनसंख्या पर इसके द्वारा प्रतिबन्ध लग सकता है। लेकिन इससे हमारी माताओं का स्वास्थ्य नष्ट नहीं होगा। इससे उनका भौतिक पतन तो होगा ही।

SHRI B. S. MURTHY: The proposed measure, as you know, has been conceived (1) as a health measure, (2) on humanitarian grounds, and (3) eugenic grounds. It does not say anything about family planning. Therefore, how do you think that

there is a plan to use this for family planning?

साक्षी : कुछ समझ में तो हमारे ऐसा ही आया है और बिल प्रेजेंट भी इस तरह से हुआ है कि जिससे यह समझ में आता है कि जनसंख्या को कंट्रोल करने के लिये भी यह उपयोग में आयेगा, इनडायरेक्टली तो वह होगा ही . . .

डा० सुशीला नैयर : और एक्सप्लेनेशन में भी दिया गया है।

साक्षी : जी हां, एक्सप्लेनेशन में है। यद्यपि आप मुझे ज्यादा बता सकते हैं कि इसका प्रयोग इस तरह से होगा या नहीं।

SHRI B. S. MURTHY: Once you agree in principle that this Bill can be brought before the people, what is the harm in using it for family planning?

साक्षी : मेरा मूल विरोध तो यह है कि इस बिल की जरूरत ही नहीं है, प्रचार से ही हम यह कार्य कर सकते हैं, शिक्षा के द्वारा भी कर सकते हैं फिर इसलिये कानून ही क्यों लायें। मनुष्यों की बुद्धि ऐसी हो कि सत्य बोलें और जो अच्छी चीजें हैं करें फिर कानून से उसको क्यों करवायें। पहले बच्चों की साइकालोजी को ठीक करिये . .

डा० सुशीला नैयर : आप कुछ कारणों के लिये तो इसको आवश्यक समझती हैं।

साक्षी : हां, यह मैंने कहा है। यह मैंने इसलिये कहा कि अगर आप करना ही चाहें तो सिर्फ उतने ही कारणों के लिये करें, मेडिकल कारणों पर करना जरूरी हो तो कर सकते हैं लेकिन मेरे खयाल में . . .

डा० सुशीला नैयर : फेमिली प्लानिंग के लिये नहीं।

साक्षी : . . . ऐसी चीजों के लिये कानून की जरूरत ही नहीं होनी चाहिये।

SHRI B. S. MURTHY: My question is you agree to this Bill on medical grounds.....

WITNESS: On some points such as medical reasons.

SHRI B. S. MURTHY: But on principle you agree to this.

साक्षी : हां, दो-तीन प्वाइंट्स जो इसमें दिये हैं उनके लिये मैंने कहा ।

SHRI B. S. MURTHY: It becomes law then—And under this law if you take to family planning also what objection have you got?

साक्षी : मुझे यह कहना था कि अगर जरूरी दो-तीन प्वाइंट्स के लिये कुछ करने हैं तो करें लेकिन इसके लिये कानून लाने की क्यों जरूरत होनी चाहिये . . .

डा० सुशीला नंथर : कानून के बिना हो ही सकता, अगर आज कोई आपरेशन इसका करे, एबाशन करे तो उसे 7 साल की सजा हो सकती है ।

साक्षी : यही मैं कहती हूँ कि कुछ रास्ता ऐसा निकाल दें कि जिससे मेडिकल प्रैक्टिशनर्स कुछ कर सकें ।

डा० सुशीला नंथर : : इसको तो इसी दृष्टि में बनाया गया है कि मेडिकल रीजंस पर जो है उसके लिये रास्ता मिल सके लेकिन अगर कोई पांच-पच्चीस-पचास लोग दूसरे उसका इस्तेमाल कर लें तो क्या हानि है । यह मिनिस्टर साहब ने पूछा है ।

साक्षी : अभी तो पांच-पचास से क्या हानि होने वाली है लेकिन, वही पांच-पचास, हजार-दस हजार और लाख-दस-लाख हो जाने वाले हैं । आज भी तो पांच-पचीस बच्चे ही दारिद्र्य से होते हैं फिर हम क्यों घबड़ा रहे हैं ।

SHRI B. S. MURTHY: Then you have advocated brahmacharya, self-control. But the Ministry has not given itself to brahmacharya. It is

also true that those who want to practise brahmacharya, the Ministry does not prohibit anybody from doing so. But where the people are unable to do it, then they advocate other things. But Brahmacharya also does not always help. Even Viswamitra and Shivji could not succeed in practising brahmacharya.

साक्षी : मैंने यह नहीं कहा केवल मिनिस्ट्री लेवल ही पर ब्रह्मचर्य को कराने का सवाल नहीं है लेकिन मेरे कहने का मतलब यह है कि बचपन से ही हम ऐसी शिक्षा दें कि उनकी संयम शक्ति बढ़े और ज्यों ज्यों संयम शक्ति बढ़ेगी . . .

डा० सुशीला नंथर : और मिनिस्ट्री के लेवल पर भी यह बात आती है कि एजुकेशन में ब्र चर्य को महत्त्व दिया जाय ।

साक्षी : जी हां, यह तो जरूर दिया ही जाना चाहिये ।

श्री जगेश्वर यादव : कोई भी मां ऐसा नहीं चाहेगी कि जान कर अपना गर्भ गिराने जाय । जैसे कि नाबालिग लड़का और लड़कियों की शादी के लिये कानून बनाया गया लेकिन कितना उसका पालन हुआ . . .

चेयरमैन : आप क्या कोई क्वेश्चन पूछ रहे हैं ।

श्री जगेश्वर यादव नहीं, मैं अपनी राय दे रहा हूँ । मेरी राय में यह जरूरत नहीं लादा जाना चाहिये ।

श्री सवाई सिंह सिलोदिया : अभी अपनी राय मत दीजिये । आपकी राय बाद में सुनेंगे ।

CHAIRMAN: Mrs. Uma Agarwal, thank you very much for your valuable evidence.

(the witness then withdrew)

(The Committee then adjourned)