

Court of Andhra Pradesh at Visakhapatnam."

The motion was adopted.

DR. M. JAGANNATH: I introduce the Bill.

15.48 1/2 hrs.

[*English*]

Special Courts for Women Bill*

SHRI CHITTA BASU (BARASAT): I beg to move for leave to introduce a Bill to provide for the constitution of special courts to deal exclusively with atrocities committed against women and for matters connected therewith.

MR. DEPUTY-SPEAKER: The question is:

"That leave be granted to introduce a Bill to provide for the constitution of special courts to deal exclusively with atrocities committed against women and for matters connected therewith".

The motion was adopted.

SHRI CHITTA BASU: I introduce the Bill.

15.49 hrs.

[*Translation*]

Population Control Bill*

SHRI DHIRENDRA AGARWAL (CHATRA): Sir, I beg to move for leave to introduce a Bill to provide for measures to control population and for matters connected therewith.

[*English*]

MR. DEPUTY SPEAKER: The question is:

"That leave be granted to introduce a Bill to provide for measures to control population and for matters connected therewith".

The motion was adopted.

[*Translation*]

SHRI DHIRENDRA AGARWAL: Sir, I introduce the Bill.

(*Interruptions*)

SHRI AMAR PAL SINGH (MEERUT): My name was first in the ballot held earlier. Mr. Speaker, has fixed two hours' time for discussion on Private Member's Bill. Due to extending time last time, my Bill could not be taken up for discussion. The time also my Bill for the eradication of

corruption and crime has stood first in the ballot. If the time is again extended, my turn will not come again ...(*Interruptions*). Therefore, I would like to request that the time fixed for the purpose should not be extended anymore.

MR. DEPUTY SPEAKER: Once it was decided in the House that the time should not be extended. This was done so that the other Bills could also be taken up for discussion.

(*Interruptions*)

SHRI AMAR PAL SINGH: I would like to request that justice should be done with other Bills also.

MR. DEPUTY SPEAKER: It can be done after this item is over.

15.51 hrs.

[*English*]

CONSTITUTION (AMENDMENT) BILL

(*Omission of Article 44, etc.*)—contd.

SHRI I.D. SWAMI (KARNAL): Last time we were discussing about the Common Civil Code. A lot of debate has already taken place on this in the Press and both inside and outside the House. The very important point is, why in these 50 years we have not been able to carry out the directive given by the wisdom of the framers of the Constitution. This year when we are celebrating the Golden Jubilee of our Independence, for the unity and integrity of the country, we have to think whether Common Civil Code should be enforced or not. A Bill is before the House seeking to enforce a Common Civil Code in this country.

The Common Civil Code was given as a direction, a path, shown by the framers of the Constitution. No doubt it is not justiciable, but the Directive Principles are as fundamental for the governance of the country, as the fundamental rights are. If we go through the debate of the Constituent Assembly on this question, we would find that the stalwarts like K.M. Munshi, Ananthasayanam Ayyangar and others had again and again assured the Constituent Assembly at that time, that the point before them was whether they were going to consolidate, unify their personal laws in such a manner that the way of life of the whole country in course of time, be unified and secular. We always talk of secularism but the basic thing is that we want to divorce religion from personal laws, from what may be called 'social relations' or from the rights of parties, as regards inheritance, succession, marriage, etc. What have these got to do with religion? But by and large the bogey always raised is that enforcement of a common Civil Code of framing of a Common Civil Code shall interfere with the religious sentiments of the people, it will interfere with the habits of a particular community.

The social relation may need reformation of certain customary laws, if there is any scope for reformation in them. There is no religion which is involved in it. Take for example the Hindu Law itself. If we look at Manu, Yajnavalkya

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[Shri I.D. Swami]

and the rest of them, most of the provisions of the Hindu Law, which had already been made, will run counter to the injunctions but still the Hindu Law was framed. Hindu Marriage Act was passed. Hindu Adoption and Maintenance Act was passed. Hindu Succession Act was passed. This bogey was never raised that we must consult the persons or the community concerned or whether the country is ready for it or not. But now whenever the question of Common Civil Code is raised, you always ask us to consult, wait or go slow. In these 50 years we have gone so slow that we have almost forgotten about the injunctions provided in the Constitution by the Directive Principles of this country. After all, we are an advancing society. We are at a stage when we must unify and consolidate the nation by every means without interfering with religious practices.

Common Civil Code does not interfere with any religious practice. It does not come in conflict with the religious freedom enshrined in the Constitution at any stage. In the fiftieth year of our freedom and after 47 years of adoption of our Constitution, when a directive was given and a path was shown to us, let us put our foot down and say that the matters of social relationship, matters of marriage, matters of inheritance and matters of accession are not matters of religion at all. They are matters where reformation is needed, where some improvements are needed.

In this connection what we need is a secular legislation. We always boast about secularism and say that we always stand by secularism. But so far as a secular legislation in connection with these matters is concerned, we always say, 'No, we should go slow, we should consult the people, we should not make hurry about it.' The importance of this was emphasised by Article 44 of the Constitution. Let us not waste any more time we have already wasted about 50 years. The isolationist view, the isolationist outlook of bringing in religion or religious practices in any progressive and reformatory legislation, we must all give up. The sooner we do it the better would it be for the country not only because the Directive Principles enjoin upon us to do it but even the highest court of this land, The Supreme Court has said again and again, from earlier than Shah Bano case and even later, that if we want to honour the integrity of this country, if we want to save the unity of this country, if we want to save the country as a whole, we must have a common civil code that was enjoined upon us by Article 44 of the Constitution.

This attitude was perpetrated under the British rule that personal law is a part of religion. This particular isolationist outlook had been fostered by the Britishers and the British courts. Now is the time when we must forget about what Britishers have been telling us, what the British courts have been upholding.

In fact, if we go back into the history, even the history stands witness to it that Allauddin Khilji made several changes which went against the *Shariat*. Though he was the first to establish the *muslim sultanate* in this country, he had the boldness and courage to make certain changes

for the sake of the unity of the country, for the sake of the reformation, and for the sake of the rights of women and others. At that time, the *Quazi* of Delhi had objected to some of those references. The reply of Allauddin Khilji to the *Quazi* of Delhi was:

"I am an ignorant man. I am ruling this country in its best interest. I am sure, looking at my ignorance and my good intentions the Almighty will forgive me when He finds that I have not acted according to *Shariat*."

If Allauddin Khilji in those good old days could say so, how is it possible now that this country, while entering the fiftieth year of its freedom, cannot at all make up its mind to have a common civil code only on the false plea that it interferes with any religion or any religious practice which it does not? We have to shed this attitude, the isolationist attitude, which in fact was perpetrated, which was fostered by the Britishers and the British courts.

I will give a few examples of what has been happening in many other countries where there are no Directive Principles and where the Constitution does not say so. Even then while debating the particular provision in the Constituent Assembly, the late K.M. Munshi had assured the House at that time that the provision had been debated and discussed in many forums, many Committees and also that the House had accepted the Principle.

16.00 hrs.

What was that principle which had been accepted by the then Constituent Assembly? It was that if a religious practice followed so far comes in the way of a secular activity or falls within the field of social reformation of social welfare, it will be open to Parliament to make laws about it and without infringing of course, the fundamental rights of any minority.

Sir, nowhere in advanced Muslim countries, the personal law of each minority has been recognised as so sacrosanct as to prevent the enactment of a Civil Code. Now, take for example, Turkey, Italy and Egypt. No minority in these countries is permitted to have any such rights. What happened when *Shariat* Act was passed? It is before us. When the *Shariat* Act was passed or when certain laws were passed in the Central Legislature in the old regime, the *khojas* and *cutchi memons* were highly dissatisfied but they had to submit to it most unwillingly, of course. This is what has been happening in this very country when the *Shariat* laws were amended.

In Europe, in America, in Italy, in Germany and in Finance or wherever we may go, in those countries they have a Civil Code. There are Hindus, there are Muslims, there are Catholics, there are Christians and there are Jews also but different personal laws are not perpetrated, perpetuated there and there are no personal laws. In those countries—which has a Civil Code—everyone whenever goes there, whether he goes from Pakistan, whether he goes from India, or whether he goes from any part of the world, every minority has to submit to the Civil Code. But

this is a very strange phenomena in this country only where we swear by secularism every day and every morning and every evening. We do that enforcing a common civil code despite the Directive Principles having provided for a Common Civil Code. In 50 years' time we have not been able to have a Common Civil Code and on one pretext or the other and for one reason or the other, we have been postponing this important legislation and we have always been abrogating rather disobeying the directions, the path shown by the Constitution makers. In their wisdom, they have seen and show to us that if the unity and integrity of the country can be maintained, we must fall in line and we must have a common Civil Code all through the country. If in other countries, all religious people living there can obey their one Civil Code and have an application of Common Civil Code; can have their Civil Code; and can accept the Civil Code; why can not we, in our country, accept a Common Civil Code?

The point, however, is whether we are going to consolidate, unify the personal law in such a manner that the way of life becomes in course of time unified and secular. That is the only position. After all, we are an advancing society and we must at some stage or the other consolidate these laws.

I would only submit that the Bill which has come up before this House, should be wholeheartedly supported. I stand here to support this Bill.

[Translation]

SHRI GIRDHARI LAL BHARGAVA (JAIPUR): Mr. Chairman, Sir, I rise to support the Bill moved by Shri Bhagwan Shankar Rawat regarding Common Civil Code. I support it because it is enshrined in the Directive Principles of the State and the Constitution also.

Sir, I would like to remind you that when Shri Deve Gowda was the Prime Minister, the Supreme Court also hand reprimanded and wanted to know the reason for not enacting this Law. Shri Deve Gowda is no more a Prime Minister. A policy of 'if' and 'but' came into existence but Common Civil Code could not be enacted its enactment is very necessary. Even after 50 years of our Independence, it could not be enacted while it has been mentioned in the Directive Principles of the Constitution. If the country follows this Principle, it would certainly progress.

But unfortunately, even after 50 years of our Independence, we could not follow the Directive Principles. Today, it is very necessary to enact Common Civil Code for all the citizens without any discrimination and in the name of social justice, secularism and uniformity. When the Indian Penal Code applies to one and all in the country, there should be a common Civil Code for all and not separate Code for Muslims and separate for Christians. Our flag is one, we have one Constitution and one national ideal. Therefore, a Common Civil Code should also be there. Although the Government have delayed this but they should ensure after the verdict of the Supreme Court that there is Common Civil Code in the entire country.

With these words, I conclude my speech.

[English]

SHRI SRIBALLAV PANIGRAHI (DEOGARH): Sir, we have this Bill on Uniform Civil Code of Common Civil Code before us in the House as a Private Member's Bill.

Under Article 44 of our Constitution, that is in Chapter 4 dealing with the Directive Principles of State Policy this finds a mention. Among other things, this also is included that the State should endeavour to bring about or to have a uniform civil code in the country.

16.06 hrs.

(SHRI P.C. CHACKO *in the Chair*)

Likewise, also there are several things which the State should endeavour, according to this Chapter. These are to provide free education, to provide employment to all citizens, etc. As you know, like Fundamental Rights, this is not justiciable and our Constitution makers, the fathers of the Constitution, while making this provision, I think were quite conscious of our situation and therefore, they did not put it in the Fundamental Rights Chapter but they put it in Chapter IV and it should be the endeavour of the State to achieve this.

Sir, what are the priorities before the country, that is the important point. We have a lot of problems in our country, we are passing through a crisis. When we are passing through a crisis, what should be our priorities? Should it be economic development, should it be the question of *roti, kapada aur makan* or should it be some matter like uniform Civil Code? That is something that the House together should address to.

As you are aware, our country is a unique country. It is a very vast country, a country of continental size and proportions. It is just not a country, it is a multi-lingual, multi-religious, multi-cultural nation or a country or a society.

Sir, right now, if you find floods claiming lives in certain parts of our country, you will come across bad and sad news of crops withering up, drying up due to want of rains elsewhere.

This is the type of country we have. Somewhere, there is flood; somewhere else, there is dry weather.

In different places, even some people wear different dresses. They have different culture but we have a composite culture. Our culture is composite in nature. This is how amidst diversity, we live as a nation. That is why, our priority is to enrich this nationhood so as to ensure this national unity and integrity in diversity. That is our first concern. That should be our first concern in anything that we do.

During Gandhiji's days, Gandhiji used to say and his advice is that whenever there is any dispute, any conflict in your mind about certain issues, you kindly rely on your conscience. Think over that problem again and again and

[Shri Sriballav Panigrahi]

ask a question to your conscience that by what you are going to do whether the poorest of the poor in the country will lose or gain. If the answer comes that your decision is going to benefit the poorest of the poor, then you go ahead with that.

Today, I think we have to put similar questions whenever there is a controversial subject that comes before us. Certainly this is a controversial subject. And when it is before us, we should ask: what is most sought after thing in our country today? It is unity and integrity. We have to ask this question that whatever we do, whatever we are going to do about certain matters, certain topics, whether the most cherished unity is going to be strengthened or weakened. If we ask this question today about this Bill, the answer that will come will be the same that even, I think the mover would say 'yes, by this, unity will not be strengthened; it will be rather weakened. Therefore, in this background, I stand to oppose this Bill.

Sir, at the same time, there is a disinformation campaign going on. As I said, there are different religions prospering in our country. We have coexistence. We have a society where we have to promote the spirit of coexistence. All religions must stay there. They stay here. They should stay here peacefully. The spirit of hatred need not be promoted, need not be developed. We have to conduct ourselves in such a fashion that the spirit of brotherhood and friendship is promoted, is developed. By spreading hatred, we are not going to promote the cause of unity. In that background also, I would say that there is a disinformation campaign always going on.

Sir, there is also an objective or a motive behind this Bill. I read a motive behind this Bill. It is because we all know that if something of this nature is imposed on certain communities and religions, then what is the type of reaction that will be there? That will not be quite desirable. That is not welcome also.

So there is a disinformation campaign. What is this disinformation campaign? There is a certain religion where polygamy is allowed and it is freely practised. The people are at liberty to go in for third marriage, fourth marriage and so on.

But there is a report. It is a report of the Committee on the Status of Women in India and that report was presented in 1974. According to that report, the rate of polygamous marriages is 15.25 per cent among the tribal communities in our country. It is 7.97 among the Buddhists, 6.72 per cent among the Jains, 5.8 per cent among the Hindus and 5.7 per cent among the Muslims. According to this report, this percentage of polygamous marriages in the Islamic religion is minimum.

So let us not carry on a disinformation campaign which will spread hatred among people belonging to different religions.

I would like to point out here that even earlier tribal

chiefs, zamindars and Rajas were having second wife, third wife, etc. But the time is changing; history is changing and society is changing. Now, with the type of new economy that we are going to have, if proper education is given to the people then nobody will go for second marriage although they are allowed by their religion, by their personal law etc. to have more than one marriage. So, there should be an end to it.

I do not want to make a long speech. I would like to refer only to one portion of the speech delivered by the outgoing President, Dr. Shanker Dayal Sharma, in his broadcast to the nation yesterday. I quote:

"Secularism—the respect for all religions—was the national creed. Indeed, it is the very spirit of our nationhood. This is a philosophy radiated over ages by our ethos. This is the inner message of all religions."

The tolerance and respect for diversity was what was imparted the strength of the civilisation. It was this democratic approach, the approach of peace, love and brotherhood, which has made the civilisation endure and become glorious."

Again, today, our new President, Shri K.R. Narayanan, after assumption of his Office as President of India, has said and I quote:

"It is also a democracy in which secularism, equal reverence of all religions and faiths, is enshrined in the Constitution. Gandhiji used to say that "true democracy is what promotes the welfare of the people". We have, therefore, the obligation to direct all our efforts to the task of abolishing poverty, ignorance and disease from among our people."

So, we should give priority to all these problems. I do not say that I am against the Uniform Civil Code. However, the time is not ripe for that. That is quite ideal, but the society has to change for it. There has to be a climate built up and which can be built up by spread of education and also by changing the mind of people for which all religious leaders, political leaders and social workers have a responsibility. Therefore it is something that it need not be insisted upon. I would request that since this will not be in the national interest now, the mover of the Bill should not insist on this Bill to be taken up for voting, etc. He should rather withdraw this Bill. Instead, in social sphere we have to endeavour for this, which has been provided for, and which is, in fact, the spirit of our constitutional provision which finds place under Article 44.

MR. CHAIRMAN: We have exceeded the time limit allotted for this Bill by four minutes. So, I seek the consent of the House. There are two more speakers and the intervention of the hon. Minister is there.

(Interruptions)

MR. CHAIRMAN: Before that we have to extend the time. So, till we complete this Bill, we will continue our

discussion. There are two more speakers and the intervention of the hon. Minister.

(Interruptions)

[Translation]

SHRI AMAR PAL SINGH: Mr. Chairman, Sir, this Bill is followed by my Bill. In the previous Session also, my Bill was included in the list of Business but it could not be taken up for consideration due to paucity of time. You are thinking of extending the time today again. If it is done, my Bill will not be taken up for discussion. We have only two days i.e. 25th July and 8th August to introduce our Bills. Therefore, I oppose the extension of time for this Bill.

[English]

MR. CHAIRMAN: We cannot help it. The problem is that we have to complete this Bill.

(Interruptions)

MR. CHAIRMAN: There are two speakers and the Minister's intervention is left. So, by that time, we shall complete it. We will all cooperate and go to the next subject. Now the Minister's intervention please.

(Interruptions)

MR. CHAIRMAN: There are two more speakers. They will speak after the Minister's intervention.

[Translation]

SHRIMATI JAYAWANTI NAVINCHANDRA MEHTA (MUMBAI SOUTH): Mr. Chairman, will the Minister speak before or later on ...*(Interruptions)*

[English]

MR. CHAIRMAN: At the end, there will be the reply by Shri Bhagwan Shankar Rawat. So, the Minister can intervene now and after that the other two Members can speak.

THE MINISTER OF STATE OF THE MINISTRY OF LAW AND JUSTICE (SHRI RAMAKANT D. KHALAP): Mr. Chairman, Sir, this House has heard a marathon debate on the Bill moved by hon. Member, Shri Bhagwan Shankar Rawat ...*(Interruptions)*

MR. CHAIRMAN: Excuse me, Mr. Minister. Will you please take your seat? There are only two Members left. Can you bear with them for five minutes each?

SHRI RAMAKANT D. KHALAP: Let them speak for two minutes each.

MR. CHAIRMAN: After the Minister's speech, the other speaker cannot participate. Only the Mover can reply after that. Let Shri Brij Bhushan Tiwari finish in a few minutes.

[Translation]

SHRI BHAGWAN SHANKAR RAWAT (AGRA): You had created a new convention in the previous sitting in this regard. I thought you were going to create a new convention again.

[English]

MR. CHAIRMAN: No, I do not want to create a new convention. Last time it was unavoidable and you know that.

[Translation]

SHRI BRIJ BHUSHAN TIWARI (DUMARIANGANJ): Mr. Chairman, Sir, I strongly oppose the Bill brought by Mr. Rawat because this Bill is untimely and secondly there is no need of it today. When the reference of the Directive Principles was given and when the Constitution was framed, it was provided in the Directive Principles. Keeping in view the atmosphere of the country at that time, it was determined that we would make such a country, such a society where there would not be any legal discrimination. However, 50 years have passed since then and in my opinion, we have made much progress and such an atmosphere was being created that no law would be imposed on people against their wishes because it is against the basic principles of democracy. When you enact any law and there is no consensus of the people that law has no meaning. We have enacted many such laws. There is one Sharada Act and there are many other such Acts which name not been followed due to lack of consensus of the people. Now, I think that the much talked Common Civil Code has got changed to a large extent. We have made progress. Today you know that Evidence Act is one. I.P.C. Act is one and Property Act is also one. Marriage Act is also one. Most of the marriages are solemnise in accordance with their conventions and there is also provision that a person belonging to any religion, may solemnise Civil marriage under Civil Marriage Code if he so wants. Therefore, there is nothing in that which is necessary. If we want to make our democracy lively and meaningful, we should create such a atmosphere in the country and it can not be created by saying only. This atmosphere would be created by our conduct and all people should feel that this country belongs to them and they are partner in that country. If there arise the belief or fear in the minds of minorities or weaker sections that someone wants to suppress them, it would have adverse effect even if it is said with good intentions.

I want to say in this regard that communal forces have risen in the country after the incident of 6th December. I don't want to say it for levelling any charge. But I want to say to those people who believe in this philosophy, who believe in these policies, who want to show by their behaviour that they talk of one nation, one language and one religion and who make propoganda in the entire country for achieving a goal and try to create bitterness by raising the issues of increase in population, influx of refugees, language, and Article 370. It is not seen as to what is the relevance of it today and what are the circumstances of

[Shri Brij Bhushan Tiwari]

today. So far as the rights of women are concerned, there are so many tribals in our country particularly in North East who are against it. They say that if women are given special rights or if they are provided reservation, it would be against our conventions, our customs and that they don't believe in it ...*(Interruptions)*

SHRI KARIA MUNDA (KHUNTI): There are also matriarchical families in North East.

SHRI BRIJ BHUSHAN TIWARI: You are hundred percent right. But there are also such tribals where even I.P.C. has not been implemented, they implement their own rules and regulations. I mean to say that our country has various groups, various castes and various religions. Therefore, we should try to create such circumstances in it so that people themselves may create atmosphere to achieve these targets.

You know that how much hue and cry was made when Hindu Code Bill was passed I remember that in those days people, belonging to Jana Sangh, R.S.S. or people of old views gave arguments that if girl is given rights, there would be cases between brothers and sisters in the courts and all sorts of objections were raised. But you see that situation is changing gradually. Figures about four marriages have also been shown to you. Today with the gradual awakening through education, the women of many Muslim countries have started vigorous movements for their rights. As people would awaken, they would be conscious about their rights and such an atmosphere of consensus would become when separatist tendencies would come to an end. In such a situation we can make such law by which rights and respect would be provided.

With these words I strongly oppose this bill.

SHRIMATI JAYAWANTI NAVINCHANDRA MEHTA (MUMBAI SOUTH): Mr. Chairman, Sir, I rise to support the Bill introduced by hon'ble Member Shri Bhagwan Shankar Rawat. After some days, we would be celebrating the Golden Jubilee of our independence. On this occasion, it would be a matter of pride for us on the Golden Jubilee Celebration of Independence to bring and pass the proposed bill. There is only one reason for it that we have recognised the objective of secularism in the Indian constitution.

Whenever occasion comes for considering of this bill or this subject, the other parties raise the point that it is not proper time to discuss this bill, the policy of appeasement the policy of discrimination is adopted and thereby the unity and integrity of the country is attacked. It would be in the national interest to implement Common Civil Code, because when this constitution was framed, and after that also, the makers of the constitution had asked to implement it at least for some time. In this regard I would like to say that the Supreme Court has also said in its judgement that the Government should think over this matter at the earliest. But all the Governments, which come in power, have not considered it seriously.

Being a woman, I want to mention an incident of Mumbai in which after sudden death of a young man his mother and wife each got half of his property. After some days with a Christian woman something happened who was living in their neighbourhood. She also expected that she would also get rights in respect of property in the same manner. But it did not happen so, because personal law came in between.

I want to say that all the people, whether they are Christians or Parsi, want to join the national mainstream and if we want to bring them in the national mainstream, we have to implement the Common Civil Code. It would inculcate the feelings of nationalism. There is no doubt in that. But there is one thing that this issue has been postponed so far by adopting the policy of appeasement. Hon'ble Minister, Shri Khalapji is present here and he knows and all Members of Parliament know that Common Civil Code is in force in Goa. It is fortunate that our Minister Shri Khalap belongs to Goa. He would tell how people get justice in Goa and he would seek the support on this bill and they would help us in passing this bill.

Besides, I would like to tell one thing more that it is a matter of national interest. My friend Tiwariji was saying just now that we want to impose this law on someone. I would like to tell Tiwari ji that we don't want to impose any law on any one. We want to take good things from Hindu laws, Muslim laws and other religious laws so that women could be given justice. A committee should be formed which may study all the personal laws and good things should be incorporated in this Bill.

I want to accept this fact that there has been the law of one wife in Hindu religion, but I am constrained to say that when a Hindu wants to get second marriage, he changes his religion and becomes Muslim. This is very sad thing. There are bad things in Hindu society also. We want to remove them. We don't want to talk about Hindu, Muslims, Sikh, Christians, Parsis etc. here.

If we have adopted secularism in the country, there should be Common Civil Code from the point of view of women also. A woman is only a woman irrespective of any religion and caste and for giving them social justice, Common Civil Code is necessary. Due to our persuasive role for providing social justice, we urge upon all our hon'ble Members to support the bill prepared by our hon'ble Member Shri Bhagawan Shankar Rawat because there is need for providing social justice to the woman and other citizens of the country on the occasion of Golden Jubilee of our Independence. As Khalapji is getting late, I would not like to speak more but would like to submit that Khalapji should also support this Bill. It is high time to pass this Bill. Therefore, my submission is that the Uniform Civil Code Bill, presented by Shri Bhagwan Shankar Rawat, to provide women social justice and reservation in the golden jubilee year of Independence should be supported.

Mr. Chairman, Sir, I am thankful to you for giving me an opportunity to speak and with these words, I conclude.

[English]

THE MINISTER OF STATE OF THE MINISTRY OF LAW AND JUSTICE (SHRI RAMAKANT D. KHALAP): Mr. Chairman, Sir, this Private Member's Bill brought forward by the hon. Member, Shri Bhagwan Shankar Rawat has evoked a marathon debate and mixed reactions from different shades reflected in this august House. Almost everyone in this House has endorsed the principle, in my opinion, that in this great country if it is possible there should be one law applicable to all people. However, a number of speakers have stated that such a possibility is remote because of the circumstances that exist in our country. We are a huge country. We are a country comprised a number of religions and each religion is also comprised of a number of sects, beliefs and understandings. Each of the groups and sub-groups in our country, unfortunately, follows its distinct traditions and systems relating to their marriages, personal laws, inheritance and so on. How can all these different shades of opinion be put together? That is the main question. Of course our Constitution does say that the State shall endeavour to secure for the citizens a Uniform Civil Code. This is an injunction given to the State. But the history of the last 50 years tells us that this has not been possible and time and again our leaders have said that the religious communities should sit together and arrive at a common understanding so far as the Personal Laws are concerned.

Sir, a reference has been made to Goa. Yes; in Goa we do have, what is known as, a Uniform Civil Code. But this is not the whole truth. When that Code was enacted, there was also a saving clause. A special law was also made at that particular time that the custom and usages of the native Hindus shall also be protected. So, in fact, we do not have, in a real sense, a Uniform Civil Code in Goa. The usages and customs have been protected. But what has happened is, over the years the Hindu community in Goa forgot that there is, what is called, a saving provision and everyone subjected himself or herself to the Uniform Civil Code.

We should also remember as to when that Code was enacted in Goa and what was the situation prevailing in those days in Goa. You cannot compare the colonial rule of the Portuguese with the colonial rule of the British in India. Both were foreigners, no doubt; both subjugated our population, whether in Goa or the rest of the country. However, the Portuguese, in the exercise of their colonial power, were more wicked than the Britishers. They saw to it that whatever law they enacted was accepted by everyone. It was a yoke and it was difficult for Goans to remove it from their necks. We should remember that Goa remained under the Portuguese rule, under the Portuguese yoke, as we call it for 450 years and therefore, whoever stayed in Goa or whoever was the domicile or the subject of the Portuguese there subjected himself to this provision of law.

The Goans went about following a dual system. They would go to the Registrar's Office and register the marriage. In fact, it was a civil marriage which they registered, but

in its religious connotation they did not accept the civil law. They would go back and solemnise their marriage according to their religious tenets. A Hindu would go back and perform the marriage as per the Hindu system. 'Saptapadi' is still important. When I myself got married, in fact, I have got married twice, I mean to the same girl.

SHRI SONTOSH MOHAN DEV (SILCHAR): Are you speaking from your experience or from others?

SHRI RAMAKANT D. KHALAP: Both from my experience and of others.

We went to the Civil Registrar's Office and our marriage was solemnised, and it was registered in the Office of the Civil Registrar in the presence of witnesses; photographs of that particular incident have also appeared. Although we registered under the law, we did not consider ourselves husband and wife. We went back and our marriage was solemnised under our Hindu religious rites. Only when the 'saptapadi' was complete, we became husband and wife. So also was the system with the Muslims there. They too go to the Sub-Registrar's Office, register the marriage, and then the 'nikah' is performed separately. Until the 'nikah' is performed, they are not husband and wife. So also is the system with the Christians. They go and register the marriage in the Sub-Registrar's Office and thereafter they go to the Church where they exchange the vows, and they become husband and wife. This is the situation. So, in fact, you cannot compare the situation in Goa with the situation that exists in the rest of the country.

In the *Sarla Mudgal* case, about which a reference has been made by so many speakers, the Supreme Court did direct us to file an affidavit and tell the Court and the country through the Court about the steps the Government would take to implement the directions given under Article 44. We filed an affidavit. In that affidavit, we had no alternative other than to tell the Court about the prevailing situation in our country. We told the Court that all attempts were being made—different provisions of different laws were being codified; different sections of the law have already been codified. We spoke about the possibility of bringing about one code. We spoke about the possibility of bringing about several enactments in a piecemeal manner. While this was going on, we received representations from thousands of people in this country objecting to this principle of uniform civil code.

Therefore, in a country of ours where diverse opinions rule this country, where different political shades have their own agenda to carry forward, where different religious denominations have their own axes to grind, where different philosophies exist and where even in one religion there is no uniformity so far as their own beliefs are concerned, how can we go ahead and bring a uniform civil code?

Take the Hindu religion itself. This Hindu religion exhibits a diverse tapestry of the systems, customs and usages. Even among the Muslims, there are different sects, and sub-sects, which also follow their own peculiar methodologies. Then, we have the Sikhs, Jains, Parsees and

[Shri Ramakant D. Khalap]

Christians—among the Christians also, again, there are sub-sects.

So, until we bring about, first of all, a common thinking among all these people, it may be a difficult proposition. Now, the learned hon. Member, Shri Rawat, asked: "Are you going to give an assurance to this House that such a thing would be done and that such a Bill would be brought?" My reply to him is that such an assurance is contained in the Constitution itself.

In terms of Article 44, a promise has been made out before the people of this country that the State shall endeavour to bring a common Civil Code. This assurance is there. But what is said finally? Does the State mean the United Front Government? Does the State mean the BJP? Does the State mean Hindu religion or Muslim religion or Christian religion? The State means, after all, all of us. All political parties, all religious denominations, all sub-sects, and so on and so forth. When all these unite to form one opinion which can be called that State Opinion, that would be the time to bring common Civil Code. Left to me, I would say "Yes. Let us do the tomorrow." But this is not a dictatorial regime. In Goa, we had a dictatorial regime.

Therefore, they could push through whatever enactment or legislation they wanted and it was not a legislation of the type that we do it here. There was no question of any free debate as we are having. The rulers then wanted an enactment and they simply enacted it. They simply ordained that the terms of the law would be applicable from the next day onwards. Either you accept it or run away from the State. That is what a number of Goans did. There was an exodus from Goa. People went away from the State of Goa for various reasons. One was religious persecution. Another was perhaps this type of law went against the beliefs of the people. I do not know what exactly may be all the causes that led to the exodus from Goa. Therefore, let us not compare the situation which existed during those days with the situation which prevailed in our country. It is the 50th year of Independence which is being celebrated. In this year, if we all can come together and have common opinion about the subject which is so dear to all of us, I think there could be no better achievement than that. How can we perform this miracle? It is not impossible. Therefore, I can only appeal to the conscience of my countrymen and to all the hon. Members of this august House, that let us go ahead.

I appeal to each one to come on a common platform, let us come to common understanding, let us all decide what is the most important aspect that should govern our lives and our inter-relationship and our personal laws and if we can achieve that least common denominator. Probably that would be the day when the common Civil Code can be achieved in this country. Till then, I would request my hon. friends, you and I, and all the other Members here that let us go ahead on this campaign of making our people believe that "O! countrymen, let us come together. Let us

have at least in respect of personal laws like inheritance and marriage, a commonality of thought which can be emulated by generations to come in future."

I request Shri Bagwan Shankar Rawat to please agree to withdraw his Amending Bill for these reasons.

[Translation]

SHRI BHAGWAN SHANKAR RAWAT (AGRA): If the hon'ble Minister wants to go, he can go. I know that he is in a hurry. However, I would conclude within five-ten minutes ...*(Interruptions)* I would abide by their views only after expressing my views.

Sir, many hon'ble Members from different areas have expressed their views in the House. I regret that perhaps, we are unable to understand the meaning of secularism. You are a very learned person. The meaning of secularism in the dictionary is something not concerned with spiritual or religious affairs of this world. The country has suffered only due to anti-religiousness. Today, the entire country is speaking in favour of ethics so that moral values could be established in the social life.

Corruption, impropriety and anarchism are on the rise in the society. Secularism does not mean respect for all religions. The country today needs religious relativity. I would like to draw your attention towards one more point. Just now, the hon. Minister made a reference to Portugal and said that British regime was less cruel. I would like to submit that we have inherited the system of West Minister Abbey. In England also, there is no separate civil code for different minorities under this system. There is a uniform Civil Code. In the Commonwealth Nations, which had once been under the British rule, there is no other caste-based Civil Code except the common civil code. Besides, I have also studied the social system of most of the countries of the world. I have not come across any other country except India where the Civil Code has been made on the basis of religion. I have studied the social system of the ideally secular countries like England, America and other European countries which have faith in the Church, and even then, they are secular countries. But, they do not have a separate Civil Codes on the basis of castes. My friend just mentioned that if a uniform Civil Code was formed, there would be communal tension. I would like to submit that communal tension has nowhere cropped up on the basis of this uniform Civil Code. Communal tension is created by vested interests for the politics of votes and to serve their own purpose.

The hon. Defence Minister talked of special endeavour, but when there is no will power many things would remain in the law books and these would not be translated into action. I understand that the Government postponed the entire issue due to lack of will power. In this process, the Supreme Court was also cheated by the government by giving an affidavit, our efforts also did not bear fruits. The government should tell us about the reason for giving affidavit in the court and the steps taken to implement the Common Civil Code.

One of our friends, Tiwariji sang the same old song. I wanted to reply to his question. I would reiterate that the Bhartiya Janta Party believes in what it says. There is clarity in our policy. We have neither suppressed the Dalits in Uttar Pradesh nor created communal and caste based tension which has gripped the entire Agra and other parts of Uttar Pradesh. It is being done by the people belonging to the party of Shri Tiwari. They say that we would bring an end to the reservation for the Dalits. When, Shri Mulayam Singh Yadav pays a visit to Maharashtra, he speaks in another language and sheds tears for them. I would like to submit that if the speeches of the leaders of Samajwadi Party are compiled, we would come to know that these are inter-contradictory. Bhartiya Janta Party does not believe in it. If any of my friends from the Samajwadi Party has objection, he may refute the charge. The day before yesterday, a Muslim youth was killed and many brothers and sisters were injured. But, my friends from the Samajwadi Party were rejoicing and were encouraging the Muslims to honour them since they had done a very good thing by suppressing the Jatavs and praising them. The workers of the Samajwadi Party have turned violent in rural areas. They have threatened to oust each of the Scheduled Caste and Jatavs from the villages. What does this situation indicate? Bhartiya Janta Party does what it says. It says that there should be a secular Government, there should not be religious relativity and discrimination.

If we have said something, we have also fulfilled that and we are following that in our conduct.

People have tried to create serious misunderstanding about the uniform civil code. The uniform civil code does not mean that there should be Hindu civil code. But that rather means that the good things of all religions should be collected and form part of the uniform civil code.

I want to say something about women's persecution. Much hue and cry was raised that if 33 per cent reservation is given to women, we can improve the plight of women. But reservation alone cannot improve the lot of women. It could be done by bringing about a change in social thinking. When I inflated debate on this Bill last time, I had elaborated that how persecution of women of Christian, Muslim and Hindu community takes place? I could not get a convincing reply to this question. social revolution will have to be ushered in to check the persecution of women. A change will have to be brought about in social thinking, social evils will have to be removed, only then we can improve the lot of women. The founding fathers of the constitution had also said about a uniform civil code for deliverance of women. I want to refer to it once again today.

A serial named 'Ankhon Dekhi' is telecast on Doordarshan. I saw Shri Khalap on Doordarshan in the above serial. I also told Shri Khalap about that. In that serial Shri Khalap was upholding the point of the common civil code of Goa and he was praising that. I had told him that double talk cannot go together. On the one hand, you plead for the uniform civil code of Goa and here you talk in a

different tone. I want to say even today that if marriage is necessitated not only twice but even thrice, it hardly makes any difference. If there is need for a social compromise for removing social evils in the country, we would do that. I want to tell Shri Khalap that there could be an interim period in which marriage would take place as per the uniform civil code and even then if some people feel that marriage has not consummated, they can make marriage as per the old-traditions in vogue so that the society remains united and integrated.

We talk here about minority and majority. In countries like America, the percentage of minorities is more than the minority community in India, but they are governed by the uniform civil code. I want to say something about other countries also and I have seen that in many countries that the percentage of minority population is more there than that of ours but despite that there is no separate civil code for minorities. It pains me that we have made no efforts even a half-hearted effort on this count. We think right from the beginning that if the common civil code is enforced and social harmony is maintained among people, the politics of votes would not play its game. Those who want to spread the venom of hatred in society and flare communal feelings for the sake of votes and try to alienate communities, their gameplan and designs would not succeed. This is the reason as to why the common civil code could not be enforced whereas the constitution makers had urged for this in the directive principle of state, which the hon. Minister has also admitted that this should be enforced. Anyway, he has given assurance that he will try. I believe that he would make sincere efforts in this direction. He has made a fervent appeal publically ...*(Interruptions)*. I am talking about the Minister of the Government of India. I am not talking about any particular individual.

17.00 hrs.

Shri Alagh is sitting here. How much 'initiative' he would take remains to be seen. If he takes initiative, I would welcome him. The need of the society is today that the torch of change should be aflame so that darkness and fog enveloping the society is removed and society is guided and illuminated and the evils that plague the society are eradicated. I am sure that the Government of India will give assurance with sincerity work towards it with good intentions. Since this had not been done for the last 50 years, so my feeling were suppressed which led me to say so. Many of our friends also said here that this bill is well-intentioned. I am thankful to them that they took it in the good sense but whosoever had doubts in their mind, I have tried to dispel them. Mr. Chairman, Sir, the history bears testimony to the fact that goodwill and harmony are vital to society. If all were treated equally, good changes would have taken place in the society but when discrimination, the results are bad.

With these words, I withdraw this bill.

[English]

MR. CHAIRMAN: The Question is:

"That leave be granted to withdraw the Bill further to amend the Constitution (Amendment) Bill, 1996 (Omission of article 44, etc.)"

The motion was adopted.

SHRI BHAGWAN SHANKAR RAWAT: I withdraw the Bill.

17.02 hours

[English]

ABOLITION OF BEGGING BILL-CONTD.

MR. CHAIRMAN: Now, we move on to the next item, i.e., item no. 37. Abolition of Begging Bill, 1996. Dr. T. Subarami Reddy was on his legs. As he is not present in the House now, I think, we should call the next speaker. Shri Prithviraj D. Chavan, please.

SHRI PRITHVIRAJ D. CHAVAN (KARAD): Thank you, Mr. Chairman, Sir, My friend Dr. Reddy has brought the Private Member's Bill seeking to abolish the begging which actually comes from poverty. It is a well-intended Bill, will meaning Bill. But it is very difficult to implement. What the hon. Member has suggested is that certain funds be created and that begging can be removed by law, I disagree with him.

As I said, it is a well-intended Bill but it is very difficult to practically implement it. What will have to be done to abolish poverty, will be to abolish the causes which cause beggary. When you analyse the causes of extreme poverty, causes which force people, young children, women to beg to the street, particularly in the metropolitan cities, it is obvious that the main reason is the extreme poverty that exists in this country, even 50 years after independence.

Sir, there are statistics by the Planning Commission which say that nearly 40 per cent of the population is living below the poverty line. People are poor, they are not able to even have two square meals a day. The second reason is that there is huge unemployment; huge underemployment. It is primarily because 50 per cent of our population is today illiterate.

Again, it is a very sorry state of affairs that this country has not been able to abolish or eradicate illiteracy even fifty years after independence.

With no education, it is difficult to develop any skills which can be marketed. A person cannot be a part of the labour market without education. Whatever little seasonal employment he can get in rural areas, he manages. But, most of the time, he has to do without any job, without any employment. He has to starve.

There is another reason for such extreme deprivation: natural calamities. Failure of monsoons, extreme conditions of drought and havoc caused by floods cause migration of a lot of people in search of jobs, in search of food and in search of shelter. We can see hundreds of people crowding near railway stations migrating from areas where there have been flood havocs, where there have been droughts, where monsoons have failed and where no agricultural labour is required. These people who go to nearby metropolitan cities have no other recourse to survive, but to feed themselves, by begging.

There are also some social causes. I we look at the religious ethos of the country, in the Hindu religion, the concept of fate, the *karma* imposes that a person has to suffer for his past sins. There is no incentive to improve one's position; a person resigns himself to his fate, to his poverty, to his extreme deprivation. There are also parts of the country where begging—surviving by going door to door—has been glorified in certain religious texts.

There is also the status of women, particularly widows. We all know what happens to them. In order to survive, they have to beg and try to get two square meals. Also, it has been mentioned in the objectives of the Bill that there are organised gangs which are exploiting children, particularly in cities. Children are kidnapped; sometimes they are maimed and they are made to beg in the city streets. It is a serious problem.

The census indicates that there are probably over ten lakh beggars but the reality could be even worse. It is very difficult to accurately determine how many people have to beg, perhaps not habitually but because of extreme circumstances, because there is no alternative. Therefore, if we want to really get rid of this abhorrent practice of begging, the causes which make people to beg have to be eliminated.

First of all, we have to pay sufficient attention to education in this country. we will have to reach full, cent per cent literacy level as soon as possible. Only when we get to a point where there is no illiteracy can we then begin to improve the quality of education. Then, we can think of imparting some skills which can be marketed. We can give them some vocational training with which they can either start their small enterprises or offer themselves for organised sector jobs. It is unfortunate that even after fifty years of independence, we have not been able to eradicate illiteracy.

Commissions after Commissions and experts after experts have given their exports, important among them being the Kothari Commission which has submitted its Report in 1964 stating that this country should spend at least six per cent of its Gross National Product on education. But even today we have not gone beyond 3.5 per cent. The 'Education For All' summit which took place in this country a few years back has committed that India will after the end of Ninth Plan period be able to spend that kind of money on education.