

Title: Introduction of the Constitution (Amendment) Bill, 1999 (Omission of article 44, etc.)

1532 hours

योगी आदित्यनाथ (गोरखपुर) : अध्यक्ष महोदय, मैं प्रस्ताव करता हूँ कि भारत के संविधान में और संशोधन करने वाले विधेयक को पुरःस्थापित करने की अनुमति दी जाए।

MR. SPEAKER: Motion moved:

"That leave be granted to introduce a Bill further to amend the Constitution of India."

SHRI G.M. BANATWALLA (PONNANI): Mr. Speaker, Sir, once again, I submit that the Bill is ultra vires of the Constitution. The Bill seeks to call upon the Government to enact a Uniform Civil Code thus putting an end to the personal laws and the religious laws of all the sections of the people in our society. Not only the Muslims, but I may say, the Hindus, the Christians, all our tribals and various sections of the people have their own personal laws; and Articles 25 and 26 of the Constitution given them the right to practice, according to their personal laws.

">Further, the Bill is in contravention of the provisions of Article 371 A. This Article 371 A makes a special provision with respect to the State of Nagaland and says:

">"In case of religious or social practices of Nagas, Naga customary law and procedure etc., no Act of Parliament shall apply to them."

">Certain circumstances for that are mentioned. Why did we, sitting here, in this House, approve this Article 371 A? It is because there was insurgency, and one of the demands there was the protection of their social and customary laws. Our Constitution was amended during the time of the late lamented Shrimati Indira Gandhi. Our Constitution was amended, and such an assurance was given to Nagaland and Mizoram that we shall not be interfering and tickling with their customary laws, religious laws and their customary practices. Accordingly, this amendment was brought in the Constitution.

">Similarly, we have Article 371 G, and this makes a similar special provision with respect to the State of Mizoram.

">Therefore, we find that the concept of a Uniform Civil Code is a disintegrative concept leading to dissatisfaction and resentment from every section of our society, whether Muslims, or Christians or even lots of tribals that we have, the Nagas, the Mizos etc. Our Constitution gives everyone the right to equal protection of their personal laws, their social and customary practices and laws.

">Sir, I, therefore, say that this Bill, which is a disintegrative force and creates nothing but tension and restlessness in our society, be thrown out lock, stock and barrel. It is also unconstitutional and ultra-vires of the Constitution of India.

">MR. SPEAKER: Shri Adityanath, please.

">... (Interruptions)

">SHRI P.C. THOMAS (MUVATTUPUZZHA): It has been taken out of the Agenda of the NDA also ... (Interruptions)

">SHRI RAM NAIK: On Private Members Bills also you are doing like this ... (Interruptions)

">योगी आदित्यनाथ : अध्यक्ष महोदय, यह सभ्य समाज का नियम है और जिस प्रकार से विभिन्न संप्रदायों में सौहार्दपूर्ण वातावरण बनाना चाहते हैं, उसी प्रकार से व्य
वहार में जो समाज की सबसे छोटी इकाई है, उस पर भी लागू होना चाहिये। सुप्रीम कोर्ट ने भी समय समय पर इस देश में हर नागरिक के लिये एक सामान्य आचार
संहिता बनाने के लिये सरकार से आग्रह किया था लेकिन दुर्भाग्य है कि आज तक देश की एकात्मकता और अखंडता के लिये जो महती आवश्यकता है, उसमें राजनीतिक
इच्छा शक्ति की कमी के कारण पिछली सरकारों ने इस प्रकार का कोई प्रावधान नहीं किया जबकि संविधान की धारा ४४...

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">SHRI G.M. BANATWALLA (PONNANI): Mr. Speaker, Sir, if he goes into the merits of the Bill, then I can also go into the merits of the Bill ... (Interruptions)

">SHRI KIRIT SOMAIYA : Allow him to give his reply ... (Interruptions) You also raised technical points about the Uniform Civil Code ... (Interruptions) and Supreme Court judgements ... (Interruptions)

">SHRI G.M. BANATWALLA : I have not discussed the merits of the Bill ... (Interruptions)

">SHRI KIRIT SOMAIYA : So, Shri Adityanath has every right to give reply to the points raised by you ... (Interruptions)

">MR. SPEAKER: Please take your seat.

">... (Interruptions)

">SHRI KHARABELA SWAIN : It is all right that Constitutional amendments have been made in regard to the States of Nagaland and Mizoram ... (Interruptions) But no Constitutional amendment has been made with regard to any religion or any other State ... (Interruptions) Then, how are you saying that this is unconstitutional ... (Interruptions)

">SHRI G.M. BANATWALLA : We are not discussing the merits of the Bill ... (Interruptions)

">MR. SPEAKER: Shri Swain, please take your seat.

">... (Interruptions)

">SHRI P.C. THOMAS (MUVATTUPUZHA): The partners of NDA will also not approve of this Bill. They will oppose it ... (Interruptions)

">SHRI KHARABELA SWAIN : Sir this House is supreme ... (Interruptions)

">MR. SPEAKER: Everyone knows that this House is supreme. You please take your seat.

">... (Interruptions)

">SHRI KHARABELA SWAIN : Sir, if anybody thinks that this Bill is against the Constitution, then he can move the Supreme Court and the Supreme Court will decide whether it is unconstitutional or not ... (Interruptions) We are not here to discuss that... (Interruptions)

">MR. SPEAKER: Please take your seat now.

">श्री आदित्यनाथ : अध्यक्ष महोदय, संविधान के अनुच्छेद ४४ में यह बात स्पष्ट है कि भारत के समस्त राज्य नागरिक क्षेत्र में एक समान आचार संहिता प्राप्त करने का प्रयास करेंगे और आज उसी बात को लेते हुये मैं यह प्रस्ताव करना चाहता हूँ कि वर्तमान स्थिति में जब हम इस देश की एकता और अखंडता की बात करते हैं तो इस देश में निश्चित रूप से हर नागरिक पर इस देश का संविधान समान रूप से लागू हो। फिर सब विवाह संबंधों के लिये इसलिये भी आवश्यक है क्योंकि जब हिन्दुओं ने, बौद्धों ने, जैनियों ने और सिक्खों ने राष्ट्रीय एकता के लिये अपनी भावनाओं का परित्याग किया है, तब क्यों नहीं दूसरे सम्प्रदाय, जो अपने आपको इस देश का नागरिक मानते हैं ... (व्यवधान)

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">MR. SPEAKER: Shri Adityanath, please understand that this is only the introductory stage.

">श्री आदित्यनाथ : तब क्यों नहीं समान आचार संहिता लाना चाहते हैं? अध्यक्ष महोदय, केवल अमरीका ही नहीं, मुस्लिम राष्ट्रों - चाहे पाकिस्तान हो, यमन हो, सऊदी अरब हो या टर्की हो, सब ने अपने देश में समान आचार संहिता बनाई है। इसलिये मैं सदन से आग्रह करना चाहता हूँ कि इस पर विचार हो।

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MR. SPEAKER: Now, I will put the motion to the vote.

">... (Interruptions)

">MR. SPEAKER: The question is:

">"That leave be granted to introduce a Bill further to amend the Constitution of India."

">Those in favour will please say 'Aye'."

">SEVERAL HON. MEMBERS: 'Aye'."

">MR. SPEAKER: Those against will please say 'No'."

">SOME HON. MEMBERS: 'No'"

">MR. SPEAKER: I think, the 'Ayes' have it. The 'Ayes' have it.

">SOME HON. MEMBERS: The 'Noes' have it.

">SHRI G.M. BANATWALLA : We want division.

">MR. SPEAKER: I shall put it again.

">Let the Lobbies be cleared --

">... (Interruptions)

">MR. SPEAKER: Hon. Members, order please. You should know that the proceedings of the House are being telecast live.

">... (Interruptions)

">MR. SPEAKER: Shri K.H. Muniappa, you also take your seat.

">... (Interruptions)

">MR. SPEAKER: Now, the lobbies have been cleared.

">I have to inform the hon. Members that as the Division Numbers have not so far been allotted to Members, it is not possible to hold the Division by the Automatic Vote Recording Machine. Division will not take place under Members will be supplied at their seats with 'Aye'/'No' printed slips for recording their votes. 'Aye' slips are printed on one side in green, both in English and Hindi, and 'No' in red on its reverse. On the slips, Members may kindly record votes of their choice by signing and writing legibly their names, Identity

Cards numbers, Constituency and State/Union Territory and date at the place specified on the slip. Members who desire to record 'Abstention' may ask for the 'Abstention' slip. Immediately, after recording his vote, each member should pass on his slip to the Division Clerk who will come to his seat to collect the same for handing over to the officers at the Table. Members are requested to fill in only one slip for Division.

">Members are also requested not to leave their seats till the slips are collected by the Division Clerks.

">Now, I shall put the motion to the vote of the House.

">MR. SPEAKER : The result of the division is :

">Ayes : 48

">Noes : 46

">The motion was adopted.

">MR. SPEAKER : The leave is granted. Hon. Member may now introduce the Bill.

">योगी आदित्यनाथ (गोरखपुर) : अध्यक्ष महोदय, मैं विधेयक पुरःस्थापित करता हूँ ।

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">SHRI P.H. PANDIYAN (TIRUNELVELI) : Hereafter, they cannot talk about secularism....(Interruptions)

">SHRI MADHAVRAO SCINDIA (GUNA) : Sir, can we also have a public record of the voting later, on the notice board? We would like to have it....(Interruptions)

">MR. SPEAKER : I think hon. Member Shri S. Jaipal Reddy, the outstanding Parliamentarian, is more active today.

">...(Interruptions)

">SHRI VAIKO (SIVAKASI) : He is overactive