

Resolution Re:

of 1993) promulgated by the President on the 15th October, 1993"

"That the Bill further to amend the State Bank of India Act, 1955, be taken into consideration."

Both these items will be discussed together next time. We now go to the Private Member's Business.

15.34 hrs.

COMMITTEE ON PRIVATE MEMBERS
BILLS AND RESOLUTIONS

Twenty Sixth Report

[*English*]

SHRI P.P. KALIAPERUMAL
(Cuddalore): I beg to move:

"That this House do agree with Twenty-sixth Report of the Committee on Private Members' Bill and Resolutions presented to the House on the 9th December, 1993."

MR. CHAIRMAN: The question is:

"That this House do agree with Twenty-sixth Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 9th December, 1993."

The motion was adopted.

5.35 hrs.

RESOLUTION RE: UNIFORM CIVIL
CODE-CONTD

[*English*]

MR. CHAIRMAN: Before further dis-

ussion on the Resolution regarding Uniform Civil Code moved by Shrimati Sumitra Mahajan is resumed, I would like to mention that 3 hours and 46 minutes have already been taken on this Resolution, thus exhausting the time allotted for its discussion. The House has to now extend time for further discussion on the Resolution. Is it the pleasure of the House that time for this Resolution be further extended by one hour?

SOME HON. MEMBERS: Yes Sir.

MR. CHAIRMAN: I think the House agrees. The time is extended by one hour. Who is going to speak now?

SHRIMATI MALINI BHATTACHARYA
(Jadaupur): Sir, I would like to speak on this Resolution of Shrimati Sumitra Mahajan.

MR. CHAIRMAN: Prof. Rita Verma was on her legs. She is not present here now. But you have already spoken on this Resolution.

SHRIMATI MALINI BHATTACHARYA: Actually, I had been on my legs. I was just about to speak. But then, the time was over. After that, I could not be present. Therefore, I am requesting you to allow me to speak today.

DR. ASIM BALA (Nabadwip): Sir, there is a Private Members' Resolution. My name is Asim Bala.

MR. CHAIRMAN: You may send your name. Shrimati Bhattacharya, as a special case, I am allowing; ordinarily, we do not allow like this.

SHRIMATI MALINI BHATTACHARYA: Sir, I must thank you for this indulgence. Actually, I have been waiting to speak on this Resolution for quite a long time and I have been waiting to speak on it precisely be-

cause I want to oppose this Resolution totally.

The Resolution moved by Shrimati Sumitra Mahajan says:

"This House urges upon the Government that in order to achieve the objectives enshrined in Article 44 of the Constitution and to promote feelings of unity and brotherhood amongst all citizens of the country, a Commission be constituted for framing an uniform civil code".

I am not opposing this Resolution on the ground that I am not aware of Article 44 of the Constitution. I am aware of Article 44 of the Constitution which says:

"The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India."

This has been given as a part of the Directive Principles of our Constitution; and therefore, it is a very special clause. I am aware of this and yet, I am opposing the Resolution.

In the Resolution, it has been said that this is being proposed to promote feelings of unity and brotherhood among all citizens of the country. I am not opposing this Resolution because I oppose unity and brotherhood among the citizens of this country. I am fully aware of the need to promote unity and brotherhood among the citizens of this country. Then, why am I opposing this Resolution? This is what I would like to clarify in a few words before this House. I am opposing this because of the manner in which this Resolution has been brought forward before the House. The wording in

which it has been presented makes us suspect that as a matter of fact this Resolution is not meant to promote unity and brotherhood among the citizens of the country, but further to secure the deterioration of whatever feelings of unity and brotherhood we have in this country now.

This concern for communal harmony that had been stated in this Resolution was not demonstrated in October 1990 at the time when *Rath Yatra* was undertaken from Somnath in Gujarat to Ayodhya. This concern for communal harmony was not voiced on the 6th December 1992 or during the riots that followed. Now, it is being suggested that simply by establishing a Commission for promoting a uniform civil code all these poision which has been poure into our body politic over the past few years may be all at once exercised. Uniform civil code is presented as some kind of an immediate panacea which can restore our body politic and our social framework from the communal posion which it has absorbed during the last few years.

This is precisely what I am debating here. In fact, I think, that the proposal that has been made here is a prescription for a further deterioration of relations among the different communities.

Let us consider for a moment why is this provision included within our Constitution not as one of the clauses of the Constitution but merely as a Directive Principle. In order to understand this, we have to go back to the moment when the Constituent Assembly had been sitting, when the debate on the Constitution had been going on and the kind of controversies like this question of uniform civil code had unleashed.

It may be remembered that this demand for uniform civil code was initially

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raised by the All-India Women's Conference at a time when we had not even attained our independence. They had raised this demand on the understanding that this would promote a certain degree of unity among our countrymen who were being misled, who were being injected with communal feelings by our colonial rulers.

However, the turn of events was quite different. It was found that fundamentalists on all sides were very much opposed to the idea of a uniform civil code. At the same time, another debate was also going on. This debate was regarding the report that had been given by the B.N. Rao Committee on the Hindu Code Bill. When this debate came into the Parliament side-by-side with the debate on uniform civil code and when the fundamentalists on one side found that there was not sufficient support for them, when they found that the Hindu Code Bill did not have much opposition either in the nation or within the Parliament, they began to turn the entire issue towards a communal channel by saying: if it is good for Hindus, then it is good for Muslims. We will accept it if it is a law for all.

Mrs. Sumitra Mahajan in her statement has made much of the words that were spoken by the Law Minister, Baba Saheb Ambedkar, at that time. However, she has missed out the vital points from Baba Saheb Ambedkar's speech. I would like to remind the House of what Baba Saheb Ambedkar had said about the way in which the Hindu fundamentalists were trying to give a communal turn to this whole issue of the Hindu Code Bill. He had said:

"Now, I must say, I am very surprised to see some of those who until yesterday were the greatest

opponents of this Code and the greatest champions of the archaic Hindu law, as it exists today, should come forward and say that they are now for an all-India civil code.

There is a proverb that the leopard does not change its spots and I cannot believe that these leopards which have been pouncing on the Bill, that is, the Hindu Code Bill, every time I come before the House, have now suddenly so reformed their mentality as to become revolutionary enough to want a new code altogether."

Subsequently, Baba Saheb Ambedkar made an offer. He said, well, we can have a uniform civil code. It has taken us five years to draft the Hindu code. But we can have a uniform civil code in half-an-hour.

Take the example of the Indian Succession Act. All that would be necessary to make it universal and civil, that is applicable to all persons is to add the words contained in Clause 2 of the Act, namely, it shall not apply to Hindus be deleted. Of course, Hindu Succession Act is separate. Now, this is the point on which the debate of uniform civil code became stoned because the inclusion of the Hindus within the Indian Succession Act was something which the Hindu fundamentalists would never have accepted and it is precisely on the question of succession that we find that just as there are certain areas in which we have certain very retrograde clauses in some of the personal laws, similarly in the Hindu personal law and in the succession laws also, we have a lot that is retrograde; we have a lot that promotes inequality between men and women. Therefore, Sir, from here, I would like to come back to the arguments that were given by Mrs. Sumitra Mahajan and I have re-

called Baba Saheb Ambedkar because what she has said reminded me on that very same day of what Baba Saheb Ambedkar has said. Actually, we find that in her speech, she has been pleading for a uniform civil code but throughout her entire argument, the single trend of argument that goes on is that she is trying to pinpoint certain lacunae within the personal law of one particular community, that is, the Muslim community and she keeps totally out of her purview the kind of inequalities, the kind of injustice to women which is embedded in the other personal laws including the Hindu laws. This is why I feel that it is not the desire to promote unity and brotherhood that lies behind this particular Resolution but it is rather some kind of a motivation to further create a situation in which by posing a threat of a uniform civil code, the insecure position of the minorities may be further engrained in their minds. Particularly after the recent incidents, we know that one particular minority community, that is, the Muslim community go about with fear of their lives. They are asking this question that while they are citizens of India, why is it not possible to protect their own places of worship. So, under these circumstances, to raise this bogey of uniform civil code, I think, is to bring up this issue at a very dangerous point and from a very wrong perspective all together. This is why I am opposing this Resolution.

15.49 hrs.

[SHRI NITISH KUMAR *in the Chair*]

I would also put it before the House certain points which have been made by Mr. Mani Shankar Aiyar. He has spoken at length and he has pointed this communal element that is embedded within the Resolution that is before the House. On this, I am in agreement with him. However, the cat

was out of the bag when Mr. Aiyar came to talk about the Muslim Women Act.

We find him absolutely twisting himself into knots to maintain his secular position and at the same time trying to defend the Muslim Women's Act which was passed in the year 1986. In Shri Mani Shankar Aiyar's argument, we find him criticising the judgment of justice Chandrachud on Shah Bano case in respect of Clause 125 of the Indian Penal Code. The question involved was whether a Muslim lady who did not have any other means of subsistence should be reduced to become a vagrant or whether some alimony should be allowed to her under Section 125 of the IPC. Justice Chandrachud had given the judgement that she was fully entitled to get the alimony. Shri Mani Shankar Aiyar says that the controversy created in the nation over this issue was totally due to the kind of judgment that Justice Chandrachud had delivered. Shri Mani Shankar Aiyar maintains that the Judge has not kept himself confined to the issue in question, but he has also said something about Islam and Islamic Personal Law. And this, according to him, created the entire controversy. Then Shri Aiyar, the staunch knight-errant in support of women who are divorced, says that under Section 125, they are allowed to get a mere pittance and so the whole question is not whether Shah Bano should get this pittance or not, but the whole question is to enhance the amount of alimony. He says that Section 125 of the Indian Penal Code is actually obsolete because it allows so very little for Indian divorced women as alimony. Now, we are absolutely in agreement with Shri Aiyar on this point and we also say that Section 125 needs to be amended and a reasonable amount of alimony should be allowed to divorced women. As the House may be aware, one of our Members Shrimati Suseela Gopalan brought a Private Members' Bill to suitably

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amend the Section so that women who are totally dependent on their husbands can get some economic justice when they are divorced. They may get at least a minimum livelihood and not the pittance that is allowed at present under Section 125. We agree with Shri Aiyar that an amendment is absolutely necessary. If he and his Government are so concerned with the pitiable condition of divorced women, then why did they not bring the required amendment to Section 125 at that stage? Instead, they stopped a certain section of the Indian women from getting whatever little pittance that they were getting according to the court order by that Section 125. While Shri Mani Shankar Aiyar pleads for higher and reasonable amount of compensation for divorced women, but in the case of Shah Bano supports the Muslim Women's Act which does not allow any alimony or any compensation whatsoever!

I do not understand Shri Aiyar's argument at all. I think that it is an argument which tries to hide the discomfort that he himself has been feeling. I have no doubt about his sympathy for such women but the discomfort that he may have been feeling about the Muslim Women Act was very much evident in his speech.

I would like to put it here that as a matter of fact when a judgement in the Shah Bano's case was passed and when Muslim Women Bill was debated in the Parliament, the Point that had been raised by us was precisely this. We had sought that the spirit of the Constitution has to be understood. What had been the spirit when the builders of our Constitution in their wisdom had introduced a Uniform Civil Code as a part of the Directive Principles? The spirit of that had been not to impinge upon or not to hurt the

sentiments of any particular community; not to homogenise the Indian culture which consists of many different cultural practices, many different family customs. Article 44 did not seek to impinge or hurt this. It did not seek to move towards the homogenisation of Indian society. It had sought for uniformity and not homogenisation.

We find that these personal laws basically deal with matters pertaining to family, marriage, guardianship, division of property, succession, etc. These are the main things which are included in the personal laws. We have found from our experience that cutting across communities, in almost all the families, because of the gender structure in our country, the woman is in a more disadvantaged position than the man. It is mostly the inequality of women which the guardians of our Constitution had sought to remove when they thought of a Uniform Civil Code.

We feel that this purpose can be best served not by imposing one Civil Code from the top. Sumitra ji has said at the end of her speech that it need not be the Hindu Law. But, then we find in other part of her speech she has spoken in a manner which suggests that the Hindu Law has purged itself of all its defects. Not only has she not mentioned the existing defects within the Hindu Law but further she has said in her speech that the Hindu Law, as it exists now, is the most progressive law that we have.

16.00 hrs.

Therefore, the idea that comes to our mind is this. What is being suggested is that all Personal Laws should be modelled after Hindu Law. This is an attempt at homogenisation of a culture which is essentially heterogeneous, the richness of which consists precisely in this heterogene-

ity. This is what we are opposed to. But at the same time, we feel that the kind of inequality towards women that we find in most of the Personal Laws have to be removed from within the Personal Laws. So, what we are fighting for is not a Uniform Code, but we are fighting for equality in the eyes of law for both men and women. These lacunae that are there, have to be rectified not only within the general system of law but they should also be rectified within the Personal Laws.

I will just say, in conclusion, one point. Shrimati Sumitra Mahajan had mentioned again and again in her speech the question of polygamy which is allowed within Muslim Personal Law. I would like to say that as far as I am concerned, I think a great majority of the people of my country, cutting across communities, feel that the system of polygamy is humiliating to women and it should not continue and yet may I point out certain facts to you, Sir? Hindu Code Bill does not allow polygamy and yet we find that statistics tell us that among Hindus who are not allowed to be polygamers, there is more of polygamy. One wife is married, she is left, she is deserted; second wife is taken; and then you see, what happens is that, after some time, the second wife is also left. Then, by quoting the Code, it is said that because she is not a legally married wife, she cannot be given any compensation or alimony. She cannot have any rights whatsoever from her husband. So, you see, it is not a question of Hindu or Muslim, it is a question of the inequitable position that women have in our society which is reflected in the actual situation. The law may be there but in spite of the law, the deviations from the law, the violations of the law tell us a different story about the actual situation, the actual position of women, in our country. Sir, we are not among those who say that these are personal matter, these are family

matter, these are matters belonging to certain religious beliefs and therefore, the State should not intervene in these. We think and this is also embedded in Article 25 of the Constitution that is, the right to freely practise any religion of one's choice is subject to certain conditions; public order, morality and so on. So, this freedom is conditional viz. it is not an absolute freedom. The custom of sati which, in spite of 150-year-old law, is being practised in some parts of the country. Now, certainly, here the state has to intervene and the State must intervene. However, the intervention of the State is not something which should be done with a bias against one community and this is precisely what this particular Resolution is seeking to do.

This is precisely why we oppose this Resolution. We think rather at this point what the Government should do is to have a committee to look into the Personal Laws. I have heard that the Law Ministry has already been looking into the different laws, and the lacunae that are there in those laws. This may be pointed out; this may be rectified.

We find that from within the Muslim Community now there are certain very strong and bogus sections who have given *Fatwa* against this very arbitrary system of what is known as 'Talaq'. There is an opinion within the Islamic community against this system of *talaq*. So, it is not as if the religious communities are static; it is not as if they are absolutely rigid in their opinions. There are various currents of opinions within this. This is what the Government has to pick up. It has to be in touch with the people who are working at the grass-root level, people who are able to raise consciousness among the women of the community. Even at that stage when the Muslim Women Bill was being debated, we found that a large number of

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Muslim women themselves came out and said that the Bill would be derogatory to their interest; but the Government did not listen to them. As a matter of fact, although it is seen as an appeasement to the minority community, it was nothing of the kind. As a matter of fact, who benefitted from it? No one, Not the Muslim women; well somewhat less that half of the Muslim community, not the guardians of the women, not the guardians of the poor Muslim women, who are divorced by their husbands who are sent back to their families without any alibi; they did not benefit. Therefore, the question of appeasement does not arise here at all. I think this question of appeasement which was raised by Shrimati Sumitra Mahajan in her speech was entirely motivated. Therefore, from all these points, I think that this Resolution was brought at a particular point just a few months after the demolition of the Babri Masjid, just a few months after a nation-wide riots that were taking place, when the riot victims were still left to be compensated; without any compensation, without any relief; at that time, to bring this Bill is simply to create a further sense of fear, a further sense of insecurity in the minds of the minority community.

Therefore, I would only oppose this Resolution; at the same time, I would say that what we demand is equality for women within the law, even within personal law; and that has to come from within the community, that has to come through the discussions, through opinion building and through our national consensus. Thank you.

SHRI SRIBALLAV PANIGRAHI (Deogarh): Mr. Chairman, we are debating this Resolution in the absence of the Mover of the Resolution. Shrimati Sumitra Mahajan belongs to BJP. She is absent today when

her Resolution is before the House. Her absence is not on account of any personal reason that is either in the opposition or something of that sort.

Why I say this is because I am inclined to support the Resolution. I am in agreement with the spirit of the Resolution. There are reasons for me also to oppose the Resolution. Therefore, I oppose the Resolution.

The Mover of the Resolution is absent today because of the collective decision of her party to boycott the proceedings of the House; that too, why? What for? To put pressure for the conditional release of their leaders who have been arrested in Uttar Pradesh, in connection with the grave charges of demolition of the mosque at Ayodhya, one year back! This is the background, the scenario in which this Resolution is being debated.

This Resolution was brought forward by Shrimati Mahajan. Therefore; the intention of the mover, certainly, cannot be good. It is not meant to promote communal harmony. Rather, on the contrary, it is to promote communal hatred.

I agree with the hon. lady Member who participated in the debate just now, Shrimati Malini Bhattacharya, by and large, and her viewpoints. Article 44 of the Constitution of India, which is under Part IV, Directive Principles of State Policy, provides for a uniform civil code. This was also debated in the Constituent Assembly in 1948 and 1949 and these provisions in Article 44 together with the other provisions in this Chapter of Directive Principles of State Policy are not justiciable. No timeframe has also been provided for. Those of which ought to be, what should be, and that the nation should strive in that direction are mentioned there. We should strive. We make preparation and we

direct so that all those Directive Principles are all put to action, to take concrete steps.

It was also made very clear by many participants in that debate in the Constituent Assembly — including Dr. B.R. Ambedkar, Shri K.M. Munshi and also Shri Krishnaswami — that it cannot be done under coercion. It has to be done with the consent of all the concerned people.

That is why, in that background also I would like to make a reference to the *Shaha Bano* case with which also Shrimati Malini Bhattacharya has dealt. Many hon. Members from that side also were here at that point of time when we discussed it here. We were also in the Treasury Benches. We were not inclined to support that. But, unfortunately, an overwhelming opinion in the concerned community was to the contrary. Having regard to that overwhelming opinion, etc., in respect of the society within their community — though many people did not like it — that was allowed to prevail. No doubt, there is need for reforms not only within the Muslim community but also in the Hindu society and Hindu community. A lot has got to be done to reform our community. Superstitions are there, dowry deaths are there; there are so many things. We have enacted a law to prevent dowry deaths and for all these things.

Law is, in fact, necessary. But only law does not make the change and does not bring in the desired result. Of course, it helps. Certainly, law does help and it has got to be there. It has a frightening aspect. At the same time, people know how to out law. Something more needs to be done in all these areas. Therefore as I have said earlier, I am in agreement with the spirit of this Resolution. As far as possible, we should have Uniform Civil Code and Uniform Personal Law. But there is some confusion in

Uniform Civil Code. There are certain Acts which are common. Take Negotiable Instruments Act, Transfer of Property Act and other Acts. We do not have different codes for different communities. But even the Constitution gives guarantee of freedom to tribes and to communities to have Personal Law. As referred to earlier by Shrimati Malini Bhattacharya, polygamy is not allowed in Hindu society, in Hindu community according to our law. But in practice, in different tribes, different communities, and in small tribes, custom recognises polygamy. As a matter of fact, in pre-independent days and further earlier days, in some spheres, it was a matter of aristocracy or something like that. That is going on now. (*Interruptions*)

SHRI SAIFUDDIN CHOUDHURY (Katwa): It is there in Orissa.

SHRI SRIBALLAV PANIGRAHI: It is there in West Bengal also. Every where in certain royal families, it is there. West Bengal and Orissa are side by side and they are in Eastern India.

SHRI SOMNATH CHATTERJEE: That much of geography, he knows.

MR. CHAIRMAN: Please do not reply to them. Kindly address to the Chair.

SHRI SRIBALLAV PANIGRAHI: In Private Members' Business, such things should be allowed.

What I say is that even there is a provision in the Constitution to give guarantee of freedom in respect of personal law to different communities.

In respect of language, I would like to give one instance. Hindi is our Rashtra Bhasha, lingua franca. Three-language formula also is provided. But, even Hindi we

[Sh. Sriballav Panigrahi]

cannot impose. Sir, as you know, that provision is there. We have to strive, we have to thrive and we have to create a climate so that people accept it more and more day by day. We cannot just impose it. When there were attempts to impose Hindi, we had seen the disastrous consequences. In a country of our size, of our dimension, a country of continental dimensions with many races, religions, languages and cultures - we had a composite culture - we cannot impose it. We can look at our nationhood, which is based on a composite culture. And in that composite culture, there are Mohammadian community, Muslim community and others. I think we are either second or third largest Islamic country in the whole world.

As far as my knowledge goes we are the second largest country. That is also not a small thing. We are the second largest Islamic country in the world with such a huge Muslim population. They have also contributed over the centuries...

MR. CHAIRMAN: Are we an Islamic country? We are a secular State.

SHRI SRIBALLAV PANIGRAHI: Thank you. It is true that we are a secular country. That is why, in respect of language, as I said earlier, it has to be only with the consent of all and it cannot be imposed on. In different communities polygamy is going on and there is some sort of guarantee in respect of personal law. Personal law means marriage, divorce, succession and inheritance. In these areas in a developed country we have to see that women are not exploited. Because of certain inherent weakness that community should not be exploited. However, that is going on. Therefore, I am inclined to feel that it is time that progressive elements in every society, in Muslim society

have to come forward to create that sort of atmosphere. The women are also gradually organizing themselves to agitate for all these things. There was a beginning made when the Shah Bano's case was there. That has got to be further taken note of. In that way, we can do this.

In the Constitution in Chapter IV under the Directive Principles of State Policy there is some time frame with regard to universalization of primary education upto the age group of 14 is to be achieved. We have not been able to achieve even that.

As far reservations are concerned, there was a time frame of 10-20 years. But, rightly we are extending it. The founding fathers of the Constitution wanted it to be achieved in 10-20 years. However, we could not achieve this and that is also being extended because we want to fight out all sorts of inequality. We should strive towards a society based on equality.

Lastly, I would say that the intention is not clear as to whether it is politically motivated or not. Today her very absence goes to justify her Resolution to be opposed. While opposing this Resolution, I again feel that we all have to address ourselves to this problem. All progressive elements regardless of communities, parties etc. have to come forward together to create such a climate, such an atmosphere wherein it could be possible. As I said earlier, it cannot be done under coercion and under compulsion but with the consent of all concerned.

SHRI SUDHIR SAWANT (Rajapur): Mr. Chairman, Sir, this is a very serious issue which we are discussing. Article 44 of the Constitution calls upon us to evolve a uniform civil code and also article 14 calls upon us to guarantee equality before law and equal protection before law. So, both these

provisions are complementary. But having instituted this provision in the Constitution, the founding fathers also made provisions for discrimination, in the sense that though there is equal protection before law and equality before law, there is a provision for discrimination. But this is a conscious discrimination based on intelligible differentia which should have nexus with the statute. This provision has been made by the combined wisdom of the founding fathers for one precise reason, that is, keeping in view the conditions of the Indian society. The Indian society is not a homogenous society. In fact, the Indian culture is characterised by unity in diversity and keeping this fact in view and also keeping in view the diverse nature of the population and the various practices followed in this country, the provision for discrimination was made so that we could make laws for the Backward Classes. The recent decision of Mandal Commission could be possible because of this particular provision. This point needs to be highlighted. When you are wanting a uniform civil code, there is nothing wrong in that. The Directive Principles state that. But it should be related to the social conditions of the Indian society. Different sections of the society must be allowed to develop to the standard where law could be applicable because there is no point in making laws which cannot be followed. The dowry law is there for the last so many years but the practice of dowry is widely prevalent in all sections of the Hindu society in this country. So, it is not that laws only can engineer social change; the society must be developed. There has to be a social movement so that the society is prepared to accept that law. For example, when the Hindu Code Bill was enacted in 1956, there was hardly any objection or opposition to that. Because of the social movement launched by Mahatma Jyoti Phule, Babasaheb Ambedkar, Mahatma Gandhi over a period of time, the society was pre-

pared to accept that. When it came to the question of reservations for the Backward Classes of the society, though there was opposition but it was minimal because the country accepted it. Even in the Hindu Code Bill, I want to ask Madam Sumitraji one question that are you, the Hindus, prepared to accept a uniform Hindu Civil Code? You are not, because though the Hindu Code Bill is there but many clauses are flouted everyday. For example, Section 2 of the Hindu Code Bill prohibits marriage between the second cousins. But in Maharashtra this is a practice. In Andhra Pradesh also it is a practice. That is why in section 2 itself a provision has been made that though the Hindus have to follow certain practices according to law, but they are exempted where the customs or the culture prevalent in the society is such that different practices can be followed. I can quote one personal example.

When in my marriage itself, when I insisted that I would marry by signing the register, according to the civil code, my father-in-law refused to marry his daughter to me saying if I had to marry according to uniform civil code the marriage had to be in a particular fashion and if I was not prepared for it, he would not accept. This is the practice.

Take the case of dowry. It is widely prevalent today. There are bride-burnings. The practice Sati is going on. When you see these cases, you again go to Muslim code. You must wonder, Sir, that thousands of years ago some revolutionary provision was made in that law. It was the first law where it was stated that the girl has to give assent to a marriage. Imagine that it was thousands of years ago. But, even today, in an Indian society, in a Hindu society it is not permitted.

The second factor Sumitraji had object-

[Sh. Sudhir Sawant]

ed to was polygamy. We must now consider the historical evolution of this law in Muslim code. Thousands of years ago when Prophet Mohammad engineered a revolution in that part of the world, there was the wide practice of having harems. The Prophet was himself against polygamy. But keeping in view the situation and social condition, State permitted four marriages. But there also he kept a condition.

[*Translation*]

MR. CHAIRMAN: Time allotted for this issue is over. It can be extended with the consent of the House.

MANY HON. MEMBERS: All right.

MR. CHAIRMAN: Please conclude soon, because Mamataji wants to speak and the hon. Minister will also speak.

[*English*]

SHRI SUDHIR SAWANT: So, at that point of time, the provision of four marriages was kept keeping in view the social conditions at that time. But there also a rider was kept. The provision existing in the code says that any Muslim can marry twice or thrice provided he can treat everyone equitably, which is well nigh impossible in the society. Thus, if the true essence of that law is to be read, then I would request the present day leaders of that community also to look into this matter.

That is why taking all the views into account, I would appeal that every community must be ensured of security because minority complex develops in a position where minorities are threatened. And that is why if we have to support the moderate and

progressive forces in every community, then what is required is that a situation of security for all communities must be created in this country. We know what had happened in the past 2-3 years. We know which community is threatened of which community and what kind of politics are going on in this country.

I would appeal to all political parties now that along with the political agenda which they have, they could undertake a social agenda where a social movement could be launched; wherein all communities are educated and all communities are working with that particular standard where Article 44 of the Constitution, the Directive Principles can be given full effect to and we could have a uniform civil code. But this cannot be done with force. It is a social matter. It is not a legal matter. Hence it calls for social answers. It requires social movements.

At this point of time, I would appeal to everyone to realise this and not to insist on creating rift in this community in the Indian society but to take all actions which will unite this society so that we can develop a strong and vibrant India of 21st century.

[*Translation*]

KUMARI MAMATA BANERJEE (Calcutta South): Anyone who has some knowledge of uniform civil code, likes it and nobody can impose it. Ours is a secular country and people belonging to different castes, classes and communities live here. Therefore, we cannot, make caste discrimination with anybody. Shrimati Sumitra Mahajan, the mover of this Bill is absent. Her party has boycotted the House following the arrest of Shri Advani. I would like to submit that we should create consciousness among the people for this Bill. People of all religions should sit together under one roof and con-

sider it. There is no better option. If there is any code for religion, we cannot meddle with it.

There are so many laws in our country. But merely the formulation of law does not serve the purpose. There are Anti -Dowry Act, Anti Sati Act in our country but dowry is often given frequently in rural and urban areas. This Act is not being implemented properly therefore it is increasing day by day. I, therefore, wish to submit that one day when we understand the feelings of others and sit together to enact a uniform civil code, the uniform civil code will certainly take shape a material. At first, it is necessary to educate the minority community of our country because they are very backward also in this respect. The 15 point Programme of the Government is not being implemented in many States and work is not done for the minorities. The Government should examine as to what has been accomplished in and what has been left in 15 Point Programme. It should be probed as to which States are implementing it and which are not. Despite our being in politics if we cannot educate people and are unable to provide them facilities, our such politics cannot be held as good politics.

There are so many backward castes in our country and among them there are people who belong to the scheduled castes and scheduled tribes. Today casteist politics has cropped up among them. People from Uttar Pradesh and Bihar who go to West Bengal use to talk about cast and creed there. But there is no caste war in West Bengal. We are proud of it that people belonging to all religions live together there. Today political leaders are flaring it up for the sake of their vote bank. Therefore, the present situation has emerged in our country. I would like to submit one thing that women must get their rights. The Government should take proper steps for this.

Irrespective of religion, there is a right to have uniform Civil code which is mentioned in the Article 44 of our Constitution. But the intention of the Bill introduced by Shrimati Sumitra Mahajan of BJP is to show that only BJP fights for the interest of Hindu religion. Our Hindu religion is very vast. If some of us worship Goddess Durga, some other worship Goddess Kali, some worship Lord Shiva, some Lord Rama. Virtually our religion gives equal importance to all religions. I, therefore, want to submit that these people which that Hindu religion should be disintegrated into small parts and the Hindus, the Muslims, the Sikhs, the Christians of our country should be divided on the lines of religion. But we do not want so. Of course, I support this Bill but I want that the woman should be given their rights. Since time is short, therefore, I would not like to take much time. Ms. Taslema has written a book in Bangladesh and the Fundamentalists have threatened her life. But this is not good. If a journalist wants to write something he should be given full liberty.

I, therefore, would like to request each of the hon. Member of Parliament that our voice should reach Bangladesh also because Bangladesh is our friendly country. If a person in the country has written something there, she must avail of the freedom to do so. She must be given full protection and we are against the fundamentalists there who have threatened her life. In our country everybody can write freely. We cannot snatch any body's freedom. I want to state that the democracy, freedom, rights, human values in our country must prosper. If we can do so our outlook will automatically change and with the change of our outlook consciousness will be created among ourselves. However, I believe that a day will come in our country when people from all corners will sit together and formulate a uniform Civil code.

[English]

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H.R. BHARDWAJ): Mr. Chairman, Sir, at the outset, I would like to thank all the hon. Members who have spoken in great detail on this important issue.

Before I make comments, I would like to just remind the House, what is the mandate of article 44:

"The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India."

You will kindly see the words used in this article—the State shall endeavour to secure. So, the founding fathers were very clear that it is not possible to straight away push through a common civil code and gave a mandate that the State shall endeavour to secure a uniform civil code. If you kindly go a little further in the debate of the Constituent Assembly, while some of the hon. Members who came from the Muslim community moved the amendment to the original provision that was in the shape of article 35—now article 44—Dr. Ambedkar himself explained the spirit behind article 44. That is why, we must always bear in mind that what the founding fathers intended should not be twisted by anyone. We should adhere to those because we fought our freedom movement together as one country, one nation in which people of all religions participated. Hindus contributed but Muslims' contribution is much more, if you go into the sacrifices made by the Muslim leaders. That is why, India has such a vast majority of Muslim population only next to Hindus. So, it was joint effort by every Indian, irrespective of religion with the result this country secured its freedom and then gave to itself the

Constitution of India. Any assurance given at the time of framing the Constitution must be relevant for all time to come, for generations to come.

I would briefly observed what Dr. Ambedkar said:

"I should like to point out that all that the State is claiming in this matter is power to legislate."

Then, asking them to withdraw their amendments, he gave a very important statement which I quote:

"My second observation is to give them an assurance. I quite realise their feelings." These are the words this hon. Parliament must always bear in mind. Among the founding fathers, no less a person than Dr. Ambedkar says:

"Second observation is to give them an assurance. I quite realise their feelings in the matter. But I think, they have read rather too much in article 35 which merely proposes that the State shall endeavour to secure a civil code for the citizens of the country. It does not say that after the Code is framed, the State shall enforce it upon all citizens, merely because they are citizens. It is perfectly possible that the future Parliament may make a provision by way of making a beginning. That code shall apply only to those who make a declaration that they are prepared to be bound by it so that in the initial state, the application of the Code may be purely voluntary."

I must emphasise on this statement. All

our leaders who came after the Constitution has come into force, beginning with Pandit Jawaharlal Nehru who was the Prime Minister for years and years, said this.

He always maintained that nothing will be done in this country against any community in the matter of their personal law against their wishes. I repeat that it was subsequently in 1967 when Mrs. Gandhi said the something in a meeting opposite Red Fort when it was brought to her notice that a misgiving is being spread that personal laws of minorities will be changed against their wishes. She declared and I remember because I was present in the meeting that nothing will be done against any minority in the matter of their personal law without the initiative coming from them. It is an established assurance in this country that when the question of personal law comes, the minority must come forward if they want a change. Why is it so? In practically 90 per cent of laws, there is uniformity. There are only small areas of marriage, maintenance, divorce adoption and succession. These areas regarding marriage, maintenance, divorce, succession and adoption are different in several communities. Hindus have got a different way of marriage, as an hon. Member said. Muslims have Nikah, according to their personal law namely, the Koranic injunction. Christians have another system. Parsees another system. This marriage matter is connected with their religion. That is why, we say that if they want any change, the initiative must come in these areas. We do not consult these communities in matters other than personal laws. If we want to amend any general law like the Evidence Act, or transfer of Property Act we do not consult these communities. But when it comes to religion, as Dr. Ambedkar said "I quite realise their feelings in this matter" This is a very important matter i, e., felings in the matter of religion. Every community

has a feeling in the matter of religion. So has every Muslim and I cannot appreciate this feeling of the BJP hon. lady Member that when "It comes to minorities, you discriminate and try to steamroll them by your own majority." This is where their feelings are hurt. Otherwise, what Shri Syed Shahabuddin has said is very relevant. I have discussed with Muslim personal law Boards. They are very eager to codify that law. We made that effort. We decide in the Parliament. I do not mind. But I know that we did bring the law on Muslim maintenance earlier. (*Interruptions*). You may not like it. What has happened? You are not informed properly. What is the Muslim lady getting today? She is getting lakhs of rupees by way of maintenance. Some of the courts have given more than lakhs of rupees in money. I will give you those judgments. (*Interruptions*). Yes. They are getting now according to the principles of their necessity. They are getting much more better treatment. You do not listen to me. That is the difficulty. (*Interruptions*) Mr. Somnath Chatterjee, you can see those judgments.

That is why, I say that what Shri Syed Shahabuddin has said is very relevant. What happened to Hindus recently in 50s? You know what an opposition Pandit Nehru had to meet when he codified Hindu law in 1955, 1956 and when all these Acts, the Hindu Marriage Act, the Hindu succession Act and the Adoption Act were framed. There was lot of opposition from Hindu fundamentalists. But he was brave enough to have these laws passed and it was very controversial to have codification of Hindu law. What was the state of affair in Hindu society before the adoption of these Hindu laws? We were divided in various branches of Manu Smriti and what not? We consolidated the Hindus under the Hindu law. We have consolidated the Christians and Chris-

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tian laws and Parsess and parsee laws. When can you have a uniform Civil Code? We should adopt better things from all religions. That exercise should be done in consultation with all concerned sections of the society because we are a composite society. Right now a Hindu hon. Member pointed out several setbacks in our matrimonial laws.

Similar is the case with the Muslims. We are a composite society. We want a solution of this problem by mutual discussion and dialogue. That is where I will again refer to Article 44 of the Constitution which says that the State shall endeavour to secure for the citizens a uniform civil code. The word "secure" means securing it by discussion and negotiation. It is not that we should not care for the emotions and sentiments of one community or the other. We have to consult everybody. I have done a lot of exercise on this. But I would again declare that nothing will be done against the interests of the Personal Laws of the minorities in this country so long as the Congress is in power. That is my declaration. I make it with full responsibility when the BJP friends are not here. The Muslim community is the second largest community of which we are proud; the heritage of Muslims is so hygienic and so perfect. If they correctly understand it, there are several things to learn. They have a right of property to their girls even today. Whereas, in the Hindu community, we are not giving anything until she becomes a widow. What are we giving to our daughters? What do we give to our wives? Until we are alive, they are getting nothing out of the property. But the moment a girl is born in the Muslim community, she gets a right in the property. We must make a comparison in the Law of Succession. The Muslim Succession Law is much better. I

can speak on several topics with relative comparison of various laws. We are doing that exercise. I am in touch with the Muslim Personal Law Board. I think it is pertinent to read what Shri Syed Shahabuddin read on that day. I am very happy that he has done a lot of work in this regard.

Sir, the question of emancipation of women is a totally different thing. Either it is the Hindu women or Muslim or Christian women or the Parsi women, they are a class by themselves. For the emancipation of women, nobody will oppose this. Efforts should be made to improve their condition under Section 125. You can make it more than Rs 500/- I think the discussion in this House has brought the Law Commission Report which says that it should be increased from Rs 500/- to Rs 2000/- I think we will have no difficulty in giving that also. But the question is we must understand with what spirit we bring forth this discussion on Uniform Civil Code. (*Interruptions*)

SHRI H.R. BHARDWAJ: You also supported them in 1991. Can you deny it (*Interruptions*) .

[*Translation*]

SHRI BHOGENDRAJHA (Madhubani): While on one hand, the hon. Minister is claiming to be an intelligent person he is saying on the other a lot of futile things. Our Hindu laws stand already amended. He is speaking as if all the religions stand divided into water tight compartments. The Bar Council had shown black flags to Gandhiji and our motherland had to face one partition of the country in 1947. Now we do not want to have another partition of this land. This matter should, therefore, be discussed with all the concerned and a Uniform Civil Code should be evolved with people's consensus. You can bring amendments, or

delete or add anything to it but there should be a Uniform Civil Code for the entire country which is an integrated entity.

MR. CHAIRMAN: Why do not you express your views on the discussion?

SHRI H. R. BHARDWAJ: Sir, I want to correct the record. He said about me. My whole family has participated in Freedom Movement. He is not aware of that. Now I come to my point. I have a point to make. I am speaking on this cannot say a word of sympathy for our nig minorities. This is what I am repeating. We must keep in view the feelings of the other minorities. We are not prepared to do that. That os our difficulty. Let us respect each other's feelings and we should not road-roll them. We have to justify it by having a full time dialogue and by persuasion. Wherever changes have come they are changes either because of the movement of women themselves. Even in India, they are talking of many women organisations. Fortunately or unfortunately, we do not have that type of strong women movement in the country. A movement should start within the Muslim women. And the feeling of the Muslim women is that they what this type of amendment in their own marriage laws. What has been done after the Shariat law? There is only consolidation done under one Act. No codification of law has taken place and without codification, you cannot really do it on the interpretation of quranic law by one individual or one institution. The difficulty is that codification is not there and the codification must start. That is where I would appreciate the contribution made by Shri Syed Shahabuddin. First of all, he is prepared to talk to us. As the moment codification is done, we can compare the staturte given by the Hindus, the Muslims, the Christians. And in the meantime, if you say, "O.K. this is the model law which is acceptable to Muslims, Chris-

tians, parris and Hjnuds", there is no difficulty in translating it. The difficulty is that it is a delicate thing which is connected with religion. Once it is connected with the religion, you have to go by dialogue only. Therefore, while everyone supports that the country must have a uniform civil code, the speed must be such that it does not hurt anyone. And we must talk to the minorities and the way by which they can also contribute certain things in the proposed uniform civil code. For that we need a dialogue. The Government has been making efforts. We do not go in that spirit to condemn the minority and then becoming the best Hindu. That is not the way by which we have been doing it. We respect each other and by respecting each other, we get respected. Their intention seems to be that except the way of Hinduism of their own, every other Hindu or every other Muslim is wrong. We do not do things in that spirit. We do not accept it. For us every Indian is equal and his religion is a blessed one to him. He must contribute for the development of common civil code in his own way. Once that is done, there is no difficulty to bring a uniform civil code in the country. I agree that the debate must start in the country for the emancipation of women sects because women are discriminated and they deserve a better treatment. I personally feel that it could be done inside the uniform civil code. I thank all the Members again and I wish that in view of my explanation given, there is no urgency of this.

[*Translation*]

MR. CHAIRMAN: Shrimati Sumitra Mahajan is the mover of this proposal. She has written that she will be absent and so, further discussion on this proposal should be postponed. But there is no such rule that the discussion should be postponed due to absence. The proposal before the House is

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ing such a situation.

[English]

The question is:

"This House urges upon the Government that in order to achieve the objectives enshrined in article 44 of the Constitution and to promote feelings of unity and brotherhood amongst all citizens of the country, a Commission be constituted for framing an uniform civil code."

The motion was negatived

16.58 hrs .

RESOLUTION RE: EXPLORATION OF OIL AND GAS IN EASTERN REGION

MR. CHAIRMAN: Now we shall take up item Number 2.

Dr. Asim Bala to speak.

DR. ASIM BALA (Nabadwip): I beg to move:

"This House expresses its grave concern over the continuous neglect of the work of oil and gas exploration in the eastern region of the country, particularly in the State of West Bengal, and urges upon the Government to take effective steps to accelerate the exploration and drilling work in the region in order to achieve self-sufficiency in the production of oil and gas."

Under the Ministry of Petroleum, there

are 13 public sector undertakings, and the Oil and Natural Gas Commission is one of the gigantic undertakings under which lot of work is being done in the country. Under the Ministry, there are four subsidiaries and other organisations and ONGC Videsh Limited is one of them.

17.00 hrs.

Sir, the estimated domestic demand for crude oil during the year 1993-94 is 52.48 MT. For petroleum products, the demand is estimated at 62.48 MT and the demand for natural gas is estimated at 50.44 MMSCMD. The above demand is met through indigenous production as well as through imports. During the coming years, the demand for petroleum products is expected to grow from 57 MT in 1990 to 79 MT in 1996-97; and to around 102 MT in 2001-2002.

Sir, in this respect, I would like to mention as to what is the present indigenous production in our country. The production of crude oil during 1989-90 was of the order of 34 MT; during 1991-92, it was to the tune of 30.35 MT. The target for the production of crude oil during the year 1992-93 was of the order of 28.50 MT; but, the cumulative production of crude oil during the period from April 1992 to January 1993 was only to the extent of 22.96 MT. In its Annual Report, the Ministry of Petroleum reported under the head 'Production' that ONGC produced only 18.555 MT of crude oil during April to December 1992, as against the target of 25.544 MT.

In our country, there is so much shortage of crude and petroleum products and that is why, we are importing oil. During 1992-93, the import of crude oil was estimated at 29.42 MT; the import of petroleum products was estimated at 10.5 MT. The gross foreign exchange incurred on these