

Dr.B.R. Ambedkar and Hindu Code Bill, Women Measure Legislation

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Abstract : *The Hindu Code Bill was introduced in the Constituent Assembly on 11th April, 1947 by Dr. B. R. Ambedkar with the intention to liberalise the personal laws so as to broaden the freedom of the individual and the equality of men and women in the Hindu social system. The bill mainly covered right to property; order of succession to the property; and maintenance, marriage, divorce, adoption, minority and guardianship. The Bill was based on the idea that law must be stable and yet it must change to answer the felt needs of changing times. The tenets of the Bill were in harmony with the constitutional philosophy of men and women. It was really a part of social engineering' as a revolutionary measure. It was abundantly clear from the serious discussion and disputes that took place in the Constituent assembly.*

INTRODUCTION

DR. B. R. Ambedkar was born rebel and a fighter of causes. One of the sacred missions of his life was the reform of Hindu society in general and the amelioration of the lot of his untouchable brethren in particular, which he rightly treated as two ends of an interactive continuum. As a missionary he found himself pitched against tradition which would refuse to get modernized, in spite of all the fight that Ambedkar gave. And yet he would not mind go down fighting. In sum Ambedkar was at his best, his very natural-self, as a fighter and this is brought out in good measure in his historic battle for the Hindu Code Bill in the Provisional Parliament, which is being presented here as a case study to provide an intimate glimpse of Ambedkar in his crusade to reform and rejuvenate Hindu Society.

The Hindu Code Bill was the most controversial Bill considered by the Provisional Parliament. Twice it was brought to the House and both the times no progress could be made on the bill.

Ultimately with the mounting opposition within and outside the congress I and also with the resignations of Dr. Ambedkar who had been the dynamic force behind the bill, it was finally dropped. Thus, the attempts of the government to pass a bill which was designed to bring radical changes in the Hindu society could not succeed, in spite of the fact that the government was enjoying unchallenged majority in the house and the opposition was insignificant as well as unorganized perhaps it is a queer example of the power of a weak and diffused opposition which compelled the government to change its plan, because it could successfully mobilize the traditional forces in its favour.

Hindu Code Bill :

The Hindu Code Bill introduced by Br. B.R. Ambedkar in the Constituent Assembly on 11th April, 1947. The property including both movable and immovable property should be acquired by a woman. The acquisition of property should be made by a woman before and after marriage even during the widowhood from her parents or husband. Dowry system would be paid as a condition and consideration. The share of the property of each unmarried daughter shall be half that of each son and the share of each married daughter shall be one-quarter of that of each son. His Hindu Code Bill covered with the i) right to property, ii) order of succession to the property, iii) maintenance, marriage, divorce adoption, minority and guardianship.¹

The Bill was moved for referring to the Select Committee on 9th April, 1948. The parliamentary debates continued for more than 4 years. This was the first longest discussion on any single Bill in the free India's Parliament. Dr. Ambedkar felt that the Government. i.e. the Congress were not no eager to clear the Hindu Code. He tendered his resignation on 27th September, 1951 to the Prime Minister

Jawaharlal Nehru. On the request of the Prime Minister he continued to participate in the Parliamentary debates till 10th October, 1951. To provide equal rights to the women as enjoyed by men he produced the Bill in the Parliament. The orthodox Hindu and the President of the Constituent Assembly Dr. Rajendra Prasad was against the Bill. Anathasayanam Ayyangar, the speaker of the Constituent Assembly was also against this Hindu Code Bill. Dr. Ambedkar resigned from the Nehru's Cabinet. In 1955, the laws relating to marriage, adoption, maintenance, divorce etc. were passed in parliament. 2

Women and Legislative Measures :

Some of the legislations passed over the years to vouchsafe the interests of women are being outlined in succeeding paragraphs.

Post-Independence Legislations :

1) The Special Marriage Act,1954 :

This Act permits Marriage of –

1. People from different religious faith without changing their religion and
2. Stipulates minimum age of marriage as 18 years for girls and 21 years for boys. 43

2) Hindu Marriage Act, 1955 :

This Act fixes (a) minimum age for marriage as 18 years for girls and 21 year for the boys. The salient feature of this Act is that it makes monogamy as Universal.

The Hindu marriage Act, 1955 and special marriage Act, 1954 were amended in 1976 to provide for the right of a girl to repudiate before attaining maturity. Marrying as child whether the marriage has been consummated or not, cruelty and desertion were added as grounds for divorce and mutual consent were recognized.

3) Hindu Succession Act,1956 :

Act confers the right of absolute ownership over property and the women can make will leaving her share of property to the heirs, section 10 of the Act provides for the property of an intestate being divided among the heirs in accordance with certain prescribed rules for the benefit of women.

Rule : (a) States that intestate widow or if there are more widows than one all the widows shall take one share.

Rule : (b) states that surviving son and daughter and the mothers of intestate shall each take one share.

Rule : (c) states that heirs in the branch of each deceased son or each pre-deceased daughter of the intestate are also entitled to get one share in the property.

4) Hindu Adoption and Maintenance Act, 1956 :

This Act makes it permissible for any female Hindu

(a) Who is of sound mind and

(d) Who is not a minor and who is not maimed or if maimed whose marriage has been dissolved or whose husband is dead or has completely renounced the world or has ceased to be Hindu or has been declared by a court of competent jurisdiction to be of unsound mind, to take a son or daughter in adoption. The consent of father and mother is necessary for giving for giving a child in adoption unless otherwise.

5) The Suppression of Immoral Traffic in Women and Girls Act,1956. :

This Act prohibits trafficking in women and girls for purposes of prostitution as an organized means of living. The Act was amended in 1978 and further amended in September 1986 with the objective of making the penal provisions in the Act more stringent and effective. The Amendment Act is retitled as "The Immoral Traffic (prevention) Act 1986 and the salient features of this act are –widening the scope of act to cover all persons whether male or female who are sexually exploited for commercial purposes. Enhancement of period of imprisonment where offences are committed against minors and childrens appointed of trafficking police officers who will have the powers to investigate interstate offences prescribing punishment as laid down for rape under the Indian penal code or the seduction of victims of trafficking while in custody interrogations of women and girls removed from the brothel to be held by women police officers or in their absence in the presence of women social workers and setting up of special courts.

6) Hindu Minority and Guardianship Act 1956 :

Under this Act consent of wife is required for adopting a son daughter. 4

7) The Dowry Prohibition Act 1961 :

The Dowry Prohibition Act was first legislated in 1961. The Act was amended in 1984 to make the offence cognizable, to enhance the Penalty both fine and imprisonment and to widen the scope of the Act to make it more effective. The Act was further amended in 1986 to make the Penal Provisions more effective and stringent. The minimum Punishment for

taking or abetting of dowry has been raised to 5 years and fine of Rs 15,000. The Advertisement In news papers periodicals etc. offering a share of property as consideration officers by the state Governments. Offences under the Act have been made in non-bailable. A new offence of dowry Death has been included in the Indian Penal code consequent to the amendment in the Act

8) The Maternity Benefit Act 1961 :

This Act is applicable to every establishment Plantation mine or factory and Provides FOR payment OF maternity benefit at the rate of average daily wage for the period of women's actual absence. The Act was amended in April-1976 to cover women who do not fall within the purview of the employees state Insurance Act, 1948 A proposal to further amend the Act is under consideration of the Labour ministry It may be added here that the employees state Insurance Act 1948 Guarantees that all factories should provide the sickness benefit similarly Factories Act 1948, mines ACT, 1952, plantation Labor Act 1951, Bidi and cigar workers Act 1966, which have co – relationship with women benefit prohibit the employment of women 7-00 P.M. and 6-00 A.M in factories mine and plantation and regulates the working hours and certain and regulates the working hours and certain Provisions for women's safety and welfare. The Government is authorised to fix the maximum load that may be lifted by women and at open crèches also.

9) The Medical Termination of Pregnancy Act-1971 :

This Act makes it possible to have legal induced abortion by qualified doctor on humanitarian and medical grounds. This is primarily a welfare measure to protect the health of women though it has also a family planning aspect.

10) The Factories ACT 1976 : (Amended) :

This Act provides for establishment of crèche where 30 women are employed (including casual labourers or contract labourers) as against one of every 50 hitherto.

11) The Equal Remuneration Act 1976 :

This act provide not only payments of equal wages for some work of a similar nature but also for a machinery for its implementation and advising the Government on measures to ensure increased employment to women . this act is under further review for the benefit of women.

12) The Child Marriage Restraint (Amendment) Act 1976 :

This act provides minimum age for marriage for girls to 18 years and boys to 21 years. The offences under this act made cognizable. 5

13) The Contract Labour (Regulation) Act 1978 :

The act regulates the working conditions of contract labour (which includes women) payment of wages and provides for welfare facilities and engaged in construction work.

14) Criminal Law (Amendment) Act 1983 :

The Indian evidence act the Indian penal code and the criminal procedure code were amended in 1983 to make the crimes against women much more stringent and effective and also to make a new provision in the Indian penal code to make cruelty against women by the husbands and other relations punishable . The onus of proof of innocence would rest on the accused of such offences.

15) The Family Courts Act 1984 :

An act was passed in 1984 for the setting up of family courts in the country with a view to promoting reconciliation in and securing speedy settlements of disputes relating to marriage and family affairs and matters connected therewith.

16) Indecent Representation of women (prohibition) Act , 1986

Under this act , representation of women in an indecent or derogatory denigrating manner in all advertisements and publications is prohibited. Offences under this act are made punishable with imprisonment of either description for a term extending to two years and fine extending to two thousand rupees on first conviction.

17) The Commission of Sati (prevention) Act, 1987

Under this act commission of sati and its glorification and for matters connected therewith or incidental to such an abatement is punishable by the maximum penalty i.e. death or imprisonment of life . this act provides more effective prevention for a woman (widow) being sacrificed as sati. 6

CONCLUSION:

Ambedkar was the first communist thinker who believed in egalitarian society. He did not differ between male and female. His opinion was that all The Hindu religious books such as Vedas, Shastras and Puranas etc. are responsible for discriminations

between men and women. He suggested to formulate the new doctrinal basis of the Hindu religion “that will be in consonance with liberty, equality and fraternity”. Ambedkar realised that to remove the evil practices over women they should be safeguarded by constitutional provisions. To establish a ‘new notion of life’ of women Ambedkar suggested that various caste and sub-caste should be abolished from Hindu society, inter-caste marriage and inter-caste dining should be established in Hindu society. He believed in social democracy as well as political democracy. To him, democracy is an associated mode of social life. His concept of ideal society would be based on egalitarian concept.

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