

Hindu-Code Bill by BhimRao Ambedkar

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ABSTRACT

There is no doubt in denying the fact that the concept of Hindu Code-Bill was derived by Dr. BhimRaoAmbedkar. He wanted to get the same bill in the constituent assembly in April, 11, 1947. The main focus of this bill was to liberalize the personal law as well as to bring men and women on equal footing in the Hindu social system. In the present bill, many aspects were included by Ambedkar in which right to property and marriage, divorce, adoption, minority, maintenance and guardianship were worthy of detailed consideration. The main focus of the bill was the idea of stability as well as changes, if required in future, to maintain the equality between men and women. It was considered as a part and parcel of social engineering as a revolutionary measure. The importance of the bill was clear from the fact that it was hotly debated and discussed that in the constituent assembly.

Without any shadow of doubts, Br. BhimRaoAmbedkar was a born rebel who worked for the welfare and upliftment of down-trodden and neglected classes of the society. He is known as a prophet who continuously applied his energy for the amelioration of the lot of millions of untouchables in India who were deprived of their rights of equality and freedom. As a missionary, Ambedkar found himself torn between the traditional and modernized values in the society. He would not mind go down fighting. In nutshell, Ambedkar, in his struggle for dalits in India, was at his best. Similarly, as a fighter, against the historic battle for the Hindu code bill in parliament, Ambedkar tried hard to get this bill passed in the parliament. The present paper throws light how Ambedkar struggled to get this bill passed for bringing the women on equal footing.

In the background of Hindu Code Bill, we can trace some facts regarding it as it is a very well known fact that in Indian society, traditionally women in the Hindu law were deprived of property rights as the male members of the society were entitled to have property rights in the family. In this way, we can say that the ancestral property continues to be governed by a wholly patriarchal regime. During the colonial British regime also, several attempts were made in the form of Hindu law if inheritance removal of disability act, 1937, The perspectives laid down in many attempts were not coherent and error free and it was the main reason why after a number of attempts, BhimRaoAmbedkar presented this age-old issue and faced an equally intense resistance from the house. Although, this bill did not get pass but the foundation of equality for Indian women in walks of life was laid down by it.

Among the chief opponents of Hindu Code Bill was Karpatri Maharaj who found the present bill as totally inconsistent with the Hindu Scriptures and he challenged Pt. JawaharLal Nehru, the then prime minister of India, for open debate on the same issue. He also protested along with his followers throughout the nation against the draft of the Hindu Code Bill. Besides him, S.C. Mukherjee was also among the vocal opponents of the same issue. There were many factors for this opposition and some of these factors were (1) that this bill was only for some communities, and not for everyone (2) the opposition was chiefly because of its attack on Hindu traditions (3) people belonging to Sikh, Jain and Buddhist religions

accused it as a ruse to mix them with Hindus (4) It also projected BhimRaoAmbedkar's anti-Hindu image, and moreover, this bill was considered as unwanted interference in personal matters. On the other hand, Ambedkar strongly favoured the idea of Hindu Code Bill because of some reasons which chiefly include (1) he found this bill essential for Hindu integration (2) he was of the opinion that the present bill was nothing but a major step towards a common civil code (3) according to Ambedkar, it will protect vulnerable individuals within their community (4) if Hindu Code Bill is passed, it will help in loosening the grip of traditionalists over a large population (5) this bill, in Ambedkar's words, was consistent with India being a secular state (6) it was supposed that with the passing of this bill, it will avoid unnecessary trouble for Muslims initially (7) and last, but not the least, there will be ban on the system of polygamy.

It is an established fact that Hindu Code Bill is considered as the most controversial bill by the parliament. It was presented in the parliament for two times and both the times, there was no progress at all regarding the success of this bill. The idea of passing this bill was dropped with the excessive opposition within and outside coupled by the resignation of BhimRaoAmbedkar who was the force behind this matter. The attempts of government to pass the present bill which was supposed to bring some radical changes in the Hindu society could not pass.

The idea of Hindu Code Bill was the product of none other than Dr. BhimRaoAmbedkar who introduced the same in the constituent assembly on April, 11, 1947. The main idea which was advocated by this bill was the right to property for women, in both the cases-movable and immovable. It was suggested in this act that women will have the right to acquire property before and after marriage including the widowhood from her parents or husbands. According to this bill, the share of property which the unmarried women are supposed to get half and that in case of each son and each married daughter shall be one quarter of that of each son. Various rights were also included under Hindu Code Bill in which right of property, order of succession to the property as well as the maintenance, marriage, minority and adoption were worthy of detailed consideration.

In a country as diverse as India, efforts to build a lasting and perfect union are doomed to fail if every sector, community and society is allowed to be governed by its own personal law. Furthermore to protect individuals from persecution and discrimination by their own community it is absolutely essential to have a uniform civil code. Hindu code bill was seen as a step towards achieving uniform civil code by the leaders of the time. This bill includes laws to be abided by, in the contentious civil matters related to marriage, divorce, inheritance etc that often leads to the dispute among the members of a family or society. In order to guarantee them equal rights it is absolutely necessary to free them off from the shackles of their societies based on religion, tribes, culture and tradition. And also to provide a uniform base for the society to thrive and develop, free of fear, intimidation, restriction and marginalization. In many countries around the world such as America and European nations a secular uniform civil code is in force, while in many Islamic nations of Middle East Sharia law is exercised. In a unique case of India different communities were allowed to follow their own personal laws in order to not antagonize minorities. However Hindu Code Bill is highly secular it is seen as a threat by many. Even during its framing and enactment it was met with opposition from strict orthodox traditionalists. The Shah Bano case made it a politicized open issue concentrated on character legislative issues—by method for assaulting particular religious minorities versus securing its social personality. In contemporary governmental issues, the Hindu conservative Bharatiya Janta Party and the Left bolster it while the Congress Party and All India Muslim Personal Law Board restrict it. Goa has a typical family law, along these lines being the main Indian state to have a uniform common code. Who proposed it? In 1941, under the colonial government a four-membered committee was constituted called Rau committee in order to check Deshmukh act. Later the committee reckoned that situation is ripe for Hindu code. Social modernization and progress could only be made by fundamental reforms throughout the country. The code was to be made by the best of current schools of Hindu and ancient scriptures⁴. The report was followed by 2 bills laid before a select committee of both the houses of parliament. Hindu Law Committee itself was revived in 1944 under its chairman B N Rau. The committee prepared a draft code in 1947 facing the issues of Succession, Marriage and divorce, Minority and Guardianship and Adoption after extensively touring the country, examining opinions that went far beyond 1941 proposal, coming up with suggestions that property inheritance system be reformed to include Daughter's share in addition to the son's, abrogating restrictions in intercaste marriages, and provision of Divorce for higher castes. The ministry of law revamped it in 1948 and made some minute changes to it in order to present it before the constituent assembly. Under B R Ambedkar's supervision the committee made a number of changes to it. What does it entail? Article 44 of the Constitution of India states— Uniform civil code for the citizens—the state shall endeavor to secure the citizens a uniform civil code throughout the territory of India. 5— In Pannalal Bansal Patel v. state of Andhra Pradesh, Supreme Court of India said that Uniform Law for all persons may be desirable but its enactment in one go may be counter-productive to the unity of the nation. The above judgment shows that the court is a little bit reluctant to interfere in the matters of personal law.⁶ This was the judgment of the first

government of free India as well therefore it broke down the Hindu Code Bill into four parts and passed each part separately during 1954 to 1956. The four parts acts were 1. Hindu Marriage Act 1955 This bill amended Shastrik Law to introduce Divorce which was not there in the Shastrik Law. It applies to a) Any person who is a Hindu by religion in any of its forms or developments, including a Varishaiva, a Lingayat or a follower of the brahmosamaj, Praathna or Aryasamaj. b) Any person who is a Buddhist, Jain, Sikh by religion, and c) Any other person domiciled in the territories to which this Act extends who is not a Muslim, Christian, Parsi or Jew by religion, unless it is proved that any such person would not have been governed by the Hindu law or by any custom or usage as part of that law in respect of any of the matters dealt with herein if this Act had not been passed. 2. Hindu Succession Act 1956 5 Parliamentary debates on article 44. 6 Article 44, The constitution of India. -to amend laws related to intestate succession, among Hindus, Buddhists, Jains and Sikhs. - outlays a uniform and comprehensible system of inheritance and applies to persons governed by Mitaksara and Dayabhaga schools. - includes Hindu women eligible for inheritance. - Part of the bill amended in 2005. 3. Hindu Minority and Guardianship act 1956 -aimed to upgrade the Guardians and Wards act of 1890. -A guardian is the caretaker of the minor, his or her property, or both. -defines guardian and minor. -any former law inconsistent with this act declared void. 4. Hindu Adoptions and Maintenance Act 1956 -under this act only Hindus may adopt subject to the fulfilment of certain criteria. - adopter have to have the capacity to provide for the adopted. - men can adopt only with the consent of his wife. -only Hindu unmarried women can adopt. -a Hindu woman is provided for by her husband throughout the duration of her lifetime. -the wife is allowed to live separately from her husband and still entitled to be provided by her husband. -specific provisions for the maintenance of child and Parents. This were met with significant opposition too but were passed between the years 1952 and 1956, each was effectively introduced in and passed by the parliament. Major Amendments 1. The Hindu Marriage act initially include Sikhs but with passage of AnandKarj marriage act, Sikhs now also have their own personal law related to marriage. 7 2. The guardian ship for marriage was repealed in 1978 after the child marriage restraint was passed. 3. The supreme court of India exercised its powers under article 142 of the Constitution of India to rule that marriages can be ended before expiry of the cooling period of six months with mutual consent as stipulated in the Hindu Marriage act of 1956.⁸ 4. In 2010 further amendments were moved to enhance special marriage act of 1954 and Hindu Marriage act of 1956.

Conclusion

Ambedkar's perspective or as it is also called Ambedkarism is today a living force in India. The perspective though emerged gradually not with the intention of academic pursuits or a discipline meets the requirements of the universal principle of human rights making the people secured, civilized, and developed both morally and materialistically. The movements led by the Dalits elsewhere in the country are based on the similar principles of liberty, equality and fraternity but with different intensity and force. The Amrutnak a soldier courtier at the court of the Muslim king of Bidar, for example,

when offered a special service, he refused jagir for his service, instead, he asked for fifty-two rights for his people. Similarly, when the government of India was not introducing the recommendations of the Mandal Commission, many Dalit organizations including DalitSangharshaSamiti (DSS) in Karnataka took rallies and submitted memorandums for immediate action. As many knows, the recommendations of the Mandal commissions were meant for the upliftment of the persons belonging to the Dr B. R. Ambedkar's Perception of Human Rights. This is the story of the Dalits and their movements, which always stood for principles and have been

struggling and networking with other similar leaders and organizations to reconstruct the society based on the values and principles dear to one and all. Hence any organization set up by the Dalits either in the name of leaders or principles are all standing for kinship which further leads to national integration. Hence, no Dalit organizations can be treated as communal. But on the other hand, any organization and movement set up in the name of caste can be banned as they try to consolidate the traditional caste structure and pave danger in building up a strong nation and egalitarian society, in other words, enlightened India.

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