



## The First Law Minister's Hindu Code Bill and Empowerment of Indian Women

**Dr. Badal Sarkar**

Assistant Professor of Political Science, University of Gour Banga

### ABSTRACT

*The Hindu Code Bill mentioned to give to the female members of the Hindu society full rights relating to property, marriage, divorce, adaption, maintenance, inheritance, minority and guardianship. He protested against the evils of dowry system. To him, all female should be given to equal individual freedom and social equality. The basic structure of the Hindu society should be reformed. As the first Law Minister of independence India Dr. Ambedkar introduce the Hindu Code Bill to provide equal opportunities of women as enjoyed by male members of the family.*

**KEYWORDS :** Hindu Shastras, Women, Hindu Code Bill, Article

**Introduction:** The women of India especially in Hindu society were treated as a sort of thing. They are treated as the 'door of hell'. They were unable to receive the property from her parent and could not move freely everywhere. The Manusmriti prescribed to the female as just like animals and slaves. The Mahabharata pointed out to Dropadi and she was the wife of five husbands, not only that she put at stake in gambling by none else than the so called Dharma raj Yudhishtir. The author of the Ramayana Mr. Tulsi Das also pointed out regarding to women's position as slaves and the lower position of the society. Dr. Ambedkar was the first benevolent directory personalities who raised voice against injustice over women.

**Hindu Code Bill for Empowerment of Women:** 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.<sup>1</sup>

Dr. B.R. Ambedkar has suggested modify the Hindu law relating to women i.e.

- i) The Caste Disabilities Removal Act, 1850.
- ii) The Hindu Widow Remarriage Act, 1856.
- iii) The Indian Succession Act, 1925.
- iv) The Native Convert's Marriage Dissolution Act, 1866.
- v) The Transfer of property Act IV of 1882 as amended by Act XX of 1929.
- vi) The Indian Majority Act, 1875.
- vii) The Guardian and Wards Act 1890.
- viii) The Transfer of property (Amendment) supplementary Act XXI of 1929.
- ix) The Hindu Gains of Learning Act, 1930.
- x) The Hindu women's Rights to property Act XVIII of 1937.<sup>2</sup>

The widow, the daughter should be given the same rank as the son in the matter in inheritance. The daughter should be given a share in her father's property. The Mitakshara or the Dayabhag system of law between men and female should be abolished from Indian society. Under the Hindu law a wife is not entitled to claim to her husband if she does not live together in his house. The Hindu law does not recognised the wife if she wants to live separate from her husband. Dr. Ambedkar pointed out in his Hindu Code Bill that the wives should be given to live separately from her husband freely. Dr. Ambedkar's Hindu Code Bill recognises the two types of marriages. The first is called "Sacramental" marriage and the second is called "CIVIL" MARRIAGE. TO HIM, THE PRESENT HINDU LAW RECOGNISED ONLY "SACRAMENTAL" MARRIAGE BUT DOES NOT RECOGNISE THE "CIVIL" MARRIAGE.<sup>3</sup> THE REGISTERED MARRIAGE MUST BE REGISTER THROUGH PROPER WAY. A "SACRAMENTAL" MARRIAGE MAY BE REGISTERED IF PARTIES DE-

SIRE TO DO SO. THE EXISTING LAW REQUIRES IDENTITY OF CASTES AND SUB-CASTES FOR A VALID SACRAMENTAL MARRIAGE. HIS BILL DESCRIBED THAT THE MARRIAGE WILL BE VALID IRRESPECTIVE OF THE CASTE OR SUB-CASTE OF THE PARTIES ENTERING INTO THE MARRIAGE.<sup>4</sup>

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.

### Constitutional Provisions for Empowerment of Women:

As a Chairman of the Drafting Committee of the Constituent Assembly, he has given equal status to women compare with men by providing many provisions in the Constitution which provided the socio-economic and political justice for the women such as-

**Article14:** The state guarantees equality before law and equal protection of law to all its citizens within Indian union.

**Article15:** The state shall not discriminate to any citizens on the basis of caste, creed, religion, race, sex, place of birth etc.

**Article16:** There shall be no discrimination on the basis of caste, creed, religion, sex, place of birth in the government services. There shall be equal opportunity in the government services.

**Article17:** The state shall be positive step to eradicate the untouchable based on caste, creed, religion sex etc. All shall be treated equal opportunity to entry into temple, hotels and other places.

**Article24:** Prohibits the employment of children below the age of 14 years factories, mines or any other hazardous employment.

**Article39:** The state shall provide to all adequate means of livelihood.

**Article39 (d):** The state shall provide equal pay for equal work both for men and women.

**Article41:** The state shall provide the right to work, equal employment, education and public assistance both for men and women.

**Article42:** The state shall provide the maternity leave for women workers.

Besides these, he introduced and got passed the four acts which strengthened the position of women in the society which were incorporated in the Hindu Code Bill. These are:

- i. The Hindu Marriage Act, 1955.
- ii. The Hindu Succession Act, 1956.
- iii. The Hindu Minority and Guardianship Act, 1956.
- iv. The Adoption and Maintenance Act, 1956.

### Conferences and Speeches of Ambedkar for Empowerment of Women:

On 11th January, 1950, Ambedkar was called specially to talk on 'Hindu Code Bill' at Students Parliament of Siddhartha College and he concluded: "The property was governed by Dayabhag system; the child belonged to the caste of the father under Pitrisavarnya; divorce was supported by Kautilya and Parashara Smriti; and women's rights to property were supported by Brihaspati Smriti."<sup>6</sup>

Under the auspices of the Belgaum District branch of the Scheduled Castes Federation Conference was held on December 26, 1950. Dr. Ambedkar presided over the conference. He said: "I drafted the Bill in conformity with the dictates of the Smritis which allow several rights to women. The Bill was only aimed at removing the obstruction of Law in the social advancement of women."<sup>7</sup>

Another meeting of women was held on 24th November, 1951, Ambedkar declared that "the Hindu Code Bill would improve the condition of women and give them more rights and requested them to support the Bill and vote for candidates who would bring real democracy."<sup>8</sup>

A programme was arranged by the women organisation of Kolhapur on 25th December, 1952 at Rajaram theatre. Dr. Ambedkar addressed the programme and said that "None of the prominent Indian women leaders were really interested in the social progress of women and stated that the Hindu Code Bill was now just like milk spoiled by mixture with a bitter acid"<sup>9</sup>

On July 20, 1942, the Second Session of the All-India Depressed Classes Women's Conference was held in the Mohan Park, Nagpur. The Conference resolved that the women's right to divorce her husband be recognised by law. Polygamy marriage system in our society is an unjust to the women.<sup>10</sup> The Conference decided the change to unjust polygamy system, the equal wages for equal works as enjoyed by male workers, approach to the government to eradicate illiteracy amongst

the females of the depressed classes and provide compulsory primary education by law amongst them, advancement of the women of the Depressed classes seats should be reserved for them on all legislative and other representative bodies.<sup>11</sup>

In his articles, "The Riddle of the Women, The Women And the Counter, The Rise and Fall of Hindu Women", "Caste in India: Their Mechanism, Genesis and Development" and his journals 'Mooknayak' (1920) and 'Bahishkrit Bharat' (1927) Ambedkar has tried to show that the Hindu religion such as Puranas, Vedas, Upanishad, Smritis, Bhagat Gita etc. are responsible for the degradation of women. In these articles he has claimed that the Manusmriti of Manu is a culprit of Hindu society as well as women. Dr. Ambedkar has tried to remove the barriers of the Brahminical order. He said that "Though I am born as a Hindu will not die as a Hindu".<sup>12</sup> He renounced Hinduism and embraced Buddhism because he thought that the empowerment of women is possible in the way of Buddhist values. As evidences of Buddha's treatment of women he cites women like Vishakha, Amrapali of Visali, Goutami, Rani Mallika, queen of Prasenjith who approached Buddha. Dr. Ambedkar, in his work "The Annihilation of Caste" pointed out that "Make every man and woman free from the thralldom of the Shastras, cleanse their minds of the pernicious notions founded on the Shastras, and he or she will inter-dine and inter marry without your telling him or her to so."<sup>13</sup>

**Conclusion:** Like Plato, 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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