



## AN OBSERVATION OF AMBEDKAR'S HINDU CODE BILL

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### Abstract

Ambedkar, the one who relentlessly fought against discrimination of untouchables and depressed classes was chosen by Nehru to develop the hindu code bill which was drafted by B.N.Rau. This bill deals with women's rights in inheritance, marriage, adoption, etc. In every aspect of the bill Ambedkar tried to improve the status of women. This bill was a revolutionary step taken in India to provide women equal status with men. The bill was introduced in the constituent assembly and parliament but there was huge resistance and protests regarding the bill. The future events led to Ambedkar's disappointment and resignation from Nehru's cabinet.

**Keywords:** *Inheritance, Succession, Stridhan, Mitakshara, Dhayabhaga, Dowry.*

### Introduction

After fighting long oppressive colonial rule and forming an independent country, the next major issue was inequality prevailing in India centuries long before the colonial period. The strong inequalities are based on caste and gender. The untouchability is explicit discrimination but discrimination of women has been underlying in the society from the vedic period. The victims of gender discrimination may be nearly half of the population, but the protests against the discrimination were rare and mostly absent. This is because discrimination is shown towards women not only by society but also by her own family. Especially in India, Most of the women are from hindu culture in which many social evils were practised like sati, child marriage, No widow remarriage, etc and women are not even allowed to interfere in family decision making. So it is very difficult for them to go against their own family and culture.

Many reformers and revolutionists fought against women discrimination. But their achievements were limited and did not last long. So intelligentsia decided to legislate the rights, mainly property rights. This led to Hindu code bill. At outset B.N.Rau prepared a Draft Code dealing with Succession, Maintenance, Marriage, Divorce, minority, Guardianship and Adoption. But it lapsed. After that In 1948, Nehru chose Ambedkar as chairman for the committee charged with hindu code bill development. Then he did extensive research on such laws in various countries and developed the bill. He included many revolutionary provisions covering several aspects regarding the rights and welfare of women.

The Codification of Hindu Law was the main goal of the Hindu Code Bill. Hindu personal laws were dispersed among several court rulings and lacked a logical organisation prior to the bill. The absence of a thorough legal structure led to misunderstandings and disagreements over a number of Hindu legal issues such as inheritance,

marriage, and property. The goal of the bill was to combine all of these rules into a single, well organised legal code that would provide all the hindus.

The bill is the process of bringing many facets of Hindu personal law under one comprehensive set of rules and regulations, which facilitates understanding and application of the laws by both normal people and legal experts. The bill guarantees that Hindu law is more understandable to the general public, streamlines the legal system, and eliminates ambiguities.

### **Inheritance:**

The process of transferring a deceased person's belongings to their beneficiaries or legal heirs is known as inheritance. The bill focuses on important modifications to inheritance laws. It highlights how the Dayabhaga system replaced the Mitakshara system. A Hindu's property was not regarded as their own under the Mitakshara system. Rather, it belonged to a "coparcenary," which comprised their father, son, grandson, and great grandson. When a coparcenary member passed away, the property did not go to the deceased's heirs but rather to the surviving members through survivorship.

The bill suggested moving away from the current mitakshara system and toward the Dayabhaga system, in which property is seen as the individual's personal property, giving them complete control over how they choose to dispose of it, even by inheritance or gift. With this modification, the law of inheritance became universal and applied in areas where the Mitakshara system had previously been in place. The "Order of Succession" is the hierarchy or sequence that establishes who is entitled to receive a deceased person's property, the heirs or beneficiaries. The bill noted that the measure significantly altered the current line of succession, mainly giving the dayabhaga rule precedence over the Mitakshara rule.

Agnates, or male relatives descended through the father's line, were given precedence under the Mitakshara rule over cognates, or relatives descended through the mother's line. The dayabhaga rule, in contrast, placed more emphasis on blood ties to the deceased than it did on the differences between cognate and agnate connections.

The measure aimed to give equal inheritance rights to male and female heirs by replacing the Mitakshara rule with the dayabhaga rule for the order of succession. Along with these reforms, the measure eliminated prior discrimination based on wealth, marital status, and having children, and granted daughters an equal portion of their father's property. The measure also changed the dayabhaga rule's inheritance hierarchy, giving the mother priority over the father. The Hindu Code Bill's modifications to the succession order attempted to modernise and streamline the laws determining who is entitled to inherit a deceased Hindu's property, doing away with the intricate and discriminatory gender based Mitakshara system.

### **Rights of Female Heirs:**

In the Hindu Code Bill, "Rights of Female Heirs" refers to the legislative provisions and amendments made to guarantee that female family members have an equal claim to inherit property and assets in situations of intestate succession (when someone passes away without leaving a will). The bill's goal is establishing gender

parity in inheritance proceedings. There was a big difference between the rights of male and female heirs under the old Hindu rules. By giving female heirs equal inheritance rights and placing special emphasis on the rights of daughters, the Hindu Code Bill sought to address this imbalance.

In terms of inheritance, daughters were accorded the same status as males. Sons were frequently given precedence over daughters in previous customs, however this meant that females had an equal stake in their father's possessions.

The bill made modifications to eliminate discriminatory elements including wealth, marital status, and whether or not they had children that had previously affected the rights of female heirs. The bill eliminated these factors and made sure that a woman's ability to inherit property depended only on her legal heir status. It's crucial to remember that even while the bill significantly altered the rights of daughters, other female heirs such as widows and widows of pre deceased sons were previously granted rights under the Hindu Women's Right to Property Act of 1937. So, daughters were the main target of the bill's modifications in this part.

In Hindu personal law, "Stridhan" refers to a woman's wealth. It is the property that is seen as belonging exclusively to a woman and is usually obtained by gifts, inheritances, or other endowments. Separate from shared family or ancestral property, stridhan is entirely for women, to use, manage, or dispose of as she pleases.

The bill sought to amend Stridhan in two important ways:

Firstly, The bill combined all of Stridhan's classifications into a single property category. As a result of this simplification, all Stridhan property was subject to the same rule of succession, obviating the necessity for various rules depending on the particular Stridhan category.

Secondly, The bill gave sons, along with daughters, the ability to share in Stridhan's inheritance. This represented a departure from customary practice in which daughters were the ones who often inherited Stridhan. More gender parity in inheritance was encouraged by giving rights to both sons and daughters on Stridhan.

### **Women's Property:**

In traditional Hindu law, "Woman's property" refers to a woman's restricted property held in her husband's land. The woman was able to use the income produced by the property through this limited property, but she was not given the authority to manage the principal or corpus of the property. In addition to giving women an absolute inheritance, the bill also eliminated the reversioners' entitlement to pursue property claims subsequent to the widow. Reversioners were those who could have an interest in the property in the future. However, the bill eliminated this claim, guaranteeing the widow's complete rights and authority over the property, a significant improvement for women's property rights and independence.

In the framework of Hindu personal law, women's financial independence and property rights were intended to be empowered and safeguarded by the conversion of a restricted property to an absolute property and the elimination of reversioner rights.

### **Dowry and maintenance**

"Dowry" refers to the property, wealth, or assets that are customarily given by the bride's family to the groom's family during a Hindu marriage. Many regions of India and other cultures have a long standing custom of dowry. Nonetheless, it has frequently been associated with important legal and social problems, such as the mistreatment of brides and disagreements over dowry demands. A crucial new clause in the bill recognizes dowry given to a girl on her wedding day as a trust property. This indicates that the property is subject to legal protection and has to be put to the woman's advantage. The goal is to guarantee that the lady is free from intervention or mistreatment by her spouse, his family, or third parties and has control over her dowry goods.

The bill ensures that the lady would be able to claim her dowry property upon turning eighteen. This clause is crucial because it safeguards the woman's rights and financial stability by preventing the husband or his family from having any ownership stake in the property. The Hindu Code Bill's dowry provisions aim to safeguard the rights and interests of women who bring property into their married family while also addressing the social and legal difficulties around dowries.

The bill describes the financial assistance that one party, typically a husband, provides to another, typically a wife who is unable to maintain herself. maintenance is typically awarded when a spouse or dependant is unable to provide for their basic necessities because of a sickness, disability, divorce.

The bill describes dependents' rights to claim maintenance from those who inherit the deceased's property. It ensures that those who were financially reliant on the deceased are not left without financial support by recognizing dependents who may be eligible for maintenance. Another section of the law permits a wife to live apart from her husband and receive separate maintenance payments from him. This is noteworthy since, according to customary Hindu law, a wife was normally only eligible for maintenance if she shared a home with her spouse. The bill's maintenance provisions are intended to help people who are in need and guarantee that dependents, particularly wives who could be living apart from their husbands for certain reasons, can get financial support.

### **Marriage and Divorce:**

"Marriage" is a legally recognized union of two people, usually having social, cultural, and religious importance. Both sacramental and within the Hindu religion are referred to as marriage in the Hindu Code Bill. According to the bill, there are two types of marriage: "civil" and "sacramental." A civil marriage is one that is officially recorded with the government, whereas sacramental marriages have religious and traditional significance. A legitimate registered marriage and a lawful sacramental marriage must meet a lot of the same requirements.

The bill did not include the condition that partners be from the same caste or sub caste. The clause permits individuals to enter into marriages outside of their caste or sub caste, hence promoting increased social and marital freedom. The bill forbids polygamy, which was previously permitted by customary Hindu law, and mandates monogamy instead. Accordingly, a Hindu individual may only be lawfully wed to one spouse at a time. The bill includes divorce options, which is a big departure from Hindu marriages' custom of being indissoluble. It enumerates seven reasons for divorce: desertion, conversion to another religion, keeping a concubine, incurably unsound mind, leprosy, venereal diseases, and cruelty. In Hindu marriages, these grounds offer a legal basis for filing for divorce.

### **Adoption:**

"Adoption" in the Hindu Code Bill refers to the legal process of bringing a child into a family so that they are recognized as the adoptive parents' legitimate child. In Hindu society, adoption is a significant cultural and legal practice that is essential to the continuation of family lineage and the provision of an heir for a childless couple.

The Hindu Code Bill attempts to modernise the adoption process and bring clarity to the practice of adoption. The bill creates a requirement that a husband get his wife's consent before adopting a child. Furthermore, at least one of the wives, if there are several, needs to approve the adoption.

According to the bill, widows who want to adopt must have clear, documented instructions from their deceased husband granting them permission to adopt. The bill requires such instructions to be in the form of a registered deed or a provision in the husband's will in order to avoid disagreements and legal action concerning their existence. The bill introduced registration for adoption, which would create a formal record of the adoption procedure. By doing this, the disputes and false adoption claims are intended to be decreased.

### **Guardianship and minority :**

"Minority And Guardianship" discusses the legal obligations and rights of minorities, or people under a specific age, as well as the guardians' duty to ensure their well-being. These terms relate to the legal framework that controls minority' rights and protections as well as the appointment of guardians in the Hindu Code Bill.

The bill contains no new provisions pertaining to guardianship and minority rights, it indicates that the bill essentially codifies current regulations without making any notable changes in this part. Hindu law's minority and guardianship provisions are designed to protect minority' interests, particularly when it comes to property and personal welfare.

The duties and qualifications of a guardian, as well as the circumstances in which one can be appointed, are outlined in guardianship laws. When parents or legal guardians are unable to fulfil their responsibilities for their children, these laws guarantee that the children will be safeguarded and taken care of. The Hindu Code

Bill aims to give legal clarity and protection for minorities and their interests within the framework of Hindu personal laws.

### **Property of Coparcenary**

In the framework of Hindu law, the notion of coparcenary property as defined by Mitakshara law, is property that the male members of an undivided Hindu family jointly hold. The bill emphasises that a son has the right, at any time, to request the division of the family property under the Mitakshara law. The bill also makes clear that a father's power to transfer or sell his coparcenary property is subject to certain restrictions, such as the debt's immorality, and goes against the idea that coparcenary property is unalienable. The bill states that a son may take debt against the property for his own use even if he does not transfer it. In these situations, the creditor who provided the advance is entitled to file a lawsuit to recoup the obligation by dividing the coparcenary property. This may also result in the assets of the joint family being disrupted.

### **Women Property:**

The intricacies and complexity of women's property rights under Hindu law are examined in the bill. The bill makes clear that a woman's status whether she is married or single determines how her property is classified. Some property is deemed "stridhan" if it is acquired by a woman while she is a maiden, while property acquired after marriage is not considered as stridhan. Whether a woman is married or a maiden affects how she is inherited property. The bill also emphasises the diverse interpretations of the Mitakshara law when it comes to women's property inheritance. The bill makes it clear that there are two primary types of women's property. widow's property and stridhan property. Women gain stridhan during their maidenhood, whilst widows receive their property from male family members. Every category has a distinct group of heirs.

### **Daughters' Status**

The status of daughters in relation to Hindu inheritance rules is discussed in the bill. It makes clear that although daughters have traditionally been regarded as heirs under Hindu law, their standing and privileges are up for discussion and reform.

The bill mentions that in both the Mitakshara and Dayabhaga of Hindu law, daughters have been recognized as heirs. But different groups of heirs have different statuses and preferences, especially in the Dayabhaga.

Although daughters have traditionally been acknowledged as heirs under Hindu law, the bill notes that the details of their rights and preferences among various heir types have changed throughout time. The Hindu Code Bill's goal is increasing the part of daughters in the inheritance. The Bill sought to equalise the portion of daughters and sons by raising it to half. In order to provide daughters more equal inheritance rights, this was a major endeavour.

The bill suggests that gender equality principles serve as the foundation for the rationale behind giving women the same share as men. Proponents of the Bill contend that gender shouldn't play a role in how property is distributed and that women should have the same inheritance rights as men. The reference to gender equality implies that the reform's goal was to rectify past actions that could have denied daughters their due shares because of societal customs.

### **Conclusion:**

In 1948 the draft was introduced in the Constituent Assembly . It was postponed due to the difference of opinions. And after introducing the bill in the parliament. It faced a lot of resistance and protests from the right wing and hindu orthodox organisations, particularly RSS protested against the bill and agitated throughout the country. Even hindu maha sabha also opposed the bill. There was also severe opposition within the parliament towards Ambedkar and the bill. The bill did not pass in the parliament. Ambedkar resigned from Nehru's cabinet with disappointment. Later the amended bill was reintroduced in four different bills, the Hindu Marriage Act, Hindu Succession Act, Hindu Minority and Guardianship Act, and Hindu Adoptions and Maintenance Act. Through the hindu code bill, Nehru and Ambedkar brought up a very revolutionary proposal to empower the status of women, in order to achieve gender equality and eliminate the discrimination of women which was affecting the progress of women for centuries.

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