

B.R. Ambedkar and the Sikhs

Symposium

By

Neeraj Paul

GB Singh

&

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Foreword

Dr. Bhim Rao Ambedkar (1891-1956) is a well-respected and famous person among the Indians in general and Untouchables in particular. In the public setting, he is well known for his links with the making of the post-British Constitution of India; being promoted as its author as well as its architect.

The truth of the matter is that Dr. Ambedkar never actually authored the Constitution of India and therefore never was its architect. The Constitution remains mainly unread and not analyzed among most Indians. However, among the Sikhs, there is a particular outburst against the Article 25 specifically disdaining the bracketing of Sikhism within the arching confines of Hinduism. Here is the final version of Article 25 as published in the *Gazette of India* on November 26, 1949

Right to Freedom of Religion

25. (1) Subject to public order, morality, and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice, and propagate religion.

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law—

(a) regulating or restricting any economic, financial, political, or other secular activity which may be associated with religious practice.

(b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.

Explanation I.—The wearing and carrying of kirpans shall be deemed to be included in the profession of the Sikh religion.

Explanation II. —In sub-clause (b) of clause (2), the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jain, or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly.

Since its publication, it has remained a festering mystery as to how Explanation II entered in the draft copy, especially knowing that such a crucial matter was never debated by the Constituent Assembly's members, who had assembled to debate and write the constitution. It must be stated here that in all the draft copies of earlier versions of Article 25, Explanation II remained conspicuously missing and no member ever aired this matter of jumbling the subject of Sikhs, Buddhists, and Jains under the Hindu umbrella during the debates.

After decades of professionally investigating into the primary documents related to the making of this controversial Article 25, I (GB Singh) finally reached an uncomfortable conclusion: B.R. Ambedkar is the culprit who willfully sneaked into the final draft copy of the constitution this questionable statement under Explanation II.

While the two honorable Sikh members (Hukam Singh & Bhupinder Singh Mann) of the Constituent Assembly as well as many others in attendance missed noticing the drastic changes made in the Article 25; obviously no one questioned the matter, and thereafter the final copy of the draft (with Article 25 included) passed with elation on November 26, 1949. However, on January 24, 1950, members ceremoniously rolled out one by one to memorialize their signatures, signifying their approval of the constitution, but both Sikh gentlemen abstained from the ceremony, thereby refusing to put their signatures on the final copy--for altogether different valid reasons, meaning, that is, not related to the drastic changes entered in the Article 25.

I must guess here. I need not doubt here that both Mr. Hukam Singh and Mr. Bhupinder Singh Mann must have become aware of Explanation II of Article 25 shortly afterwards. By that time the damage was already done, and regretfully, it went blissfully unnoticed by rank-and-file members.

Again, I am guessing here. Both Sikhs knew the underhanded deceptive manipulations carried out by Ambedkar in reshaping Article 25 in favor of the burgeoning Hinduism. These Sikhs knew, if opportunity lends, they will confront Ambedkar. Yes, indeed, the opportunity struck shortly next year (1951) in the parliament by way of the debates concerning the **Hindu Code bill**. Ambedkar

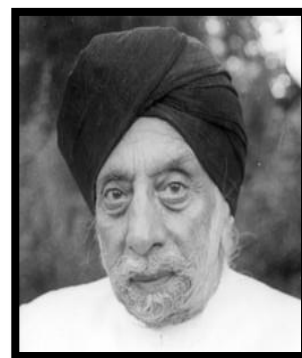
while being the Minister of Law spearheaded the said bill. During these ensuing debates, both Sikhs walked in full prepared to confront Ambedkar head on because the Minister of Law had included the Sikhs, Buddhists, and Jains under the inclusive category of Hindus. This time was markedly different from that of the constituent assembly era scenario in which Article 25 was altered surreptitiously. Now in 1951, Ambedkar was to be confronted openly and taken to task against his wishes. In these debates you will encounter the true face of Ambedkar.

We would have never known of what transpired between the Sikh leaders and Ambedkar in the parliament had it not been for the publication of “**Dr. Babasaheb Ambedkar Writings and Speeches,**” first published by the Government of Maharashtra and then by the Government of India, Ministry of Social Justice and Empowerment. The 17 multi-volume series are priceless. For the purposes of this book, Volume 14, Part Two, (originally published in 1995), details the debate on the Hindu Code bill.

On June 6, 2023, under the mentorship of author Neeraj Paul, a PowerPoint presentation was aired from United States of America, followed by questions and answers. It was a symposium at its best. Based upon that presentation, the authors have streamlined the contents of the debate to highlight the important points. This book presents that dialogue between Ambedkar and the Sikh leaders in a chronological order along with annotated page numbers. Some contents are colored in red only to emphasize the pressing points.

S. Hukam Singh (1895 – 1983)

Sardar Hukam Singh was born on August 30, 1895. His father, Sham Singh, a businessman of moderate wealth, held interest as politician, lawmaker, and judge in Montgomery (Sahiwal). The local gurudwara provided Hukam Singh with his initial exposure to Punjabi literature. Singh graduated in 1913 from Government High School in Montgomery under the leadership of Bawa Dasaundha Singh, the school's headmaster and the father of the well-known Akali leader and English literature teacher, Bawa Harkishan Singh, who had close ties to the Akali party. In 1917, he received his diploma from Amritsar's Khalsa College. Singh was an attorney at law. He was a member of the Constituent Assembly.



Bhupinder Singh Mann (1916 - 1993)

Sardar Bhupinder Singh Mann was born in the famous Mann family of Mannawala in Sheikhpura district now in Pakistan in July 1916. He graduated from Government College Lyllalpur (now in Pakistan) and graduated in law from Law college, Punjab University in Lahore. While in college at Lahore, he was one of the first exponent of 'Bhangra,' the Punjabi folk dance in its present form. He underwent imprisonment for participating in the nationalist movement from 1942 to 1945. He was a member of Punjab Congress Committee in 1946 and later-on General Secretary Shiromani Akali Dal in 1947. He was one of the Sikh representatives in the Indian constituent Assembly. After the partition, his family settled in District Fatehgarh Sahib.



Neeraj Paul

Neeraj is New Delhi based professional student of Ambedkar studies as well as astute observer of Indian politics. Being himself a Punjabi speaking person, he pays special interest to the history of Punjab.

Sardar Hukam Singh:

Sub-clause (1) of Clause 2 definitely lays down that the Code will apply to Hindus, Buddhists, Jains, Sikhs and also converts to Hinduism.

[Dr. Babasaheb Ambedkar Writings and Speeches, Vol.14 Part-2, Page 871]

Then again, Sir, there is a misconception. The Hindu Code Bill says that the Sikhs are governed by Hindu Law.

[Dr. Babasaheb Ambedkar Writings and Speeches, Vol.14 Part-2, Page 872]

Whatever it may be, we have this apprehension that there is an attempt to absorb the Sikhs and efface their traditions and culture. . . .

[Dr. Babasaheb Ambedkar Writings and Speeches, Vol.14 Part-2, Page 878]

Volume-14 Part-2 Page: 887 on 6th February 1951

Dr. Ambedkar: The peculiarity about the Hindu religion, as I understand it, is this, that it is the one religion which has got a legal framework integrally associated with it. Now, it is very necessary to bear this thing in mind, because if one has a proper understanding of this, it would not be difficult to understand why Sikhs are brought under the Hindu religion, why Buddhists are brought under the Hindu religion and why Jains are brought under the Hindu religion. **When the Buddha differed from the Vedic Brahmins, his difference was limited to matters of creed. The Buddha did not propound a separate legal system for his own followers; he left the legal system as it was.** It may be that the legal system that then prevailed was a good system; that it had no blemishes and no faults. So, he did not direct his attention to making any changes in the legal system in consequence of the changes that he introduced in certain religious notions.

Volume-14 Part-2 Page: 887-888 on 6th February 1951

In the same way, when Mahavir founded his own religion he did not create a new legal system for the Jains. He allowed the legal system to continue and I think Sardar Hukam Singh will correct me if I am wrong when I say that **none of the ten Gurus ever created a law book as such for the Sikhs. The trouble is—you may call it trouble; you may call it good fortune; you may call it misfortune; I am not particular about words—the fact is this. In this country, although religions have changed, the law has remained one. That is why the Sikh follows the law.**

Sardar Hukam Singh: But now you are making a new law.

Dr. Ambedkar: It is a new thing now. The Jains come and ask, “What are you going to do to us? Are you going to make us Hindus?” The Sikhs say the same thing. The Buddhists say the same thing. My answer to that is this: I cannot help it. You have been following a single law system and it is too late now for anyone to say that he shall reject this legal system wholesale and will have nothing to do with it. That cannot be done. Therefore, the application of the Hindu Law and the Hindu Code to Buddhists, Jains and Sikhs is a historical development to which you and I cannot now give any answer. All that we can do is to say that the thing has gone wrong and change it, reform it or make it more equitable and this is what we are doing. So far as the Sikhs are concerned, I find from the judgments of the Privy Council that this question was debated much earlier than even 1830, when the decision was taken that the Sikhs were Hindus so far as law is concerned. Just count from 1830 to 1950—for how many years you have been regarded as Hindus for legal purposes!

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Sardar Hukam Singh: It has not been doubted.

Dr. Ambedkar: In law, we have a principle which is called *stare decisis*—a decision taken a long time ago and on which people have gone had better be stayed although it is wrong.

Sardar Hukam Singh: You are going to change it now. What should I do?

Dr. Ambedkar: Now, Sir, with regard to the points made by my friend Pandit Thakur Das Bhargava. I was really very happy to hear his speech.

Shri J. R. Kapoor: No praise will bring him into your parlour.

Dr. Ambedkar: I have used no temptations. I now find that really he has been digging various trenches one after the other. He knows very well and I see from the last trench that he knows very well that he would not be able to defend the first trench or the second trench or the third trench. He has got a very small last trench which, of course, is concerned with ousting the married daughter and I think that if that point could be conceded his opposition would be extinguished completely.

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He has raised other questions also with regard to customary law. I agree and I have examined this position with great care. The Punjab Law does show that certain matters relating to personal law shall be decided by customary law, but I also know and I think my friend Thakur Das Bhargava also knows that the customary law is Hindu Law really. **I do not think that that proposition can be denied, namely, that what is called customary law in Punjab is Hindu Law. The reason why it was not called Hindu Law was because the same customary law prevailed among the Muslims, and the East India Company was frightened about using the words "Hindu Law" when the law was also applicable to the Musalmans. But these are merely differences of words. It cannot be said that Punjab is not governed by Hindu Law : Punjab is governed by Hindu Law.**

Now his great point was that I was laying an axe on their customary laws in the province. Well, as I listened to some of the instances which both my friends Pandit Thakur Das Bhargava and Sardar Hukam Singh gave, I found that these customary laws were really not appealable in any sense. I would merely call their marriage laws marriage made easy, their divorce laws divorce made easy and their inheritance law inheritance made easy. There is nothing fundamentally different about it. Therefore, I am not going to discuss the question on this occasion—what extent the customary law should be saved ; to what extent the Punjab should be excluded. **But I want to make this statement that I should never agree to exempt any province from the operation of this law. Let there be no doubt about it at all that the Hindu Code shall be a uniform code throughout India. Either I will have that Bill in that form, or not have it at all.**

Volume-14 Part-2 Page1068-1069 on 18th September 1951

Sardar B. S. Man: Sir, I thank you very much for calling me to explain my position.

I have moved an amendment that the Sikhs be absolved from the operation of this Bill and that the Sikh community be not brought into the (315 PSD) orbit of this Bill. I would have very much liked to have moved an amendment not embracing simply our community in terms of Sikhs, or Hindus or Muslims; but looking at the main clause as it has been framed, I was forced to use this word. I would have very much preferred to have used a territorial term saying that the Punjabis be absolved, or certain agricultural classes be absolved. But, since the framers of the Bill themselves have used the word Hindu, Jain, Buddhist and Sikh, I have moved an amendment in these terms. In fact, I have an amendment to clause 1 that the operation of the Bill be not extended to Punjab and P.E.P.S.U. I base my arguments not on narrow communal or religious grounds. I shall come to that later. I do not minimise the fact that this attempt to bring the Sikhs under the domain of Hindu Law will savour of bad political communal taste.

The other day, the learned Doctor cited a case to show that the Sikhs have all along been governed by the Hindu Law. With all apologies to him, I may point out that the law that he has cited was confined to the non-agriculturist properties. The Sikhs mainly comprise agriculturists. In fact the agriculturist

Sikhs comprise 95 per cent. of the Sikh community. When you have to discern clearly and generalise in this way as to what law applies to them, you have not got to see that commercial classes of the Sikhs, the khatri Sikhs or other Sikhs who are resident in the cities, but you have got to look to the main community, the agriculturist Sikhs and see what their laws is. And I can cite not one, but innumerable cases. I can cite case after case to prove that in the Punjab the agricultural Sikh, along with other agricultural classes were all along governed by a secular law—and here incidentally it was an advance far ahead of what is proposed in this Hindu Code.

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So, I say we are there absolutely governed by a secular law. There we have got a uniform law for the agricultural population who form the bulk of the population. We should not look at the law governing the microscopic minority of the people. We have to look at the law that prevails among the main bulk of the population, the main bulk which in this case forms about 95 per cent. of the population there. There, as I have said, we have an advanced law, that whether he be a Muslim or a Hindu or a Sikh, we are governed so far as succession to property is concerned, by one common law, and that is the customary law. But here you are bringing forward this Hindu Code and so I confront you with the statement that we have got one common, uniform law which cuts across all communities and all narrow communalism in the Punjab. But by this measure you are trying to introduce for the first time communalism in the Punjab. (Interruption). Yes. The customs are there and they are due to the long usages which have been recognised. Various attempts have been made to over-ride customs ; but all this is bad and it will be a bad policy and quite definitely an ill-advised policy, to promulgate laws from the top and then within these fifteen days change the entire structure of society there which has come through for a very long time and which has imbibed in itself the wisdom of the ages and the spirit of the time. I am not saying that because a particular law has been laid down by a particular old Brahmin and so it cannot be touched or changed. I am not basing my argument upon that sort of sanctity. I only say that the custom has come down to us and it has developed, due to the lack of rigidity it has imbibed into itself certain practical usages, usages very useful to the genius of the people there. I will come to this part later on. Here I only refer to it to say that custom over-rides the written text. The custom in the Punjab has been there and is still the law there.

Apart from that, I shall prove also that my customs are far more advanced than this retrograde step that is now being proposed. They are much more advanced in many respects.

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I ask that the Sikhs be absolved from this Bill, for this reason also. It will surprise hon. Members, as it has surprised me, that all along, since the introduction of the Hindu Code Bill in this House by Mr. Mandal—in fact though Dr. Ambedkar is trying to improve upon that Bill, nevertheless he is carrying Mandal's baby—since the introduction of the Bill up to now, there has not been a single Sikh Member on the Select Committee.

Dr. Ambedkar: Giani Gurmukh Singh?

Sardar B. S. Man: No. **No Sikh opinion has ever been consulted on this vital question. Nor has there been appreciable agitation among the Sikhs because we were told that the agricultural property will be an exception under this Hindu Code Bill and this led to a sort of indifference among the Sikh community towards this Bill, 95 per cent. of the population thought that this Hindu Code Bill was not going to touch them in a vital way.**

Shri A. C. Shukla: Have the Sikhs passed any resolution against the Code in any of their conferences?

Sardar B. S. Man: I can speak for the Sikhs much better than the hon. Member. There are a few ladies here and on such a vital matter as this they are consulted and listened to and their advice is accepted. **But in this House we are seven Members of the Sikh community and I challenge the hon. Member to produce a single Member of the Sikh community who is in favour of this Bill completely and totally?**

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Shri A. C. Shukla: What about those outside the House?

Sardar B. S. Man: Again and again on the floor of this House, speaker after speaker has pleaded, let us not proceed with the majority of the Members here. **Let us conduct a referendum of the people outside. If that is what you want, let it be referred to a referendum of the Sikh community. Till then it should not be passed with the majority of the Hindu Members here. I am not a Hindu. I have never followed the Hindu Law. I am constrained to say that this law is a conversion law for the Sikhs. You are bringing in totally obnoxious principles, certain novel innovations which have never been followed and which in the villages have never been heard of and you are forcing down our throats something alien to us.** Even the ladies here, though few, are consulted and listened to and we the seven Members are unanimous about Sikh opinion that certain provisions which are retrograde and obnoxious should not be forced on us. My friend asks whether they have passed any resolution to that effect. **My grievance is that Sikh opinion has not been consulted. The very fact that Dr. Ambedkar has not received the memoranda of the Sikh societies and S.G.P.C, which is an authentic body to speak on behalf of the Sikh community so far as their personal law is concerned as also their religious precepts shows that the Sikh community has not been consulted....**

Sardar Hukam Singh (Punjab): Resolutions have also been passed in certain Sikh conferences against this Code.

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Sardar B. S. Man: My hon. friend Sardar Hukam Singh enlightens me that there have been resolutions. **At the time of the original introduction of the Bill or at the time of the formation of the Select Committee no Sikh Member was either consulted or represented on the Committee. Dr. Ambedkar says that Gyani Gurmukh Singh Musafir was there. Would he then listen to his advice, if he was there? If there had been a single Member of the Sikh community would he give due weight to his opinion? He was not a member of the Select Committee then but when the House adjourned and later when Dr. Ambedkar agreed to consult more pandits and he had a sort of informal conference, incidentally then Sardar Gurmukh Singh Musafir was asked to give his opinion. If as he says that he consulted Sikh opinion in the person of Sardar Gurmukh Singh Musafir then please listen to his advice so far as the Sikh community is concerned. But the Government did not think it proper to include Sikh Members in the Select Committee and we of the Sikh community were never really agitated because till this day we were led to believe that agricultural property would not be touched and will be made an exception.** Suddenly when this Bill is introduced we find that in his wisdom he has brought even agricultural property within the purview of this Bill. We were indifferent in the original instance because of the exemption of agricultural property and we never really applied ourselves to the provisions of the Bill. Now this Bill has suddenly emerged: it is a hotchpotch, it is retrograde in many respects and an advance in some other respects, it is a heterogeneous combination and it is thrown at our face asking us to accept it. I frankly admit that I for one fail to comprehend its provisions and much less will the illiterate person or peasant in the villages. Much less so an illiterate person, a peasant in the field, because the peasant was told. "do not be worried because it is not going to touch you". **My grievance is that Sikh opinion was not consulted to any appreciable degree. And now when you pass this Bill with the help of the Hindu majority here, it will leave a very bad taste and memory in the minds of the Sikhs that in spite of their unanimous opposition to the Bill, in spite of the fact that they were led to believe that most of the provisions of the Bill will not apply to them suddenly, at the fag end of the session it was passed much against the will of the community.**

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An Hon. Member: Then let your Members show the opposition.

Sardar B. S. Man: Yes. My esteemed friend, Sardar Hukam Singh who can speak on behalf of the Sikhs in a much better capacity than myself has shown his opposition. After all, it is not a political matter that you may not accept his advice. It is not such a matter in which because he sits in opposition his opinion may be declined. **On matters of personal law, on matters of religious precepts, on matters of adoption of Hindu communal law, you must accept the opinion of the representatives here; and we are unanimously opposed to it. And if in spite of our opposition you proceed and make the provisions applicable, then it will be a strange thing—it will go down as something autocratic, something savouring of the communal. It so happens that we are only seven Sikh Members here. But we want that so far as religious matters are concerned, so far as personal law is concerned, due weight should be given irrespective of**

the fact that a section may be numerically very much weaker. You have already made exceptions. I am not arguing on these lines because you have made exceptions. Because a Muslim is allowed to marry four wives, I do not say that I should be allowed to marry four times. The fact is that you have made exceptions. Why? Because you found that the law of the Muslims, the law of the Christians, so far as their personal law was concerned, was absolutely different. And since it was completely different and in many respects diametrically opposed to the Hindu Code, therefore you made an exception so that it may not be forced down their throat. That way you gave a latitude and thus you accepted the principle that irrespective of the fact that the Hindus may be in majority here they will not force a law of theirs, so far as their personal usage, religious precepts, etc. are concerned, down the throat of any minority.

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If you have accepted this because the Muslim Law and the Christian Law and even the Parsi Law is fundamentally different, then I may be permitted to prove on the floor of this House—on any given subject that you are trying to legislate, for example, marriage succession or divorce—that the Sikh Law is entirely different. Then I claim the exception which you have extended to the Muslims. Because the Muslims proved that they were governed by an entirely different set of laws they were given an exception. And if I prove here that I am also governed, in every single item which you are trying to legislate here, by a different law, and that my law is fundamentally different from yours, then I claim the same concession which has been extended to Parsis, Muslims and Christians should be extended to me also.

Mr. Chairman: The Hon. Member may continue tomorrow.

*The House then adjourned till Half Past Eight of the Clock on Wednesday, the 19th September, 1951.
[9-30 a.m.]*

Clause 2—(Application of Code)—contd.

Mr. Deputy Speaker: Before the discussion starts I might inform the House that this is the sixth day of the debate on clause 2. Practically all shades of opinion have been covered. (Interruption). It is not as if every hon. Member should be allowed to speak. The matter has been sufficiently placed before the House both for and against the Bill as a whole and also particular clauses. We must be able to see the end of the discussion so far as clause 2 is concerned. I would request hon. Members not to occupy the whole time but give opportunities to other hon. Members so that we might close the debate on the clause today. hon. Members will try to be brief and short, as all the points have been elaborately discussed already.

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Sardar B. S. Man (Punjab): **When the House adjourned yesterday I was advocating that the Sikhs be absolved from the operation of the Bill and I was**

basing my arguments on two counts. One was that we in the Punjab are predominantly agriculturists, who form 95 per cent. of the population and the Sikh community forms a predominant part among the agriculturists. We in company with other fellow agriculturists, both Hindus and Muslims, are governed not by a Brahmanical rule of law, but by an entirely secular set of laws. We are governed by customs, secular customs and they are different fundamentally from the proposed provisions of the Bill. Secondly, I said that Sikh opinion on this vital matter has not been consulted. I was dealing with the second point.

I have now looked into the matter and gone into the entire body of opinion circulated to us in the report of the Hindu Law Committee and I find to my dismay that not one authentic opinion on behalf of the Sikh community has agreed to this Bill. (An hon. Member. How authentic?) There is an interruption asking how it is authentic. Perhaps many hon. Members in this House may not be aware that we have a statutory body for the Sikhs set up by law which votes according to the law made by the Government of India. There are 151 members who represent the entire community for the management of the gurdwaras and the administration of their religious laws. This body is known as the Shiromani Gurdwara Prabandhak Committee. Incidentally it may be taken in this House that this body is dominated by certain very very aggressive or communal Sikhs but it will be a surprise to the House to know that at present its president is no less than Sardar Nagoke, a staunch Congressman. The body is entirely dominated by Congressites. This body which is not aggressively communal and which has been set up by statutory law has expressed its emphatic opinion against the Bill. Nothing can be more representative than the opinion of the S.G.P.C., let alone the numerous conferences and gatherings of Sikhs which have expressed their opinion against it.

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The Minister of Law (Dr. Ambedkar): Where?

Sardar B. S. Man: Outside the House, I ask the Government to take one position. Either pass this Bill because you are sure that the majority of the Members here, who are representatives of their communities, want it or you think that the representatives of a particular community are so outmoded that they do not represent the real opinion outside the House, which wants the Bill. Stand on any of these two positions either inside or outside the House. We are six members here representing the Sikh community. (An hon. Member: You said seven yesterday.) The seventh is from U.P. Even if you are prepared to base your position upon his opinion I am prepared to risk it, though I have not consulted him because I know very well the opinion of the agriculturists and he is one of them. We six Members here represent P.E.P.S.U. and the Punjab. You cannot say that we all belong to the same party. Here are Ministerialists, there is an independent like Sardar Sochet Singh, people who are diametrically opposed to Congress party like Sardar Hukam Singh, who is an Akali leader and there is the Congressman Sardar Gurmukh Singh Musafir. **I ask the Government on whose opinion you have derived the impression that the Sikhs want the Bill. I challenge that we are unanimously opposed to it. Do not force it on us just as you have not forced it down the**

throats of Christians. The Christians numerically are almost the same number as we in the Punjab. You have made an exception of the Christians but you are not prepared to make an exception of the Sikhs, As representatives in this House we do not want it. If you say that people outside want it, I ask the Law Minister and the Minister of State Mr. Tyagi, who is now a Government supporter, to produce a single opinion to show that we want it. (Interruptions)

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The Minister of State for Finance (Shri Tyagi): Indicated dissent.

Sardar B. S. Man: I am sorry I referred to Mr. Tyagi, as I thought that the interruption came from him, since I was opposing the Government and he was supporting it now.

Shri Tyagi: I am a widower and I have no interest either in marriage or divorce.
The Minister of States, Transport and Railways (Shri Gopaldaswami) : Who knows ? You may yet improve!

Sardar B. S. Man: Many who are widowers here want the divorce system to be there because they hope to find their deliverance through it. However, Mr. Tyagi is an exception. In spite of the fact that he is a widower he is against divorce, rather an unusual phenomenon.

Sardar Sochet Singh (P.E.P.S.U.): He may be interested in divorce in his neighbour's house.

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Sardar B. S. Man: So, as I said, we were not consulted. Although, political opinions are very divergent on the Sikh community, the present Government is not listening either to the Congress Sikh, the Akali Sikh or the independent Sikh, nor even the Ministerialist Sikh. It is surprising how the Government has come to the wonderful conclusion that the Sikh opinion has been sufficiently agitated and consulted. After my speech yesterday, certain friends came to me and told me "Mr. Man, it is all right. We admit that your customs are different and that you were not consulted sufficiently. But why can we not legislate for you? Because all along you have been a Hindu and you were governed by Hindu law," I shall come to that point of whether we have ever been governed by Hindu law, but as to the point whether we are Hindus, I should not like to repeat the argument here but I would like to mention something in that connection. I came across a pamphlet yesterday wherein it is said that if you go to a village and tell a Sikh, "You are a Hindu", the answer will be not in words but a slap on your face. I will not—I dare not— use that argument here.

Pandit Thakur Das Bhargava (Punjab): How are the Sikh agriculturists differently placed from the Hindu agriculturists of Punjab?

Sardar B. S. Man: I would have much liked to argue, and in fact I am actually basing all my arguments on that fact, that as an agriculturist I am in the company of Hindu agriculturists and the Musalman agriculturists. And my lawyer friend knows perfectly well that the Sikh agriculturist, along with the Hindu agriculturist and the Muslim agriculturist, is governed by a customary set of laws applicable uniformly to all. If I am using the word Sikh, it is due to the bane of this Bill. I would have liked to argue that the agriculturists of the Punjab be absolved, but what shall I do when the Bill—in that respect a backward Bill, a communal Bill—legislates for Hindus, Sikhs, Jains etc. and talks in terms of communal groups and not in terms of secular groups?

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Pandit Thakur Das Bhargava: Is it not a fact that the Hindu non-agriculturists living in the villages follow the same customs as the Hindu agriculturists?

Sardar B. S. Man: Yes. That is the beauty of our entire law in the Punjab. **It is an advancement on other parts that we in the Punjab are governed by village communities and not by religious law. We are governed by land and we revolve round land laws, secular laws. Let me give a quotation to meet this interruption. I will quote from Rattigan's Digest. My whole point is that, so far as this law is concerned in its application to Punjab, it is not reformative: it is not progressive because it is too conservative, because it is too orthodox; it is retrograde because it is communal—our law in the Punjab has gone much farther at least so far as secularism is concerned. In our village communities we have been governed by the same set and same pattern of laws; Hindus, Muslims and Sikhs, agriculturists and non-agriculturists, were attached to the land all these ages; they imbibed the wisdom of the ages and the spirit of the times and throughout they were governed by one set of laws. But Dr. Ambedkar comes out one fine morning with this Hindu Code Bill—perhaps he is jealous of us—and says, "I am going to cut across you and split you into two communal groups". Either you be a Hindu or you be a Mussalman ! That is the effect of it.**

Shri Naziruddin Ahmad (West Bengal): Rather, "give up all religions"!

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Sardar B. S. Man: Now what does Rattigan's Digest say in this matter? It says: *"It had long been felt by those best acquired with the habits and customs of the rural population that neither the Shara nor the Shastras really exercised any direct influence among them."*

Then:

"The Hindu law extravagantly exalts the Brahman; it gives sacerdotal reasons for secular rules. In the Punjab, Hindus and Mussalmans converted from Hinduism may fear or feed the Brahman; but in civil affairs Punjab Customary Law ranks him with other men. It is essentially unsacerdotal, unsacramental, secular."

Mr. Deputy Speaker: Is not the Shariat now applicable to the Punjab?

Sardar B. S. Man: I am splitting up the Punjab population into two distinct groups: one group comprises 95 per cent. of the population and the other remaining five per cent. The 95 per cent., and in fact even more, live in the villages and is attached to the land....

Mr. Deputy Speaker: Was not Shariat passed in undivided India?

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Sardar B. S. Man: I shall come to the Punjab laws. There the custom is the primary rule of decision to the exclusion of Shariat as well as the Hindu Law,

Dr. Ambedkar: That has been overruled by the Shariat law.

Sardar B. S. Man: Shariat will fill in the gap when there is no customary law prevalent. It is quite distinct. I must refer to that later since I do not want my argument interrupted now. We have legislation—the Punjab Laws Act of 1872, clause 5—where it is distinctly laid down that in Punjab the first rule of decision will be the customary law and where there is no custom and a gap arises only then the Hindu law or the Shariat law will come in.

Shri R. C. Upadhyaya (Rajasthan): Are the customs reduced to writing?

Sardar B. S. Man: Not only, reduced to writing but compiled, listened to and decided—not for ten or fifteen years but for ages.

An Hon. Member: Is not your custom the same as Hindu custom?

Sardar B. S. Man: What innocence! If I were to prove to my friend here that my custom is entirely and fundamentally different from Hindu law, will he be prepared to make an exception?

Pandit Thakur Das Bhargava: If a custom is reasonable. Dr. Ambedkar is bound to accept it (Interruption).

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Sardar B. S. Man: The interruptions are many. Interruptor says that if I convince him he is bound to accept it. I do not know whether I can convince a person who is not willing to be convinced: Dr. Ambedkar says, even if he is convinced he will not accept it.

Now, let me give a quotation from **Mayne's Hindu Law**; it has held the field for a fairly long time and is a fairly authoritative commentary. It says:

“As regards the Village Communities, the Punjab and the adjoining districts are the region in which alone they flourish in their primitive rigour. This is the tract which the Aryans must have first traversed on entering India. Yet it seems

to have been there that Brahmanism most completely failed to take root ... and the religious element has never entered into their secular law."

If I have enjoyed emancipation from Manu for so long a time, will it not be a tyranny of the times if I have to submit now to a modern Manu? If I have not been governed by Brahmanical rule and I have had secular law for a long time in Punjab, if I have not accepted Manu's religion, then let me assure the House that Punjab is not going to accept Ambedkarian religion henceforward, (interruption). Let me give credit to Manu that at least he was original in many respects, but my modern Manu—oh, what a fall has he had! He is neither original nor progressive. (Interruption). You ask who is the modern Manu? Well, I need not say.

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Sardar B. S. Man: In Punjab we do not recognise communal groupst and the application of this law will, for the first time introduce the communal element there. I shall read to you from **Mayne's Hindu Law, 9th Edition, Page 48**, where it is said:

"The special interest of Punjab Customs arises from the fact that Brahmanism seems never to have succeeded in the Punjab. Accordingly, when we find a particular usage common to the Punjab and to Sanskrit law, we may infer that there is nothing necessarily Brahmanical in its origin. The Brahmans are not, in the Punjab, the depositaries of Customary law. To ascertain it, we must go to the Jirga, or Tribal Council, if there be one, or to the elders of the tribe."

Shri R. K. Chaudhari (Assam): I am sorry to interrupt, but let us come straight to the point. Does the Hon. Member want monogamy or not? That is the question.

Shri Tyagi: Why beat about the bush?

Sardar B. S. Man: A false sense of security is being created in the House through the Press that Government want to proceed with only marriage and divorce. Has Dr. Ambedkar declared here definitely that he is leaving out the other portions and he is only concerned with marriage and divorce? I am discussing the applicability of this Code in its entirety. I proceed on the assumption that the other portions are not going to be dropped. I caution my friends. Once Government lull you into a sense of indifference and false feeling of security, they will proceed with the other portions.

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Sardar B. S. Man: You will sympathise with me, Sir, being a junior Member, for this interruption for so long a time.

Mr. Deputy Speaker: The hon. Member may confine himself to the amendment whether this Bill ought to apply or not. He has already said enough.

Sardar B. S. Man: A little allowance due to a junior Member may be allowed to me, Sir. I am exactly in doubt as to what the intention of the Government is. There have been threats of certain reservations, mental reservations regarding moving certain amendments; then there was the explanation by the Prime Minister that they are not proceeding with the Bill except for these two parts because of lack of time. If, incidentally, the House is in a mood to finish it tomorrow, the same position will be there because there will be time to proceed with the rest of the Bill. It was a categorical question whether the Government proposed to drop the rest of the Bill, not in this session; but whether the present Government is dropping the other portions, now or hereafter. These assurances are of little comfort to me that up to the 6th of October this will not be taken, or that it may not be taken in the present session or it may not be taken for lack of time. This sort of argument is no good.

Mr. Deputy Speaker: I may clear the ground. I take the statement of the Hon. Law Minister, the sponsor of the Bill, as the authoritative opinion of the Government. On the footing that they will confine this Bill to marriage and divorce, the hon. Members may go on. That is how I have understood. If there is anything wrong. I may be corrected.

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Sardar B. S. Man: I was attaching equal importance to the Prime Minister's statement also. **I shall confine myself to my amendment that the Sikhs should be absolved from the operation of this Bill.**

The fact is that a certain erroneous impression has gained ground that the Sikhs are firstly, Hindus, and secondly, that they have been governed for a very long time by the Hindu Law. My case is that if I proved that the Sikhs were not Hindus and they were not governed to any appreciable extent by the Hindu Law, then, the Sikhs may be permitted to be out of the orbit of this Bill. In that point, I was interrupted again and again and asked how their law differed from the main body of the law. That was my difficulty. I had to prove that the entire mental structure of a Sikh agriculturist in the Punjab, in company with the Hindus and Muslims, was entirely different and the pattern of the present law is entirely different.

Shri Bharati: So far as marriage is concerned?

Sardar B. S. Man: Even so far as marriage is concerned. Just wait.

Shri Bharati: That is more important.

Volume-14 Part-2 Page 1093-1094, 19th September 1951

Sardar B. S. Man: Let me quote **Sir Charles Roe from his Tribal Laws in the Punjab**. This has been cited with approbation by Sir William Clarke, Chief Justice in 55 Punjab Record 1903 Full Bench.

He says:

"The Hindu agriculturist of the Punjab..."

The Hindu agriculturist follows the same law as the Sikh agriculturists.
"...knows nothing of caste except as represented..."

Now, Sir, certain prohibited degrees are being introduced in the marriage laws. I have to point out that my law as regards marriage's is different and more liberal than the present Hindu Code Bill. In fact, I do not know, after all the present assurances that only 55 clauses will be finished whether it will be a Hindu Code or not, or what Code it will be. You are asking me to speak upon a Bill even whose name I do not know or whose operation I do not know. Anyway, I shall be guessing that it will be a Civil Code or it will be a Marriage Act or some such thing and the word "Hindu" shall drop out. He says:

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"The Hindu agriculturist of the Punjab knows nothing of caste except as represented by his tribe. No doubt, he respects the Brahman and calls him and feeds him on occasions of rejoicing or sorrow, but he would never dream of referring to him or to the Hindu Law for guidance in his daily life. If he has ever heard of the Dharmashastra at all, which is very improbable, he has only done so as a Spanish peasant may have heard of the Bible, he knows nothing whatever of its contents or principles, nor could the Brahman himself enlighten him...The Hindu law cannot be applied to the Hindu tribes, because they have never in fact followed or even heard of it and it is framed for a different state of society."

Mr. Deputy Speaker: Extracts from books should be small; it ought not to be reading whole books, chapter and verse.

Sardar B. S. Man: The quotation was very long ; I have cut it short. I have read it only from the beginning and from the end. My difficulty is this. While I am forced to cite the law...

Mr. Deputy Speaker: What is the book?

Sardar B. S. Man: The book I am quoting from is Rustomji's Customary law of the Punjab. This quotation relates to a decided case law in 55 Punjab Record 1903 Full Bench.

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I have to cite this law because in his previous speech the Hon. Dr. Ambedkar himself quoted a Privy Council decision showing that for a long time Sikhs have been governed by the Hindu Law. I am perfectly entitled today to remove that erroneous impression and show that we are not governed by the Hindu Law. As the position stands today, we are governed by a different set of laws. He relies upon his decisions. I rely upon my decisions. Hence the necessity to take some time of the House. I do realise your anxiety to finish this earlier. But Sir, this is the first time that an amendment has been moved that the Sikhs be

absolved from the operation of this Bill and in view of the vital importance of this matter to the Sikh community, I may be permitted to digress a little.

Volume-14 Part-2 Page 1170-1171, 20th September 1951

Dr. Ambedkar: Now I come to the question raised by my friend, Mr. Bhopinder Singh Man. His amendment is that this Bill should not be applied to the Sikhs. Well. I have nothing personal to say about this amendment because his amendment is not in any sense solitary as compared with the other amendments which have been tabled by our friend, Mr. Naziruddin Ahmad omitting the Buddhists, Jains, Sikhs, and so on. It is perfectly legitimate for anybody to put forth his view point, but I think the Hon. Member will allow me to say that the tone of his speech was to me very repugnant and I think hurt me a great deal.

Sardar B. S. Man: rose—

Mr. Chairman: I do not want Hon. Members to go on interrupting him.

Shri Syamnandan Sahaya: If the Hon. Minister indulges in such remarks against those who oppose the Bill, we are entitled to interrupt him.

Mr. Chairman: Order, order.

Shri Syamnanda Sahaya: If he goes on like that, the situation may become worse.

Dr. Ambedkar: I am entitled to express my opinion.

Mr. Chairman: Order, order.

Volume-14 Part-2 Page 1171, 20th September 1951

Shri R. K. Chaudhari: Why don't you ask the Minister to sit down?

Mr. Chairman: What is the meaning of this? There is a regular uproar. Hon. Members must maintain order.

Shri R. K. Chaudhari: If the Hon. Minister does not sit down, does that mean order? You only want to control us; not others.

Dr. Ambedkar: My point is this (Interruptions).

Sardar B. S. Man: I take his retort in a sporting spirit. His speech is equally repugnant to us today.

Dr. Ambedkar: I am prepared to accept that.

Mr. Chairman: All that I can say is that Hon. Members should have left it to the Hon. Members concerned to whom the Minister's remark refers.

Volume-14 Part-2 Page 1170-1171 20th September 1951

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Volume-14 Part-2 Page 1171-1172, 20th September 1951

Dr. Ambedkar: My point is very simple. There can be no dispute that Indians as such are excluding the Muslims ...

Shri Sondhi (Punjab): They are not Indians. Is that so?

Dr. Ambedkar: Let me go on in that way, because I do not find exact qualifying words. We non-Muslims, so to say, are not a very united family. I do not think it is desirable to take an unrealistic view and say that we are all one. We are not. But I do say that we ought to make an attempt to come together as far as we possibly can, and we ought not to sow the seeds of discord all the time. When anything of a unifying nature comes before the House, if somebody gets up and says, "Well, we do not belong to this group and we do not want to be governed by this law" ...

Sardar Hukam Singh (Punjab): Why did you not appeal to the President when he was making a declaration as to who would be the Scheduled Castes? He has made that distinction.

Dr. Ambedkar: It may have been done because of his generous spirit, if you will remember what happened. Now, that is what I do not like. In my judgement, we ought all of us to make a very sincere attempt to come together, at any rate. Each one of us may have our religious beliefs. One may believe in a God and one may believe in a soul. Those are spiritual matters. But is it not desirable that notwithstanding the differences that we may have so far as our beliefs are concerned, we should try to evolve one single system of law by which we may be bound in our interrelations?

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Sardar Hukam Singh: Should this not start from you?

Dr. Ambedkar: Why should you all the time keep on saying. "I am different. I am not governed by this and I am not governed by that. Therefore, do not make your law binding upon me". That is the point of my protest.

Shri A. C. Shukla: Natures differ.

Dr. Ambedkar: The gravamen of my hon. Friend Sardar Man's charge was this that the Sikhs have not been consulted in this matter. My answer to his point is two-fold. If the Sikhs, have not been consulted as Sikhs my contention is that there was no necessity to consult them ...

Sardar B. S. Man: Oh!

Dr. Ambedkar: Please let me continue.

....**because all along the law has assumed that the Sikhs for the purposes of law are Hindus.** I have examined Mulla's Hindu Law which is a very handy volume and if my hon. Friend were to refer to the index to that volume he will find certain Acts passed by the Legislative Assemblies of this country to amend the Hindu Law, he will find any number of them. But I would enjoy my hon. Friend to point out to me whether in respect of any of those laws which have been enacted by this Parliament effecting a change in the Hindu Law—and made applicable to the Sikhs—they ever consulted the Sikhs or they ever omitted the Sikhs.

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Sardar Hukam Singh: Because custom prevails there.

Dr. Ambedkar: I do not find any such instance of consultation at all. Whenever a law has been passed to amend the Hindu Law, it has been made applicable to all persons who have been by frequent judicial interpretation included in the term 'Hindu'.

Pandit Maitra: Then what is the necessity of putting it here ?

Dr. Ambedkar: Because men like you might doubt.

Now I come to the other part and wish to prove that the charge that the Sikhs were not consulted is not founded on facts. I have taken the trouble of going through the evidence taken by the Rau Committee when it toured and went to Lahore. I find that the following persons appeared or made statements before that Committee. The first person to whom I wish to refer is Justice Teja Singh of the Lahore High Court. He, as a member of the Punjab High Court, wrote a statement for the Rau Committee. I have gone through the main part of it but I have not found any single statement by Justice Teja Singh that this law should not be applied to the Sikhs. I do not know whether my hon. friend accepts that Justice Teja Singh has some right to speak in the name of the Sikh community. The other gentleman whose name I find from the records is Sardar Varyam Singh. He came as a representative of the Akali Darbar and no doubt he said that this Bill should not be applied to the Sikhs, because the Sikhs, he contended, were a more liberal people.

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Sardar Hukam Singh: Who was this gentleman? Is there any description given about him?

Dr. Ambedkar: Secretary of the Akali Darbar—that is the description that has been given in the records. The other person who had given evidence

before the Rau Committee was Sardar Iqbal Singh. He was a lawyer and he came in his individual capacity.

(Mr. Deputy Speaker in the Chair)

Sardar B. S. Man: What did he say?

Dr. Ambedkar: He said nothing.

Sardar Hukam Singh: Then he can be safely quoted!

An hon. Member: Let him read his statement.

Dr. Ambedkar: Here is the record. You can have the whole information you want. He said nothing against this Act being applied to Sikhs. Then Sardar Harnam Singh, at present Judge of the Punjab High Court, came and gave evidence, not in his capacity as a Sikh but in his capacity as a representative of the Bar Council. There again, he raised no such question at all that it should not be applied to the Sikhs.

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Sardar Hukam Singh: But what was his opinion about the Hindu Code Bill?

Dr. Ambedkar: He has not opposed it.

Now, I come to an important circumstance to which I would like to make definite reference. The House will remember that after the Bill was introduced in the House by Mr. Mandal—and it was introduced after the Rau Committee's investigation was complete—even then Government promised that they would issue an executive circular to the various provincial Governments and invite their opinion on the Bill as introduced. That circular was also sent to Punjab.

Shri Sondhi: In what year was that?

Dr. Ambedkar: 1947.

Shri Sondhi: Before the partition?

Dr. Ambedkar: No. After the partition, because the letter has been issued to the East Punjab Government. I will give the substance of the letter from the Home Secretary to the Government of East Punjab to the Secretary to the Government of India, Legislative Department, New Delhi, No. 211, dated the 3rd October 1947. In that the following statement is made:

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"I am directed to forward a copy of the letter so and so from the Registrar of the High Court of Judicature, Lahore, reporting the views of the Hon. Judges, etc. The Punjab Government also

invited the views of the Commissioners and Deputy Commissioners, the High Court Bar Association, and five divisional headquarters, as well as of the nine selected non-official organisations believed to be representative of the Hindu and Sikh opinion. Only one of the latter Shri Sanathan Dharma Prathinidhi, Lahore, replied."

I do not think in the face of this my hon. friend can say that no attempt was made to canvass the opinion of the Sikh community. My Hon. friend also said that of the seven members consulted six opposed it. He may be knowing something more about it. I am however entitled to say that before my Hon. friend made his speech, I had one or two conversations with him. He told me that he was particular about the Anand marriage, or the customary ceremony and I told him that although we were passing this Bill, we are not abrogating the Anand Marriage Act which has been passed by the Assembly in order to regularise certain ceremonies which the Sikhs perform for the solemnisation of their marriage and I thought that he was perfectly satisfied with that. But it may be that some other reason has come to the surface which has made him to give rise to these hidden feelings which otherwise might have remained locked up in his breast.

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Shri Jhunjunwala: May I explain to you sir, as to how these things relate to the real issue. I had in the beginning submitted that the Hon. Minister of Law had advocated two main points in support of this measure. **Firstly, he described this Bill as a progressive measure, and secondly, he stated that this Bill sought to put women, who had not got equal rights, on equal footing with men. And now this clause 4 provides that the provisions of the Bill shall override all other things. As I said before, I shall first deal with this clause. In my opinion the measure itself is of no use when it does not go to fulfil either of the two things that are advocated in its support. Hence I am just trying to convince the Law Minister that the measure he has put before the House is absurd altogether and does not conform with the two main points which he has advocated.** As a matter of fact, the measure ought not to have come at all. That is the point which I wanted the House to take note of. I may, with your permission Sir, make a few more observations in this connection and they would clear the whole thing, for otherwise the argument itself would become meaningless. **I would, therefore, like you to appreciate the fact that this measure is neither progressive nor does it seek to provide women with their due rights as was advocated when the Bill was brought forward. If the clause relating to property had been taken. I could understand it because so far as property is concerned, our women have not got equal rights, they are suffering great hardships on this account and are subjected to innumerable atrocities. I am sorry Shrimati Durgabai is not here at the moment; she was kind enough to narrate some heart-rending tales with regard to women in Madras thereby causing much pain to all of us here. The question will be dealt with at length while taking up the property clause.**

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If in reality the Law Minister was very serious about our women's betterment, he should have taken up property clause first, because we cannot possibly help women take their proper place in society unless their economic condition is well improved and they are made absolutely free in that sphere. Hence, I cannot understand why that clause is not taken first. It is none of my intention to criticise his motives, but, all the same, I cannot but say that his real object is apparently different from what he is advocating. By bringing forward this measure he seems to be intending to exterminate the Hindu religion, Hindu society and the Hindu customs and usage, thereby bringing moral degradation of the Hindu society. His aim seems to be no other than this. By taking the property clause first and thereby seeing that women's economic conditions are improved, we could have given them some solid relief. Many an Hon. Members pleaded for this but there was our Law Minister constantly nodding his head in disapproval. He perhaps does not like us to take the credit of doing something for our women which would help them and redress their grievances.

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Shri Jhunjunwala : Sir, I will speak according to your ruling. But I would like to submit that I could not get an opportunity to speak on clause 2, although the Hon. Speaker ruled that, as in the case of clause 2. Members could speak practically on all matters while discussing clause 4. Only the clause relating to property, could not be discussed. I am pointing out to the House the advantages and disadvantages of the provisions relating to divorce and marriage. I think I was never irrelevant. Anyway, I would now abide by your ruling, and briefly submit my view point. I now come to my amendments.

Babu Ramnarayan Singh: Very good.

Dr. Ambedkar: Take your seat now.

Shri Jhunjunwala: I will take my seat, you kindly withdraw this Code and relieve the Hindu Community of it.

Dr. Ambedkar: Please sit down.

Shri Jhunjunwala: You leave and I will sit down.

Dr. Ambedkar: Take your seat, or I will go.

Shri Jhunjunwala: You go, and I will also sit.

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Mr. Chairman: I would ask the Hon. Member to continue his speech.

Shri Jhunjunwala: I am coming to my speech but the Law Minister, who is a responsible person, is indulging in unnecessary interruptions. He wants that this thing should be talked over and Government's money be spent somehow. **He is not so anxious to grant equal rights to women but he is more keen to see that**

Government's money is spent somehow so that people outside might know that the Law Minister is not idle.

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Mr. Chairman: May I request the Hon. Member that he should proceed with his speech instead of answering these questions.

Shri Jhunjunwala: Sir, I am prepared to abide by your orders. But when any Hon. Member interrupts, it becomes difficult to proceed further and it also takes more time to come to the speech proper.

Dr. Ambedkar: Do not get nervous, they are your comrades.

Shri Jhunjunwala: Comrades also desert sometimes. I have had a number of comrades like you. You have been professing yourself to be a champion of women's cause, but ultimately deserted them.

Sir, I am continuing with my speech but the Hon. Minister interrupts.

Sardar B. S. Man: Will it not be discourteous to the Hon. Law Minister to ignore the interruptions and not to reply to it?

Shri Jhunjunwala: Then there is another point which I would like to submit. Pandit Thakur Das Bhargava said that if anything is suggested that might lead to some harm and if anybody is doing a wrong thing, then how far is it proper to ask others also to do the same thing? How far is it wise to ask women to do wrong to men if the latter are behaving in that manner? That is what I am going to point out. Then we have to see whether this thing is progressive or not. Our Hon. Minister of Home Affairs, Shri Rajaji is not here at present. He made some remark while referring the Press Bill to Select Committee. He said that an article or a caricature about him (I do not exactly remember what it was) appeared in some paper. When he saw it, he found it most revolting and at the same time very obscene. He did not know why it was published and felt it very much. But he said when he saw the news papers of the present day, he felt there was nothing special in that paper which should have offended him (Interruptions). My hon. Friends are trying to interrupt me.

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Mr. Chairman: If you address the Chair perhaps you will not feel that inconvenience.

Shri Jhunjunwala: I am accustomed to look all round while speaking. So, he said that it was quite insignificant. As compared to the articles and caricatures that appear in the present day press, that thing did not seem to be obscene at all. He said he felt it unnecessarily. The newspapers force us to see and read those things that we do not like to see, and young men and women of the country read them. God knows what influence those things might be leaving on our youths. Now, I wanted to ask at that time whether these articles etc. that appear in our press are progressive. These are far more obscene than that which you thought to be quite vulgar. Then, are

they progressive and if they are progressive do they prove beneficial for us? **So, I wanted to point out that our Law Minister who is the Manu of Kaliyug**

Shri Syamnandan Sahaya: Not the Manu of Kaliyug but Kaliyugi Manu.

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Shri Jhunjunwala: We are living in Kaliyug hence I called him the Manu of Kaliyug. Our Hon. Minister Shri Gadgil who considers himself to be an outcast Brahmin and thinks he is a Pandit has given him this title. All that I mean to say is that he is the Manu of this age. I wanted to know whether the purpose of this progressive measure is to uplift our society or to degrade and demoralize it. I could have understood the whole thing if he had convinced me before I had moved my amendments that the measure was progressive in such and such manner. He only said that it was progressive and that women should be given equal rights. He has denied those rights to them that they needed most and which could have benefited them very much. The right which he is giving to them is that of divorce. So, I was trying to point out whether this is really progressive. I say this can never be progressive. If a person does something wrong, it is not wise that I should also repeat the same thing for that reason. On the other hand, such legislation should be made whereby the person doing a wrong thing might be forbidden to do it in future. It should not be that the other person may also be asked to follow him.

That was about this clause. Now, I would move my amendments and fully express my views on them. I have already read them out and so I would not read them again. This will take more time.

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Shri Syamnandan Sahaya: How would we understand and vote upon them.

Mr. Chairman: Has he already read them?

Shri Jhunjunwala: Yes Sir, I have read them.

Mr. Chairman: Then there is no necessity of reading them again.

Shri Syamnandan Sahaya: We have to vote upon them. You must read them.

Shri Jhunjunwala: My first amendment is that if anything in the Code is against the Hindu, Sikh, Jain or Buddhist religions or against Marumakkattayam and Aliyasanthanam laws, then it shall not apply to them.

Dr. Ambedkar: It shall apply only to the marwaris.

Shri Jhunjunwala: Had it not applied to the marwaris, even then I would not have sat. This code is dangerously harmful to the society and the country.

Mr. Chairman: The Hon. Member should continue.

Shri Jhunjunwala: The Hon. Minister is interrupting and casting aspersions. Our Constitution provides for equal rights. Why do you not allow me to reply to his remarks?

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Shri Jhunjunwala: Now in this connection, I would like to read before the House Article 25 of the Constitution. I would request the Hon. Members to listen patiently:

“25. (1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess practice and propagate religion.”

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law—

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;”

Babu Ramnarayan Singh: Kindly translate it into Hindi.

Shri Jhunjunwala: You engage a teacher for that. Then there is:

“(b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.”

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After that there is explanation which I need not read. So I submit to the Chair and the Hon. Members of this House that the purpose of my amendments is that when you make an effort to introduce reforms, you have no right to touch our Dharmshastras. But you can bring in any measure if it does not conflict with our shastras and our religion. My amendment relates to the following:

“any text, rule, or interpretation of Hindu law, or any custom or usage or any other law in force immediately prior to the commencement of this Code shall cease to have effect as respects any of the matters dealt with in this Code.”

“Any other law in force immediately before the commencement of this Code shall cease to have effect in so far as it is inconsistent with the provisions of this Code.”

I want to submit that I have no objection to this legislation. It is alright but if there is anything which is against any religion, Hindu, Sikh or Jain then it would not apply to it.

Shri Naziruddin Ahmad: And Muslims?

Shri Jhunjunwala: Muslims do not come in the purview of this Bill. Then, in the next amendment, there is morality in place of religion. You cannot provide for

anything in the law which has its effect on the morality of the people and which leads to their moral degeneration. This is what I have to say. This amendment should be added. We have been given this right under the Constitution. If this amendment is not accepted, I would think that our Government is slandering and vilifying our religion. They should not do it.

My third amendment is based on Article 29, wherein the following has been said about culture:

“29. (1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.”

My submission is that if this code affects or comes in conflict with our culture or the culture of Hindus, Sikhs, Jains or the culture of any section of the Hindus, then again it shall not be applicable under those circumstances.

CONCLUSIONS

At the tail end of this heated debate, B. R. Ambedkar decided on the spur of a moment to resign his cabinet position as well as his membership in the provisional Parliament.

Mythology based religions specify their own laws. As such we have

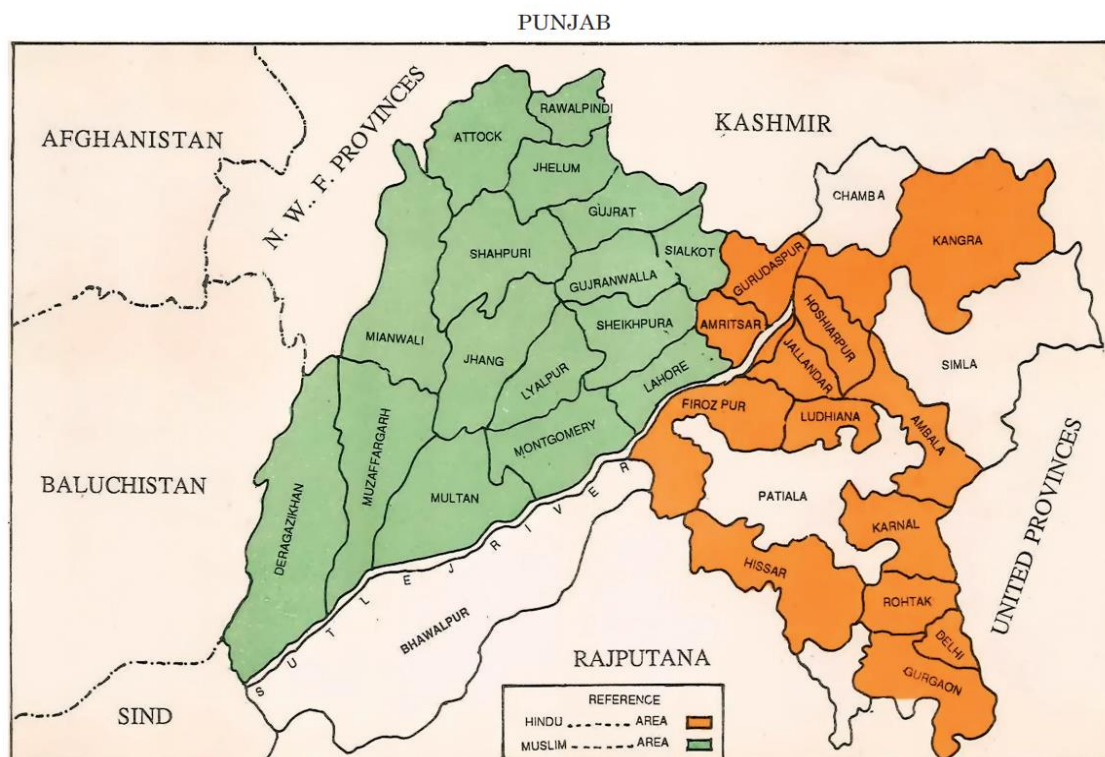
- Islamic Laws
- Bible Laws
- Buddhist Laws
- Jaina Laws
- Hindu Laws (Dharmashastras)

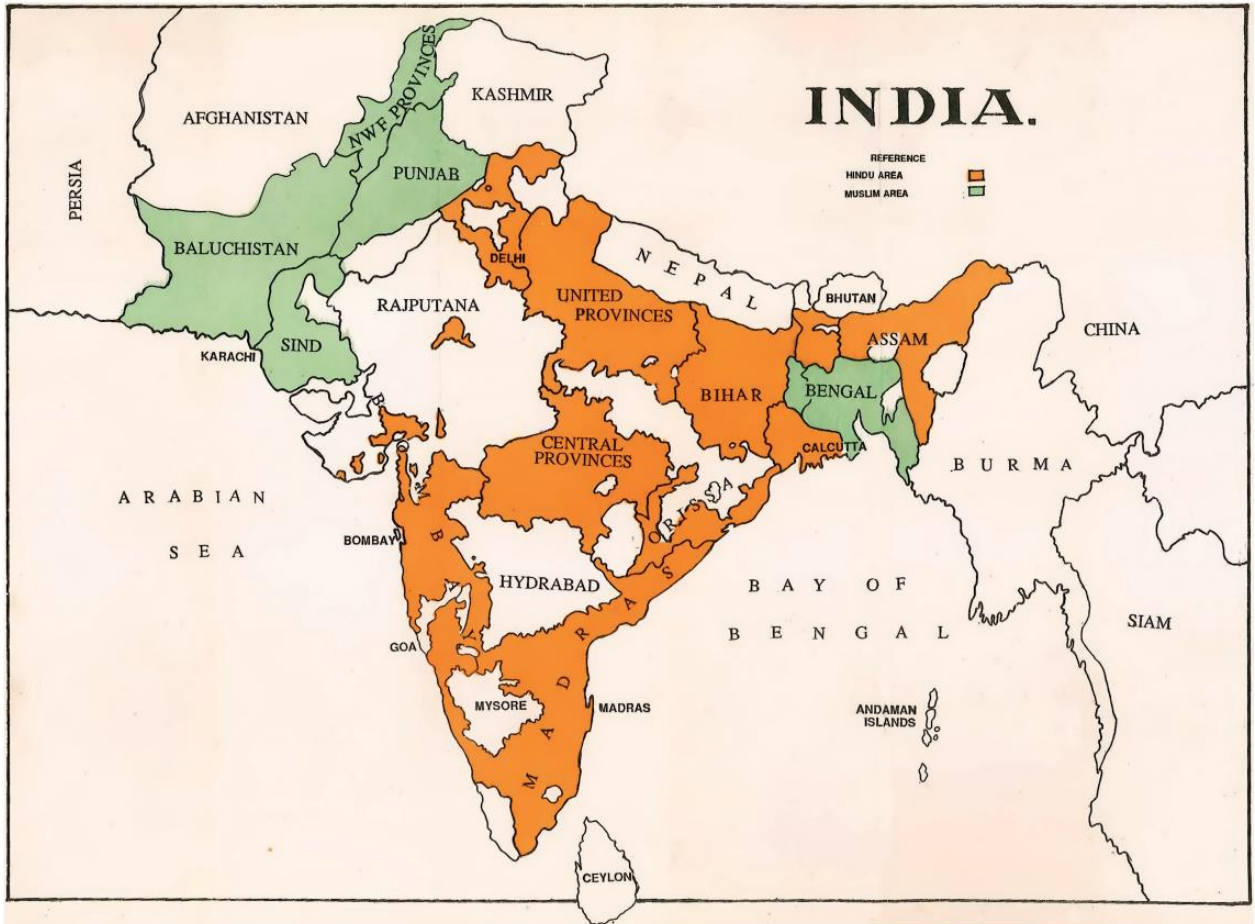
It is mind boggling to think that Dr. B.R. Ambedkar, in his true face, decided to play the most devastating role: Thrust Sikhs and Sikhism into a motherlode of mythology of the worst kind.

- Attempt to infuse Hindu laws into the mouths of Sikh Gurus
- Force Sikhism into the fold of Hinduism by other means especially by way of Dharmashastras as well as using bizarre legal jargon.
- Turn Sikh Community/Society as fundamentally part and parcel of the Hindu society.

In large sections of the Sikh society there prevails another boiling myth: Dr. Ambedkar wished to adopt Sikhism in 1930s, but he forgoes because he saw caste system prevalent among the Sikhs. This is all patently false. Dr. Ambedkar never once considered adopting the Sikh religion. He was born a Hindu and died a Hindu under-cover using the newly minted political arm of Buddhism. Another distressing aspect of Ambedkar's legacy has remained submerged in the propaganda wash carried out by the Ambedkarites as well as Indian Government officers. This pertains to Ambedkar's drawing of boundary maps cutting the united Punjab into half in 1940—yes about seven years before the actual partition in 1947. A few years after the bloody partition, Ambedkar took full credit for the making of Pakistan while claiming himself as its “philosopher” as well as spelling out his motivation: to save the Hindus from the Muslims. See map figure underneath. The reference to consult is Dr. Ambedkar's book titled: “*Pakistan or the Partition of India.*” Dr. Ambedkar's being appointed in the Lord Wavell's

cabinet paved the way to push these boundary maps under serious considerations in the decision making and their final approval by the British authorities.





SOUTH ASIAN INDIAN SUBCONTINENT