

Dr. B. R. Ambedkar's Thoughts and Philosophy towards Social Equality, Gender Mainstreaming and Women's Emancipation: A Sociological Analysis

DEBASHIS DEBNATH[†]

*Dr. B. R. Ambedkar University of Social Sciences,
Dr. Ambedkar Nagar, Mhow, Indore 453441,
Madhya Pradesh
E-mail: ddeb Nathster@gmail.com*

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ABSTRACT: Babasaheb Dr. Bhimrao Ramji Ambedkar left no stone unturned and challenged the basic patriarchal foundation to ensure equality of women, true to its essence of empowerment. His values and vision of gender equality and women empowerment found space in the constitutional framework of India. One of his most important introductions towards the cause was the Hindu Code Bill. Ambedkar's ideas, over the years have influenced the enactment of a number of subsequent pro-women Acts. He wanted women to become the torch-bearers of the new reformed society, which is both casteless and classless in nature. Ambedkar's theorization of the inter-linking nature of caste and gender-based oppression in India was a pioneering feat for various women rights movement in India. He believed in social transformation through his emphasis on the human rights, state socialism and political democracy and hence introduced Hindu Code Bill in the constituent assembly in 1946, but the first draft was made in 1948 and subsequently placed in the Parliament in 1951. An attempt has been made to discuss the sociological analysis of Hindu Code Bill in terms of gender sensitization, equality and empowerment.

INTRODUCTION

Dr. B.R. Ambedkar was an Indian leader and founding father of Indian Constitution. His focus was social and political rights of the weaker sections of the society, who are basically lying at the bottom or in the lower-rung of the social hierarchy and suffered the worst from unequal assignments and entitlements of rights. He rose to eminence as a social reformer-cum-reconstructor and a leader of the Depressed Classes of India. As such, he worked hard for their upliftment from the down-trodden position they were living in, as a result of social, economic, religious and political disabilities, sanctioned by religion and imposed by custom. The main aim and mission of

Ambedkar's life was to try to lead the Depressed Classes towards a higher social, political and economic status and to free them from the stigma of untouchability that lay upon their foreheads. He organised them and led them to agitate in a peaceful manner for the vindication of their rights (Keer, 1987).

Ambedkarian Egalitarianism

Ambedkar believed primarily in the efficacy of law and legislation, and he struggled to evolve a constitutional mechanism to fashion India of his dreams, where equality, liberty and fraternity would have an unhindered play. In Ambedkar's vision of India, all citizens would be equal before law; they have equal civic rights, equal access to all institutions,

[†] Professor

conveniences and amenities maintained by or for the public; they possess equal opportunities to settle or reside in any part of India to hold any public office, or exercise any trade or calling, where all key and basic industries would be owned by the state. He pleaded for special privileges and safeguards for the Dalits as Scheduled Castes. In short, he demanded equality, which would not only lead, to the redressal of the past wrongs but also provide sufficient leverage, may be by way of compensation, to ensure their levelling up. He emphasized on egalitarian and institutions, considering in connection with caste system and social exclusion Ambedkar's concepts of egalitarian can be shaped into an institution or society, known as social democracy, which is a political ideology that supports economic and political interventions to promote social justice within the framework of capitalist economy and a policy regime involving society, by abolishing discrimination of the society to ensure emancipation, empowerment and development. His vision encompassed political, social and economic democracy. According to Babasaheb the principle of social equality was the cornerstone of a stable society. Ambedkarian perspective differs from the present-day economic socialism, which contrasts with social exclusion and discrimination in relation to the caste system and he raised the idea of "capacity deprivation, and not poverty" in the outcome of the caste system. Hence, the social democracy becomes the anti-thesis of social exclusion (Ambedkar, 1948).

He was concerned about the inhuman and subservient position of Hindu women as a result of the inequalities ordained in the religious texts. He urged for a common code for the Hindu Community that would do away with the rules of Hindu law which were scattered in innumerable decisions of various High courts (Arya, 2000).

GENDER MAINSTREAMING AND EQUALITY

Gender mainstreaming means integrating a gender equality perspective at all stages and levels of policies, programmes and projects. Women and men have different needs and living conditions and circumstances, including unequal access to and control over power, resources, human rights and

institutions, including the justice system. The situations of women and men also differ according to country, region, age, ethnic or social origin, or other factors.

Women empowerment is a burning subject in the present-day world, especially in a developing country like India and that is the way to mainstream the women in our socio-economic process. The meanings of women's empowerment in a nut-shell are women's sense of self-worth for their right to have access to opportunities and resources; to control their own lives, both within and outside the home; and to influence the direction of social change nationally and internationally, because gender discrimination and disparities are generating the multiple forms of exploitation in the socio-cultural system (Mc Ardle, 1989; Gunjal, 2012).

In Indian constitution the principle of gender equality provides the first guidelines to empower women and simultaneously to adopt measures of positive discrimination in favour of women. In recent years empowerment has been recognized as the central issue in determining the status of women. The National Commission of Women was set-up by an Act of Parliament in 1990 to safeguard the right and legal entitlements of women. The 73rd and 74th Amendments (1993) to the Constitution of India have laid a foundation stone for their participation in decision making at the local levels. As a consequence, in many ways, this has accelerated the process of decentralization of power. Thus, 70 per cent of India's population is covered through these local governance institutions. It is fascinating to visualize how the rural community has been mobilized into an electoral process that empowers them to take decisions for themselves. Today, as per the latest information India has about 2,83,541 rural local bodies at the village level Gram Panchayats, and 7211 intermediary or block-level Panchayats, and 737 district level Panchayats. Out of about 3 million elected representatives of these Panchayats, there are approximately 13.45 lakh Elected Women Representatives (EWRs) in Panchayati Raj Institutions (PRIs) which constitute 46.14% of total Elected Representatives (ERs). They share responsibility of the work assigned to them as representatives of their communities, which has, in a way, provided them with an opportunity to understand

the local issues in-depth, and to raise their levels of capability, awareness and skills. As a result of such efforts, village level development has been brought in at much faster pace by these women 'sarpanch' (village leaders). Over the years, we have noticed that the Elected Women Representatives have become more articulate, conscious of their power, and have learnt to effectively tackle bureaucratic and political hurdles. They are also known to bring in greater transparency and efficiency to their daily administration and implementation duties. Since the earliest form of livelihoods, i.e. gathering-foraging activities, their role and responsibilities are still prominent as found among the Primitive Tribal Groups (PTG), a special category of tribals having pre-agrarian occupation which was so designated in the Fifth Five Year Plan and which has now been categorized as Particularly Vulnerable Tribal Groups (PVTG) since Tenth Five Year Plan. In the pre-agrarian tribal communities, the equity is observed among tribal men and women. In many conservation movements such as Chipko in 1973, the ethos of tribal women is very much prominent and reflected.

CONSTITUTIONAL RIGHTS AND WOMEN

Dr. B. R. Ambedkar, as the Chairman of the Drafting Committee, tried an adequate inclusion of women's and depressed classes' rights in the constitution of India. He looked upon law as the instrument of creating a just social order. He incorporated the values of liberty, equality and fraternity in the Indian Constitution. In Indian Constitution, there are few articles exist that help the women of Indian society to improve their position and to compete with their male counterparts. For example, Article 14 state that "the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India". This article is absolutely important because it propagates the idea of equal protection before law and it has legalised the term equality before the law which is revolutionary for spreading the gender base equality. According to Article 15, "The State shall not discriminate against any citizen on grounds of religious, race, caste, sex, place of birth", "No citizen shall on the grounds only of religious, race, caste, sex, place of birth or any of them de-subjected to any

disability, liability restriction or condition, or it prohibits discrimination on the ground of sex". Article 15(3) enables positive discrimination in favour of women. Article 16 mentions that, "There shall be equality of opportunity for all citizens, in matter relating to employment or appointment to any office under the state. No citizen shall on grounds only of religion, race, caste, sex, descent, place any birth residence or any of them, be ineligible for or discriminate against in respect, any employment or office under the State". Article 16 provides for Equality of Opportunity in matters of public employment. Article 23 prohibits trafficking in human beings and forced labour; Article 24 prohibits the employment of children below the age of 14 years in factories, mines or in any other hazardous employment. Educational Rights given to Depressed Class in the Article 29 (2) of the Constitution of India, that defines the protection of interest of minorities and ensures that no citizen shall be denied admission into any educational institution maintained by the State receiving aid out of State funds on grounds of only religion, race, caste, language or any of them. To ensure equal rights of education to depressed class, special provisions are given which includes- Article 30(1) and Article 30(2) which give the right to linguistic or religious minorities to establish and administer educational institutions of their choice. Article 39 (a) and (d) enjoin the State to provide equal means of livelihood and equal pay for equal work; As per Article 41 the state shall guarantee within its economic limits to all the citizens, the right to work, to education and public assistance in certain cases. In the Article 42, the state makes provision for Human conditions of work and maternity relief. Under Article 44, the state provides a uniform Civil Code to all the citizens throughout the territory of India. Article 46 directs the state to promote with special care, the educational and economic interests of the weaker section of the people and to protect them from social injustice and all forms of exploitation. Article 47 and Article 51A(e), which are based on Fundamental duties to renounce practices derogatory to the dignity of women. Article 243D (3) provides that not less than one third of the total number of seats to be filled by direct election in every Panchayat to be reserved for women, and such seats to be allotted by rotation to different constituencies in a Panchayat; Article 243T(3) provides that not less than

1/3rd of the total number of seats to be filled by direct election in every Municipality shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Municipality (Wagh, 2012).

HINDU CODE BILL

The Bill was introduced in the Constituent Assembly in 1946, but the first draft was made in 1948. It has eight sections. In the traditional Hindu law of the property inheritance, that is Mitakshra and Dayabhaga, inheritance of the property by the women is not mentioned. The Ministry of Law revised the first draft in 1948 and made some small alterations to it, making it more suitable for discussion in the Constituent Assembly, where it was finally introduced. It was referred to a select committee under the chairmanship of law minister, Dr. B. R. Ambedkar, and the committee made a number of important changes in the Bill. This edition had eight sections: part one delineated who would be considered a Hindu and did away with the caste system. Significantly, it stipulated that the Hindu Code would apply to anyone who was not a Muslim, Parsi, Christian or Jew, and asserted that all Hindus would be governed under a uniform law. Part two of the bill concerned marriage; part three adoption; part four, guardianship; part five the policy on joint-family property, and was controversial as it included the non-traditional allocation of property to women. Part six concerned policies regarding women's property, and parts seven and eight established policies on succession and maintenance. By allowing for divorce, Ambedkar's version of the Hindu Code conflicted with traditional Hindu personal law, which did not sanction divorce (although it was practiced). It also "established one joint family system of property ownership for all Hindus" by doing away with regional rules. Finally, it allotted portions of inheritance to daughters, while giving widows complete property rights where they had previously been restricted (Ambedkar, 1948).

The bill itself was an immense exodus from Hinduism and its degrading set of laws regarding gender. Up to that point, "Hindu law" was also randomly interpreted through oral readings of various content from the Vedas, Smritis, and Puranas. There was no real codification or uniformity and often

women's lives were at the hands of Hindu male interpreters. It can be said that in Hinduism, there were two laws in regards to inheritance, marriage, adoption and etc. which are 'Mitakshra' and 'Dayabhaga'. In Mitakshra rule of law, the property of a man is not an individual property whereas belongs to coparcenaries (shared ownership of male lineage), in other words like father, son, grandson and great-grandson, by their very birth only. While in Dayabhaga set of law, ownership of property has its individual character — that is to say, anyone who inherits property from their progenitors has absolute right over that property. This latter strand of the laws was what was adopted in the Hindu Code Bill by Ambedkar and it was sought to make it as common law by modifying it according to the needs of modern-day (Ambedkar, 1987).

Even by Dayabhaga, there was discrimination among female heirs on the basis of their status of being married or not and having children or not. The Hindu Code Bill further proposed to wipe out this discrimination. Ambedkar placed the widow, daughter and the widow of a predeceased son on the equal standing. In order to restore equity of gender, daughter's share, as equal to the son, was prescribed in her father's as well as in her husband's property. Another sacrosanct arrangement regarding women's property was that an adopted son will not dispossess the women from the property she got from her deceased husband prior to adopting this son. Hence, after sanctioning the bill, "an adopted son or stepson would not be in a position to divest the mother utterly from her property and by this way widows' positions were strengthened" (Ambedkar, 1987). Ambedkar also reckons in the bill that the dowry which is given to the daughter, by her parents, at the time of her marriage in terms of *Stridhana* (defined in Hindu Law as wealth received by women as gifts from relations) must be treated as her absolute property by her in-laws. Through the bill, women were to be granted absolute right regarding all property. In Dayabhaga law, women were entitled merely to the 'life estate' which is the property which she can enjoy during her lifetime but could not sell that property in any condition. After her death, this property would go to someone in her husband's family, Ambedkar made a revolutionary change in this matter too. He

insisted that this partial estate be altered into an absolute estate that a woman could do with as she pleased.

Regarding marriage, two new clauses "restitution of the conjugal rights and the judicial separation" had been added by Ambedkar. Prior to the bill, only the sacramental marriage was in practice under Dayabhaga rule, wherein no space for an atheist or anti-theist persons existed. Whereas Hindu Code Bill commenced two types of marriage "civil and non-civil i.e. sacramental one. Civil marriage granted the highest personal freedom as divorce was made easier. The divorcement of civil marriage was introduced for the first time from a woman's outlook. The commencement of civil marriage and its easier stamp-out was very much stemming from the progressive outlook of Ambedkar's philosophy. Furtherance, to restore the women's dignity as a human being in the society, Ambedkar "prohibited the polygamy and prescribed the monogamy" at the same time. Through this bill, Ambedkar took a step further to annihilate the caste system through "obliterate the caste precincts regarding marriage and adoption of a child" (Ahir, 1990).

Ambedkar's ideas influenced the enactment of many subsequent pro-women Acts viz. Sati Prevention Act, 1987, Dowry Prohibition Act, 1961, the Family Courts Act, 1984, Protection of Human Right Act, 1993, The Maternity Benefit Act 1961, Immoral Traffic (Prevention) Act, 1956, The Child Marriage Restraint Act, 1929, The Equal Remuneration Act, 1976, The National Commission for Women Act, 1990, Protection of Women from Domestic Violence Act, 2005, to cite a few (William, 2006). We appreciate the efforts put in by Dr. B. R. Ambedkar to fight the long and difficult battle towards the enactment of the Hindu Code Bills. Only in Dayabhaga law, the woman was prescribed some sort of property rights, while in Mitakshara law, she was ostracized absolutely; by proposing the legalization of inter-caste marriage.

The draft that Ambedkar submitted to the Constituent Assembly was opposed by several sections of lawmakers. The motion to begin discussion on the Hindu Code Bill was debated for over fifty hours, and discussion was postponed for over a year. Realizing that he would have to make significant concessions to get the bill passed, Nehru

suggested that the proposed law be split into several sections. He told the Constituent Assembly that they would contend with only the first 55 clauses concerning marriage and divorce, while the rest would be considered by the Parliament of India after the first general election. However, the compromise was largely ineffective in convincing conservatives to support the bill. When only 3 of the 55 clauses passed after an additional week of debating, Nehru had Ambedkar's committee distribute a new draft that complied with many of the critics' demands, including the reinstatement of the *Mitâkcarâ* joint family system, an amendment to allow for brothers to buy out daughters' share of the inheritance, and a stipulation allowing divorce only after three years of marriage. However, after the bills were defeated again in the assembly, Ambedkar resigned. In a letter that he released to the press, he held that his decision was largely based on the treatment that had been accorded to the Hindu Code Bill as well as the administration's inability to get it passed.

CONCLUSION

In a way, what appears from Ambedkar's own perception of the Indian social order, Hindu or Muslim was one of a system where women were denied in various ways, their dues in the society. He was frantically in search of a solution to their evil systems and sought to usher a society based on equality, justice and fraternity. Though the goal of women empowerment is yet to be achieved, Dr. Ambedkar's idea about the rights and development of women are still valid in the present scenario – not only in India, but in global context too. Ambedkar's thoughts of social equality and justice can be applicable in the tribal women's situations. They are marginalized, oppressed and deprived in their socio-economic system. Ambedkar's focus on giving the social and political rights to the depressed classes was brought out in the socio-economic development since 1990 (Ahir, 1990).

Dr. Babasaheb expressed his views on the state of life of all women. He stated that women must be treated equally and given equal prestige. He insisted on Hindu Code bill suggesting the basic improvements and amendments in assembly. He also insisted and evoked all the parliamentary members to

help to pass the bill in parliament. Eventually, he resigned for the same. The teachings and thoughts of Dr. Ambedkar are useful not only to women but also to all the Indians even today. His deep concern and feelings for all round development of women is expressed from each sentence and word. In his last speech in Indian Parliament, we can know his feelings and respect showed towards women. He quoted the famous thoughts of an Irish Patriot Daniel O Connal as, “No man can be grateful at the cost of his honour, no woman can be grateful at the cost of her chastity. And no nation can be grateful at the cost of his liberty”.

The Hindu Code Bill, the most formidable legislative measure of modern India, sought among other reforms, to put an end to a variety of marriage systems prevailing in India and legalise only monogamous marriages. Dr. Ambedkar said, “I should like draw attention of the house to one important fact. The great political philosopher Burke who wrote his great book against the French Revolution said that those who want to conserve must be ready to repair. And all I am asking this House is: If you want to maintain the Hindu system, Hindu culture and Hindu society, do not hesitate to repair where repair is necessary. This Bill asks for nothing more than to

repair those parts of the Hindu system which have become dilapidated” (Ambedkar, 1987).

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