

LOK SABHA

**THE UNTOUCHABILITY (OFFENCES) BILL,
1954**

(Report of the Joint Committee)



**LOK SABHA SECRETARIAT
NEW DELHI**

December, 1954

Reports of the Select/Joint Committees Report
presented in the Lok Sabha in the year, 1954.

S.No.	S u b j e c t	Date of presentation
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SIXTH SESSION

1. Muslim Wakfs Bill, 1952 (S.C.) 4.3.54.
2. Special Marriage Bill, 1952 (J.C.) 18.3.54.

SEVENTH SESSION

1. Coffee Market (Expansion Amendment) Bill, 1954 (S.C.) 26.8.54.
2. Rubber (Production & Marketing) Amendment Bill, 1950 together with the Evidence s on the bill dated the 21st and 22nd July, 1954 (S.C.) -do-
3. Displaced persons (Compensation and Rehabilitation) Bill, 1954 (J.C.) 27.8.54
4. Code of Criminal Procedure (Amendment) Bill, 1954 (J.C.) 3.9.54.
5. Constitution (Third Amendment) Bill, 1952. (J.C.) 20.9.54

EIGHTH SESSION

1. Hindu Marriage & Divorce Bill, 1952. (J.C.) 26.11.54
2. Untouchability (Offences) Bill, 1954 (J.C.) 3.12.54
3. Delimitation Commission (Amendment) Bill, 1954. (S.C.) 22.12.54

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THE UNTOUCHABILITY (OFFENCES) BILL, 1954

Composition of the Joint Committee

LOK SABHA

1. Shri Upendranath Barman—*Chairman*.
2. Shri Narayan Sadoba Kajrolkar,
3. Shri T. Sanganna.
4. Shri Pannalall Barupal.
5. Shri Naval Prabhakar.
6. Shri Ajit Singh.
7. Shri Ganeshi Lal Chaudhary.
8. Shri Bahadurbhai Kunthabhai Patel.
9. Shrimati Minimata.
10. Shri Motilal Malviya.
11. Shri Dodda Thimmaiah.
12. Shri Rameshwar Sahu.
13. Shri M. R. Krishna.
14. Shri Ram Dass.
15. Shri Nemi Saran Jain.
16. Pandit Algu Rai Shastri.
17. Shri Shree Narayan Das.
18. Shri S. V. Ramaswamy.
19. Shri Resham Lal Jangde.
20. Shri Balwant Nagesh Datar.
21. Shri P. T. Punnoose.
22. Shri Mangalagiri Nanadas.
23. Shri P. N. Rajabhoj.
24. Rt. Rev. John Richardson.
25. Shri A. Jayaraman.
26. Shri V. G. Deshpande.
27. Shri B. S. Murthy.
28. Shri Vijneshwar Missir.
29. Shri R. Velayudhan.
30. Shri N. M. Lingam.
31. Shri Mohanlal Saksena.
32. Shri N. C. Chatterjee.
33. Dr. Kailas Nath Katju.

RAJYA SABHA

34. Shrimati Lilavati Munshi.
35. Shrimati Bedavati Buragohain.
36. Shri Alluri Satyanarayana Raju.
37. Dr. N. S. Hardiker.
38. Shri V. M. Surendra Ram.
39. Shri Kishori Ram.
40. Shri Ram Prasad Tamta.
41. Thakur Bhanu Pratap Singh.
42. Shri Trimbak Damodar Pustake.
43. Shri Jagannath Das.
44. Shri Nanabhai Bhatt.
45. Kakasaheb Kalelkar.
46. Shri M. Satyanarayana.
47. Shri Surendranath Dwivedy.
48. Shri N. C. Sekhar.
49. Shri Narsingrao Balbhimrao Deshmukh.

DRAFTSMAN

Shri S. K. Hiranandani, *Additional Draftsman, Ministry of Law.*

SECRETARIAT

Shri M. Sundar Raj, *Deputy Secretary.*
Shri P. K. Patnaik, *Under Secretary.*

Report of the Joint Committee

1. The Chairman of the Joint Committee to which the *Bill to prescribe punishment for the practice of untouchability or the enforcement of any disability arising therefrom was referred, having been authorised to submit the report on their behalf, present their Report, with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced in the Lok Sabha on the 15th March, 1954. The motion for reference of the Bill to a Joint Committee of the Houses (*vide* Appendix I) was moved by Dr. Kailas Nath Katju on the 26th August, 1954, discussed in the House on the 26th, 27th, 30th and 31st August, 1954, and adopted on the 31st August, 1954.

3. The Rajya Sabha discussed the motion on the 14th, 16th and 17th September, 1954, and concurred in the said motion on the 17th September, 1954 (*vide* Appendix II).

4. The message from Rajya Sabha was read out to the Lok Sabha on the 20th September, 1954.

5. The Committee held nine sittings in all.

6. The first sitting of the Committee was held on the 29th September, 1954, to draw up a programme of work. The Committee, at this sitting, decided to invite memoranda from public bodies, associations or individuals desirous of presenting their suggestions or views in connection with the Bill, by the 21st October, 1954, and to hear their evidence if necessary. A Press communique was accordingly issued.

7. The Committee heard the evidence tendered by the representatives of the following associations on the 2nd November, 1954:—

(1) The Bharatiya Depressed Classes League, New Delhi.

(2) The Harijan Sevak Sangh, Delhi.

The Committee have decided to lay on the Table of the House a copy of the evidence tendered *in extenso*.

8. The Committee took up clause by clause consideration of the Bill on the 3rd November, 1954, which was continued at further sittings on the 4th and 5th November, 1954 and concluded on the 6th November, 1954.

9. A motion for extension of time for presentation of the report of the Committee upto the 4th December, 1954, was moved in the Lok Sabha on the 18th November, 1954, and adopted.

10. The Committee considered and adopted the report on the 27th November, 1954.

*Published in Part II—Section 2 of the *Gazette of India, Extraordinary*, dated the 15th March, 1954.

11. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

12. *Clause 1.*—The Committee consider that the provisions of the Bill should be extended to the State of Jammu and Kashmir also. The Constitution (Application to Jammu and Kashmir) Order, 1954, made on the 14th May, 1954, has provided for the application of Articles 17 and 35 of the Constitution to that State.

Sub-clause (2) has therefore been amended accordingly.

13. *Clause 2.*—The Committee have discussed at length as to whether the expression “untouchable” used in the Bill should be retained or substituted by any other appropriate word or words. On the one hand the legality and propriety of the use of the expression particularly in view of the abolition of “Untouchability” under Article 17 of the Constitution and on the other hand the apprehension that deletion of the word might leave loopholes and the purpose of the Bill might be defeated were considered. The Committee are of opinion that the deletion of the expression ‘untouchable’ would not stand in the way of attaining the object of the Bill.

The definition of “untouchable” along with the two “Explanations” thereto has been omitted.

14. *Clause 3.*—The Committee feel that in view of their decision not to use the expression ‘untouchable’, this clause needs suitable revision. Moreover, the language of the clause should conform to similar provisions used in penal statutes. It was also considered necessary to make it clear that both the right of entry to a place of public worship as well as the right to offer worship therein are secured.

The clause has therefore been redrafted accordingly.

An explanation has been added to the clause which is intended to provide that if a sectional temple is open to other Hindus then no person professing the same religion should be prevented from enjoying similar rights on the ground only of “untouchability”. This explanation has also been made applicable to clause 4.

15. *Clause 4.*—The Committee are of the view that sub-clause (a) should be omitted because the object of this sub-clause is already secured by Articles 15 and 16 of the Constitution.

The Committee also feel that the provisions of sub-clause (b) should be slightly amplified and certain other forms of the practice of “untouchability” added.

The clause has accordingly been revised.

16. *Clause 5.*—The Committee feel that a provision should be added in respect of discrimination after admission to any of the institutions mentioned in the clause.

The clause has accordingly been amended.

17. *Clause 6.*—The Committee considered the view point urged in the evidence tendered before them that although there may not be

complete refusal to sell goods or render services to a person on the ground only of "untouchability" there may be cases of refusal to sell goods or render services at the same time and place and on the same terms and conditions at or on which such goods are sold or services are rendered to other persons in the ordinary course of business.

The Committee feel that suitable provisions should also be made therefor.

The clause has therefore been suitably amended.

18. *Clause 7: (Original Clause 8).*—The Committee feel that clauses 3 to 6 should be made self-contained with the penalty specified in each clause, and that clause 7 should be suitably revised in the light of amendments to clauses 3 to 6.

The revised clause 7 provides for punishment for social and economic boycott as well as for preaching or propagating practice of "untouchability".

19. *Clause 8 (Original Clause 10).*—This clause corresponds to original clause 10 of the Bill. Only a minor drafting change has been done.

20. *Clause 9 (Original Clause 11).*—This clause corresponds to original clause 11 of the Bill.

21. *Clause 10 [Original Clause 8(3)].*—This clause corresponds to sub-clause (3) of the original clause 8 of the Bill. It has become necessary to make this a separate clause in view of the revised form of clauses 3 to 7.

22. *Clause 11 (New Clause).*—The Committee considered at length the question of sufficiency of the quantum of punishment provided for in the Bill. It was stressed before the Committee that this being a social legislation, provision for enhanced punishment might lead to disturbance of peace and harmony of the rural life. On the other hand it was feared that without provision for deterrent punishment, the object of the Bill might be defeated. Provision is therefore considered necessary for making it obligatory upon a court to impose a sentence of both imprisonment and fine in the case of a second or subsequent offence.

This has accordingly been provided in this clause.

23. *Clause 12 (New Clause).*—This is a new clause. It has been inserted with a view to shift the burden of proof from the prosecution to the accused where any act constituting an offence under this Bill is committed in relation to a member of a Scheduled Caste as defined in clause (42) of Article 366 of the Constitution.

24. *Clause 13 (Original Clause 7).*—The clause has been slightly modified in view of omission of the definition of 'untouchable'. Some drafting changes of minor character have also been made.

25. *Clause 14 (Original Clause 9).*—This clause corresponds to original clause 9 of the Bill.

26. *Clause 15 (Original Clause 13).*—The Committee discussed the question as to whether the offences under this legislation should be made compoundable or not. It was felt that if the provisions of the Bill are made strict, they may defeat the very object of the Bill. Therefore the Committee are of opinion that the offences under this Act should be made compoundable with the permission of the Court.

The clause has accordingly been amended.

27. *Clause 16 (Original Clause 12).*—This clause corresponds to original clause 12 of the Bill.

28. *Clause 17 (Original Clause 14).*—This clause has been slightly amended. For the sake of uniformity, the State enactments specified in the schedule have been repealed *in toto*.

29. *The Schedule.*—The Travancore-Cochin Temple Entry (Removal of Disabilities) Act, 1950, has been added to the Schedule. This was an omission in the original schedule.

30. It is the consensus of opinion of the Committee that when this legislation comes into force the Central Government and the State Governments should appoint Committees to look into the implementation of the Act.

31. The Committee would further like to recommend that adequate steps should be taken by the Central Government and the State Governments on the administration side of the Act to see that the spirit of the Act is fully implemented.

32. The Joint Committee recommend that the Bill as amended be passed.

UPENDRANATH BARMAN,

*Chairman,
Joint Committee.*

NEW DELHI;

The 30th November, 1954.

Minutes of Dissent

I

Although the Bill as amended by the Joint Committee is a distinct improvement on the measure introduced in the House and the mandate of the Constitution in its letter and spirit has been to a large extent implemented by this Bill, yet mere enactment of legislation will hardly achieve the desired objective, unless social conscience is active in the States and the Governments and the people in all the States make conscious efforts to eradicate disabilities and to translate the measure into action. This measure was overdue having regard to the provisions of Article 17 of the Constitution of India. The Constitution clearly declared that 'Untouchability' was abolished and its practice in any form was forbidden. But it is a matter of regret that this blot on Hinduism still persists and its practice has not yet been weeded out in all parts of India. In different parts of the country Harijan brothers and sisters are still being subjected to discrimination and humiliating practices. This is the cancer which is eating into the vitals of Hindu society and the guaranteed freedom of equality will be a dead letter unless the public are vigilant and active.

Article 17 further prescribes that the enforcement of any disability arising out of 'Untouchability' shall be an offence punishable in accordance with law. Under Article 35 of the Constitution the Parliament has exclusive power of prescribing punishment for those acts which are declared to be offences under Part III of the Constitution and Parliament was enjoined by that Article to make laws for prescribing punishments for such acts. It was pointed out in the Report of the Commissioner for Scheduled Castes and Tribes that in spite of the fact that the problem of untouchability is still of magnitude, the number of cases reported to the police and filed in the Courts against the practice of this evil in the country is comparatively very small. The reason for this is that the people belonging to the Scheduled Castes are too much dependent on their better placed brethren and often do not dare to go to the Police or the Courts of law for the redress of their grievances. The Commissioner has further pointed out that the information collected from the State Governments shows that there has been no appreciable improvement with regard to the practice of untouchability.

Clause 17.—Twenty-one statutes passed by State Legislatures and directed towards the removal of social and religious disabilities enforced in different States are being repealed by this clause. I regret to express my dissent from this provision adopted by the Joint Committee. During the course of the discussions in the Joint Committee it was not possible to scrutinise the provisions of the 21 statutes mentioned in the Schedule. The discussion proceeded on the footing that the original clause in the Bill would be retained and the existing statutes in the different States would be operative in spheres where this Bill makes no provision. There may be regional disabilities or

particular social practices from which the Scheduled Castes suffer in different areas for which provisions have been made in these Statutes. It would not be right for the Parliament to repeal all these Statutes.

I would suggest that the following clause should be substituted in place of clause 17:—

“Repeal.—The enactments specified in the Schedule are hereby repealed to the extent to which any of the provisions contained therein correspond or are repugnant to this Act or to any of the provisions contained herein.”

N. C. CHATTERJEE.

NEW DELHI;

The 28th November, 1954.

II

The Bill as emerged from the Joint Committee is much improved and is made almost perfect. However I disagree with para 23 of the Report regarding clause 12. It is a principle of jurisprudence that the burden of proof is always on the prosecution and never on the accused. There is always a presumption of innocence in favour of the accused until he is proved guilty. I am afraid if this clause is passed there may be people who may bring frivolous complaints which may prove to be a cause of unnecessary harassment; because even if the case is not proved the complainant has nothing to lose.

LILAVATI MUNSHI.

NEW DELHI;

The 29th November, 1954.

III

It is a great day for all those who regarded untouchability as the greatest obstacle in the emergence of a strong and united Hindu Nation. The Constitution of India had abolished untouchability but this Bill will give practical shape to the aspirations of a large number of the social reformers in the country. This was the work for which Maharshi Dayanand and Veer V. D. Savarkar devoted their whole lives. It is true that untouchability will not be abolished by passing legislation only. The social reformers will have to carry on the work with singleness of purpose for years to come.

However, I do not agree with the explanation to clause 3. The definition of “Hindu” given in the explanation is neither scientific nor exhaustive. It may give rise to many difficulties and confusion of so many sects and sub-sects that a list however elaborately prepared, is bound to be defective and will lead to confusion and heart-burning. I, therefore, propose that in addition to giving the list of different sections of the Hindus, the following words should be added “and all others who profess religion of Indian origin.” If this definition is given, no section of Hindu can escape from the operation of this Act.

And no member of Scheduled Caste will be denied access to places of public worship under any subterfuge.

V. G. DESHPANDE

NEW DELHI;
The 29th November, 1954.

IV

I am forced to write a note of dissent to the Untouchability (Offences) Bill as I feel sincerely and seriously that the Bill as amended instead of improving the original one has taken the shape of a half hearted and halting measure. In my opinion the original Bill was far better drafted to serve the objective in view.

The articles 15, 16, 17, 19, 25 and 29 of the Constitution of India covering the fundamental rights of citizens of the Republic have to be taken into full account when specific legislation is to be enacted on the basis of article 17 of the Constitution. According to article 17 of the Constitution, untouchability is abolished. "The enforcement of any disability arising out of untouchability shall be an offence punishable under law" is the directive given by the Constitution. It is my considered view that the very letter and spirit of the wordings of this clause in the Constitution have not been taken seriously into account by the Joint Committee. The Bill as amended will not therefore serve the purpose of amplifying and implementing the solemn declaration contained in article 17. The Constitution itself does not define as to who is an untouchable and what is untouchability. So it was essential that these terms should be defined in the implementing Act. Further whatever disabilities could be said to arise out of untouchability should be logically enumerated. It is then that implementation becomes possible.

The amended Bill omits the definition of untouchable contained in the original Bill. The presumption clause 12 is neither a substitute nor a definition nor does it cover cases where persons by custom or usage are treated as untouchable and discriminated against. In the various clauses 3, 4 and 6 the expression 'the same religion, the same religious denomination etc.' makes it possible for the would-be offender to say that the person discriminated against does not belong to that religion at all or to say that at the time of the committal of the offence, he did not know that he belonged to that religion. To illustrate, an untouchable could be kept out or the offender could be made to go unpunished by the defence on the plea that the accused was a Hindu, and that the accused thought that the complainant was not a Hindu at all and hence excluded him. This defect can only be remedied if first untouchability is defined, of course after defining the word untouchable and then the particular offences are set out. Further a presumption must be stated that the untouchables are supposed to be known to belong to the particular religion to the body of which they are attached. The explanation to clause 3 simply makes it a matter of legal presumption that all the different forms and practices of religion enumerated there are the same. But the fact that the untouchable is also known to be of the same religion is not made clear in the explanation. It should be clearly stated that the accused is presumed to know that the complainant (here the untouchable) is of the same religion as the accused.

In clause 4, in sub-clause (a) the word 'enforces' is used. This excludes subtle threats, invocation of divine displeasure and inducements as 'enforces' in its grammatical meaning can only mean doing it by employment of force and definition of 'force' in the Indian Penal Code would not cover the above. The same thing applies to the word "compels" used in sub-clause (b) of the same clause.

In clause 5 an act must be clearly defined to include an omission also. The expression 'Whoever by any act or omission discriminates against any person etc.' should be used since in such institutions after admission there would be more hardships caused by omitting to do certain necessary things than by positive act e.g., refusing to give medicine, not supplying books etc.

In clauses 3, 4, 5, 12 and 13 the words 'on the ground only of untouchability' or 'only of untouchability' occur as the presumption part of the clauses. The expression 'on the ground only of untouchability or only of untouchability', when coming to legal explanation, is very vague, and ineffective too, especially when the word 'untouchability' is not defined at all in the Bill. The vicious effect of the word 'only' in clauses 3, 4, 5 and 13 could have been mitigated by the presumption clause 12 if there at least the word 'only' in the words 'on the ground only of untouchability' would not have found a place. Further in order to add insult to injury, the word 'unless the contrary is proved' also is inserted in the presumption clause 12.

There was a suggestion to make the law non-compoundable but that was not accepted. In clause 15(b) of the amended Bill it is given that the prosecutions arising out of the measure are to be compoundable. This takes away the whole advantages arising out of the legislation. It should be known that the accused in such cases will be always having more influence and social position than the complainant. All kinds of inducement, pull and influence could be brought against the complainant by the accused. In such circumstances the cases should have been brought under non-compoundable category by legislation.

In the amended Bill, clause 12 of the original Bill is inserted as clause 16. This is an overriding law over the other similar legislative measures that existed in the States, but at the same time does not take away the right of enforcing the laws of the States which are more comprehensive and which provide for the total customs and practices varying from State to State. In order to corroborate this point, the Repeal Clause in the original Bill was limited 'to the extent to which they or any of the provisions contained therein correspond or are repugnant to this Act or to any of the provisions'. But in the amended Bill, the Repeal Clause 17 is completely changed from the original with the result that it cut at the very root of the various progressive social legislations enacted in the various States, by repealing all those Acts *in toto*. I wonder how the overriding and the repeal clauses 16 and 17 of the amended Bill complement each other as clauses 12 and 14 of the original Bill stood. Now there is a contradiction between clauses 16 and 17 of the amended Bill whereas no such contradiction existed in similar clauses 12 and 14 of the original Act.

The solemn declaration in the Constitution abolishing untouchability and the consequential provisions in the Bill for punishing the practice of untouchability have been necessary, because social movement and progress in the direction have been very slow. So unless this Bill which by its clarity and strictness and by the drastic punishment that it must provide strongly deters the practice of untouchability, no useful purpose would be served by having one more formal Act in the book. As it is, the bulk of the machinery that will prosecute for these offences and are charged with punishing belong to the offending class. Unless the provisions in the Act are stringent and even arbitrary, if need be, there will not be much deterrent effect. When we are prepared to act radically in other economic and social spheres to achieve progress the approach must be equally radical in this respect also.

Article 17 of the Constitution which abolished untouchability is a national act and a national declaration. The laws to implement this should adhere to the faith behind this solemn decision. But I wish to emphasise here that even behind this solemn decision of the Constitution makers was the spirit of the greatest revolutionary of this age—The Father of the Nation. The Bill as amended lacks his spirit. It has omitted and ignored that spirit completely. The Bill as amended should be circulated for public opinion and be referred again to another Select Committee representing the main interests concerned.

R. VELAYUDHAN

NEW DELHI;

The 29th November, 1954.

V

The legislative measure to put an end to the practice of untouchability is welcome. But this amended Bill has made that purpose quite ineffective.

2. That is done by way of removing the word "untouchable" and the *Explanation* on Page 2 of the original draft (as introduced in the Lok Sabha).

3. This has totally undermined the purpose of the Bill. Hence I find it difficult to agree with the report of the Joint Committee.

4. In order to make the Bill a real penal measure to eradicate the practice of untouchability, the community or persons against whom untouchability is being practised should be specifically mentioned. So also it is necessary to specify the persons who will benefit by it. These two matters are of vital importance, so far as measures like this Bill are concerned. Unless the word "untouchable" and the original explanation are retained in the Bill, the Bill will not have the desired effect. Hence I dissent from the Report.

N. C. SEKHAR

NEW DELHI;

The 29th November, 1954.

One general consideration, I should wish both the Houses of Parliament to give serious thought to.

Social legislation is meant to endorse new concepts of social justice, which an overwhelming majority of the nation has arrived at. It is easy enough for us to whip ourselves into a fury of righteous indignation, but it is always safe to have mild punishments. The ultimate aim is not to punish reactionaries but convert them, with the aid of Law, to a new conception of social well-being.

Under the present set-up of political ideals democracy feels that it is all powerful and can legislate on anything, if there is an overwhelming body of public opinion to back it. In former times, when Governments were not so strong and society functioned more vigorously under a commonly accepted social standard, social sanctions were more powerful and more commonly used; and, from the point of view of human civilisation and culture, social sanctions are more to be valued than crude governmental sanctions of fine, punishment, confiscation, capital punishment etc.

But, unfortunately, society lost its high standard of public life, and the various castes misused their birth-right of using social sanctions. The nation, therefore, with a higher standard of public life, has found it necessary to control and curb the birth-right of society of using social sanctions; with the result that we use crude remedies to check the misuse of more civilised social sanctions. This is inevitable; and yet, we must guard against the same pit fall in which society has fallen. We cannot imitate social fanatics that use social sanctions indiscriminately by using legal sanctions in the same indiscriminate way.

Punishment meted out to persons resorting to social boycott should not be so very harsh. Let us not destroy social conscience by suppressing it on the strength of legislative conscience.

KAKA KALELKAR

NEW DELHI;

The 29th November, 1954.

VII

The enactment of a comprehensive law to penalise the age-long practice of untouchability is a difficult matter. The present Bill is only an honest attempt to penalise this evil practice so far as it appears in public conduct.

The use of the word "untouchable" in the Bill has been avoided to bring it in conformity with the Constitution which has declared as a fact the abolition of untouchability since 26th January, 1950. Moreover, it appears cruel and even incorrect to dub a man as untouchable only because some persons may in their ignorance observe the vice of untouchability against such man.

Some doubts have been expressed as to the legality of penalising a person who may be carrying on any profession by way of providing

some service like hair-cutting, catering, teaching etc. if such a person discriminates between his customers. It is a ticklish question. For instance, if a hair-cutting saloon or a cafe bears a sign-board stating that Harijans and Muslims are not served here, it would be debatable if such a thing can be penalised under the Constitution. But on the strength of the good sense of the general public and with the idea that the courts would give broad-based interpretation to the Constitution in order to accelerate social justice some provisions of this nature have been included in the Bill.

In respect of entry into temples, there seems to be some confusion. The consensus of opinion in the Joint Committee was that the Harijans should have the same rights of entry or worship in all the Hindu temples including those of Jains and Sikhs etc. as any other Hindu may have in that respect. Generally a Hindu has a right of access to Hindu temples of all denominations, but has a right of worship only in the temple which belongs to the particular faith which such Hindu professes. To my mind clause 3 of the Bill as it now stands can be interpreted to give a Hindu or a Harijan a right of worship even in a temple which may not be of the same denomination as to which such Hindu or Harijan belongs. Although this is a very petty matter yet among the orthodox people it can be magnified as something encroaching upon their religion. I would, therefore, like this clause to be re-examined in this light so that the language may be suitably amended as to give unequivocal expression to the intentions of the Joint Committee correctly.

NEMI SARAN JAIN

NEW DELHI;
The 30th November, 1954.

THE UNTOUCHABILITY (OFFENCES) BILL, 1954

(AS AMENDED BY THE JOINT COMMITTEE)

(Words *sidelined* or *underlined* indicate the amendments suggested by the Committee; asterisks indicate omissions.)

A
BILL

to prescribe punishment for the practice of "Untouchability", for the enforcement of any disability arising therefrom: and for matters connected therewith.

BE it enacted by Parliament in the Fifth Year of the Republic of India as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Untouchability (Offences) Act, 1954.

(2) It extends to the whole of India. * * * * * 5

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) 'hotel' includes a refreshment room, a boarding house, 10
a lodging house, a coffee house and a cafe;

(b) 'place' includes a house, a building, a tent, and a vessel;

(c) 'place of public entertainment' includes any place to which the public are admitted and in which an entertainment is provided or held. 15

Explanation.—'Entertainment' includes any exhibition, performance, game, sport and any other form of amusement;

(d) 'place of public worship' means a place, by whatever name known, which is used as a place of public religious worship or which is dedicated generally to, or is used generally by, 20

persons professing any religion or belonging to any religious denomination or any section thereof, for the performance of any religious service, or for offering prayers therein; and includes all lands and subsidiary shrines appurtenant or attached to any such place;

(e) 'shop' means any premises where goods are sold either wholesale or by retail or both wholesale and by retail and includes a laundry, a hair cutting saloon and any other place where services are rendered to customers.

10 * * * * *
3. Punishment for enforcing religious disabilities.—Whoever on the ground only of "untouchability" prevents any person—

15 (a) from entering any place of public worship which is open to other persons professing the same religion or belonging to the same religious denomination or any section thereof, as such person; or

20 (b) from worshipping or offering prayers or performing any religious service in any place of public worship, or bathing in, or using the waters of, any sacred tank, well, spring or watercourse, in the same manner and to the same extent as is permissible to other persons professing the same religion, or belonging to the same religious denomination or any section thereof, as such person;

25 shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

30 *Explanation.*—For the purposes of this section and section 4, persons professing the Hindu religion in any of its forms or developments including Sikhs, Jains, Buddhists, Virashaivas, Lingayats, Advaitis and followers of the Brahmo, Prarthana or Arya Samaj, shall be deemed to profess the same religion.

4. Punishment for enforcing social disabilities.—Whoever on the ground only of "untouchability"—

35 * * * * *
 (a) enforces against any person any disability with regard to—

(i) access to any shop, public restaurant, hotel or place of public entertainment; or

40 (ii) the use of any utensils, and other articles kept in any public restaurant, hotel, dharmshala, sarai or musafir-khana for the use of the general public or of persons professing the same religion, or belonging to the same religious denomination or any section thereof, as such person; or

45 (iii) the practice of any profession or the carrying on of any occupation, trade or business; or

(iv) the use of, or access to, any river, stream, spring, well, tank, cistern, water-tap or other watering place, or

any bathing ghat, burial or cremation ground, any sanitary convenience, any road, or passage, or any other place of public resort which other members of the public, or persons professing the same religion or belonging to the same religious denomination or any section thereof, as such person, have a right to use or have access to; or 5

(v) the use of, or access to, any place used for a charitable or a public purpose maintained wholly or partly out of State funds or dedicated to the use of the general public, or persons professing the same religion, or belonging to the same religious denomination or any section thereof, as such person; or 10

(vi) the enjoyment of any benefit under a charitable trust created for the benefit of the general public or of persons professing the same religion or belonging to the same religious denomination or any section thereof, as such person; or 15

(vii) the use of, or access to, any public conveyance * * * ; or

(viii) the construction, acquisition, or occupation of any residential premises in any locality, whatsoever; or 20

(ix) the use of any *dharmshala*, *sarai* or *musafirkhana* which is open to the general public, or to persons professing the same religion or belonging to the same religious denomination or any section thereof, as such person; or 25

(x) the observance of any social or religious custom, usage or ceremony or taking part in any religious procession; or

(b) compels any person to dig a grave, or remove a carcass or beat *pariah* drums or convey the news of the death of any person; 30

shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees; or with both. 35

5. Punishment for refusing to admit persons to hospitals, etc.— 35

Whoever on the ground only of "untouchability"—

(a) refuses admission to any person to any hospital, dispensary, educational institution or any hostel attached thereto, if such hospital, dispensary, educational institution or hostel is established or maintained for the benefit of the general public or any section thereof; or 40

(b) does any act which discriminates against any such person after admission to any of the aforesaid institutions;

shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both. 45

6. Punishment for refusing to sell goods or render services.—

Whoever on the ground only of "untouchability" refuses to sell any

goods or refuses to render any service * * * to any person at the same time and place and on the same terms and conditions at or on which such goods are sold or services are rendered to other persons in the ordinary course of business shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

7. Punishment for other offences arising out of "untouchability".—

(1) Whoever—

(a) prevents any person from exercising any right accruing to him by reason of the abolition of "untouchability" under article 17 of the Constitution; or

(b) molests, injures, annoys, obstructs or causes or attempts to cause obstruction to any person in the exercise of any such right or molests, injures, annoys or boycotts any person by reason of his having exercised any such right; or

(c) by words, either spoken or written, or by signs or by visible representations or otherwise, incites or encourages any person or class of persons or the public generally to practise "untouchability" in any form whatsoever;

shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Explanation.—A person shall be deemed to boycott another person who—

(a) refuses to let to such other person or refuses to permit such other person, to use or occupy any house or land or refuses to deal with, work for hire for, or do business with, such other person or to render to him or receive from him any customary service, or refuses to do any of the said things on the terms on which such things would be commonly done in the ordinary course of business; or

(b) abstains from such social, professional or business relations as he would ordinarily maintain with such other person.

(2) Whoever—

(i) denies to any person belonging to his community * * * or any section thereof any right or privilege to which such person would be entitled as a member of such community * * * or section, or

(ii) * * * takes any part in the ex-communication * * * of such person,

on the ground that such person has refused to practise "untouchability" or that such person has done any act in furtherance of the objects of this Act, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

8. Cancellation or suspension of licences in certain cases.—When a person who is convicted of an offence under section 6 holds any licence under any law for the time being in force in respect of any

profession, trade, calling or employment in relation to which the offence is committed, the court trying the offence may, without prejudice to any other penalty to which such person may be liable under that section, direct that the licence shall stand cancelled or be suspended for such period as the court may deem fit, and every order of the court so cancelling or suspending a licence shall have effect as if it had been passed by the authority competent to cancel or suspend the licence under any such law.

Explanation.—In this section, 'licence' includes a permit or a permission.

9. Resumption or suspension of grants made by Government.—

Where the manager or trustee of a place of public worship which is in receipt of a grant of land or money from the Government is convicted of an offence under this Act and such conviction is not reversed or quashed in any appeal or revision, the Government may, if in its opinion the circumstances of the case warrant such a course, direct the suspension or resumption of the whole or any part of such grant.

10. Abetment of offence.—Whoever abets any offence under this Act shall be punishable with the punishment provided for the offence.

11. Enhanced penalty on subsequent conviction.—Whoever having already been convicted of an offence under this Act or of an abetment of such offence is again convicted of any such offence or abetment, shall, on every such subsequent conviction, be punishable with both imprisonment and fine.

12. Presumption by courts in certain cases.—Where any act constituting an offence under this Act is committed in relation to a member of a Scheduled Caste as defined in clause (24) of article 366 of the Constitution, the court shall presume, unless the contrary is proved, that such act was committed on the ground only of "untouchability".

13. Limitation of jurisdiction of civil courts.—(1) No civil court shall entertain or continue any suit or proceeding or shall pass any decree or order or execute wholly or partially any decree or order if the claim involved in such suit or proceeding or if the passing of such decree or order or if such execution would in any way be contrary to the provisions of this Act.

(2) No court shall in adjudicating any matter or executing any decree or order recognise any custom or usage imposing any ~~disability~~ disability on any person on the ground only of "untouchability".

14. Offences by companies.—(1) If the person committing an offence under this Act is a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the

offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

5 (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director or manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

10 *Explanation.*—For the purposes of this section,—

(a) 'company' means any body corporate and includes a firm or other association of individuals; and

(b) 'director' in relation to a firm means a partner in the firm.

15 **15. Offences under the Act to be cognizable and compoundable.**—Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898)—

(a) every offence under this Act shall be cognizable; and

20 (b) every such offence may, with the permission of the court, be compounded.

25 **16. Act to override other laws.**—Save as otherwise expressly provided in this Act, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, or any custom or usage or any instrument having effect by virtue of any such law or any decree or order of any court or other authority.

17. Repeal.—The enactments specified in the Schedule are hereby repealed. *****

THE SCHEDULE

30 (See section 17)

1. The Bihar Harijan (Removal of Civil Disabilities) Act, 1949 (Bihar Act XIX of 1949).
2. The Bombay Harijan (Removal of Social Disabilities) Act, 1946 (Bombay Act X of 1947).
- 35 3. The Bombay Harijan Temple Entry Act, 1947 (Bombay Act XXXV of 1947).
4. The Central Provinces and Berar Scheduled Castes (Removal of Civil Disabilities) Act, 1947 (Central Provinces and Berar Act XXIV of 1947).
- 40 5. The Central Provinces and Berar Temple Entry Authorisation Act, 1947 (Central Provinces and Berar Act XLI of 1947).
6. The East Punjab (Removal of Religious and Social Disabilities) Act, 1948 (East Punjab Act XVI of 1948).
- 45 7. The Madras Removal of Civil Disabilities Act, 1938 (Madras Act XXI of 1938).

8. The Orissa Removal of Civil Disabilities Act, 1946 (Orissa Act XI of 1946).
9. The Orissa Temple Entry Authorisation Act, 1948 (Orissa Act XI of 1948).
10. The United Provinces Removal of Social Disabilities Act, 1947 (U.P. Act XIV of 1947). 5
11. The West Bengal Hindu Social Disabilities Removal Act, 1948 (West Bengal Act XXXVII of 1948).
12. The Hyderabad Harijan Temple Entry Regulation, 1358F (No. LV of 1358 Fasli). 10
13. The Hyderabad Harijan (Removal of Social Disabilities) Regulation, 1358F (No. LVI of 1358 Fasli).
14. The Madhya Bharat Harijan Ayogta Nivaran Vidhan, Sāmvat 2005 (Madhya Bharat Act No. 15 of 1949).
15. The Removal of Civil Disabilities Act, 1943 (Mysore Act XLII of 1943). 15
16. The Mysore Temple Entry Authorisation Act, 1948 (Mysore Act XIV of 1948).
17. The Saurashtra Harijan (Removal of Social Disabilities) Ordinance (No. XL of 1948). 20
18. The Travancore-Cochin Removal of Social Disabilities Act, 1125 (Travancore-Cochin Act VIII of 1125).
19. The Travancore-Cochin Temple Entry (Removal of Disabilities) Act, 1950 (Travancore-Cochin Act XXVII of 1950). 15
20. The Coorg Scheduled Castes (Removal of Civil and Social Disabilities) Act, 1949 (Coorg Act I of 1949). 25
21. The Coorg Temple Entry Authorisation Act, 1949 (Coorg Act II of 1949).

APPENDIX I

(Vide para. 2 of the Report)

Motion in the Lok Sabha

“That the Bill to prescribe punishment for the practice of untouchability or the enforcement of any disability arising therefrom, be referred to a Joint Committee of the Houses consisting of 49 members, 33 from this House, namely:—

1. Shri Upendranath Barman
2. Shri Narayan Sadoba Kajrolkar
3. Shri T. Sanganna
4. Shri Pannalall Barupal
5. Shri Naval Prabhakar
6. Shri Ajit Singh
7. Shri Ganeshi Lal Chaudhary
8. Shri Bahadurbhai Kunthabhai Patel
9. Shrimati Minimata
10. Shri Motilal Malviya
11. Shri Dodda Thimmaiah
12. Shri Rameshwar Sahu
13. Shri M. R. Krishna
14. Shri Ram Dass
15. Shri Nemi Saran Jain
16. Pandit Algu Rai Shastri
17. Shri Shree Narayan Das
18. Shri S. V. Ramaswamy
19. Shri Resham Lal Jangde
20. Shri Balwant Nagesh Datar
21. Shri P. T. Punnoose
22. Shri Mangalagiri Nanadas
23. Shri P. N. Rajabhoj
24. Rt. Rev. John Richardson
25. Shri A. Jayaraman
26. Shri V. G. Deshpande
27. Shri B. S. Murthy
28. Shri Vijneshwar Missir
29. Shri R. Velayudhan
30. Shri N. M. Lingam
31. Shri Mohanlal Saksena

32. Shri N. C. Chatterjee, and

33. Dr. Kailas Nath Katju.

and 16 members from the Rajya Sabha;

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee;

that the Committee shall make a report to this House by the last day of the first week of the next Session;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees will apply with such variations and modifications as the Speaker may make; and

that this House recommends to the Rajya Sabha that the Rajya Sabha do join the said Joint Committee and communicate to this House the names of members to be appointed by the Rajya Sabha to the Joint Committee."

APPENDIX II

(vide para. 3 of the Report)

Motion in the Rajya Sabha

“That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do join in the Joint Committee of the Houses on the Bill to prescribe punishment for the practice of untouchability or the enforcement of any disability arising therefrom and resolves that the following members of the Rajya Sabha be nominated to serve on the said Joint Committee:—

1. Shrimati Lilavati Munshi
 2. Shrimati Bedavati Buragohain
 3. Shri Alluri Satyanarayana Raju
 4. Dr. N. S. Hardiker
 5. Shri V. M. Surendra Ram
 6. Shri Kishori Ram
 7. Shri Ram Prasad Tamta
 8. Thakur Bhanu Pratap Singh
 9. Shri Trimbak Damodar Pustake
 10. Shri Jagannath Das
 11. Shri Nanabhai Bhatt
 12. Kakasaheb Kalelkar
 13. Shri M. Satyanarayana
 14. Shri Surendranath Dwivedy
 15. Shri N. C. Sekhar
 16. Shri Narsingrao Balbhimrao Deshmukh.”
-

APPENDIX III

Minutes of the meetings of the Joint Committee on the untouchability (Offences) Bill, 1954.

I

First Meeting

The Committee met from 2-30 P.M. to 3-15 P.M. on Wednesday, the 29th September, 1954.

PRESENT

Shri Upendranath Barman—*Chairman*

MEMBERS

Lok Sabha

2. Shri Narayan Sadoba Kajrolkar
3. Shri Naval Prabhakar
4. Shri Ganeshi Lal Chaudhary
5. Shri Bahadurbhai Kunthabhai Patel
6. Shrimati Minimata
7. Shri Motilal Malviya
8. Shri Dodda Thimmaiah
9. Shri Ram Dass
10. Shri Nemi Saran Jain
11. Shri S. V. Ramaswamy
12. Shri Resham Lal Jangde
13. Shri Balwant Nagesh Datar
14. Shri Mangalagiri Nanadas
15. Shri P. N. Rajabhoj
16. Shri A. Jayaraman
17. Shri V. G. Deshpande
18. Shri B. S. Murthy
19. Shri Vijneshwar Missir
20. Shri R. Velayudhan
21. Shri N. M. Lingam
22. Shri Mohanlal Saksena
23. Shri N. C. Chatterjee
24. Dr. Kailas Nath Katju.

Rajya Sabha

25. Shrimati Lilavati Munshi
26. Shrimati Bedavati Buragohain

27. Shri V. M. Surendra Ram
28. Shri Kishori Ram
29. Shri Ram Prasad Tamta
30. Shri Jagannath Das
31. Kakasaheb Kalelkar
32. Shri Surendranath Dwivedy
33. Shri N. C. Sekhar
34. Shri Narsingrao Balbhimrao Deshmukh.

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri S. K. Hiranandani, *Additional Draftsman, Ministry of Law.*

SECRETARIAT

Shri M. Sundar Raj—*Deputy Secretary.*

Shri P. K. Patnaik—*Under Secretary.*

3. The Committee held a preliminary discussion on the programme to be adopted by them and the witnesses, if any, to be called before them in connection with the Bill.

4. It was decided that a Press Communique be issued advising public bodies, associations or individuals who are desirous of presenting their suggestions or views in connection with the Bill before the Committee to send memoranda thereon to the Lok Sabha Secretariat on or before the 21st October, 1954.

5. The Committee authorised the Chairman to decide after examining the memoranda which associations or individuals should be called to offer oral evidence before the Committee.

6. The Committee desired that a summary of the points contained in the various memoranda should be circulated to the Members, as also a summary of the essential points contained in the relevant sections especially the sections, prescribing punishments for the practice of untouchability in the various State Acts on the subject.

7. The Chairman suggested that notice of amendments to the clauses of the Bill that the members intended to move should be sent well in advance to the Lok Sabha Secretariat for circulation to the Members of the Committee.

8. It was decided that the Committee should meet again on the 1st November, 1954 and should hold continuous sittings thereafter.

9. The Committee then adjourned to meet again at 2-30 P.M. on Monday, the 1st November, 1954.

II

Second Meeting

The Committee met from 2-30 P.M. to 2-45 P.M. on Monday, the 1st November, 1954.

PRESENT

Shri Upendranath Barman—*Chairman.*

MEMBERS

Lok Sabha

2. Shri Narayan Sadoba Kajrolkar
3. Shri T. Sanganna
4. Shri Pannalall Barupal
5. Shri Naval Prabhakar
6. Shri Ajit Singh
7. Shri Ganeshi Lal Chaudhary
8. Shri Bahadurbhai Kunthabhai Patel
9. Shrimati Minimata
10. Shri Motilal Malviya
11. Shri Dodda Thimmaiah
12. Shri Rameshwar Sahu
13. Shri Ram Dass
14. Shri Nemi Saran Jain
15. Pandit Algu Rai Shastri
16. Shri Shree Narayan Das
17. Shri Balwant Nagesh Datar
18. Shri Mangalagiri Nanadas
19. Shri P. N. Rajabhoj
20. Shri A. Jayaraman
21. Shri V. G. Deshpande
22. Shri B. S. Murthy
23. Shri Vijneshwar Missir
24. Shri R. Velayudhan
25. Shri N. M. Lingam
26. Shri Mohanlal Saksena
27. Shri N. C. Chatterjee.

Rajya Sabha

28. Shrimati Lilavati Munshi
29. Shrimati Bedavati Buragohain

30. Dr. N. S. Hardiker
31. Shri Kishori Ram
32. Shri Ram Prasad Tamta
33. Shri Trimbak Damodar Pustake
34. Shri Jagannath Das
35. Kakasaheb Kalelkar
36. Shri Surendranath Dwivedy
37. Shri N. C. Sekhar.

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

1. Shri S. K. Hiranandani, *Additional Draftsman, Ministry of Law.*
2. Shri Gajinder Singh, *Under Secretary, Ministry of Home Affairs.*

SECRETARIAT

Shri M. Sundar Raj—*Deputy Secretary.*

Shri P. K. Patnaik—*Under Secretary.*

2. After an obituary reference made by the Chairman, the Committee stood in silence for a minute as a mark of respect to the memory of the late Shri Rafi Ahmad Kidwai, Minister for Food and Agriculture and then decided to adjourn for the day.

3. The Committee further decided to examine the witnesses at their next sitting.

4. The Committee then adjourned to meet again at 2-30 p.m. on Tuesday, the 2nd November, 1954.

III

Third Meeting

The Committee met from 2-30 P.M. to 6-10 P.M. on Tuesday, the 2nd November, 1954.

PRESENT

Shri Upendranath Barman—*Chairman*.

MEMBERS

Lok Sabha

2. Shri Narayan Sadoba Kajrolkar
3. Shri T. Sanganna
4. Shri Pannalall Barupal
5. Shri Naval Prabhakar
6. Shri Ajit Singh
7. Shri Ganeshi Lal Chaudhary
8. Shri Bahadurbhai* Kunthabhai Patel
9. Shrimati Minimata
10. Shri Motilal Malviya
11. Shri Dodda Thimmaiah
12. Shri Rameshwar Sahu
13. Shri Ram Dass
14. Shri Nemi Saran Jain
15. Pandit Algu Rai Shastri
16. Shri Balwant Nagesh Datar
17. Shri Shree Narayan Das
18. Shri Mangalagiri Nanadas
19. Shri A. Jayaraman
20. Shri V. G. Deshpande
21. Shri B. S. Murthy
22. Shri Vijneshwar Missir
23. Shri R. Velayudhan
24. Shri N. M. Lingam
25. Shri Mohanlal Saksena
26. Shri N. C. Chatterjee

Rajya Sabha

27. Shrimati Lilavati Munshi
28. Shrimati Bedavati Buragohain

29. Dr. N. S. Hardiker
30. Shri Kishori Ram
31. Shri Ram Prasad Tamta
32. Shri Trimbak Damodar Pustake
33. Shri Jagannath Das
34. Kakasaheb Kalelkar
35. Shri Surendranath Dwivedy
36. Shri N. C. Sekhar.

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

1. Shri S. K. Hiranandani, *Additional Draftsman, Ministry of Law.*
2. Shri Gajinder Singh, *Under Secretary, Ministry of Home Affairs.*

SECRETARIAT

Shri M. Sundar Raj—*Deputy Secretary.*

Shri P. K. Patnaik—*Under Secretary.*

WITNESSES

I. *Bharatiya Depressed Classes League:*

1. Shri B. Parmeshwaram.
2. Shri Prithvi Singh Azad.
3. Shri Chandrika Ram.

II. *Harijan Sevak Sangh:*

1. Shri Viyogi Hari.
2. Shri K. S. Shivam.

2. The Committee heard the evidence tendered by the representatives of the following Associations:—

- (1) *Bharatiya Depressed Classes League.*
- (2) *Harijan Sevak Sangh.*

3. A verbatim record of the evidence tendered was taken down.

4. The Committee then adjourned to meet again at 2-30 P.M. on Wednesday, the 3rd November, 1954.

IV
Fourth Meeting

The Committee met from 2-30 P.M. to 6 P.M. on Wednesday, the 3rd November, 1954.

PRESENT

Shri Upendranath Barman—*Chairman.*

MEMBERS

Lok Sabha

2. Shri Narayan Sadoba Kajrolkar
3. Shri T. Sanganna
4. Shri Pannalall Barupal
5. Shri Naval Prabhakar
6. Shri Ajit Singh
7. Shri Ganeshi Lal Chaudhary
8. Shri Bahadurbhai Kunthabhai Patel
9. Shrimati Minimata
10. Shri Motilal Malviya
11. Shri Dodda Thimmaiah
12. Shri Rameshwar Sahu
13. Shri Ram Dass
14. Shri Nemi Saran Jain
15. Pandit Algu Rai Shastri
16. Shri Shree Narayan Das
17. Shri Balwant Negesh Datar
18. Shri Mangalagiri Nanadas
19. Shri A. Jayaraman
20. Shri V. G. Deshpande
21. Shri B. S. Murthy
22. Shri Vijneshwar Missir
23. Shri R. Velayudhan.
24. Shri N. M. Lingam
25. Shri Mohanlal Saksena
26. Shri N. C. Chatterjee
27. Dr. Kailas Nath Katju.

Rajya Sabha

28. Shrimati Lilavati Munshi
29. Shrimati Bedavati Buragohain

30. Dr. N. S. Hardiker
31. Shri Kishori Ram.
32. Shri Ram Prasad Tamta
33. Shri Trimbak Damodar Pustake.
34. Shri Jagannath Das
35. Kakasaheb Kalelkar
36. Shri Surendranath Dwivedy
37. Shri N. C. Sekhar.

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

1. Shri S. K. Hiranandani, *Additional Draftsman, Ministry of Law.*
2. Shri Gajinder Singh, *Under Secretary, Ministry of Home Affairs.*

SECRETARIAT

Shri M. Sundar Raj—*Deputy Secretary.*

Shri P. K. Patnaik—*Under Secretary.*

2. The Committee discussed the following points:—

(i) whether the word 'untouchable' used in the Bill should be retained or substituted by any other appropriate word or words; and

(ii) whether the scope of the Bill should be confined to Hindus only.

3. Incidentally the question of sufficiency of the quantum of punishment provided for in the penalty clauses of the Bill was also discussed.

4. Decisions on the points discussed were deferred to be taken at the next sitting of the Committee.

5. The Committee then adjourned to meet again at 2-30 P.M. on Thursday, the 4th November, 1954.

V

Fifth Meeting

The Committee met from 2-30 P.M. to 4-55 P.M. on Thursday, the 4th November, 1954.

PRESENT

Shri Upendranath Barman—*Chairman*.

MEMBERS

Lok Sabha

2. Shri Narayan Sadoba Kajrolkar
3. Shri T. Sanganna
4. Shri Pannalall Barupal
5. Shri Naval Prabhakar
6. Shri Ajit Singh
7. Shri Ganeshi Lal Chaudhary
8. Shri Bahadurbhai Kunthabhai Patel
9. Shrimati Minimata
10. Shri Motilal Malviya
11. Shri Dodda Thimmaiah
12. Shri Rameshwar Sahu
13. Shri M. R. Krishna
14. Shri Ram Dass
15. Shri Nemi Saran Jain
16. Pandit Algu Rai Shastri
17. Shri Shree Narayan Das
18. Shri Balwant Nagesh Datar
19. Shri Mangalagiri Nanadas
20. Shri A. Jayaraman
21. Shri V. G. Deshpande
22. Shri B. S. Murthy
23. Shri Vijneshwar Missir
24. Shri R. Velayudhan
25. Shri N. M. Lingam
26. Shri Mohanlal Saksena
27. Shri N. C. Chatterjee
28. Dr. Kailas Nath Katju.

Rajya Sabha

29. Shrimati Bedavati Buragohain
30. Dr. N. S. Hardiker

31. Shri Kishori Ram
32. Shri Ram Prasad Tamta
33. Shri Trimbak Damodar Pustake
34. Shri Jagannath Das
35. Kākasaheb Kalelkar
36. Shri M. Satyanarayana
37. Shri N. C. Sekhar
38. Shri Narsingrao Balbhimrao Deshmukh.

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

1. Shri S. K. Hiranandani, *Additional Draftsman, Ministry of Law.*
2. Shri Gajinder Singh, *Under Secretary, Ministry of Home Affairs.*

SECRETARIAT

Shri M. Sundar Raj—*Deputy Secretary.*

Shri P. K. Patnaik—*Under Secretary.*

2. The Committee continued discussion on the first point mentioned in the Minutes of the meeting of the Committee held on 3rd November, 1954 as to whether the expression 'untouchable' used in the Bill should or should not be retained.

After considerable discussion the point was put to vote and it was decided by a large majority that the use of the expression 'untouchable' in the Bill in relation to any person, community or section thereof should be avoided.

3. The Committee then took up the second point mentioned in the said Minutes, namely, 'whether the scope of the Bill should be confined to Hindus only'. It was pointed out by the Draftsman that Article 17 of the Constitution would be infringed if any such discrimination was made. In view of this, it was decided that the scope of the Bill in this respect as at present framed should not be altered.

4. The Committee thereafter took up clause by clause consideration of the Bill.

5. *Clause 2.*—Sub-clauses (a) to (e) were passed without any amendment.

Sub-clause (f) was held over for the time being.

6. *Clause 3.*—This clause was also held over.

7. *Clause 4.*—This was taken up for consideration. Discussion was not concluded.

8. The Committee then adjourned to meet again at 2-30 P.M. on Friday, the 5th November, 1954.

Sixth Meeting

The Committee met from 2-30 P.M. to 4 P.M. on Friday, the 5th November, 1954.

PRESENT

Shri Upendranath Barman—*Chairman*.

MEMBERS

Lok Sabha

2. Shri Narayan Sadoba Kajrolkar
3. Shri T. Sanganna
4. Shri Naval Prabhakar
5. Shri Ajit Singh
6. Shri Ganeshi Lal Chaudhary
7. Shri Bahadurbhai Kunthabhai Patel
8. Shrimati Minimata
9. Shri Motilal Malviya
10. Shri Dodda Thimmaiah
11. Shri Rameshwar Sahu
12. Shri M. R. Krishna
13. Shri Ram Dass
14. Shri Nemi Saran Jain
15. Pandit Algu Rai Shastri
16. Shri Shree Narayan Das
17. Shri Resham Lal Jangde
18. Shri Balwant Nagesh Datar
19. Shri Mangalagiri Nanadas
20. Shri A. Jayaraman
21. Shri V. G. Deshpande
22. Shri Vijneshwar Missir
23. Shri R. Velayudhan
24. Shri N. M. Lingam
25. Shri Mohanlal Saksena
26. Shri N. C. Chatterjee
27. Dr. Kailas Nath Katju.

Rajya Sabha

28. Shrimati Bedavati Buragohain
29. Shri Kishori Ram
30. Shri Ram Prasad Tamta

31. Shri Trimbak Damodar Pustake
32. Shri Jagannath Das
33. Kakasaheb Kalelkar
34. Shri M. Satyanarayana
35. Shri N. C. Sekhar
36. Shri Narsingrao Balbhimrao Deshmukh.

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

1. Shri S. K. Hiranandani, *Additional Draftsman, Ministry of Law.*
2. Shri Gajinder Singh, *Under Secretary, Ministry of Home Affairs.*

SECRETARIAT

Shri M. Sundar Raj—*Deputy Secretary.*

Shri P. K. Patnaik—*Under Secretary.*

2. The Committee resumed clause by clause consideration of the Bill.

3. A Government amendment proposing insertion of a new clause (8A) as follows was placed before the Committee:—

“8A. *Presumption by court in certain cases.*—Where any act prohibited by this Act is committed in relation to a member of a Scheduled Caste as defined in clause (24) of article 366 of the Constitution, the court shall presume, unless the contrary is proved, that such act has been done on the ground of ‘Untouchability’ only.”

After discussion the amendment was accepted.

4. *Clause 2(f).*—The Committee decided to omit sub-clause (f) of clause 2. The clause as amended was adopted.

5. *Clause 3.*—The Committee after some discussion accepted the following revised clause in substitution of the original clause 3:—

(i) “3. *Right to enter places of public worship.*—No person shall be subject to any disability arising out of ‘Untouchability’ and denied access to or use of any place of public worship for the purpose of worship, performance of any religious service or offering prayers therein in the same manner and to the same extent as it is open to any other public belonging to the same religion or religious denomination or to the section thereof”

(ii) An Explanation was added to this revised clause as hereunder:—

“*Explanation.*—In the case of Hindu places of public worship the Sanatanaists, Arya Samajists, Brahma Samajists, Jains, Sikhs, Buddhists, Animists and all those who profess the religion of Indian origin will be regarded as belonging to the same religious denomination”.

The Draftsman was directed to make any verbal amendments that may be necessary in the language of the clause as now revised.

6. *Clause 4.*—This clause was taken up for consideration. The discussion was not concluded.

7. The Committee then adjourned to meet again at 9-30 A.M. on Saturday, the 6th November, 1954.

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VII

Seventh Meeting

The Committee met from 9-30 A.M. to 12-50 P.M. on Saturday, the 6th November, 1954.

PRESENT

Shri Upendranath Barman—*Chairman*.

MEMBERS

Lok Sabha

2. Shri Narayan Sadoba Kajrolkar
3. Shri T. Sanganna
4. Shri Naval Prabhakar
5. Shri Ajit Singh
6. Shri Ganeshi Lal Chaudhary
7. Shri Bahadurbhai Kunthabhai Patel
8. Shrimati Minimata
9. Shri Motilal Malviya
10. Shri Dodda Thimmaiah
11. Shri Rameshwar Sahu
12. Shri M. R. Krishna
13. Shri Nemi Saran Jain
14. Pandit Algu Rai Shastri
15. Shri Shree Narayan Das
16. Shri Resham Lal Jangde
17. Shri Balwant Nagesh Datar
18. Shri Mangalagiri Nanadas
19. Shri A. Jayaraman
20. Shri V. G. Deshpande
21. Shri Vijneshwar Missir
22. Shri R. Velayudhan
23. Shri Mohanlal Saksena
24. Shri N. C. Chatterjee
25. Dr. Kailas Nath Katju

Rajya Sabha

26. Shrimati Bedavati Buragohain
27. Shri Kishori Ram
28. Shri Ram Prasad Tamta
29. Shri Trimbak Damodar Pustake
30. Shri Jagannath Das.

31. Kakasaheb Kalelkar
32. Shri N. C. Sekhar
33. Shri Narsingrao Balbhimrao Deshmukh.

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri S. K. Hiranandani, *Additional Draftsman, Ministry of Law.*

SECRETARIAT

Shri M. Sundar Raj—*Deputy Secretary.*

Shri P. K. Patnaik—*Under Secretary.*

2. The Committee resumed clause by clause consideration of the Bill.

3. *Clause 4.*—The Committee, after considerable discussion, accepted the revised clause as shown in Appendix A in substitution of the original clause (4).

4. *Clause 5.*—The Committee accepted the following revised clause in substitution of the original clause (5):—

“5. *Prohibition against refusal to admit persons to hospitals etc., on the ground of Untouchability.*—No person shall on the ground only of ‘Untouchability’—

- (a) be refused admission to any hospital, dispensary, educational institution or any hostel attached thereto if such hospital, dispensary, educational institution or hostel is established or maintained for the benefit of the general public or any section thereof;
- (b) be discriminated against after admission to any of the institutions aforesaid, in any manner, whatsoever”.

5. *Clause 6.*—The Committee accepted the following revised clause in substitution of the original clause (6):—

“6. *Prohibition against refusal to sell goods or render service to persons on the ground of Untouchability.*—No person shall on the ground only of ‘Untouchability’ refuse to sell any goods or refuse to render any service to any person at the same time and place and on the same terms and conditions at or on which such goods are sold or services are rendered to other persons in the ordinary course of business”.

6. *Clause 7.*—In sub-clause (2) for the word “untouchable” the word “person” and for the words “that he is an untouchable” the words “of untouchability” were substituted as consequential amendments.

The clause as amended was adopted.

7. *Clause 8.*—The Committee accepted the revised clause as shown in Appendix B as a substitute for the original clause.

The following further decisions were taken in regard to the above mentioned revised clause 8:—

(i) The Draftsman was asked to examine whether the use of the word "conferred" in revised clause 8(1)(i) is correct or it should be substituted by any of the words like "described", "mentioned" or "specified".

(ii) The Draftsman was asked to examine whether a person or an institution who preaches the practice of untouchability or works for prolonging or making permanent the practice of untouchability could be said to abet an offence under this Act. The Committee accepted the principle that such a person or institution should be punished. It was decided that in case the word "abet" does not cover such cases, the Draftsman should make suitable provision therefor in the appropriate place in the Bill.

(iii) It was decided that in cases of second or subsequent offences the infliction of the punishment of imprisonment should be made obligatory. It was also decided that in such cases the term of imprisonment should be upto six months and in addition a fine up to five hundred rupees is to be levied. The Draftsman was asked to provide for this in the clause.

8. *Clauses 9 to 12.*—These clauses were adopted without any amendment.

9. *Clause 13.*—An amendment seeking to make the offences under this Act "compoundable with the permission of the Court" was moved and discussed. In the end it was put to vote and it was decided by a majority that the words "compoundable with the permission of the Court" should be added. Accordingly, the Draftsman was directed to add this in the appropriate place.

Subject to this amendment the clause was adopted.

10. *Clause 14.*—This clause was omitted.

11. *Schedule.*—This was omitted as a consequential amendment to the omission of clause 14.

12. *Clause 1.*—In sub-clause (2) the words "the State of Jammu and Kashmir" were deleted.

The clause as amended was adopted.

13. *Enacting formula.*—The Committee substituted the following enacting formula for the existing one:—

"Be it enacted by Parliament in the Fifth Year of the Republic of India as follows".

14. *General.*—The Committee decided to make mention of the following points in their report for the consideration of Government:—

(1) It is the consensus of opinion of the Committee that Government should appoint a Central Committee to look into the implementation of the Act.

(2) The Government should take adequate steps on the administration side of the Act to see that the spirit of the Act is fully implemented.

15. The Committee decided that the evidence tendered before them should be laid on the Table of the House *in extenso*.

16. The Committee decided to consider the Draft Report at their next meeting.

17. The Chairman was authorised by the Committee to move in the House for extension of time for presentation of the Report.

18. The Committee then adjourned to meet again at 2-30 P.M. on Friday, the 26th November, 1954.

VIII
Eighth Meeting

The Committee met from 2-30 P.M. to 2-45 P.M. on Friday, the 26th November, 1954.

PRESENT

Shri Upendranath Barman—*Chairman.*

MEMBERS

Lok Sabha

2. Shri Narayan Sadoba Kajrolkar
3. Shri T. Sanganna
4. Shri Pannalall Barupal
5. Shri Naval Prabhakar
6. Shri Ganeshi Lal Chaudhary
7. Shri Bahadurbhai Kunthabhai Patel
8. Shrimati Minimata
9. Shri Motilal Malviya
10. Shri M. R. Krishna
11. Shri Ram Dass
12. Pandit Algu Rai Shastri
13. Shri Resham Lal Jangde
14. Shri V. G. Deshpande
15. Shri B. S. Murthy
16. Shri R. Velayudhan
17. Shri N. M. Lingam
18. Shri Mohanlal Saksena
19. Shri N. C. Chatterjee
20. Dr. Kailas Nath Katju

Rajya Sabha

21. Shrimati Lilavati Munshi
22. Shrimati Bedavati Buragohain
23. Dr. N. S. Hardiker
24. Shri V. M. Surendra Ram
25. Shri Kishori Ram
26. Shri Ram Prasad Tamta
27. Shri Trimbak Damodar Pustake
28. Shri Jagannath Das
29. Shri Nanabhai Bhatt
30. Kakasaheb Kalelkar
31. Shri N. C. Sekhar.

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri S. K. Hiranandani—*Additional Draftsman, Ministry of Law.*

SECRETARIAT

Shri M. Sundar Raj—*Deputy Secretary.*

Shri P. K. Patnaik—*Under Secretary.*

2. The Committee decided to defer consideration of the draft Report to the following day to give some more time for members to study the draft.

3. The Committee then adjourned to meet again at 11-30 A.M. on Saturday, the 27th November 1954.

IX

Ninth Meeting

The Committee met from 11-30 A.M. to 1 P.M. on Saturday, the 27th November 1954.

PRESENT

Shri Upendranath Barman—*Chairman.*

MEMBERS

Lok Sabha

2. Shri Narayan Sadoba Kajrolkar
3. Shri T. Sanganna
4. Shri Pannalall Barupal
5. Shri Ganeshi Lal Chaudhary
6. Shri Bahadurbhai Kunthabhai Patel
7. Shrimati Minimata
8. Shri Motilal Malviya
9. Shri Dodda Thimmaiah
10. Shri M. R. Krishna
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12. Shri Balwant Nagesh Datar
13. Shri V. G. Deshpande
14. Shri B. S. Murthy
15. Shri R. Velayudhan
16. Shri Mohanlal Saksena
17. Shri N. C. Chatterjee
18. Dr. Kailas Nath Katju

Rajya Sabha

19. Shrimati Lilavati Munshi
20. Shrimati Bedavati Buragohain
21. Dr. N. S. Hardiker
22. Shri V. M. Surendra Ram
23. Shri Kishori Ram
24. Shri Ram Prasad Tamta
25. Shri Trimbak Damodar Pustake
26. Shri Jagannath Das
27. Shri Nanabhai Bhatt
28. Kakasaheb Kalelkar
29. Shri N. C. Sekhar.

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri S. K. Hiranandani—*Additional Draftsman, Ministry of Law.*

SECRETARIAT

Shri M. Sundar Raj—*Deputy Secretary.*

Shri P. K. Patnaik—*Under Secretary.*

2. At the outset the Chairman explained the following drafting changes made in the Bill :—

- (a) Clauses 3, 4, 5 and 6 had been made self-contained with penalty provisions in each of them. It would appear that under article 17 of the Constitution "Untouchability" was abolished and its practice in any form forbidden. That article itself made the practice of "Untouchability" an offence. It was not, therefore, necessary that the Bill should create an offence. A law under article 17 read with article 35 of the Constitution was merely required to prescribe the punishment for the offences arising out of the practice of "Untouchability". Moreover, the language of all these clauses should conform to similar provisions used in penal statutes. This explained the form in which clauses 3—6 had been put in the redrafted Bill;
- (b) Clause 7 (original clause 8) had been redrafted in the light of amendment to clauses 3—6; and
- (c) Clause 17 (original clause 14) had been retained in a slightly different form. For the sake of uniformity, the State enactments specified in the Schedule had been repealed *in toto*.

3. The Committee considered the aforesaid drafting changes and accepted them. It was, however, felt that the Explanation under clause 3 should be made more comprehensive and should also be made applicable to clause 4. The Committee therefore adopted the following revised Explanation in substitution of the existing one:—

"Explanation.—For the purposes of this section and section 4, persons professing the Hindu religion in any of its forms or developments including Sikhs, Jains, Buddhists, Virashaivas, Lingayats, Adivasis and followers of the Brahmo, Prarthana or Arya Samaj, shall be deemed to profess the same religion."

4. The Committee adopted the Bill as amended.

5. The Committee then considered the draft Report and adopted the same with certain minor changes.

6. The Committee authorised the Chairman to present the report on their behalf.

7. The Committee decided that Minutes of Dissent, if any, should be sent to the Lok Sabha Secretariat on or before Monday, the 29th November, 1954.

8. The Committee then adjourned at 1 P.M.

APPENDIX A

(Vide para. 3 of Minutes of the Seventh Meeting)

“4. Removal of certain disabilities arising out of ‘untouchability’.—No person shall on the ground only of “untouchability”—

(a) be subject to any disability with regard to—

- (i) bathing in or using the water, of any sacred tank, well, spring or watercourse;
- (ii) access to any shop, public restaurant, hotel or place of public entertainment;
- (iii) the use of any utensils and other articles kept for the use of the general public or any section thereof in any hotel, *dharmshala*, *sarai* or public restaurant;
- (iv) the practice of any profession or the carrying on of any occupation, trade or business;
- (v) the use of, or access to, any river, stream, spring, well, tank, cistern, water-tap or other watering place or any bathing ghat, burial or cremation ground, any sanitary convenience, any road, or passage, or any other place of public resort, which other members of the public or any section thereof have a right to use or have access to;
- (vi) the use or access to any place used for a charitable or a public purpose maintained wholly or partly out of State Funds or dedicated to the use of the general public or any section thereof;
- (vii) the enjoyment of any benefit under a charitable trust created for the benefit of the public generally or any section thereof;
- (viii) the use of, or access to, any public conveyance;
- (ix) the construction, acquisition, or occupation of any residential premises in any locality, whatsoever;
- (x) the use of any *dharmshala*, *sarai* or *musafirkhana* which is open to the public generally or any section thereof;

(b) be compelled by any person against his will to dig a grave, to remove a dead animal, to beat *pariah* drums and to convey news of the death of any person.”

APPENDIX B

(Vide para. 7 of Minutes of the Seventh Meeting)

Clause 8

"8. Penalties.—(1) Whoever on the ground of 'Untouchability' only—

- (i) prevents any person from exercising any right conferred by this Act;
 - (ii) molests, injures, annoys or obstructs or causes or attempts to cause obstruction to any person in the exercise of any such right, or molests, injures, annoys or boycotts any person by reason of having exercised any such right;
 - (iii) subjects any person to any disability with regard to any of the matters specified in clause (b) of section 4, or
 - (iv) contravenes any of the provisions of section 5 or section 6;
- shall be punishable with imprisonment which may extend to six months or with fine which may extend to five hundred rupees or with both.

*Explanation.—*A person shall be deemed to boycott another who—

- (a) refuses to let or use or occupy any house or land or to deal with work for hire or do business with another person, or to render to him or receive from him any customary service, or refuses to do any of the said things on the terms on which such things would be commonly done in the ordinary course of business; or
- (b) abstains from such social, professional or business relations as he would ordinarily maintain with such other person.

(2) Whoever—

- (i) denies to any person belonging to his community or any class or section thereof, any right or privilege to which such person would be entitled as a member of such community, class or section; or
 - (ii) takes any part in the ex-communication of, such person;
- on the ground that such person has refused to practise 'Untouchability' or that such person has done any act in furtherance of the objects of this Act shall be punishable with imprisonment which may extend to six months or with fine which may extend to five hundred rupees or with both.

(3) Whoever abets an offence under this section shall be punished with the punishment provided for the offence."