

[1 December, 1999]

RAJYA SABHA

SHRI RAM JETHMALANI : Because, now, everything is Indian.

THE DEPUTY CHAIRMAN : Now one thing that I want to mention before putting the motion to vote is that the Members have made very valuable contribution to these Bills. The question is :

"That the Bill further to amend the Indian Majority Act, 1875, be taken into consideration."

The motion was adopted.

THE DEPUTY CHAIRMAN : We shall now take up clause by clause consideration of the Bill.

Clauses 2 to 4 were added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI RAM JETHMALANI : Madam, I move :

"That the Bill be passed."

The question was put and the motion was adopted.

SHRI ADHIK SHIRODKAR (Maharashtra) : Madam, does it mean that the Elders have made the "minors" "majors"?

THE MARRIAGE LAWS (AMENDMENT) BILL, 1999

THE DEPUTY CHAIRMAN: Now from minority to marriage.

श्री मोहम्मद सलीम (पश्चिम बंगाल) : यह काम बाद में होने की वजह से मेजोरिटी के तीन साल लोस कर गए, वह कैसे कम्पेनसेट होगा ।

श्री एच.हनुमनतप्पा (कर्नाटक) : महोदया, अभी-अभी मेजर बने और शादी कर ली ।

THE DEPUTY CHAIRMAN: That is it. You cannot get married without becoming a major. So, I have to get them married now.

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS

(SHRI RAM JETHMALANI): Madam, I move:

"That the Bill further to amend the Hindu Marriage Act, 1955 and the Special Marriage Act, 1954, be taken into consideration."

Madam, this is again a very very innocuous Bill. The earlier laws, both the Hindu Marriage Act and the Special Marriage Act, consider epilepsy as a ground for dissolution or annulment of marriage. Now, modern medical science suggests that epilepsy is not that kind of a dangerous disease which it was thought to be when those old laws were passed. At one time, it was almost thought that a devil would occupy a person suffering from epilepsy. He was treated as a lunatic. Therefore, lunacy and epilepsy were bracketed together in both these legislations. Now, very prominent doctors have reported that all this is very irrational and that it must go.

This Act has been proving very unfair to women. If a woman suffers a fit of epilepsy, her husband, instead of being careful about her, caring for her, nurturing her and bringing her back to health, finds it a cause of dissolution of the marriage, and he jettisons his wife. So, women's organisations have all unanimously reported that this amendment must be brought. That is how it has been done. The word "epilepsy" will go. Epilepsy will no longer be a ground for annulment or dissolution of a marriage. This is it.

THE DEPUTY CHAIRMAN: Mr. Eduardo Faleiro has an amendment. What is that amendment?

SHRI EDUARDO FALEIRO (Goa): The amendment, Madam, is to refer this Bill to a Select Committee. But I would like to make some comments, if you permit me.

SHRI RAM JETHMALANI: But without opposing it seriously.

SHRI EDUARDO FALEIRO: No. I support you throughout. I want to do more. That is what I am going to do.

THE DEPUTY CHAIRMAN: The Bills that go to Select Committees are very complicated Bills. This does not seem to be a complicated one.

SHRI EDUARDO FALEIRO: I appreciate that, Madam. I am taking advantage of the rules for a good purpose, as you will see in a moment. May I make some submission, Madam?

THE DEPUTY CHAIRMAN: Yes, please.

SHRI RAM JETHMALANI: Madam, I have to mention that this Bill was introduced in this House in 1988 and passed.

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SHRI EDUARDO FALEIRO: Madam Deputy Chairman, I am not pressing that. I will not press that.

THE DEPUTY CHAIRMAN: Have you finished, Mr. Minister? No more to add, except that the Bill was passed in 1988.

THE DEPUTY CHAIRMAN: There is one amendment by Shri Eduardo Faleiro.

Please speak on it.

SHRI EDUARDO FALEIRO: Thank you, Madam Deputy Chairman.

May I begin by expressing my appreciation for the Law Minister's performance entitled to go into the "Guinness Book of Records." So many Bills are here.

THE DEPUTY CHAIRMAN: Another compliment.

SHRI EDUARDO FALEIRO: Of course, it is a compliment. I must say here for the record that we are lucky and fortunate to have a jurist of such eminence as the Law Minister. He is a man with a liberal mind, a modern mind. If this man, this hon. Minister, is not going to do the things I am going to submit here, then, we are lost. Nobody else is going to do them. It will be difficult to get, as I said, a jurist of his calibre with a humanistic and progressive outlook in the future.

Now, the point I am making is this. The hon. Minister is speaking about the Hindu law having provisions that discriminate against women. I must say that there are other laws which are much, much worse. By comparison of the personal laws, the Hindu law is the most progressive and the most modern law. It gives a greater equality to women. Particularly in that context, all the other personal laws, I respectfully submit, are outdated. I am particularly talking about the Christian law. I will say here for the record that it is outdated. The Christian personal law--in this context I mention marriage and divorce in particular--in several respects is outdated, inhuman and irrelevant. Representations have been made. Reports of the Law Commission are there. For doing the same thing to the Christian law of marriage, divorce and personal law, that was done in the Hindu law in the early years of Parliament, under the inspiration of Mahatma Gandhi and the liberal freedom fighters. Modernise it and make it more humane, particularly to give respectability, dignity and equality to women.

Now, in the context of the Christian Law, I must mention here some discrepancies which are unacceptable. To begin with, at present, any amendment of the Christian Marriage or Divorce law is linked to the British law. This was the law made 150 years ago. But we are not British Christians. We are Indian Christians. Therefore, these linkages must cease to exist. Worse than that, we are linked to the British law, as it prevailed 150 years ago. While the British have gone so far and have become so much more liberal, we have not kept pace with the times. Therefore, I say that this must be adjusted to the customs, to the value systems, that prevail in India at the end of the 20th century, when we are entering the next millennium.

Now, in regard to the discrimination against women, a Christian man can get a divorce merely on the ground of adultery. But what about the woman? She cannot do so, in spite of the fact that her husband may be adulterous. She has to suffer; she has to suffer desertion and prove some additional ground such as cruelty. But it is not against the Constitution; it is not against article 14 and article 15. It is not out of tune with the present-day value system, which puts man and woman on the same pedestal of equal dignity.

Then, we have the question of maintenance. Under the present system, if a man commits adultery, he beats his wife, throws her out of the house, what maintenance does the woman get? It is not more than one-fifth of the earnings of the husband. But under the Hindu law, it is at the discretion of the judge to give maintenance according to her requirements and according to the capacity of the husband. It is so according to the modern law practised everywhere.

Now, I would like to talk about the uniform civil code. I demand that a uniform civil code for the Christian community, at least, should be brought about. I am not talking of a uniform civil code for all people. I am talking of a uniform civil code for the Christian community. A Christian from Goa, like me, has a different personal law compared to a Christian in Kerala. Therefore, we must have a uniform civil code, at least, for this community.

Now, under the Hindu marriage and divorce law, divorce becomes complete on the judgment of the District Court, but, for the Christians, it is not enough. They have to go again to the High Court after a decree has been issued by District Court. And that too, only after six months. All I am saying is "please amend this law". If you are not doing it, who else will do it? Bring

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in another Bill in tune with the recommendations of the Law Commission, and also consequent to the petitions from the Christian community. And, last but not the least, on the lines that I have submitted before you here. Thank you.

THE DEPUTY CHAIRMAN: He has made his points. His amendment was only limited to the fact that this Bill should go to a Select Committee. At the moment, the Bill is not going to a Select Committee. I can make only one comment from the Chair. It is good that a suggestion has come from the hon. Member. The suggestion should come from within the community. Then only it will be easier.

Now, Mr. Faleiro, do you want to move your amendment.

SHRI EDUARDO FALEIRO: No, I am not moving my amendment.

SHRI RAM JETHMALANI: Madam, I am very happy that Mr. Faleiro spoke like this. I am really grateful to him. There is some amount of sensitiveness about interfering with personal laws. But I am glad that you, as an accredited representative of the great Christian community, has made this point. We have anticipated you. Our legislation relating to the Christian law is already ready. We will bring it up. Now I am encouraged by your speech; and I will bring it much earlier than you think. Okay?

SHRI EDUARDO FALEIRO: Wonderful.

SHRI RAM JETHMALANI: I agree that the Indian Divorce Act does put a premium on the male in relation to adultery. Madam, why they did it, there must be some historical reasons for that. I do not wish to go into this.

THE DEPUTY CHAIRMAN: It could be domination by men. What other historical reasons could be there? Even today, it is continuing, whether there is a marriage dissolution or not. Even the representation of women in Parliament is not being considered.

SHRI RAM JETHMALANI: Madam, may I humbly request that this bill be passed? Thank you.

THE DEPUTY CHAIRMAN: We are passing the Marriage Laws (Amendment) Bill, 1999 without any discussion. Mr. Faleiro has not moved his amendment. I shall now put the motion moved by Mr. Ram Jethmalani to vote.

The question is:

"that the Bill further to amend the Hindu Marriage Act, 1955 and the Special Marriage Act, 1954 be taken into consideration."

The motion was adopted

THE DEPUTY CHAIRMAN: We shall now take up clause-by-clause consideration of the Bill.

Clause 2 and 3 were added to the Bill

Clause 1, the enacting Formula and the title were added to the Bill.

SHRI RAM JETHMALANI: Madam, I move:

"That the Bill may be passed"

The question was put and the motion was adopted.

THE ADMINISTRATORS GENERAL (AMENDMENT) BILL, 1999

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI RAM JETHMALANI): Madam Deputy chairman, I move:

"That the Bill further to amend the Administrators-General Act, 1963 be taken into consideration."

Madam, this is a very simple Bill. The administrators General Act provides a very short remedy and a cheaper remedy for giving the right to recover the assets of a deceased person. It shortcircuits the procedure for probate letters of administration and succession certificate which take long time. The only thing is that this cheaper remedy was available in 1963, when the Bill was passed, for Rs. 5,000.

In 1972, considering the changes and the value of money, we had raised it from Rs. 5,000 to Rs. 50,000. From 1972 to 1999, now, it is proposed to raise this from Rs. 50,000 to Rs. 2 lakhs. It will provide a cheaper remedy to a large number of people.

THE DEPUTY CHAIRMAN: Is the depreciation of the money that much?

SHRI RAM JETHMALANI: More or less Rs. 5,000 was too little. In fact, it should have been more.