

the other principles are concerned, we are still being governed by them and as I submitted they are principles which would be a better basis for a Civil Code rather than for a Hindu Code. This is not discrimination on grounds of sex at all but due to certain conditions of life. Suppose you pass a law to-day that all males should cook food and that females should not; will that be right? That will be entirely wrong.

Pandit Krishna Chandra Sharma (Uttar Pradesh): What is the clause on which the hon. Member is speaking? Is all this relevant to the clause under discussion?

Pandit Thakur Das Bhargava: You have maternity legislations referred to in the Factories Act. Should all that legislation apply to males also?

Shrimati Renuka Ray: How is all this relevant to clause 2?

Mr. Chairman: Too many Members speaking at the same time leads to nothing but confusion. I think the hon. Member now speaking may be allowed to go on.

Pandit Thakur Das Bhargava: Those who raise the question of relevancy, I submit, do not seem to know what is relevant and what is not. They have all heard my friend Mr. Naziruddin Ahmad and he covered a very wide ground and in the reply also one has to deal with all those points touched upon. You cannot say that, that was relevant and this is not. If what he said then was relevant, what I say now is also relevant. Moreover, so far as clause 2 is concerned, it is a very wide one and so the question of relevancy cannot arise in connection with this clause. The question whether the Hindu Code applies to Muslims or not was dealt with by Mr. Naziruddin Ahmad, and in view of that, I find it impossible to understand how my friend Shri Krishna Chandra Sharma—the able lawyer that he is,—can say that what I now say is not relevant.

Shri Raj Bahadur (Rajasthan): Sir, on a point of order, can an hon. Member of the House take the seat of the Leader of the House?

Mr. Chairman: The hon. Member may proceed to his own seat.

Shri Tyagi: What is the matter? I would like to know why I am made the target of this laughter. These seats are, after all for being occupied by someone. I found that one was vacant and I occupied it.

Mr. Chairman: The hon. Member might have exercised his right of freedom of movement in this; but there is no more to be said on this matter.

Pandit Thakur Das Bhargava: The question of equality before the law has been raised. And various other matters have also been raised. Articles 25 and 15 were referred to and it was stated that the provisions of those articles are being violated, that in view of those articles, we cannot enact a measure of the nature of the Hindu Code. But as a matter of fact, that is not the case. I would submit that even with the amendments now suggested by Dr. Ambedkar, this section will not read quite well. That is why I have suggested my amendments.

Some complaint was made by my Friend Mr. Naziruddin Ahmad that there is an attempt to apply the Hindu Code to persons who are not Hindus. But my humble submission is that my friend is not correct in saying that because if my friend takes the trouble to see to whom it applies now, he will find that it applies even now to many persons who are not Hindus in the sense in which the word is popularly understood even to-day. If you look into Gour's Commentary—I think it is page 165—you will find that a good many persons who do not call themselves Hindus are still governed by the Hindu law. It governs many who are geographically Hindus, if I may say so. The Hindu system is not a creed. The term “Hindu” has a geographical significance also. Therefore, all those who are not bound by any other special law like those of Muslims, Christians, Parsis or Jews, they are all bound by the Hindu Law. This is no innovation brought in by Dr. Ambedkar. He does not want that those who are not Hindus should come under the Hindu Law. This argument raised by my friend Mr. Naziruddin Ahmad is a wrong one. It is not a question of conversion at all. If the Hindu law applies to a person, he does not thereby become a Hindu. If he adopts some of the rules of succession, of divorce or marriage of the Hindu Law, he does not become a Hindu. And I may also say that this kind of thing does not help us either. What is the use of increasing the number of Hindus or Muslims? The days of proportionate representation or special representation are all gone. I don't care if a man is a Hindu or a Muslim or Parsi or Jew, as long as he is a good citizen. I do not want anyone to give up his religion. The argument of my Friend Mr. Naziruddin Ahmad is based on the old psychology that the proportion of Hindu must be more, or that of Muslims must be less or that Parsis should be more and so on and so forth. As a matter of fact the subject matter of clause 2 is taken from the old Hindu Law. The first part of it says that this Code shall apply to all Hindus, that is to say, to all persons professing the Hindu religion in any of its forms or

developments, including Virashaivas etc, But my humble submission is that this part of the clause is redundant. If it applies to Hindus, that is quite sufficient, and there is no point in saying that it applies to all forms of the Hindu religion or developments of the Hindu religion. Therefore, in my amendment. I have suggested that this Code applies “(a) to all persons who are Hindus, Buddhists, Jains or Sikhs by religion.”

And the next amendment is in the nature of a negative proposition. It defines those persons who are not bound by this Code. There is the customary law and the special law. For instance the Muslim of the Punjab can say, that he is governed by the customary law and not by the *Shariat*. Those laws which apply to Muslims are not at all touched by this Code. Those customs are all quite safe. My amendment says that it applies :

(b) “to any other person who is not a Muslim, Christian, Parsi or a Jew by religion ;”

(c) to every woman who married any person who was not a Muslim, Christian, Parsi or a Jew by religion;

(d) “to any child, legitimate or illegitimate, both of whose parents are Hindus within the meaning of this section ;”

Part (d) I submit is redundant, When there is a child, legitimate or illegitimate to parents who are Hindus, then there is no question. The child is a Hindu. Not that it is wrong to say that the child is a Hindu, but that is quite superfluous. The child of Hindus is *ipso facto* a Hindu. I have, on the contrary, omitted this part and proposed that it should apply even to any child legitimate or illegitimate, one of whose parents was a person who was not a Muslim, Christian, Parsee or a Jew by religion.

There is a proviso to the clause, May I humbly submit in regard to this proviso that it was probably introduced for some other purpose. If taken literally it would exclude those persons whom you do not want to exclude. It would exclude all the Punjabees. The wording of the proviso is very wide. If it is allowed to remain as it is, section 5 of the Punjab Succession Act will come into conflict. The proviso reads:

“Provided that if it is proved that such person would not have been governed by the Hindu law or by any custom or usage as part of that law in respect of any of the matters dealt with herein if this Code had not been passed, then, this Code shall not apply to that person in respect of those matters.”

It means that the Hindus of the Punjab will not be governed by this Code.

An Hon. Member : What is the harm ?

Pandit Thakur Das Bhargava : The harm is this. I want the whole of the Punjab and India to come under the Code. There should be some uniformity in regard to our laws. I have given an amendment that so far as our customs are concerned they should be preserved. I have even suggested that the sections of the Code should be relaxed in such a manner that if our Provincial Assembly wants certain portions of the Code to be applied they should be applied. I have gone further and said that in regard to our customs, such as relating to succession, we should be allowed to own our law. At the same time I do not want to be cut off from the rest of India. In fact that is the basis of the Hindu Code. If I had heard the speech of Dr. Ambedkar, which he made moving for the consideration of the Bill, he said clearly that he wanted the whole of India to be governed by this Code and that such things as had crept into Hindu practices in their pristine glory should be repaired. If I remember his words he said that those damages should be repaired. I am one with him and I do not want that the whole of the Punjab should be taken away from the operation of the Hindu Code. I would rather like to be governed by the Code which applies to the whole of India rather than plough my own lonely furrow. Therefore I am anxious that this provision should either be taken away or amended in such a manner so that these persons may not be excluded.

If my amendment is accepted sub-clauses (3) and (4) need not be there at all. According to me all those persons to whom the present law applies do come under these five categories which I have mentioned in my amendment. My amendment really seeks to attain the very same object which the Mover of the Bill has in his view. Only the wording is different. But I agree with him that so far as the scope of the Bill is concerned it should be extended to all those persons to whom the Hindu Law at present applies and only Muslims, Christians and Jews should be excluded. It is not that I want their exclusion for any purpose but for the purpose that those people themselves would not like to be governed by the Code. If they think that they would like to be bound by the Code let them pass a resolution or make a proposal to that effect. I want that the Hindu Code should

be the real basis of the Civil Code. I do not want that such principles should be introduced in the Code which will not accord with the principles of the future Civil Code.

In regard to adoption I submitted then and I submit now too that the customary adoption in the Punjab is based on the Civil Code. It does not have any real significance.

Mr. Chairman : Would the hon. member like to continue his speech after lunch or finish now in another five minutes ?

Pandit Thakur Das Bhargava : I would like to continue after lunch.

The House then adjourned for Lunch till half-Past Two of the Clock.

The house re-assembled after Lunch at half-Past Two of the Clock

[MR. DEPUTY-SPEAKER *in the Chair*]

Pandit Thakur Das Bhargava : Sir, when we adjourned I was speaking on the provisions of adoption contained in this Code. I was submitting that in view of the fact that many Members of the House desired it there should be a Civil Code instead of a Hindu Code, I was submitting that certain provisions relating to adoption under the Hindu Law have been modified by custom. The present position is that this old system of adoption has to a very great extent been modified and now many notions of a character, not strictly religious, have crept into the very idea of adoption. The old idea that by adoption an adopted person becomes the son of a person adopting, has to an extent faded away. In the Punjab, so far as adoption is concerned, according to custom any person can be adopted without any ceremonies. It is in the nature of the old Roman nominees system that an heir is appointed in the Punjab for carrying on the name of the family so that a person older than oneself can be appointed an heir and so such ceremonies are required as are required under the Hindu system of adoption. Moreover, even the incidents of that relationship are a bit different from the incidents which we find in regard to the system of adoption under the Hindu Law.

Shri Tyagi : In the Punjab your son can be elder to you in age ?

Pandit Thakur Das Bhargava : In fact, the question which my friend is asking is really not germane. As a matter of fact, when I gave the conditions under which a person could be appointed an heir,

an heir is appointed—a son is not created by the Act of appointment of an heir. That is the difference. Under adoption the adopted son carries on the name of the family, perpetuates the name of the father and that is the way in which the family continues. In Punjab the family continues in another way. An heir is appointed and he carries on the name of the family, so that it is not true to say that in the Punjab the customary appointment or adoption of an heir is tantamount to creation of a son. Whether that is not there, under the Hindu Law the underlying idea was that a son was created by adoption, so much so there was a rule in the Hindu Law that the son of a lady who could not be married to the father could not be adopted and therefore there was some sort of ban against a daughter's son so far as adoption was concerned.

Now, under the provision of the Hindu Code it is necessary that for adoption a man should not be married, that he must be less than fifteen years of age. These incident will not find favour in the Punjab, this provision will be too much to tamper with the custom of the Punjab which does not contemplate any restriction as regards age or ceremonies or other restrictions which are irksome.

Shri Tyagi : Because the son is a man to the father in the Punjab.

Pandit Thakur Das Bhargava : The child is the father of man in the whole world. So even now in the Punjab there is the custom of appointment of an heir which is akin to adoption. My subscription is that Dr. Ambedkar has been kind enough to those systems of law which have been prevalent in the South, for instance, the *marumakkathayam*. Arrange the Code in such a way that there is no violent conflict for those who follow different customary laws in the matter of marriage, adoption etc. and see that their systems are allowed to continue. This Code goes to the root of the Hindu Law in certain matters. So far as they are wholesome we are prepared to accept them but in so far as there are violent changes which conflict with the notions of the people, I would very humbly submit to Dr. Ambedkar that where he considers the provisions of the Code at a later date he will be indulgent enough to see that there will be no violent conduct. I know when he introduced this Bill he was pleased to say that he would try to see his way to accommodate and would be prepared to accept certain amendments which partake of the character I have narrated above.

In regard to two matters—the question of adoption and the question of inheritance of married women—I must submit there will be such a violent conflict with the notions of the Punjabis in these two matters

that they will not be prepared to accept the provisions of the Hindu Code. Even if it is forced down their throats, I submit there will be such a revolution in the society—I said on the last occasion that there will be revolt; there will not be revolt because we are too strong. There will be revolt in our minds and we will certainly not accept a custom to be forced down our throats that we cannot digest. One effect of such a step will be that when the father dies, since you are giving the father the power to make his will in any manner he pleases, the result will be that there will be forced wills by virtue of which the daughter will be disinherited. I am not against the inheritance of the daughter as such. Where you can have it, where it is in consonance with the ideas of the people, have it by all means. There is nothing objectionable in it. But the only point is that it is not expedient to have it in some places where it is not wanted. In the Punjab the daughters do not enjoy such a position that you can say that they do not get anything. I know that in Madras and other places the daughters are not treated so favourably, perhaps, as in the Punjab. In the Punjab at the time of marriage so much is given to the daughter in dowry. If you go to any wedding function in the Punjab—to the rich man's place—you will find the dowry consists of thousands of rupees. So far as self-acquired property of the father is concerned, since the last 50 years our High Courts have made a change. Before 1909 the daughter did not even get a share in the self-acquired property of her parents. Now if there is no son, the daughter succeeds to the self-acquired property among all the people. But I do regard that this is not sufficient justice with the women of our country. I want that so far as the unmarried girls are concerned they may get as good a share as the son does—I do not want to give her just a half. So far as the married daughter is concerned I want that she should be entitled to inheritance, along with her husband, to her father-in-law's property. That is to say, as soon as a marriage is performed, the husband and wife must unite their properties also and you can frame rules by virtue of which a married lady gets full rights of property.

I do not want that the ladies of this country should not get full rights, but I do not understand why a lady should get a right in her father-in-law's property as well as in her father's property. To that I object. I want that our notions of society and family should not be rudely shaken. At present, the son is the pivot of the family. He continues the family. The woman goes to another family and becomes

the nucleus of that family. Let this continue. Unless and until our whole notion of society changes, my humble submission is that we should not change it abruptly, because this change will be great that ultimately the ladies will lose on both sides. At the time of marriage, the sons will say, "Why give her so much dowry ? She is going to get inheritance". At the time of the inheritance, the father will fall on the lap of the sons and they will get some deed or will by which the daughter will be deprived. Both ways, the woman will get nothing. This will not be a fair way of treating women.

When you ask us, the people to whom this Bill will apply, I would certainly submit that if you want to have this Code in such a manner that you do not respect our wishes and our customs which have been in existence for the last several centuries, if you want to create such a conflict, then ultimately we shall have to say, " You kindly leave us to our own fate". This is my humble submission. Though I am in favour of the good provisions of this Bill, I would very humbly request Dr. Ambedkar and those others who are very much in favour of it to kindly see that our wishes in this matter are respected and we are allowed to have such customs or such provisions of the law as the majority of the people in our particular province want. This is, in essence, what we have given an amendment about in regard to Part I of the Bill.

Shri Tyagi : How will the majority view be obtained ?

Pandit Thakur Das Bhargava : In the Punjab, the majority view is clear. You go to any village or town and ask any person who will be affected by the Bill; he will tell you exactly what I am submitting today. There is absolutely no difference of opinion, so far as Punjab is concerned. Therefore, my humble submission is that while you apply this law to Punjab—and I wish this law to be applied to Punjab— you apply it with these reservations. This law is not bad, it is entirely wrong to suggest that there is anything inherently wrong about it. There is nothing wrong about it. We have lived for so many centuries and we must repair the damage done to our nation. Therefore, I am entirely in support of this Bill, but if the notions and customs which are widely prevalent among the people and which are very delicate are upset, there will be such a great amount of litigation in the Hindu society. Every family in Punjab will be affected. There will be nothing but litigation. You are, in deference to public opinion bringing in a provision of the Partition Act. What will be the result ? On every

death, the question will be : “ Let us see how we evaluate the property of the father”. The property will be evaluated and the sons will not have sufficient funds to buy off the daughter’s share and trouble will ensue. I am speaking from my experience as a lawyer for more than forty years.

Pandit Krishna Chandra Sharma : You have been working in the criminal courts.

Mr. Deputy Speaker : Hon. Members will address the Chair.

Pandit Thakur Das Bhargava : I for one have very great regard for my friend, who is also a criminal lawyer. All the same, my notions of a criminal lawyer are quite different from his. I have been practising on the criminal side as well as the civil side, but I take pride in the fact that I am a criminal lawyer. At the same time, I do not go about with my eyes shut. If a criminal lawyer is true to the description which my friend has in mind, he should know what is passing on in society. As a criminal lawyer, my friend should know what is passing on in and around Meerut, and when I am speaking about Meerut—I do not know what my friend’s personal notions are—I know the conditions in Meerut and I know also that they are not very different from the conditions in Hissar and Rohtak. Therefore, when I speak for Punjab, I also speak for my Friend and Meerut side, because in olden times Meerut was a part of this side of the Punjab.

Pandit Krishna Chandra Sharma : For my friend’s information, I may say that Hissar is famous for bulls while Meerut is famous for cows.

Shri Tyagi : May I know what have bulls and cows to do with the Hindu Code ?

Mr. Deputy Speaker : Hindu Code relates to marriage, you see.

Shri Raj Bahadur : May I know whether cock and bull story is permitted in the House ?

Mr. Deputy Speaker : Order please.

Pandit Thakur Das Bhargava : When you refer to the question of marriage, I must submit that the introduction of the principles of civil marriage in this Hindu Code is another point which must be considered specially by this House. If this is a Hindu Code, why bring in the civil marriage ? I want that the provisions in regard to marriage may remain as they are. There is no use repeating them here. If you want to make a Hindu Code which will not apply to other people

like Musalmans etc. then do not bring in civil marriage here. If any Hindu wants to marry in that manner, he will marry according to the civil contract to which the Muslims, Christians and everybody has recourse. That is our joint Civil Code. Therefore, my humble opinion is that this affair of the civil marriage should not be included here.

I do not want to refer to all the provisions of this Bill. I have spoken because I thought that we should at this stage define our attitude and tell Dr. Ambedkar what we feel about this Bill and what is perhaps the general feeling in the country. This Bill is not bad, and since we have decided that we should proceed with it, we may pass such provisions of the Bill as are good. In regard to those provisions. I do not want to stand in the way or adopt an attitude which smacks of dilatory tactics or which shows that we do not want the Bill to be passed. I want to make this point clear because it may be in the minds of many people that those persons who make long speeches do not, as a matter of fact, want this Bill to be passed. That is entirely wrong. So far as I am concerned. I want the Bill to be passed but I want those who are very much in favour of it to kindly see that such provisions are not passed as are in very great conflict with the notions and customs of the people.

***Sardar Hukam Singh (Punjab) :** Sir, I sympathise with the attitude of my hon. Friend Pandit Thakur Das Bhargava. What I understood him to say was that he wishes the Code to be passed but he does not wish that it should apply to him and the other people in his part of the country, Really, I have the same thing to say. I also wish that the Bill be passed, but that it should not be applied to me. I wish I could have made a similar motion and it should not have smacked of a particular community but what I found was that the application of the Code was not to certain territories but to certain communities. Therefore, I thought it fit to move this amendment that it should not apply to the Sikhs.

Sir, I am not one of those who wish the society to stagnate. I believe in progress and I want to move with the times. I can claim that the Sikhs are a progressive section of the society. But why I do submit to the House that the Sikhs should be excluded from the application of this Code is because it contains certain provisions which are offensive to the customs and usages that we have been following for so many centuries.

Panditji made a reference to the proviso to sub-clause (2) of Clause 2 which reads :

“Provided that if it is proved that such person would not have been governed by the Hindu law or by any custom or usage as part of that law in respect of any of the matters dealt with herein if this Code had not been passed, then, this Code shall not apply to that person in respect of those matters.”.

What I understood him to say was that perhaps this might save the custom and usage prevalent in the Punjab. But I differ from him, because sub-clause (2) reads:

“This Code also applies to any other person, who is not a Muslim, Christian, Parsi or Jew by religion;”

and read with this sub-clause, the proviso does not refer to the custom or usage of the Hindus or Sikhs. Therefore, in my humble opinion this would not save the custom or usage and I, therefore, do not entertain his hope.

Pandit Thakur Das Bhargava: I never said that this proviso would save our customs or usage. What I meant was that if it is proved that we are not governed by the Hindu Law—the words are, “ provided that if it is proved that such person would not have been governed by the Hindu Law”—Punjabis would not be covered by this proviso. But our customs and usage will not be saved. It applies to all the Hindus. What I meant was that, as a matter of fact, our customs and usage should be saved by another provision which should say that we are allowed to be governed by our own customs, etc. But this proviso will introduce a certain amount of uncertainty.

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

Therefore, so far as I am concerned, there is no ambiguity at all. Be that as it may Panditji no doubt agrees with me to this extent that our custom and usage would not be saved at any rate.

Sir, if a uniform Code had been attempted for all the citizens of India, then perhaps I would not have stood up and raised this objection, even if I had been called upon as a Punjabee to make some sacrifices. I would have made sacrifices in the hope that if we can grow up as a united nation, as one people, certainly some sections will have to make some sacrifices. But that is not the object here. No attempt is being made to weld all people into one nation by this Code. There

is discrimination between one community and another. Therefore, I think I am perfectly justified in opposing it.

I should however make it clear here that so far as some Chapters of this Bill are concerned, I am in complete agreement with them. I am only opposed to three portions of it. If different parts had been put before the House separately, certainly I believe that most of it would have been passed without any controversy. But as it stands we have to take them as a whole and, therefore, I stand up to oppose them, because I cannot permit them to be passed without my voice being heard.

The provisions to which I am opposed are (1) those relating to marriage and its dissolution by divorce, (2) adoption and (3) inheritance. (*An hon. Member:* What is left then ?) Much remains even then. It has been said by Panditji that it applies to those persons who were already governed by Hindu Law. This is correct. But if we have consented to be governed by Hindu Law, that does not necessarily mean that we should be compelled to revolve round the wheel even though it goes into foreign spheres and borrows certain things from other religions and other laws simply because I have once been dragged into it. I should not be compelled to revolve round it, though it does not remain within its own sphere.

Then again, Sir, there is a misconception. The Hindu Code Bill says that the Sikhs are governed by Hindu Law. Now section 5 of the Punjab Customary Law—which has already been quoted by my hon. friend Pandit Thakur Das Bhargava says:

“ Custom in this province is the first rule of decision in all questions regarding succession, special property of females, betrothal, marriage, divorce, dowery, adoption, guardianship, minority, bastardy, family relations, wills, legacies, gifts, partitions, any religious usage or institution, or alluvion and diluvion.”

Now I ask : When I am governed on all these subjects by customary law, where is the Hindu Law that governs me ? I find that there is one subject that is not put down as such, namely, maintenance with which this Hindu Code deals. It is not put down in the Customary law that I am governed by the usage on that subject also.

I was submitting that I have three subjects on which I have certain
3 p.m. objections and the Sikhs do not wish that they should be
forced to be governed by the Hindu Code that is being
proposed here in respect of them. First I referred to marriage and the
dissolution and divorce connected with it.

[MR. SPEAKER *in the Chair*]

Sir, so far as the Sikhs are concerned they have a very simple form of marriage. We might call it sacramental or *dharmic* marriage. It is known as *Anand marriage*. It is a simple and secular form of marriage. The couple sit down in the presence of the *Guru Granth Saheb*, they take a vow that they will remain united for ever—so long as they are alive, of course—and prayers are offered. Of course I might be confronted with this that this would be covered, and that it is not touched by the Hindu Code. But there are some implications which I am afraid would really affect me. There are certain degrees of relationship which are prohibited from marrying each other and these are strictly observed in all civilised societies. But so far as our society is concerned the list is not very large. Marriage between cousins has often been allowed. There have been many instances of marrying father's sister's daughter or mother's sister's daughter and they have not been considered as within the prohibited degree. And I tell you that you are driving your society towards that direction. We are far ahead of you. You are coming to that way. Do not be surprised at that. Now that you are proposing to give a share to the girl you are sure to come that way. You will have to march towards that direction.

An Hon. Member : What about Sikh Jats ?

Sardar Hukam Singh : What I am submitting relates mostly to Sikh Jats. The custom that I am talking of prevails mostly in Jats and Jats observe that. Ninety per cent of the Sikhs are agriculturists and live in villages.

I was asking now that you propose to pass this legislation, by which the daughter shall have a share. Here I might make my position clear and nobody need feel perturbed. I am for a share for the girl. I am not opposed to it. But when you proposed that, you will have to take the risk that this long list of prohibited degrees shall continue diminishing and shall contract as time passes. I suppose the present list is not as long as it used to be under the strict Hindu Law. And it is sure to contract as time passes.

Shri Tyagi : It will come nearer home.

Sardar Hukam Singh : Surely. You cannot keep the two things apart. When you take this from the Muslim law you will have to permit cousins and other near relations to be outside the prohibited degrees. There is no doubt about it. Be prepared for it. You will have to march near it. You cannot keep away from it.

Now that you are asking me to come in, that I should have this *dharmic* marriage, the implication would be that these prohibited degrees would be there. While there is freedom for me to marry such relations as I have described, this would create a ban on me. And it would not be only for the future. There have been so many such marriages and all of them would be invalid. Though you have provided in clause 21 that I can get my marriage, my *dharmic* marriage, registered as civil marriage, but think of the instances and their number. We shall have to run to the courts or to the Registrar to get them validated. Do you want me, an old man, to get my marriage registered now ?

Dr. Ambedkar : Do you want to marry again ?

Mr. Speaker : Order, order.

Sardar Hukam Singh : This Code would create a doubt because the girl that I might have married might, according to you, be within the prohibited degrees. What would happen then ? I enquire from the Hon. Minister what would happen to that marriage.

Shri Tyagi : And to your children also.

Sardar Hukam Singh : Yes, certainly. They will be “illegitimate” unless I get my marriage registered as a civil marriage now, at this age ! And the Hon. Minister wants all those persons now, at this advanced age, to run to the Registrar and get their marriages registered as civil marriages.

Shri Tyagi : As he has done himself !

Sardar Hukam Singh : Then again there is a marriage that is usually known amongst the agriculturists of my part as *karewa* marriage or widow’s marriage. No distinction is made in the present Code as regards that. What will happen to that marriage, because we will have either the sacramental or *dharmic* marriage or the civil marriage— nothing beside it. The simple manner in which the *karewa* marriage is performed might look peculiar to some hon. Members here. There is no ceremony : it is a secular institution altogether.

The man and the would be wife sit together, a *chaddar* is spread over them and sweets are distributed and they become husband and wife. I do not think, Sir, the Hon. Minister can point out to me any provision by which such marriages would be recognized. He is making this Code more cumbersome. . . .

Pandit Thakurdas Bhargava : If it is a bigamous marriage then difficulty will arise.

Sardar Hukam Singh : May I enquire with your permission from my hon. Friend what form of marriage would that be. Would that be a *Dharmic* marriage without any ceremony. (*Interruption*) I do not agree with him and that would not be a *dharmic* marriage. Anyhow, I do not want to enter into a controversy here.

I come to my next point, that is, adoption. What I am going to say might look somewhat surprising to some of my hon. Friends and in this respect also I claim that we are much in advance of the rest of the country, so far as this adoption is concerned.

Dr. Ambedkar : You are always in advance of everybody.

Sardar Hukam Singh : I will tell you just now and then you would agree with me that we are much in advance on that subject too. As has been just pointed by my hon. Friend, Pandit Thakurdas Bhargava, it is the customary appointment of a heir. It has nothing to do with religion. There is no horror of incest. We are not eager to create sons to offer us *pindas*.

Shri Hussain Iman (Bihar) : Are there *Pindas* ?

Mr. Speaker : Let him proceed further.

Sardar Hukam Singh : We do want that we might have a heir to succeed to the property.

Dr. Ambedkar : Why do not you allow the property to go to the State ?

Sardar Hukam Singh : Then it might go to the Hon. Minister and that we do not want to do. Therefore, this is a most secular institution. There are no restrictions as to the age, caste or any ceremonies. A simple declaration is there and perhaps it was observed, last time too I made a remark that a man can adopt another older than himself. The adopter might adopt a man of his father's age. There is no harm in that ; he might be married and he might have several children. This institution you would not find anywhere. I fail to understand, Sir, if all these usages and customs are effaced, what is going to happen to these institutions, to these customs that we love very much, these traditions to which we have been accustomed for so many centuries.

Then, Sir, I would cite another peculiar instance, which might interest some of my hon. Friends and I invite the attention of the Hon. Minister particularly to this point.

Mr. Speaker : The hon. Member may proceed with his speech.

Sardar Hukam Singh : I wanted the Hon. Minister to pay attention to a subject which is very interesting.

Mr. Speaker : Order, order.

Dr. Ambedkar : I have been asked to introduce the Gandharva marriage. It was that which I was discussing.

Sardar Hukam Singh : I have no objection if our Chief Whip wants it. Then, Sir, I was submitting another interesting thing about adoption which the other parts of the country perhaps do not know altogether. I know of instances where girls have been adopted. They have been made heir to the property and they have succeeded. Custom has allowed them and recognized them. I humbly request you Sir, to say whether with the introduction of this Code, all these traditions, all these customs and usages are going to be thrown away to the winds. Is the society that has been built going to chaos now ? I believe that the laws should reflect the stage of advancement of society, the progress that it has made, not that a target be fixed and then the society be pulled up to reach that target. It was tried in Turkey but it failed there also. I request this Government to go slow. There must be cases on the extremes on both sides and I believe there are hardships now in certain cases, but you cannot avoid this. There would be such cases even if this Code is passed. I again stress that 'adoption' is a very old institution which is so dear to us and we cannot afford to lose it even though this Code may be passed.

Then the third thing to which we have serious objection is about inheritance. As I observed a few minutes ago I am not opposed to give a share to the girls. I rather believe that this discrimination is only on account of the sex, that she should not get an equal share. It was remarked that it is not only on sex, but I think it is only on sex that she is not being given an equal share with her brother. Otherwise, there is no reason if they are off-springs of the same parents. I ask, why she should not have an equal share. I say on that ground alone, she must have an equal share. My objection is not on that account. What I submitted last time as well—perhaps it was on the 14th December 1949—that I would prefer that she should have an equal share in her parent's property so long as she is unmarried and she should have an equal share with her husband as soon as she is married, in her father-in-law's property. She must have a share. This should not disturb the present society and structure. We have peculiar circumstances. I believe this Code would not apply to lands but certain.

Pandit M. B. Bhargava (Ajmer): It will now. The official amendment is there.

Sardar Hukam Sing: Sir, Punjab is a State of small holdings. Already they are uneconomic. Another thing is that we have smaller number of females than males in the Punjab.

Dr. Ambedkar: Therefore, their value is great.

Sardar Hukam Singh: Yes, Sir; you are going to increase their value but not to look to other things. That value can be, I should say, adjusted. As I said the number is already fewer. It is well-known that some time back people did not like that they should have sons-in-law and there were female infanticides. I tell you honestly and not as an argument that you would encourage that again, if you give a share, because that land-holder feels that he has already got an uneconomic holding, a pair of bullocks and a cow. It is not possible for him to part with those animals which are so essential for his cultivation. It is no answer to say that if a father had another son, how could he have dealt with him, he must have got a share. We are insisting that there should be a definite list of prohibited degrees, and we want to give the daughter in marriage outside that list. That is to say, a stranger would be brought in. He would not live there; he cannot associate himself with the environments. What he would do is to part with his share as soon as he marries the daughter. There are dissensions in every village; there are parties in every village. The friends would not buy the property; but the share would be sold to the enemy. This would create quarrels, murders and affrays.

Shri Tyagi: He is right.

Sardar Hukam Singh: I pray, kindly, do not bring this into the Punjab. Otherwise, you would create confusion and disorder there.

Shri Syamnandan Sahaya (Bihar): What fault have the other provinces done? Why not plead for them also?

Mr. Speaker: Order, order; let us proceed.

Sardar Hukam Singh: I thought that if I advocated their cause, somebody might question my authority and representative character. Therefore, I confine myself to my own province, and particularly my own community. Otherwise, just as I said at the beginning, I wanted that I should represent the whole of my province; I feared that I might be questioned.

I was submitting that that would create confusion and disorder and the whole society would be upset. That is not what is intended by this Code. That would not be progress; that would not be advancement, but would be rather a retrograde step. Therefore, so far as we are concerned, do not pull us back. Let us go on. You should consider us to be in the vanguard and follow us as we go further. That would be better perhaps for us, for the whole country and for all concerned.

There is another thing that I wanted to submit.

Shrimati Durgabai (Madras) : Sir, may I ask a question ?

Mr. Speaker : It would be better that the hon. Member is allowed to go on without these arguments and counter arguments, if we really want to progress with the matter. All that I would earnestly appeal to all the Members is to be very attentive to the arguments advanced instead of putting questions at each stage. It is better that hon. Members hear all what a gentleman has to say and then advance their arguments. I am going to give full chance to all people who want to speak.

Shrimati Durgabai : I am just asking a question, Sir,....

Mr. Speaker : Whatever that may be, let us allow the members to have their say. Otherwise, there are these interferences, these attempts to draw replies—I am noticing it, there are constant interferences notwithstanding my appeals not to interrupt—with the result that not only is the link of the speaker's argument broken, but more time is taken, and I do feel that even the seriousness of the debate is being lost. We are here legislating on very vital matters. Let us, therefore, seriously and anxiously hear whatever every member has to say, instead of passing remarks or putting questions, just by way of explanation or drawing explanation on particular words. Let us be patient with the speaker.

Sardar Hukam Singh : Then, Sir, I come to my last point, and that is rather painful. I want to bring it to the notice of the House that the Sikhs have already certain apprehensions; some might say that they are unfounded. Whatever it may be, we have this apprehension that there is an attempt to absorb the Sikhs and efface their traditions and culture. . . .

Several, Hon. Members : No. no

Sardar Hukam Singh : . . . usage and custom. They have certain grounds. They have always complained that they have not been fairly treated. One instance that they have cited is that while it was being

announced that they are an integral part of the Hindus, when the President had to make an order about Scheduled Castes they were kept at a respectable distance. Under a recent Order of the President 34 castes have been declared as Scheduled castes provided they profess the Hindu religion. Only four castes, and that at the expense of all the safeguards that we wanted were allowed to be classed as Scheduled castes if they profess the Hindu or the Sikh religion. We have that complaint that whenever there is a chance to confer some benefit, then, we are not included or brought near and we are kept at a distance. But when there is nothing to be given, but only these usages and customs and traditions are to be effaced, we are offered an embrace, an empty embrace that might, rather, I should say, not be pleasant to us, because we love these customs and these traditions. We have adhered to them for a very long time. Therefore, I pray in all earnestness that we might be excluded from the sphere of this Bill.

Pandit Thakur Das Bhargava : With your permission, Sir, I want to put a question, in respect of the last point of my hon. Friend. Is it not a fact that the Sikhs themselves came to Sardar Patel and agreed that only these four castes should be included among the Scheduled Castes and no others ? If that is true, if that is according to agreement, my hon. Friend is not entitled to raise this grievance here.

Sardar Hukam Singh : It is a long subject. The Revered Sardar himself put in these words that these four castes could only be acknowledged, if the Sikhs gave up all the safeguards that they wanted. It was at the sacrifice of those things that these four castes were acknowledged, and they too only in two provinces, the Punjab and the PEPSU. They are not Scheduled Castes in other provinces.

Pandit Thakur Das Bhargava : That is according to the agreement.

Sardar Hukam Singh : No.

Mr. Speaker : Dr. Ambedkar.

Shri T. N. Singh (Uttar Pradesh) : Is Hon. Minister's speech going to be in reply ?

Several Hon. Members : No, no.

***Dr. Ambedkar :** Sir, I propose first to deal with my own amendment before I deal with the other amendments that have been tabled to this clause.

* P.D., Vol. VIII, Part II, 6th February 1951, pp. 2462-73.

It will be seen that in the amendment which I have moved there are three specific points. The first point is that I propose to omit the word professing which occurs in sub-clause (1). The reason for omitting this word is that it has been felt that probably today as the Hindu society is composed, there are people who are Hindus, but who do not profess the Hindu religion in the theological sense in which the word 'profess' is used. In former times one could give the illustration of the Brahmo Samajists in Calcutta or the Prarthana Samajists in Bombay, two sects which were formed from out of the Hindu community, which openly declared that they did not profess the Hindu religion. As my friend Pandit Thakur Das Bhargava observed in the course of his speech there are many Hindus to-day who, so far as religion is concerned, prefer to adopt an eclectic attitude. They like to have something from some religion which appeals to them, and to that extent they are prepared to abandon the religion of their ancestors. If, therefore, the word "profess". remained in this context, it would be open for anybody to argue that unless it was proved that a particular individual was a professing Hindu this Code would not apply to him. That certainly is not the intention of the Code. The intention of the Code is that it should apply to every person who belongs to the Hindu faith. I prefer the use of that terminology and it is therefore, to do away with any such ground for an objection founded upon the word "profession" that I propose to delete it.

My second amendment relates to clause (d). Clause (d) as it stands, says that this Code shall apply to a convert to the Hindu religion. Now, as the house knows, we are using the words "Hindu religion" in a very broad sense; not in the limited sense in which it would apply to a person who believed in the *Vedas*, who believed in the infallibility of the *Vedas*, who believed probably in the *Chaturavarnas*, and who also believed in the performance and the sanctity of the *yagnas* as a means of salvation. We are using the word in a large sense, to include also Buddhists, Jains, Sikhs etc. who do not believe in these dogmas. Consequently, if clause (d) remained that the convert who is referred to in sub-clause (d) is the convert only to the Hindu religion in the limited sense of the word. In order to do away with that contention. I propose to use the new phraseology—"convert to the Hindu religion, Buddhist....." and so on and so forth.

My third amendment deals with the deletion of sub-clause (4). As the House will realise, this sub-clause (4) did not exist in the original