
SECTION VIII

ANSWERS BY
DR. B. R. AMBEDKAR
LAW MINISTER
TO THE QUESTIONS ASKED BY
THE MEMBERS OF PARLIAMENT

18TH NOVEMBER 1947

TO

28TH SEPTEMBER 1951

SECTION VII
QUESTIONS AND ANSWERS
18th November 1947 to 28th September 1951
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(QUESTIONS AND ANSWERS)**(1)*****APPEALS FROM THE HIGH COURTS IN INDIA.**

4. Shri R. R. Diwakar : (a) Will the Honourable Minister of Law be pleased to state whether appeals from the High Court in India still lie to His Majesty in Council ?

(b) If the answer to part (a) above be in the affirmative, are they governed by the same laws and regulations and rules as before ?

(c) If the answer to part (a) above be in the negative, what is the form to which appeals are to be preferred from the decisions of the High Courts in different provinces ?

(d) Are the appeals now pending before the Judicial Committee of the Privy Council to be heard and disposed of by them ?

The Honourable Dr. B. R. Ambedkar : (a) Yes.

(b) Yes.

(c) Does not arise.

(d) Yes, unless a provision to the contrary is made in the new Constitution.

Shri M. Ananthasayanam Ayyangar : What sort of Court do the present Government propose to set up for appeals from the High Court ?

The Honourable Dr. B. R. Ambedkar : That is not a matter for the Government to decide but for the Constituent Assembly.

Shri M. Ananthasayanam Ayyangar : Is the Honourable the Law Member aware that in the new set up under the present Government of India Act and the Dominion Independence Act that with regard to appeals to the Privy Council the jurisdiction of the Privy Council may be abolished and vested in the Supreme Court ? .

The Honourable Dr. B. R. Ambedkar : I do not know if the Government can take a decision when the Constituent Assembly is sitting for the purpose of defining the Constitution.

* C.A. (Leg.) D., Vol. 1, Part I, 18th November 1947 pp. 70-71.

Shri M. Ananthasayanam Ayyangar : Did not the previous Law Member want to bring about a resolution to take action under section 299 and other sections of the Government of India Act to avoid appeals going to the Privy Council in certain matters ?

The Honourable Dr. B. R. Ambedkar : I do not know if that position remains as it was I admit that the Law Member then was proposing action as referred to by my honourable friend but there was nothing in contemplation with reference to the making of the new Constitution.

Mr. Speaker : Order, order. Will the honourable Member, Mr. Ayyangar, ask for the information ? This seems to be going into an argument.

Shri M. Ananthasayanam Ayyangar : I did ask for the information. But the honourable Member does not appear to know what has gone on before !

The Honourable Dr. B. R. Ambedkar : I said I am aware of it !

Shri M. Ananthasayanam Ayyangar : Does the honourable Member propose to take action under the present Government of India Act ?

The Honourable Dr. B. R. Ambedkar : I do not think such an action can be taken when we know that within a few months the new Constitution will be framed.

Shri K. Santhanam : Is the honuorable Member aware that if the establishment of a Supreme Court is delayed till the new Constituent Assembly there will be great transitional difficulties when the Constitution comes into force ?

Mr. Speaker : Order, order. It is a question of opinion.

(2)

***JURISDICTION OF THE
JUDICIAL COMMITTEE OF THE
PRIVY COUNCIL TO DECIDE PENDING APPEALS.**

5. Shri R. R. Diwakar : (a) Will the Honuorable Minister of Law be pleased to state whether it is a fact that the Judicial Committeee of the Privy Council will have jurisdiction to entertain, hear and finally decide the appeals now pending before them and those that will be filed hereafter, so long as no changes are made in the existing enactments like the Civil Procedure Code ?

(b) What is going to be the future policy of the Dominion Government with regard to the Privy Council ?

(c) Do Government propose to consider the advisability of the early establishment of a Supreme Court with the jurisdiction of the Privy Council ?

(d) If so, what is the approximate time required for the establishment of such a Court ?

The Honourable Dr. B. R. Ambedkar : (a) Yes.

(b) The future policy of Government in regard to Privy Council appeals will generally be in accordance with the decision of the Constituent Assembly incorporated in the new Constitution.

(c) No, not until the new Constitution is brought into force.

(d) It is not possible to give an estimate at present.

Seth Govind Das : May I know if the Constituent Assembly decides that no appeals should be made to the Privy Council, what is going to happen to the appeal which have already been sent to the Privy Council before that decision is reached ?

The Honourable Dr. B. R. Ambedkar : I am sure the Constituent Assembly will make appropriate provision to cover such cases when coming to its decision.

* C.A. (Leg.) D., Vol. 1, Part I, 18th November 1947 p. 71.

(3)

***NUMBER OF CASES TRIED BY THE FEDERAL
COURT AND PRIVY COUNCIL.**

8. Shri S. Nagappa : Will the Honourable Minister of Law be pleased to state :

(a) the total number of cases tried by the Federal court during the last three years—yearwise ; and

(b) the total number of the cases that have gone to the privy Council ?

The Honourable Dr. B.R. Ambedkar : (a) The total number of the cases heard by the Federal Court during the three years 1944, 1945 and 1946 was 34, 16 and respectively.

(b) The total number of Indian appeals filed in the Privy Council during the same three years was 58, 69 and 61 respectively.

Shri B. M. Gupta : May I know how many cases of appeals were reserved by the Privy Council ?

The Honourable Dr. B. R. Ambedkar: That does not arise.

Shri Biswanath Das : In view of the fact that none of the Commonwealth countries are allowing their litigant public to prefer appeals to the Privy Council, will the Honourable Minister please state whether this Government is thinking of making any interim arrangement between the decision of the Constituent Assembly on this question and the present day ?

The Honourable Dr. B. R. Ambedkar : I do not quite follow my Honourable friend's question but I can tell that the Government is examining the matter and if they find it feasible they may take interim action.

Shri Biswanath Das : May I know what is the specific question that is being examined ? My question is very clear and specific. What I said was that no Commonwealth country is allowing its litigant public to prefer appeals to the Privy Council. In view of the fact that India is one of the Commonwealth countries, will the Government please consider the question or have they considered this aspect of the question of making any interim arrangement between the decision of the Constituent Assembly and the present day ?

* C.A. (Leg.) D., Vol. 1, Part I, 18th November 1947 pp. 75-76.

The Honourable Dr. B. R. Ambedkar : I said that the Government is considering the matter and before any action could be taken Government have to see that the Federal Court becomes a Supreme Court and has got the full complement of judges to discharge the functions that will devolve on them if they were to discharge the functions of the Privy Council.

Mr. B. Poker Sahib Bahadur : Is the Honourable Minister aware that the previous Government was contemplating the question of providing appeals to the Federal Court, according to the option of the party, in addition to appeal lying to the Privy Council, in view of the fact that the Federal Court Judges had not sufficient work to do and this measure could afford to facilitate the litigant public to pursue their appeals from the High Courts ?

The Honourable Dr. B. R. Ambedkar : The whole question is being considered.

(4)

*CONSTITUTION OF THE FEDERAL COURT.

25. Shri Phulan Prasad Varma : (a) Will the Honourable Minister of Law be pleased to state whether Government are aware that the Constituent Assembly of India has passed certain transitional provisions by which the Federal Court will be deemed to be the Supreme Court, and will be the ultimate appellate authority and new appeals will lie to the Supreme Court instead of to the Privy Council ?

(b) If the answer to part (a) above be in the affirmative, what steps have Government taken or are going to take to implement these provisions ?

(c) Are Government aware that in the traditional provision it has been laid down that the cases pending before the Privy Council will be disposed of by the Privy Council ?

(d) If the answer to part (c) above be in the affirmative, do Government propose to clarify as to what exactly is meant by the expression 'pending' ?

(e) Are Government aware that there is a great deal of uncertainty in the mind of the litigant public, Advocates and High Court Judges regarding the precise position in the matter ?

* C.A. (Leg.) D., Vol. 1, Part I, 18th November 1947, p. 88.

(f) If the answer to part (e) be in the affirmative, do Government propose to issue a statement on the subject ?

The Honourable Dr. B. R. Ambedkar : (a) Government have seen the relevant portions of the memorandum embodying the recommendations of the Union Constitution Committee, which were subsequently adopted by the Constituent Assembly.

(b) Government cannot take any steps to implement these recommendations until a provision is included in the Constitution which is now being framed by the Constituent Assembly.

(c) No, Sir. The memorandum referred to above does not contain any such recommendation.

(d) Does not arise.

(e) Government are not aware of any uncertainty in the mind of the litigant public. They have received certain enquiries on the subject from members of the bar but these do not suggest that there is a great deal of uncertainty.

(f) The resolution adopted by the Constituent Assembly is clear enough and Government do not consider it necessary to issue any statement in regard to it at this stage.

(5)

*REPORT OF HINDU LAW CODIFICATION COMMITTEE

236. Shri K. Santhanam : Will the Honourable Minister of Law please state—

(a) Whether the Committee on the Codification of Hindu Law has submitted its final report; and

(b) whether and, if so, when it is proposed to introduce the Bill as recommended by the Committee ?

The Honourable Dr. B. R. Ambedkar : (a) Yes.

(b) A Government Bill in exactly the same terms as the draft Hindu Code prepared by the Hindu Law Committee was introduced in the last Indian Legislative Assembly on the 11th April 1947. A motion for the continuance of the Bill has also been adopted by this House on the 17th November, 1947.

* C.A. (Leg.) D., Vol. 1, Part I, 1st November 1947 p. 453.

(6)

***MISAPPROPRIATION OF INCOME BY HINDU
CHARITABLE AND RELIGIOUS TRUSTS**

397. Dr. P. S. Deshmukh : (a) Will the Honourable Minister of Law be pleased to state whether Government are aware of the extent of waste and misappropriation of the income from Hindu Charitable and Religious Trusts ?

(b) Do Government propose to consider the advisability of introducing legislation for abolishing all these Trusts so as to utilize the properties for nation-building purposes ?

The Honourable Dr. B. R. Ambedkar : (a) No, Sir.

(b) No, Sir. Quite apart from the question whether legislation abolishing all Hindu religious and charitable trusts is necessary or even desirable, such legislation falls within the provincial field under entry 34 of the Provincial Legislative List and the Central Government cannot, therefore, initiate the suggested legislation.

(7)

****NUMBER AND NAMES OF TRIBUNALS
APPOINTED BY MINISTRY OF HOME AFFAIRS**

167. Shri Mohan Lal Saxena: (a) Will the Honourable Minister of Law be pleased to state how many tribunals appointed by the Ministry of Home Affairs are still functioning ?

(b) Is it a fact that many of the members of these tribunals now belong to Pakistan ?

(c) If so, what is the position of such members and have any substitutes been appointed in their place ?

(d) Do Government propose to lay on the table of the House a statement giving the following information :

(i) the names of the different tribunals ;

(ii) the number of cases tried as well as of those disposed of ; and

* C.A. (Leg.) D., Vol. 1, Part I, 27th November 1947, p. 781 .

** *Ibid.*, p. 391-92.

(iii) the period for which each of the tribunals has worked and the costs incurred by Government in each case ?

The Honourble Dr. B. R. Ambedkar : (a) It is presumed that the honourable Member is referring to the Special Tribunals constituted under the Criminal Law Amendment Ordinance, 1943. The number of such Tribunals still functioning is four.

(b) and (c) There were three Special Tribunals with headquarters at Lahore, some members of which now belong to Pakistan. Under the Indian Independence (Special Tribunals) Order, 1947, these Tribunals and the cases pending before them were reshuffled and one of the Tribunals was assigned to West Punjab with members belonging to Pakistan and the pending cases relating to Pakistan. The other two Tribunals with members belonging to India and pending cases relating to India were transferred to India and redesignated as the East Punjab and the Bombay Special Tribunals. One new member who is required to complete the composition of the East Punjab Tribunal has already been appointed by the East Punjab Government and the two new members required to complete the Composition of the Bombay Special Tribunal are being appointed by the Bombay Government.

(d) A statement giving the information asked for is laid on the table.

STATEMENT

Name of the different Tribunals	Date from which each Tribunal is working	No. of cases tried and disposed of	No. of cases pending disposal	Cost incurred in each case
(1)	(2)	(3)	(4)	(5)
First Tribunal, Calcutta	September, 1943	66	12	Information not available
Second Special Tribunal, Calcutta.	July, 1945	Nil	1	Ditto.
East Punjab Special Tribunal (late third Special Tribunal, Lahore).	May, 1945	54*	79	Ditto.
Bombay Social Tribunal (late second Special Tribunal, Lahore)	February, 1945	6	2	Ditto.

*Including cases disposed of by the First Lahore Special Tribunal set up in September, 1943 which is now designated as the West Punjab Special Tribunal.

Shri M. Ananthasayanam Ayyangar : Sir, how long will the Tribunals take to dispose of the pending cases ?

The Honourable Dr. B. R. Ambedkar : I am quite unable to give any definite reply.

Shri Mohan Lal Saksena : Is it a fact that a number of cases are pending before these tribunals ?

The Honourable Dr. B. R. Ambedkar : I believe it is true.

Shri Mohan Lal Saksena : Is the Honourable Minister for Law taking any steps to expedite their disposal ?

The Honourable Dr. B. R. Ambedkar : Well, it is very difficult for a Minister of Government to expedite disposal of cases before the Tribunals. The main reason for the delay in the disposal of cases is the adjournment obtained by parties on various grounds. It is very difficult to prescribe any hard and fast rules for the grant of adjournments.

Mr. R. K. Sidhva : Are there legitimate grounds for these grant of adjournments ?

The Honourable Dr. B. R. Ambedkar : I cannot say.

Shri Mohan Lal Saksena : Is there any definite periods for which these tribunals have been appointed ?

The Honourable Dr. B. R. Ambedkar : No, Sir.

(8)

* PROPOSAL FOR RECONSTITUTION OR
MODIFICATION OF INCOME-TAX
APPELLATE TRIBUNAL

287. Shri M. Ananthasayanam Ayyangar : (a) Will the Honourable Minister of Law be pleased to state whether there are any proposals for the reconstitution or modification of the Income-Tax Appellate Tribunal and, if so, what are the proposals ?

(b) Do Government propose to consider introducing Legislation for abolishing references from the Income-Tax Appellate Tribunal to the Provincial High Courts, and substituting instead references direct to the Federal Court in all cases under the Income-Tax Act, where a reference is provided ?

(c) Do Government propose to consider raising the status of the Income-Tax Appellate Tribunal, by appointing as its chairman a person who has held office as Judge of a High Court ?

The Honourable Dr. B. R. Ambedkar : (a) No.

(b) The suggestion for making the Federal Court an original Court for References under the Indian Income-Tax Act was fully considered in 1945-46 in connection with the proposal for enlargement of the jurisdiction of the Federal Court and in pursuance of Legislative Department Resolution dated 15th January, 1945 public opinion was consulted. The opinion was overwhelmingly against the suggestion, and the late Mr. Bhulabhai Desai characterised it as highly objectionable in principle and unjust to the assesseees. Now that the Federal Court is the Supreme Court for civil appeals, it would be inappropriate and anomalous to make it an original Court for Income-Tax References.

(c) References on points of law lie from the Income-Tax Appellate Tribunal to the High Court and it is not necessary to raise its status by appointing as its President a person who has been Judge of a High Court. The existing status of the Tribunal is sufficiently high and care is always taken to appoint as President or Judicial Member either a senior member of the Bar or a senior District Judge, who is due to be promoted to the Bench. In fact both the previous Presidents are now serving as High Court Judges.

(9)

*GENERAL ELECTIONS

96. Shri Deshbandhu Gupta : (a) Will the Minister of Law be pleased to state whether any definite dates have been fixed for the first general elections to the House of the People ?

(b) What progress has been made in the preparation of the electoral rolls and what steps have been taken to set up the electoral machinery ?

* Parliamentary Debates (Hereinafter called P.D.), Vol 1, Part I, 6th February 1950, p. 79.

The Minister of Law (Dr. Ambedkar) : (a) No definite dates have been fixed for the first general elections to the House of the People. It is obviously too early to do so.

(b) As regards the preparation of electoral rolls, attention is invited to the reply given on the 9th December last to Starred Question No. 469 in the last section of the Constituent Assembly (Legislative). Some further progress has been made by the States during the last two months. The office of the Chief Election Commissioner has been set up, and that authority is expected to be appointed by the President in the near future. The preparation of a comprehensive Bill covering various matters relating to elections has also been taken in hand.

Shri Deshbandhu Gupta : Has the Minister's attention been drawn to the statement made by the Prime Minister recently that elections would be held by the end of 1950 ? May I know if that is the decision of the Government and, if so, whether the progress made in the preparation of electoral rolls, etc., is sufficient for holding the elections in 1950 ?

The Prime Minister (Shri Jawaharlal Nehru) : My statement was "during the next winter", not by the end of this year : but 1950-51 winter.

Shri Tyagi : What arrangements are being made to hold bye-elections in the various States for seats which have fallen vacant during the last six or seven months ?

Dr. Ambedkar : This is a matter which is left to the Governors of the Provinces and they are also under such orders as the President is authorised by the Constitution to give in this behalf.

Shri Vyas : Have Government given any special attention to get the electoral rolls prepared in the case of such States where there are no Legislatures at present ?

Dr. Ambedkar : Certainly.

Shri Bharati : May I know if it is a fact that the Government of India have asked the Provinces and States to give their opinion

regarding the desirability of holding the elections after the 1951 census so as to have a breathing time? I understood from the papers that the Government of India have asked various States as to their opinion regarding the advisability of holding the general elections after the 1951 census.

Dr. Ambedkar : I am not aware of any such proposal.

Shri Tyagi: Have instances come to the notice of the Government of seats which had fallen vacant months ago in various States and which have not yet been filled up?

Dr, Ambedkar : That is a matter for the Provinces.

Shri Deshbandhu Gupta : Is the Hon. Minister aware of the fact that assurances were given by the Deputy Prime Minister to the Constituent Assembly that in certain areas like East Punjab, Delhi and perhaps Bombay or West Bengal fresh elections will be based on a fresh census? If so, what steps are being taken by the Government to have a census in these areas before the electoral rolls for the new elections are prepared.

Dr. Ambedkar : I do not think that is a correct statement of facts.

Shri Dashbandhu Gupta : May I draw the Prime Minister's attention to the question and the reply of the Hon. Law Minister and ask him whether it is a fact or not that the Deputy Prime Minister had given an assurance?

Mr. Speaker : The Hon. Minister has already replied to the question.

Shri Deshbandhu Gupta : He says that it is not a fact. I want the Prime Minister to say whether it is a fact or not. The assurance is on record.

Shri Kamath : Has the Hon. Minister's attention been drawn to a United Press of India report from Madras that the Government of India in a communication addressed to the State Governments have asked them whether it would be convenient for them if the elections to the Legislatures of the States are held a few months after the 1951 census is over?

Dr. Ambedkar : I am not aware of it.

(10)

***LIST OF SCHEDULE CASTES**

806. Prof. Yashwant Rai : Will the Minister of Law be pleased to refer to Article 341 of the Constitution and state :

(a) Whether it is a fact that many castes are anxious to know their inclusion in the list of the Scheduled Castes ; and

(b) if so, what steps have been taken by Government in this direction and when the list of the Castes included in the Scheduled Castes will be announced ?

The Minister of Law (Dr. Ambedkar) : (a) and (b) As required under article 341 of the Constitution, the Governors and *Rajpramukhs* of States have been consulted with regard to the castes, races or tribes etc., which are to be specified as Schedule Castes for the purposes of the Constitution and their views and suggestions are at present being examined. This examination is expected to be completed soon, and thereafter the Notification specifying the Scheduled Castes will be issued.

Prof. Yashwant Rai : May I know, Sir, how long will the Government take to announce the list ?

Dr. Ambedkar : I have said 'soon'. I am sure it will not take very long.

Shri Rathnaswamy : May I know the basis on which the Government comes to a decision in regard to the inclusion of castes ?

Dr. Ambedkar : The question is not clear. We have got the schedule under the Government of India Act, 1935; In addition to that, we have addressed queries to Provincial Governments as to their opinion regarding the inclusion of certain other castes. After their opinions are received, the lists will be finalised.

Dr. M. M. Das : May I know whether in the coming census the Scheduled Castes will be marked as Scheduled Castes ?

Dr. Ambedkar : I suppose so.

Sardar B. S. Man : I want to know whether the lists proposed to be compiled will be uniformly applicable to all the States in the country or whether they will differ from State to State ?

Dr. Ambedkar : It cannot be. It is always a provincial list.

Shri Buragohain : May I know whether the list of Scheduled Tribes is also under examination ?

Dr. Ambedkar : Oh, Yes.

Shri Tyagi : Is it the intention of Government to exclude from the list castes that have progressed to the level of the so-called Caste Hindus ?

Dr. Ambedkar : The Scheduled Castes have been always untouchables. Nothing less.

Shri Tyagi : Is it the intention of Government to revise the lists so as to exclude those castes that do not have the disability of untouchability after the progress they have made ?

Dr. Ambedkar : The procedure for revising the Schedules is provided in the Constitution. It can be done by parliamentary legislation.

Shri Naik : May I know whether any steps have been taken by the Government to implement article 340 of the Constitution ?

Dr. Ambedkar : The appointment of a Commission is a separate matter. That is also under consideration.

Shrimati Durgabai : Since untouchability has been banned by the Constitution, can it still form the basis of exclusion or inclusion ?

Shri Barman : Is it contemplated to publish a provisional list before the final list is published ?

Dr. Ambedkar : It is not contemplated, because the power is given to the President to issue the list.

(11)

***CENTRAL WOOLLEN TECHNOLOGICAL
INSTITUTE**

The Minister of Law (Dr. Ambedkar) : (a) It is too early to estimate what will be the total cost of the general elections under the Constitution. On the basis of information available so far, the Central is to pay to Part A and Part B States a sum of Rs. 1.18 crores for expenditure during 1949-50 and Rs. 1.34 crores during 1950-51. These amounts mostly relate to expenditure on the printing and preparation of the electoral rolls.

(b) The extra cost incurred by the States Governments in connection with the preparation and printing of the electoral rolls, will be borne by the Central Government and the State Governments on a half and half basis. The extra costs incurred by the State Governments in connection with the actual conduct of elections to the House of the People will be met entirely by the Central Government if the elections to the House of the People are held independently of the elections to the Legislative Assemblies of the States, but such extra costs will be borne by the Central Government and the State Governments on a half and half basis if the elections to the House of the People and the State Assemblies are held simultaneously. The term "extra costs" means the expenditure incurred by the State Government in the preparation and printing of the electoral rolls or in the conduct of elections, but not including any share of the existing State establishments. In other words, in computing the extra costs, no share of the salaries of the existing officials of the State Governments will be taken into account.

Shri Nandkishore Das : May I know if the printing of the electoral rolls has been finished ?

Dr. Ambedkar : No. They are different stages in different States.

Shri Nandkishore Das : May I know if the expenditure in connection with the elections to the Central Parliament will include the expenditure in connection with the Election Commissioner and his office ?

* P. D., Vol. 4, Part I, 21st March 1950, p. 964.

Dr. Ambedkar : No. This is a separate charge.

Shrimati Durgabai : May I know whether the Election Commission that is contemplated under the Constitution has been set up ; if not, when is it likely to be set up ?

Dr. Ambedkar : I think the Election Commissioner has been appointed. He is probably either taking charge today or has already taken charge yesterday.

Shri Tyagi : May I know what is the position with regard to by-elections to State Legislature today—will they be held on the previous electoral rolls or on the fresh ones ?

Dr. Ambedkar : On the existing rolls which will be in operation on the date of the election.

Shri T. T. Krishnamachari : May I ask if the Election Commissioner who has been appointed and who is going to take charge in a few days' time is designated as the "Chief Election Commissioner" ? If that is so, are other Election Commissioners going to be appointed ; if so, how many ?

Dr. Ambedkar : Government have not come to any decision on the latter part of the question.

Shrimati Durgabai : May I know what is the precise scope of work of this Commissioner ?

Dr. Ambedkar : That has already been defined in the Constitution.

Shri Kamath : Is the Law Minister in a position to state whether the General Elections will be held before or after the completion of the decennial census ?

Dr. Ambedkar : I do not want to commit myself, but I suppose the position is that the decennial census may in some cases have a very crucial effect on the preparation of the electoral rolls and also in the matter of assigning seats. So it may precede.

Shri A. P. Jain : May I know when the last electoral roll in any State is expected to be printed ?

Dr. Ambedkar : What is the question ? I want to know what my friend means by "printed"—printed as the provisional list or revised, list or final list ?