

The Arya Marriage Validation Act, 1937
(19 of 1937)

005

[14th April, 1937]

An Act to recognise and remove doubts as to the validity of inter-marriages current among Arya Samajists.

Whereas it is expedient to recognise and place beyond doubt the validity of inter-marriages of a class of Hindus known as Arya Samajists; It is hereby enacted as follows:

LEGISLATIVE HISTORY ▼

- Amended by Act 32 of 1940.
- Adopted by Adaptation of Laws Order, 1950.
- Adopted by Adaptation of Laws Order, 3 of 1956.
- Extension of Act 59 of 1949.
- Extension of Act 30 of 1950.
- Extension of Bombay Act 4 of 1950.
- Extension of M.B. Act 1 of 1953.

1. Short title and extent .(1) This Act may be called The Arya Marriage Validation Act, 1937 .

[(2) It extends to the whole of India except [the territories which immediately before the 1st November, 1956, were comprised in Part B States] and applies also to citizens of India wherever they may be.]

Object & Reasons ▼

As the Arya Samajists who form quite an appreciable number of the Indian population conscientiously believe that the present caste system is not in accordance with their scriptures, the vedas and the sacred Shastras and as accordingly to the law as administered at present marriages between parties belonging by birth to different castes or sub-castes are considered invalid and there is a fear of the issue of such marriages being declared illegitimate and as quite a large number of such marriages have taken place and more would have taken place had there been no such obstacle, it is necessary to have a law which would give relief to the Arya Samajists. Hence the above law is proposed. - Gazette of

India 1935, Part V, page 132.

REPORT OF THE SELECT COMMITTEE

The following Report of the Select Committee on the Bill to recognise and remove doubts as to the validity of inter-marriages current among Arya Samajists was presented to the Legislative Assembly on the 1st September, 1936:

We have revised the extent clause of the Bill so as to accord retrospective effect which it was sought to secure by clause 1(2) of the Bill as introduced has been secured in the re-draft of clause 3 of the Bill as introduced, (now appearing as clause 2).

We have omitted the definition of Arya Samajists. We were impressed by the difficulty of finding a satisfactory definition, and we consider that the proposal in sub-clause (b) of clause 2 that a declaration subsequent to marriage should suffice to establish that the maker of the declaration was an Arya Samajist, was fraught with danger.

We are of opinion that the purposes of the Bill will be adequately served if the question of the religious status of the parties to a marriage remains a question of fact to be determined by the circumstances of each case.

We have recast clause (3) (now numbered clause 2) in a clearer and more comprehensive form.

We recognize that some provision must be made to govern succession in respect of the marriages dealt with by the Bill, but we found that considerable diversity of opinion existed as to what that provision should be. We decided by a majority that the most suitable solution of the problem is to provide as we have done in clause 3 that questions of succession shall be determined according to the Indian Succession Act, 1925.

The 5th August, 1936.

N.N. SIRCAR.

*M.C. RAJAH.

*G.S. GUPTA.

*N.B. KHARE.

*BHAGVAN DAS.

G.H. SPENCE.

G.V. DESHMUKH.

SANT SINGH.

M.S. ANEY.

*Subject to minutes of dissent.

MINUTES OF DISSENT

The Bill is intended to meet the needs of the Arya Samajists, Clause 4, relating to succession, should therefore be so framed as to meet the sentiments of that community. It is known as a fact that the whole body of Arya Samajists are opposed to the Indian Succession Act being applied to them instead of the sacred Shastras which they believe in. The application of the Indian Succession Act to the property of the parties for whose benefit the Bill is intended denies to them as Arya Samajists, what the Arya Samaj as a body has needed and been asking for all this time. If the Indian Succession Act were to apply to such cases, the present Bill would indeed not be needed at all; for the already existing Special Marriage Act, commonly known as the Civil Marriage Act, would cover all such cases.

It should not be forgotten that the Arya Samaj believes in the vedas and the sacred Shastras and also in Varna Ashrama Dharma. Their difference with the orthodox Hindus is that they do not believe in Varna by Janma or birth alone, i.e. in the current caste system exclusively by birth. Instead, they believe in Varna by Karma, i.e., vocation or occupation, as clearly expounded by Swami Dayanand, the founder of the Arya Samaj. To ask them to take to the Succession Act, in cases where the Shashtras can apply, is to ask them to forsake their faith.

We, therefore, would press that a provision to the following effect, which preserve the applicability of the Shashtras in ordinary cases, and also provides for the application of the Indian Succession Act in certain exceptional cases, be substituted in place of Clause 4 as amended by the majority : "For purposes of succession, the Hindu Personal Law of the husband, where he was a Hindu before the marriage and the Indian Succession Act in other cases, shall govern the case".

An amendment to the above effect was moved by

Dr. Bhagwan Das at the meeting of the Select Committee.

Dated the 4th August, 1936

BHAGVAN DAS.

N.B. KHARE.

G.S. GUPTA.

M.C. RAJAH.

I am not clear if it is good to omit the definition of Arya Samajist. The definition given in the Bill is good for all practical purposes and may be allowed to remain.

As regards the changes in Clause 4, I agree to the amendment of Dr. Bhagvan Das only as a matter of compromise.

I would however insist that clause 4 should remain as introduced, viz., as follows :

"4. For purposes of succession all inter-marriages referred to in section 3 of this Act shall be deemed to be marriages between persons of the same caste of (Dwijias) the twice-born Hindus."

This is in conformity with the feelings of the Arya Samajists for whom this Bill is meant. The Arya Samajists as a body support this provision.

G.S. GUPTA.

The 4th August, 1936. - Gazette of India 1936, Part V, p. 306.

2. Marriage between Arya Samajists not to be invalid.-Notwithstanding any law, usage or custom to the contrary no marriage contracted whether before or after the commencement of this Act between two persons being at the time of the marriage Arya Samajists shall be invalid or shall be deemed ever to have been invalid by reason only of the fact that the parties at any time belonged to different castes or different sub-castes of Hindus or that either or both of the parties at any time belonged to a religion other than Hinduism.