

July 3, 2023

Legislative Reform and Caste

By: V. Geetha

'Caste Pride' foregrounds the wide geography of legislative reform from before Independence with reference to caste, and points to the central role played by Dalit legislators in this process.

In 1996, the civil liberties activist K. Balagopal delivered a lecture in Bangalore on 'Civil Rights and Caste' in which he noted, “We (the civil liberties groups) need to outline a broader framework for ourselves. And that task is to define democracy not merely in terms of police misbehaviour and police atrocities but in a much wider sense – political, administrative, social, economic, and familial [...] When one understands things in this way [...] caste becomes a very important part of the understanding of the civil rights issue.”

Balagopal went on to argue that caste denies civic status to a vast section of the population and this requires civil rights groups to rethink violation of rights as such, and view it as obtaining sanction not only because of state impunity but also civil impunity. In this context, he pointed out that it was important to secure a different history for civil rights, and one that is linked to struggles against caste as it is to struggles against the state's highhandedness.

Manoj Mitta's *Caste Pride: Battles for Equality in Hindu India* may be read as an exercise in the writing of such a history. The book describes contexts and conditions that led to the making of laws and policies to do with rights derogated by the caste order and untouchability. It begins its account with what it describes as “Early Codes”, which were promulgated in the time of Lords Bentinck and Dalhousie, and ends with a pithy reprise of violence against Dalits, including the burning of Dalits in Kilvenmani in 1968 and other such murderous incidents across free India. There is to be a second volume, which will continue this relatively unknown and engaging story of how we learnt social democracy.

Drawing on legislative debates in British India and to an extent in independent India, as also forgotten government orders and ordinances, and the private papers of key players, Mitta takes us through arguments for or against a particular legal measure.

This volume does two things. First, it foregrounds the wide geography of legislative reform with reference to caste. That is, it shows how legislative debates and law making on, for instance, the question of equal access to public spaces spanned several provincial legislatures, thereby indicating the rich pre-history of the struggle for equality that B.R. Ambedkar would take ahead in the philosophical, legal, political, and constitutional domains. Second, it points to the central role played by Dalit legislators in the legislative domain – and the manner in which they sought to “reset” the terms of politics, as Ambedkar imagined they would.

Drawing on legislative debates in British India and to an extent in independent India, as also forgotten government orders and ordinances, and the private papers of key players, Mitta takes us through arguments for or against a particular legal measure. He calls attention to the role of British Indian officialdom in setting limits to legislative reform because it did not wish to earn the opprobrium of upper-caste Hindus, or feared a disruption of order.

He also plots the very slow time of reform, which sometimes spanned months, if not years. The section on the rights of access sought by Dalits in and through the Brahmin village of Kalpathi in Palakkad (in the mid 1920s) is revealing. Dalit representatives in the Madras legislature along with Ezhava publicists took up this matter, which met with stiff opposition from local Brahmins. British officialdom was ambivalent in its responses, veering between wanting to act decisively and fearing the consequences that were bound to occur. In essence, a veritable drama of rights was acted out in a limited territory over a fairly long period of time.

In this thickly descriptive book that combines accounts of legal campaigns and elegant paraphrases of court judgements, some names stand out. They include Maneckji Byramji Dadabhoy, a Parsi and member of the central legislature, who put forth the first ever resolution (in 1916) asking for a redressal of Dalit woes, and forgotten Dalit legislators such as R. Veeraian from Madras, who doggedly pursued the matter of equality of access to all public spaces, including roads, markets, and wells.

There is also Vithalbai Patel, the Sardar's elder brother, who sought to introduce a bill in the central legislature to legalise inter-caste marriages and the enigmatic M.R. Jayakar from Maharashtra, a legal radical in his own right, who attempted to table an untouchability

abolition bill, which included the right to enter temples, in the central legislature. The bill, we learn, was originally drafted by Ambedkar in 1929, when he was very involved with temple entry agitations, something that is not referenced in existing biographies;

Dalit legislators defined their claims to public places in and through a radical register of rights that they helped to put in place. Gandhians invoked a discourse of conscience and piety to do the same.

From Mitta's account, it is evident that the individuals and groups who sought to legislate against caste and untouchability-related inequities were an interesting mix. They included Dalits, Gandhians, liberal Congressmen, Hindu reformists of various hues (and at least one notable Muslim, M.A. Jinnah, who spoke up for Dalit rights), British official representatives in the legislature and out of it—and each came to the issue at hand for various reasons.

Dalit legislators defined their claims to public places in and through a radical register of rights that they helped to put in place. Gandhians invoked a discourse of conscience and piety to do the same. Liberal-minded legislators believed in the equality of persons, while reform-seeking Hindus acted out of a sense of duty towards their fellow “Hindus” or because of their reformist sympathies, shaped by Brahma Samaj ideology or the philosophy that guided the Arya Samaj, which pushed them to respond to social wrong. British officials spoke in the name of rational governance, and in the interests of law, order and public safety, and under the pressure of bearing the “white man's burden”.

It is also interesting to note how some extremely aware and politically charged individuals refused to act when it came to caste-imposed disabilities, except in limited ways or not all. This list includes notables such as Surendranath Banerjea and Madan Mohan Malaviya. In this context, we find it startling that the suave Motilal Nehru defended sati in the courts. It must be said though that not all reformers were consistent in their espousal of causes, as is evident from the role played by R.K. Shanmugam Chetty. An articulate supporter of non-brahmin and Dalit rights and entitlements when he was active in the Justice Party and the Self-Respect Movement in Madras, he did not demur from scuttling Dalit rights to temple entry when he was appointed the Dewan of Cochin. Likewise, the Raja of Panagal, of the Justice Party, who headed the first non-brahmin ministry in Madras in the 1920s, was equivocal when it came to legislating against denial of equal access rights, even when pressured to do so by more radical-minded men in his party, such as W.P.A. Soundrapandian Nadar.

Mitta unpacks the politics of social reform in all its complexity and tediousness in many parts of the book, but particularly, in a long section on temple entry. Here, we see how conscience, political interest, and ideological prevarications intersected to stymie the passage of a bill that was modest at best (it asked for temple entry by Dalits to be made legal in places where a referendum had been held and the measure had been accepted).

The questions at stake for legislators and lawmakers when it came to formulating special marriage laws in late colonial India revolved around the rights of converts to inheritance and to remain within the bind of family.

One of the most fascinating sections in the book (“Impure Majority”) has to do with questions of caste and conjugality. Two things are discussed here: how the courts handled cases pertaining to intercaste unions not amounting to matrimony; and how legislatures fielded debates with regard to bills that sought to legalise intercaste marriages. The questions at stake for legislators and lawmakers when it came to formulating special marriage laws in late colonial India revolved around the rights of converts to inheritance and to remain within the bind of family, in short to the right to not be excommunicated. In practical terms, this meant that the rights being fought for were in actuality rights that would enable a rational resolution to problems posed by property and progeny, inheritance and lineage.

Shudra women as much as men sought inheritance rights, with the women seeking them chiefly for their children, especially those deemed illegitimate because they were born out of wedlock. In most instances, courts held these rights to be void because the fathers, especially if they were from the so-called *dwija* or twice-born communities, owed nothing, except the right of maintenance, to their bastard children. Ironically enough, the latter as well as their mothers had expansive rights if the male parent was a shudra.

The supreme irony was that claimants who sought inheritance rights usually courted a *dwija* status, and the reason was that shudra customs were not viewed as normative when it came to deciding the rights and entitlements of the four varnas (the four main castes of Hindu society). In contrast, Brahmanical definitions of appropriate social behaviour and the laws that sanctioned the latter were held to be given and universal.

Matters appear to have been particularly complicated when it came to Brahmin women who had taken up with Shudra or even other dwija men. This hypergamous behaviour lacked a name and a legal character since a woman who had dared to step out of her Brahmin home clearly did not deserve a civic identity or status. Conversely, drawing on the *shastras*, the courts were willing to honour the limited rights of children born to *dasis* or to slave women, answering to descriptions in brahmanical legal literature.

Mitta has opened up a fascinating history here that feminists ought to make their own and rethink the ways in which we discuss social reform, which, to this day, centres on sati, widow remarriage, early marriage, and the devadasi system.

Naming also proved a problem when it came to non-customary and non-religious marriages, such as the Satyashodhak and Self-respect marriages, which among other things, eschewed brahmin priests. When caste endogamy was not the basis for holy matrimony, and the officiant at the ritual was not a brahmin, the phenomenon literally fell out of the purview of existing laws and norms, landing the courts and judges in a quandary. Equally, it tested the patience of lawmakers who did not wish to come to terms with the radical alterity of these practices, as happened with C. Rajagopalachari, who was at best willing to grant the Self-respect marriage the tag of a non-conforming ritual and nothing more.

Mitta has opened up a fascinating history here that feminists ought to make their own and rethink the ways in which we discuss social reform, which, to this day, centres on sati, widow remarriage, early marriage, and the devadasi system. It is evident from the cases that Mitta cites that the women's question unfolded not only in tandem with nationalism, as Partha Chatterjee sanguinely argued decades ago, but equally, with reference to the changing discourses around caste.

Whether this has to do with the rights sought by shudra mistresses of dwija men, or indeed the rights to a self-validating conjugal and familial life proclaimed by those who contracted Satyashodhak and Self-respect marriages, we see how, in essence, they were working with what had become unstable categories. Shudra, for instance was being defined and redefined, just as the term “depressed classes” was being refined and made more precise, in the courts and out of them.

There is much more to be said about Mitta's book, but for now I would like to conclude by noting that the progress of ideas that he narrates found its apotheosis in the historically significant interventions made by Ambedkar in the domain of rights. Whether it had to do with equal rights of public access, seeking adequate representation for Dalits in legislatures, education, and state employment, or asking for a proactive action by the state when it came to affirming Dalit rights, Ambedkar's arguments were in tandem with what was debated in the legislatures and out of it. But, equally, he transformed the terms of debate.

It was held that the state ought to be held liable for actions it refused to take, or did not take with regard to rights violations endured by Dalits, particularly when they were subjected to social and economic boycotts.

Thus, the Mahad satyagraha (1927), which had to do with access to water, was framed by the history of the French revolution, and the resolutions that were passed during its second phase alluded to the *Declaration of the Rights of Man*. In the *Memorandum on the Claims of the Depressed Classes for Special Representation* tabled by Ambedkar and R. Srinivasan during the First Round Table Conference (1930), statutory safeguards were sought to enable Dalits to exercise their rights. Most importantly, it was held that the state ought to be held liable for actions it refused to take, or did not take with regard to rights violations endured by Dalits, particularly when they were subjected to social and economic boycotts.

It was also argued that Dalits and their welfare ought to be one of the main charges on the budget. These ideas returned with force and were embedded within a distinctive political vision, shaped by the struggles against caste and the promise of socialism in the constitutional document that the Scheduled Caste Federation prepared and which was authored by Ambedkar. This was *States and Minorities* (1947), a constitution in miniature, which placed the liberties and equality Dalits sought at the heart of the republican mandate.

In this sense, Mitta's book helps us understand the gravity, richness, and exemplary nature of Ambedkar's legislative labour and constitutional endeavour against the background of the long, relentless, albeit slow and modest battles carried out by Dalit legislators and their reformist associates in colonial and independent India.

V. Geetha is a feminist historian, writer and translator from Chennai. She writes in English and Tamil on gender, caste, labour, and education.