



Child Marriage Restraint Act of 1929-The Role of Har Bilas Sardar

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ABSTRACT: In the history of social reforms Har Bilas Sardar's contribution is of seminal significance. His entire family was closely associated with the movement, led by the Arya Samaj in Ajmer. It is interesting to note that not only men but also women of the Sardar family, took active part in the Arya Samaj movement and worked actively for the amelioration of women. The greatest contribution of Har Bilas Sardar is in the field of social legislation. He was a vehement spokesman against the social evils and his social agenda included urgent need of determining minimum age of marriage.

KEYWORDS: Har Bilas Sardar, Arya Samaj, Movement, Marriage, Child, Agenda

I. INTRODUCTION

Har Bilas Sardar, Judge, Author, Teacher, Historian, Reformer and Legislator, was born on the 3rd June 1867, A. D., in Ajmer.¹ His father Har Narayan Sardar (Maheshwari), was a Librarian at the Government College, Ajmer, and every year took stock of the Government College Library, the biggest library in Ajmer, during summer vacations. Young Sardar helped his father in this work and came to know most of the important books in the library. [1,2,3]

From his boyhood he was fond of reading newspapers and books, and studying political and social questions. He, in conjunction with some of his friends opened a Debating Club in Ajmer where he used to discuss all sorts of social and semi-political questions. Mr. Sardar passed his matriculation in 1883 and his First Arts in 1885. Then he went to the Agra College where he took his B.A. degree in 1888 with English, Philosophy and Persian as his subjects. He passed with Honours in English and was first amongst the students of the Colleges of the United Provinces sitting for the examination of the Calcutta University.²

In 1888, he visited the third session of the Indian National Congress at Allahabad and was greatly impressed with the personality of Pandit Ayodhya Nath and Mr. A.O. Hume who was then the General Secretary of the Congress. He again attended, as a visitor, some more meetings of Congress at Nagpur, Bombay, Benares, Calcutta and Lahore.

He started his career in 1889 when he was appointed a senior teacher in the Government College, Ajmer. In 1892, he was transferred to the Judicial Department of the British Province of Ajmer-Merwara. In 1894 he was placed on special duty to revise the Ajmer Regulation Book, a compendium of Laws and Regulations for Ajmer-Merwara. In the same year, on the completion of this work, his services were transferred to the Foreign Department and he was appointed Guardian to His Highness the Maharawal of Jaisalmer. He reverted to the judicial service of Ajmer-Merwara in 1902. He was Additional Extra Assistant Commissioner and Sub-judge First Class, Ajmer, for sometime and later was Judge, Small Cause Court, Ajmer. He officiated as Additional District and Sessions Judge, Ajmer-Merwara in 1923.³

He was Municipal Commissioner of Ajmer for eight years from 1894 A.D. He was Honorary Secretary of the Ajmer-Merwara Publicity Board during the Great War. He retired from government service in December 1923, and was elected a member of the Legislative Assembly in January 1924, when for the first time Ajmer-Merwara was allowed to return a member to the Assembly. He was appointed Senior Judge of the Chief Court, Jodhpur, in 1925, and while serving in Jodhpur was re-elected Member of the Legislative Assembly in December 1926.⁴

While still a child, he used to accompany his father during the latter's visits to the learned Sannyasis who visited Ajmer. When about eight years old, he went with his father to hear lectures delivered by Swami Dayanand Saraswati in Ajmer, and later on always attended his lectures whenever Swamiji came to Ajmer. He was present at the time of Swami Dayanand's death on the 30th of October 1883 at Ajmer. He joined the Arya Samaj, and in 1888, he was appointed President of the Ajmer Arya Samaj and also President of the Pratinidhi Sabha (representative committee of the Arya Samaj) of Rajputana. In 1890, he was appointed a member of the Paropkarini Sabha which is a body of twenty-three members [4,5,6] appointed by Swami Dayanand Saraswati by his Will to carry on and administer his works after him.⁵



He was appointed Joint Secretary of the Paropkarini Sabha in 1894 when the office of the Sabha was brought from Udaipur to Ajmer, while Pandya Mohanlal, the then Secretary, remained in Udaipur. On Pandya Mohanlal's resignation and retirement to Mathura, Mr. Har Bilas Sarada became the sole Secretary of this Sabha. In connection with the Dayanand Ashram at Ajmer, he started the D. A. V. School as a branch of the Ashram. He took a prominent part in arranging to hold Dayanand's Birth Centenary which was successfully held at Mathura in 1925. When the Semi-Centenary of Swami Dayanand's death was celebrated in Ajmer in 1933, he was General Secretary of the function. It was through his efforts that the celebration was a grand success. He also planned and successfully carried out the work of compiling and publishing the Dayanand Commemoration Volume.⁶

II. DISCUSSION

From 1924 to 1930, he was thrice nominated as the representative of Ajmer-Merwara region in the Central Legislative Assembly. In this duration, he became the member and office bearer of many committees. In 1930, he was selected by the Government of India, as the member of Primary Education Committee. This committee was to give its report on the level of education, given in the British administered provinces.⁷

On his retirement from Government Service in January 1924, he was elected a member of the Legislative Assembly from Ajmer-Merwara, when that province was given the right to return a member to the Assembly. He was re-elected in 1926 and again in 1930. He was a prominent member of the Nationalist Party in the Assembly and was elected its Deputy Leader in 1932. In 1932, he was elected to the panel of Chairmen of the Assembly and twice occupied the Chair in that capacity. He was also a member of the Petitions Committee of the Assembly. In 1930 he was made a member of the Primary Education Committee appointed by the Government of India to report on Primary Education in the provinces under the direct administration of the Government of India. In 1932 he was elected to the Retrenchment Committee of the Government of India and was a prominent member of the General Purposes Sub-Committee. For several years he was a prominent member of the Standing Finance Committee of the Legislative Assembly. He was also a member of several special committees, and was for sometime President of the House Committee of the Legislative Assembly. In 1931, he was appointed a member of the B. B. & C. I. Railway Advisory Committee. In 1925 he was elected President of the All India Vaishya Conference held at Bareilly; and in 1930 he was elected President of the premier social reform organization in India, the Indian National Social Conference which held its forty-fourth Session at Lahore. He was appointed a member of the Ajmer Municipal Administration Enquiry Committee in 1933, and was elected Senior Vice-Chairman^[7,8,9] of the New Municipal Committee in 1934.

On 15th of September, 1927,⁸ he presented the Child Marriage Restraint Bill in the Legislative Assembly at Shimla. By his fiery arguments, his eloquent wordings, and citation of passages from the religious scriptures of Hindus, he told the masses that child marriage was not sanctioned by the earlier religious scriptures and that it was a later addition. He cited the works of Manu and Dharmantari especially, whose works were regarded as the oldest, as well as supportive.⁹ Sarada urged the people that his Bill was not in opposition to any caste or religion, but on the other hand, it was in consonance with them. He told that his Bill was a modest attempt for the acceptance of 'Inalienable Rights' of women.¹⁰

Describing the horrors of child and unequal marriage (resulting into child motherhood and child widowhood) he gave a shock to the audience by citing a reference to the Census Report of 1921 which showed how important the matter of the Bill was. "That Report says," he observed, "that there were in India in 1921 A.D. 612 Hindu widows who were babies not even 12 months old; 498 between 1 and 2 years; 1,280 between 2 and 3; 2,863 between 3 and 4; and 6,758 who were between 4 and 5 years of age, making a total of 12,016 widows under 5 years of age. The number of Hindu widows between 5 and 10 years of age was 85,580 and those between 10 and 15 years of age was 2,33,533. The total number of widows under 10 was 97,596, and under 15 was 3,31,793. These numbers include Jain and Arya widows, for Jains and Aryas have been separately classed in the Report for political purposes; otherwise they are all Hindus and are governed by the same marriage laws. And if we include Brahmos and Sikhs, the total number of Hindu widows under 15 years of age was 3,32,472¹¹ in 1921 A.D." "The gravity of the question will however be realized," he further noted, "when we remember that out of every 1,000 Hindu married women, 14 are under 5 years of age, 111 below 10, and 437 under 15 years of age. This means that a little over 11 per cent of the Hindu women are married, when they are below 10 years of age, i.e., when they are mere children, and that nearly 44 percent of them who lead married lives when they are less than 15 years of age, i.e., when they are not yet out of their teens and before they have attained true and full puberty and are yet physically quite unfit to bear the strain of maternity."

To bring forth the trauma of child and unequal marriage he described in detail the moral, social and physical consequences of child marriages. He quoted the excerpts from Dr. Lanchester's book 'Tuberculosis in India' and observed that there was a direct relationship between early marriages and [10,11,12] Tuberculosis and told his audience



that because of child marriages, many brides and grooms suffer and ultimately die from the Tuberculosis.¹² Speaking of the strain imposed on girls by married relations, he cited Dr. Lancaster who mentioned that : “People forget the fearful strain upon the constitution of a delicate girl of fourteen years or less, which results from the thoughtless incontinence of the newly married boy, or still more, the pitiless incontinence of the remarried man. Serious as these causes of strain are upon the health of the young married girl, they sink into insignificance in comparison with the stress of maternity which follows .The process of reproduction should be delayed until the body, as a whole, shall have attained its full development and be prepared for this great crisis.”

Sarda told the audience that if the Indian society were to make any advance, and if the country were to come into line with the progressive countries of the West, or wished to become free from their domination, a programme of social reform of a thoroughgoing character, of which the abolition of child marriage would be the principal item, must be taken in hand along with the pursuit of political reform.

He expressed his heart’s longing when he said that “ just as the veil has disappeared in the greater part of Turkey, so must the purdah, the chauka, child marriage, enforced widowhood, the ban on inter-dining and inter-marriage, caste in its present rigid and ossified form, and untouchability disappear from India.” “ We must remember,” he added, “ that even political emancipation, freedom or Swaraj, droppeth not like sweet manna from Heaven. It has to be won. It has to be wrested from unwilling hands; and so long as these evils exist in this country, we will neither have the strength of arm nor the strength of character to win freedom.”He hoped that once these evils are gone, a spirit will arise in the land which no power on earth will be able to quench; a strength of arm to fight for freedom will be developed, which the might of the mightiest will not be able to resist. He ardently believed that as the day follows the night, so will these evils disappear. But there were certain matters of a serious nature in which considerations of humanity and the inalienable rights of a human being and that human being, the innocent and helpless child called for the immediate intervention of the Legislature. “The present Bill”, he thundered , “concerns one of those matters. In order to protect the inalienable rights of the innocent children and to concede to them the right to live their lives, it is necessary that infant marriages and child marriages must come to an end at once and boys and girls grow up unfettered by marital ties and unburdened with family cares, which have not only immensely accelerated the death rate amongst the young married people, especially girls, but have dangerously lowered the vitality of the people, stunted their growth, and barred their way to prosperity and happiness.”¹³

III. RESULTS

Sarda advised his countrymen to reject the ante-diluvian ideas and notions, traditions and customs, and asked them not to stick to the worn-out dead ideas, as these impede their progress. In his third speech on the Child [13,14,15] Marriage Bill, he requested his countrymen to brush aside all objections, sacerdotal or profane, ancient or modern, based on tradition or custom which stunted their growth or stood in their way of achieving their goal. He asked them to come out of the past and fix their eyes steadfastly on the future, the glorious future of their country.

After exposing the harmful, undermining, life-sapping nature of child and infant marriages, with their inevitable consequences, (early maternity and maternal and infantile mortality), Sarda invoked the aid of legislation in these words :

“where large communities are concerned, legislation is the only effective means of accomplishing social reform.... There are certain matters of a serious nature in which considerations of humanity and the inalienable rights of a human being (and that human being, an innocent and helpless child) call for the immediate intervention of the Legislature.... In order to protect the inalienable rights of the innocent children and to concede to them the right to live their lives, it is necessary that infant marriages and child marriages must come to an end at once. These evils have dangerously lowered the vitality of the people, stunted their growth, and barred their way to prosperity and happiness. ”¹⁴

Sarda appealed the masses to shun this social evil on social, psychological, biological and nationalistic grounds. He told the gathering at Shimla ¹⁵ that for the sake of mother land, and for its liberation and emancipation, it was necessary to free women from the chains of early marriage as well as other social negations. Thus he linked the evil of child marriage with the bondage of the country and tried to appeal their nationalistic sentiments, which was a unique thing in itself.

The Government of India, at the time of passing of Sarda’s Bill, showed a luke-warm attitude. The Home Secretary announced that he would oppose the Bill. Sarda resented the attitude of the Government towards this Bill and remarked with indignant that a heavy responsibility rests on them for the continuance of this evil. He said that it was a surprise to him, to see that a Government which professed to work for the good of the people, a Government that was representative of a nation and which claimed that it had great respect for womanhood should take up such an attitude,



and instead of welcoming and promising to support such essentially necessary legislation for children and helpless girls, declare its intention to oppose it.

He called the so called humanitarian attitude of the Government, a farce, a sham and told it in uncompromising words that a government, which claims itself to be progressive and the motto of which is equality, liberty, justice and public welfare and the same government if opposes the bill is ridiculous. He disapproved the policy of Government of India and said that his was not a lone voice rather he represented the lacs of Indians and also that if it was unable to pass an act on its own then at least it should keep neutral and allow its government members to vote [16,17,18] according to their conscience.¹⁶ Sardar while concluding his speech asked and questioned that “Do Government with full knowledge of such happenings still feel that they are justified in opposing, or by proposing dilatory proceedings, in postponing the fruition of the labours of people who are endeavouring to alleviate the lot of innocent, defenceless girls who are done to death by an ignorant, heartless custom, or a mischievously false notion of social decorum ?”

From Sept. 1927 to Jan. 1928 this bill was presented before the public for their support. During this period Sardar kept on addressing the masses and requested them to give their unflinching support to the bill. He also appealed to the wives of the British Officers and in addition even wrote to the women members of the House of Commons in Britain.

Sarda on caste system and inter-caste marriages

To break the monopoly of caste, Sardar appealed for inter caste marriages. “So long as the caste system exists”, he spoke in this connection, “ we must permit and, at times, encourage inter-caste marriages. Some communities are so small that it is not possible to find within their folds, suitable matches for boys and girls.... With such marriages becoming more frequent, the evil of prices being paid sometimes for bride-grooms and sometimes for brides will disappear. This pernicious practice has ruined many homes and has occasioned many suicides.” Reform in this direction, in his opinion, was urgently called for.¹⁷

Sarda on womens' equality and freedom

Sardar was a staunch supporter of womens' equality and womens' rights and considered them as partners in every walk of human life.¹⁸ He favoured widow remarriage and opposed polygamy, as they were amongst the important causes of the low position and status of women in India and particularly in Rajputana and advocated monogamy. “If a man can claim restitution of conjugal rights,” he remarked, “ a woman is equally entitled to do so, though in the case of both, such a right should be governed by considerations of the welfare and happiness of the parties. Widow re-marriage should become as general as widower re-marriage at present is. If marriage is a sacrament, and can be performed only once in life, why is a widower allowed to perform it a second, a third, or a fourth time when a widow is not so allowed ? A husband is as much subject to the conditions of the sacrament as a wife is.” Sardar was not in favour of the custom of enforced widowhood, or forcing the widow, even the young widows to refrain from marriage again, that was prevalent in many castes at that time.

He expressed his grief on the harsh fact that in the-then society, a widower could marry a number of times while a widow, even a young widow, was expected to lead a life of extreme celibacy. He strongly believed that “whatever their origin, these disabilities and handicaps must now be removed and removed without delay in his own interest as well as in hers.”¹⁹ He remarked that when India was practically isolated from the world, when it was self-sufficing and self-contained, when it was independent, when it was not subject to foreign economic pressure, it led a life adjusted to those conditions that then obtained. “But India now,” he told in an explicit manner, “ is open to foreign attack social, cultural, and economic at all points and is being exploited, and subjected to so many disabilities and drawbacks, that in the interests of women as well as in the larger interests of the country they should be emancipated and that without any delay.”

Sardar was also against the practice of purdah or veil and considered it an obstacle in the way of freedom and progress of human society as well as the woman concerned. According to him, every man had the road to serve his country open to him, while a woman remaining in Purdah had no such opportunities. She had the same blood tingling in her veins, the same wish to serve her country, the same impulse to do her duty as a patriotic daughter of the motherland. But the Purdah and the innumerable disabilities imposed on her were insurmountable obstacles in the way of her fulfilling her desire and prevented her from performing what she regarded as her duty as much as her brother, to whom all avenues to serve his country were open. With much shame he confessed that, “and all these disabilities, these handicaps have been imposed on her by man, partly because of his selfishness, partly because of his prejudice, and partly because of his ignorance.”²⁰

Sarda's thoughts on Inheritance of property

Speaking on the economic rights of Indian women Sardar explained that they, the mothers, the sisters, the wives, the daughters of the nation had no rights worth the name, had no legal position they might be sorry to lose, no large



possessions they might be deprived of.²¹They had no rights of inheritance, no professions to adopt, no means of leading independent lives of usefulness or happiness. As daughters they inherited no property, as wives they enjoyed no freedom, as widows they could not claim any rights to their husbands' estate, and furthermore the society [19,20,21] put a ban on their re-marriage. "They are the daughters of India just as much as their brothers are the sons of India; whereas the sons have certain birth-rights, for instance, a right to share in the family property, the daughters have none."

IV. CONCLUSION

Sarda believed that the key to secure and strengthen her lawful position in the family was to give her a legally enforceable right of inheritance. In his opinion, as soon as her just right in family property was secured to her by law, most of her troubles will be over. He deplored the fact that Hindu women have suffered, not only at the hands of Indians only. Part of the troubles of Hindu women was due to the fact that India had the misfortune of having her Sastric laws interpreted and administered by strangers, who were unknown to her traditions, strangers to her culture and ideals and ignorant of the language in which the laws existed. According to him, if a son gets a share in his patrimony, on what moral or spiritual grounds, can a daughter be refused her share. To him, the natural rights of both were equal. Marriage and transplantation in another family might modify the extent of the right, but should not take it away completely. She was also entitled to a share in her husband's property. She becomes by marriage a member of her husband's family and must ipso facto acquire rights of property in that family.

Through his writings, his eloquent speeches in favour of the bill Sarda at last succeeded in passing of the bill, which came to be known as Child Marriage Restraint Act of 1929. His work towards the emancipation of women in the then society, will always be remembered in the history of Rajputana.

REFERENCES

1. Har Bilas Sarda –A Sketch by Ram Gopal, Cf. Har Bilas Sarda- Speeches and Writings, Vedic Yantralaya, Ajmer, 1935, pp. XXV- XLVI.
2. Ibid.
3. Ibid.
4. Ibid.
5. Ibid.
6. Ibid.
7. Bhati, Narayan Singh, 'Samaj Ratna Har Bilas Sarda' in Parampara (ed.), Rajasthani ShodhSansthan, Jodhpur, 1985-86, p.21.
8. Ibid.
9. "My Bill does not go against the spirit or the letter of any religious behest", he remarked, "for no Sastras, ancient or modern, enjoin that a girl must be married before she attains puberty. And it is an admitted fact that girls do not attain puberty before they are twelve years old. Thus, while it does not come into conflict with any Sastras, the Bill removes what is probably the most oppressive burden under which Hindu womanhood is groaning. The Bill is a very modest attempt to recognise that female children even amongst Hindus have certain inalienable rights and that the State with any pretensions to civilization will deem it its duty to protect them, without heeding the vagaries that masquerade in the guise of social customs." Cf. Har Bilas Sarda- Speeches and Writings, op.cit. p.34.
10. Ibid.
11. In this speech, he remarked that the primary object of the Child Marriage Restraint Bill was to put a stop to child widowhood. "No country in the world, except this unhappy land", he observed, "presents the sorry spectacle of having in its population child-widows who, according to the customs of the country cannot remarry. Enforced widowhood is a feature peculiar to Hindu society; and when we consider that some of the victims of this pernicious, inhuman custom were babies eight or ten months old when they were married, Honourable Members will realise how urgent and imperative is the call for legislation in the matter." Cf. Har Bilas Sarda- Speeches and Writings, op.cit. pp.33-45. and also, Narayan Singh Bhati, op.cit., p.26.
12. Describing the horrors of early marriage and early motherhood, Dr. Lancaster, in his book wrote that "It is a truism to say that the process connected with reproduction which, from one point of view, may be regarded as the most important of human functions, should be allowed to take place under the most favourable conditions possible. And he pleads; "Let even so much as two years be conceded, and in place of eighteen years which may be reckoned as the lower limiting age in ordinary cases of marriage in the West, let sixteen years be the age which popular opinion shall regard as the normal one for marriage in this country. The result will be an incalculable gain in the health of the women of India as also in that of the children whom they bear." Cf. Har Bilas Sarda- Speeches and Writings, op.cit. pp.33-45. and also, Narayan Singh Bhati, op.cit., p.27.



13.Ibid.

14.Presidential address delivered at the Forty second Session of the Indian National Social Conference held at Lahore on 26 December 1929 AD.

15.Speech delivered in the Legislative 'Assembly at Simla on 15 September 1927.

16. "Sir, if Government had said that they had in their hands unimpeachable and overwhelming evidence that the bulk of Hindu public opinion was dead against the measure, and that therefore they could not support it, we could understand their position.If Government have no desire or have not the courage to initiate and carry through legislation prohibiting marriages of girls below twelve years of age, they might very well give at least this private measure their hearty support. But even if the Honourable the Home Member is not disposed to do this, as we think the representative of the Ma Bap Government, possessing a genuine solicitude for the welfare of the people ought to do, he will at least take up an attitude of neutrality, release Government members from the mandate handicap and permit them to vote according to their conscience; or, let the fate of the Bill be decided by the vote of the Indian members of this House who are principally affected by it." Speech delivered in the Legislative 'Assembly at Simla on 15 September 1927.Cf. Har Bilas Sardar- Speeches and Writings, op.cit. pp.33-45. and also, Narayan Singh Bhati, op.cit., p.29.

17. Presidential address delivered at the Forty second Session of the Indian National Social Conference held at Lahore on 26 December 1929 AD.

18."The most important question, however, as it concerns every man and woman in the country, and as it vitally affects society, is the position of woman and her rights. The woman question is in one shape or another a world-question. In India it has assumed especial importance at the present moment, as on the right and speedy solution of it, hinges the future welfare of the country. The pivot of life is the home, and the home is the woman's citadel. She is the presiding genius of the household. People test a nation's civilization from the position women occupy in it." For more details, please read his lecture on the Awakening of Women, From the Diwali number of the Bombay Samachar, 12th November 1928 A.D. Cf. Har Bilas Sardar- Speeches and Writings, op.cit. pp.28 -33.

19. "Times have changed, circumstances have changed, conditions of life have so completely changed that what was calculated at one time to yield a certain result, produce a certain effect, and fit in a certain scheme of things, now not only does not produce that effect, does not yield that result, does not fit in that ancient scheme now completely out of joint, but has become a positive hindrance." and also, "The evils of enforced widowhood are many and wide-spread ; and apart from the great injustice it does to women, it has its repercussions in the entire field of domestic life, and produces most harmful effects on the body politic of the Hindus. It has now also become imperative that full rights of inheritance should be secured to women." Cf.Ibid.

20. " The necessity of this has been so clearly perceived, its urgency so fully understood that such a backward country backward in intellectual and moral culture, in the arts and amenities of life as Afghanistan, is giving up Purdah and removing obstacles in the way of woman to enable her to pool her energy, time and work with man to serve the country and maintain its independence." Cf. From the Diwali number of the Bombay Samachar, 12th November, 1928A.D.

21.Awakening of Women, From the Diwali number of the Bombay Samachar, 12th November 1928 A.D. Cf. Har Bilas Sardar- Speeches and Writings, op.cit. pp.28 -33.