

Bill No. 37 of 2018

THE DIVORCEE WOMEN WELFARE BILL, 2018

By

DR. UDIT RAJ, M.P.

A

BILL

*to provide for maintenance and welfare measures to be undertaken by the State
for the divorcee women or separated women and for matters connected
therewith or incidental thereto.*

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Divorcee Women Welfare Act, 2018.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification
5 in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "Advisory Committee" means the Divorcee Women Welfare Advisory
Committee constituted under section 3;

(b) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(c) "divorcee woman" means a woman whose marriage has been dissolved under section 13 of the Hindu Marriage Act, 1955 or under sections 27 and 28 of the Special Marriage Act, 1954 or under section 10 of the Indian Divorcee Act, 1869 or under Muslim Personal Law or on any other ground on which she has been separated from her husband and who has no relative to support her or who has no independent source of livelihood including her minor children dependent on her; 25 of 1955
5 43 of 1954
4 of 1869

(d) "Fund" means the Divorcee Women Welfare Fund constituted under section 5; and 10

(e) "prescribed" means prescribed by rules made under this Act.

Constitution
of the
Advisory
Committee.

3. (1) The appropriate Government shall, by notification in the official Gazette, constitute a Divorcee Women Welfare Advisory Committee in each district within its jurisdiction for the purposes of performing functions as assigned to under this Act.

(2) The District Collector shall be the *ex-officio* Chairperson of the Advisory Committee and other members shall be nominated by the appropriate Government in such manner as may be prescribed. 15

(3) Each Advisory Committee shall consist of such number of members and the representatives of the organisations which are working for upliftment of destitute and helpless women of the society, to be appointed by the appropriate Government in such manner as may be prescribed. 20

Functions of
Advisory
Committee.

4. The Advisory Committee shall—

(i) promote the welfare measures for the divorcee women;

(ii) examine the eligibility of the divorcee woman and recommend to the appropriate Government to provide facilities to her under this Act; 25

(iii) give wide publicity through the electronic and print media about the welfare measures provided under this Act; and

(iv) perform such other functions not inconsistent with the provisions of this Act as may be assigned to it by the appropriate Government, from time to time.

Constitution
of Divorcee
Women
Welfare Fund.

5. (1) The Central Government shall, after due appropriation made by Parliament in this behalf, constitute a fund to be called the Divorcee Women Welfare Fund for the purpose of undertaking welfare measures and providing facilities to divorcee women. 30

(2) The Central Government and the State Governments shall contribute adequate funds to the Fund, from time to time, in such proportions as may be prescribed for carrying out the purposes of this Act. 35

Facilities to
the Divorcee
Women.

6. The appropriate Government shall on the recommendations of the Advisory Committee provide the women covered under this Act, the following facilities, namely:—

(a) monthly allowance to lead a minimum standard of living;

(b) residential accommodation free of cost;

(c) free education including technical education to dependent children; 40

(d) free medical aid;

(e) gainful employment;

(f) free vocational education wherever necessary;

(g) such other facilities, as may be necessary for her rehabilitation, proper development and for maintaining a respectable life in the society: 45

Provided that if any woman covered under this Act either gets gainful employment or remarries, all the facilities provided to her and to her dependent children in accordance with the provisions of this Act, shall be withdrawn from the date she gets the gainful employment or remarries, as the case may be.

5 7. (1) The Central Government may by notification in the Official Gazette make rules for carrying out the purposes of the Act. Power to make rules.

10 (2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

In our country there is great disparity between the economic ramifications of divorce between men and women. Men remain relatively unaffected while women, especially those with children, face difficulty in "providing food, clothing and shelter for themselves and their children". Often a woman is not able to rely on her family for support because many parents feel they have discharged their obligations to a daughter by arranging her marriage and providing dowry. Dowries are not returned after divorce. Also, due to the social stigma of divorce, women find it difficult to remarry and usually attempt to establish an independent household.

While one should have the right to divorce, it is still a highly stigmatizing action. Women are looked upon more harshly than men in this regard. There continue to be segments of Indian society that feel divorce is never an option, regardless of how abusive or adulterous the husband may be which adds to the greater disapproval for women. A divorced woman will often return to her parents family, but may not be whole heartedly welcomed. She puts, especially if she has children, an economic burden on her family and is often given lowly household tasks to perform. There is also the risk that a divorced woman's presence would ward off possible marriages for other daughters within the household. Unavoidably, the overall status of the family and household is lowered by having a divorcee living with them. A woman's class and caste are a major factor in her acceptance back into society. Women from higher classes tend to have an easier time than middle or lower class women in returning to the social order after a divorce. An exception to this model is the extreme bottom of the society who have experienced little rebuff from peers after a divorce. This results from their already a typical status in society.

As is well known among the poor who form the majority of the population—families are in no position to support even unmarried daughters or sisters. Exposures of questionable 'marriages' of young girls to foreign tourists, by poor families, of continued 'sale' of young women of different communities, and the high incidence of suicides, and destitution among poor women after divorce, provide substantial evidence of the inability of their parents or other relatives to provide maintenance.

More impracticable, unrealistic and unjust is the expectation that a divorced woman will sue her parents and other relatives to obtain maintenance. It is an unfortunate fact of life that the inheritance right of daughters to their fathers' property generally remain unimplemented because most women find it inadvisable to sue their brothers. Field research provides ample evidence that widowed, divorced or deserted women dependent on their parental families find their lives unbearable, particularly after the death of the parents. Also social research among poor women of all communities, has already identified growing irresponsibility of husbands and fathers as a serious problem. The question also needs to be asked—why should the brother shoulder the responsibility, while the husbands, responsible (in the majority of cases) for the act of divorce are absolved of all responsibility. Moreover the position of a divorcee woman is more awful in rural areas because of being illiterate due to the conservative attitude of villagers, they are exploited to the extent possible.

Ours being a welfare State, it is expedient to liberate the divorcee women from exploitation by providing them financial assistance and other necessary facilities so that they live honorably in the society. For this purpose Divorcee Woman Welfare Fund should be constituted to ensure that life of no divorcee woman will become so miserable due to poverty which may enable the unscrupulous elements of the society to exploit the situation and make their lives disgraceful in the society.

Hence this Bill.

NEW DELHI;
February 1, 2018.

UDIT RAJ

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of Divorcee Women Welfare Advisory Committee by the appropriate Government. Clause 5 provides for constitution of the Divorcee Welfare Fund. It also provides that the Central Government shall contribute to the Divorcee Women Welfare Fund. Clause 6 provides for various facilities to the divorcee women. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees fifty crore may involve as recurring expenditure from the Consolidated Fund of India.

A non-recurring expenditure of rupees hundred crore is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill gives power to the Central Government to make rules for carrying out the purpose of this Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

LOK SABHA

A

BILL

to provide for maintenance and welfare measures to be undertaken by the State
for the divorcee women or separated women and for matters connected
therewith or incidental thereto.

(Dr. Udit Raj, M.P.)