

THE CONSTITUTION OF INDIA: VISION OF DR. B.R. AMBEDKAR

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ABSTRACT

The constitution of India is the Grundnorm, the supreme law of the Land from which every other law derives force. The rights and values like equality, fraternity, dignity, fundamental Rights etc, which were hitherto suppressed, emerged out with the coming into force of the Constitution. Dr. B. R. Ambedkar pressed for the recognition of these rights and prioritized the principle of social Justice . He contributed the entirety of his life time for the upliftment of the weaker sections of the society and consequently their inclusion into society by means of social democracy. This paper would examine the ideas and views of Dr. B. R. Ambedkar in respect of the Indian Constitution. Furthermore, it shall critically analyse the role of Indian Judiciary in reinstating the ideas of Dr. B. R. Ambedkar while interpreting the constitution at various occasions of time.

KEYWORDS: *Grundnorm, Constitution, Social Justice, Democracy, Rights*

The constitution of India is the supreme law and the very basis of all the laws in India. It is the fruit of dedicated and tireless work of members of the constituent assembly. The Constitution of India inculcates the Preamble, Fundamental Rights, Directive Principles of State Policy, Minority Rights, etc. through which justice is delivered.

It was very difficult for a Country like India, which got independence from the British Raj in 1947, to set up a system of governance throughout. It could not be done without establishing the Supreme Law i.e., the Constitution. Hence, Constitutions of around 60 countries were referred to and several provisions were borrowed from different countries and the Government of India Act, 1935. It took 2 years 11 months and 18 days for the formulation of the Constitution of India. Consequently, it was enacted on 26 Jan 1950.

Ambedkar's contribution to the constitution is undoubtedly of the highest order. Indeed, he was a Modern Manu and deserves to be called the father or the chief architect of the constitution of India to define the will, goal and the vision of India. The Constitution of India lays down the framework defining fundamental political principles, establishes the structure, procedures, powers, and duties of government institutions and sets out fundamental rights, directive principles and the duties of citizens. It is the longest written Constitution of any sovereign country in the world and contains 448 Articles spread across twenty-five Parts and Twelve Schedules.

DR. B.R. AMBEDKAR

Ambedkar belonged to the Mahar caste. The Mahars were treated as untouchables and were subjected to socio-economic discrimination in society. In such a society, not only did man hate man, but the caste Hindus kept themselves away from the shadows of the Harijans (children of lord Hari/Vishnu) is a term popularized by Mahatma Gandhi for referring to Dalits, traditionally considered to be untouchables and downtrodden. However, fighting against all odds, he attained higher education and soon after completing his studies, he launched himself politically, fighting for the rights of the depressed classes and against inequality practiced in the society. In such a society, to bring about a great change, Dr Ambedkar had only one power—his logic and thought. He relied on the power of his thoughts and ordinances.

Ambedkar chose to struggle for justice based on equality after being greatly influenced by Rousseau's three words: equality, liberty, and fraternity. Prioritizing social and economic equality over political equality was Dr. B.R. Ambedkar's goal. He made every effort to guarantee that the oppressed had a rightful position in society. As a result, he placed greater value on social justice than political justice; he also placed a strong focus on individual liberty and fair opportunity in order to eliminate the disparities brought about by the nation's caste system.

INDIAN CONSTITUTION: THE GRUNDNORM

Grundnorm is a German term which was propounded by Hans Kelson in his "Pure Theory of Law". Indian constitution is a Grundnorm and it was held by various High Courts of India. In the case of *Squadron Leader*

*H.S. Kulshrestha v. Union of India*¹, the Allahabad High Court held that “According to the theory of the eminent jurist Kelson, in every country there is a hierarchy of laws, and the highest law is known as the Grundnorm of law, in our country the Grundnorm is the constitution.” In another case of *Om Prakash Gupta v. Hindustan Petroleum Corporation Ltd & Anr*², it was again held by the Rajasthan High Court that “Since the limits have been defined by the Constitution, they are, *injuria* prudential term, the Grundnorm.” It was held by the Hon’ble Supreme Court of India in the case of *Sunil v. State of Rajasthan*,³ “The Constitution of India is the grundnorm, the paramount law of the country. All other laws derive their origin and are supplementary and incidental to the principles laid down in the Constitution.”

FUNDAMENTAL RIGHTS UNDER THE CONSTITUTION

Ambedkar was a great admirer of Fundamental Rights, a concept derived from the Constitution of the USA. This concept was earlier unknown to the Indian Soil, however, Ambedkar ensured that the Constitution of India shall ensure Fundamental Rights to its citizens. Hence, the Part III of the Constitution guarantees the fundamental rights to the citizens against the state. Some of the principles under the Fundamental rights are:

1. Right to Equality
2. Right to Life and Personal Liberty
3. Rights to freedom
4. Prohibition of discrimination on grounds of religions, race, caste, sex or place of birth etc.
5. Freedom of Religion etc.

Article 32 provides the right to all citizens of the country to approach the Supreme Court, if their fundamental rights and constitutional privileges are violated by any state institution or individual. Dr. Ambedkar described Article 32 as the ‘very Heart and Soul of the Constitution’. Article 32 authorises the Supreme Court to issue directions, orders or writs for the enforcement of fundamental rights guaranteed by the Constitution to all citizens in the state.

Ambedkar while delivering his speech on the constitution and the Fundamental rights said that, “However good a Constitution may be, if those who are implementing it are not good, it will prove to be bad. However bad a Constitution may be, if those implementing it are good, it will prove to be good.”⁴

SOCIAL JUSTICE

Ambedkar’s concept of social justice stands for the liberty, equality and fraternity of all human beings. He stood for a social system that is based on right relations between man and man in all spheres of his life. As a rationalist and humanist, he did not approve of any type of hypocrisy, injustice and exploitation of man by man in the name of religion. He stood for a religion that is based on universal principles of morality and is applicable to all times, to all countries and to all races. It must be in accord with reason and must be based on the basic tenets of liberty, equality and fraternity. In the words of Justice P.B. Gajendra gadkar, former Chief Justice of India, “Ambedkar is the law maker of the 20th century and Modern Manu, but unlike old Manu this new Manu favoured human equality and social justice”.

Ambedkar stood for a social system in which man’s status is based on his merit and achievements and where no one is noble or untouchable because of his/her birth. He advocated the policy of preferential treatment for the socially oppressed and economically exploited people of the country.

The Constitution of India contains a number of provisions that enjoins the state to secure to all its citizens, justice, social, economic and political, along with liberty, equality and fraternity. It also contains a number of provisions that guarantee a preferential treatment to the down trodden people in various sectors. Article 17 of the Indian Constitution declares untouchability as abolished. Ambedkar, in his speech before the Constituent Assembly for the passage of the Constitution, said:

“I have completed my work; I wish there should be as sunrise even tomorrow. The new

Bharat has got political freedom, but it is yet to raise the sun of social and economic liberty.”⁵

RESERVATION FOR DEPRIVED CLASSES

Reservation for the depressed class was absolutely necessary in the legislatures and other offices. The SC/ST was neglected by the dominated upper castes. The Social and economic conditions of the depressed classes prevented them from competing with the upper caste and without reservation they would not get any place anywhere. Seats reserved for the Depressed Classes would definitely be filled up by the members of these communities. So that they would be able to achieve the technical and professional education for better job and proper status in the society.

The motive force for Ambedkar's entering the constituent assembly was his anxiety to safeguard the interests of scheduled castes. But he did not demand a separate state for them, he realized that the interest of scheduled castes is best protected in securing adequate constitutional safeguards for them. The Part III, Part XI and Schedule V and VI deal with the upliftment of Schedules Castes and Schedule Tribes. The Part XVI of the Constitution provides for Special provisions relating to certain classes. Article 330 and 332 provides for reservation for Scheduled Castes and Scheduled Tribes in the House of the People and the Legislative Assemblies of the States.

MINORITY RIGHTS

Ambedkar was of the opinion that there shall be separate minority right under the constitution for the cultural and ethnic development of minorities. Therefore, in the Constituent Assembly Debates Ambedkar stood and spoke for the minorities: "There shall be no discrimination on the ground of religion, language, etc." in the matter of admission into State educational institutions. We have said "that non-minority shall be precluded from establishing any educational institution which such minority may wish to establish".

It is also stated there "that whenever a State decides to provide aid to schools or other educational institutions maintained by the minority, they shall not discriminate in the matter of giving grant on the basis of religion, community or language."

AMBEDKAR'S ROLE IN CONSTITUTION

The Indian constitution is principally the handiwork of Ambedkar, which contains almost all the important aspects of his ideology. In the framing of the Constitution, Ambedkar upheld and implemented the lofty principles. He upheld that when deciding the destinies of nations, narrow loyalties must be discarded and only the destiny of the country ought to count for everything. He successfully abolished untouchability and other social inequalities and discrimination which conflicted with the goals of the constitution. He provided safeguards to minorities. He upheld fundamental rights and provided remedies to enforce them. In fact, he anticipated every conceivable requirement of the new polity.

Ambedkar incorporated the parliamentary form of government in our constitution. But, at the same time, he was aware of its weakness. He, therefore, suggested that people must observe the rules of 'constitutional morality', which means 'a paramount reverence for the norms of the constitution, enforcing of obedience to authority acting under and with in these norms.' He held that people would render obedience to authority if the power is exercised with wisdom.

Ambedkar's constitutional ideology aims towards social transformation and change. It is meant to smash the injustice, evil and exploitation. It upholds rule of law, fundamental rights and peaceful social revolution. It is meant to create an atmosphere where the core ideals of liberty, equality and fraternity could be realised. He prescribed equal laws for all and upheld the independence of the judiciary. Equality before law is the key concept of his legal thinking. The laws are essentially grounded in the dignity of man and equality of human rights. The ethos of the constitution is social justice. Moreover, all laws are man-made and can be changed according to the needs of human society. He regarded human laws neither as infallible nor as absolute. Laws are relative to man and society. He believed in the democratic and secular nature of laws, for after all, laws are made by man for man. Laws cannot have roots in divinity. Any law that is based on divinity is rigid and superfluous. Ambedkar, therefore, supported the humanist framework and incorporated them in the Indian constitution.

CONCLUSION

Dr. Ambedkar played a prominent role in the framing of the Indian constitution. Dr. Ambedkar used all his experience and knowledge in drafting the constitution. He gave free India its legal framework and the people, the basis of their freedom. In Ambedkar's vision of social relations, morality, precisely called as "Human brotherhood" has been given a prominent place in order to bring men together.

Ambedkar gave much priority to the principles of equality, liberty and fraternity. Article 17 is unique in the sense that it has given a blow to the century old practice of untouchability. It reflects the spirit of the Constitution—the determination to restore the dignity of the individual and assure fraternity. Part IV also reflects the conceptualization of Ambedkar on democracy that is to say, apolitical democracy should be accompanied with the social and political democracy.

Observing his role in the Constituent Assembly, Dr. Rajendra Prasad, the President of the Constituent Assembly said: "Sitting in the Chair and watching the proceedings from day to day, I have realised as nobody else could have, with what zeal and devotion the members of the Drafting Committee and especially its Chairman, Dr. Ambedkar, in spite of his in different health, have worked. We could never make a decision which was or could be ever so right as when we put him on the Drafting Committee and made him its chairman.

He has not only justified his selection but has added lustre to the work which he has done."⁶

Recalling the prominent part played by Babasaheb in the making of our constitution, the then Prime minister, Pandit Jawaharlal Nehru said: "We in Parliament remember him for many years, things and more particularly for the very prominent part played in the making of our Constitution and perhaps that fact will be remembered even longer than his other activities."

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