

## MAJOR ROLE OF DR. B. R. AMBEDKAR IN FRAMING THE INDIAN CONSTITUTION\*

### ABSTRACT

Due to his major role in the framing of the Indian constitution; Dr. Bhimrao Ambedkar is popularly known all over India as the Chief Architects of the Indian Constitution. According to Ambedkar, "the constitution is a fundamental document. His efforts to remove the social evils from the society. Dr. Ambedkar is called the "messiah" of dalits in India. Dr. Ambedkar was appointed as the Chairman of the Drafting Committee. The text prepared by Ambedkar provided constitutional guarantees and protections for a wide range of civil liberties for individual citizens, including freedom of religion, abolition of untouchability and discrimination in caste. Dr. Ambedkar argued for improvement in the social and economic rights for weaker section and women. He also introduced a system of reservations of jobs for the member of the SC and ST.

He was not only a learned scholar and an eminent jurist but also a revolutionary against social evils. Throughout his life, he fought against social discrimination & for the rights of the dalits and other socially backward classes. He was not only a great national leader but also a distinguished scholar. He led various social movements for the upliftment of the weaker sections of the Indian Society and contributed to the understanding of the Socio-Economic and Political problems of India through his scholarly works on caste, religion, culture, constitutional law and economic development. He was appointed as the nation's first Law Minister and was awarded the Bharat Ratna in 1990. On 29 August 1947, Dr. Ambedkar was appointed as the Chairman of the Drafting Committee that was constituted by Constituent Assembly to draft a constitution for the independent India. The draft constitution was the result of the collective efforts of a galaxy of great leaders and legal scholars in the Constituent Assembly such as Jawaharlal Nehru, Dr. Rajendra Prasad, Dr. B. R. Ambedkar, Sardar Patel etc.

Dr. Ambedkar played a seminal role in the framing of the Indian constitution. It is a document, which defines the position and power of the three organs of the state. 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. Dr. Ambedkar contribution to the make free India for social justice, economic and political to all. The legislature may be free to frame any law, the executive may be free to take any decision and the Supreme Court may be free to give any interpretation of the law. 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. Dr. Ambedkar has been given unique status as the Father of the constitution.

Key Words: Constitution, social justice, political, education, human right, liberty, equality & Law.

\*Mr. Narendra Kumar Koth, PhD, Research Scholar, Singhania University & Dr. Yogesh Purohit, Assistant Professor, Faculty of Law, M.G.S. University Bikaner.

## **INTRODUCTION**

Dr. Ambedkar one of the top most politicians, architect and statesman of modern era, who served the nation about four decades. In 1919, when he was hardly 28 years of age, on every sphere of social and political activity, he left his effect during this period. Dr Ambedkar was a great liberator and revolutionary, who waged a life long struggle for the removal of cast discrimination, freedom of religion and removal of untouchability.

Speaking on the third Report of the SC-ST Commissioner in the Rajya Sabha on 6 September 1954, Dr. Ambedkar said: "What is untouchability? Let us understand it very carefully. Untouchability, so far as I understand, it is a kind of a mental disease of Hindu....it is a mental twist; every Hindu believes that to observe. I cannot see how you blame the Hindus. For thousands of years, by the teaching of this dirty law they have got make in their mind the doctrine that untouchability is a most sacred thing. He must not touch this, he must not touch that, he must not eat this; he must not eat that, etc.

Ambedkar has unhesitatingly rejected the Hindu social philosophy, because it does not satisfy the requirements of his ethical standard. The Hindu social philosophy also falls in contradiction with the constitution of India which affirms a life of justice, liberty, equality and fraternity. Ambedkar always stood for a harmonious relation between political ideals and social practices. The new social system will be removed by the new system and it will make the better life for Indian people.

The social evil system destroys the true sense of equality and would not make good society. Due to evil system no room for liberty. Only the proper relation between liberty and equality can help both the individual and society. In Ambedkar idea of social life, law also plays a very significant role, but only as a safeguard against the branches of liberty and equality. He gave the highest place to brotherhood as the only real safeguard against the denial of liberty and equality. Due to brotherhood every person in the society is living peacefully and it make good relation in all religion and cast. Due to this, we can make good governance.

Ambedkar attention was centered on the human conditions and the right ordering of human affairs, ultimately leading to that state of social order where the roots of greed, hatred, violence and injustice are the seeks of self-sacrifice, right understanding and social justice for the people.

Ambedkar had a very clear conception of law. It has opened up new avenues of human welfare and development in the Indian sub-continent by providing equal rights and privileges to the citizens at large. He made an obvious distinction between the law of nature and the law of human society. He had no faith in divine laws since he was basically a humanist thinker. Manu made laws for Hindu society, only for Hindus, and even among them for the benefit of certain classes like Brahmins and Kshatriyas, but Ambedkar produced laws for Indian society: Hindus, Muslims, Christians, Buddhists, Sikhs, etc. Ambedkar framed the constitutional laws, not for the benefit of certain classes, but for the interests of all men living in Indian society where ever Menu gave particular class. The constitution of India is based on the principles of justice, liberty, equality and fraternity, which were suppressed by Manuscript.

Ambedkar was a strong supporter of democratic governance in India in accordance with the provisions of our constitution and the human values which could make all citizens equal in national mainstream. There is no doubt that Ambedkar came from a very poor family and was born as an untouchable. Dr. Ambedkar raised from the soil and found fame in the entire field.

### **Minority's rights in the Indian constitution**

Dr. Ambedkar was very particular on the issue of the rights of minorities. He felt minorities needed special provisions for their protection, representation, growth, education & development. He felt that the minorities should have reservations in public employment as well as in the

legislature in proportion to their population. He submitted documents to the Constituent Assembly and raised issue of setting up a Commission for Minorities. The Commission shall be submitting annual report to the Parliament regarding the development status of the minorities. The Union government had created the National Commission for Minorities in the year 1993 vide The National Commission for Minorities Act, 1992.

The Constitution of India does not define the word "Minority" and only refers to "Minorities" and speaks of those "based on religion or language". For the minorities, special provisions are contained in the fundamental rights chapter that includes –

- i. Right of "any section of the citizens" to "conserve" its "distinct language, script or culture"; [Article 29(1)]
- ii. Restriction on denial of admission to any citizen, to any educational institution maintained or aided by the State, "on grounds only of religion, race, caste, language or any of them"; [Article 29(2)]
- iii. Right of all Religious and Linguistic Minorities to establish and administer educational institutions of their choice;[Article 30(1)]
- iv. Freedom of Minority-managed educational institutions from discrimination in the matter of receiving aid from the State;[Article 30(2)].

### **Indian constitution - a vision of Dr. Ambedkar**

Dr. B. R. Ambedkar, who chaired the Drafting Committee and played a very active role in the constitution-making. When the leadership in the Constituent Assembly selected him to be the Chairman of the Drafting Committee, Ambedkar was very pleasantly amazed at the choice and said that —I came into the Constituent Assembly with no greater aspiration than to safeguard the interest of the Scheduled Castes that is neglected by the society greatly surprised when the Assembly elected me to the Drafting Committee. I was more than surprised when the Drafting Committee elected me to be its Chairman (Kashyap 2010, p. 160). But outlines the views proposed by Ambedkar could not succeed to find their place in the final draft of the Constitution. Dr Ambedkar was very depressed because he could not achieve their views on that platform for development of SC/ST/Other backward cast etc. He made an effort for establishing the just' and equal' society. [KalpanaKannabiran (2012)].

The Caste-system in India has given a particular function from birth to death. They have also provides economic, civil, cultural and educational rights. It gives many opportunities, privileges and rights to the higher castes, particularly the Brahmins but lower castes were ignored for these rights. (Thorat and Kumar eds. 2008, p. 5). Therefore the constitution was going to be introduced in a deeply unequal and discriminatory society. These member greatly debated and drafted the constitution with the explicit purpose of dislodging the status quo (Kannabiran 2012, p. 38). Dr.Ambedkar was taken the responsibility to fight against the untouchability and exploitation based on Hindu caste system and struggled for the untouchables and rights were given in the Republican Constitution of India.

Dr. Ambedkar vowed to break away untouchability and observed, —If I fail to remove the human injustice under which I was born, I will put an end to my life with a bullet (Revankar 1971, p. 35). There are thus several provisions maintained in the Constitution of India that attempt to attain his vision pertaining to the untouchability and caste based discrimination. In Ratna G. Revankar (1971, p. 36) the backward class were given the special provision in the Constitution makers. He presented the various provisions in the Constituent assembly for protecting the interests of these sections. Articles 15 (4), 16 (4), 19(1) (d) and (e), 29 (2), 275, 330, 335 and 340 empower the state to make special provision for securing the interests of Scheduled Castes, Scheduled Tribes and backward classes.

Articles 14, 15 and 17 mentioned under the Part III are worth discussing in detail to comprehend the influence of Ambedkar vision on the Indian Constitution. Article 14 says that—the State shall not deny to any person equality before the laws or the equal protection of the laws within the territory of India. Article 15 prohibits the discrimination on the bases of religion, caste, race sex or place of birth. In Article 17 provision were made abolishes the untouchability and arrangement of punishment were given as per law.

Ambedkar thus defined democracy as a better form of government than all other forms. In their views, it can bring changes in the society and can improve the condition of poor people. The Govt can make provide food, clothing, shelter, education path that will bring you liberation (Jaffrelot 2005, p. 52). The Preamble says —Liberty of thought, expression, belief, faith and worship; Equality of status and of opportunity; and to promote among them all, Fraternity assuring the dignity of the individual and the unity of the nation

The Directive Principles of State Policy enumerated in part IV of the Indian Constitution from Article 36 to 51. This principles part is promote the change in field of social and economic condition of the state that will protect the weaker sections of the society. The Article 46 says that—the State shall promote with special care the educational and economic interests of the weaker sections, Scheduled Castes, Scheduled Tribes and shall protect them from social injustice and all forms of exploitation. The Fundamental Rightsand the Directive Principles were made for the benefits of weaker sections.

Dr. Ambedkar had faith in the principle of secularism that gives equal respect to all religions. The secularism gives the full freedom of any religion and anybody is free to adopt any religion and he is free from any obstruction. The state shall not recognize any religion as state religion (Shivakeri 2004, pp. 149-150).

Dr. Ambedkar gave much importance to education. He believed that education is essential to part of the society for change of mind and especially backward classes to have a cognizance of self. Article 46 gives his vision that directs the state to take steps to promote the education of the weaker sections i.e. the Scheduled Castes and Scheduled Tribes. The right to Education(Article 21 A) has become the part of the Constitution which gives this right to all citizen and Govt is bound to provide the proper education.

### **Fundamental Rights in the Indian constitution**

Ambedkar was a champion of fundamental rights and Part III of Indian Constitution guarantees the fundamental rights to the citizens against the state. Some of the Fundamental rights contained in Articles 15(2), 17, 23, and 24. These rights relating to the prohibition of discrimination on grounds of religions, race, caste, sex or place of birth etc. The text prepared by Ambedkar provided constitutional guarantees and protections for civil liberties, including freedom of religion, the abolition of untouchability and all forms of discrimination. Ambedkar favored for change of the economic and social rights for women.

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. Article 32 authorizes the Supreme Court to not only issue directions, orders or writs in the nature of habeas corpus, mandamus, certiorari etc, or any other appropriate remedy, as the case may be, for the enforcement of fundamental rights guaranteed by the Constitution to all citizens in the state.

The principle of guarantee to every person of equality before the law and equal protection of laws was first included in the Draft submitted to the Sub Committee on Fundamental Rights by Ambedkar and Munshi. It said that

- All persons within the Union shall be equal before the law; and
- No person shall be denied the equal protection of laws within the territories of the Union. There shall be no discrimination against any person on grounds of religion, race, caste, language, or sex. All have equal rights.

After discussions, the following was added

prohibition of discrimination against any person on any of the above grounds particularly in regard to the use of public wells, tanks, roads, public place, schools and colleges, Restaurant and Hotels etc.; equality of opportunity for all citizens in matters of public employment or in the exercise or carrying on of any occupation, trade, business or profession; and for prohibition of discrimination against any citizen in the matter of appointment to public office or of acquiring or holding or disposing of property of carrying on any occupation, trade, business or profession within the Union.

## **RESERVATION FOR SC AND ST**

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 Articles 15(4) and 16(4) of Part III and Part XI and Schedule V and VI dealing with the upliftment of Schedules Castes and Schedule Tribes. We have Part XVI of the Constitution regarding Special provisions relating to certain classes. Whereas Article 330 provides for reservation for Scheduled Castes and Scheduled Tribes in the House of the People, Article 332 is for reservation for Scheduled Castes and Scheduled Tribes in the Legislative Assemblies of the States. The forming majority and upper caste people would never allow them to get elected.

### **Dr. Ambedkar Agenda that was not achieved**

Dr. Ambedkar was strongly in favour of separate electorate system where an untouchable voter would have right to cast their vote for untouchable candidate without being influenced from the upper castes. This electorate system was likely to empower untouchables and would choose their own suitable candidate from among themselves. The constitution have a real political force where the upper cast selects theuntouchables and it was selected by the upper cast dominated parties during the time of election period. (Jaffrelot 2005, p. 54). He fought many times for this purpose but not got success.

Ambedkar fought for betterment of schedule cast, schedule tribes and women to improve the condition of these sections in the society. The condition of the women at that time was very worst as well as of SC/ST. According to Hindu religious scripts, the Hindu society and the social evils like dowry, child marriageand forced marriage were extensively in practice. While observing the status of women in Hindus sacred texts, Jogendra Sinha (1993, p. 63),the women were not given a place of honour by Manu. After marriage, she was required to be under the control of her husband.

He also pursued to bring certain changes by replacing the prevailing Hindu laws with western-inspired Civil Code, which was known as "The Hindu Code Bill". The main objectives of this Bill prepared by Ambedkar were worth to highlight here —Firstly; it seeks to codify the law relating to the rights of property of a deceased Hindu who had died intestate without making a will, both female and male. Secondly, it prescribes a somewhat alerted form of the order of succession

among the different heirs to the property of a deceased dying intestate. The further deals with the law of maintenance, marriage, divorce, adoption, minority and guardianship (Rodrigues eds. 2007, p 495).

Ambedkar could not succeed to make the Hindu Code Bill an integral part of the Indian Constitution and it was unfortunate to him that he could not achieve this act due to opposition by the delegates. He just managed to obtain a provision in the Part IV that is Article 44, which says that —the State shall try to secure for the citizens a uniform civil code throughout the territory of India.

### **Apex court judgments**

**1)** It is a civil original jurisdiction and writ petition (civil) no. 161 of 2004 was filed in the supreme court of India.

The Petitioner was People's Union for Civil Liberties &Anr. .... And Respondent was Union of India &Anr.

The P.Sathasivam, CJI go through the petition and following direction was given

The present writ petition, under Article 32 of the Constitution of India, has been filed by the petitioners herein challenging the constitutional validity of Rules 41(2) & (3) and 49-O of the Conduct of Election Rules, 1961 (in short 'the Rules') to the extent that these provisions violate the secrecy of voting which is fundamental to the free and fair elections and is enquired to be maintained as per Section 128 of the Representation of the People Act, 1951 (in short 'the RP Act') and Rules 39 and 49-M of the Rules.

We hold that Rules 41(2) & (3) and 49-O of the Rules are *ultra vires* Section 128 of the RP Act and Article 19(1)(a) of the Constitution to the extent they violate secrecy of voting. In view of our conclusion, we direct the Election Commission to provide necessary provision in the ballot papers/EVMs and another button called "None of the Above" (NOTA) may be provided in EVMs so that the voters, who come to the polling booth and decide not to vote for any of the candidates in the fray, are able to exercise their right not to vote while maintaining their right of secrecy.. We also direct the Government of India to provide necessary help for implementation of the above direction. Besides, we also direct the Election Commission to undertake awareness programmes to educate the masses.

As per my view the Supreme Court judgment is right and I agreed because this petition was accepted under Article 32 of the Constitution of India.

**2)** It is civil original jurisdiction and writ petition (civil) no. 490 of 2005 was filed in the supreme court of India.

The Petitioner was Lily Thomas and Respondent was Union of India &Ors. ....

The P.Sathasivam, CJI go through the petition and direction was given:

WITH WRIT PETITION (CIVIL) NO. 231 of 2005 and Petitioner was Lok Prahar, through its General Secretary S.N. Shukla ... and Respondents was Union of India & Ors.

Observation of Hon'ble Supreme Court Judge A. K. PATNAIK, J.

These two writ petitions have been filed as Public Interest Litigations for mainly declaring sub-section (4) of Section 8 of the Representation of the People Act, 1951 as *ultra vires* the Constitution.

The sub-section (4) of Section 8 of the Act are that the Constituent Assembly while drafting the Constitution intended to lay down some disqualifications for persons being chosen as and for being, a member of either House of Parliament as well as a member of the Legislative Assembly or

Legislative Council of the State. Accordingly, in the Constitution which was finally adopted by the Constituent Assembly, Article 102(1) laid down the disqualifications for membership of either House of Parliament or Article 191(1) laid down the disqualifications for membership of the Legislative Assembly or Legislative Council of the State.

After the judgment, many M.L.A. and M.P. were disqualified on conviction.

I agreed the judgment of the Supreme Court is correct because Article 102(1) laid down the disqualifications for membership of either House of Parliament or Article 191(1) laid down the disqualifications for membership of the Legislative Assembly or Legislative Council of the State. But the disqualification given in this section and this sub-section (4) of Section 8 of the Representation of the People Act, 1951 is as *ultra vires* of the Constitution.

### **3) The civil appeal no.2705 of 2006 in civil appellate jurisdiction in the supreme court of India**

The Appellants was Appellants State of Maharashtra & Anr. And ... Respondents was Indian Hotel & Restaurants Assn. & Ors.

WITH

CIVIL APPEAL NO.2704 OF 2006 The Appellants was State of Maharashtra & Ors. Etc. Etc.  
. And ... Respondents was Ramnath Vishnu Waringe Etc. Etc.

WITH

The Appellants was

CIVIL APPEAL NO.\_5504\_\_\_\_\_ OF 2013

And ... Respondents was

State of Maharashtra & Ors.

The Justice told the discontinuance of bar dancing in establishments below the rank of three star establishments, has led to the closure of a large number of establishments, which has resulted in loss of employment for about seventy-five thousand women employed in the dance bars in various capacities. In fact, many of these unfortunate people were forced into prostitution merely to survive, as they had no other means for survival. Women worldwide are becoming more and more assertive of their rights and want to be free to make their own choices. But, it is necessary to work towards a change in mindset of people in general not only by way of laws and other forms of regulations, but also by way of providing suitable amenities for those who want to get out of this trap and to either improve their existing conditions.

I agreed with the judgment of the supreme court on July 16, 2013 because The Sections 33A and 33B of the Bombay Police Act Amendment Act, 2005 was *ultra vires* as per Articles 19(1) (a), 19(1) (g) and 21 of the Constitution. The right to practice a trade or profession and the right to life guaranteed under Article 21 is given.

### **4) The Petition(s) for Special Leave to Appeal (C).....CC 7913/2016,S.L.P.(C)...CC 7915/2016,S.L.P.(C)...CC 7916/2016,S.L.P.(C)...CC 7916/2016**

Filed in the S U P R E M E C O U R T O F I N D I A

The Petitioner(s) was UNION OF INDIA and Respondent(s) was SH. HARISH CHANDRA SINGH RAWAT AND ANR.

The judges were HON'BLE MR. JUSTICE DIPAK MISRA and HON'BLE MR. JUSTICE SHIVA KIRTI SINGH

And petition's heard on 22/04/2016..and observation was given:

In the floor test of Uttarakhand Trust vote held, Congress gained +33 (congress 25, PDF 6, BJP Rebel and 1 Nominated 1) and BJP vote gained 27. The Harish Rawat had won a trust vote. The President's Rule was lifted and again the government was restored

I agreed with the judgment given by the Supreme Court because it was a violation of Article 356 which dismisses a state government and impose president's rule. The state government is not in majority and state machinery is not functioning well, then the president's rule can be imposed.

## CONCLUSION

The contribution of Dr. Ambedkar towards formation of the Constitution of India cannot be measured. *At a time when India was passing through epoch-making events, Dr. Ambedkar had become one of the potent forces to reckon with whether in office or out of it. Endowed as he was with a towering personality, erudition, deep insight into constitutional law with a firm grip on the intricacies of administration, indomitable courage and fearlessness* said Dr. Zakir Hussain, Former President of India.

Ambedkar gave much priority to the principles of equality, liberty and fraternity. For him, it is necessary to ensure equality in our social and economic life at the earliest possible to solve the problem of Hindu society. 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. Untouchability is not only prohibited but it is made punishable by law for those who violate the provision. Part IV also reflects the conceptualization of Ambedkar on democracy that is to say, a political democracy should be accompanied with the social and political democracy. In this context, Kannabiran (2012, p. 19) highlights some of cases of dalit atrocities taken place after the independence —In the case of discrimination against dalits, instances of collective violence have occurred.

Ambedkar was concerned not only about the community, he belonged to but for all the victims of inequality in our country prevailing due to socio-economic conditions. Once Ambedkar had remarked about the rights of women by saying "*I measure the progress of a community by the degree of progress which women have achieved*". "Ambedkar had visions of not only a casteless society, but one in which there was gender justice, labor justice, economic justice an equal distribution of opportunities. He stood not just for the Dalits, but for all victims of inequity. Even today, such incidents are continued to occur in the large numbers across the entire nation and often reported in the daily newspapers. The efforts were made to give the status of all section equally but equal status are not seen in the present scenario.

**LAW MANTRA**  
[www.lawmantra.co.in](http://www.lawmantra.co.in)