

LEGALFOXES LAW TIMES

Contemporary India through the eyes of the Father of the Indian Constitution: A Study

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INTRODUCTION

The Indian constitution, since its conception by the drafting committee, has largely emphasized on the ideals of democracy, equality and fraternity. The Constitution, through the various Articles in it, provides for numerous safeguards for every human being, be it a citizen or a non-citizen of India. This has led to India becoming the largest democracy in the world. The Constitution of India proposes equality before law and also equality in every aspect of life, free of any kind of discrimination, except the one with a legally sound classification, however, since the Vedic era, the Indian society has been divided into various groups, on the basis of the caste system. Even though the Constitution prohibits caste based discrimination, still many communities are still marginalized, i.e. they face discrimination on the basis of the caste they are born in. They are referred to as the 'Dalits' and are exposed to various human rights violations and many forms of abuse may it be physical, sexual or mental.

This Research Paper is an endeavour by us to give an account for the various atrocities faced by the Dalits, the Vision of the Father of the Indian Constitution who proposed equality in the society and his ideology regarding the future of India. Dr. Bhimrao Ambedkar, was a patriot who condemned the caste system. According to him, every human being was equal and deserved to be treated equally and with dignity. Babasaheb (as he was commonly called) was against the Hindu Social Order and the practise of untouchability. His noble thoughts and ideas can be seen in the form of the various inclusions he has made in the Indian Constitution.

Dr B.R. AMBEDKAR: THE VISIONARY

Dr. Bhimrao Ambedkar was an amazing personality, who had humble beginnings; however, still he managed to achieve excellence and success through his sheer hard work and dedication towards his motherland. Being a social reformer and a man with far sighted progressive thoughts, he supported and encouraged all such activities that led to the betterment of the human race. He understood the plight of the oppressed classes who were facing atrocities and abuses, stood up for them, and earned his popular title of the 'Father of the Indian Constitution'.

Babasaheb used to believe that change and justice in the society is a prerequisite for the smooth functioning and long survival of any democracy. He was of the view that only through peaceful methods could a healthy social change be brought, and such a change should be in sync with the constitutional provisions of equality, justice and brotherhood for all. Dr. Ambedkar used to believe that law and order are the basic essentials of a healthy social and public life, and such law maintaining institutions must be preserved at all costs. He was strongly against the exercise of any sort of violence in order to bring a social change, as such measures could directly hamper the social order and create a situation of distrust and chaos. According to him, use of terror, force and any violent means to develop a peaceful society was both unscientific and immoral, as a welfare society, beneficial for the people in it cannot be built on such illegitimate orthodox grounds.¹

Dr. B.R. Ambedkar was a social democrat, who had incorporated various safeguards for the protection of ideals of equality, justice, fraternity, brotherhood which are vital for a democracy; he also propounded a much broader notion and vision of a stable reconstruction of the Indian society, which included both Mutual Growth and also Integration of diverse Cultural Heritages. Babasaheb was a fearless upholder of the Indian democratic republic, he worked to create an equitable society for the oppressed masses, and also captured a unique and distinct place in the Indian History as a rare intellectual leader who guided the masses and successfully awakened their social conscience. He used to believe that political institutions could only sustain themselves by contributing towards social reformation, which they could do by exercising the legislative powers and authority entrusted to them.²

¹Buddhism and Communism, Ambedkar's speech at the closing session of the Fourth Conference of the World Fellowship of Buddhists in the State Gallery Hall in Kathmandu (Nepal) on November, (1956)

²B. R. Ambedkar, Annihilation of Caste, an undelivered 6. speech written in 1936 by B. R. Ambedkar

Babasaheb was a great patriot who had a vision not only to achieve freedom from the British Colonial Rule for his motherland, but also wanted to transform his country into an equitable society suitable for the various millions living in it. Dr. Ambedkar was a messiah for the depressed classes, and even though he was against all violent methods of freedom struggle literally; he also waged a war, a war against the prejudice and discrimination prevalent in the society metaphorically; his endeavour to create an equal society for everyone.

Dr. Ambedkar stood strongly against the theory of caste based division of the society, as it led to the emergence of superior and inferior castes and also the people belonging to the lower castes were discriminated on such grounds and deprived of their right to live a dignified and healthy life. Babasaheb was a true leader who used to lead an exemplary lifestyle; he used to emphasize and showcase through his own actions that quality education combined with hard work was a sure shot formula to success and achievement of one's objectives.

Dr. Ambedkar often said, "Only you can change your lot, but not by running to temples hoping for justice to come to you in the afterlife. There is justice to be found on this earth, only if you can fight for it". This gave the oppressed classes a much needed and useful lesson in self-sufficiency and encouraged them to fight for their own rights rather than waiting for somebody else to grant them their due share. Through this, Dr. B.R. Ambedkar began breaking the shackles of the oppressive society which had entrapped and abused the Dalits since long and became a status icon for the Dalits in the country. His iconic posture, with the Constitution of India in one hand and pointing towards a new path for millions of down trodden people with the other, was symbolic in the new era.³

Babasaheb's views have consistently inspired the oppressed, depressed and the downtrodden classes to challenge the dominant strands of political articulations and the caste system in the country. He is now regarded as one of the greatest Indians, a person relevant and necessary for all times to come. This is not because his followers have an amazing devotion towards him, or that they happen to be numerically high in India, and certainly not because he has the highest number of statues for a single person in the history of India. It is because his following has transcendental

³ S. Anand (Ed.), Annihilation of Caste: The annotated critical edition – B.R. Ambedkar – Introduced with the essay 'The Doctor and the Saint' by Arundhati Roy, Navayana Publishers, New Delhi, 44 (2014)

generations. His relevance: political, social, ideological and religious, will persist as long as the struggle for justice and equality exists”⁴

CASTE SYSTEM: THE FACILITATOR OF DISCRIMINATION AND EXPLOITATION

The early Ancient India granted a significant amount of prominence and gravity to the status of a woman. She was not respected and valued because of her house keeping or family oriented capabilities but as an equal member of the society with similar rights as given to the opposite gender. These women had the chance to grow intellectually as well as spiritually, as they enjoyed superior quality of education, with equal opportunities at choosing the desired work. Her own personal preference was given practicality. She was permitted to attend parties, engage herself in competitions and go to all the religious functions, as she desired. Moreover, the practise of giving young widows a noble chance to remarry was also common⁵. However, the creation of a few Hindu religious books including Manusmriti, Atharva Vedas, Vishnu Smriti, and many others like these, denied women the very rights and individuality that a person longs for existence. When these unjust directives got coupled with the strict compliance by the upper priestly Hindu caste, it led to the demolition of an equal society where both the genders enjoyed equal rights and created the immutable caste system that persisted throughout the years that followed.

Dr. B.R. Ambedkar also held these pious texts responsible for the deteriorating condition of the women and rapidly increasing stratifications in the society. He expressed about this in his article, “The rise and fall of Hindu woman” talking about the atrocities and inequalities against women in India which were the result of spiritual books⁶.

The society was divided along the caste lines due to the presence and implementation of the oppressive religious texts that was in the form of books like the Manusmriti which taught the people discrimination on the basis of gender and caste. The Draconian text stripped the female section of the society off all their basic rights like education, freedom to marry and cast upon

⁴Rajasekhar Vundru, ‘The other Father’, Outlook (Weekly), Independence Day Special, 20 August, 2012, (2012)

⁵Thind, G. S. Our Indian Sub-Continent Heritage, Crosstown Press, LTD. British Columbia, Canada

⁶ Ibid

them the horrors of sexual abuse and child marriage. The text was so oppressive that it did not even shy from equating the killing of a Dalit woman with a minor offence of killing an animal, but only justified verses⁷:

- “Nrakshvraksh” – 3/9. A person should not marry women having names of those resemble to the constellations, trees, rivers, those from a low caste, mountains, birds, snakes, slaves or those whose names inspire terror.
- “Asheelakamvrto.....” – 5/157. Men may be lacking virtue, be sexual perverts, immoral and devoid of any good qualities, and yet women must constantly worship and serve their husbands.
- “Ya to kanya.....” – 8/369. In case a woman tears the membrane [hymen] of her Vagina, she shall instantly have her head shaved or two fingers cut off and made to ride on Donkey.

This brings us to a conclusion that if the killing of an untouchable was justified as a minor offence, the treatment they used to receive is unfathomable.

THE PLIGHT OF DALIT WOMEN

Throughout time, from ancient to modern, women have been victims to oppressive and brutal norms that strive to control their lives. Moreover, the Dalit women not only had to bear the brunt of their gender, but also of their lower caste that made their lives miserable beyond measure. It is thus not hard to compute that in a society that is male dominated, “Dalit women face a triple burden of caste, class and gender”⁸, making them a distinct social group worth paying attention to.

The laws and rules mentioned in the Manusmriti and other Vedic scriptures restricted any possible means that could have helped elevate the socio-economic-political position of the Dalit women providing them a dignified life⁹.

⁷ Supra

⁸ News Archives. <http://www.ambedkar.org>.

⁹ Supra

According to the National Commission for Scheduled Castes and Scheduled Tribes, the majority of the educated people belong to the upper castes, many of which may still practice caste-based discrimination, despite their high levels of education. Therefore, Dalit girls have always been discouraged to adopt education and as a result we witness the lowest literacy rate for Dalit girls compared to the total population of educated upper caste girls. The Draconian Laws of the Manusmriti were incorporated into Hinduism because they favoured the people belonging to Upper castes, but the same laws had a devastating effect on the level of education reaching to Dalits.¹⁰

Despite the presence of strict laws and regulations framed by the Government of India, which holds special reservations for Dalit children, a report by the National Commission for Scheduled Castes and Scheduled Tribes shows that amongst the total number of Dalit girls studying in a primary school, 3/4th of them generally drop out, pertaining to reasons like fear of humiliation, abuse, and lack of finances required for the continuation of studies.¹¹

Newspaper journals, articles and media sufficiently cover the vast extent of ill-treatment received by young dalits especially girls who have to go through partisan experiences innumerable times. People do not hold back in taking advantage of their vulnerable positions without realising or empathising with their sufferings. This overwhelming feeling of being exploited, isolated and rejected compels such girls to truncate their aspirations and resort to repulsive jobs such as Manual Scavengers, labourers and disposers of human waste that is not only inhumane but also hampers their growth.

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Dr B.R. AMBEDKAR'S EFFORTS TO BRING EQUALITY

Babasaheb being India's first Law minister and chairman of the drafting Committee of the Constituent Assembly calculated the consequences of a future society with inequalities that will pose imminent social and economic challenges for its people, and thus strived to achieve one that will form its basis on the fundamentals of equality and fraternity. His tireless efforts to empower the excluded groups of society so that there was equal treatment of the downtrodden, education for all, and upliftment of women was what made him a pioneer in India.

¹⁰Ibid

¹¹The National Commission for Scheduled Castes and Scheduled Tribes, Government of India

Manusmriti, even though considered as an authoritative Hindu scripture, its speech is distributed with numerous instances of prejudice and discrimination that objectifies and derogates the status of women. Dr. Ambedkar realising the grave inequalities it offered, aspired to bring a change and thus with the help of Jawaharlal Nehru made an effort to introduce 'The Hindu Code Bill', which was an attempt to codify Personal Hindu Laws to transform them into a more Uniform Civil Code whereby regressive laws would be replaced by equality for all. Babasaheb was greatly influenced by the political philosopher Burke's famous quote, 'those who want to conserve must be ready to repair', and thus tried to bring the House's attention to the fact that if they truly wanted to conserve the Hindu society, culture and system they must not hesitate to repair where repair is important. He mentioned, "This Bill asks for nothing but to repair those parts of the Hindu system which had become dilapidated".¹² Even though the bill was opposed by eminent members of the assembly of orthodox thinking, and wasn't passed until much later, the continuous efforts of Babasaheb finally bore fruit after he tendered his resignation dated 27 September, 1951, to the Prime Minister, where he insisted, "For a long time I had been thinking to resign from the Cabinet. The only thing that had held me back from giving an effect to my intention was the hope that it would be possible to enforce the Hindu Code Bill before the term of the present Parliament came to an end. I even agreed to break up the bill and restricted it to Marriage and Divorce in the fond hope that at least this much of our labour may bear fruit. But even that part of Bill did not make it to success. I see no purpose in my continuing to be a Member of your Cabinet"¹³After his resignation, the laws relating to marriage, adoption, maintenance and divorce were finally passed in the Parliament in 1955.¹⁴

The Hindu Code Bill, the foremost formidable legislative measure of recent India, sought to place an end to a spread of conventional systems of rights that were biased for women in India and legalised and introduced reforms to promote equality. The Code endeavoured to amend marriage laws and thus provided both, men and women, a right to divorce if the marriage is untenable. It also gave the opportunity to Widows and Divorcees to remarry. Inter-caste marriages were also permitted and promoted to minimize rigidity and establish cohesiveness among the Hindus.

¹² <https://www.quora.com/What-is-Dr-Ambedkars-contribution-towards-womens-rights-in-India>.

¹³Supra

¹⁴Jatava, D.R.: "Dynamics of Ambedkar Ideology", Sublime Publications, Jaipur, 2001. PP. 90-91.

The Bill was later split into four Bills, and the same were put on the Statute Book by the Parliament. The Hindu Marriage Act, 1955; The Hindu Succession Act, 1956; The Hindu Minority and Guardianship Act, 1956 and The Hindu Adoption and Maintenance Act, 1956 are the four enactments which embody the principles and the true essence of Hindu Code Bill formulated by Dr Ambedkar. They give independent status to women and endow upon them the right of adoption, succession and property, so completely denied by the Manusmriti. Therefore, it is truism to say that it is due to Dr. Ambedkar that a large part of the Hindu social law is now on par with the legal system as is prevailing in advanced western countries.

Besides this, the Constitution makers also acknowledged the substance that equality carries in the very basis of a law system of any country and thus spared no effort for its inclusion in the Indian Constitution. **Article 14** provides equality and equal protection to all, before law. **Article 15** prohibits discrimination of citizens on the ground of sex, race, caste etc. Clause (3) of the same enables positive discrimination through special provisions in favour of women. **Article 16** assures equality of opportunity in matters of public employment without discrimination on the ground of sex. **Article 17** strives to abolish the practise of untouchability and declares it as an offence punishable under law. **Article 39** provides for equal means of livelihood and equal pay for equal work, for both men and women. **Article 42** allows for equipping the citizens with just and humane conditions of work and maternity relief. **Article 51 (A) (E)** suggests to renounce practises derogatory to the dignity of women. **Article 46** tells the state to take special care and promote the educational and economic interests of weaker sections of people to protect them from social injustice and all forms of exploitation. **Article 47** reads that the State will regard raising the level of nutrition and standard of living of its people and the improvement of public health and so on. **Article 243D (2) & (3), 243T (3) & (4)** imparts reservation of not less than one third of the total number of seats in allocation of seats for women in the Panchayat and Municipalities respectively.¹⁵

The Indian Constitution enshrines in itself the principle of Equality in the Preamble, Fundamental Rights, Duties and Directive Principles for the State and thus by adopting measures like these, India has been onto the path of becoming an egalitarian nation, which was what Dr. Ambedkar forever dreamed of and ventured out to achieve until his last breath.

¹⁵S.Nataraju , Constitution of India, Empowerment of Marginalized Groups & Protection of Public Servants.

Dr. B.R. AMBEDKAR'S VIEWS ON DEMOCRACY AND MODERN INDIA

Dr. B.R. Ambedkar, the chief architect, of one of the longest Constitutions ever written i.e. the Indian Constitution, was not only a widely appreciated intellectual of the 20th century who helped frame India into what it is today, but also a great nationalist, reformer, social activist, educationalist and an economist who put every effort in transforming his country that would one day stand parallel with its western counterparts as a developed nation. But where did it all start? The great dignitary was himself born in a family of untouchables and was well aware of all the discrimination and prejudice one has to go through if he belonged to a socially backward caste, which helped him assimilate the significance of education. He thus went on to obtain his higher education from the West and returned with remarkable knowledge at multiple subjects. According to him, education was a powerful tool that has the extraordinary capability to furnish the contemporary thinking of any society. He believed that only an educated man is competent enough to understand the relevance of eliminating the age old customs and rules that had no place in a modern and progressive country. It is for this conviction of his that he made 'educate' the first word of his slogan, "Educate, Agitate, Organise".

As a social reformer, Ambedkar greatly believed in the power that the general masses opinion carried, so he religiously preached the lesson of equality and impartiality so that the basis of the society be formed on the pillars of 'social order'. He was vehemently against the casteism that he himself was a victim of and believed that the Hindu society was prey to 'lack of cohesiveness and solidarity' because of numerous castes and divisions. The only true course of action to reform this community on all fronts should be the 'annihilation of caste'. He agreed with Mahatma Gandhi's thoughts, "Untouchability is the last word on caste, and as soon as untouchability goes, caste goes. Take Untouchability out and the fabric of caste is destroyed"¹⁶, which led him to ensure that there was no place for 'untouchability' in the Constitution of India. He enlightened us with his profound words, "If social conscious is such that it is prepared to recognize the rights which law has chosen to enact, rights will be safe and secure. But if the fundamental rights are opposed by the community, no law, no parliament, no judiciary can

¹⁶Gandhi M.K, Harijan May 13, 1937.

guarantee them in the real sense of the word”¹⁷. He opined that forceful brutal methods to achieve a welfare state can be anarchic and only promoted peaceful methods for attaining prominent factors of social life like laws, rules and statutes that had the rightful authority to regulate the State. His nationalist spirit wanted his countrymen to give up unconstitutional means of revolution and accept democracy, a type of governance where licit changes needed in the society are brought without bloodshed. He counted on social unity to strengthen the roots of democracy and wanted the countrymen to realise that the country is greater than a man. He advised, “We must abandon the method of civil disobedience, non-cooperation and Satyagraha as where constitutional methods are open, there can be no justification for these unconstitutional methods”¹⁸.

As much as the freedom fighter in Dr. Ambedkar wanted his country to be freed from the tag of a ‘colonised nation’, he also sincerely desired it not to be trapped in the shackles of orthodox practises and age old prejudices. His exceptional zeal and burning love to equalize the masses’ status and end the human suffering greatly impressed the Indians and his contemporaries. He fantasised of a country where the word ‘freedom’ held meaning not just for the aristocrats but also to the common folks and depressed classes. He therefore made strenuous efforts for the inclusion of his ideals into the document that serves as the legal backbone of our country’s system i.e. the Indian Constitution. In an unyielding opinion about the same he once said, “Constitution is not a mere lawyer’s document, it is a vehicle of life, and its spirit is always the spirit of the age”¹⁹. He used his prophetic foresight to draft a Constitution that would not be competent just for a finite time period but for ages to come that earned him his renowned title, ‘Father of the Indian Constitution’. He incorporated the principles of Equality, Fundamental rights and indispensable duties of not just the citizens but also of the state in the form of ‘Directive Principles of State Policy’ regarding which he clarified as “Whoever captures power will not be free to do what he likes with it. In the exercise of it, he will have to respect these ‘instruments of instructions’ which are called Directive Principles”²⁰. He supported a federal system for India and gave preference to the Parliamentary system over the presidential system of

¹⁷Ambedkar’s speech in Bombay, Provincial D.C. Conference, April, 10-11, 1925.

¹⁸Bhagavan, Manu. — Aishwary Kumar. Radical Equality: Ambedkar, Gandhi, and the Risk of Democracy. | The American Historical Review, vol. 121, no. 5, 2016, pp. 1638–39.

¹⁹Supra.

²⁰Dr. B. R. Ambedkar’s theory of State Socialism International Research Journal of Social Sciences.

governance. On asking about the most important article of the Constitution, Dr. Ambedkar titled Article 32, which provides for remedies for enforcement of rights, as the 'Heart and Soul of the Constitution'. He remarked about the constitution as "It is workable, it is flexible and it is strong enough to hold the country together both in peace time and in war time"²¹.

When he came to give his views on Democracy, he further went on to believe that political democracy alone will not be sufficient and, social and economic democracy is just as essential. A right to vote alone does not give a man any power in administering the government, the freedom to form their own opinions and privilege to act upon them is what empowers them. He said, "Democracy in this country is like a summer sapling. Without social unity, the roots of sapling cannot be strengthened. If social unity is not achieved this summer sapling of Democracy, will be rooted out with gust of summer wind"²². He wanted to avoid a strife between the community because of factors like religion and urged people, "that the most vital need of the day is, to create amongst the people the sense of a common nationality, a feeling not that they are Hindus, Mohammedans or Sindhis and Canaree first and Indians afterwards, but they are Indians first and Indians last"²³.

Justice Krishna Iyer rightly calls Dr. Ambedkar, as a 'Creative Iconoclast' who dedicated his life's efforts to the service of his nation as a true patriot. Bhimrao Ramji Ambedkar, "the Jewel of Nehru Cabinet", was posthumously conferred — "Bharat Ratna", the highest civilian award under our Constitution, for the outstanding role he played as a maker of the modern India.

CONCLUSION

Dr B.R. Ambedkar was not just the chairman of the drafting committee of the Indian constitution, but was also a visionary, a social reformer and a man of exemplary morals and principles. His humble beginnings didn't hamper his quest for bringing equality to those who needed it most. Holding a position of power and responsibility, his main aim was to give us, the generation, a country where civil rights are available for every citizen, the law doesn't discriminate between its own citizens, and the society is a progressive one, wherein its citizens place their trust in moralist equalitarian principles. Thus the text prepared by him provided

²¹Government of Maharashtra, (1982). Babasaheb Ambedkar: Writings and Speeches, Vol. 2

²²Narake Harii, ed, Dr. Babasaheb Ambedkar Writing and Speeches Vol. 17, Part 1.

²³Supra.

constitutional guarantees and protections for a good range of civil liberties for individual citizens including freedom of faith, the abolition of untouchability, and the outlawing of all forms of discrimination. His policies and ideals are visible in the Indian Constitution and his efforts to bring a change and provide an Equal and Modern Nation to all his fellow citizens is admirable. He put his life in the achievement of 'Ambedkar's vision of India' which was not only a thought ahead of its time but also commendable.



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