



**ACCOUNTABILITY OF LEGISLATURE, JUDICIARY AND EXECUTIVE UNDER INDIAN CONSTITUTION**

**M. MURALI KRISHNA, LL.M.**

Research Scholar

Dr. B R Ambedkar College of Law  
Andhra University, Visakhapatnam

**Prof. (Dr.) D. SURYA PRAKASA RAO**

B.Sc. LL M. Ph.D.

Honorary Professor, Former Chairman,  
Faculty of Law and Former Principal  
Dr. B R Ambedkar College of Law  
Andhra University, Visakhapatnam

**Abstract:** *The constitution of India compared to its counter parts, stands on a high pedestal due to its pragmatic introduction of 'social democracy' knitted with a cooperative federalism to achieve the cherished objectives of the preamble. Compared to all constitutions, the document has a visionary perception like the third eye of Lord Shiva to bring in social cohesion in spite of the kaleidoscopic multi pronged culture of India. Compared to others, it has no idealism in its percepts and advocates the easy ways and means to achieve the objects of Justice, Liberty, Equality, and Fraternity without any kind of discrimination with justifiable restrictions, which are necessary to uplift the vulnerable and disadvantaged groups of people to enjoy the fruits of it. The no-nonsense approach of the constitutional Assembly, especially the Philosophical tenants of Dr Ambedkar with due caution not to subordinate the social democracy to political democracy which makes the constitution of India to stand tall.*

*After six decades of its adoption, we miserably failed to understand the ethos of Baba Saheb, and exploited the virgin fragrance of the ideology for selfish-ends of a few and more divided than united. Instead of understanding it and without settling it down, we have amended it left and right to sub serve the deceitful interests of ruling class. In our egoistic exploitative tactics, instead of deriving the benefits of the bounty, amongst the nations we became the unhappy country with a host of problems and not able to wipe out the tears of ever eye. Taking into consideration of the experiences of ours in the last sixty years, the Paper subtly examines the significance of philosophical penchants of social democracy and social justice and discusses the ways and means how to regain the lost opportunities to rejoice benefits that have been handover to us by Dr Baba Saheb Ambedkar.*

**Key words:** *Social Democracy, Social Justice, Fraternity, B.R. Ambedkar, Common brotherhood*

**Introduction:**

The constitution of India, compared to its counter parts in the world, crystallized in a different setting. The colonial masters tore the country into pieces on religious, language, socio, economic and cultural issues. The people and country got independence, which they possess before the country was conquered by foreign powers. In order to

bring a social cohesion amongst various sections of the polity and to uplift the disadvantaged and vulnerable groups of people, the constitution of India advocates the theory of social justice, which is unique of the Indian Polity. The constitution of India is a pragmatic document to achieve the goals of democracy not as political but of social. However, even after six decades of its



adoption, we could not nurture social democracy as expected by the framers of constitution.

This aim of this paper is to address in a subtle perspective of some issues that are in the offing in the society in general, and country in particular with respect to examine what went wrong in achieving the objectives advocated by the monumental document, where in the fault lies with the following stance, Is the constitution really fails to answer the aspirations of people, or people failed to encash the bounty of benefits handed over to us by our framers to enjoy the basket of carrots? The issues discussed in this paper are only a political and purely of academic orientation.

#### **Preamble owes**

In any constitution, the preamble is considered as an epitome to introduce the constitution with its ideals. However, in the Indian situation, the preamble is regarded as the guiding light for interpretation of the constitution, as it embodies the hopes and aspirations of people and aims to secure socio, economic, political, justice and to establish a sense of common goodwill amongst all. According to Baba Saheb, all these basics are necessary to counter disruptive forces of regionalism, communalism, linguism, and to achieve the unity and integrity of India.<sup>1</sup>

Further, all these aspects will lead to establish a social democracy or social justice, where in liberty, equality, and fraternity will constitute as the essential principles of life. These principles are not to be treated as

independent of each other. They are the core essentials of the constitution and form as trinity. If one is divorce from the other, the other two lose their meaning. Dr Ambedkar laid his entire reliance on the fraternity, which is the common brotherhood that needs to be achieved to end discriminatory practices, and to bring in equality, as the key to regulate the relations of people of India.<sup>2</sup> To achieve these objectives, he sounded that all to act as loyal constitutional soldiers at all times, and achieve the objectives through peaceful legal means than any other method.

Well in the last sixty years, the state has taken a number of steps and the government adopted a number of policies to achieve the objectives. However, lack of sincerity, political will to stick to the constitutional ethos and to end discriminate practices based on personal whims and fancies, exploitative tactics, to what extent we achieved the sacred objectives of the preamble. A critical examination of the life of the polity from independence to till date clearly gives a reply, our aim may be good, but our practices especially by the political parties, again as rightly wondered by Dr Ambedkar, that we lost the stream somewhere, and are in jeopardy.<sup>3</sup> Shall we look back the ideals and to inculcate the constitutional ethos, and our political parties, need to rethink and consider the interests of the country than that of their own beliefs. We the people of India need to take a call to what we need, where we stand, what we have achieved, are we really understood the philosophy of 'social justice' of Dr Ambedkar. Do we

---

<sup>1</sup> The judiciary in India interpreting the preamble many a times quoted a number of aspects. For a detailed discussion see Sujata. V. Manohar: T.K. Tope's Constitution Law of India, (3rd edn), 1-12, 2010, EBC, Lucknow

---

<sup>2</sup> Dr Ambedkar's Speech On the Draft Constitution, Constituent Assembly Debates Vo. XI, (Book No 5), 979, 1949

<sup>3</sup> Ibid at 978



really with all sincerity follow the allegiance that we made ourselves to the Preamble?

### **Fundamental Rights- A bounty**

Any constitution drafted in the contemporary era, especially after the adoption of the Charter of the UN and the adoption of the UDHR needs to adhere to guarantee the Economic, Socio, and Cultural, Civil and Political rights to its people. India as a state of *Dharmic* traditions from its ancient culture and the first country to author a constitution immediately after the adoption of the two international documents, guaranteed the philosophical tenets of both the aspects of rights. However, in tune with the objectives and philosophical thinking of the Preamble, and that of international law of human rights, it has imposed the responsibility on the state to promote the most important part of rights for their realisation to enrich the society based on fraternity without any difference on oneness to equality.<sup>4</sup>

The articles 14, 19 and 21 specially chosen for discussion in the seminar, are the bedrock provisions to measure the objectives of preamble. There are a number of aspects innately knitted amongst them for their enjoyment by people. The various percepts of life innate in them to cherish and enjoy the benefits of them with qualified restrictive approach provided by the constitution and judiciary is a fine crafts men work with legally admissible justifications. The accommodation of various principles such as harmonious construction, purpose and functional approach, doctrine of legitimate

---

<sup>4</sup> A Lakshminath: Dr Ambedkar and Political, Civil and Economic Rights, S.G. Bhat (Ed) Dr Ambedkar and the Indian Constitution 2001, Dr Ambedkar Govt Law College 160-193

expectation, etc., are all well within the realm of the constitution<sup>5</sup>, being a social and cooperative democracy.

The framers of the constitution innately knitted these three articles as essential elements for the growth and development of society in all its well-being and provided an opportunity to all to freely develop. In a way the exceptions that provided for in the articles are not a deviation from the main philosophical percepts of equality, liberty, freedom of thought and expression and so on, they are in a way curving legal space to make fine-tuned adjustments to highly particularized conflicts.<sup>6</sup> Since law is not a static body and fine-tunes itself with the social settings, the framers have provided ample scope to make adjustments and readjustments of fundamental rights by all in the realm of enjoyment without any prejudicial setting.

Taking penchant's of the constitutional framers, especially that of the social cohesion of Ambedkarism to have a universal brotherhood the legislature and judiciary have accommodated, a number of principles with reflective concessions that are necessary for the augmentation of the Indian polity as a social democracy, where in liberty, equality, and fraternity constitute as the prime principles of life. Hence, the above articles need to be enjoyed and realised for the benefit of the community as a whole but not of the self-

---

<sup>5</sup> D.J. De: Interpretation and Enforcement of Fundamental Rights, 2000, Eastern Law House,

<sup>6</sup> Laurence H. Tribe: The Curvature of the Constitutional Space: What Lawyers can Learn from Modern Physics, Harvard Law Review, 103, 1989, pp.3-5



centric aspects of individualism. The above articles are not a reward but are essential to achieve the set parameters without any political vicissitudes. They are sacrosanct and as well binding principles on the state to implement them without any deviations or based on the outcome of political vicissitudes.<sup>7</sup> The framers of the constitution through their sustained efforts have given us a bounty of freedom, equality and liberty to enjoy the rights that are enshrined in the above three major articles to orchestrate a 'social democracy' than a 'political democracy.'

#### **Have we missed the Bounty?**

The framers through these articles gave us a gigantic opportunity to develop the polity without much of struggle to achieve the philosophical canons of theory of social justice. However, even after sixty years of adoption of the monumental document, we are still at the crossroads to understand the philosophical, ideological pragmatism of Ambedkar. Is it not a paradox? In the contemporary era of economically globalised world, even today we are fighting to eradicate untouchability, inequality, differences on various socio, cultural, economic fronts. Are we prepared even now at least to accept our own misdemeanors and try to correct ourselves instead of attribute the failure to constitution many a times? Is there a day in the vicinity to stop this blame game?

On the name of creating a social democracy, the political parties instead of nurturing the ideals of constitution, compete with each other with schemes of populism for their survival, vote bank politics, and became accountable for disharmony in the society. The great son

'Dr Baba Saheb B.R. Ambedkar' while drafting the constitution itself had the forethought and cautioned us, especially on three things, which we must be careful and needs to avoid them.

Firstly, we should not resort to satyagraha, non-cooperation, or any other sort of short cut tricks, which will be part of the Grammar of Anarchy and it is better to abandon them. Secondly, Bhakti part of the Indian religious faith should not be extended to political domain. Such extension would lead to degradation of persons and politics. Finally, develop a social democracy than political democracy. If we do not adhere to these, the democracy, which we won, will be in peril.<sup>8</sup> Well, exactly we practice the opposite for every small issue, and try to magnify it to the maximum extent to divert the attention of the people from governance.

In the last six decades, we did everything to ignore the caution. A Political or social democracy needs to nurture on seeds of pragmatism. However, even though the British left us six and half decades ago, the ghost of divide and rule tactics is still making its chequer to blame some body for our own transgressions. Alas! we are in a situation, whether to ponder over ourselves to be proud or compliment of the achievements that we have made in several fields, or to feel sorry for the seeds of opportunism, linguistic chaos, non-cooperation, hurtals, bandhs, pessimistic tendencies, militancy, in security to vulnerable and disadvantaged groups, churn in politics with castesim, nepotism, and corrupt deviate tactics with fallacies of electoral promises deeply planted in our hearts. In the greed to power, we could not establish social

<sup>7</sup> NCRWC. 2001, Vol. II, 93

<sup>8</sup> Supra n5 at 978-80



democracy with full-blown fraternity of common compassion. Well, should we feel proud of the birth and work of Baba Saheb or rejoice ourselves in celebrating his birth anniversaries with fan fare for vote bank politics without strictly adhering to his philosophy of social democracy? Had we developed the polity on the ideals of Baba Saheb with due regard to the constitutional ethical values to nourish the constitution, we need not have amended it every now and then.

We are happy that the judiciary interpreted constitution with dynamics of liberalism in a number of cases and extended a number of rights under the concept of Life and Liberty. We are happy with sycophantic ideals of our leaders and feel, we are enjoying the freedoms that are guaranteed to us to live the way we like. The reality is, ask those who are stripped of these freedoms frequently, those who are under the grip of starvation, the fear of loosing a house, the fear of loosing a savings, the fear of loosing happiness, the fear of giving birth to a girl child, the fear of loosing a business of choice, the fear of burden of public charity,<sup>9</sup> the fear of religious, linguistic attacks, petty regional issues, so forth and so on, tells us with certainty, we lost some where, the basket of bounty of fundamental rights and constitutional contours for the sake of whom? Are we really enjoying the freedoms guaranteed in the constitution in letter and spirit without any fear or favour? Do we have the will to implement them in their true fluorescence? Will such a day come? Are we prepared to stop sycophancy and allow structured criticism? Well as long as we

are not able to rise to the occasion to understand the ethos of '**social democracy**,' we miss the forever bounty for fear or favour.

The above viewpoints may not be pleasant to many people and bitter to digest. However, this is the truth of independent India in the postmodern constitutional era, which cannot be dismissed out rate. Even today, the situation prevails in the country is archaic and has not metamorphosed much even after independence. Though we have a political democracy with adult franchise, we still consider that politics is a monopoly of few, and consider it as family business. We are today slaves of idealism of hero-worshiping with eventual dictatorship in a democracy. In reality, all institutions are fallen short to achieve the ideals of constitution one time or the other, and live on egocentric penchants to praise themselves for their tiny achievements, instead of regarding them as true pillars of democracy. Many a times, the pillars instead of providing light to guide the lives of people, proven themselves as a burden to the polity for the jettisoning political agendas. What shall we do, to achieve the ideals of the constitution and enjoy the fruits of it and to make dreams of Dr. Ambedkar a reality.

Firstly, we need to teach about Ambedkar's philosophy, the ideology behind the constitution, Social Justice to society to shun all the misdemeanors attached to the ideological leanings.

Secondly, we need to educate the society to stop the practice of bhakti cult in every sphere of life, especially in the political arena, and impart the significance and practice of the values of 'social democracy.'

Thirdly, to achieve the above, we need to bring in wholehearted reforms in

---

<sup>9</sup> B. Shiva Rao, The Framing of India's Constitution: Select Documents, 1968, IIPA, 100



every front, especially in education and politics. In education we need to stop teaching, the half backed knowledge of the country and need to teach the real cultural diversity that existed in India basing on the *Dharmic* Principles. The moment we talk of Dharma, we think of religious fundamentalism of Hinduism or upper caste domination. That is where we miss the bogie. The ancient Indian culture is a picturesque panoramic specter of knowledge, which advocates only the social democracy with responsibilities on all.<sup>10</sup> Being a microcosmic self-control order practicing or equipping the knowledge of *Dharma* is not wrong. Instead of enriching ourselves basing on the indigenous knowledge of ours, we play lame duck tactics and take sides by quoting the misdemeanors of certain section of selfish people's exploitations of old ages and attach them to the concept of *Dharma*. When the influence of the ancient literature has had its own authority on the sacred document of constitution through the constituent assembly, and other areas of Indian Law,<sup>11</sup> what is wrong in taking the diversified good rich culture of ours for our own betterment without jettisoning to petty political inklings of any kind?

Fourthly, from the days of drafting the constitution, we are not able to find out a solution to the issue of language. Being a cooperative federalist polity, we need to devise a national language in the country than official or

working languages. Language is the heart of democracy. We need to have a social cohesion to have a common language, whether it be Indian or foreign. As long as we adopt and follow fanatic tendencies towards language, we cannot bring a social unity among the various sections of the people of the country. If no Indian language is acceptable, at least follow the former rulers language 'English' as the national language. In the changing world scenario, many of the European states themselves are becoming pragmatic enough to adopt English than compare to their mother tongue. Definitely, if we could end the bedlam of language, many of the bizarre issues of India would automatically disappear.

Fifthly, as rightly observed by the NCRWC, there is need to establish internal democracy in the political parties functioning.<sup>12</sup> As of today, the party president or top bosses of a party decides all most matters in all parties without exception, there is only namesake organisational structure is there. Until and unless we establish democracy in the internal functioning of political parties, we cannot talk of social democracy. The selection and election of leaders by the nomination system by the party leadership brought in only 'Aaya Ram and Gaya Ram' leaders than committed political leaders to work for the ideals of constitution.

Sixthly, we feel that we have guaranteed freedoms under Art 19 and with the hope that the tree would bloom one day or the other to enjoy the seeds of it. However, if we look back into the annals of six decades of freedom, there are a number of vows to enjoy them fully

---

<sup>10</sup> For the significant contribution of Dharma see the authors forthcoming article India and Human Rights-Philosophical And Judicial Percepts: A Bird's Eye view, at the International Human Rights Law Journal, De Paul University, USA

<sup>11</sup> TSN Sastry: Significance of Comparative Law Method in Indian Legal System, La Letter du CFDC, Jan 2016, 3-5

---

<sup>12</sup> NCRWC: Review of Working of Political Parties Specially in Relation to Election and Reform Options, Vol II, Book I, 2001, 421-60



without any fear. Many a times, we receive threats because of language, residence of particular states, regionalism for petty politics, etc., which threatens the basic structure of the constitution itself.

Seventhly, though the Supreme Court reiterated the necessity of social democracy through the prism of basic structure doctrine through a number of cases after *kesavanda*,<sup>13</sup>we still crave for freedoms to enjoy freely the way we like, due to our own slipups of nepotism, negativist tendencies than to respect the liberties of individuals. This is because, we have missed completely the concept of duties that are casted on us to enjoy the rights and crave only for the realisation of rights without bothering about duties. As long as we do not consider all are equal morally, ethically, socially, culturally, economically, and politically, the legal guarantees have no meaning.

Last but not the least, instead of blaming the constitution and amending it at regular intervals that constitution is not a static document but of a living legend, we need to have a serious introspection to understand the basic tenets of constitution in its true spirit, as handed over by our constitutional framers. It is our duty to implement it in letter and spirit than bossing over it with our own whimsical understandings to survive in power by hook or crook. We need to develop a duty-based society as a polity of *Dharmic* traditions than on the positivist orientations of individualism. The sooner we predispose our misgivings and twisting interpretations to constitution, we can not only realize the ideals of Ambedkarism, but also tinsel

India in the eyes of the world, as a true egalitarian social democracy. Let every one of us take a pledge to think and act aloud to change the scenario to achieve the vision of Ambedkar, which alone is the real admiration to Dr. Ambedkar than paying lip services to the greatest son of the era.

---

<sup>13</sup> His Holiness Kesavananda Bharati Sripadagalavaru V state of Kerala and another 1973 (4) Sc 637

