



Constitutional Safeguards For Underprivileged Sections In India: A Vision Of Baba Saheb Dr. Bhim Rao Ambedkar For Social Change

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Introduction:

India got independence on 15th August, 1947 after centuries of subjugation of foreign rulers. After independence the people of India adopted a new constitution on 26th January, 1950. The Constitution of our country was drafted by the Constituent Assembly. The Constituent Assembly of India was elected by the members of provincial assemblies. The Constitution of India pledges for its citizens to secure Justice, social, economic and political. A Constitution means a document having a special legal sanctity which sets out the framework and principal functions of organs of government of a State and declares the principles governing the operation of those organs. Without the framework and principles any form of government can't function properly. The Constitution is the supreme law of land. All government organs are creations of the Constitution and derive their powers from the provisions of constitution. Further, all organs of the Government must work in consistence with the provisions of constitution. The constitution stands for a system of responsible government and rule of law. The constitution is based on the assumption that sovereignty belongs to the people of that country. The binding force behind the Constitution of India is the sovereign will of the people of our country. In India certain sections of the society have been denied justice from centuries by the ruling and privileged class of people on various grounds. After independence these underprivileged sections needed some constitutional safeguards so that they can also realize the feeling of freedom. The makers of Indian constitution were very much concerned about their worst conditions from centuries. The Chairman of Drafting Committee Baba Saheb Dr. Bhimrao Ambedkar had already struggled for justice for these sections of society before independence of India. After his elevation as Chairman of Drafting Committee on 29th August, 1947 he was in a position to ensure justice for the unprivileged sections of the society.

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Underprivileged Sections in India and their Position before Independence:

In India underprivileged sections of society include Scheduled Castes, Scheduled Tribes, Other Backward Classes, Women, Physically and Mentally challenged persons, Hilly area and

Slum dwellers residing in urban areas. The persons belonging to Schedule Castes, Scheduled Tribes, Other Backward Classes and Women were more victimized due to traditional approach of Indian society. The persons belonging to these groups have been isolated from centuries by the ruling and privileged class people. They have been denied the right to equal opportunity and respectful livelihood.

Scheduled Castes, Scheduled Tribes and Other Backward Classes:

The Caste System of India has been referred to as the steel frame work of Hinduism. The 'Chaturvarna' order existed in India from times immemorial. The caste system has been very deeply rooted in Indian minds. The gravity of caste system is pointed out by the Supreme Court in Ganpat Vs. Returning Officer, AIR, 1975 (420) "For a person who has grown up in Indian society, it is very difficult to get out of the coils of the caste system". In Indian society even conversion to other religions like Buddhism, Islam and Christianity your caste follow you like a shadow.

Deprivation is the consequence of socio-economic disparity due to the caste-system. The traditional Hindu society is compartmentalized into various caste-groups. It is a social institution that divides superior and inferior human beings in four Varnas. Later on, with the passage of considerable time Varnas order followed caste system. This system places the untouchables at the bottom of the caste-pyramid. It is a social institution with a system of legalized inequality where the allocation of roles and status is governed by its own principles. The caste of an individual determines the social, economic, political, and ritualistic structure of individuals in relation to each other.

The core of the caste system is the presence of hereditary groups in a hierarchy. It confines the individual in a hereditary occupation from father to the son and governed by the practice and established rules of acceptance or rejection of food or water from the members of the other castes. Caste-system in India has had its impact on all fields of life. The birth in a particular caste determines an individual's social status throughout his life and also his access to various resources.

The underprivileged people who have been described as Scheduled Castes and Scheduled Tribes in the constitution of India are low castes in the Hindu social order. They have been treated as caste-less, outcastes or untouchables and have been subjected to deprivation and discrimination from centuries.

Women and Deprivation:

Before independence the condition of women in India was in a deprived state. Primarily the society was male dominated and women were supposed to look after household responsibilities. They were not allowed to express their ideas and opinions in public. The practices of polygamy, parda, sati, child marriage and female infanticide were prevalence in the society.

Other Underprivileged and Deprived Sections:

Besides discrimination on caste basis some other sections of the society have been deprived from their common rights. These include physically and mentally challenged persons, hilly area people and Slum dwellers residing in urban areas. Their voices have been ignored and it affected development and progress of these people. After independence special provisions have been incorporated in the Constitution to protect the rights of these segregated groups.

Making of Constitution and Underprivileged Sections:

The 26th of January, 1950 was a 'Day of New Hopes' in the political history of India because the present Constitution of India was brought into force by the Constituent Assembly making India a new Independent, Sovereign and Democratic Republic which is ruled by the 'People'. It is a document having a legal sanctity that laid down new ideals and objectives of the new constitution and embarked upon the framework of all the organs at every level of the Government. Independence was not given in gift by the Britishers. Our freedom fighters have struggled for it for so many years. It was the result of freedom movement and sacrifices of the countrymen.

The famous quote of Baba Saheb Dr. B.R. Ambedkar, "Our is a battle; Not for wealth, nor for power, our battle is; for freedom; for reclamation of human personality" summarizes the significance and reason behind struggles fought for deprived sections of the society. It is true that modernization came into existence since the British Rule as traders in the form of East Indian Company in the country but with the main interest to exploit Indians in several ways such as.

The Indian Constitution contains some special provisions which have been specially provided to safeguard the rights of Scheduled Castes, Scheduled Tribes and Other Backward Classes. These safeguards are in the nature of protective legislation to secure them from discrimination and to ensure their educational, economic, social and political development. These constitutional safeguards also provide reservation benefits to all underprivileged sections. It was the first time in the history of India that untouchables were accorded equal status to other citizens in the constitution of independent India. With the aim to restore dignity and freedom in their life, the policy of reservations was introduced, offering them the advantage of education and jobs. The last 75 years of independence have witnessed a massive social mobility and transformation with the emergence of educated class among the deprived sections.

Before independence the right to vote was confined to a few people and that was also based on certain barriers such as caste, gender, color, qualifications and property. But after independence with the promulgation of Indian Constitution the elections in the country are held on the principle of Universal Adult Franchise. This principle confers right to vote irrespective of caste, race, gender and property. The Constitution of India laid down the foundations of modern India. Everyone is not the same and thus everyone has his own personality and opinions and with the right to vote every individual expresses his or her

opinion by choosing the candidate of their choice. Each vote matters and Pt. J.L. Nehru always believed that an ordinary citizen has the potential to bring a change in the country.

After the enforcement of the Constitution, the shift towards modernization was began with a pace in the country. India has a rich and diverse culture. It is distinct in languages, food, region, religion, etc. It was important to hold all the citizens together and preserve the country's unity, cultural values, and traditions with resilience. From the beginning of the Constitution, many principles were adopted for the welfare of the citizens. One of the foremost principles is 'Secularism'. All the religions including Hindu, Buddhism, Muslim, Sikh, Parsi, etc. are treated equally. In fact, the Right to freedom of Religion is one of the fundamental rights enshrined in the Constitution which is guaranteed to every citizen of the country. The country has no religion of its own.

Another important principle is 'Equality before the law'. As we know that social discrimination was done against untouchables and to the people who belonged from the weaker sections of the society. So, to remove this barrier of inequality, the concept of Equality before the law was recognized after the independence and it ensured that all opportunities are applied equally without any discrimination. Also, extra policies and strategies have been implemented to provide social justice to the unprivileged people belonging to the weaker sections.

Constitutional Safeguards for the welfare of Underprivileged Sections of Society:

Need for Protective Discrimination for Underprivileged Sections in India:

The Supreme Court in Marri Chandra Shekhar Rao Vs. Dean, G.S. Medical College on 2nd May, 1990 held that equality must be a living reality for the people. Those who are unequal in status and opportunity cannot be treated by identical standards.

The caste system is a deep-rooted social problem that dates back centuries ago. Even though the Constitution prohibits discrimination against these sections but apart from the legal position the caste system is still the order of the day and this is the sad undeniable truth. Lower castes have to serve the upper castes without having any say and grievance redressal mechanism. This inhumane and barbaric condition perpetuated for centuries, till "We the People" realized the malady impelling the legal mechanism to make laws, suggest amendments and make the lives of these people better and try to bring them to the same footing that all of us stand on.

Some key constitutional provisions which aim at positive discrimination are:

1. Article 17: Abolition of "Untouchability" and ban on its practice in any form a punishable offence.
2. Article 46: Promotion of Educational and Economic interests of the weaker sections of the society.
3. Article 16 and 335: Preferential treatment in matters of employment in public services.
4. Articles 330 and 332: Reservation of seats in the Lok Sabha and State Assemblies.

Two Constitutional Amendments have been incorporated into Article 16(4). The 77th Amendment to the Constitution has taken effect, allowing Scheduled Castes and Scheduled Tribes preference in promotions. As a result, Parliament has erased the premise that an appointment does not imply promotion, as defined by the Supreme Court in Indira Sawhney Case (1992), by amending the Constitution. The 81st constitutional amendment also brought changes in Article 16(4)(B), which states that, “Nothing in this article shall prevent the state from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause(4)”

Article 16(6) was introduced by the 103rd Constitutional Amendment Act, 2019, which states that, “No Government authority or any other person or authority shall prohibit the State from making any laws related to the reservations of economically weaker sections; the laws made for their reservation should not exceed ten percent.”

Article 15(3) of the Constitution allows the state to make special laws for women and children and Article 15(4) allows the state to make laws and provisions for the socially and economically backward classes for their improvement. Article 15(5) enables the state to make reservations in educational institutions.

Further, Articles 15 and 16 deal with reservations for these economically and socially backward classes for their upliftment.

The Supreme Court in All India Anna Dravida Munnetra VS Union of India (2020) refused to accept a series of petitions demanding the implementation of a 50% reservation for “Other Backward Classes (OBCs)” in state-funded seats in the all-India quota for UG and PG medical courses in Tamil Nadu, stating that “reservation is not a fundamental right.” The Apex Court has held multiple times this year in a series of decisions that reservation is not a fundamental right.

Hence, the right to receive reservation in government offices, educational institutions and various other organizations is at the discretion of the law-making bodies and not a permanent right that people from the socially and economically backward sections of the society can demand.

Important Case Laws related to Protective Discrimination:

In Mohan Kumar Singhania VS Union of India (1991), the Supreme Court explained that Article 16(4) is an enabling article that gives the state freedom to make any provision or reservation for any backward class of citizens that is not adequately represented in the state’s service. The state government takes the total population of the backward class and their representation in state services, does the appropriate calculations, and then makes the reservation and provides the percentage of reservation for the posts, which must be carefully adhered to.

In Triloki Nath Vs. State of J&K (11) Shah(1973), the bench stated that ‘a test primarily based on caste, community, race, religion, sex, descent, place of birth, or residency cannot be

used to determine whether a section represents a class for the purposes of Article 16 (4) since it would directly violate the Constitution.'

In *A. Peeriakaruppan etc. VS State of Tamil Nadu (1970)*, the Supreme Court stated that 'A caste has traditionally been considered a social group. If an entire caste or community is socially, economically, or educationally backward at any given period, that caste or group is considered a backward class. This is because they form a class, not because they are members of that caste or group.'

Major Principles enshrined in Constitution for the Welfare of Underprivileged Persons:

1. Adoption of the Principle of Universal Adult Suffrage: Article 326 defines a universal adult franchise as the basis for elections to all levels of the elected government. It refers that all citizens who are 18 years and above irrespective of their caste or education, religion, colour, race and economic conditions are free to vote.

2. Directive Principles of State Policy: The Directive Principles of State Policy are contained from Article 36 to 51 in Part IV of the Constitution of India. These are aimed at establishing Social and Economic democracy in our country. According to Dr. B.R. Ambedkar these principles are, 'Novel Features' of Constitution. The source of Directive Principles is Irish Constitution.

3. Rule of Law: In Indian Political System is based on the doctrine of 'Rule of Law'. The term means that no person is above law. The doctrine of 'Rule of Law' has been adopted from the democratic traditions of England. This doctrine establishes supremacy of law. According to Dicey's concept of 'Rule of Law' the rule of law is founded on three pillars, i.e. Supremacy of Law, Equality before Law and Predominance of Legal Spirit.

4. Establishment of the Minorities Educational Institutions: The Constitution of India secures under Article 30 the rights of different minorities by allowing them to set up and govern their educational institutes. Further, Article 29 provides that every citizen residing in India and having distinct script, language, and culture has a right to conserve the same.

5. Abolition of the Zamindari System: Abolition of Zamindari System in India was the most revolutionary agrarian reform in India after Independence. Dr. B.R. Ambedkar had already struggled in 1937 to abolish Khoti System and to give status of land owners to the tenants. It was the result of his efforts that ultimately Khoti System was abolished in Bombay province. The issue of Zamindari System and private land holdings was raised in Parliament by Dr. Ambedkar in September, 1954 while speaking on the report of National Commission for Scheduled Castes and Scheduled Tribes. He strongly advocated the need to put a ceiling on

the land a person can own and allot the excess land to the Dalits. Ultimately Zamindari System was abolished in 1956 in many provinces by the acts of State Legislatures.

6. Reservation Policies for the benefits of the Economically Backward Classes: Seats have been reserved in the legislatures for Scheduled Castes and Scheduled Tribes. The Constitution authorizes the state to make special provisions for the advancement of socially and educationally backward classes under Article 15(4) and for women and children under Article 15(3). The Constitution of India further provides for reservation in public employments under Article 16(4) and 16(4A).

7. Special Protective Policies related to Women and Children:

(i) The Preamble of our Constitution uses the word, 'We' for all citizens making no difference between men and women.

(ii) Fundamental rights and Women:

Article 14 guarantees Equality before law for all men women.

Article 15(1) prohibits discrimination against any citizen on the grounds of religion, race, caste, sex, or place of birth.

Article 15(3) authorizes the state make any special provisions in favour of women and children.

Article 16(3) guarantees equal opportunity for women in matters of public employment.

(iii) Directive Principles of State Policy and Women:

Article 39-A directs the state to frame its policy in such a way that men and women get adequate means of livelihood.

Article 42 provides that state will make provide just and humane conditions of work and also work for maternity relief for women.

Article 44 provides that state shall endeavor to secure for its citizens a uniform civil code. This article is also aimed at Gender Justice.

Article 243 D clause (3) and Article 243 T clause (3) ensure participation of women in Panchayati Raj and Municipal institutions.

Article 51-A clause (e) declares that every citizen will renounce the practices derogatory to the dignity of women.

Special Laws for Women have been enacted to protect the women against exploitation like;
The immoral Traffic (Prevention) Act, 1956

The Dowry Prohibition Act, 1961 (Amended in 1986)

The Commission of Sati (Prevention) Act, s1987

The Protection of Women from Domestic Violence, 2005

8. Provision of different Constitutional Institutions for Underprivileged Sections: The Government of India has taken many steps after independence under Constitution to strengthen the different unprivileged sections of society. The different ministries under Central and State Governments are working to for the welfare of underprivileged sections.

The following constitutional Commissions have also been constituted to ensure protections of rights of these sections:

- (i) National Commission for Scheduled Castes
- (ii) National Commission for Scheduled Tribes
- (iii) National Commission for Backward Classes
- (iv) National Commission for Safai Karamcharis
- (v) National Commission for Women
- (vi) National Commission for Protection of Child Rights
- (vii) National Commission for Women

Role of Baba Saheb Dr. Bhimrao Ambedkar to protect interests of Deprived Sections:

Baba Saheb was the narrator of progressive state he has developed nationalistic, secular attitude through his sacred soul. His views about caste system, class, practice of untouchability and discrimination on the basis of race, religion, color, gender, and geographical location are always clear that any country or state should not be divided on the basis of religion or functional way. Such portions are absolutely threat for development of the country, in this regard he shared many of his experiences before the Indian society and parliament, especially he proposed for secular state. As a result of his thought India adopted secularism in constitution. He framed many policies for the planning commission towards empowerment of deprived sections, Rights for SC/ST and Women were the prime steps taken for welfare of these sections was the synchronized thought of Baba Saheb for empowerment of landless communities and women. He had great social concern and developmental attitude. As a result of his thought we are going to become super power in next few decades. His reforms came into existence by developing various social policies. Implementation of policies is the important responsibility of the govt. Social reformer and social worker has greater responsibility in the process of need assessment of local communities and encouraging the deprived sections to take optimum use of them. The reformative work is broader than most disciplines with regard to the range and types of problems addressed with the settings in which the work takes place, the levels of practice, interventions used, and populations served. Social reformer may be engaged in a variety of occupations ranging from hospitals, schools, clinics, police departments, and public agencies, court systems to private practices or businesses. The practice of reformation requires knowledge of human development and behavior, of social, economic and cultural institutions, and of the interaction of all these factors.

National policy on Women, Education, Health, Schedule caste, Schedule Tribe and prevention of Atrocities Act and reservation policy are the greater contribution of Baba Saheb for the welfare of the deprived sections. Similarly reformatory work providing both institutional and non-institutional services with the intuition of empowerment of deprived sections.

The rise of deprived sections in the field of education, health, public service, economic independence and dignified social life are greatest social contribution of Baba Saheb. His concept of social justice has helped and strengthened the weaker sections with the legal, economic, and political support. Further he adds that education; economic independence and political power are the master keys of development of down thrown, weaker sections and deprived sections of the nation.

Conclusion:

The inclusion of constitutional safeguards for underprivileged sections of society was a dream of Baba Saheb Dr. Ambedkar. Baba Saheb Dr. Ambedkar had already waged a war against the rigidity of caste system in Hinduism before independence. He was struggling simultaneously against radical forces of Hinduism on one front and Britishers on other side for the rights of deprived sections. He focused on religious, gender and caste inequalities in his representation to the Southborough Committee which was in the process of preparing Government of India Act, 1919. His opposition to Caste System led to many ideological differences between Indian National Congress and Baba Saheb. The main differences were over a proposal for separate representation, which Ambedkar believed was the only solution to ensure social justice to Scheduled Castes. Dr. Ambedkar believed that the Constitution should be used as a tool for social reformation and that it would help in equalizing the gap between different classes. According to him social justice is essential for social solidarity and national integration in Indian socio-political system

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