Dr. B.R. Ambedkar’s Defence of Democratic Provisions in the Constituent Assembly Debates

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Abstract: Ambedkar struggled relentlessly to defend many democratic provisions in the Constituent Assembly debates. Among others, he defended the continuity of certain progressive provisions in the 1935 Act, fought for minority rights, detailed administrative procedures, favoured the flexible process of constitutional amendments, discarded the proposed panchayat model of constitution, and minutely scrutinised the draft constitution, securing all citizens justice, liberty, equality and fraternity. The paper argues that the cynics who censured Ambedkar’s sources, indeed, tried to deflate the constitutional morality with a view to destroy the democratic constitutional structure and it subscribes to the view that there would have been an immense cessation of inequalities in Indian society, if his proposed provisions were incorporated into the Constitution.

Keywords: Ambedkar, Constituent, Assembly, Constitutional, Morality, Depressed, Class, Minorities, Preamble, Social, Justice, Democracy.

Introduction

Ambedkar was not merely an abstract theorist but even more a practical statesman and constitutional craftsman who understood deeply the meaning, nature and the implications of social justice through the Constitutional paradigm. His prime objective of the constitutionalism was to usher in a new social order where there will be justice – political, social and economic. His constitutionalism upholds the ideas of justice, liberty, equality and fraternity as guidelines for the progress of the nation. He held the view that the virtues of social justice suffer from the vice of artificiality of social inequality. Therefore, Ambedkar “aimed at removing all inequalities and affording equal opportunity to all citizens in social affairs as well as economic activities” (Gajendragatkar 1965: 79). Ambedkar considered social justice as an end and the judicial justice as a significant means. Indeed, what he thought was “the legislative and executive operations are human engineering, and together the three branches of government have to work in comity” (Iyer 1984: 169). For that reason, Ambedkar fought persistently in the Constituent Assembly and brought about significant provisions of justice that are expressed in Part III, Part IV, Part XVI and other concerned sections of the Constitution. The prime objective of this paper is to realise his concern for social justice and his efforts in translating his views into specific provisions within the Constitution in ensuring a just society and how did he try to resolve the conflict between a traditional Indian society and a modern secular constitution that is expected to govern the former.

The Constituent Assembly

The constitution of Independent India opened new vistas for restructuring the rules of social justice. Ambedkar, as a man of conscience and a man with deep and abiding faith in the constitutionalism contributed in bringing social revolution. The Constituent Assembly was elected by the representatives of the provincial assemblies. The Assembly passed the Constitution on 29th August 1947. The Assembly passed the Constitution on 26th November 1949. The Constitution came into effect on 26th January 1950. The Assembly “laid down the framework defining fundamental political principles, establishing the structure, procedures, powers and duties, of the government and spelt out the fundamental rights, directive principles and duties of citizens; the dominant figures who shaped the Constitution were regarded as the founding fathers. The collective labour of the Assembly resulted in that remarkable product, the Constitution” (Iyer 1990: 29). Ambedkar, as the Chairman of the Drafting Committee, Ambedkar as the Chairman on 29th August 1947. The Assembly passed the Constitution on 26th November 1949. The Constitution came into effect on 26th January 1950. The Assembly “laid down the framework defining fundamental political principles, establishing the structure, procedures, powers and duties, of the government and spelt out the fundamental rights, directive principles and duties of citizens; the dominant figures who shaped the Constitution were regarded as the founding fathers. The collective labour of the Assembly resulted in that remarkable product, the Constitution” (Iyer 1990: 29). Ambedkar, as the Chairman of the Drafting Committee contributed heavily in making the Constitution that declares “the Union of India to be a sovereign, socialist, secular, democratic republic, assuring its citizens of justice, equality, and liberty and to promote among them all fraternity.”

Necessity of Constitutional Means

Initially, Ambedkar was against the proposals of a Constituent Assembly. He regarded it as an unnecessary and more dangerous than profitable
project (Ambedkar 1979: 365). But, the Indian political scene changed rapidly and the transfer of power, the formation of an Interim Government and a Constituent Assembly became certain. In the changed context, Ambedkar was elected to the Assembly and subsequently was made the Chairman of the Drafting Committee. He presided over all the meetings of the Committee, minutely scrutinised the draft constitution, securing all citizens justice, liberty, equality and fraternity. He drafted various democratic principles, defended them in the Assembly, debated and brought some important provisions of social justice into the Constitution. He always “kept in mind the interests of the depressed classes while participating in the process of drafting the Constitution. Indeed, he safeguarded the interests of the depressed classes” (CAD, vol. IX: 973-74).

Ambedkar secured for the depressed classes important provisions within the Constitution. Many scholars including his colleagues in the Assembly recognised his contributions. He felt that the Constitution of India was the best the country could have given unto itself (Singhvi 1999: 12). His deep regard for a democratic constitution, his legal experience, and his acquaintance with the constitutions of various countries enormously paid in framing the Constitution. In this connection, Syamanandan Sahay stated: “The achievement of independence would go to the credit of Mahatmaji, and its codification to one of Mahatmaji’s worst critics, viz., the great architect of our great constitution Dr. Ambedkar” (CAD, vol. XI: 788). In the similar way, Alladi Krishnaswami Ayyar held: “I would be failing in my duty if I do not express my high appreciation of the skill and ability with which my friend, the Honourable Dr. Ambedkar, has piloted this constitution and his untiring work as the Chairman of the Drafting Committee” (CAD, vol. XI: 850). Further, the Columbia University “hailed him as one of India’s leading citizens – a great social reformer and a valiant upholder of human rights” (Borale 1989: 110) for exceptional contribution in making the Constitution.

Ambedkar, however, was not fully responsible for the entire document, and “while drafting the Constitution he was made to compromise at every stage and go against his own cherished principles.” Every time, the issues of the Depressed Classes discussed in the Constituent Assembly, “his heart would flow out for them in full measure. He would go to any length to rehabilitate them and get them maximum political advantage and protection. Ambedkar had his own views on the need for removing economic inequality. He took the position that it was necessary to plan the economic life of the people on such lines that it would lead to the maximisation of productivity with door open for private enterprise, and also provide for the equitable distribution of wealth, because there was a meaningful linkage between individual liberty and the nature and substance of economic structure of society” (Rajasekhariah 1971: 294).

According to Ambedkar, the old time constitutional lawyers believed that the “scope and function of constitutional law was to prescribe the shape and form of the political structure of society” but they never realised that it was “equally essential to prescribe the shape and form of the economic structure of society.” Ambedkar very modestly acknowledged the gesture for his role in constitution making. He said that he was “grateful to the Constituent Assembly and the Drafting Committee for reposing in him so much trust and confidence and to have chosen him as their instrument and given him the opportunity of serving the country” (CAD, vol. IX: 973-74).

**Adverse Criticism and Constructive Defence**

Along with appreciations for Ambedkar’s painstaking drafting work, a lot of adverse criticism mounted on him. The critics firmly held: “There is nothing new in the draft constitution, about half of it has been copied from the Government of India Act 1935, and the rest of it has been borrowed from the constitutions of other countries” (Cited in Chanchreek 1991: 456). Hence, there cannot be a question of creativity. Ambedkar’s critical reflection to their question of novelty is that the Draft Constitution has adopted certain provisions of significance from the 1935 Act and he held that borrowing does not amount to plagiarism. Indeed, basic ideals of constitution have been in public domain and never involved in patent regimes. In fact, the cynics who believed that the Indian Constitution was “a conglomeration of undigested concepts borrowed from different constitutions attempt to deflate it with a view to destroy it” (Rao 1974: 17).

Critics alleged that the Draft Constitution deserted the ideals of ancient Indian polity. Rather than tilting towards modern western ideas, the Constitution have written on the basis of Hindu model of state and traditional mode of panchayat governments. Some extremely reactionary critics opposed the idea of provincial or central governments and demanded for
numerous panchayat governments. Ambedkar patiently explained to those critics in the Assembly, who were fascinated by Metcalfe’s false perception that villages are “little republics having nearly everything that they want within themselves, and almost independent of any foreign relations have lasted where nothing else lasts” (Cited in Chanchreek 1991: 458-59). In contrast, Ambedkar firmly held that village communities never involved actively in the significant states of affairs that determined the destiny of the country. He dismissed the grand claim that village communities survived longer than any other entities. The argument that villages have merely survived during the odd course of history has no substantial value. He did not attribute any value for their survival on a low and selfish plane that lead to the ruination of India. Subsequently, Ambedkar declared that the village is “nothing but a sink of localism, a den of ignorance, narrow-mindedness and communalism” (CAD, vol. VII: 39). In other words, “it was a republic, it was the republic of touchables by the touchables and for the touchables” (Ambedkar 1989a: 26). For that reason, he convinced the Committee to discard the village and adopt the individual as the unit of governance.

Another criticism was on his proposed safeguards for the deprived classes, especially for the minorities. Regarding this question, he explained in simple terms: “The Draft Constitution is also criticised because of the safeguards it provides for the minorities. In this, the Drafting Committee has no responsibility. Speaking for myself, I have no doubt that the Constituent Assembly has done wisely in providing such safeguards for minorities as it has done. In this country both the minorities and the majorities have followed a wrong path. It is wrong for the majority to deny the existence of minorities. It is equally wrong for the minorities to perpetuate themselves. A solution must be found which will serve a double purpose. It must recognize the existence of the minorities to start with. It must also be such that it will enable majorities and minorities to merge someday into one. The solution proposed by the Constituent Assembly is to be welcomed because it is a solution which serves this twofold purpose. To the diehards, who have developed a kind of fanaticism against minority protection, I would like to say two things. One is that minorities are an explosive force which, if it erupts, can blow up the whole fabric of the State” (cited in Chanchreek 1991: 459-460). Ambedkar brought two arguments in support of the minority question; one testifies the facts related to European history and the other refers to the consent of minorities to be ruled by the majority. Ambedkar explained: “In the history of negotiations for preventing the partition of Ireland, Redmond said to Carson ‘Ask for any safeguard you like for the Protestant minority but let us have a United Ireland.’ Carson’s reply was ‘damn your safeguards, we don’t want to be ruled by you.’ No minority in India has taken this stand. They loyally accepted the rule of the majority which is basically a communal majority and not a political majority. It is for the majority to realise its duty not to discriminate against minorities. Whether the minorities will continue or will vanish must depend upon this habit of the majority. The moment the majority loses the habit of discriminating against the minority, the minorities can have no ground to exist. They will vanish” (Cited in Chanchreek 1991: 459-460). Thus, he defended his views of just provisions for the minorities by declaring the criticism of the reactionaries partial and unsound.

Ambedkar, further debated and defended certain provisions that were procured from the Government of India Act, 1935 and the flexible procedures for constitutional amendments. The Constitution of India incorporated some significant features of the 1935 Act; the federal form, provincial autonomy, separation of legislative powers, and bicameral legislature. Besides, special provisions for the minorities of the Act were expanded in the new constitution. Article 368 provides for amendment of the Constitution. Ambedkar observed that partisan was not an intension of the Assembly and its aim was to procure a workable constitution. Ambedkar declared that the Assembly “has no eye on getting through a particular measure. The future Parliament...members will be acting as partisans...[when they seek] to carry amendments to the Constitution to facilitate the passing of party measures which they have failed to get through Parliament by reason of some Articles of the Constitution, which has acted as an obstacle in their way. Parliament will have an axe to grind while the Constituent Assembly has none” (Cited in Chanchreek 1991: 67-68). Moreover, Ambedkar never believed in perfect constitutions and he witnessed the improvements in the Draft Constitution based on the Assembly’s amendments. The Provisions of Constitutional amendment are simple and flexible and with required majority the Parliament can amend the Constitution. In this way, “one may amend the Constitution or bend a bit in interpretation but not break it to suit one’s pleasure. One may make laws under the Constitution, challenge them as violative of the Constitution but cannot give oneself the authority to defy them as one deems fit. Such is the categorical imperative of the constitutional order” (Iyer 1991: 1). However, “our constitution cannot be changed in a fundamental sense, at least some aspects can be amended. An ideal of egalitarian social order requires a vision of the future to interpret the constitution with creativity” (Desai 1998: 89).
In order to sustain the democratic political structure in a traditional society, where the democratic way of life is unknown, Ambedkar detailed all necessary procedures to avoid misuse by the powerful thereby making the document biggest in the world. In fact, administrative details are often left to legislative discretion, but in Indian context, Ambedkar suspected the chances of manipulating the Constitution based on the assumption that constitutional morality has not yet effusively instilled in India mind. Ambedkar advised: “While everybody recognises the necessity of the diffusion of constitutional morality for the peaceful working of a democratic constitution, there are two things interconnected with it which are not, unfortunately, generally recognised. One is that the form of administration has a close connection with the form of the Constitution. The form of administration must be appropriate to and in the same sense as the form of the Constitution. The other is that it is perfectly possible to pervert the Constitution, without changing its form, by merely changing the form of the administration and to make it inconsistent and opposed to the spirit of the Constitution. It follows that it is only where people are saturated with constitutional morality...that one can take the risk of omitting from the Constitution details of administration and leaving it for the legislature to prescribe them” (Cited in Chanchreek 1991: 457-458). Therefore, Ambedkar made “the diffusion of constitutional morality” an important problematic since it “is not a natural sentiment.” For him, “one should cultivate the constitutional morality” since “democracy is only a topdressing on an Indian soil, which is essentially undemocratic” (CAD, vol.VII: 38). Consequently, Ambedkar reminded that it is better not to rely on the legislature for prescribing forms of administration.

Conclusion

Ambedkar relentlessly struggled to defend many democratic provisions in the Constituent Assembly debates. He presided over all the meetings of the Committee, minutely scrutinised the draft constitution, brought many principal democratic provisions, securing all citizens justice, liberty, equality and fraternity. He debated and defended the continuity of certain progressive provisions from the 1935 Act; convinced the Committee to discard the panchayat model and adopt the individual as the unit of governance; supported the minority rights, argued for the flexible amending process of the constitution keeping future social dynamics in mind; and detailed the administrative functions that prevent misuse by the manipulators. Indeed, the adverse criticism mounted on him by the cynics was an attempt to deflate the constitutional morality with a view to destroy the democratic constitutional structure. Disappointingly, many of Ambedkar’s just proposals were not adopted into the Constitution. There would have been an immense cessation of inequalities in Indian society, if his intended provisions were incorporated into Indian Constitution that aims at a new egalitarian social order.

References


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References