

Dr. Ambedkar's Constitution: Time for Review

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ABSTRACT

Bhimrao Ramji Ambedkar (14 April 1891 – 6 December 1956) was an Indian jurist, economist, social reformer and political leader who headed the committee drafting the Constitution of India from the Constituent Assembly debates, served as Law and Justice minister in the first cabinet of Jawaharlal Nehru, and inspired the Dalit Buddhist movement after renouncing Hinduism.

Ambedkar graduated from Elphinstone College, University of Bombay, and studied economics at Columbia University and the London School of Economics, receiving doctorates in 1927 and 1923 respectively and was among a handful of Indian students to have done so at either institution in the 1920s. He also trained in the law at Gray's Inn, London. In his early career, he was an economist, professor, and lawyer. His later life was marked by his political activities; he became involved in campaigning and negotiations for India's independence, publishing journals, advocating political rights and social freedom for Dalits, and contributing significantly to the establishment of the state of India. In 1956, he converted to Buddhism, initiating mass conversions of Dalits.

In 1990, the Bharat Ratna, India's highest civilian award, was posthumously conferred on Ambedkar. The salutation Jai Bhim (lit. "Hail Bhim") used by followers honours him. He is also referred to by the honorific Babasaheb.

KEYWORDS: *Ambedkar, constitution, assembly, Bharat Ratna, babasaheb, advocating, lawyer*

INTRODUCTION

The Constitution of India (IAST: Bhāratīya Saṃvidhāna) is the supreme law of India. The document lays down the framework that demarcates fundamental political code, structure, procedures, powers, and duties of government institutions and sets out fundamental rights, directive principles, and the duties of citizens. It is the longest written national constitution in the world. It imparts constitutional

supremacy (not parliamentary supremacy, since it was created by a constituent assembly rather than Parliament) and was adopted by its people with a declaration in its preamble. [8] Parliament cannot override the constitution. It was adopted by the Constituent Assembly of India on 26 November 1949 and became effective on 26 January 1950. The constitution replaced the Government of India Act 1935 as the country's fundamental governing document, and the Dominion of India became the Republic of India. To ensure constitutional autochthony, its framers repealed prior acts of the British parliament in Article 395. [1,2] India celebrates its constitution on 26 January as Republic Day. The constitution declares India a sovereign, socialist, secular, and democratic republic, assures its citizens justice, equality, and liberty, and endeavours to promote fraternity. The original 1950 constitution is preserved in a helium-filled case at the Parliament House in New Delhi. The words "secular" and "socialist" were added to the preamble by 42nd amendment act in 1976 during the Emergency.

Having studied the constitutions of about 60 countries, Ambedkar was considered a wise constitutional expert. Ambedkar is recognised as the "Father of the Constitution of India". In the constitution assembly, a member of the drafting committee, T. T. Krishnamachari said:

Mr. President, Sir, I am one of those in the House who have listened to Dr. Ambedkar very carefully. I am aware of the amount of work and enthusiasm that he has brought to bear on the work of drafting this Constitution. At the same time, I do realise that that amount of attention that was necessary for the purpose of drafting a constitution so important to us at this moment has not been given to it by the Drafting Committee. The House is perhaps aware that of the seven members nominated by you, one had resigned from the House and was replaced. One died and was not replaced. One was away in America and his place was not filled up and another person was engaged in State affairs, and there was a void to that extent. One

or two people were far away from Delhi and perhaps reasons of health did not permit them to attend. So it happened ultimately that the burden of drafting this constitution fell on Dr. Ambedkar and I have no doubt that we are grateful to him for having achieved this task in a manner which is undoubtedly commendable.[3,4]

Timeline of formation of the Constitution of India

- 6 December 1946: Formation of the Constitution Assembly (in accordance with French practice).
- 9 December 1946: The first meeting was held in the constitution hall (now the Central Hall of Parliament House). The 1st person to address was J. B. Kripalani, Sachchidananda Sinha became temporary president. (Demanding a separate state, the Muslim League boycotted the meeting.)
- 11 December 1946: The Assembly appointed Rajendra Prasad as its president, H. C. Mukherjee as its vice-chairman and B. N. Rau as constitutional legal adviser. (There were initially 389 members in total, which declined to 299 after partition. Out of the 389 members, 292 were from government provinces, four from chief commissioner provinces and 93 from princely states.)
- 13 December 1946: An "Objective Resolution" was presented by Jawaharlal Nehru, laying down the underlying principles of the constitution. This later became the Preamble of the Constitution.
- 22 January 1947: Objective resolution unanimously adopted.
- 22 July 1947: National flag adopted.
- 15 August 1947: Achieved independence. India split into the Dominion of India and the Dominion of Pakistan.[5,6]
- 29 August 1947: Drafting Committee appointed with B. R. Ambedkar as its Chairman. The other six members of committee were Munshi, Muhammed Sadulla, Alladi Krishnaswamy Iyer, N. Gopalaswami Ayyangar, Khaitan and Mitter.
- 16 July 1948: Along with Harendra Coomar Mookerjee, V. T. Krishnamachari was also elected as second vice-president of Constituent Assembly.
- 26 November 1949: The Constitution of India was passed and adopted by the assembly.

- 24 January 1950: Last meeting of Constituent Assembly. The Constitution was signed and accepted (with 395 Articles, 8 Schedules, and 22 Parts).
- 26 January 1950: The Constitution came into force. (The process took 2 years, 11 months and 18 days—at a total expenditure of ₹6.4 million to finish.)
- G. V. Mavlankar was the first Speaker of the Lok Sabha (the lower house of Parliament) after India turned into a republic.[7]

DISCUSSION

The Indian constitution is the world's longest for a sovereign nation. At its enactment, it had 395 articles in 22 parts and 8 schedules. At about 145,000 words, it is the second-longest active constitution—after the Constitution of Alabama—in the world.

The constitution has a preamble and 470 articles, which are grouped into 25 parts. With 12 schedules and five appendices, it has been amended 104 times;

The constitution's articles are grouped into the following parts:

- Preamble, with the words "socialist", "secular" and 'integrity' added in 1976 by the 42nd amendment
- Part I– States and union territories – Articles 1 to 4
- Part II– Citizenship – Articles 5 to 11
- Part III – Fundamental Rights – Articles 12 to 35
- Part IV– Directive Principles of State Policy – Articles 36 to 51
- Part IVA – Fundamental Duties – Article 51A
- Part V– The Union – Articles 52 to 151
- Part VI – The States – Articles 152 to 237
- Part VII– States in the B part of the first schedule (repealed) – Article 238
- Part VIII^l – Union territories – Articles 239 to 242
- Part IX– Panchayats – Articles 243 to 243(O)
- Part IXA– Municipalities – Articles 243(P) to 243(ZG)
- Part IXB – Co-operative societies^l – Articles 243(ZH) to 243(ZT)

- Part X – Scheduled and tribal areas – Articles 244 to 244A
- Part XI – Relations between the union and the state– Articles 245 to 263
- Part XII – Finance, property, contracts and suits – Articles 264 to 300A
- Part XIII – Trade and commerce within India – Articles 301 to 307
- Part XIV – Services under the union and states – Articles 308 to 323
- Part XIVA – Tribunals – Articles 323A to 323B
- Part XV – Elections – Articles 324 to 329A
- Part XVI – Special provisions relating to certain classes – Articles 330 to 342
- Part XVII – Languages – Articles 343 to 351
- Part XVIII – Emergency provisions – Articles 352 to 360
- Part XIX – Miscellaneous – Articles 361 to 367
- Part XX – Amending the constitution – Articles 368
- Part XXI – Temporary, transitional and special provisions – Articles 369 to 392
- Part XXII – Short title, date of commencement, authoritative text in Hindi and repeals – Articles 393 to 395

Schedules

Schedules are lists in the constitution which categorise and tabulate bureaucratic activity and government policy.[10]

Schedule	Article(s)	Description
First	1 and 4	Lists India's states and territories, changes in their borders and the laws used to make that change.
Second	59(3), 65(3), 75(6), 97, 125, 148(3), 158(3), 164(5), 186 and 221	Lists the salaries of public officials, judges, and the comptroller and auditor general.
Third	75(4), 99, 124(6), 148(2), 164(3), 188 and 219	Forms of oaths – Lists the oaths of office for elected officials and judges
Fourth	4(1) and 80(2)	Details the allocation of seats in the Rajya Sabha (upper house of Parliament) by state or union territory.
Fifth	244(1)	Provides for the administration and control of Scheduled Areas ^[e] and Scheduled Tribes (areas and tribes requiring special protection).
Sixth	244(2) and 275(1)	Provisions made for the administration of tribal areas in Assam, Meghalaya, Tripura, and Mizoram.
Seventh	246	Central government, state, and concurrent lists of responsibilities
Eighth	344(1) and 351	Official languages
Ninth	31-B	Validation of certain acts and regulations.
Tenth	102(2) and 191(2)	Anti-defection provisions for members of Parliament and state legislatures.
Eleventh	243-G	Panchayat Raj (rural local government)
Twelfth	243-W	Municipalities (urban local government)

Appendices

- Appendix I – The Constitution (Application to Jammu and Kashmir) Order, 1954
- Appendix II – Re-statement, referring to the constitution's present text, of exceptions and modifications applicable to the state of Jammu and Kashmir
- Appendix III – Extracts from the Constitution (Forty-fourth Amendment) Act, 1978
- Appendix IV – The Constitution (Eighty-sixth Amendment) Act, 2002
- Appendix V – The Constitution (Eighty-eighth Amendment) Act, 2003

RESULTS

The executive, legislative, and judicial branches of government receive their power from the constitution and are bound by it. With the aid of its constitution, India is governed by a parliamentary system of government with the executive directly accountable to the legislature.

- Under Articles 52 and 53: the president of India is head of the executive branch
- Under Article 60: the duty of preserving, protecting, and defending the constitution and the law.
- Under Article 74: the prime minister is the head of the Council of Ministers, which aids and advises the president in the performance of their constitutional duties.
- Under Article 75(3): the Council of Ministers is answerable to the lower house.[11]

The constitution is considered federal in nature, and unitary in spirit. It has features of a federation, including a codified, supreme constitution; a three-tier governmental structure (central, state and local); division of powers; bicameralism; and an independent judiciary. It also possesses unitary features such as a single constitution, single citizenship, an integrated judiciary, a flexible constitution, a strong central government, appointment of state governors by the central government, All India Services (the IAS, IFS and IPS), and emergency provisions. This unique combination makes it quasi-federal in form

Each state and union territory has its own government. Analogous to the president and prime minister, each has a governor or (in union territories) a lieutenant governor and a chief minister. Article 356 permits the president to dismiss a state government and assume direct authority if a situation arises in which state government cannot be conducted in accordance with constitution. This power, known as president's rule, was abused as state governments came to be dismissed on flimsy grounds for political reasons. After the *S. R. Bommai v. Union of India* decision, such a course of action is more difficult since the courts have asserted their right of review. Article 368 dictates the procedure for constitutional amendments. Amendments are additions, variations or repeal of any part of the constitution by Parliament. An amendment bill must be passed by each house of Parliament by a two-thirds majority of its total

membership when at least two-thirds are present and vote. Certain amendments pertaining to the constitution's federal nature must also be ratified by a majority of state legislatures.[12]

Unlike ordinary bills in accordance with Article 245 (except for money bills), there is no provision for a joint session of the Lok Sabha and Rajya Sabha to pass a constitutional amendment. During a parliamentary recess, the president cannot promulgate ordinances under his legislative powers under Article 123, Chapter III.

Despite the supermajority requirement for amendments to pass, the Indian constitution is the world's most frequently-amended national governing document. The constitution is so specific in spelling out government powers that many amendments address issues dealt with by statute in other democracies.

In 2000, the Justice Manepalli Narayana Rao Venkatachaliah Commission was formed to examine a constitutional update. The commission submitted its report on 31 March 2002. However, the recommendations of this report have not been accepted by the consecutive governments.

The government of India establishes term-based law commissions to recommend legal reforms, facilitating the rule of law.[13]

CONCLUSIONS

According to Granville Austin, "The Indian constitution is first and foremost a social document, and is aided by its Parts III & IV (Fundamental Rights & Directive Principles of State Policy, respectively) acting together, as its chief instruments and its conscience, in realising the goals set by it for all the people." The constitution has deliberately been worded in generalities (not in vague terms) to ensure its flexibility. John Marshall, the fourth chief justice of the United States, said that a constitution's "great outlines should be marked, its important objects designated, and the minor ingredients which compose those objects be deduced from the nature of the objects themselves." A document "intended to endure for ages to come", it must be interpreted not only based on the intention and understanding of its framers, but in the existing social and political context.

The "right to life" guaranteed under Article 21 has been expanded to include a number of human rights, including:

- the right to a speedy trial;
- the right to water;
- the right to earn a livelihood,
- the right to health, and
- the right to education.

At the conclusion of his book, *Making of India's Constitution*, retired Supreme Court Justice Hans Raj Khanna wrote:

If the Indian constitution is our heritage bequeathed to us by our founding fathers, no less are we, the people of India, the trustees and custodians of the values which pulsate within its provisions! A constitution is not a parchment of paper, it is a way of life and has to be lived up to. Eternal vigilance is the price of liberty and in the final analysis, its only keepers are the people.[13]

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