

Legislative Measures to Remove Untouchability: Role of Ambedkar

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Abstract

Being a great constitutional expert, Dr. Babasaheb Ambedkar was a 'veritable phenomenon' of the 20th century in India. His endeavor to extirpate untouchability and improve the social, political and economic status of the 'untouchables' through his legislative measures work is indeed commendable.

Keywords: Legislative Measures, Brahminical Order, Constituent Assembly, Drafting Committee, Modern Manu, Untouchability Act, Communal Award, Article

Introduction

Ambedkar certainly waged a long battle and during this course of struggle, he had also antagonized many of the contemporary national leaders. He believed that national movement can be fought only when all the different segments of society consolidated against the British rule. He believed that since untouchables were not given equal rights and status in the society, it was literally impossible to take them into confidence. He therefore stressed that untouchables must be provided their due, first and foremost, both through social sanctions and political and legislative measures. It was this reason why Ambedkar took an active part, throughout his life and career, in the deliberations and formulations of several of legislative and constitutional resolutions.

The Objective of the Study

This paper summarizes the fact that Ambedkar had catapulted from a scheduled caste leader to the leader of entire country due to his major accomplishments in the field of social and political justice. He is considered modern Manu because it was he who pioneered the framing of Indian constitution that was made for all the people of this country irrespective of any consideration of caste whether dalit or anybody else. So long as this constitution remains operative he will be known as the architect of modern India.

Review of Literature

Dr. Bhim Rao Ambedkar was one important freedom fighter who remained active in this direction since the Montford Reforms 1919 to Cabinet Mission scheme, 1946, to the final drafting of India's constitution.

Later on British Government under the Chairmanship of lord Southborough framed the Franchise Committee. It was supposed to deal with franchise problems in the light of The Montague Chelmsford Reforms. This committee consisted among others of Srinivas Shastri and Surendar Nath Banerjee as members, and top-ranking nationalist leaders like Rajendra Prasad, Motilal Nehru and Malaviya gave evidence. Ambedkar was called upon to give evidence. He demanded separate electorates and reserved seats for the depressed classes in proportion to their population. In addition, he demanded that the representative of untouchables must be elected by the votes of untouchables only. The Committee did not feel justified in admitting the claims of separate electorates

The all parties' conference, which was convened by Congress in May 19, had appointed a committee to draft Swaraj Constitution for India. Pt. Motilal Nehru headed this committee. After marathon deliberations in continuation it had come out with a report of its own. The Congress had made the abolition of untouchability from society as one of its core programmes. As a result, government had granted some of the nominated seats to the members of depressed classes. The Motilal Nehru committee had decried the government policy of special electorates and reservation of seats.



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The report advocated the abolition of the depressed classes by raising them economically and socially by giving them adult suffrage and educational and other facilities. The Simon Commission disregarded the meaning and aim of Indian nationalism and its forces. It was the opinion of the commission that the Nehru Report was not an agreed solution. "Enthusiasm for the Nehru Report was in any case killed by the rallying tactics of the Simon Commission".

The Congress Working Committee issued invitations to all prominent organizations except the Depressed Classes Institute led by Baba Saheb Ambedkar. Ambedkar resented this attitude of the nationalist leaders. He criticized the constituencies formed in the Nehru Report and said that this arrangement was "to preserve the upper class hegemony and Brahminical rule in society". He said that keeping away the depressed classes from the political power was the sure way of preserving the Brahminical order of society consisted of Brahmins and upper-class men, they had done it deliberately.

The nationalist leaders were demanding home rule for India, but Ambedkar remarked, they were not ready to give representation to the untouchables. He further said: "It was the duty of the advanced classes to put all on social equality. For everybody recognized that home rule was as much the birth right of a Brahmin, as that of Mahar"

In 1929 Ambedkar had made a controversial decision to cooperate with the British Simon Commission which was look into setting up a responsible Indian government. To the contrary of his view Congress party had decided to boycott the commission and had later drafted his own version of constitution in the form of Motilal Committee draft known as Swarajay Constitution. Ambedkar's distance with congress had widened on the publication of this report because this report had no provisions for the depressed classes. As a matter of fact the report had regarded special electorates and reservation of seats as unsound and harmful.

When a separate electorate was announced for the dispressed classes under Ramsay McDonald "Communal Award," Gandhiji went on a fast unto death against this decision. On such situations the entire top ranking leaders had refused to Ambedkar to drop his demand of desperate electorate to untouchables. Finally, on September 24th 1932 Dr Ambedkar and Gandhiji had reached an understanding, which was known as Lucknow Pact. According to the Pact the separate electorate demand was replaced with special concessions like reserve seats in the regional legislative assemblies and central council of states.

Earlier to the Lucknow pact Ambedkar had also attended all the three Round Table conferences in London where he argued forcefully for the welfare of the untouchables. These Round Table Conferences were meant to frame a constitution for India with a view to satisfying the demand of the people of India.

When Constituent Assembly was formed, Ambedkar got an important position. He was elected

on the Drafting Committee of the constituent Assembly and later appointed its chairman also.

Findings

Ambedkar's persistent efforts to ameliorate the conditions of so-called untouchables resulted in the inclusion of certain provisions in the India which had far reaching effects. A number of constitutional provisions relating to the welfare and upliftment of the untouchables were also included in the Constitution like:

1. The removal of any restriction with regard to access to hotels, shops and places of public entertainment, the use of wells, tanks, roads etc. maintained by state funds
2. Opening of Hindu religious institutions of a public character to all sections of Hindus.
3. The forbidding of any denial of admission to educational institutions maintained by the State
4. The setting up of advisory councils and the appointment of a special official at the Centre in order to safeguard their interests
5. Special representation in parliament and the State legislatures for a period of twenty years.
6. The obligation of the State to consider their claims in the making of appointments to public services and reservation for them in case of inadequate representation.

These constitutional provisions were later reinforced by legislation. The Untouchability Act of 1955 provided penalties for preventing a person on the grounds of untouchability from entering a place of worship or taking water from a tank, well or spring, denying access to any shop, restaurant, public hospital, or educational institution, or place of public entertainment, denying the use of any road, well, bathing ghat, cremation ground dharmashala and for enforcing occupational, professional or trade discrimination in the matter of enjoyment of any benefit, charitable trust, in the construction or occupation of any residential premises in any locality, or observance of any social or religious usage or ceremony.

No democratic nation in modern times has attempted such a profound re-ordering of social relations as the republic or India since independence. This is particularly with reference to large chunk of the Indian population which till the other day, were known as the untouchables. Article 17 of the Constitution outlawed the practice of untouchability. This was a major break with tradition. This step was the culmination of the long and persistent effort made by Dr Ambedkar.

The constitution guarantees equality before the law (Article 14) (over turning the customary rules of the caste system), makes provisions to promote the educational and economic interest of the SC/ST and to protect them from social injustice and all forms of exploitations (Articles 46), provides for special measures through reservation in government services, and seats in democratic political institutions (Article 330 and 335). Constitution legally abolished the practice of untouchability and discrimination arising out of untouchability (Article 17). It also

provides for an establishment of a permanent Body to investigate and monitor social and economic progress of the Schedule castes on annual basis and set up monitoring mechanism at the centre and the state level.

Toward these ends the government has used two fold strategy, namely (a) Remedial measures and safeguards against discrimination in various spheres and (b) developmental and empowering measures, particularly in economic spheres. Remedial Measures against discrimination include enactment of Anti-untouchability act of 1955 (renamed as protection of Civil rights Act in 1979) and Schedule Caste/Tribe Prevention of Atrocities Act 1989 under which practice of untouchability and discrimination in public places and community life is treated as an offence. The second Act provides legal protection to the SC/ST against violence and atrocities by the high castes.

Article 21 of the constitution protects the life and liberty of every citizen. Article 38 of our Constitution declares as states duty to ensure justice, social economic and political freedom to all citizens which mainly includes dalits and tribals in all institutions of National life by providing facilities and opportunities and preventing disabilities.

Article 46 expressly mandates the state to take protective action in education and economic empowerment of the weaker sections of the society and is particular that the dalits and the tribals should be prevented from social injustice and exploitation. Other articles like 40, 41,43 etc, take care of other rights like minimum wages, Right to work, Right to leisure, Right to Environmental Protection, descent standard of living, old age benefits etc. These articles were declared as directive principles of State Policy but with state obligation to have them enforced. The Supreme Court declared the right to health, right to education, right to livelihood, right to employment, right to residence guaranteed in Act 19 (1) (e) as fundamental rights coupled with the duty of the state to have them provided, so that the right to life guaranteed the Article 21 would be meaningful to the oppressed sections in particular the dalits and tribals to realize them in reality and live the life with dignity, which is a basic human right.

Conclusion

Dr. Ambedkar's contribution to Indian national politics in the post-independence era seems to be much more pronounced. Political organisations of all hues and characters began to take him up as one on their mascots to attract the votes of dalits in their favour. Reservation politics later had also taken its cue from Ambedkar's writings, though it was slightly misplaced.

When the Congress leaders started demanding for creation of a Constituent Assembly for India, Ambedkar became very vocal in opposing it. In fact he had fear that constituent assembly would be thoroughly dominated by caste Hindus who would not allow the scheduled caste to put forth their views. He had an assumption that since scheduled caste members would be less in numbers their proposals

would always be outvoted in the constituent assembly.

According to Ambedkar, the question must be solved not by the policy of appeasement but by the adoption of some definite principles. He continued: "The approach to the communal Problem is, therefore, based upon two consideration: (1) that in proceeding to solve the communal problems, it is essential to define the governing principles which should be invoked for determining the final solution, and (2) that whatever the governing principles they must be applied to all parties equally without fear or favour.

The problems of dalits are far from being resolved. Despite the constitutional provision to the contrary, they are being discriminated against day in and out. This discrimination ranges from the subtle prejudice exercised against them in the modern sectors of economy in the urban areas to the stark practice of untouchability in the rural areas. Another significant constitutional influence on the dalits has been through the policy of reservation in politics, education and services. While, this policy implemented sincerely in political arena as it basically serves the interests of the establishment and provides legitimacy to the system, its implementation, in other two spheres has been utterly pathetic. Even over the five decades of its implementation, the unsatisfactory representation of dalits particularly in the higher echelon of services and consistent denial of their dues by the executive as well as judiciary has amply bared the fangs of the State. The condition of majority of dalits in rural areas is no better than it existed five decades before. Pulverisation of dalit politics under the rollers of electoral allurements has incapacitated the dalit movement. The dalits masses today feel utterly cheated but they do not have wherewithal to see by whom.

Ultimately we find that Ambedkar had catapulted from a scheduled caste leader to the leader of entire country. He is considered modern Manu because it was he who pioneered the framing of Indian constitution that was made for all the people of this country irrespective of any consideration of caste whether dalit or anybody else. So long as this constitution remains operative he will be known as the architect of modern India. In this context his place would be as high as other top ranking leaders of his time including the Mahatma.

Though the above-mentioned categories of special constitutional provisions have gone a long way in ameliorating the conditions of the SCs and STs, in actual operation these provisions is have had limited desired effects

The report of a study undertaken by L.N. Mishra Institute of Economic Development and Social Change for the Bihar State Scheduled Caste Cooperative Development Corporation shows that more than 95 per cent of Harijans in Bihar continue to live below the poverty line and the bulk of them are still treated as untouchables who have no right to draw water from common wells, visit eating places and take out wedding or religious processions through

localities reserved for 'upper castes' in the rural areas of the state.

The Indian caste system is gradually relaxing, especially in metropolitan and major urban areas, due to the penetration of higher education and co-existence of all communities. But in the countryside and small towns, this system is still very rigid. However, the total elimination of caste system seems distant, if ever possible, due to caste politics.

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