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## RESEARCH ARTICLE

**Dr. Ambedkar, the principles of rule of Law, the right to freedom of speech and expression in India: a beacon light for the spreading of Dalit Literature**

Dr. Sunitha Kanipakam

Academic Consultant, Dept. of Law, Sri Padmavati Mahila University, Tirupati-517502 (Former Assistant Professor of Law, Gujarat National Law University, Gandhinagar- India).

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**Abstract**

In this Article, I am interested in analyzing how Dr. Ambedkar, the drafting chair man of the Indian constitution has contributed in realizing the dream of self-emancipation, self-reliance, self-respect and self-confidence among Dalits in India. The beauty of the Indian constitution is that it is in simplest of the words, but of widest in meaning. The fundamental freedoms enshrined under the Indian constitution paved the way for the spreading of Dalit Literature. One can acknowledge this great visionary's contribution to the development of the concept of social justice in India, particularly through the literature, a writing which underscores the philosophy behind it. And "Education, organization and agitation" were the key words of his self-respect movement. He had great vision towards enrichment of the rights of downtrodden people in India and imparted them to fight against social injustice to lead their lives as human beings like others in the society.

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**Introduction**

Constitution is a sacred document meant for every citizen and is the Supreme Law of the Land. It is the greatness in born and cultivated by dint of hard labor and pursuit. A true Indian and who knew what India needed. The Constituent Assembly had the task of transmitting in to words the reason of the people of India. Translating in to words is always a difficult task. The will of people had to be achieved by adopting the constitution. The part –III of the Indian Constitution enshrined a large list of fundamental rights amongst the equality principle, the Fundamental freedoms and under Directive principles of State policy the principle of social justice are some areas.

Baba Sahib's role in framing of the Indian const brought him in to forefront of the top ranking architects of modern India.<sup>i</sup>

Part III of the constitution provides Fundamental rights for the citizens

Justice – not in general but justice of social, economic and political; Liberty - not in general but liberty of thought and expression, belief faith and worship; - Equality of status and of opportunity are the objectives enshrined in the Preamble<sup>ii</sup>. The right to freedom of speech and expression includes expression, writing and dissemination of literature.

**The task of Drafting of Indian Constitution**

One could hardly imagine a child born in a family who lived lowest in the society could be one of the most respected and tallest among all of the people in India and it just doesn't happen as a miracle. One has to see the man behind the personality of today. Struggles not to climb the social ladders, but to bring equality and contribute not for himself or for his kin but, for the country as a whole<sup>iii</sup>.

Any work of art or the finest piece of literature is not known for pedantic expressions or rhetoric's, repetitions, or expressions which appear very attractive but deliver no sense or meaning.

One acknowledges as a great artistic contribution particularly in literature, a writing which underscores the philosophy behind it. The beauty of the Indian constitution is that in simplest of the words, but of widest. Read the constitution of India, No rhetoric's, no pedantic expressions, no attempt to repeat and also no attempt to expand. Because each word is used as expressive as it should be, and each word is used and we need no rules of interpretation or aids from elsewhere to understand, what Indian republic stands for, what must Indian Republic achieve?

The Government of India honored him posthumously by awarding the nation's highest civilian award "Bharat Ratna" on Apr.14, 1990 and declared the year 1990 -1991- as the year of Social justice. He entered the constituent Assembly with a safe guard the rights of the down trodden but was called up on ply a wider role' Dr. Ambedkar said<sup>iv</sup> 'I came to CA with no greater aspiration then to safe guard the interests of the scheduled casts . I had not the remotest idea that I would be called up on to undertake more responsible function. I was, therefore, surprised when the CA elected me to the Drafting committee. I was more than surprised when the Drafting committee elected me to be its Chairman'.

Justice is the foundation of all democratic governments and the survival of every democracy and the rule of law depends on the effective access to justice, which was the well known principle all over the world<sup>v</sup>. This concept has been given a place of pride in the Constitution of India in its Preamble itself. Justice without power is inefficient; power without justice is tyranny. For human rights to flourish, judges must be with power.

This has been foresighted by Dr. Ambedkar and strived to enshrine under the Constitution, the Independence of judiciary<sup>vi</sup>. The executive, the legislature and the Judiciary act under the powers given to them in the Constitution and if there is any violation of constitutional limitations by the executive or by the legislature, it is the function of the judiciary to point out the correct path and if in the process they have to strike down the action of the legislature or the executive which is contrary to the constitutional mandate.

#### **Dr. Ambedkar concept of Social Justice/The dynamics of the Concept of Social justice in the Constitution of India**

The heart of social justice is law with a heart, a humanistic Jurisprudence, sensitive to the disabled sections , a versatile legal technology rich with substantive rules, operational process and sympathetic personnel , judicature and executive ready to give relief in the spirit care and armed with law<sup>vii</sup> .

India is a welfare State, the ideals of a *welfare state* are to secure to its citizens Justice – Social, Economic and Political as enshrined in the Preamble of the Constitution. The idea of welfare state envisaged by the Indian Constitution can only is achieved if the States Endeavour to implement the Directive Principles with high sense of moral duty. These Directive Principles are provided in Part IV of the Constitution containing from Article 36<sup>viii</sup> to Article 51.

**Rule of Law:** In Dicey's concept of Rule of Law is that supremacy of the law, equality of Law and equal protection of Laws and predominance of the constitution. The Rule of Law does not mean that the protection of the law must be available only to a fortunate few or that the law should be allowed to be prostituted by the vested interests for protecting and upholding the status quo under the guise of enforcement of their civil and political rights. The poor too have civil and political rights and the Rule of Law is meant for them also, though today it exists only on paper and not in reality<sup>ix</sup>.

The rule of law, with an equal eye and even hand, is a categorical imperative and inviolable feature of our Constitutional Order. The State has heavy social and economic obligations and the Court must invigilate and enforce these duties.

There are legislations in India namely, Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) rules, 1995.

Access to justice is one of the most basic Human Right and without its realization many other Human Rights may become difficult. Justice is the foundation of all democratic governments and the survival of every democracy and the rule of law depends on the effective access to justice, which was the well known principle all over the world<sup>x</sup>.

Justice without power is inefficient; power without justice is tyranny. For human rights to flourish, judges must be with power, not judicial helplessness robed in pomp. The judges themselves must be free from pressure and prejudice and be sensitized to act, be the violator ever so high in office or ever so powerful in any other way.

#### **Equality before Law and equal protection of the Laws, Art.14**

Rule of Law embodied in the basic structure of the Indian Constitution. The equal protection of laws guaranteed under art.14 does not mean that all laws must be general in character. It does not mean that every law must have universal application for all persons are not by nature, attainment circumstances in the in the same position. From

the very nature of the society there should be different laws in different places. The varying needs of different classes of persons often require separate treatment (Chiranjit Lal vs State of UP, 1951, SC) In fact identical treatment in unequal circumstances would amount to inequality (Abdul Rehman v. Pinto, AIR, 1951, Hyd).

### Right to Freedom of Speech and Expression

Freedom of Speech and Expression means the right to express one's own convictions and opinions freely by words of mouth, writing, printing, pictures or any other mode. It includes expression of one's ideas through any communicable medium or visible representation such as gesture, signs and the like (*Lowell vs Griffin, 1939, 303US,444*). So, every citizen shall have the right to sojourn and settle in any place he pleases. Restrictions may, however, be imposed by or under a Federal Law for the protection of aboriginal tribes and backward classes and the preservation of public safety and peace.

Sir, article 13, as at present worded, appears to have been clumsily drafted. It makes one significant omission and that is about the freedom of the press. I think, Sir, it will be argued that the freedom is implicit in clause (a), that is, in the freedom of speech and expression. But, Sir, I submit that the present is the age of the Press and the Press is getting more and more powerful today. It seems desirable and proper, therefore, that the freedom of the Press should be mentioned separately and explicitly.

Where is our constitutional right? And why does a government sworn to protect and uphold the constitution repeatedly step in to actually deny a right guaranteed in the same constitution? Could the problem lie in the law itself? Or is it the implementation which is at fault?

Article<sup>xi</sup> 19(1) (a) of the Constitution of India provided that "All citizens shall have the right to freedom of speech and expression."

Article 19(2) then proceeds to impose limitations on this freedom.

So, we have the right to freedom of speech and expression unless your speech/expression does the following<sup>xii</sup>:

1. Endangers security of the State.
2. Endangers friendly relations with foreign states.
3. Endangers public order.
4. Goes against decency and morality.
5. Constitutes contempt of court.
6. Constitutes defamation.

When the Indian constitution was being drafted the Constituent Assembly deliberated the omission of an express guarantee to the Press. Finally deciding that there was no need to include an express guarantee, Dr. B. R. Ambedkar noted that the freedom of the press would be included within the freedom to speech and expression under Article 19(1) (a). This view was shortly reaffirmed by the Supreme Court in *Brij Bhushan v. State of Delhi*<sup>xiii</sup> and in the case of *Express Newspapers Ltd. v. Union of India*<sup>xiv</sup>.

These grounds are collectively referred to as reasonable restrictions. In the landmark case of *Sakal Papers v. Union of India* (AIR 1962 SC 305), the Indian Supreme Court held that the Constitution permits the imposition of reasonable restrictions only within the grounds expressly stated within Article 19(2).

The position which has emerged is that the freedom to speech and expression can be curtailed when :( a) the restriction is through an authority of law to support it.

### Social justice and freedom of the Press

The arrest of the Andhra Jyothi (Telugu daily) editor<sup>xv</sup> and two reporters under the provisions of the SC/ST (Prevention of Atrocities) Act made for terming some unnamed leaders belonging to the backward classes as "saleable commodities". This issue raised a larger question, whether right to speech and expression in an indecent manner against the member of a Dalit or the oppressed is not the violation of the rights of the under privileged sections of society. The arrests were made under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 which penalises anyone (other than a member of Scheduled Castes and Scheduled Tribes) who intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view. The action of the state government in arresting the editor and reporters is laudable, as the Kerala, Rajasthan and the Madhya Pradesh High Courts have already held that the Act cannot be invoked if the member of Scheduled Caste or Scheduled Tribe is absent when the alleged insult or humiliation happens.

The Supreme Court gave priority to the concept of social justice while dealing with atrocities cases against SC and STs. The Patna High Court has acquitted all the 23 persons accused of perpetrating the massacre of 21 Dalits at Bathani Tola in Bhojpur in 1996<sup>xvi</sup> ( Bihar killings case ) where, in the year 1996 at Bathani Tola in Bhojpur 21

Dalits were massacred, among them women, teenage girls and babies less than 10 months old lost their lives. The accused were convicted by the sessions court in Ara district and sentenced in May 2010 while three persons were awarded capital punishment, the remaining twenty were handed life imprisonment. In another incident, on 7<sup>th</sup> of April 2010 16 convicted persons sentenced to death out of the 26 convicted by Patna court. Announcing the judgment, Additional District Judge sentenced to life imprisonment the remaining 10 convicts and imposed a fine of Rs. 50,000 on each.

### Meaning and Scope of Right to Freedom of Speech and Expression

To uplift the concept of Social Justice everyone should have right to Speech and Expression. Article 19(1) (a) of Indian Constitution provides and says that all citizens have the right to freedom of speech and expression. Freedom of Speech and expression means the right to express one's own convictions and opinions freely by words of mouth, writing, printing, pictures or any other mode. It thus includes the expression of one's idea through any communicable medium or visible representation, such as gesture, signs, and the like. This expression connotes also publication and thus the freedom of press is included in this category. Free propagation of ideas is the necessary objective and this may be done on the platform or through the press. This propagation of ideas is secured by freedom of circulation. Liberty of circulation is essential to that freedom as the liberty of publication. It also includes the right to propagate or publish the views of other people; otherwise this freedom would not include the freedom of press. Indeed, without circulation the publication would be of little value.

Freedom of expression has broad purposes to serve:

- 1) it helps an individual or group of individuals to share their problems (in the society) and, sorrows, feelings with their community as well as to the society.
- 2) It assists in the discovery of truth.
- 3) It strengthens the capacity of an individual in participating in decision-making.
- 4) It provides a mechanism by which it would be possible to establish a reasonable balance between stability and social change.
- 5) All members of society would be able to form their own beliefs and communicate them freely to others.

Explaining the scope of freedom of speech and expression Supreme Court has said that the words "freedom of speech and expression" must be broadly constructed to include the freedom to circulate one's views by words of mouth or in writing or through audiovisual instrumentalities. It therefore includes the right to propagate one's views through the print media or through any other communication channel e.g. the radio and the television. Every citizen of this country therefore has the right to air his or their views through the printing and or the electronic media subject of course to permissible restrictions imposed under Article 19(2) of the Constitution.

### Dalit Sahitya Parishad and Dalit Writers

The guaranteed right<sup>xvii</sup> under Art. 19(1) (a) paved way to form Ambedkari Sahitya Parishad in 1992 with the goal to connect people with common ideals and aspirations, to provide a platform to those who are inspired by Dr. B. R. Ambedkar's thoughts and philosophy to express their anguish through their literature against the oppression and bigotry, and to make their presence felt in the world. In 1993, Ambedkari Sahitya Parishad, Wardha transformed "Dalit Sahitya (literature) into "Ambedkari Sahitya" after the name of its modern age hero and inspiration Dr.B.R. Ambedkar.

**Some of eminent Dalit writers are :In Maharashtra** Arun Kamble, Shantabai Kamble, Krushna Kamble, Raja Dhale, Namdev Dhasal, Daya Pawar, Annabhau Sathe, Bandhu Madhav, Laxman Mane, Laxman Gaikwad .

**Karnataka (Kannada);** the first ever Dalit Writer was from Karnataka. Madara Chennaiah (12th Century), Dohara Kakkaiah were the earliest known. Later at the end of 20th Century (1970) Prof. B. Krishnappa, Dr. Siddalingiah, Devanooru Mahadeva, Deviah Harave, Prof. Aravinda Malagatthi. In **Tamil Nadu (Tamil)** Ka.Ayothi dass Pandithar is the pioneer of the Dalit literature and Philosopher in India as well as south India.

**In Andhra Pradesh (Telugu) some of the dalit writers are,** Gurram Jashuva, Kusuma Dharmanna, Boyi Bheemanna, Kolakaluri Enoch, Siva Sagar (K.G. Sathyamurthy), Gaddar, Boya Jangaiah, Chilukuri Devaputra, Kathi Padmarao, Bojja Tharakam, Endluri Sudhakar, Vemula Yellaiah.

The discrimination of the dalits created a heart wrenching episodes of Poetic Literature which reflected the oppressed class in the society. To bring fore , sorrows of Dalits, to share and make awareness among their communities these stories, Sahithyas, documentaries, Films sad memories, , their cultural literature is being possible only with the freedoms guaranteed under Article 19 (1)(a) . One cannot even imagine the various literature released by the Dalit writers on par with the writers from other communities.

## Conclusion

Dr. B.R. Ambedkar was a multi dimensional personality. Who has belief in the rule of law and those who have a concern for social justice, those who cherish democracy, and those who value liberty, those who believe in equality – economic, social and political; owe a debt of gratitude to Dr Ambedkar who was indeed a great son of India. Indeed a crusader of down trodden and a saviour of the poor. He waged a relentless struggle against the old order, which was based on injustice and was devoid of human dignity. He dedicated his entire life to the establishment of a new social order based on principles of liberty, equality and universal brotherhood. He utilized his tongue and pen to and all his actions for attainment of the objectives of occurring to the people of this great nation equality- economic, social and cultural.

<sup>i</sup>. Justice A.S. Anand - Dr .Ambedkar and the Indian Constitution, Prof.G.Manohar, Asia LawHouse, 2009,p.7

<sup>ii</sup> .Seervai , H.M. : A Critical Commentary on Constitutional Law of India, Universal Law Publishing Co.Pvt. Ltd, IV & Silver Jubilee Ed.2006, Vol.1, pp. 280,281

<sup>iii</sup> .Justice .P.S.Mishra,Chief Justice of AP high Court, Ambedkar and the Indian Constitution,2009 Asia Law House,p.1

<sup>iv</sup> Constitutional Assembly Debates, VOL.III

<sup>v</sup> www.legalserviceindia.com

<sup>vi</sup> Art.50 of the Constitution of India

<sup>vii</sup> S. Mohan-Social Justice in India, All India Reporter, Vol. 2. Aug.1995, p.100

<sup>viii</sup> .Draft Article 28 corresponding Article to 36 provides that, In this part, unless the context otherwise requires, ‘the state has the same meaning as in part III of this constitution (which means the word ‘state’ mentioned under Article 12 in the Fundamental Rights). Shiv Rao, B., – The Framing of Indias Constitution a Select Documents- the Indian Institution of Public Administration, New Delhi-1967; Printed In India, Government Of India Press, Nasik .p, 527.

<sup>ix</sup> . People’s Union for Democratic Rights V. Union of India –AIR 1983 SC ...(also called as Asiad Project Worker’s case)

<sup>x</sup> . www.legalserviceindia.com

<sup>xi</sup> . Wednesday, the 1st December 1948: Constituent Assembly of India - Volume VII

Art13 under draft Constitution, Subject to public order or morality the citizens are guaranteed--

(a) freedom of speech and expression;

(b) freedom of the press;

(c) freedom to form association or unions;

(d) freedom to assemble peaceably and without arms;

(e) secrecy of postal, telegraphic and telephonic communications.

Art. 13-A. All citizens of the Republic shall enjoy freedom of movement throughout the whole of the Republic.

<sup>xii</sup> . Dr. Pandey, J.N., Constitutional Law of India, Central Law Agency , Allahabad, 2013,pp, 203

<sup>xiii</sup> . AIR 1950 SC 129

<sup>xiv</sup> . AIR 1958 SC 578

<sup>xv</sup> . The Hindu, June 25, 2008

<sup>xvi</sup> . The Hindu, April 17, 2012

<sup>xvii</sup> . Right to freedom of speech and expression, Art. 19(1) (a) ) of the constitution of India