

Ask How Campaign Resource Material-2

26th Jan: Republic Day: In defence of Republic and Democracy

The Constitution of India – Revisited: Dr.S.Krishnasamy, Treasurer, AIPSN

“I feel that the constitution is workable, it is flexible and it is strong enough to hold the country together both in peacetime and in wartime. Indeed, if I may say so, if things go wrong under the new Constitution, the reason will not be that we had a bad Constitution. What we will have to say is that Man was vile.”

(Dr. B. R. Ambedkar – Principal Architect of the Constitution of India)

The Constitution of India was passed in the Constituent Assembly on 26th November 1949, and came into effect on 26th January 1950. The constitution declares India a sovereign, socialist, secular, democratic republic, assuring its citizens justice, equality and liberty, and endeavours to promote fraternity. The Constitution lays down the framework to make laws, govern the country, and establish a structure of policies, procedures, powers and duties of the Union and State governments. The Fundamental Rights, Directive Principles and Duties of citizens are stated in it.

The Constituent Assembly set up a Drafting Committee on 29th August 1947 to frame the Indian Constitution. Dr. B.R. Ambedkar was the Chairman of the Drafting Committee which consisted of six other members. The constitutional adviser was B. N. Rau. While the main idea was driven by the British Constitution, the preamble part of the framework was inspired by the Constitution of the United States of America. The preamble of our Constitution now reads:

“We, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a [SOVEREIGN, SOCIALIST, SECULAR, DEMOCRATIC, REPUBLIC] and to secure to all its citizens:

JUSTICE, social, economic and political;

LIBERTY, of thought, expression, belief, faith and worship;

EQUALITY, of status and of opportunity; and to promote among them all

FRATERNITY, assuring the dignity of the individual and the unity and integrity of the Nation;

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.”

The preamble was based on the Objectives drafted and moved by Jawaharlal Nehru in the Constituent Assembly. Ambedkar said about the preamble: *“It was, indeed, a way of life, which recognizes liberty, equality, and fraternity as the principles of life and which cannot be divorced from each other: Liberty cannot be divorced from equality; equality cannot be divorced from liberty. Nor can liberty and equality be divorced from fraternity. Without equality, liberty would*

produce the supremacy of the few over the many. Equality without liberty would kill individual initiative. Without fraternity, liberty and equality could not become a natural course of things”

The Constitution assured that all sections of people – irrespective of race, religion or caste – had full rights to the nation, including the right to a decent standard of living, embedded in the Indian Constitution. It was for a secular India that Mahatma Gandhi was martyred. The secular republic, and democracy, both social and economic, are under threat today.

Ambedkar, in his speech to the Constituent Assembly made clear that democracy meant both social and economic democracy; without this, democracy would only be in name. He stated in his Address to the Constituent Assembly, 1949:

“In politics we will have equality and in social and economic life we will have inequality. In Politics we will be recognizing the principle of one man one vote and one vote one value. In our social and economic life, we shall, by reason of our social and economic structure, continue to deny the principle of one man one value. How long shall we continue to live this life of contradictions?”

The Parliament has the power to amend the Constitution. However, the Supreme Court in 1973 has ruled in case of Kesavananda Bharati v/s State of Kerala that the basic structure of Constitution cannot be amended. This gave birth to the basic structure doctrine, which has been considered as the cornerstone of the Constitutional law in India.

Originally the Constitution had 395 Articles, 8 Schedules and 22 Parts; currently it has 448 Articles, 12 Schedules and 25 Parts. The Constitution has been amended 103 times till date. As originally enacted the preamble described the state as a "sovereign democratic republic", to which the terms "secular" and "socialist" were later added by the 42nd Amendment in 1976.

The Constitution has been divided into **XXII parts** (By convention, the parts have to be written always in Roman numbers. XXII means 22). Each Part is further divided into **Articles** (written in decimal numbers), and articles into **clauses** (written in brackets) and **sub-clauses**. (written in small alphabets). For example **Part IVA Article 51A(h)** states *“it shall be the duty of every citizen 'to develop the scientific temper, humanism and the spirit of inquiry and reform”*. This is read as sub clause h of the article 51A in Part IVA. Articles generally define some rules and regulations, while the clauses and sub-clauses provide explanation to these articles or sometimes an extension to these articles or sometimes gives exceptions to the rule or regulation given in article. There are **Twelve Schedules List** at the end of the Constitution. (By convention, references to the schedules are written in words, like FIRST, SECOND, THIRD etc). Parts, Articles and Schedules are interlinked to each other. Schedules are lists in the Constitution that categorize and tabulate the

activity and policy of the Government.

For example, the SEVENTH Schedule contains the Union list, the State list and the Concurrent list. The Union List is a list of 100 numbered items. The Union Government or the Parliament of India has exclusive power to legislate on matters relating to these items. The State List is a list of 59 items. The respective state governments have exclusive power to legislate on matters relating to these items. The Concurrent list has 52 items which are under the joint shared domain of the Union as well as the respective States. For example, item 25 of the Concurrent List is “25. Education, including technical education, medical education and universities, subject to the provisions of Entries 63, 64, 65 and 66 of List I; vocational and technical training of labour.”

The relevant entries of List I are:

63. The institutions known at the commencement of this Constitution as the Benares Hindu University, the Aligarh Muslim University and the Delhi University; the University established in pursuance of Article 371-E; any other institution declared by Parliament by law to be an institution of national importance.

64. Institutions for scientific or technical education financed by the Government of India wholly or in part and declared by Parliament by law to be institutions of national importance.

65. Union agencies and institutions for -

(a) professional, vocational or technical training, including the training of police officers; or

(b) the promotion of special studies or research; or

(c) scientific or technical assistance in the investigation or detection of crime.

66. Co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions.

It is these powers in the Concurrent list of the Constitution relating to Education that the current union government is trampling upon in seeking to centralise the regulatory powers, do away with the UGC and arbitrarily grant institutions of eminence to Jio Institute by Reliance Foundation.

Our Constitution through the Parts, Articles, Clauses, Schedules, Amendments asserts:

1. **Supremacy of the Constitution:** No person can perform actions outside the ambit of constitution. All should strive to uphold the supremacy of the constitution.
2. **Rule of law:** That no one is above the law of the land, and every one shall be treated equally before the law.
3. **The principle of Separation of Powers:** The Legislature, Executive and Judiciary have powers over each other to control their actions. There is no concentration of powers in one place.

Our Constitution represents the aspirations and desires of those who struggled and those who were martyred during the different phases of the independence movement. In the last four years, what we have seen is a consistent attack on the fundamental constitutional values of the republic. This is what we have to fight against, this is our battle for a rational, sovereign, socialist, secular democratic republic assured by the Constitution.