



Revering the legacy of Dr Babasaheb: Justice, Liberty, and Equality for all[‡]

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Abstract

Samvidhan Divas, The Constitution Day, celebrated every year on 26th November is not only an attempt to honour the contributions of Dr BR Ambedkar, known as the architect of the Indian Constitution but also a day to commemorate the adoption of the Constitution of India by the Constituent Assembly of India in 1949. A day of introspection to appraise and understand how constitutional values have been intertwined in the constitutional letters and how the core ideals of Justice, Liberty, Equality and Fraternity – an embodiment of constitutional morality runs through the spine and spirit of the constitutional structure in India.

It is in this backdrop that this paper traces the history of constitutional drafting so as to put ideals of the constitution in right perspective and how best the purpose for which these ideals were made as a core part of our constitutional scheme could be achieved.

The paper initiates a thorough discussion on the preamble of the constitution, the basic structure of the constitution and covers all the major articles of Part 3-the heart and soul of the Indian Constitution, and argues that the constitutional interpretation will not serve any purpose if the provisions of the constitution are read in isolation.

The main focus of the paper is the re-assessment of the foundational commitments of our republic. It reiterates that by affirming the ideals of Justice, liberty and fraternity, the Constitution continues to serve as a living document for attaining social transformation and also protecting the integrity of the Republic of India.

Keywords: *Constituent Assembly, Constitution, Constitutional Obligations, Justice, Liberty, Equality, Fraternity*

[‡] This paper is based on the speech delivered by the Honourable Justice Sanjeev Kumar in the Department of Law, School of Legal Studies, Central University of Kashmir on the commemoration of constitution Day, on 26th November 2025.

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1. Introduction

On 26th November 1949, the Constituent Assembly of India adopted a document which is revered by every citizen of the Country like a holy scripture - **The Constitution of India.**

India got freedom on 15th of August 1947, when Indian Independence Act of 1947 passed by the British Parliament came in operation. On one hand, this British Act freed India from British yoke, on the other hand divided British India into two independent dominions-India and Pakistan. This historic day marked the end of British Rule and emergence of a new nation Bharat- India. This was also an end of British Suzerainty over princely States giving them freedom to accede to either India or Pakistan or remain independent. The mammoth task of framing Constitution of both the dominions was entrusted to the Constituent Assemblies thereof and the dominions were put under the control of Governor Generals. Both the dominions were to be governed by the Govt. of India Act 1935 which again was an Act of British Parliament. Constituent Assembly was formed in 1946 under Cabinet Mission Plan. It consisted of initially 389 members representing British India and Princely States. It held its first meeting on December 9, 1946, and accomplished its task well within three years. Sir B. N. Rau was the Constitutional Advisor to the Constituent Assembly and prepared its first draft. The Constitution Draft Committee headed by Dr. B. R. Ambedkar, after long debates and discussion, prepared a final draft which was adopted by the Constituent Assembly on 26th of November 1949, which day we commemorate each year as "Constitution Day".

Constitution of India as was adopted on 26th November 1949 had 395 Articles, Eight Schedules and twenty two parts. The framers of our Constitution had before them the constitution of United States, Irish Constitution, Constitution of Commonwealth of Australia and Constitution of Japan and many more.

2. The Preamble of the Indian Constitution and the Constitutional Values

The Preamble of our Constitution was drafted at the end and therefore, sums up the essence of Constitution that we the people gave to ourselves.

From here we straightway go to the Preamble which begins with “We the People of India” which would mean that the Constitution of India is nothing but a resolve of us Indians to Constitute India into a

Sovereign, Socialist, Secular Democratic Republic.

Sovereign we are,	because we are now free of British Yoke.
Democratic we are,	because now we shall govern ourselves.
Republic we are,	because now we shall have elected head of State and not a Ruler or Monarch.

It symbolises the sovereignty of people.

The Preamble as it stood at the time of adoption of Constitution did not contain the words “*Socialist and Secular*”. These came to be added by Constitution (42nd) Amendment Act 1976.

But does that mean the framers of our Constitution (the Constituent Assembly) had constituted India into a non-socialist and non-secular Republic, the answer is an emphatic ‘no’. As a matter of fact, during Constituent Assembly Debates, one member Sh. K. T. Shah had insisted for inclusion of these expressions in the Preamble but the suggestion was turned down on the ground that Fundamental Rights, Directive Principles and more particularly, later part of Preamble did ensure the Socialist and Secular character of our Republic.

We proceed little further in the Preamble and it says: To secure to 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 unity and integrity of the nation.
- Social Justice** - Article 39 of Directive Principles of State Policy:
 - = Men and Women to have equal right to means of livelihood.
 - = The ownership and control of material resources of the community to be so legal aid, distributed to best sub-serve the common good.

= Equal pay for equal work.

Article 39A: - Equal access to justice and
Economic Justice – Article 39(c) The operation of economic system does not result in the concentration of wealth and means of production to the common detriment.

Free Legal Aid to those who cannot afford the expenses of litigation is another facet of economic justice.

Now coming to the three most important values our Constitution cherishes and zealously guards.

Liberty, Equality and Fraternity.

These were the war cries of French Revolution: “*Liberte, egalite and Fraternite*”.

Liberty:

Article 21 is a single most significant Article guaranteeing to the citizens of this Country, Right to Life and Personal Liberty. The smallest Article in Part-III of Constitution is perhaps the Fundamental Right of widest amplitude. It has given birth to several facets of liberty – right to live with dignity, right to safe environment and right to privacy, which was recently declared by nine-Judge Bench of Supreme Court as Fundamental Right implicit in Right to Life and Personal Liberty.

Article ‘19’ is another important provision guaranteeing to its citizens as many as six freedoms Freedom of Speech and Expression implicit in it freedom of Press and Right to Information.

Right to Assemble peacefully and without arms.

To form Association, or Unions-so crucial to any democracy.

To move freely throughout territories of India

To reside and settle in any part of territory of India

To practice any profession or occupation, trade or business.

These Freedoms are of course not absolute and are hedged by reasonable restrictions, like public order, decency or morality, Sovereignty, Integrity and Security of State etc.

- Equality:** Article 14, Article 15, Article 16- ensure equality before law and equal protection of laws. The equality prevents discrimination fostering inclusivity and fairness. It is trite, any state action which is arbitrary offends Article 14 and Right to be treated equally.
- Fraternity:** Fraternity means brotherhood which is essential to assure dignity of each individual and strengthening nation's unity and integrity. In a nation, such as ours, which is replete with diversity, diversity of languages, diversity of religions, the secularism is most potent tool to forge brotherhood, strengthen unity and integrity of our nation.
- Secularism:** It does not mean absence of religion but refers to a system or position where citizens respect each other's religion but State does not have any religion. Secularism is not a new thing for our nation. It goes back to the era of two great Emperors Ashoka, the Great and Akbar, the Great. History speaks volumes that these both emperors genuinely believed that to have concord between the citizens, people should learn to give respect to others' faith, belief and religion. 12th Rock Edict of Emperor Ashoka emphasised tolerance and respect for all religions. It advocated for restraint on speech to avoid extolling one's own faith or religion, as extolling or praising your own faith, you are indirectly denigrating/belittling other's faith or religion. Deene-Illahi by Mughal Emperor Akbar was also a step towards promoting unity among various faiths. To respect other's religious belief, one must have knowledge of other's religion. So, it is necessary that we study and know each other's religion. It is only then we will be able to respect other's faith, belief or religion.

3. Constitution of India

Our Constitution makers were well aware of diversity of faith and religions. They knew that without laying strong foundation for

secularism in the Constitution itself, it is difficult to promote fraternity. It is complete misnomer to say that our Republic became Secular only after Constitution (42nd Amendment) Act 1976, when the words “Socialist and Secular” were inserted into the Preamble, Secularism is writ large and Fundamental rights Chapter III contains various positions on secularism. For example, **Articles 15 and 16**

Article 15(1) – Prohibits discrimination by State and provides that State shall not discriminate against any citizen on the grounds only of religion, race, caste or place of birth etc. This is a general provision interdicting State from discriminating its citizens on the ground of religion.

Article 15(2): Casts Constitutional obligation on citizens not to discriminate against each other on the ground of religion, race etc. when it comes to accessing public places, shops, hotels and restaurants etc. or use of wells, tanks, bathing ghats, roads or places of public resort etc. etc.

Articles 25, 26, 27 and 28: are the other Fundamental Rights Guarding religious freedom.

Article 26: Guarantees right to every religious denomination to establish and maintain institutions for religious and charitable purposes, manage its own affairs in the matter of religion and to own and acquire movable and immovable property and administrator such property in accordance with law.

However, such freedom is subject to three things

- a) Public Order
- b) Morality
- c) Health

Article 27: Freedom not to pay any taxes, the proceeds of which are specifically appropriated in payment of expense of any particular religion or religious denomination. Citizens cannot be compelled to pay taxes for such purposes.

Article 28: It essentially provides that State shall have no religion and shall maintain neutrality in religious matters upholding rights of all communities equally.

No state run and funded educational institution can impart religious instructions except when such institution is established under an endowment or trust and is administered by state.

Lastly, Article 25 which is the single most significant fundamental right assuring freedom of religion.

Article 25: It guarantees to all persons equally the freedom of conscience and right to freely profess, practice and propagate religion. This freedom and right is again subject to three things

(a) Public Order (b) Morality (c) Health.

Absolute freedom to an individual is fraught with risk of endangering fellow citizen's freedom. One cannot in the name of religion or religious practice come on roads, create chaos and endanger public order. No religious practice which is opposed to public policy and leads to immorality can be permitted. For example, if someone's faith permits walking naked in the street, the state is well within its powers to stop such practice and the person practicing such faith cannot claim the continuation of such activity in the exercise of his fundamental right to practice his religion or faith. Health is another ground: the state is well within its power to ban use of loud speakers by various religious denomination, ringing of loud bells, holding of jagratas. No individual practicing any faith, be it Hinduism, Islam or Sikhism or Christianity, can claim as a right to use loudspeakers for any religious purpose for loud noise emanating from such activities endanger the health of citizens and, therefore, a reasonable restriction of the right guaranteed by Article 25.

Right to profess: to wear a badge of religion- Hindus may profess by applying Tilak on forehead, Muslims by wearing Skullcap or Taqiya and Sikhs by carrying Kirpans.

Right to Propagate is a bit of a trouble area. There has been some debate as to whether right to propagate one's religion or faith would include right to convert by appealing to others' conscience or is only restricted to teaching the tenets of one's religion to the willing person or persons. A Constitution Bench of Supreme Court has in the case of *Rev. Stainislaus v. State of M.P*¹ has set the controversy at rest by holding that right to propagate one's religion or faith does not include right to convert someone to his faith. Such attempt is nothing short of interfering with other's freedom of conscience granted by Article 25 itself.

There is another important facet of this Article i.e., the State is empowered to make law providing for social welfare and reform or the throwing open of Hindu Religious institutions of public character to all classes and sections of Hindus. So, the state is not prevented from

¹ AIR 1977 SCC (1) 677.

bringing in a legislation aimed at providing for social welfare and reform. Such legislations shall not be viewed as interference by State in the right of a citizen to practice, profess and propagate his/her religion or religious faith.

4. Conclusion

From the narration the paper gives hereinbefore, there should be no doubt in the mind of any citizen that our Constitution very specifically and emphatically guards freedom of religion and constitutes India into a secular democratic Republic. The values which were there since centuries have found place in our Constitution and what is required of us is to understand the Constitutional morality and promote fraternity by respecting and not denigrating or belittling each other's religion. The moment you start extolling your faith or religion, you are simultaneously belittling others.

While we commemorate 26th November every year, let us take a pledge that we will respect each others' faith and religion and this we will do by acquiring and understanding others' faith and extolling it for all its goodness. This way, we would be raising the respect and dignity of our own religion. The moment we learn to do so, we shall be promoting fraternity and that would assure the dignity of each individual and protect the unity and integrity of our Nation. In the present day world order, the existence and survival of a Nation is not possible unless its citizens imbibe the spirit and sense of brotherhood, solidarity and mutual respect which is so essential and crucial to the protecting of unity and integrity of Nation.

The paper concludes by recalling the famous quote of Justice Chinnappa Reddy in Bijoy Emmanuel case:

“Our tradition teaches tolerance.
Our philosophy preaches tolerance.
Our Constitution practices tolerance.”²

² AIR 1987 SC 748