

**FIRST DR. AMBEDKAR MEMORIAL LECTURE
ORGANISED BY
DR. AMBEDKAR INTERNATIONAL CENTRE
(DAIC)
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B.R. Gavai, J.

Dr. Akash Patil, Director, DAIC/DANM and the brothers and sisters present in the audience.

It gives me great pleasure to be with you all this evening to celebrate the 134th Birth Anniversary of one of the greatest sons of India, Baba Saheb Dr. Bhimrao Ambedkar.

I express my deep appreciation to Dr. Ambedkar International Centre for organising Dr. Ambedkar Memorial Lecture Series and giving me an opportunity to speak on the First Dr. Ambedkar Memorial Lecture.

When we celebrate the birth anniversary of Dr. Ambedkar, we recount his contributions. All of us know that he had a very multifaceted personality. His contributions to various fields are numerous. All of us know that he was a great economist. He was a social reformer. He fought for the emancipation of the

downtrodden. He was an educationist. He established one of the first institutions in the backward region of Aurangabad, Marathwada, to cater to the needs of the downtrodden. He was a great sociologist. He had a deep knowledge of various religions. He was a great lawyer himself. However, he could not pursue law much on account of his devotion to the cause to which he had dedicated himself.

But, all of us will always recognise his greatest contribution as the Chief Architect of the Constitution of India and, therefore, when Dr. Akash Patil met me a couple of months back to invite me to attend an event at the DAIC, I suggested him to organize an event on the Birth Anniversary of Dr. Ambedkar. I am of the view that there will be no better way to pay tribute to him than remembering his contributions to the framing of Indian Constitution.

Though 30 minutes would not be sufficient even to cursorily touch upon the subject, in the time that is allotted to me, I will try to refer to some of his speeches in the Constituent Assembly and cursorily touch upon his contribution to the greatest document that all of us worship, i.e. the Constitution of India.

As all of us know, Dr. B.R. Ambedkar had lost the election to the Constituent Assembly from the then Province of Bengal, which now is a part of Bangladesh. Thereafter, he was brought to the Constituent Assembly from the Bombay Presidency.

When he entered the Constituent Assembly, the only goal that he had was to protect the interests of the Scheduled Castes and the downtrodden. He did not know at that point in time that he would be given the enormous task of being a draftsman of the Indian Constitution.

The Constituent Assembly began its proceedings on 13th December 1946, with the then Prime Minister, Pandit Jawaharlal Nehru presenting the Objectives Resolution providing therein the aims and objectives for which the Constituent Assembly was established.

Dr. Ambedkar, as per his turn, would have got an opportunity only after seven or eight days. But Dr. Rajendra Prasad called upon him on the 17th of December 1946 itself to give his address in the Constituent Assembly on the objective Resolution. Dr. Ambedkar said that he was not prepared because he thought that his turn would come after four days. But the vision that he had

for the future of India, as to what India would be, is reflected in his very first speech on 17th of December 1946.

Paragraphs (5) and (7) of the Objective Resolution referred to the fundamental rights, and sought to safeguard and protect the rights of the backward classes, the minorities, etc. Dr. Ambedkar said that there is no controversy with regard to these objectives. But he observed,

“these paragraphs 5 and 7 set out the objectives of the future Constitution of this country. I must confess that, coming as the Resolution does from Pandit Jawaharlal Nehru who is reputed as a Socialist, this Resolution, although non-controversial, to my mind is very disappointing”.

He said that, when one reads that part of the Resolution, it reminds one of the Declaration of the Rights of Man which was pronounced by the French Constituent Assembly 450 years back and he said that, by passage of time there was no necessity for Declaration of such rights. It is presumed that such rights are inherent for existence of a dignified human life.

He said, and I quote,

“that these principles have become the silent immaculate premise of our outlook. It is therefore unnecessary to proclaim it as forming a part of our creed”

He spoke about one of the most challenges that he thought. He said that, besides, the Resolution suffered from certain other lacunae and I quote:

“I find this part of the Resolution, although it enunciates certain rights, does not speak of remedies. All of us are aware of the fact that rights are nothing unless remedies are provided whereby people can seek to obtain redress when rights are invaded and he found a complete absence of remedies.”

He further stated that there are certain issues with the objective resolution that were left to the sole discretion of the Executives and he said,

“Sir, there are here certain provisions which speak of justice, economic, social and political. If this Resolution has a reality behind it and a sincerity, of which I have not the least doubt, coming as it does from the Mover of the Resolution. I should have expected some provision whereby it would have been possible for the State to make economic, social, and political justice a reality and I should have from that point of view expected the Resolution to state in the most explicit terms so that there may be social and economic justice in the country, that there would be nationalisation of industry and nationalisation of land....”.

Therefore, we find that the seeds of one of the most important articles in the Constitution, i.e. Article 32, finds foundation in his maiden speech before the Constituent Assembly and so also the Part IV of the Constitution i.e. the Directive Principles.

Though Dr. Ambedkar had suffered a lot on account of untouchability, he did not carry the bag of that bitterness while

working in the Constituent Assembly. He was always of the view that, above everything, is the Nation. He always advocated for the Unity of the Nation. He said,

“today we are divided politically, socially, and economically. We are a group of warring camps and I may go even to the extent of confessing that I am probably one of the leaders of such a camp.”

Dr. Ambedkar did not feel shy of speaking about the background of the framing of the Constitution, which had preceded the history of the fight for Indian independence. It also preceded the fight for social and economic equality by the millions of people who were deprived of their basic rights and, therefore, he said that, with all our castes and creed, it shall be very difficult to unite all the people. He was making a reference with regard to the boycott by the Muslim League on the proceedings of the Constituent Assembly. And he said that we must make an attempt to bring back the Muslim League in the main frame and frame a Constitution which will be acceptable to one and all, including the Muslim League.

Then, another important aspect that we find in his first speech is with regard to the Centre State relationship. In the Objectives Resolution, which was proposed by Pandit Jawaharlal Nehru, a Constitution on the American pattern was proposed, wherein a separate Constitution would be there for the Federal Government and there would be separate Constitutions for the provinces as well as the princely states.

He said that, though paragraphs 5, 6, and 7 were not of controversial nature, but paragraph 3 was certainly of controversial nature. And he said,

“But I take it that after this Resolution is passed, it will act as a sort of a directive to the Constituent Assembly to frame a constitution in terms of para 3 of the Resolution. What does para 3 say? Para 3 says that in this country there shall be two different sets of polity, one at the bottom, autonomous provinces or the States or such other areas as care to join a United India. These autonomous units will have full power. They will have also residuary powers. At

the top, over the Provincial units, there will be a Union Government, having certain subjects for legislation, for execution and for administration. As I read this part of the Resolution, I do not find any reference to the idea of grouping, an intermediate structure between the Union on the one hand and the provinces on the other.”

And, therefore, the provisions which are there in the Constitution with regard to Centre and State relations also find their seeds in his very first speech. He stated that,

“I must confess that I am a great deal surprised at the absence of any reference to the idea of grouping of the provinces. So far as I am personally concerned, I do not like the idea of grouping. I like a strong united Centre, much stronger than the Centre we had created under the Government of India Act of 1935”.

Dr. Ambedkar, as I already said, was always for a united India and the interest of the nation to be above all interest, be it the

interest of the individuals, be it the interest of any caste, be it the interest of any ideology and, therefore, he expressed his concern and asked the question,

“Why did not the Mover of the Resolution make reference to the idea of a Union of Provinces or grouping of Provinces on the terms on which he and his party was prepared to accept it? Why is the idea of Union completely effaced from this Resolution?”

And I quote one of the most important sentences in that speech,

“When deciding the destinies of nations, dignities of people, dignities of leaders and dignities of parties ought to count for nothing. The destiny of the country ought to count for everything.”

And his view with regard to supremacy of the interest of the nation could be also gathered from one of his other speeches. And I quote,

“the common goal is the building up of the feeling that we are all Indians. I do not like what some people say, that we are Indians first and Hindus afterwards or Muslims afterwards. I am not satisfied with that. I do not want that our loyalty as Indians should be in the slightest way affected by any competitive loyalty, whether that loyalty arises out of our religion, out of our culture or out of our language. I want all people to be Indians first, Indians last and nothing else but Indians”.

At the time of making this speech on the 17th of December, 1948, Dr. Ambedkar did not know that he would not only be a part of the Drafting Committee, but also its Chairman.

The objective resolution was passed with various amendments. India got its freedom on 15th August 1947. Within 12 days thereafter, the Constituent Assembly elected Dr. Ambedkar as the Member of the Drafting Committee initially and, thereafter, as Chairman of the Drafting Committee. The Drafting Committee took around 7 or 8 months to finalise the draft

which was initially prepared by B. N. Rau, and a final draft was submitted to the President of India on 21st of February 1948. The draft which was submitted initially consisted of 315 Articles and 8 Schedules.

The draft constitution was kept in the public domain for inviting objections for almost 8 months and after considering those objections, the drafting committee revised the draft and presented the revised draft on 4th November 1948. In the revised draft, after considering the objections from various objectors, the number of articles grew to 395 with 8 schedules.

It will be relevant to note that during the proceedings of the Constituent Assembly, there were 7635 amendments that were proposed, and out of them actually 2473 amendments were discussed at length in the Constituent Assembly with most of the replies being given by Dr. Ambedkar, Sir. Krishnamachari and Sir Alladi Krishnaswamy Iyer.

In this light therefore, it would be relevant to refer to Dr. Ambedkar's speech on the 4th of November 1948 in the Constituent Assembly while presenting the final draft of the Indian Constitution. He refers to the history of constitution of the

Constituent Assembly, the meetings of various Committees, the first draft prepared by B. N. Rau, thereafter, the final draft, and subsequently, he placed various provisions of the Constitution, which had been finalized by the Drafting Committee, for consideration of the Constituent Assembly.

He said that, a student of Constitutional Law, when presented with a Constitution, asks two questions. Firstly, what is the form of Government that is envisaged in the Constitution; and secondly, what is the form of the Constitution?

Insofar as the first question is concerned, Dr. Ambedkar said that we will have a President at the helm of the affairs of the nation, similar to the President of the United States of America. But he stated that the similarity ends at that as the President of India is not similar to the President of the United States of America, since in the American form of Government, the Presidential system of Government is dominant, but, what the Draft Constitution proposed is the Parliamentary system. And he said that, while doing so, they had to take into consideration two conditions that a democratic executive must satisfy; firstly, it must be a stable executive and, secondly, it must be a responsible executive.

He said that if we accept the Presidential form of constitution, there would be more stability but lesser responsibility. And if one accepts the Parliamentary form, there would be lesser stability but more responsibility. And, therefore, Dr. Ambedkar said that, while framing the Indian Constitution, they had attempted to achieve a balance between both.

He refers to the American and Swiss systems wherein there is more stability and lesser responsibilities, because under the Presidential system, the President of the Executive is not answerable to the Senate or the Congress, and they are only answerable to the populace which they seek re-election.

However, he said that the British model, wherein the executive is responsible to the Parliament from time to time, is more suitable to the Indian condition. Dr. Ambedkar said that, in the Parliamentary System, the assessment is done regularly by the members of Parliament, through questions, resolutions, no-confidence motions, adjournment motions, and debates on addresses and, equally, periodic assessment is done by the Electorate at the time of the elections, which may take place every five years or earlier. He said that the regular assessment of

responsibility which is not available under the American System is found to be far more effective than the system of responsibility which is only at the end of term.

Then, the second question he answered was as to the form of the Constitution, i.e. whether the Constitution was unitary or federal. He stated that the essential characteristics of a Unitary Constitution are: (1) the supremacy of the Central Polity and (2) the absence of subsidiary sovereign polities. Per contra, the essentials of a Federal Constitution are: (1) the existence of a Central Polity and subsidiary polities side by side, as proposed by Pandit Jawaharlal Nehru and (2) each being sovereign in the field assigned to it.

Under the Federal Constitution, there is a concept of dual citizenship, as a person who is a citizen of the United States of America, is also a citizen of a particular State. Dr. Ambedkar said that, for a country like India, we must have a combination of both and therefore he proposed that under the Indian Constitution, the polity will consist of the Union at the Centre and the States at the periphery, each endowed with sovereign powers to be exercised in the field assigned to them respectively by the Constitution.

Dr. Ambedkar pointed out that, that just like in the American Constitution also, a legislative function is assigned to both the Indian parliament and state legislatures. But the similarities between the Indian and the American Constitution will end at that. He said that, under the Indian Constitution, there would be only one citizenship of a person, and wherever he resides, he would be a citizen of India, and not, for instance, a citizen of Maharashtra or a citizen of Telangana.

He said that if we have dual citizenship, then a person who is entitled to a certain right in one of the states would not be entitled to said rights in another state and that therefore, if the Assembly accepted it, it would be opposed to the equality doctrine that the Assembly had accepted to approve. And therefore, he strongly supported the principle of one citizenship.

He introduced a concept that the state legislatures and the central legislature will have exclusive rights to legislate in the field assigned to them. The earlier proposal was that whatever subjects are not included either in the State list or the Union list would be left to the provincial government. He said that in the unitary policy that we propose to accept, this proposal would go against the

purpose to be achieved by us. He, therefore, introduced the third list i.e., the concurrent list, wherein the State, as well as the Union parliament, would have a right to legislate on the fields in the concurrent list. However, in case of a conflict, central legislation will prevail over the state legislation.

And then he said that, to keep the country united at the time of crisis like emergency, whether internal or external, the central Parliament would take over the powers of the State Legislatures and legislate on the subjects which are specifically earmarked for the State Legislatures. Dr. Ambedkar said that this was necessary to keep the country united at the time of crisis, and that the Centre should be strong to keep the country united.

Dr. Ambedkar said that the Constitution has provided for a single judiciary. Unlike the American system, India has a single judiciary wherein the Supreme Court and the High Courts form part of the same system, and in order to ensure the independence of the judiciary, the subordinate or trial court in the State are kept under the control of the State High courts. Dr. Ambedkar said that, to achieve the unity of the country, it is necessary that, though the States will have the freedom to have their services, it is

also necessary that some of the services which are essential to keep the country united are on an All-India basis and, therefore, we have services like the Indian Civil Services earlier, which are now the Indian Administrative Services, or Indian Police Service or the IFS and various All-India services.

Another aspect that require mention is with regard to the power to amend the Constitution. Dr. Ambedkar always believed that the Constitution had to be organic, evolving and it could not be a static document. He said that the generation after generation cannot be bound by the same Constitution. With the changing needs of society, every generation must have the power to adopt or to amend the constitution to suit the needs of the changing time and therefore, for most of the articles, the amending powers permits an amendment by a 2/3rd majority of the members sitting in the House, which shall be not less than half of the total membership of both the Houses.

Insofar as certain important articles are concerned, like the Central-State Relations, the independence of the judiciary, the fundamental rights etc., a special provision for effecting such amendment of having a ratification by half of the State Legislatures

was provided. He stated that, by doing so, the constitution would be strong, at the same time, elastic and not rigid.

In the said speech, Dr. Ambedkar also advocated for constitutional morality. He submitted that we must realise that in India, people are yet to learn about constitutional morality. But with the democracy that we are giving to ourselves, it was necessary that we must adapt to the changing needs to address the constitutional principles. Insofar as fundamental rights are concerned, the constitution enabled that, along with the fundamental rights, the legislature will be able to enact on laws to provide for certain restrictions, which are found necessary. A criticism was made by one of the members that fundamental rights should be absolute and if there have to be any restrictions, then the same should be provided only by the constitution and it should not be left to the legislature to do so. Dr. Ambedkar did not agree to the said suggestion.

Referring to the American system, Dr. Ambedkar stated that in United States of America the Congress had found that it was absolutely essential to qualify the fundamental rights by limitation. However, when the question arose before the Supreme

Court, it was contended that the Constitution gave no power to the United States Congress to impose such limitation. However, the Supreme Court of America invented the doctrine of Police Power to negate the said challenge. Dr. Ambedkar, therefore, said that what the draft constitution has done is that instead of formulating fundamental rights in absolute terms and depending upon the Supreme Court to come to the rescue of Parliament by inventing the doctrine of police power, it permits the State directly to impose limitations upon the fundamental rights. There is no difference in the result. What one does directly, the other does indirectly. In both cases, the fundamental rights are not absolute.

And we find that, within a year of the adoption of the Constitution, the judgment in AK Gopalan's case along with other judgments gave rise to the very First Amendment to the Constitution; In A. K. Gopala's case this Court held that anything said, except waging a war against a country, was protected by the Fundamental Right.

There were allegations made against Dr. Ambedkar that Directive Principles are nothing else but a pious declaration having no binding force. Replying the said criticism, he said,

“These Directive Principles have also come up for criticism. It is said that they are only pious declarations. They have no binding force. This criticism is of course superfluous. The Constitution itself says so in so many words.

If it is said that the Directive Principles have no legal force behind them, I am prepared to admit it. But I am not prepared to admit that they have no sort of binding force at all. Nor am I prepared to concede that they are useless because they have no binding force in law.”

He said that the Directive Principles are like an instrument of instructions to the executives and legislature who will be discharging their duties in the future. He said that we are not drafting the Constitution to enable a particular party to come into power, rather, we are drafting the Constitution to provide what would be the polity in the future and for guidance to the executives and administration. He said that and I quote,

“But whoever captures power will not be free to do what he likes with it. In the exercise of it, he will have to respect these instruments of instruction which are called Directive Principles. He cannot ignore them. He may not have to answer for their breach in a Court of Law. But he will certainly have to answer for them before the electorate at election time. What great value these directive principles possess will be realized better when the forces of right contrive to capture power”.

Some of the critics have criticised that under the draft constitution, the Centre was too strong, on the other hand, a criticism was also made that it should be more stronger. Replying both criticism, Dr. Ambedkar stated that the draft constitution has struck a balance. He said,

“However much you may deny powers to the center, it is difficult to prevent the Centre from becoming strong. Conditions in the

modern world are such that centralisation of power is inevitable.”

Finally, he said that the draft Constitution which was prepared was “workable, flexible, and strong enough to hold the country together both in peace time and in war time.”

In the Journey of last 75 years, we have noticed that one of the most important Articles of the Constitution is Article 32. As I said in the beginning, Dr. Ambedkar referred to it in his very first speech, stating that the Fundamental rights without a provision to have a recourse to remedy is without any substance and therefore, when Article 32, which was Article 25 in the draft Constitution, came to be discussed, there were lengthy discussions. Some were of the opinion that it was not necessary to name the writs in Article 32. It was also argued that the writs could also be enforced by taking recourse to provisions of the Specific Performance Act and so on. However, Dr. Ambedkar negated all these contentions and observed thus:

“Now, Sir, I am very glad that the majority of those who spoke on this article have realised the importance and the significance of this

article. If I was asked to name any particular article in this Constitution as the most important—an article without which this Constitution would be a nullity—I could not refer to any other article except this one. It is the very soul of the Constitution and the very heart of it and I am glad that the House has realised its importance.”

He said that, hereinafter, it would not be possible for any legislature to take away the writs which are mentioned in Article 32. He said, and I quote,

“It is not that the Supreme Court is left to be invested with the power to issue these writs by a law to be made by the legislature at its sweet will. The Constitution has invested the Supreme Court with these rights and these writs could not be taken away unless and until the Constitution itself is amended by means left open to the Legislature. This, in my judgment is one of the greatest safeguards that

can be provided for the safety and security of the individual.”

And, as we now know that by subsequent interpretations by the Supreme Court, Article 32 has been held to be the basic structure, which cannot be tinkered with even by an amendment of the Constitution. It will be apt to Dr. Ambedkar words:

“If there is no remedy, there is no right at all, and I am therefore not prepared to burden the Constitution with a number of pious declarations which may sound as glittering generalities but for which the Constitution makes no provision by way of a remedy.”

There are various other speeches and debates in the period of 2 years and 9 months of Constitutional deliberations, and finally, after accepting various amendments and rejecting other amendments, he presented the final draft to the Constituent Assembly. It is a matter of record that most of the amendments which were accepted by Dr. Ambedkar and his colleagues were accepted by the House, and those which were opposed by him, came to be rejected.

On 25th November 1949, one of the most important speeches was delivered by Dr. Ambedkar in the Constituent Assembly that every student of Constitutional Law must read through thoroughly. He refers to the history of the Drafting Committee, then to the criticism by one of the members, who I would not like to name, who said that the Drafting Committee was nothing but a drifting committee. Dr. Ambedkar said that he takes it as a compliment though he knew that it was not a compliment. He said that drifting with mastery, and with an aim is like a compliment.

Then there were certain criticisms by the socialists, who wanted the Fundamental Rights to be absolute, and without restrictions. Dr. Ambedkar answered that criticism by stating that the socialists, if they come to power, would like to nationalise all the properties of the private individuals and if they don't come to power, they want to have an absolute right to speak anything against the government. He criticised the communalists, saying that if the communalist ideology is accepted, the very concept of "Liberty, Equality, and Fraternity" that we want to achieve would be thrown away in the dustbin.

Dr. Ambedkar was a great man. Responding to the rich complements he was showered with, he humbly stated that he could not take the entire credit and that the credit goes firstly to B.N. Rau, the constitutional advisor who prepared the rough draft, and then to Mr. S.N. Mukherjee who was the Chief Draftsman of the Constitution, and then two of his most eminent colleagues Sir Alladi Krishnaswamy Ayyar, and Sir T.T. Krishnamachari.

Dr. Ambedkar said that when he was initially made a member of the assembly, he was not aware that he would be there on the drafting committee, because his sole aim to enter the Constituent Assembly was to protect the interests of the Scheduled Caste and the Backward Classes. He said that after coming into the drafting committee, he was not aware that he would be made its Chairman. He said, that the said office ought to have been adorned by another eminent constitutionalist such as Sir Alladi Krishnaswamy Ayyar. He said that he was surprised that he was made to chair the committee. He further said that for all the amendments proposed, the answers and replies were given by the three of them and, therefore, he said that whatever credit the Constituent Assembly

was giving him, he was not the only person to whom the credit should be given and it belonged to the entire committee.

As all of us know that some of the members, who had stakes in the provincial governments and who wanted the provincial governments to be stronger, criticized the stronger Indian Government. Answering their criticism, he stated that,

“A serious complaint is made on the ground that there is too much of centralization and that the States have been reduced to Municipalities. It is clear that this view is not only an exaggeration but is also founded on a misunderstanding of what exactly the Constitution contrives to do. As to the relationship between the Centre and the States, it is necessary to bear in mind the fundamental principle on which it rests. The basic principle of Federalism is that the Legislative and Executive authority is partitioned between the Centre and the States not by any law to be made by the Centre but by the Constitution itself.

This is what Constitution does. The States under our Constitution are in no way dependent upon the Centre for their legislative or executive authority. The Centre and the States are co-equal in this matter. It is difficult to see how such a Constitution can be called centralism.”

He further said that -

“It may be that the residuary powers are given to the Centre and not to the States. But these features do not form the essence of federalism. The chief mark of federalism as I said lies in the partition of the legislative and executive authority between the Centre and the Units by the Constitution.”

Dr. Ambedkar stated that the second charge against the draft Constitution is that the Centre has been given the power to override the States. He explained that such a power is not given in normal circumstances, but is given only in a crisis, that may be external war or internal disturbances and this was necessary to keep the country united. I quote him,

“There can be no doubt that in the opinion of the vast majority of the people, the residual loyalty of the citizen in an emergency must be to the Centre and not to the Constituent States. For it is only the Centre which can work for a common end and for the general interests of the country as a whole. Herein lies the justification for giving to the Centre certain overriding powers to be used in an emergency.”

He refers to Indian history as to how many times we were invaded and how many times we lost our freedom, and he warns us that the freedom we have got and the democracy that we have so liberally given to ourselves, should not be permitted to be again taken away as has happened in the past. And, therefore, he said that what we must do is not to be contented by mere political democracy. Dr. Ambedkar was of the view that Political democracy cannot last unless there lies at the base of it social democracy. He states,

“What does social democracy mean? It means a way of life, which realises liberty,

equality, and fraternity as the principles of life. These principles of liberty, equality, and fraternity as the principles of life, and these principles are not to be treated as separate items in a trinity. They form a union of trinity in the sense that to divorce one from the other is to defeat the very purpose of democracy. 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 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.”

And, therefore, he wants us to recognise the principles of fraternity. He said and I quote,

“What does Fraternity mean? Fraternity means a sense of common brotherhood of all Indians - Indians being one people. It is principle that gives unity and solidarity to social life. It is a difficult thing to achieve”

How difficult it is, can be realised by a story from James Pryce and he refers to that story. He refers to the social and economic inequalities in the country and states, and again I quote him

“We must begin by acknowledging the fact that there is complete absence of two things in Indian society. One of these is equality. On the social plane, we have in India a society based on the principle of graded inequality which means elevation for some and degradation for others. On the economic plane, we have a society in which there are some who have immense wealth as against many who live in abject poverty. On the 26th of January 1950, we are going to enter into a life of contradictions. 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? How long shall we continue to deny equality in our social and economic life? If we continue to deny it for long, we will do so only by putting our political democracy in peril. We must remove this contradiction at the earliest possible moment or else those who suffer from inequality will blow up the structure of political democracy which this Constituent Assembly has to laboriously built up.”

On 26th January 2025, we have completed 75 years from the date on which we have given to ourselves the Constitution on 26th January 1950. 2 years back i.e. on 24th of April 2023, we have celebrated the golden jubilee of Kesavananda Bharati. We must

pay our tribute to framers of the Constitution and also to the authors of the judgment who gifted this wonderful judgment. We celebrated the Amrut Mahotsav of Indian Constitution. When we look at the speeches of Dr. B.R. Ambedkar made on 17th December 1946, 4th November 1948 and on 25th November 1949, we will find as to what a great visionary he was. He had stated that the country would be strong and united in the time of peace as well as war. Though in the last 75 years, the country has faced various external aggressions and internal disturbances, the country remained united and strong. When we compare ourselves with the neighbouring countries, we would find as to how relevant his proposals were.

We have seen that in the last 75 years, the Constitution has been amended from time to time to adapt to the changing needs because the constitution is not a static document. It is not a rigid document/ static document, but at the same time we have seen that though the Constitution has been amended to take into consideration the changing needs of every generation, the very basic structure of the Constitution has not been permitted to be changed.

Dr. Ambedkar was criticised from both the sides. On one hand, it was said that the provision to amend the Constitution was made very easy and on the other hand it was said that the provisions to amend the Constitution were very rigid.

Dr. Ambedkar was criticised by the socialists and communists that the provisions to amend the Constitution were very rigid. It was argued that it was difficult to get a two-third majority of the Members present in both the Houses and a simple majority of the total Members. It was also argued that it was very difficult to get ratification by half of the State Legislatures. It was, therefore, argued that such a rigid provision would not permit the Constitution to adapt to the changing needs. Refuting the said arguments, he stated that, no doubt that the Constitution has to be organic and evolving, but, at the same time, the very foundation on which the Constitution rests could not be altered.

Dr. Ambedkar said that, today the Constituent Assembly was sitting as an independent body without having any political ideologies, without any particular agenda. But if the power is given to the Parliament to amend the Constitution very liberally, then the danger of a particular political party, finding it difficult to

implement its agenda, amending the Constitution in order to implement its ideology cannot be ruled out. He said that this could not be permitted. Dr. Ambedkar said that the Constituent Assembly, as an independent body, was providing a Constitution which would be a foundation for the generations to come. Though a provision has to be made to adapt to the changing needs, the Constitution cannot be permitted to be amended at the sweet will of the majority.

We, therefore, find that though there was a long standing debate on the issue of amending powers of the Parliament to amend the Constitution, in Shankari Prasad, Sajjan Singh and Golaknath and so on, but in the case of Kesavananda Bharti, by a majority of 7:6, the Supreme Court held that though the parliament has the power to amend the Constitution and even take away the fundamental rights, but does not have the power to amend the basic structure of the Constitution.

As a matter of fact, the seeds of basic structure were sown in the case of Sajjan Kumar wherein *Justice* Mudholkar and Justice *Hidayatullah* differed with the majority view on the amending powers of the constitution. Justice Hidayatullah said that he

would require stronger reasons than were given in Shankari Prasad to hold that the amending powers of the Constitution are unlimited. *Justice* Mudholkar said that though the power to amend is implicit in the constitution, is it permissible to hold that the parliament also has the power to take away the basic feature of the Constitution?

Though *Kesavananda Bharti* is known for its decision on the amending powers of the Constitution, as I referred to the earlier speeches of Dr. Ambedkar, he made a very strong emphasis on social and economic justice along with political justice. As found in his first speech, second speech, and third speech, which I have already elaborately referred to, he stated that unless we have social and economic equality, the political equality which was ensured by one person, one vote, one value would all be without any substance and the democracy which we love so laboriously given to ourselves will collapse like an edifice of cards and therefore he introduced the Directive Principles i.e. Part IV in the Constitution.

As all of us know that criticism was made that this is nothing else but a declaration of pious obligations but he said no, I am sure that every government which would be in the power will be dictated

by the instructions in directive principles, which will guide the executive and legislative action. And, therefore, we find that right from 1947, various statutes have been enacted to further the aims and objects of the directive principles like the Ceiling Acts, like the restoration of the lands to scheduled castes, scheduled tribes, and so on.

Though the initial view of the Supreme Court in various cases, be it the Bank Nationalisation or the Maharaja's case was that, in case of a conflict between the fundamental rights and directive principles, the directive principles will have to give way to the fundamental rights, this view has been turned upside down in Kesavananda Bharti. And, therefore, the Kesavananda Bharti decision requires celebration for two important milestones, one, with regard to the basic structure doctrine, and secondly, for giving due importance to directive principles of State Policy.

Though there is a sharp division of 6 to 7 with regard to the amending powers of the Constitution; there is unanimity in almost all the views expressed in Kesavananda Bharti on the importance of directive principles.

Due to paucity of time it will not be possible for me to refer to the observations made by various judges in the said judgment. I have elaborately referred to them in my speeches on the topic of importance of Directive Principles in the Indian Constitution.

Though I would not like to go in detail, I would only refer to Justice Chandrachud in *Minerva Mills* case, where he noticed that the directive principles and the fundamental rights are like two wheels of a golden chariot of the Constitution. It has been held that, if you snap one wheel of the chariot, the efficacy of the entire chariot comes to a standstill. In *Kesavananda Bharti*, it was said that the directive principles and fundamental rights together are the soul the Constitution of India and therefore, the importance of the directive principles has been duly recognised in *Kesavananda Bharti*, when we study the journey of the Indian Constitution thereafter for last 4 decades, we find that the role of Indian Constitutional Courts, viz. the Supreme Court and all the various High Courts, have always been in tune with upholding of the enactments or actions taken in furtherance of the directive principles. Many enactments have been upheld though they were found to be inconsistent with fundamental rights.

We also see that various rights which are not recognised in Chapter III have been evolved by the Supreme Court and High Courts, by linking them to the directive principles like Right to Privacy, Right to Dignity in life in case of Maneka Gandhi, or Right to Education, in case of Mohini Jain or Unnikrishnan, which was later brought into Constitution by an amendment, or Right to health as held in case of Parmanand Katara, or Paschim Bengal Kheti Mazdoor Sangh, as well as Right to food, Right to Potable water, and, in many cases, right to pollution free environment in M C Mehta, right to green environment in T N Godavarnam and so on. We, therefore, find that the journey of last 75 years of the working of the Constitution by all the organs, i.e. the Legislature, the Executive and the Judiciary has been satisfactory in implementing the constitutional mandate of Part IV. As a matter of fact, I recollect that Justice Mathews in Kesavananda Bharti said that Courts are also a State within the meaning of Article 12 of the Constitution of India and therefore when they impart justice they are also bound to follow the mandate of the directive principles. Therefore, to say that this journey of 75 years, has not been satisfactory, in my view, would be unjust to the efforts of the

constitution makers, the efforts of executive, the efforts of the legislature and the efforts of the judiciary.

The extraordinary contribution of Dr. Ambedkar has been succinctly stated by T.T. Krishnamachari, a prominent member of the Constituent Assembly who later held the position of India's finance minister, He said in his speech on 5th November 1948 thus:

“I am aware of the amount of work and enthusiasm that he has brought to bear on the work of drafting this Constitution . . . 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.”

In the Constituent Assembly, after the final draft was presented, rich compliments were paid to Dr. Ambedkar for his contribution. Since we celebrate Dr. Ambedkar's contribution in the framing of the Constitution, I find it necessary to refer to some of them.

Dr. B. Pattabhi Sitaramayya said and I quote,

“Our friend Dr. Ambedkar has gone away, else I should have liked to tell him what a steam-roller intellect he brought to bear upon

this magnificent and tremendous task irresistible, indomitable, unconquerable, levelling down tall palms and short poppies: whatever he felt to be right he stood by, regardless of consequences.”

Sir Alladi Krishnaswamy Ayyar states that

“Before I conclude I would be failing my duty if I do not express my high appreciation of the skill and ability with which my friend the Hon’ble Dr. Ambedkar has piloted this Constitution and his untiring work as the Chairman of the Drafting Committee.”

K. M. Jedhe, from Satara, states that some of the members while congratulating Dr. Ambedkar referred to him as Manu and Dr. Ambedkar had a great hatred for Manu. He said that

“They call him Bhim and make it known to the public that he has framed *Bhim Smriti*. I also call it *Bhim Smriti* though I belong to the Sprasya Class. Dr. Ambedkar is a great lawyer

and a man of great ability and intellect; nobody will doubt that.”

Mahavir Tyagi said, and I quote him,

“I stand today face to face with the picture of my old, old dreams and the fruits of my strenuous labours of thirty years. A concrete picture is before us. Dr. Ambedkar who was the main artist has laid aside his brush and unveiled the picture for the people to see and comment upon.”

Mr. H.J. Khandekar, who had serious disputes with Dr. Ambedkar on various issues stated that:

“Therefore I do not have any fundamental difference with him and for the greatest service that he has done to this country within the period of these three years in framing the Constitution, he deserves congratulations”.

There are many other speeches. However, due to paucity of time, I will not refer to all of them. Lastly, I would refer to Dr.

Rajendra Prasad, who in his concluding speech on 26th November 1949 states, and I quote him,

“sitting in the Chair and watching the proceedings from day to day, I have realised as nobody could have, with what zeal and devotion, the members of the Drafting Committee and especially its chairman, Dr. Ambedkar in spite of his indifferent health, have worked. We could never make a decision which was or could be ever so right as when we put him on the Drafting Committee and made him its Chairman. He has not only justified his selection but has added lustre to the work which he has done.”

Dr. Rajendra Prasad also recognised the contribution of other members of the Constituent Assembly and said that their untiring work has given this valuable piece of Constitution and he ends by saying that all members of the Constituent Assembly especially Dr. Ambedkar deserved the thanks of the Nation.

Dr. Nelson Mandela, whose contribution for the freedom movement in South Africa is known to all of us. He refers to the work of Dr. Ambedkar and states, I quote,

“The Indian Constitution provides inspiration in preparation of a new South African Constitution. We hope that our efforts in formulation of a new constitution will reflect the work and ideas of this great son of India. Dr. Ambedkar’s contribution to Social Justice and to the upliftment of the oppressed is worthy of emulation”

And, therefore, friends, when we celebrate the 134th birth anniversary of Dr. Ambedkar, whose initial entry in the Constituent Assembly was only to protect the interests of the scheduled Castes, the oppressed, and the downtrodden, we, as a country, have recognised his invaluable contribution in presenting to this country a Constitution which has not stood the test of the time for last 75 years, but it is this Constitution that has kept India strong, stable and united. In furtherance of the aims and objects

of social and economic justice, various enactments have been enacted. The said enactments have been upheld by the Courts.

Lakhs of acres of land have been distributed to the landless labourers. Thousands and millions of tenants who were tilling the soils have become the owners of the lands. Lakhs of acres of land belonging to scheduled castes and scheduled tribes have been restored to them. Various enactments in furtherance of the rights of the labourers have been enacted. Not only that, the Supreme Court, acting proactively, has given directions like in the case of U. Unichoyi vs. State of Kerala with regard to the minimum wages.

And we find that, in the last 75 years, the country which was ridden earlier with caste, creed, religion, we have witnessed this country giving two Presidents who belonged to Scheduled Castes, viz., Shri K.R. Narayanan and Shri Ram Nath Kovind. The country has given us two women Presidents, the first one being Smt. Pratibha Patil and the second one being Smt. Draupadi Murmu, who also has been the first Scheduled Tribe president.

The country has given two speakers who belong to the scheduled castes, Mr. Balyogi and Ms. Meira Kumar. It has also

given two women speakers, again Smt. Meira Kumar, and Smt. Sumitra Mahajan.

Dr. Ambedkar always said that the women in this country are more oppressed than the Dalits and he, therefore, stated the furtherance of their upliftment was also a basic necessity.

We have had a woman Prime Minister Smt. Indira Gandhi. we had hundreds of IAS officers, IPS officers, Chief Secretaries, DGPs belonging to Scheduled Castes, Scheduled Tribes, and OBCs.

We have had the Dalit Chief Justice of India, Justice KG Balakrishnan.

The country is having a prime minister, who comes from a humble background belonging to Backward Classes and who takes pride in saying that it is because of the Constitution of India, that he could be the Prime Minister of India.

Speaking for myself, I was fortunate to have been born to a father who worked with Dr. Ambedkar and served as one of the soldiers in the fight for social and economic justice. I am here only because of Dr. Ambedkar and the Constitution of India.

Let us pay our tribute and homage to the great son of the soil, one of the greatest and most eminent personalities the world has ever produced, Dr. B.R. Ambedkar, and thank him and the makers of the Constitution for giving India such a wonderful Constitution.

Thank you! Thank you!
