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Constitutional Evolution of the Right to Equality in the Context of Constituent Assembly Debates

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Right to equality is one of the most important features of the Indian constitution and it seems that India has developed it with the passage of time in order to prove its concern for justice liberty and fraternity. An analysis hereby presents the development over time of Articles 14 to 18¹ of the Constitution of India that guarantees the right to equality. Consequently, through the Constituent Assembly Debates, this study aims at exploring the foundational philosophy, and the controversial and visionary elements that were employed by the framers of these strategic articles. The goal to achieve in this research therefore is to unravel the process through which the idea of equality that was bounced around or argued then was elevated to the status of a Constitutional provision. It aims to understand the ratifiers' and the drafters' purported purposes and express the social and political context of the moment as well as the job of vindicating equality as well as old grievances at the same time. This study also tries to bring out that the debates were progressive in nature as they touched upon such issues as social inequality, women's repression, and untouchability to lay a firm and sound structure for a civilized society. By analysing the content of the debates, this paper aims to reveal the participants' attitudes and the process of constitution-making that is quite contentious. Thus, it becomes important also to read Articles 14 to 18² are much more than legal rights; they are a symbol of a steadfast endeavour towards the promise of equality and dignity for all. It is expected that the findings from the study will enhance knowledge of constitutional law and continue to illuminate the issue of the right to equality in contemporary India. It is in this light that this research has placed the right to

¹ Constitution of India 1950

² *Ibid*

equality within the discursive and historical framework of the Constituent Assembly Debates as a way of reason into the formative values of Indian democracy. It suggests to the readers to think about what it implies to continue a never-healing process of search for full equality and the constitutional rights ensuring this right.

Keywords: *constitution, equality, democracy.*

INTRODUCTION

A man's existence depends on access to basic necessities such as food, water and air. But for this existence to be free and liberated, there needs to be the presence of rights, particularly fundamental rights, is imperative. The Constitution of India talks about these Fundamental Rights that are provided to every citizen living in India. These rights are provided regardless of caste, gender, race or religion. One such right includes the right to Equality. Right to Equality which is mentioned in Article 14³ of the Constitution of India eliminates any kind of discrimination or inequality on any basis. The inequities encompass religious beliefs, caste, gender, race, and social, cultural or economic discrimination. The equality includes equality in using public places, equality in protection by law, equal opportunity in occupation and also abolishment of any kind of titles. The basic idea behind the making of such a right was to abolish the practice of untouchability which was prevailing for decades in India at that time. The makers of the constitution including Dr. B.R. Ambedkar believed that having such a right was essential to safeguard living and expansion of humans living in India.

During that period, untouchability was highly common in Indian society, and many people faced discrimination on many fronts due to their perceived status as 'untouchables'. Members of the Constituent Assembly supported the ideas of well-known individuals like Raja Ram Mohan Roy and wished to end untouchability at its source. Additionally, Dr. B.R. Ambedkar shared his thoughts on the abolition of untouchability; he was a fervent supporter of equality.

³ Constitution of India 1950, art 14

The creators of the Constituent Assembly were adamant that untouchability should be eradicated from India and that their country should be free of all forms of inequity⁴.

WHAT IS THE RIGHT TO EQUALITY

Right to Equality refers to the protection by law which guarantees equal treatment to all Indian citizens. It prohibits any kind of discrimination based on class, ethnicity, religion, gender or race. The equality provided by the constitution is both positive as well as negative, positive is providing equality to all and negative is preventing anyone from doing inequality. The constitution clearly states that ‘The state shall not deny to any person in India equality before the law or the equal protection of the laws.’ The principle that laws are applied equally to all individuals, regardless of their status, is known as the rule of law. This principle forms the cornerstone of any democratic society. the right to equality is mentioned in Article 14 of the Constitution of India.

CONSTITUENT DEBATE AND THE OPINIONS OF THE LEADERS

General Opinions

Initially, the right to equality was given in Article 9, which was later included in Article 14 and Article 15⁵ of the Constitution of India. Article 14 of the Constitution of India, 1950 was originally part of Draft Article 15 and was not an independent provision in the Draft Constitution of 1948. Article 15 reads *Protection of life and liberty and equality before the law– “No person shall be deprived of his life or liberty except according to procedure established by law, nor shall any person be denied equality before the law or the equal protection of the law within the territory of India”*. Viewpoints and opinions of different leaders on this matter are discussed below:

Dr. B.R. Ambedkar: His belief that all people should be treated equally under the law, regardless of their background or religion or caste, led the team that produced the Constitution.

⁴ Sanya Luthra, ‘Debates of the Constituent Assembly: Enacting Power and Equity’ (*Dhaara magazine*, 25 January 2024) <<https://dhaaramagazine.in/2024/01/25/debates-of-the-constituent-assembly-enacting-power-and-equity/>> accessed 08 June 2024

⁵ Constitution of India 1950, art 15

He thought that for a society to be just and fair, equality was crucial⁶.

Jawaharlal Nehru: In order to create a society in which everyone is treated equally, Nehru wished for all citizens to enjoy the same rights. He believed that people shouldn't be treated differently by the government based on factors such as gender, caste, religion, or race. To ensure that everyone had equal opportunity, he desired strict regulations⁷.

Sardar Vallabhbhai Patel: Patel desired to eradicate unfairness and discrimination and concurred that equality was vital. He was in favour of Article 14, which states that everyone has the right to access justice and be treated equally under the law⁸.

Rajendra Prasad: Prasad believed that maintaining our nation's unity and peace required treating everyone equally in the eyes of the law. He thought that treating everyone equally would stop discrimination and promote peaceful coexistence among India's various communities⁹.

Sarojini Naidu: Naidu concentrated on ensuring that women's rights were equal to those of males. She pushed for constitutional amendments that would guarantee women's equality and give them more authority in the political, social, and economic spheres¹⁰.

Shyama Prasad Mukherjee: When it came to the right to equality, Bhartiya Jana Sangh founder Shyama Prasad Mukherjee took a conservative stand. Despite his support for universal equality, he was wary of affirmative action initiatives such as reservations. He was concerned that these measures would create rifts in society and undermine the concept of merit-based opportunity. Mukherjee favoured a more sophisticated approach to addressing social injustices while guaranteeing the preservation of individual liberties and rights¹¹.

⁶ Durga Das Basu, *Shorter Constitution of India* (16th edn, Lexis Nexis 2021)

⁷ *Ibid*

⁸ RNP Singh, *Sardar Patel: Unifier of Modern India* (Vitasta Publishing Pvt. Ltd. 2018)

⁹ Basu (n 6)

¹⁰ Sarojini Naidu, *The Speeches and Writings of Sarojini Naidu* (New India Publishing House 1925)

¹¹ Tathagata Roy, *Syama Prasad Mookerjee: Life and Times* (Penguin Random House India Private Limited 2018)

AMENDMENTS PROPOSED¹²

Along with the support and appreciation for the involvement of the right to equality, there also came suggestions and amendments¹³ proposed by different influential figures which are mentioned below¹⁴:

Mr. Syed Abdur Rouf: in the constituent assembly debate said that there should be the inclusion of the word 'place of birth' to promote equality and prevent discrimination. He believed there could be chances of discrimination based on the place of birth of a person as his belief was a person when discriminated, it's not on the basis of race but on the basis of his/her birthplace¹⁵.

Mr. Mohammad Tahir: Mr. Mohammad Tahir proposed substituting 'state or any legal authority or dedicated to the use of the general public' for the original phrase 'state or dedicated to the use of the public.' Furthermore, he suggested that any infraction of this clause ought to be regarded as a legal offense¹⁶.

Shri S. Nagappa: According to Shri S. Nagappa, Indians need to be free both socially and politically. To him, economic, social, and political freedom are synonymous with freedom. He wanted the current article to grant social rights to a specific community. He acknowledged that acquiring social rights is more comprehensive and illuminating¹⁷.

K.M. Munshi: Munshi thought that people should be shielded from unfair treatment by strict regulations. For him, everyone should be free and able to live in harmony with one another, and equality is a fundamental democratic tenet.¹⁸

¹² 'Constituent Assembly Debates On 14 June, 1949 Part I' (*India Kanoon*)

<<https://indiankanoon.org/doc/1649269/>> accessed 18 June 2024

¹³ 'Constituent Assembly Debates On 4 November, 1948 Part II' (*India Kanoon*)

<<https://indiankanoon.org/doc/843976/>> accessed 18 June 2024

¹⁴ R.S. Dossal, 'Constituent Assembly Debates On Fundamental Rights A Sidelight' (1952) 13(3/4) *The Indian Journal of Political Science* <<https://www.jstor.org/stable/42743406>> accessed 08 June 2024

¹⁵ Constituent Assembly Debates On 14 June, 1949 Part I (n 12)

¹⁶ 'Constituent Assembly Debates On 29 April, 1947' (*India Kanoon*) <<https://indiankanoon.org/doc/747690/>> accessed 19 June 2024

¹⁷ 'Constituent Assembly Debates On 25 November, 1948' (*India Kanoon*)

<<https://indiankanoon.org/doc/1963368/>> accessed 18 June 2024

¹⁸ Constituent Assembly Debates On 14 June, 1949 Part I (n 12)

Mr. H.V. Kamath: Mr. H.V. Kamath suggested replacing the phrase 'revenues of the state' with 'State Funds'. Dr. B.R. Ambedkar supported this proposal¹⁹.

K.T. Shah: He proposed the replacement of the word 'creed' with 'religion'. he also suggested there was no need to mention the list of different types of public places and proposed to use the word in a wide sense²⁰.

Mr. Raj Bahadur: For the debate regarding the use of the words 'place of' before the word 'birth', he was of the view that it gives restricted meaning to the entire amendment. He was of the opinion that the word 'birth' is not only applied to 'residence' but also to 'descent'. According to him if the word 'descent' is only taken into consideration then it may lead to more discrimination in the future.²¹

Mr. Rohini Kumar Chaudhury: He proposed to insert 'or of dress worn of any nationality', after 'sex'. He suggests this because, at the event at the threshold of independence, there were hotels that did not welcome people who dressed in Indian style²².

Mr. M.C. Subramaniam suggested the removal of the words 'in particular' and proposed the formation of a different clause 9(a)²³.

During the discussions regarding the right to equality, Dr. B.R. Ambedkar was a major factor in determining which proposed reforms were acceptable and which ones were not. His input was crucial because he was the chairman of the Drafting Committee and a key figure in the creation of the Indian Constitution. Each proposed amendment had to be carefully considered by him to ensure that it adhered to the fundamental principles of the Constitution, made legal sense, and did not conflict with the objective of guaranteeing that everyone was treated equally and fairly. When Ambedkar consented to certain modifications, it demonstrated that he was a pragmatic

¹⁹ 'Constituent Assembly Debates On 29 November 1948' (*India Kanoon*)

<<https://indiankanoon.org/doc/1464664/>> accessed 19 June 2024

²⁰ Constituent assembly debates, 25 November 1948 (n 17)

²¹ 'Constituent Assembly Debates On 15 November, 1948' (*India Kanoon*)

<<https://indiankanoon.org/doc/1464664/>> accessed 19 June 2024

²² *Ibid*

²³ 'Constituent Assembly Debates On 1 December 1948 Part I' (*India Kanoon*)

<<https://indiankanoon.org/doc/1107530/>> accessed 19 June 2024

national leader who understood the value of considering opposing viewpoints while upholding the fundamental principles of the Constitution.²⁴

It is evident from these modifications and Ambedkar's decision-making role that the Constituent Assembly held extremely thorough and meticulous discussions. It also demonstrates the amount of effort required to develop a solid strategy to guarantee that everyone was treated fairly under the Indian Constitution.

THE FINAL PROVISIONS MADE

After much deliberation, the Constituent Assembly—the body tasked with drafting India's laws—finally agreed upon a number of crucial principles pertaining to equal treatment for all. The 1950 Indian Constitution has several regulations²⁵.

Article 14²⁶: It states that all citizens of India shall be entitled to equal treatment under the law. Your ethnicity, religion, caste, sexual orientation, or place of birth are irrelevant. Everyone should be treated equally.

Article 15²⁷: It states that no one should be subjected to discrimination on the basis of their race, religion, sexual orientation, caste, or place of birth. In order to support women and children or to assist those who are socially backward, the government may also enact unique regulations.

Article 16²⁸: This section ensures that every individual has an equal opportunity to get employment with the government. They declared that no one should be denied employment due to their birthplace, sex, race, religion, or caste.

²⁴ Vaibhav Gattani, 'Are we Really Equal as per Article 14 of the Indian Constitution?' (*Law Street Journal*, 17 December 2021) <<https://lawstreet.co/know-the-law/article-constituent-assembly-debate>> accessed 09 June 2024

²⁵ 'Right to Equality (Article 14 to 18): Meaning, Provisions & Significance' (*Next IAS*, 14 February 2024) <<https://www.nextias.com/blog/right-to-equality/>> accessed 09 June 2024

²⁶ Constitution of India 1950, art 14

²⁷ Constitution of India 1950, art 15

²⁸ Constitution of India 1950, art 16

Article 17²⁹: This is a very significant article. It states that the outdated custom of untouchability, in which some individuals receive unfair treatment because of their caste, is no longer permitted. If someone continues to do so, they risk punishment.

Article 18³⁰: This one eliminated the previous titles that indicated a person's rank. Everyone is now treated equally, with the exception of those in the military and exceptionally bright students, who receive unique titles.

These rules were made to make sure that everyone in India is treated fairly and equally, no matter who they are or where they come from.

MY OPINIONS

Hence, it can be said that the most comprehensive planning to ensure justice for all and not just limited to legal formalities is seen in the inclusion of the Right to Equality as one of the written rights in the Constitution of India. measures aimed to be put into effect within the framework of the Constitution by the leaders of the Constituent Assembly consisting of Dr. B. R. Ambedkar, Jawaharlal Nehru, Sardar Vallabhbhai Patel, Rajendra Prasad, and Sarojini Naidu together with their colleagues were designed by seeking to establish principles that no person be discriminated against due to his or her caste, gender, religion, or birthplace.

The deliberations were fairly extensive and the concerns of the individuals were deep, indicating their serious approach to establishing fairness and justice. By lifting voice specifically Dr. Ambedkar fought for equality in the society and he left no stone unturned to make Articles 14 to 18³¹ of the Indian Constitution strong to prevent discrimination practice and encourage equality for every individual. These articles together ensure that no one is discriminated against in any manner and that practices like untouchability and employment discrimination do not survive.

²⁹ Constitution of India 1950, art 17

³⁰ Constitution of India 1950, art 18

³¹ Constitution of India 1950

The vision of India that Jawaharlal Nehru had was deeply rooted and important, that every citizen of India should have equal rights and equal opportunities under the law and without discrimination from the government as per their colour, caste or creed. This vision was shared by Sardar Patel who supported Article 14 which forms the basis of a fair trial, whereby every person has the right of access to the justice system and be treated equally. In several of his speeches, Rajendra Prasad also spoke about equality in order to have unity of the nation and get along with the differently abled groups of people as well as the caste system in the country. Regarding the concerns of women's rights, the goal of such advocacy that accompanied Sarojini Naidu was to eliminate injustices present in politics, society, and the economy based on gender.

Additionally, the intervention made by members such as Mr. Mohammad Tahir and Shri S. Nagappa concerning the provision focuses on two differing types of equality. For instance, on public use provisions, Mr. Tahir recommended that the category should not be rigid so that legal loopholes could not be made out, Tahir also recommended that violations should become a legal offense. When it comes to social rights Mr. Nagappa also laid emphasis on them as he said that all these rights are socio-political in nature and therefore economic and social freedoms are – political freedoms too. While arguing their standing in the Constituent Assembly, politicians made a great effort to find a fair approach to the question of historical justice and protect civil liberties.

CONCLUSION

In collaboration with some emancipating political leaders, I have known that Dr. B.R. Ambedkar strove hard so that no one would be barred from attendance on the basis of sex, caste or religion. In this context, the debates in the Constituent Assembly and the commitment to an equitable system of law-making eventually led to the formulation of Articles 14 to 18³² of the Constitution. These articles require that equal treatment should be the case so that no individual is discriminated against in any way through the provision of legal circumcision. Such regulations reveal India's commitment to preserve its diversity and to give everyone equal chances, regardless of who they are.

³² *Ibid*

By coming up with these articles in the Constitution, there has been a major move toward justice and equality. They do not only prohibit discrimination but also strive for equality in the entire society in all facets including the rights of free access to public areas, dilemma of employment opportunity, and eradication of untouchability. On this base of work further culture of tolerance was tried to build in Indian society focusing legal assistance to the downtrodden and needy communities to make society progressive, liberal and rational.

Thus, these Constitutional provisions are a testament to India's determination to construct the nation of the future in which no man or woman will have to live in fear of proclaimed measure. They represent the general principles such as justice, liberty and equality That are critical for the social order in society and the rights of all citizens. Thus, it became possible through this organized effort of the Constituent Assembly, to make India a little more just a little more fair.