

IDEALS OF CONSTITUTION IN THE CONTEXT OF INDIAN CITIZENSHIP**KANWAL MARWAHA¹****Abstract -**

It has been maintained and seen through the years in the light of the Constitution that absolute concepts of liberty and equality are very difficult to achieve in a modern welfare state. The enjoyment of these rights is subjected to the interest of the people and the state may therefore, at times, encroach on the domain of these rights for the common good or common interest, though that would depend upon the conditions and circumstances prevailing at a particular time. For instance, the welfare state attempts to satisfy "basic needs". The word basic implies that over and above certain minima, it is open to some people to enjoy additional amenities, so that there will continue to be "haves" and "haves-not". The tendency sooner or later will be for the later to start insisting that some of the things which they would like, but do not have, are "basic" and hence "needs" and due "as of right". What is at time a luxury becomes at another time a necessity and need. For a welfare state to thrive and to maintain its constitutional goal, legislation aimed at social welfare is cardinal for the common good and common interest of the people. Directive Principles of State Policy and Fundamental rights together constitute the "conscience" of the Constitution and represents the basic rights inherent in human beings in this country. There is no inherent conflict between them and both are equally inherent in promoting the aims and objectives of the Constitution. However, in translating them in socio economic reality some degree of compromise is inevitable.

Keywords : Fundamental Rights and Duties, Preamble, Citizenship, Sovereign, Secular Republic and Democratic.

An ideal society should be mobile, should be full of channels for conveying a change taking place in one part to other parts. In an ideal society, there should be many interests consciously communicated and shared.²

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² Dr.B.R.Ambedkar, available at : www.brainyquote.com/quotes/quotes/b/brambedk (Visited on Jan 2, 2017)

Introduction

The constitution defines our national goals of democracy, socialism and secularism guarantees equality, liberty, justice, etc., to the citizens.³ It confers on us our fundamental rights and duties and also contains the directive principles for the government. It tells us about the intensions of our great leaders who drafted and gave us our Constitution. Indians had been demanding complete independence since 1929. Eventually, in 1945, Mr. Clement Atlee, who was sympathetic towards the Indians, became the Prime Minister of England. He sent the Cabinet Mission to India to solve the political problem (whether to divide the country or to leave it united) and to devise means of granting her independence. It recommended that there should be a Constituent Assembly to frame the Constitution of India. The Constituent Assembly of India met under the temporary chairmanship of Sachidananda Sinha, as he was then the eldest member of the Assembly, and elected Dr. Rajendra Prasad as its permanent chairman. The Constituent Assembly consisted of members who were elected by the members of the provincial legislatures and not by the people directly. Its members represented all the parties through most of the members were from the Congress. For this reason, the Muslim League put hurdles in its functioning and boycotted it from its very inception. The Assembly, however, started its work on 9 December 1946, in the Central Hall of the Parliament House.⁴

Our Constitution provides for a democratic form of government. It means that all the citizens of our country have the right to decide matters relating to the governing of the state. The Government is, in the real sense, of the people, for the people and by the people⁵. All people above the age of 18 years have the right to elect their government. The people elect their representatives who form the government. It is through these representatives, who have the backing of the majority of the people decisions are taken in political matters. This is called political democracy.⁶

India has the world's largest democracy. In a democracy, all people have certain rights and freedom. But political democracy only i.e. right to elect the government, is not enough.

³ Dr.B.R.Ambedkar, Speech on Constitution, *available at* : www.simplydecoded.com (Visited on Jan 3, 2017)

⁴ Ibid

⁵ Ibid

⁶ Ibid

There is need for social democracy too. In a democracy all the citizens are to be treated equally. Each one is given equal opportunity, irrespective of his caste, creed, religion and sex. Political democracy without social democracy has no meaning. Unless we provide equal justice and equal opportunities to all we shall not be able to enjoy the fruits of freedom. We must have political as well as social democracy.⁷

On August 29, 1947 Dr. Ambedkar was appointed the Chairman of the Drafting Committee that was constituted by Constituent Assembly to draft a Constitution for independent India.⁸ The draft Constitution was the result of the collective efforts of a galaxy of great leaders and legal scholars in the Constituent Assembly such as Jawaharlal Nehru, Rajendra Prasad, Dr.B.R. Ambedkar, Sardar Patel, B.N. Rao, Alladi Krishnaswamy Ayyar etc. The purpose of this paper is to examine the contribution of Dr.Ambedkar only to the Indian Constitution. Dr.Ambedkar played a seminal role in the framing of the Indian Constitution. He used all his experience and knowledge in drafting the Constitution. In his capacity as the Chairman of the Drafting Committee, he hammered out a comprehensive workable Constitution into which he incorporated his valuable views. He gave free India its legal framework, and the people, the basis of their freedom.⁹

To this end, his contribution was significant, substantial, and spectacular. Dr Ambedkar's contribution to the evolution of free India lies in his striving for ensuring justice social, economic and political.¹⁰ Dr. Ambedkar was a champion of fundamental rights, and Part III of the Indian Constitution guarantees the fundamental rights to the citizens against the state. Some of the fundamental rights contained in Articles 15(2), 17, 23, and 24 are also enforceable against individuals as they are very significant rights relating to the prohibition of discrimination on grounds of religion, race, caste, sex or place of birth etc. The text prepared by Dr.Ambedkar provided constitutional guarantees and protections for a wide range of civil liberties for individual citizens, including freedom of religion, the abolition of untouchability and outlawing

⁷ Id.page 2

⁸ Id.page 2

⁹ Id.page 2

¹⁰ Id.page 2

all forms of discrimination. Dr.Ambedkar argued for extensive economic and social rights for women.¹¹

According to Dr.Ambedkar, the most significant feature of the fundamental rights is that these rights are made justiciable. The right to move to the Supreme Court for enforcement of fundamental rights under Article 32 is itself a fundamental right. Article 32 authorises the Supreme Court to issue directions, orders or writs in the nature of habeas corpus, mandamus, certioraris etc. or any other appropriate remedy, as the case may be, for the enforcement of fundamental rights guaranteed by the Constitution.¹²

Parliamentary Democracy

Dr.Ambedkar was a strong advocate of the parliamentary form of government right from the inception of the Government of India Act of 1935.¹³ He firmly believed that the parliamentary system of government alone can usher in an egalitarian society through the application of the principles of social democracy. Dr Ambedkar's social democracy comprised politicians, political parties with high standards of political morality, honesty and integrity and strong and highly responsible Opposition party or parties committed to the cause of the downtrodden and depressed classes. The Preamble of the Indian Constitution echoes the principles of parliamentary democracy. It reads:¹⁴

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 Individual and the Unity of the Nation, in our Constituent Assembly this 26th day of November,

¹¹ Id.page 3

¹² Id.page 3

¹³ Dr.B.R.Ambedkar, The father of Indian Constitution – Legal Services, *available at* : www.legalservicesindia.com, *available at* : www.legalservicesindia.com (Visited on Jan 4, 2017).

¹⁴ Ibid

1949 do hereby adopt, enact and give to ourselves this Constitution.¹⁵

Protective Discrimination/Reservation

The real contribution of Dr.Ambedkar is reflected in the protective discrimination scheme or the reservation policy of the government envisaged under some provisions of Part III and many of Part IV dealing with the constitutional mandate to ameliorate the condition of the Scheduled Castes and Scheduled Tribes and the other backward classes.¹⁶ Provisions like Article 17 prohibiting untouchability, Article 30 dealing with the protection of minorities are some of the notable examples. Articles 15(4) and 16(4) of Part III and Part XI, and Schedule V and VI dealing with the upliftment of the Scheduled Castes and Scheduled Tribes speak clearly about the substantial and significant contribution of Dr.Ambedkar for the development of untouchables. Dr. Ambedkar made it his life's mission to uplift the untouchables and other downtrodden masses from the unequal position of inferiority to that of equal position of parity in socio-economic status with high-caste Hindus. For achieving this goal the reservation policy or the scheme of protective discrimination was advocated and implemented by him for ten years at least to ameliorate the conditions of the various depressed and down-trodden sections of Hindu society.¹⁷

State Socialism

Dr.Ambedkar¹⁸ advocated his economic doctrine of "state socialism" in the draft Constitution. He proposed state ownership of agriculture with a collectivised method of cultivation and a modified form of state socialism in the field of industry. But due to strong opposition in the Constitution Assembly, he could not incorporate his scheme of state socialism under the fundamental rights as a part of the Constitution.¹⁹

¹⁵ Id.page 4

¹⁶ Id.page 4

¹⁷ Id.page 4

¹⁸ Id.page 4

¹⁹ Id.page 4

In 1948, Dr Ambedkar presented the draft Constitution before the people of India; it was adopted on November 26, 1949 by the Constituent Assembly in the name of the people of India and came into force on January 26, 1950 marking the beginning of a new era in the history of India. Speaking after the completion of his work, Dr.Ambedkar said:²⁰

I feel the Constitution is workable; it is flexible and it is strong enough to hold the country together both in peace time and in war time.²¹

It has been in effect since January 26, 1950, which is celebrated as the Republic Day in India. The first President of India, Dr.Rajendra Prasad, praised the services rendered by Dr.Ambedkar in the making of the Constitution and said I have carefully watched the day-to-day activities from the presidential seat.²² Therefore, I appreciate more than others with how much dedication and vitality this task has been carried out by the Drafting Committee and by its chairman Dr.Bhim Rao Ambedkar in particular. We never did a better thing than having Dr.Ambedkar on the Drafting Committee and selecting him as its chairman. To conclude, Dr.Ambedkar's drafting of the Indian Constitution has enabled the abolition of untouchability and the outlawing of all forms of discriminations.²³ Due to all these outstanding contributions Dr.Ambedkar can be rightly called the architect of the Indian Constitution. Nonetheless, it is an undeniable fact that Dr.Ambedkar's dream of the creation of an egalitarian social order still remains unfulfilled despite the extended period of reservation for SCs and STs.²⁴

A constitution is the fundamental law of the state, containing the principles upon which government is founded, regulating the divisions of powers and the manner in which it is to be exercised.²⁵ But no definition of constitution can be regarded as exhaustive. A Constitution is the aggregate of laws and customs that forms the scheme for the arrangement of power-relationship

²⁰ Id.page 5

²¹ Id.page 5

²² Id.page 5

²³ Id.page 5

²⁴ Id.page 5

²⁵ Id.page 5

inside a political community, the State.²⁶ The system of administration of a political community, the state is embodied in a document called the Constitution. No constitution can remain static it requires modifications in consistence with the changing socio-economic and political ideas. So Woodrow Wilson ways: ²⁷

Living political constitutions must be Darwinian in structure and practice. Thus a constitution, instead of being static, is dynamic in nature.²⁸

The Constitution is the autobiography of power relationship. The organizational character of an institution is ascertained from its constitution.²⁹ The constitution is a legal document which provides the administrative system and the nature of a state. The constitution may not be codified in writing. The British constitution, for example, is not a written one. So it is not codified. Constitution evolves and develops in consistence with the social, economic and political ideas and environment of the land and time. That is why it is said that constitutions.³⁰

What does democracy mean to all of us?

To define it in a layman's language Democracy means that the power is in the hands of the people to decide how and by whom the country is run.³¹ But today does the real power lie in the hands of the people as it was believed when the constitution was applied? ³²

It is no more 'by and for the people'. Now it is more or less a board game and the players are the politicians with personal profits as the winning amount. ³³

One of the biggest flaws of our constitution is the never-ending length due to the tough language in which it has been drafted.³⁴ Being the sovereign document of our country it should

²⁶ Id,page 6

²⁷ Woodrow Wilson and the Rejection of the founder's Constitution, *available at* : www.online.hillsdale.edu (Visited on Jan 5, 2017).

²⁸ Ibid

²⁹ Ibid

³⁰ Ibid

³¹ M.V.Kamath, *The Constitution of India : Role of Dr.B.R.Ambedkar*, (Atlantic Publishers, India)

³² Ibid

³³ Ibid

have been drafted in a language easily comprehensible by the citizens. But unfortunately the legal jargon used can hardly be deciphered by the common man. With that length, the parliament today will never get the time to modify and simplify it but I feel this is something which should have been kept in mind at the time of its commencement.³⁵

Securing justice to all social, economical and political, is one of the chief aims of our constitution.³⁶ But this has hardly been actually put into action. Our judicial system which is responsible to provide justice to each and every individual is one of our slowest systems. Today we have at least 10,000 cases per day pending for each judge of Tis Hazari court which is at least ten times higher than the prescribed number. Even the fast track courts take 3-4 years to solve cases; the term 'fast track court' thus fails the purpose.³⁷ As we all know it took 63 years for the judiciary to come out with the historical judgment of Ayodhya Babri case. Criminal cases like that of Jessica Lal, Priyadarshini Mattoo, Nitish Katara case are among the many examples of delayed justice. Besides the procedure to approach the courts is so tedious that a poor farmer ends up selling his land, the only source of his livelihood, to pay so that he can get his rights back. The guidelines issued in the landmark judgment of D.K.Basu v. State of West Bengal in order to bring about prison reforms are rarely followed. Thousands of under-trial prisoners are still in jail, living in inhuman conditions and are being denied basic rights of living.³⁸

The fundamental rights under part III of our constitution too need to include many of those rights that have developed over a history of various judicial pronouncements.³⁹ These rights though not really stated in part III have been recognized as fundamental in nature and are better known as 'implied fundamental rights'. Right to food, right to privacy, right to livelihood, right to clean potable drinking water, right to fresh and clean environment, right to be silent, right to speedy justice etc. These rights need to be added in chapter III as they are equally important in today's time for every Indian.⁴⁰

³⁴ Id.page 7

³⁵ Id.page 7

³⁶ Id.page 7

³⁷ Id.page 7

³⁸ Id.page 7

³⁹ Id.page 7

⁴⁰ Id.page 7

At the same time I feel that the framers of our constitution gave more importance to fundamental rights than to the fundamental duties.⁴¹ Rights and duties are the two sides of the same coin. A right given to one person prevents another person from violating it thereby imposing a duty on him. Today everyone only wants to enjoy the benefits of the rights and no one lays importance on fulfilling their duties towards the society, country, environment and other human beings.⁴² As far as the directive principles of the state policy are concerned, they too are not satisfactory since no strict implementation is practiced. These are those principles which the state has to keep in mind while making any policies or laws.⁴³ For example, the equal distribution of material resources is to prevent resources from being concentrated in one or fewer hands. But in reality we have at least 60% of the population still living below the poverty line.⁴⁴ A special provision out to be made regarding population control. In a developing nation like India it is very important to have population control. In the current situation the supply of everything is too low in comparison to the steep increase in demand. Landmass remains the same but the inhabitants are increasing at a very fast pace.⁴⁵

Right to education needs to be given maximum importance. Even though compulsory education has been enforced till the age of 14, majority of Indians remain uneducated. Private schools are too expensive for a poor man to educate his child, and the government schools' standards are deteriorating year by year. Government schools, the only source of almost-free education to all the children, need to be renovated to provide a healthier environment and teachers with better qualifications so that even a family belonging to the middle class or upper class does not hesitate in sending their children to a government school.⁴⁶

Kelson, a famous jurist said that every piece of legislation derives its validity from the "Grundnorm". According to him the Grundnorm is that sovereign document from which all other legislations derive their validity.⁴⁷ Likewise is the situation in India where our Grundnorm is the constitution of India where all legislation country too derives validity from the constitution.

⁴¹ Id.page 8

⁴² Id.page 8

⁴³ Id.page 8

⁴⁴ Id.page 8

⁴⁵ Id.page 8

⁴⁶ Id.page 8

⁴⁷ Id.page 8

Anything going against a provision can be challenged in the court. But when our Grundnorm itself is flawed then how will any legislation be fit for the needs of the present society.⁴⁸

(i) Sovereignty:

By declaring us as a sovereign entity, Preamble emphasizes complete political freedom. It implies that our state is internally powerful and externally free. She is free to determine for herself without any external interference.⁴⁹ There is none within her to challenge her authority. Only this attribute of sovereignty has made her a member in the comity of nations. Without sovereignty she has no essence. If a state can not freely determine what it wants and how to achieve it, it loses the rationale to exist. Further, sovereignty gives the state the dignity of existence. It would not receive respect from within as well from outside if it does not possess the sovereign status. This suggests that sovereignty is one of the most important values of a state. Therefore, the government is duty bound to defend its sovereignty by preventing any kind of threat to it coming from any entity and direction. Though our Constitution does not specify where the sovereign authority lies but by mentioning the source of our Constitution as we the people of India it announces to the world that the ultimate sovereignty rests with the people of India as a whole. Political sovereignty is the hinge of our polity.⁵⁰ Accordingly, it is implied that the Constitutional authorities and organs of government derive their power only from the people. Therefore, our political system should ensure the support and approval of people to it. Article-51A(c), on the other hand, says that it shall be the duty of every citizen to uphold and protect the sovereignty, unity and integrity of India.⁵¹

(ii) Socialism

The word socialist was added to the Preamble by the 42nd amendment Act of 1976 however, several articles of our Constitution were already there giving credence to the ideal. The fathers of our Constitution had a wider vision of social transformation.⁵² Despite all social,

⁴⁸ Id.page 9

⁴⁹ Granville Austin, *The Indian Constitution : Cornerstone of a Nation* 308 (Oxford, Clarendon Press)

⁵⁰ Ibid

⁵¹ Ibid

⁵² Ibid

economic and political inequality present and inherent in Indian traditional society, our Constitution started a crusade against that order. The Constitution has deliberately imposed on us the ideal of socialist pattern of society a kind of Indian model of socialism to suit to our needs and temperament.⁵³ It stands to end all forms of exploitation in all spheres of our existence. Our Constitution directs the state to ensure a planned and coordinated social advance in all fields while preventing concentration of wealth and power in few hands. Our Constitution supports land reforms, promotes the well-being of working class and advocates for social control of all important natural resources and means of production for the wellbeing of all sections. To ensure a basic minimum to all has been the crux of many of our public policies today. Government of India has adopted mixed economy, introduced five year plans and has framed many such laws to achieve the value of socialism in a democratic set up. To achieve the objective of socialism Part-IV of our Constitution has outlined the principles to be followed.⁵⁴

(iii) Secularism

India is a home to almost all major religions in the world. To keep the followers of all these religions together secularism has been found to be a convenient formula. The ideal of secularism in Indian context implies that our country is not guided by any religion or any religious considerations.⁵⁵ However, our polity is not against religions. It allows all its citizens to profess, preach and practice any religion of their liking. Articles from 25 to 28 ensure freedom of religion to all its citizens. Constitution strictly prohibits any discrimination on the ground of religion. The Supreme Court in S.R Bommai v. Union of India held that secularism was an integral part of the basic structure of the Constitution. Secularism thus is a value in the sense that it supports to our plural society. It aims at promoting cohesion among different communities living in India.⁵⁶ Despite the Constitutional provisions and safeguards it is unfortunate that we still remain insufficiently secular. That has resulted in communal riots. Therefore, to achieve true secularism has remained a challenging objective.⁵⁷

⁵³ Id.page 10

⁵⁴ Id.page 10

⁵⁵ Id.page 10

⁵⁶ Id.page 10

⁵⁷ Id.page 10

(iv) Democracy

India is a democracy. We have adopted parliamentary democracy to ensure a responsible and stable government.⁵⁸ As a form of government it derives its authority from the will of the people. The people elect the rulers of the country and the latter remain accountable to the people. The people of India elect their governments at all levels (Union, State and local) by a system of universal adult franchise; popularly known as One man one vote. Elections are held periodically to ensure the approval of the people to the governments at different levels.⁵⁹ All the citizens without any discrimination on the basis of caste, creed, colour, sex, religion or education are allowed freedom of speech, thought and expression and also association. Democracy contributes to stability in the society and it secures peaceful change of rulers. It allows dissent and encourages tolerance.⁶⁰ It rules by persuasion, not by coercion. It stands for a constitutional government, rule of law, inalienable rights of citizens, independence of judiciary, free and fair elections and freedom of press etc. Therefore, to develop a democratic political culture has been an important objective.⁶¹

(v) Republic

As opposed to a monarchy, our Constitution prefers to remain a republic. The office of the head of the state is elective.⁶² This idea strengthens and substantiates democracy that every citizen of India (barring some who are constitutionally disqualified) after attaining a particular age is equally eligible to become the head of the state if he is elected as such. Political equality is its chief message. Any sort of hereditary rule is thus regarded as a disvalue in India.⁶³

(vi) Justice

⁵⁸ Id.page 11

⁵⁹ Id.page 11

⁶⁰ Id.page 11

⁶¹ Id.page 11

⁶² Dr.Anil Kumar Mohapatra is the Assistant Professor in P.G. Department of Political Science, Utkal University, Vanivihar, Bhubaneswar.

⁶³ Ibid

Justice is called a total value. The fathers of our Constitution knew that political freedom would not automatically solve the socio-economic problems which have been deep rooted.⁶⁴ Therefore, they stressed that the positive constructive aspect of political freedom has to be instrumental in the creation of a new social order based on the doctrine of socio-economic justice. The message of socio-economic justice mentioned in the preamble to our Constitution has been translated into several articles enshrined in part-III and part-IV of the Constitution. A number of practical measures have been taken over the years to create more favourable social conditions for the millions of downtrodden.⁶⁵ These include several developmental policies to provide safeguard to minorities, backward, depressed and tribal people. Our constitution abolishes untouchability; prohibits exploitation of the women, children and the weak and advocates for reservation to raise the standard of the people oppressed over ages. Whenever our government undertakes any developmental project it always adds a human face to it. Therefore, this ideal of a just and egalitarian society remains as one of the foremost objectives.⁶⁶

(vii) **Liberty**

The blessings of freedom have been preserved and ensured to our citizens through a set of Fundamental Rights.⁶⁷ It was well understood by the fathers of our Constitution that the ideal of democracy was unattainable without the presence of certain minimal rights which are essential for a free and civilized existence. Therefore, the Preamble mentions these essential individual rights such as freedom of thought, expression, belief, faith and worship which are assured to every member of the community against all the authorities of States by Part-III of the Constitution. There are however less number of success stories. Unless all dissenting voice is heard and tolerated and their problems are addressed liberty will be a distant dream.⁶⁸

(viii) **Equality**

⁶⁴ Id.page 12

⁶⁵ Id.page 12

⁶⁶ Id.page 12

⁶⁷ Id.page 12

⁶⁸ Id.page 12

Every citizen of India is entitled to equality before law and equal protection of law. As a human being everybody has a dignified self.⁶⁹ To ensure its full enjoyment inequality in all forms present in our social structure has been prohibited. Our Constitution assures equality of status and opportunity to every citizen for the development of the best in him. Political equality though given in terms of vote but it is not found in all spheres of politics and power. Equality before law in order to be effective requires some economic and education base or grounding. Equality substantiates democracy and justice. It is therefore held as an important value.⁷⁰

(ix) Fraternity

Fraternity stands for the spirit of common brotherhood. In the absence of that a plural society like India stands divided.⁷¹ Therefore, to give meaning to all the ideals like justice, liberty and equality our Constitution gives ample stress on fraternity. Democracy has been given the responsibility to generate this spirit of brotherhood amongst all sections of people. This has been a foremost objective to achieve in a country composed of so many races, religions, languages and cultures. Article-51A(e) therefore, declares it as a duty of every citizen of India to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities.⁷² Article 51A(f) further asks each citizen to value and preserve the rich heritage of our composite culture. However, Justice D.D.Basu believes that Fraternity will be achieved not only by abolishing untouchability amongst the different sects of the same community, but by abolishing all communal or sectional or even local or provincial anti-social feelings which stand in the way of unity of India.⁷³

(x) Dignity of the individual.

Fraternity and dignity of the individuals have a close link. Fraternity is only achievable when the dignity of the individual will be secured and promoted.⁷⁴ Therefore, the founding fathers of our Constitution attached supreme importance to it. Our Constitution therefore directs

⁶⁹ S.C.Kashyap, *Our Constitution*, (National Book Trust, India, New Delhi, 1995).

⁷⁰ Ibid

⁷¹ Ibid

⁷² Ibid

⁷³ Ibid

⁷⁴ D.D.Basu, *Introduction to the Constitution of India*, (Prentice Hall of India, New Delhi, 1991)

the state through the Directives enshrined in the Part-IV of our Constitution to ensure the development of the quality of life to all sections of people. Our Constitution acknowledges that all citizens, men and women equally, have the right to an adequate means of livelihood (Art.-39 a) and just and humane conditions of work (Art.-42). Article-17 has abolished the practice of untouchability by declaring it as a punishable offence. Our Constitution too directs the state to take steps to put an end to exploitation and poverty.⁷⁵

(xi) Unity and integrity of the Nation:

To maintain the independence of the country intact and enduring, unity and integrity of the nation is very essential.⁷⁶ Therefore, the stress has been given on the ideal of fraternity which would foster unity amongst the inhabitants. Without a spirit of brotherhood amongst the people the ideals of unity and integration of people and nation seem unattainable. Our Constitution expects from all the citizens of India to uphold and protect the unity and integrity of India as a matter of duty.⁷⁷

International peace and International Order.

Indian Constitution directs the state to make endeavour to promote international peace and security; maintain just and honourable relations between nations; and foster respect for international law and treaty obligations in the dealings of organised people with one another; and encourage settlement of international disputes by arbitration. Thus India too cherishes the ideal of universal brotherhood beyond our national.⁷⁸

These provisions enshrined in Article 51⁷⁹ of the Indian Constitution have been a beacon light that provides a ray of hope for saving the world from the impending nuclear and environmental catastrophe. To fulfil these objectives India had provided leadership during the heydays of colonialism and also during Cold War. In a changed world scenario characterized by globalization, proliferation of the weapons of mass destruction, climate change and international

⁷⁵ Id.page 14

⁷⁶ Id.page 14

⁷⁷ Id.page 14

⁷⁸ Felix Frankfurter, *Modern Constitutions*, 98 (Oxford University Press, London, 1964)

⁷⁹ Ibid

terrorism, India has been making a constant bid for a permanent seat in the Security Council of the United Nations to provide direction to these world issues.⁸⁰

Concept of Citizenship in India.

Over a long period of history from the late 19th century to the 2010 and is thereby a major contribution to both the history of ideas and to that of Indian democracy:⁸¹

- (i) Citizenship is about legal status, rights and entitlements and identity and belonging.⁸²
- (ii) These legal, social and cultural dimensions are connected in ways that are sometimes convergent and sometimes divergent.⁸³
- (iii) Investigating how these three dimensions have been conceived, discussed and translated or not into policy sheds light on some of the major political issues confronting India today even as it reveals the Indian contribution to important theoretical debates. Each section is composed of three chapters focusing respectively on the colonial period the constitutional moment and post-independence developments.⁸⁴

Whether Company or Corporation is a Citizen of India?

Though a company is a legal person it is not a citizen under the constitutional law of India or the Citizenship Act, 1955.⁸⁵ The reason as to why a company cannot be treated as a citizen is that citizenship is available to individuals or natural persons only and not to juristic persons. The question whether a corporation is a citizen was decided by the Supreme Court in⁸⁶ :

⁸⁰ Id,page 15

⁸¹ The Citizenship (Amendment) Act, 1986 (w.e.f. 1.7.1987) alongwith its amendments 2015 & 2016.

⁸² Ibid

⁸³ Ibid

⁸⁴ Ibid

⁸⁵ Ibid

⁸⁶ Ibid

State Trading Corporation of India v. Commercial Tax Officer⁸⁷ wherein it was contended on behalf of the petitioners that the corporation was incorporated under the Companies Act and all shares were held by the President of India and two Secretaries in their official capacities and since all these three persons were citizens of India, the corporation should also be treated as a citizen. Rejecting the plea put forth by the petitioners the Supreme Court refused to recognize the corporation as a citizen. The court observed⁸⁸ :

If all of them i.e. members are citizens of India the company does not become a citizen of India any more than if all are married the company would be a married person.⁸⁹

Fundamental Duties:

Our Constitution too prescribes some duties to be performed by the citizens. All these duties though not enforceable in nature but reflect some basic values too.⁹⁰ It highlights the values like patriotism, nationalism, humanism, environmentalism, discipline, harmonious living, feminism, scientific temper and inquiry and individual and collective excellence. Article 51A provides a long list of these duties to be observed by all the citizens. The above account shows how our Constitution is a value loaded document. One may wonder then about its performance and achievements. In that context, the celebration of the 61st Republic day has been both an inspiring and introspective event.⁹¹ As a positive law, our Constitution has endeavoured to bring about social and political change in our society. At the instance of our Constitution several socioeconomic provisions enshrined in the Part-IV in the nature of Directive Principles have been converted into fundamental rights and Constitutional rights.⁹² For example, Article 45 has been transformed into a fundamental right in shape of Article 21-A which directs the state to

⁸⁷ AIR 1963 (SC) State Trading Corporation of India v. Commercial Tax Officer

⁸⁸ Ibid

⁸⁹ Ibid

⁹⁰ Jawaharlal Nehru, *Independence and after*, 375 (Publication Division, Govt. Of India, New Delhi, 1949)

⁹¹ Ibid

⁹² Ibid

provide free and compulsory education to all children between the age of six to fourteen years and similarly, Local Self Government in rural and urban areas have been made regular and uniform throughout the country.⁹³ In case of the former it is done keeping in mind that education is key to social development and the latter, has been an attempt to revitalize local self governments especially at the village level. In a similar vein several social welfare measures have been taken by the successive governments to raise the standard of living of the people in the lower rungs of the society. The scheme like MGNREGA has been devised to provide employment to all the persons below poverty line at least for 100 days a year. Several measures of land reforms have been introduced and zamindari system has been abolished at the instance of the Constitution. The judiciary led by the Supreme Court too has played a pro-active role in defending the causes of poor and downtrodden through PILs. Federalism has been carried forward in a way that has led to the devolution of power to the states while not making the Centre impotent.⁹⁴ To make our Constitution adaptable to the changing needs and circumstances it has been amended ninety four times so far. On the whole, despite a plethora of welfare programmes launched by successive governments and the fine scheme of the Constitutional edifice, our polity faces unprecedented challenges like glaring disparity between haves and have-nots as projected in the increasing number of people Below Poverty Line, regional imbalances, rising of militancy having indigenous roots as well as being sponsored from abroad, ideologies not believing in liberal democracies, ethnic conflicts, and challenges from primordial forces like caste and community etc.⁹⁵

Conclusion :

Democracy too has been plagued by rampant corruption, heinous crimes involved in politics, intra-party conflicts, and perpetual paralysis of parliamentary sessions and peoples increasing apathy in participation in developmental programmes and electoral exercises. Even, at times people are hinting at the need for the review of our Constitution and switching over to presidential model. Therefore, sufficient introspection is required from all quarters viz., government to individual via political parties and civil society to make our democracy a vibrant

⁹³ Id.page 17

⁹⁴ Id.page 17

⁹⁵ Id.page 17

and effective one. Constitution is not failing but we are failing the Constitution. Granville Austin has very appropriately said, Constitutions do not work, they are inert, dependent upon being worked by citizens and elected and appointed leaders.

