CHAPTER - III

REVIEW OF LITERATURE

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CHAPTER - III
REVIEW OF LITERATURE

3.1 Introduction:

Review of literature helps to understand current trends in the concerned literature project. A careful analysis of relevant literature can help to overcome various problems in the research endeavor. About importance of review of literature it has been observed that, frequently, an expletory study is concerned with an area of subject-matter in which explicit hypotheses have not been formulated. The researcher’s task is to review the available material with an eye of developing hypotheses from it.\(^1\) In this work study of Dr B. R. Ambedkar’s state socialism reflected in Indian constitution has been carefully explore. Further it has been observed that, Professional organizations, research groups and voluntary organizations are a constant source of information about unpublished work in their social fields.\(^2\) All such detail have been gathered from different sources. Some peoples in the course of their day to day experience, by the virtue of their peculiar placement as officials, social workers, professionals, etc. are in a position to observe the effects of different policy actions and to relate these to problems, for example, different policy actions and to relate these to problem of human welfare.\(^3\) Here in this study interaction with social workers on the topic was conducted to support the review of literature.

Dr Babasaheb Ambedkar was an intellectual giant of modern India. He had a comprehensive personality quite unique and distinct from so called great men of his times.\(^4\) To review works of such genius person is a challenging task. Since the aim of experience survey is to obtain

\(^{2}\) Ibid., p- 105
\(^{3}\) Ibid., p- 105
\(^{4}\) Hoti Lal Nim “Thoughts of Dr. Ambedkar’” Anand Sahitya Sadan, Aligarh 2012, p- 5
insights into the nature of the problem and useful leads or clues to possible hypotheses and since the experience surveyor is looking for provocative ideas and useful insides, the cases are chosen on the basis of likelihood that they will be able to contribute such ideas and insights.\(^5\) Some writer and social workers who have shared their ideas, their literature also documented here. It has been observed that, the best method of selecting informants may be to ask strategically placed administrators working in the field one desire to study, to point out the most experienced and informative people. The researcher has shared ideas with some scholars.

On these grounds in this chapter review of concerned books and articles has been undertaken.

In this chapter various literature and books on economic ideas written by Dr. Ambedkar have been reviewed. also the financial provisions including Indian constitution have been reviewed.

**3.2 Classification of literature:**

The study of concerned literature can be systematically made by making classification of the literature under review.

(A) Dr. Ambedkar’s own writings: In this category concerned works of Dr. Ambedkar have been reviewed.

Dr. B. R. Ambedkar was a product of the London School of Economics where he completed his research work on the topic of the Evolution Of Provincial Finance In British India– A Study In The Provincial Decentralization Of Imperial Finance, which was published in the year 1925. This book is still useful in contemporary to understand the economy of Indian state in order to understand the federal nature of Indian economy; this was a first spade work that Dr Ambedkar had conducted on Indian State Finance. In this book he has pointed that, even

when the treatment of a subject is analytical, a good analytical study often required an historical setting. Unfortunately no spade- work has been done in the field of Indian finance consequently the difficulties which beset a pioneer in that field are immense.\(^6\) This work has been useful for the present research, Dr. Seligman writes about this books, The character and importance of this various classes of expenditure and the relations between them are undergoing a continual change, due to the alteration in the functions of government.\(^7\) Such expert ideas reveal the significance of scholarly contribution made by Dr B. R. Ambedkar. Edwin Seligman appreciated Dr B. R. Ambedkar work he pointed that, the value of Dr Ambedkar’s contribution to this discussion lies in the objective recitation of the facts and the impartial of the interesting development that has taken place in his native country.\(^8\) Thus Seligman’s views amply testify the value of Dr. B. R. Ambedkars work and is important for the development of the native country.

That, there is an inter-personal relationship between state finance and local finance and the studies regarding local finance have not yet been conducted. In the review published in the Economic Journal, The Journal Of The Royal Economic Society, even when the treatment of the subject is analytical; a good analytical study often requires an historical setting. Unfortunately no spade work has been done in the field of Indian finance. Further, he has rightly pointed that there is an inter-personal relationship between state finance and local finance and the studies regarding local finance have not yet been conducted. In the review published in the Economic Journal, the journal of the royal economic society, W S Thatcher observed that Mr. Ambedkar has the facility of making forbidding subjects attractive and has produced a very readable

\(^6\) Dr Ambedkar Writings And Speeches, Government of Maharashtra, Vol-6, P-53
\(^7\) Ibid., p- 56
\(^8\) Ibid., p- 56
Mr. Thatcher has written on the book Mr. Ambedkar has the facility of making forbidding subjects attractive and has produced a very readable book. Provincial finance in India has so far been almost entirely neglected by writers on finance and little or nothing has been published apart from Government Blue Books and memoranda. The Evolution of Provincial Finance in British India is a useful introduction written rather from the historical point of view. It does not pretend to be exhaustive and is essentially a piece of pioneer work. It shows that, Dr Ambedkar was able to contribute genius books He also published a valuable work on the topic “History of Indian Currency and Banking” he noted that on special occasions and in particular transactions it might be a great advantage to the mercantile community to know that gold could be made available as money at a fixed rate. If, on the other hand, at the rate fixed gold did not enter into circulation it would prove that silver, with a secure and convertible paper currency, gave perfect confidence and answered all the wants of the trade and of the community, and the enactment would remain a dead letter and be perfectly harmless.” in the year 1923. This works are useful to support, the philosophy of socialism developed by Dr Ambedkar. He rightly pointed that, Dr Ambedkar pointed that An administrative machine must work smoothly and harmoniously. But in order that it may do so it must recognise the principle of impartibility of governmental work and a collective responsibility of the administrators in the execution thereof. That the work of government is by its nature impartible may not seem to accord

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9 Dr Ambedkar Writings And Speeches, The Evolution of Provincial Finance in British India, Govt of Maharashtra, 1989, Vol-6, P-313
10 Dr Ambedkar Writings And Speeches The Evolution of Provincial Finance in British India, Govt of Maharashtra, 1989, Vol-6, P-313
11 En.wikipedia.org
12 Dr Ambedkar Writings And Speeches, History of Indian Currency and Banking, Govt of Maharashtra, 1989, Vol-6, P-313
13 Dr Ambedkar Writings And Speeches
with facts: for, in practice the functions of government can be and commonly are partitioned, as they are between local bodies and between departments. Thus the Government has to adopt the effective policies impartially for the welfare of the nation. Y.D. Sontakke pointed that, ideal must be practical and must be shown to be practicable. Then and then only people strive after it and try to realize it. Socialism is also an ideal law of Dr Ambedkar which has been explored here. “to do equity between the provinces it is necessary that the total contribution of each to the purse of the Government of India should be proportionate to its capacity to contribute.”

(1) This Chapter “Review of Literature” basically deals with Ambedkar’s various original books. i.e. “The problem of the rupee – its origin and its evolution” was Dr. Ambedkar’s unique contribution relevant to the Indian economy. By countering views of Prof Keynes Dr. Ambedkar pointed that, nothing will stabilize the rupee unless we stabilize its general purchasing power. That the exchange slandered does not do. That slandered concerns itself only with symptoms and does not go to the disease. Dr Ambedkar has thus critically explained views of Keynes. Dr. Ambedkar’s work “State and Minorities echoes a number of progressive ideas under judicial Protection against Executive tyranny that have reflected in the Fundamental Rights and directive principles of state policy in the Constitution of India etc. The Supreme Court shall have the power on the application of an aggrieved party to issue what are called prerogative writs such as Habeas Corpus, Quo Warranto Prohibition, Certiorari and Mandamus, etc. For purposes of such writs the Supreme

14 Dr Ambedkar Writings And Speeches , 1989,Government of Maharashtra,Vol-1, P-303,
15 Y.D. Sontakke “Thoughts of Dr. Ambedkar”Samyak Prakashan, 2004, p- 22
16 Dr Babasaheb Ambedkar writings and Speeches, vol 1, Govt of Maharashtra, 1989, p-270,
17 Dr Babasaheb Ambedkar writings and Speeches, vol 6, Govt of Maharashtra, 1989, p-328
Court shall be a Court of general jurisdiction throughout India. What are the rights of the minorities and how to secure them in the constitution of free India is reflected in this book.

(2) This book is significant not only as an important work on Economics, but it has also certain elements regarding state economic policies. The book has reflected new elements of economy and has brought to light some new facts. Dr Ambedkar rightly pointed that, In this country, both the minorities and the majorities have followed a wrong path. It is wrong for the majority to deny the existence of minorities. It is equally wrong for the minorities to perpetuate themselves. A solution must be found which serve a double purpose. Thus Dr Ambedkar’s ideas were pragmatic.

“The problem of the rupee – its origin and its evolution” was Dr. Ambedkar’s unique contribution relevant to the Indian economy. This book was the outcome of his monograph submitted to London School of Economics for which he was awarded the degree of D. Sc. in his forward to the treatise. Prof. Edwin Cannan has pointed that the plan for adoption of which Mr. Ambedkar pleads, namely that all further enlargement of the rupee issue should be permanently prohibited, and that mints should be opened at a fixed price to the importers or to the sellers of the gold so that in course of time India would have in addition to the fixed stock of rupees, a currency of melt able and exportable gold coins, follows European precedents. Thus the work of Dr. Ambedkar has appreciated by scholars like Prof. Edwin Cannan. Further it has been observed that, Prof. Cannan noted that, India does not want gold coins. I feel considerable difficulty in believe that gold coins in a suitable size would
not be suitable in the country with the climate.\textsuperscript{21} Thus Dr. Ambedkar was basic about The Problem of rupees.

In Columbia University, Dr. Ambedkar had submitted his dissertation on the topic Ancient Indian Commerce which was a unique contribution about the economic system in the ancient Indian society. Trade in early India was not entirely individualistic. There is enough evidence to show the corporate commercial activity and partnership in Trade were occasional, if not general. There was very little government control of business and that too only so far as it concerned the Royal purchases. The prices of articles of Royal purchases were fixed by a Royal valuer who would "also assess the merchants for the duty of a twentieth, presumably \textit{ad valorem}, on each consignment of native merchandise, and of a tenth \textit{ad valorem} plus a sample, on each consignment imported from overseas Finally, he would have to assess merchants for their specific commutation of the "rajaksaya" viz. one article per month sold to the king at a certain discount." Later on however prices came to be fixed: for Manu says that the king on every 5\textsuperscript{th} or 9th day fixed the rates for the purchase and sale of marketable commodities.\textsuperscript{22}

The introduction of money in India whether it was borrowed or invented at home is a matter of great controversy: but whatever may be said on this, it is true that the use of money in India was early known for" the whole of the Buddhist literature testifies to the fact that the ancient systems of simple barter as well as of reckoning value of cows, or rice measures had for the most part been replaced by the use of metal currency, carrying well understood and generally accepted exchange value ". Currency counted of coins but was not regulated by Royal

\begin{itemize}
\item \textsuperscript{21} \textit{Ibid} p323
\item \textsuperscript{22} Dr Babasaheb Ambedkar writings and Speeches, vol 12, govt of Maharashtra, 1993, p-10
\end{itemize}
authority. There was gold coinage for the most part and "all marketable commodities and services had a value expressible in terms of cash". Banking was not very highly developed—there was no taboo on loaning of money and according to Gautama interest was sought in six different ways.\textsuperscript{23}

Dr Ambedkar's paper on CASTES IN INDIA: Their Mechanism, Genesis and Development, Anthropology Seminar, Columbia University The caste problem is a vast one, both theoretically and practically. Practically, it is an institution that portends tremendous consequences. It is a local problem, but one capable of much wider mischief, for "as long as caste in India does exist, Hindus will hardly intermarry or have any social intercourse with outsiders; and if Hindus migrate to other regions on earth, Indian caste would become a world problem."\textsuperscript{24} had provided him a good Indian society. It provided him a good deal of background to understand the Indian Varna and the caste system which was responsible for the exploitation of the weaker section. Dr. Ambedkar continued the endeavor of removal of caste system through out of his life. The Naga people occupy a high cultural level but history shows that they ruled a good part of India. That Maharashtra is the home of the Nagas goes without saying. Its people and its kings were Nagas.\textsuperscript{25} Dr. Ambedkar was against caste system. He wrote a book annihilation of caste. He pointed that "The effect of caste on the ethics of the Hindu is simply deplorable. Caste has killed public spirit. Caste has destroyed the sense of public charity. Caste has made public opinion impossible."\textsuperscript{26} Thus Ambedkar believed that caste system is a barrio in human

\textsuperscript{23} Dr Babasaheb Ambedkar writings and Speeches, vol 12, govt of Maharashtra, 1993, p-10
\textsuperscript{24} http://www.columbia.edu/itc/mealac/pritchett/00ambedkar/txt_ambedkar_castes.html
\textsuperscript{25} Ambedkar B.R., Writings and Speeches, The Untouchables who were they and why they became untouchables, Racial Difference As The Origin Of Untouchability, Part 3, Chapter 7,
\textsuperscript{26} Ambedkar B.R., Writings and Speeches, pp-56-57
development. The Government has to take the initiative for inter religion and inter caste marriage it shall be promoted & such couples must be protected by bringing effective legislation. The reported study brings the truth on the same that, many couples who are doing inter caste marriage are murdered, & caste violence is there, so such couples shall be protected by providing free legal aid, concessions and special reservations by a constitutional amendment in article 16 (a) by including caste of such couple’s secular in Schedule of the Constitution.

Dr. Ambedkar’s work “State and Minorities- what are their rights and how to secure them in the Constitution of Free India” can be described as a milestone in the field of socio economic reformation in modern India. The Memorandum defines Fundamental Rights; Minority Rights and Safeguards for the Scheduled Castes. Those who hold the view that the Scheduled Castes are not a minority might say that. in this matter I have gone beyond prescribed bounds. The view that the Scheduled Castes are not a minority is a new dispensation issued on behalf of the High and Mighty Hindu Majority which the Scheduled Castes are asked to submit to. The spokesmen of the Majority have not cared to define its scope and its meaning. Anyone with a fresh and free mind, reading it as a general proposition, would be justified in saying that it is capable of double interpretation. I interpret it to mean that the Scheduled Castes are more than a minority and that any protection given to the citizens and to the minorities will not be adequate for the Scheduled Castes. In other words it means that their social, economic and educational condition is so much worse than that of the citizens and other minorities that in addition to protection they would get as citizens and as minorities the Scheduled Castes would require special safeguards against
the tyranny and discrimination of the majority.\textsuperscript{27} This book echoes a number of progressive ideas that have reflected in the directive principles of state policy in the Constitution of India. Dr. Ambedkar advocated state socialism in the field of industry and also states ownership in the agriculture with a collectivized method of cultivation.”\textsuperscript{28} Ambedkar’s perspective was to remove inequality in the feudal society. It has been further observed that “Dr. Ambedkar was one of the few Indians who demanded nationalization of insurance before the Indian nationalized it.”\textsuperscript{29} The purpose behind this was to control insurance as a security sector and he believed that common man must be benefitted through it. It is interesting to note that “the plan has two special features. One is that proposes state socialism in important fields of economic life, and the second special feature of the plan is that it does not leave establishment of state socialism to the will of the legislatures. It establishes state socialism by the law of constitution and thus makes it unalterable by any act of the legislature and the executive.”\textsuperscript{30} The reportive studies suggested that still today the legislature failed to follow the thoughts of Dr. Ambedkar and it is required that the activists, followers of Dr. Ambedkar to bring this issue in public domain, and force the legislature to take up a Constitutional amendment by bringing agriculture to be a State Industry. It has been rightly observed that Dr. Ambedkar “was a believer in state socialism. He wanted agriculture to be a state industry with state ownership of land for being let out to villagers in such a manner that there would be no landlord no tenant and no landless laborer.”\textsuperscript{31} It is true that “Dr. Ambedkar wanted to establish state socialism by the law of the constitution and to see that it is practiced through Parliamentary

\textsuperscript{27} Ambedkar B.R., Writings and Speeches, State and Minorities 1947, Preface,
\textsuperscript{28} Nfilm Hoti Lal “Thoughts on Dr. Ambedkar” Anand Sahitya Sadan, Aligarh, 1969, p-122
\textsuperscript{29} Ibid., p-122
\textsuperscript{30} Ibid., p-122
\textsuperscript{31} Jatava D.R. “Dynamics of Ambedkar Ideology” Sublime Publications, Jaipur, 2001, p-21
democracy.”  

He implemented his ideas in the directive principles of state policy of Indian constitution. Dr. Ambedkar’s concept of state socialism can be studied for understanding his progressive ideas in the context of globalization. In the process of globalization survival of the fittest is the current trend and this state of conditions of minorities and weaker sections are suffering a great deal. Hence this work is mostly relevant for this study. It has been rightly observed that “Interestingly Dr. Ambedkar saw a vast difference between a revolution and real social change. A revolution transfers political power from one party to another or one nation to another. The transfer of power must be accompanied by such distribution of power that the result would be a real social change in the relative strength of the forces operating in society.”

Ambedkar wanted to bring such change in a peaceful manner.

(3) The present research problem is very much relevant in the age of Globalization on which the Schedule Castes, Schedule Tribes are suffering a great deal. They can be strengthened by understanding Dr. Ambedkar’s progressive economic ideas. Granville Austin, a Constitutional expert has pointed out in the book “Indian Constitution: Cornerstone of the nation”. He described The Union Government may come to the financial assistance of a province not only through the devolution of revenues and with loans, but with grants-in-aid of provincial revenue and other grants. the distribution of revenues better than any financial system that I have known of, but within the defect that the provinces are very largely dependent for their resources upon grants

32 Ibid., p-21
33 Ibid., p-21
made to them by the centre.\textsuperscript{35} Thus provisions in the constitution are
directing towards the implementation of state socialism.

(4) Various books written by Dr. Bhimrao Ambedkar and
different books on economics have been reviewed i.e. Administration
and finance of the east India company, Ancient Indian Commerce,
Annihilation Of Caste, Buddha Or Karl Marx, Castes In India,
Commercial Relations of India in the Middle Ages, Communal Deadlock
And a Way to Solve it, Essays on Untouchables and Untouchability 1,
Essays on Untouchables and Untouchability 2, Essays on Untouchables
and Untouchability 3, Evidence Before The Royal Commission On Indian
Currency And Finance, Federation versus Freedom, Lectures on the
English Constitution, Maharashtra as a Linguistic Province, Need for
Checks and Balances, etc. Dr. Ambedkar was able to enlighten Indian
people through his writings. Dr. Ambedkar had an integral approach in
developing his social philosophy.\textsuperscript{36} Ambedkar was thus providing
economic sociology in a critical manner. It has been noted that Dr.
Ambedkar’s keen observation can be seen in the following statement:
There have been social revolutions in other countries of the world. Why
have there not been social revolutions in India is a question which has
increasingly troubled me.\textsuperscript{37} After deep thinking he argued that the only
answer to it “is that the lower classes of Hindus have been completely
disabled for direct action.”\textsuperscript{38} Through his state socialism Ambedkar tried
to strengthen the weaker sections of the society for such change.

(5) Philosophy of Hinduism, Review: Currency & Exchange,
Riddle in Hindus, Statement of Evidence to the Royal Commission on
Indian Currency, States & Minorities, Evolution of Provincial Finance in

\textsuperscript{35} \url{www.granvilleaustin.com}
\textsuperscript{36} Jatava D.R., op cit., p-21
\textsuperscript{37} Ibid., p-22
\textsuperscript{38} Ibid., p-22

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British India, The Present Problem in Indian Currency, The Present Problem in Indian Currency, The Problem of Political Suppression, The Untouchables Who were they and why they became Untouchables, Untouchables or the Children of India, What Congress and Gandhi have done to the Untouchables. As every Untouchable will be able to testify, if an Untouchable goes to a police officer with a complaint against the caste Hindu, instead of receiving any protection he will receive plenty of abuses. Either he will be driven away without his complaint being recorded or if it is recorded, it would be recorded quite falsely to provide a way of escape to the Touchable aggressors.\(^{39}\) This book by Dr. Ambedkar is very much significant to understand the policy of the ruling congress party towards the untouchables. No Untouchable believes in this facile proposition. If there are any who do, they are hypocrites who are prepared to agree to whatever the Hindus have to say in order that by their grace they may be put in the places reserved for the Untouchables.\(^{40}\) Dr. Ambedkar was always against the Untouchability, during his lifetime he fought for the injustice towards the Untouchables and inequality. This reflects from the Writing and Speeches of Dr. Ambedkar and the vision behind drafting of the Indian Constitution. He has tried to support SC and ST’s welfare through his writings. Ambedkar accepted Buddhism as way of life and he opined conversion is not merely a change in religion, but it was change of vision it was a new outlook.\(^{41}\) Further it is said that his acceptance of Buddhism was a biggest conversion in modern India.\(^{42}\) It has been observed that “Dr. Ambedkar’s contribution to diverting modern

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\(^{39}\) Dr. B.R. Ambedkar, writing and speeches, Unpublished Writings, Vol-5, 1989, p-104
\(^{40}\) Dr. B.R. Ambedkar, writing and speeches, Unpublished Writings, Vol-5, 1989, p-396
\(^{41}\) Ambddkar B.R. “Buddha and Dhamma” see last chapter for critical understanding of his outlook.
\(^{42}\) Ambedkar.navayan.com
Indian society in the direction of Buddhist values is the equal of all his other achievements.”

(6) Books on Economics: Dr. Ambedkar was an economist by his basic training. His career was characterized by two distinct phases: the first one up to 1921 as a professional economist contributing scholarly books and the second one as a political leader thereafter until his demise in 1956, during which he made path breaking contributions as a champion of human rights for the untouchables. Dr. Ambedkar wrote three scholarly books on economics: (i) Administration and Finance of the East India Company, (ii) The Evolution of Provincial Finance in British India, and (iii) The Problem of the Rupee: Its Origin and Its Solution. The first two represent his contribution to the field of public finance: the first one evaluating finances of the East India Company during the period, 1792 through 1858 and the second one analyzing the evolution of the Centre State financial relations in British India during the period, 1833 through 1921. The third book, his magnum opus in economics, represents a seminal contribution to the field of monetary economics. In this book Dr. Ambedkar examined the evolution of the Indian currency as a medium of exchange covering the period, 1800 to 1893 and discussed the problem of the choice of an appropriate currency system for India in the early 1920s. On his return to India, his contributions during that period carry a distinctive imprint of the economist in him. The sole effort of Dr. Ambedkar was to provide a social abase to political economy. His approach was in tune with strengthening social justice. The RBI was established in 1934 was based on the ideas of Dr. Ambedkar presented before the Hilton Young Commission. His economic ideas have directed to bring economic reforms in India.

43Naik C.D, p-122
44En.m.wikipedia.org/wiki/brambedkr
The social effort of Dr. Ambedkar. A distinctive feature of Dr. Ambedkar's scholarly contribution is his perceptive analysis of economic dimension of social maladies, such as, the caste system and untouchability. While Gandhi had defended the caste system on the basis of division of labor, Dr. Ambedkar came out with a hard-hitting critique in his book ‘Annihilation of Castes’ (1936), pointing out that what was implicit in the caste system was not merely division of labor but also a division of labors. Dr. Ambedkar's attack on the caste system was not merely aimed at challenging the hegemony of the upper castes but had broader connotation of economic growth and development. He argued that the caste system had reduced the mobility of labor and capital which in turn, impeded economic growth and development in India. Dr. Ambedkar was able to understand the role of caste as barrier in the socio economic development. Hence he has crushed both Varna and caste system which were responsible for social disparity and inequality. Amartya Sen has opined that quota system helps empowering communities.

3.3 Socio-economic rights within the context of the constitution:

Dr. Ambedkar tried to strengthen Indian economy by providing solution in the constitution to the Indian problem.

The Constitution of India, the view of Dr. Ambedkar on preamble, reflects the resolve to secure to all its citizens justice, social, economic and political; liberty of thought, expression, belief, faith and worship and equality of status and of opportunity.

Among the fundamental rights guaranteed to all persons under Part III of the Constitution are the rights to life (Article 21) the right to equality (Article 14). Freedom of speech and expression, the freedom to assemble peacefully, the freedom to form associations, the freedom of
movement and residence, and the freedom to practice any profession and to carry out any occupation, trade or business are also part of the chapter under fundamental rights (See Article 19). These are subject to reasonable restrictions on the grounds of sovereignty and integrity of the country, security of the State, public order, decency or morality. The right to equality under Article 14, the right against double jeopardy and self-incrimination under Article 20, the right to life under Article 21 and the right to be informed of the grounds of arrest and the right to consult and be defended by a legal practitioner of one’s choice under Article 22 are available to all persons, while the freedoms enumerated under Article 19 are available for enforcement only by the citizens. This is the State socialism reflected in the provisions of the Constitution. As to the first, I prefer freedom of India to the Unity of India\(^{46}\) Dr. Ambedkar’s progressive ideas on states socialism have been rightly reflected in the various provisions made in Indian Constitution.

The remedy provided in the Constitution by Dr Ambedkar for violation of rights and against unlawful legislative and executive acts is to approach the High Court under Article 226 and the Supreme Court under Article 32 of the Constitution.

Again in Peerless General Finance and Investment Co. Ltd. and another Vs. Reserve Bank of India, the Supreme Court observed that "Courts are not interfere with economic policy which is the function of experts. It is not the function of the Courts to sit in judgment over matters of economic policy and it must necessarily be left to the ex-pert bodies. In such matters even experts can seriously and doubtlessly differ. Courts can not be expected to decide them without even aid of experts..... " The financial system satisfying these requirements will be in a position to

\(^{46}\) Dr. B.R.Ambedkar, writing & speeches, Government of Maharahstra, 1990, vol-8, P-367
provide an effective means for implementing monetary and other economic policies to achieve the desired socio-economic objectives."^{47}

The above said decisions of the Supreme Court dealing which non-interference with economic policies of the Government have been followed recently by Supreme Court in Union of India Vs. Hindustan Development Corporation.

It is also well remember the observations made frankfurter, J. in Morey Vs. Dond (354 Us 457) which reads as under:

"IN the utilities, tax and economic regulation cases, there are good reasons for judicial self-restraint if not judicial deference to legislative judgment. The legislature after all has the affirmative responsibility. The Courts have only the power to destroy, not to reconstruct. When these are added to the complexity of economic regulation, the uncertainty, the liability to error, the bewildering conflict of the experts, and the number of times the judges have been overruled by events self-limitation can be seen to be the path to judicial wisdom and institutional prestige and stability."^{48}

Judicial Review, Assembly members believed was an essential powers for the courts of a free India., and an India with a federal constitution.^{49} Judicial review of executive action, legislation and judicial ad quasi-judicial orders is recognized as part of the basic structure of the Constitution. The power of judicial review cannot be taken away even by an amendment to the Constitution. The Supreme Court issued the final word on the interpretation of the Constitution. The law declared by the Supreme Court is binding and enforceable by all authorities – executive, legislative and judicial. The Importance Of giving the Supreme Court the

^{47} http://www.indiankanoon.org/doc/928859/ Peerless General Finance And ... vs Reserve Bank Of India And Ors. on 3 May, 1995
^{48} Morey Vs. Dond (1957) 354 Us 457
^{49} Austin Granville, The Indian Constitution: cornerstone of a nation, Oxford University Press, 1999, P-165
power of judicial reviewed was pointed out by Ayyar and Munshi in separate memoranda. Munshi believed that this power especially necessary for safeguarding of fundamental rights. The power of judicial review is significant in the implementation of social justice because it is expected that state has to pass laws in favor of welfare doctrine of the state.

Part IV of the Constitution lists out the Directive Principles of State Policy (DPSP). Many of the provisions in Part IV correspond to the provisions of the international Covenant on Economic Social and Cultural Rights (CESCR). For instance Article 43 the view of Dr. Ambedkar was that the State shall endeavor to secure, by suitable legislation or economic organization or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work that ensure a decent standard of life and full enjoyment of leisure and social and cultural opportunities, and in particular the state shall endeavor to promote cottage industries on an individual or co-operative basis in rural areas.

The Charter of UN, UDHR and CRI all recognized that State has a responsibility to involve in international cooperation owerds economic social and culture rights (Charter of the UN, 1945 Article 45 and 56:UDHR 1948 Article 22 and 28 ICSCR Article 2(1), 11(1), 15(4), 22 and 23; CRC: Article 4, 17(b), 24(4),28(3)), requires state parties to take steps, individually and through International assistance and cooperation. This corresponds more or less to Articles 11 and 15 of ICESCR9. However some of the rights in the ICESCR, for instance the right to health (Article 12 of the ICESCR) and a plethora of other economic, social and cultural rights, have been interpreted by the Indian

50 Austin Granville, Ibid, P-171
52 Paul Hunt, Neglected diseases: a human rights analysis, World Health Organization, P-11
Supreme Court to form part of the right to life under Article 21 of the Constitution thus making it directly enforceable and justifiable. As India is a party to the ICESCR, the Indian legislature has enacted laws giving effect to some of its treaty obligations and these laws are in turn enforceable in and by the courts.

At the time of drafting of the Constitution the view of Dr. Ambedkar, that, it was initially felt that all of the rights in the DPSP should be made justifiable. However, a compromise had to be struck between those who felt that the DPSPs could not possibly be enforced as rights and those who insisted that the Constitution should reflect a strong social agenda. Consequently, Article 37 of the Constitution declares that the DPSP ‘shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the state to apply these principles in making laws’. The DPSP thus provide specific directives towards states in the implementation of welfare doctrine. The socialism reflected through these principles has Indian relevance.

The subsequent amendments to the Constitution have emphasized the need to give priority to the DPSPs over the fundamental rights. In the context of land reforms, the 25th Amendment to the Constitution in 1971 inserted Article 31(C) which insulated from judicial challenge a law giving effect to the DPSPs in Article 39 (b) and 30 (c) of the Constitution. The statement of objects and reasons in the Bill that introduced this amendment made it explicit that the intention was to give priority to the directive principles over the fundamental rights.

The Constitution of India is the supreme law of India. It lays down the framework defining fundamental political principles, establishes the structure, procedures, powers, and duties of government institutions, and sets out fundamental rights, directive principles, and the duties of
citizens. It is the longest written constitution of any sovereign country in the world, containing 448 articles in 24 parts, 12 schedules and 97 amendments. Besides the English version, there is an official Hindi translation. B. R. Ambedkar is the Chief Architect of Indian Constitution.

The Constitution was drafted by Dr. Ambedkar enacted by the Constituent Assembly on 26 November 1949, and came into effect on 26 January 1950. The date 26 January was chosen to commemorate the Purna Swaraj declaration of independence of 1930. With its adoption, the Union of India officially became the modern and contemporary Republic of India and it replaced the Government of India Act 1935 as the country's fundamental governing document. The Constitution declares India to be a sovereign, socialist, secular, democratic republic, assuring its citizens of justice, equality, and liberty, and endeavors to promote fraternity among them.\textsuperscript{53} The words "socialist" and "secular" were added to the definition in 1976 by constitutional amendment. India celebrates the adoption of the constitution on 26 January each year as Republic Day. The word Republic means the state in which its head is elected by people. Hence India is a sovereign, secular, socialist democratic republic, as enlisted in the Constitution.

India ie. Bharat is a Union of States. It is a Sovereign Socialist Democratic Republic with a parliamentary system of government. The Republic is governed in terms of the Constitution of India which was adopted by the Constituent Assembly on 26\textsuperscript{th} November 1949 and came into force on 26\textsuperscript{th} January 1950.\textsuperscript{54} Some provision of the constitution came into force on same day but the remaining provisions of the constitution came into force on January 26, 1950. This day is referred to the constitution as the “date of its commencement”, and celebrated as the

\textsuperscript{54} Ibid, \url{http://indiacode.nic.in/coiweb/introd.htm}. Retrieved 14 October 2008
Republic Day.

The Indian Constitution is unique in its contents and spirit. Through borrowed from almost every constitution of the world, the constitution of India has several salient features that distinguish it from the constitutions of other countries.

Dr. B. R. Ambedkar, was Chairman of the drafting committee. He was the first Law Minister of the India. He continued the crusade for social revaluation until the end of his life on the 6th December 1956. He was honored with the highest national honor,’ Bharat Ratna’ in April 1990. B.R. Ambedkar was affectionately called Babasaheb Ambedkar.

Dr. Ambedkar is the man of millennium for social justice, since he was the first man in history to successfully lead a tirade of securing social to the vast sections of Indian humanity, with the help of a law. Dr. Ambedkar was the man who tried to turn the Wheel of the Law toward social justice for all. He has strong fervor to attain social justice among the Indian Communities for this purpose he began his vocation.

At the time of independence, the constitution makers were highly influenced by the feeling of social equality and social justice. For the same reason, they incorporated such provisions in the constitution of India. These are as follows –

The words, “Socialist”, “secular”, “democratic” and “republic” have been inserted in the preamble. Which reflects it’s from as a “social welfare state.” In the welfare state greatest happiness in greatest number is the final goal and common man is the epicenter of development. The expression “socialist” was intentionally introduced in the Preamble.

In D. S. Nakara v. Union of India, the Supreme Court has held that the principal aim of a socialist state is to eliminate inequality in income, status and standards of life. The basic frame work of socialism is to provide a proper standard of life to the people, especially, security from
cradle to grave. Amongst there, it envisaged economic equality and equitable distribution of income.\textsuperscript{55} These two are very basic in the implementation of socialist doctrine because by doing so there can be equal distribution of resources leading towards social justice and welfare of the poor.

In Excel Wear v Union of India, the Supreme Court held that the addition of the word ‘socialist’ might enable the courts to learn more in favor of nationalization and state ownership of an industry. But, so long as private ownership of industries is recognized which governs an overwhelming large principles of socialism and social justice cannot be pushed to such an extent so as to ignore completely, or to a very large extant, the interest of another section of the public, namely the private owners of the undertaking.\textsuperscript{56}

The term ‘justice’ in the Preamble embraces three distinct forms—social, economic and political, secured through various provisions of Fundamental Rights and Directive Principles. Social justice denotes the equal treatment of all citizens without any social distinction based on caste, color, race, religion, sex and so on. It means absence of privileges being extended to any particular section of the society, and improvement in the conditions of backward classes (SCs, STs, and OBCs) and women. Economic justice denotes on the non- discrimination between people on the basis of economic factors. It involves the elimination of glaring in equalities in wealth, income and property. A combination of social justice and economic justice denotes what is known as ‘distributive justice’. Political justice implies that all citizens should have equal political rights, equal voice in the government. The ideal of justice—social, economic and political—has been taken from the Russian Revolution (1917). Dr.

\textsuperscript{55} \url{http://indiankanoon.org/doc/1416283/} D.S. Nakara & Others vs Union Of India on 17 December, 1982

\textsuperscript{56} Excel Wear v. Union of India AIR 1979 SC 25 [9] Seervai,
Ambedkar presented neo-liberal, market-economy and social democracy in India.\textsuperscript{57} Thus Ambedkar’s views of benefitting in the modern context of post globalized economy to provide human face to economic reforms.

3.3.1 Other relevant literature in this Chapter:

In the review of literature relevant content is useful to support the mainstream analysis. These ideas are scattered in different forms which can be used for research purpose.\textsuperscript{58} The other relevant literature regarding state socialism has been reviewed in this section.

Justice Y.V. Chandrachud -Chief Justice Of India, In the preface to the Eighth Edition of Commentary on the Constitution of India of Durga Das Basu (8\textsuperscript{th} edition, para three) has quoted the opinion by justice Chandrachud as follows :-

“…Our constitutional document is a potpourri of the political schemes of the rulers and the aspirations of the peoples in diverse countries. A popular encyclopedia reminds us that it borrows from the British Constitutional practice, the idea of Parliamentary form of government, idea of rule of law, institution of Speaker and his role, law-making procedure, the concept of ‘procedure established by law’ and a titular head as President akin to the British monarch: Of the Constitution of United States, we have borrowed the concept of the Chapter of Fundamental Rights, Federal Structure, power of judicial review, independence of the judiciary and the position of President, although a mouthpiece of the Cabinet and hence of the executive, seen as the Supreme Commander of armed forces.\textsuperscript{59} Parameters of administrative decisions through ‘due process of law’ is another concept that we owe to the American Constitution; “Of Ireland, we have borrowed the

\textsuperscript{57} Roundtableindia.co.in/index.php
\textsuperscript{58} Bhandarkar and Wilkinson, op cit, pp-103-104
\textsuperscript{59} Durga Das Basu Commentary on the Constitution of India, Lexis Nexis, Wadhwa Nagpur, 8\textsuperscript{th} Edition, Vol 1 P-7
Constitutional enunciation of directive principles of state policy; The ideals of liberty, equality and fraternity are etched from the French history. The Canadian experiment is replicated through a quasi federal form of government, a federal system with a strong central government and the idea of residual powers of legislature; The freedom of trade and commerce within the country and between the states as well as the power of the national legislature to make laws for implementing treaties, even on matters outside normal federal jurisdiction are concepts borrowed from the Australian counterpart; Fundamental duties that were incorporated as late as the 42nd amendment remind us of the erstwhile USSR constitution, while the emergency provisions are borrowed from the German constitution.

Where then does it reflect the Indian ethos?

That perhaps finds utterance through the 73rd amendment that contains extensive provisions for establishing the Panchayat Raj. These interpretations amply testiy the social relations which India is facing. Hence the comparative perspective is very much significant.

The rules that the constitution spells out and the interpretations that the courts supplant are basic to the understanding of the aspirations of vast populace in India. The politically conscious milieu has given to itself a constitution that articulates the principles determining the institutions to which the task of governance is entrusted, along with their respective powers. Its life is suffused with the fundamental rights that it guarantees. In its long journey, it has weathered many a storm; it has also carried whiffs of fragrance in realizing to its citizens what is aspired for.

When the surrounding countries of Bharat are still wallowing under

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political oppression and economic under-development, we have done rather too well through our constitution.  

Look, what our people have achieved through the constitution; how our brethren consisting of men of law have interpreted it; why the political establishment could not achieve what they wanted through dubious ways, even in their exclusive domains of parliament and legislative assemblies, with the constitutional courts acting as their watchdogs. People’s participation in the democratic system is vital and without such participation socialism cannot be implemented on right liens.

In the last decade, there have been countless judgments that are truly trail blazing in constitutional history. The doctrine of judicial review is on a stronger basis than ever before through Rameshwar Prasad v. Union of India (2006) 2 SCC page 1 (also called the Bihar Assembly dissolution case); I.R.Coelho v. State of Karnataka 2007 (2) SCC page 1 (issue of non-justifiability of laws in the IX Schedule); Epuru Sudhakar v. Government of Andhra Pradesh (Governor’s power of pardon). Mohini Jain v. State of Karnataka (1992) 3 SCC 666, Unnikrishnan v. State of Andhra Pradesh (1993) 1 SCC 645, T.M.A. Pai Foundation v. Karnataka (2002) 8 SCC 481 and P.A. Inamdar v. Maharashtra (2005) 6 SCC 537 represent the education quartet and the Supreme Court has stumbled on several theories, like education being a fundamental right to freeing education from state control; M. Nagaraj v. Union of India 2006 (3) SCC 212 tackles the issue of reservation for backward classes. The globalization initiatives has its fall outs that are unfriendly to labor,

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through the decisions in State of Karnataka v. Umadevi 2006 (4) SCC 1 (issue of regularization in the context of back-door entries into public employment) and T.K. Rangarajan v. Govt. of Tamil Nadu AIR 2003 SC 3082 (right to strike is not a fundamental right). Public health and environmental concerns obtained a renewed primacy in Murli S. Dora v. Union of India 2001 (8) SCC 765 that prohibited smoking in public places. Voters’ right to know the criminal antecedents of candidates contesting for Parliament and State assembly elections in PUCL v. Union of India AIR 2003 SC 2363 kick-starts the beginning of electoral reforms. The boom in Information Technology had a new source of taxation and the nature of service rendered came to be regarded as ‘goods” liable for sales tax in T.C.S. v. State of Andhra Pradesh AIR 2005 SC 371. The Best Bakery exposed the vulnerability of witnesses to financial allurements. The case restored sanity to criminal trails by severe punishment for perjury and the readers will follow the law in Zahira Habibullah Sheikh and another v. State of Gujarat AIR 2004 SC 3114 and 3467. The list of cases of paramount importance is as variegated as the subjects that the Constitution traverses....” All these reflections amply testify the role of state in implementing program policies as designed in Indian constitution.

It can be seen that by virtue of above stated Preface the Hon’ble Former Chief Justice of India has expressed very confident views as stating constitutional document is a potpourri of the political schemes of the rulers and the aspirations of their people in diverse countries.

It also seems that what efforts might have been taken by the Architect of Constitution Dr. Bharat Ratna Dr. Babasaheb Ambedkar and

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we had studied, one can say World Nation’s Constitutional Philosophy and Structure.

It also seems that economic development in India is only due to the Indian Constitution. It also clarifies what achieves through Indian Constitution. How its brethren consisting of men of law

Only due to constitution, the political establishment could not achieve what wanted through dubious ways, even in their exclusive domains of Parliament and legislative assemblies, with the constitutional courts acting as their watch dogs. Due to such watchdogs vibrant Indian democracy can be the way of life of the people. The political democracy can be transformed in to social and economic democracy.

Durga Das Basu, the author of Commentary on the Indian Constitution stated as under:

“…As DR. AMBEDKAR observed in the Constituent Assembly, it is impossible to frame a Constitution, which is absolutely new or original, at this hour in the history of the world. “The only new things, if there be any, in a Constitution frame so late in the day are the variations made to remove the faults and to accommodate it to the needs of the country."

Ever since its formation the Constituent Assembly first met in December, 1946. Commentary not only on the Constitution of India, but also on parallel provisions of the Constitutions of the United States, Eire, Australia, Canada, South Africa, Japan, the Republic of France, Burma and Ceylon, with important decisions..... Though the Constitution of England is unwritten and we do not get codified expressions, it is common place to point out that the immutable principles of modern constitutional government were first evolved in Britain and that no later Constitution. The comparative study of prominent constitutions in the

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world shows that Indian constitution has certainly upper hand in setting the goals of sovereign, secular socialist republic.  

(a) **Other features of the constitution:**

Statesmen, parliamentarians and students of Political Science and Comparative Policies, Again, constitutional interpretation from the legal standpoint become hollow without reference to existing laws with reference to which the question of interpretation has arisen and will arise...”

By the above wordings of the Author one can very confidently state that the Constitution is the only way to remove the faults and to accommodate to the needs of the country.

B.R. Kapur v/s State of Tamilnadu [(2001) 7 SCC 231]

*The object of including all “authorities” within the term “State” in this Part is, of course, to enlarge the scope of the fundamental right which shall thus be binding upon every authority in India which has the power to make laws, bye-laws, etc. or the power to enforce them.*

The object was thus explained by Dr. Ambedkar in the Constituent Assembly. Dr. Ambedkar brought all public servants within the ambit of Article – 12 in Part – III of Constitution of India with having the vision to have control on Executive so they could not achieve what they wanted through dubious ways so in the constituent assembly Dr. Ambedkar stated the object was thus explained by Dr. Ambedkar in the constituent assembly :

*The object of fundamental right is twofold, First, that every citizen must be in a position to claim those rights. Secondly, they must be*

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71 B.R. Kapur v/s State of Tamilnadu [(2001) 7 SCC 231]
binding upon every authority. … which has got either the power to make laws or the power to have discretion vested in it. Therefore, if the fundamental rights are to be clear, they must be binding not only upon the Central Government, they must not only be binding upon the Provincial Government... they must also be binding upon District Boards, Municipalities, even Village Panchayats and taluka boards. In fact, every authority which has been created by law and which has got certain powers to make laws, to make rules or make bye-laws."

Dr. Ambedkar has amply testified this fact. The Government has responsibility in protecting fundamental rights of the people.

3.3.2 Nature of Indian Constitution:

That features of Indian Constitution even though it has been prepared after ransacking all the non-constitution of the world and hence, Dr. Ambedkar in which were as follows :

1. Before entering into a juridical interpretation of the clauses of the Constitution.

2. One likes to ask whether there can be anything new in a Constitution framed at this hour in the history of the world. More than hundred years have rolled when the first written Constitution was drafted. It has been followed by many other countries reducing their Constitution to writing… Given these facts, all Constitution in their main provisions must look similar. The only new things, if there be any, in a Constitution framed so late in the day are the variation made to remove the faults and to accommodate it to the needs of the country.

3. There was different view in the member of constituent assembly which was going to be adopted as a ‘slavish imitation of the West’ or criticize the constitution suited to the ‘genius of the people. Many apprehended that it would be unworkable. But the fact that it has

72 Constituent Assemble Debate- 391-2, AIR Ajit Singh v/s State of Punjab 1967 SC 856
survived for more than forty years. While constitution has sprung up only to wither away in countries around us such as Burma and Pakistan, belies the apprehensions of the critics of the Indian Constitution. Appreciating the work of Dr. Ambedkar as a chairman of the drafting committee Dr. Rajendra Prasad pointed that “He had not only justified his selection but has added luster to the work which he has done.” The provisions in the constitution have thus a long ranging value and these have certainly tried to rural dream of the people of India.

As introductory it is also necessary to discuss that pioneer of our intelligence in constitution many have stated the written constitution means limited government specifically can be stated that the limited government.

It is in the well established principle that in a written constitution, 

*judiciary is usually called ‘the guardian of the Constitution’.*

*In our Constitution, there are some provisions to the effect that an executive or legislative act which violates the provisions of Constitution is void e.g. Article-13, 254. But as our Supreme Court has pointed out, even without these provisions, it would have been the duty of the Court to declare a law as unconstitutional which contravened the Fundamental Rights guaranteed by the Constitution or transgressed the legislative competence of the Legislative which enacted it or any other mandatory provisions of the Constitution which was held in Gopalan v. State of Madras (1950) SCR 88 (150) Kania C.J. The written constitution has tremendous value because it is a perfect document which provides guidelines for various sections of governance.*

Written constitution is a fundamental law of land which confides trust of guarding the Constitution in extra judicial bodies, but our

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73 Constituent Assembly Debate, Vol. XI, p-994
Constitution has followed the American model in reposing this authority and duty in the Judiciary.

Which shows that Dr. Ambedkar was well found about the future of hundreds of years that is why in the land known of Lord Buddha and in the nation of unity and diversity the only written Constitution was helpful when there was views very against the written constitution. Thereafter also studiously and knowing the man is surviving from depressed class i.e. of the weaker sections to the higher classes in India i.e. business classes rights are bounded by the constitution and that can be stated as mandatory by law for safeguarding fundamental rights and duties.

The lengthiest constitution in the world:

The Constitution consists of 10000 words with American of 1000 added by amendment which was rectified in 1917, Japanese Constitution contains 103 articles while Constitution of Republic of France 1958 includes only 92 articles

3.3.3 The Scope of Judicial Review in Indian Constitution

“... Even today, the basic structure case is at the core of our discussions about the proper place of judicial review in a constitutional democracy. What is to be remembered is that the understanding of democracy should not be blindly conflated with the will of the numerical majority. While the consent of the governed is an essential feature of representative government, even the same is limited by the Bill of Rights, the rule of law and an independent judiciary.75

It is not necessary that the intent of the architect of the Constitution corresponds to the will of the majority of the population at that time. In the Indian setting, it is often argued that the member of the Constituent

Assembly was overwhelmingly drawn from elite backgrounds and hence, they did not represent popular opinions on several vital issues. Furthermore, the adoption of a Constitution entails a country’s pre-commitment to its contents and the same become binding on future generations. Clearly, the understanding and application of constitutional principles cannot remain static and hence, a constitutional text also lays down a procedure for its amendment.\textsuperscript{76} The procedure is both rigid and flexible. It depends on circumstances in which the amendment is made.

There are of course several points of reference in the Indian constitutional experiences that enable us to reflect on the so-called tensions between constitutionalism and democracy. The most prominent challenge to the scope of ‘judicial review’ has occurred over the proper place of the “right to property” in the constitutional scheme. It must be borne in mind that there existed immense inequality in the land ownership in pre-independent India, much of it corresponding to caste divisions. In the rural setting, most agricultural lands were owned and controlled by dominant castes who received the patronage of the colonial government in return for ensuring the prompt collection of land revenue. Elaborate institutions of landed intermediaries (such as the Zamindari system) had become entrenched while cultivators from the lower caste either had very small land holdings or were forced to work as bonded laborers under the control of these Zamindars. After Independence, Parliament as well as the State Legislatures sought to tackle this institutionalized inequality by urgently pursuing a policy of agrarian land reforms, which often overlooked questions such as the payment of adequate compensation to the landowners whose property was acquired for public purposes as well as for redistribution among smaller

cultivators. Such governmental excess prompted the land owning classes to repeatedly approach the courts to protect their “right to acquire, hold and dispose of property” which had been enumerated in Article 19(1)(f) of the constitution. While the higher judiciary repeated defended the rights of landowners against the acquisition by the State, Parliament responded with legislative changes as well as constitutional amendments to address the same. In fact, legislations pertaining to agrarian land reforms were placed in Schedule IX to the constitution, a part which was immunized from scrutiny by the courts, and thus, formed a exception to the power of “judicial review” provided under Article 13.\(^77\) The judicial record enables the citizens to act upon any law, if it is true with people’s interest or not.\(^78\)

However, there was some inconsistency in identifying all the provisions of constituted this ‘basic structure’. While later decisions identified basic features such as democracy, secularism, federalism, judicial independence as well as protection of life and liberty among others, many commentators have drawn attention to the “open textured” nature of this doctrine. “Secularism is a essence of our Democratic System. Secularism and brotherhoodness is a golden thread that runs through the entire Constitutional Scheme formulated by the framers of the Constitution”.\(^79\) The said comment of Hon’ble Justice Swantantra kumar certifies the meaning of Secularism in Constitutional Scheme. In these recent years, some political formulations, especially the left wing parties have publicly argued that judges can use the basic structure doctrine in a discretionary unpredictable manner to rule against otherwise socially beneficial legislative and executive acts, for instance, those seeking to

\(^78\) Rao Chandra Shekharan R.V.R., op cit., p-38
expand the policy of reservations for disadvantaged sections of land acquisition for developmental purposes. Despite of these misgivings, the coining of the basic structure doctrine in the Kesavananda Bharati v/s State of Kerala 4 SCC 225 1973 holds immense significance in our constitutional history since it reasserted the independence of the judiciary, especially during a period of excessive interference by the executive. There can be no quarrel with the fact that sometimes the deep deliberations of the unelected branch are the only thing that prevents impulsive majoritarian tendencies from infringing upon the rights of individuals and minorities.  

Protecting rights of individuals and minorities became the responsibility of the state. This has to be interpreted in the long run perspective.

As we look ahead to the constitutional and legal challenges faced by our country, the legacy of the Kesavananda Bharati decision will continue to be the fulcrum for debated about the same.

In the submission to the Constituent Assembly, “States and Minorities”, Clause 4, Dr. Ambedkar had envisaged a socialist scheme. In Article II, -Section II REMEDIES AGAINST INVASION OF FUNDAMENTAL RIGHTS Preface, He pointed that, Among the many problems the onstituent Assembly has to face, there are two which are admittedly most difficult. One is the problem of the Minorities and the other is the problem of the Indian. of the memorandum, Dr. Ambedkar provided the outline of his economic plans against economic exploitation to be included in the Constitution. It provided for, Protection against Economic Exploitation. For explanation see Explanatory Notes.

80 Kesavananda Bharati v/s State of Kerala 4 SCC 225 1973
81 Jain M.P., Indian Constitutional Law, Wadhava Publications, Nagpur, 2001, p-835
82 Ambedkar B.R. writing and speeches, “State and Minorities”, Govt. of Maharashtra, 1947 Preface
The United States of India shall declare as a part of the law of its constitution—

(1) That industries which are key industries or which may be declared to be key industries shall be owned and run by the State;

(2) 'That industries which are not key industries but which are basic industries shall be owned by the State and shall be run by the State or by Corporations established by the State;

(3) That Insurance shall be a monopoly of the State and that the State shall compel every adult citizen to take out a life insurance policy commensurate with his wages as may be prescribed by the Legislature;

(4) That agriculture shall be State Industry;

(5) That State shall acquire the subsisting rights in such industries, insurance and agricultural land held by private individuals, whether us owners, tenants or mortgagees and pay them compensation in the form of debenture equal to the value of his or her right in the land. Provided that in reckoning the value of land, plant or security no account shall be taken of any rise therein due to emergency, of any potential or unearned value or any value for compulsory acquisition;

(6) The State shall determine how and when the debenture holder shall be entitled to claim cash payment;

(7) The debenture shall be transferable and inheritable property but neither the debenture holder nor the transferee from the original holder nor his heir shall be entitled to claim the return of the land

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83 Ambedkar B.R. writings and speeches, “State and Minorities” Govt. of Maharashtra, 1947, article-II, Section-2, clause 4
or interest in any industrial concern acquired by the State or be entitled to deal with it in any way;

(8) The debenture-holder shall be entitled to interest on his debenture at such rate as may be defined by law, to be paid by the State in cash or in kind as the State may deem fit;

(9) Agricultural industry shall be organized on the following basis:

(i) The State shall divide the land acquired into farms of standard size and let out the farms for cultivation to residents of the village as tenants (made up of group of families) to cultivate on the following conditions:

(a) The farm shall be cultivated as a collective farm;

(b) The farm shall be cultivated in accordance with rules and directions issued by Government;

(c) The tenants shall share among themselves in the manner prescribed the produce of the farm left after the payment of charges properly leviable on the farm;

(ii) The land shall be let out to villagers without distinction of caste or creed and in such manner that there will be no landlord, no tenant and no landless labourer;

(iii) It shall be the obligation of the State to finance the cultivation of the collective farms by the supply of water, draft animals, implements, manure, seeds, etc.;

(iv) The State shall be entitled to—

(a) to levy the following charges on the produce of the farm: (i) a portion for land revenue; (ii) a portion to pay the debenture-holders; and (iii) a portion to pay for the use of capital goods supplied; and

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84 Ambedkar B.R. writings and speeches, “State and Minorities” Govt. of Maharashtra, 1947, article-II, Section-2, clause 4
(b) to prescribe penalties against tenants who break the conditions of tenancy or willfully neglect to make the best use of the means of cultivation offered by the State or otherwise act prejudicially to the scheme of collective farming:

(10) The scheme shall be brought into operation as early as possible but in no case shall the period extend beyond the tenth year from the date of the Constitution coming into operation.85 The constitution has thus ensured speedy welfare and social justice of people since its acceptance.

One could not lay down an ideal by a stroke of the pen. Society should always be in an experimental stage. “State socialism is a essential to the rapid industrialization of India private enterprises cannot do it; and if it did, it would produce this inequalities of wealth which private capitalism has produced in Europe which should serve as a warning to Indians. Consolidation of holdings and tenancy legislation are worse than useless. They cannot bring about prosperity in agriculture. Neither consolidation nor tenancy legislation can be of any help to the 60 millions of untouchables who are just landless labourers. Only collective farms can help them.”86 The main object behind the scheme of state socialism has been explained in the explanatory notes to the memorandum as, The main purpose behind (Clause IV is to put an obligation on the state to plan the economic life of the people on lines which will lead to highest point of productivity without closing every avenue to private enterprise, and also provide for the equitable distribution of wealth. He warned the Assembly and the country, “State socialism is essential for the rapid industrialization of India. Private enterprise cannot do it and if it did it would produce those inequalities of wealth which private capitalism has

85 Ambedkar B.R. writings and speeches, “State and Minorities” Govt. of Maharashtra, 1947, article-II, Section-2, clause 4
86 Keer Dhananjay, Dr. Ambedkar: Life and Mission, Popular Prakashan, 1990,P-391
produced in Europe and which should be a warning to India.”  

Let this warning be reheard by our present governments, the advocates of liberalization and exponents of SEZ (Special Economic Zones) depriving generations of the farming community of their livelihood. The future challenges of state socialism have been clearly depicted in this approach. 

In the Constituent Assembly, Dr. Ambedkar always emphasized the economic security and political liberty of every citizen. It was his utmost desire to enshrine his scheme of socialist economy in the list of Fundamental Rights i.e. Part III of the Constitution, which is justifiable. However, Mr. J.B. Kriplani, Chairman of the Sub-Committee on Fundamental Rights, and Sardar Patel, Chairman of the Advisory Committee, refused to accept Dr. Ambedkar’s proposals. Dr. Ambedkar suggested to Dr. Rajendra Prasad, Chairman of the Constituent Assembly, to appoint a planning commission to examine his proposals and other matters related to the planning of the economic life of the community. But Dr. Prasad also turned down the suggestion.

The majority of the people are agriculturists Land suitable for cultivation is limited there. However, it is important to note that the National Planning Committee in regard to industries and agriculture had proposed in 1940 that “all key industries should be controlled by the state, the question of state ownership of other (apart from defense) industries was left for future consideration for lack of adequate data. It also suggested de-recognition of intermediaries, collectivized cultivation of wastelands and lands owned by government, and co-operative farming in which private ownership would be permitted”. 

87 Ambedkar B.R. “State and Minorities” article in Chapter IV, Ibid., p-
88 Ambedkar B.R. “State and Minorities” article in Chapter IV, Ibid., p-
89 Constituent Assembly Debates on 9th September 1949
90 Constituent Assembly Debates
In this background, Dr. Ambedkar complained that he was not allowed to discuss it either in the Advisory Committee or in the Fundamental rights sub-committee. To know whether Nehru would support his idea of setting up a separate committee on economic planning, Dr. Babasaheb dispatched a letter to Nehru on 14th May, 1947 with a copy of “States and Minorities”. Nehru replied on 22nd May, 1947 and stressed the following matters:

1. “I might say at the outset that I agree with your general approach to this problem, more especially in regard to industries and insurance. About agriculture also I agree, but I am not sure that it is easily possible for us to take the step you suggest immediately.”

2. “If we tackle, at this stage, very fundamental issues, in the process of constitution making, we might add to the strength of the disruptive tendencies and achieve nothing at all. Time is an essential factor and we do not complicate the issues too much at this stage. We have got to go ahead with our Constitution and finish it within the next few months.” This clearly shows that Dr. Ambedkar had a clear vision of state socialism.

3. “I would suggest to you, therefore, that it would not be desirable to press for the change in the constitution, which you suggested. It might be worthwhile, however, to appoint a separate committee on economic planning but this should not be related to the constitution and should not delay constitution making.” Thus Dr Ambedkar as one of the chief architect of the Constitution This shows his consciousness and awareness about the making of constitution. Dr. Ambedkar has often been described as one of the chief architects of the constitution. On his part he knew of one who took greater care and trouble over constitution making.
He played an important and constructive role. Mr. Nehru was always supporting Dr. Ambedkar for his fair approach.

In the letter Nehru pleaded for political stability and expressed his fear of reactionary tendencies by citing as an example the history of the Nazi party in Germany. It seems that Nehru postponed the issue under the pretext of political stability. Mr. K.M. Munshi thanked God for failure of the nationalization proposals in the Constituent Assembly. He further said, had the Constituent Assembly accepted the proposals of Dr. Ambedkar, an untouchable would have been the first citizen of a free India and a caste Hindu would have been related to a secondary status. Dr. Ambedkar strongly desired to plan the economic life of the nation without confining it to any rigid model, but failed to convince the Congress Party. Dr. Ambedkar’s deep concern with issues of agricultural reform can be further understood from his speech in the Parliament on 18th May, 1951 while participating in the debate on the First Constitutional Amendment Act, 1951.

The directive principles in the Indian constitution clearly and truly magnify the progressive economic ideas of Dr. Ambedkar.

3.3.4 On the Status of Directive Principles:

A thought for a long time the field of constitutional law was dominated by legalism in the mid-twentieth century liberal constitutional States were entrusted with the task of the social and economic reform. The DPSP play an important role in this regard. They manifest a clear goal of social justice and welfare of people. Accordingly, Dr. Ambedkar emphasized the need to promote such reform through the Constitution. Obviously, he regarded Part IV of the Constitution, that is, the Directive Principles of State Policy as of great value. He believed that they would serve as the guiding principles for all State actions and if the rulers dared

91 Chanchreek K.L., op cit. p-3
to disobey this constitutional national agenda they would have to pay a heavy price.\textsuperscript{92} It has been rightly pointed that “the mandate for socio economic transformation criticized in the DPSP was also cribbed and continued by this organized triumph.”\textsuperscript{93} The long run purpose of DPSP has served a great deal for attaining welfare. While justifying the incorporation of Directive Principles in the constitution he said. “The Draft Constitution as framed only provides machinery for the government of the country. It is not a contrivance to install any particular party in power as has been done in some countries. Who should be in power is left to be determined by the people as it must be, if the system is to satisfy the tests of democracy. 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 instructions 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 of election time. What great value these directive principles possess will be realized batter when the forces of right contrive to capture power. The Fundamental principle of the modern democratic state is the reorganization of the value of the individual, and the belief that as each individuals has but one life, full opportunity should be accorded to each attain his maximum development in that life. Neither of those propositions be said to form the part of the accepted philosophy of the aristocracy of India. Thus it’s reflects Dr Ambedkar’s vision about every individuals and his maximum development through equal opportunity.\textsuperscript{94} Thus the vision of Dr Ambedkar about DPSP reflected in

\textsuperscript{92} Rao Chandrashkhar RVP, op cit., p-40
\textsuperscript{93} Ibid., p-40
\textsuperscript{94} Dr Ambedkar B. R., writings and speeches, Dr Ambedkar and His Egalitarian Revolution, Govt. Of Maharashtra, Vol.- 17, Part Three, 2003, P- 29
his own writings, and it is useful for all the time for the welfare of human being.

In fact it was Dr. Ambedkar’s firm desire to make all Directive Principles of State Policy justifiable and he saw them as a comprehensive program for a social and economic revolution. Along with K.T.Shah, a graduate of the London School of Economics and an eminent socialist member of the Constituent Assembly, he strongly argued for the enforceable character of the Directive Principles. He said, “By keeping them on the statue book without making them imperative obligations of the State towards its citizens we would be perpetuating a needless fraud, since it would provide an excellent window dressing without any stock behind the dressing.”\(^{95}\) It has been rightly pointed out that DPSP seek to achieve welfare state. K. T. Shah supported Dr. Ambedkar by saying that, there must be a specified time limit within which all the Directive Principles must be made justifiable, Even Shri Rau, Advisor to the Constituent Assembly, after a discussion on the issue with Justice Frank further and Justice Hand of the U.S. Supreme Court recommended the inclusion of a new paragraph in the draft providing for the States’ power to make a law in pursuance of the Directive Principles in contravention of Fundamental Rights. He held the view that occasionally it is essential for the State to invade private rights in order to raise the nation’s standard of health of living etc. Unfortunately the powerful lobby in the Assembly favoring the supremacy of civil and political rights over social and economic rights emerged victorious and accorded an unenforceable status to the Directive Principles reducing them to pool of half hearted compromises.

Dr. Ambedkar too accepted and advocated the unenforceable character of Directive Principles in the belief that half of a loaf was

\(^{95}\) Jain M.P., op cit., p-1364
better than none. The saddest part of the whole episode is that, in the early period of constitutional interpretation the Justices of the Supreme Court over-emphasized the enforceable civil and political rights and committed the mistake of neglecting the Directive Principles.

In August 1947, Nehru made Ambedkar, doubtless under Gandhi’s, pressure, his Law Minister in the first government of independent India. Ambedkar accepted the invitation of the Prime Minister because, as he said later, “in the first place the offer was not subject to any condition and secondly it was easier to serve the interests of the Scheduled Castes from inside of the government than from outside.” Dr. Ambedkar, being unhappy with the court’s approach, while speaking on the Constitutional First Amendment Bill (1951) in the Lok Sabha said, I have carefully studied both these judgments of the Supreme Court and with all respect to the judges of the Supreme Court I cannot help saying that I find these judgments to be utterly unsatisfactory. My view is that in Article 29, Clause (2), the most important word is ‘only’. No distinction shall be made on the ground only of race, religion or sex. The word ‘only’ is very important. It does not exclude any distinction being made on grounds other than those mentioned in this article and I respectfully submit that the word ‘only’ did not receive the same consideration which it ought to have received.

What is the attitude which the Supreme Court has taken in this country in interpreting our Constitution? The Supreme Court has said that they will

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96 A veteran of the Constituent Assembly, R.M. Nalawade, emphasized that, Nehru and Patel were hardly favorable to the allocation of a ministerial office to Ambedkar but that Gandhi imposed his name so as to associate him with the work of national construction (S.M. Gaikwad, “Ambedkar and Indian nationalism “, Economic and Political Weekly, in March 7, 1998, p. 518). This hypothesis is accredited by a conversation of 1946 between the Mahatma and two Protestants - Muriel Lester, an English Quaker, and Miss Descher, an American missionary - during which he expressed the wish that Ambedkar should become a part of the first government of independent India. (M.S. Gore, The Social Context of an Ideology, New Delhi: Sage Publications,1993, p. 18).


not recognize the doctrine of police power.\textsuperscript{100} With regard to the
doctrine of implied powers they have also more or less taken the same
view / personally myself, I take the view that there is ample scope for
recognizing the doctrine of implied powers, and I think our Directive
Principles are nothing else than a series of provisions which contain
implicitly in them the doctrine of implied powers.\textsuperscript{101} who are familiar
with the growth of the Constitution of the United States will know,
although the Constitution of the United States is a bundle of bare bones,
the United States Supreme Court has clothed it with flesh and muscle so
that it has got the firmness of body and agility which a human, being
requires.\textsuperscript{102} the united States Supreme Court has developed, the courts
should invoke them and support legislation undertaken by Parliament or
State embodied in the Constitution.\textsuperscript{103} He also furiously remarked that, "
I find that these Directive Principles are made a matter of fun both by
judges and lawyers appearing before them. Article 37 of the Directive
Principles has been made a butt of ridicule\textsuperscript{104} ....it is not the way of
disposing of the Directive Principles.\textsuperscript{105} These interpretations adequately
give evidence the purposes and objectives of Directive Principles.. .

These historical developments reveal the story of the non-
implementation of the Directive Principles, including the right to
education. A bill seeking to safeguard this right has been pending in
Parliament for years together.

\textbf{3.3.5 Directive Principles Needs A Constitutional Amendment}

Directive Principles require a Constitutional amendment which has
to be passed by a special majority of both houses of the Parliament. This

\textsuperscript{100} P.D., Vol. 12, Part II, 18th May 1951, pp. 9004-32.
\textsuperscript{101} Ibid
\textsuperscript{102} Ibid
\textsuperscript{103} Ibid
\textsuperscript{104} Ibid
\textsuperscript{105} First Amendment Bill (1951)
means that an amendment requires the approval of two-thirds of the members present and voting. However, the number of members voting It may be from rajya sabha or lok sabha should not be less than the simple majority of the house. Article 31-C incorporated insert into the Directive Principles of State Policy by the 25th Amendment Act of 1971 seeks to improvement the DPSPs. If laws are made to give effect to the Directive Principles over Fundamental Rights, they shall not be invalid on the grounds that they take away the Fundamental Rights. Article 45, ensures Provision for free and compulsory education for children, was added by the 86th Amendment Act, 2002. Article 48-A ensures Protection and improvement of environment and safeguarding of forests and wild life, was added by the 42nd Amendment Act, 1976.

Through The Objects Of The Directives Dr Ambedkar Tried To Strengthen Indian Economy By Providing Solution To The Indian Problem-

Dr. B. R. Ambedkar’s object behind Directives was to strengthen the Indian economy. DPSP’s contents may be divided into several groups : Firstly, Certain ideals, particularly economic, which the framers of the Constitution wished that the State should strive for, Secondly, Certain directions to the future Legislature and the future Executive to show in what manner they should exercise their legislative and executive powers, thirdly, Certain rights of the citizens shall not be enforceable by the courts like the Fundamental Rights, but which the State shall nevertheless aim at securing, by regulation of its legislative and administrative policy. These guidelines to the state amply testify future vision. In Minerva Mill the Supreme Court pointed out the meaning of socialism as to crystallize a socialistic society to its people, socio economic justice by interplay of
the fundamental rights and directive principles.\(^{106}\) Further it has been rightly observed that DPSP thus impose positive obligation on the state.\(^{107}\) Dr Ambedkar seeks to amend on Miners Maternity Benefit Act, 1941 that, When the Act of 1941 was passed it was intended to cover cases of maternity benefit for women working on surface. We had no such case as we have now of women working underground. Unfortunately, for the reasons which I have explained to the House on more than one occasion; we had to permit women to work underground in coal mines. As I have stated that provision is of a temporary character and I hope and trust that Government will be able to reimpose the ban very soon. But notwithstanding the fact that the lifting of the ban is of a temporary character, it is felt that in view of the criticisms made in this house as well as outside, it is necessary to amend the Act in order to provide for cases of pregnant women working underground.\(^{108}\)

The Directive Principles may be classified under the following categories: ideals that the state sought to strive toward achieving; directions for the exercise of legislative and executive powers; and right of the citizens which the state must aim toward securing.\(^{109}\) The Preamble is the basic structure of the Constitution, the Directive Principles of State Policy as enshrined in Part IV, are its basic ideal. It is here that the Constitution makers poured their mind by setting forth the humanitarian socialist principles which epitomized the hopes and aspirations of the people and declared them as fundamental in the governance of the country. They are affirmative instructions from the ultimate sovereign to the State authorities, which are the creatures of the Constitution established by them, to secure to all citizens of justice, social, economic

\(^{106}\) Ibid., p-1366  
\(^{107}\) Ibid., p-1366  
\(^{108}\) Legislative Assembly Debates (Central), Vol. III, 29th March 1945, pp. 2265-66.  
and political; liberty of thought, expression, belief, faith and worship, equality of status opportunity; and to promote among them all fraternity, assuring dignity of the individual and unity and integrity of the nation.

The Directive Principles of State Policy are an amalgam of diverse subjects embracing the life of the nation and include principles which are general statements of social policy, principles of administrative policy, socio-economic rights and a statement of the international policy of the country. There are various ways in which people believe that economic democracy can be brought about, we have deliberately not introduced in the language that we have used in the Directive Principles something which is fixed or rigid. We have left enough room for the people of different ways of thinking, with regard to the reacting of the ideal of economic democracy and political democracy.

While writing a political history of framing India’s Constitution, Granville Austin, in his book, The Indian Constitution, Cornerstone Of A Nation, Ninth Impression 2005, chapter 3 : “The conscience of the Constitution – The Fundamental Rights and Directive Principle of State Policy, the learned Author states : “The Indian Constitution is the first and foremost social development. The majority of its provisions are either directly aimed at furthering the goals of the social revolution or attempt to foster this revolution by establishing the conditions necessary for its achievement. Yet, despite the permeation of the entire Constitution by the aim of national renaissance, the core of the commitment to the social revolution lies in Parts III and IV, in the Fundamental Rights and Directive Principles of State Policy. These are the conscience of the Constitution. They reveal pragmatic ideas of the constituent assembly.110

The Fundamental Rights and Directive Principles had their roots deep in the struggle for independence. And they are included in the Constitution in the hope and expectation that one day the tree of the liberty would bloom in India. The Rights and Principles thus connect India’s future, present and the past, adding greatly to the significance of their inclusion to the Constitution and giving strength to the pursuit of the social revolution in India.\textsuperscript{111} In the Directive Principles, however, one finds an even clear statement of the social revolution. They aim at making the Indian masses free in the positive sense, free from the passivity engendered by centuries of coercion by society and by nature, and free from the abject physical conditions that had prevented them from fulfilling their best selves. These principles are not justifiable, a court cannot enforce them, but they are to be nevertheless fundamental in the governance of the country. Good governance was a long run perspective of the constitution makers.

To foster the goal (read Art.38), for other provisions of the Directive Principles exhort the State to ensure that citizens have adequate means of livelihood, that the operation of the economic system and the ownership and control of material resources of the country sub serve the common good, that the health of the workers including children, is not abused and that special consideration be given to pregnant women. Workers, both agricultural and industrial, are to have a standard of living that allows them to enjoy leisure and social and cultural opportunities. Among the primary duties of the State is the raising of the level of nutrition and the general standard of living of the people. The Principles express the hope that within ten years of the adoption of the Constitution, there will be compulsory primary education for children up to the age of fourteen years. The provisions of the principles seek equally to secure

\textsuperscript{111} Austin G, Ibid P-51
the renovation of Indian society by improving the techniques of agriculture, husbandry, cottage industry etc.\footnote{112

The period of drafting of Constitution and Universal declaration of human rights 1948 was similar. A number of provisions in Parts III and IV are formed in U.N. Declaration on Human Rights. Part III of the Constitution shows that the founding fathers were equally anxious that it should be a society where citizens will enjoy the various freedoms and such rights as are the basic elements of those freedoms without which there can be no dignity of the individual. Our Constitution makes did not contemplate any disharmony between Fundamental Rights and the Directive Principles. It can be well said that the Directive Principles prescribed the goal to be attained and the Fundamental Rights laid down the means by which that goal was to be achieved. The Directive Principles and Fundamental Rights mainly proceed on the basis of human rights, Freedom is nothing else but a chance to be better. It is this liberty to be better that is the theme of the Directive Principles of State Policy in Part IV of the Constitution.

Justice Hegde And Mukherkjee has pointed that The Parliament powers to amend the Constitution are indeed limited. It is obvious that the fundamental rights which are guaranteed within the ambit of Constitution of India and by virtue of preamble to Constitution. Welfare State can add and supplementary part in the interest and to meet the ends of justice by an amendment but it is not in the hands of even the Parliament to amend the Preamble as well as basic structure of the Constitution. It was noted very categorically in the marathon hearing and it was known as the longest judgment in the Honorable Supreme Court of India. For the said reference it is very necessary to bring some reference from the literature published under the name of “Nani Palkhiwala, the

\footnote{112 Jain M.P. op cit. pp-1363-95}
Court Room genius” which is published by Laxis Nexis Butterworths Wadhwa, Nagpur. In the said published literature in part (5) newsprint control or newspaper control the case known as Bennet Coleman v/s Union of India. On page No.122 it is stated under the heading “longest Judgment”\(^ {113}\)

3.4 **Meaning of Social Justice from Ambedkar’s Writings.**

Shri K.M. Jedhe (Bombay:General) congratulated Dr Ambedkar in the The Constituent Assembly of India, in the Constitution Hall, New Delhi Dr. Ambedkar’s views can be crystallized here in progressive angle. They call him Bhim and make it known to the public that he has framed Bhim Smrithi. I also call it Bhim Smrithi 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. Untouchability has been removed by law,\(^ {114}\) It is a fact that Babasaheb Dr. Ambedkar did not propound any specific definition or theory of “Social Justice” per se. His thoughts are eloquently portrayed in his writings and speeches published posthumously. On the basis of these we can easily argue that Ambedkar has mentioned multiple principles for the establishment of an open and just social order in general and Indian society in particular. Therefore with the help of these elements we can carve out a theory of social justice, what can then be then referred as Ambedkar’s theory of Social Justice. We can extract five basic principles, from writings and speeches of Ambedkar, from which justice can be dispensed in the society.

\(^ {113}\) *Bennett Coleman and Co v Union of India, AIR 1973 SC 106*

\(^ {114}\) Shri K.M. Jedhe (Bombay:General), in the The Constituent Assembly of India met in the Constitution Hall, New Delhi Mr. President (The Honourable Dr. Rajendra Prasad) in the Chair. Thursday, the 24th November, 1949
1. Establishing a society where individual becomes the means of all social purposes
2. Establishment of society based on equality, liberty and fraternity
3. Establishing democracy- political, economic and social.
4. Establishing democracy through constitutional measures and
5. Establishing democracy by breaking monopoly of upper strata on Political Power.

Going through Dr. Ambedkar’s theory of social justice, Ambedkar was of the opinion that Social Justice can be dispensed in a free social order in which an individual is end in itself. Similarly, the terms of associated life between members of society must be regarded by consideration founded on liberty, equality and fraternity. In a way these principles of social justice are similar to the principles of social justice as mentioned in Rawal’s theory. Let us look these principles in operation.

According to him, “The first is that the individual is an end himself and that the aim and object of society is the growth of the individual and the development of his personality. Society is not above the individual and if the individual has to subordinate himself to society, it is because such subordination is for his betterment and only to the extent necessary” 115 It is with this aim he had rejected village as a unit of governance and adopted the individual as its unit. He vehemently criticized the part played by village communities in the history and congratulated the Drafting committee for accepting individual as the unit of governance 116 (Ambedkar 1994:61-62). Ambedkar had argued for individual as end itself as he was fully aware of the fact that, “For the

115 Dr ambedkar B R. writings and speeches, Govt of Maharashtra,1987, P- 95
116 Dr ambedkar B R. writings and speeches, Govt of Maharashtra,1994, P- 61-62
Hindu social order is based principally on class or Varna and not on individuals… Dr. Ambedkar was critical on these principles. Get

Dr. Ambedkar has always made the effort to establish a society based on the principles of liberty, fraternity, and equality. This has to be for every individual and that social justice can be delivered to the members of the society only if the society is based equality, liberty and fraternity. However one can argue that this can happen only when there is fraternity in society. There should be varied and free points and contacts with other modes and associations. In other word there must be social endosmosis. This is fraternity, which is only another name for democracy. Democracy is not merely a form of government. It is primary mode of associated living, of conjoint communicated experience. It is essentially an attitude of respect and reverence towards followers. Few object to liberty in the sense of a right to free movement, in the and a right to property, tools and materials as being necessary for earning a living to keep the body in due state of health. However, the problem is that people who support liberty in the sense of right to life, limb and property would not readily consent to liberty if it involves the liberty to choose one’s profession. Ambedkar argues that to object to the liberty to choose a profession is to perpetuate slavery. For slavery does not only merely mean a legalized form of subjection. It means a state of society in which some men are forced to accept other occupations which control their conduct. Dr. Ambedkar firmly believed in the principle of equality. The objection to equality may be found and one may have to admit that all men are equal. Equality may be a fiction but nonetheless accept it as the governing principle.

The doctrine of equality is glaringly fallacious but taking all in all it is the only way a statesmen can proceed in politics which is a severely

practicable affair and which demands a severely practical test.” \(^{118}\) Thus it is true that principle and practice must go hand in hand.

After India’s political independence for dispensing social justice in the wake of emerging democracy in a hierarchically arranged society, Ambedkar discussed the operationalization of principles of equality, liberty, and fraternity, which were considered to be cardinal principles of any democracy. He argued, “We must… not…be content with mere political democracy. We must make sure that our political democracy must be a social democracy as well” \(^{119}\) (Ambedkar 1994: 1216). Ambedkar went on to define social democracy as well. These principles of liberty, equality and fraternity are not to be treated as separate items of trinity”\(^{120}\) Another significant contribution of Dr Ambedkar in the process of establishment of social democracy is his explanation of nature of three cardinal principles of democracy i.e. liberty, quality, and fraternity, the very purpose of democracy. Liberty cannot be divorced from equality, equality cannot be divorced liberty. Nor can liberty and equality be divorced from fraternity.

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…”The second thing we are wanting in is recognition of the principle of fraternity. What does fraternity mean? Fraternity means a sense of common brotherhood of Indians-If Indians being one people. It is the principle, which gives unity and solidarity to social life. It is difficult thing to achieve” \(^{121}\)

Although initially Ambedkar was skeptical of delivery of justice through government machinery but later on he preferred the same by

\(^{118}\) Ambedkar B.R. “Speeches and writings”, 1987 op cit., pp-57-58
\(^{119}\) Ambedkar B.R. “Speeches and writings”, 1994, P -1216
\(^{120}\) Ibid., p-1216
\(^{121}\) Ibid., p-1216
having the share of Dalits in it. Going by the then existing Hindu social order Expressing his anguish on the failure of delivery of justice Ambedkar had opined “It might have been brought that the principle of equal justice would strike a death blow to the established order. As a matter of fact, far from suffering any damage the established order has continued to operate in spite of it. It might be asked why the principle of equal justice has failed to have its effect. The answer to this is simple. To enunciate the principle of justice is one thing. To make it effective is another thing. Whether the principle of equal justice is effective or not must necessarily depend upon the nature and character of the civil services who must be left to administer the principle. If the civil services is by reason of its class bias is the friend of the established order and the enemy of the new order, the new order can never come into being. That the civil services in tune with the new order was essential for the success of the new order was recognized by Karl Marx in 1871 in the formation of Paris commune and adopted by Lenin in the constitution of Soviet communism. Fortunately, the British Government never cared about the personnel of the Civil Services. Indeed it opened the gates of the administration to those classes who believed in the old established order of the Hindus in which the principle of equality had no place. As a result of this fact, India has been ruled by the Britishers, but administered by the Hindus” 122

Such protection you could have dispensed with if there was any chance of the depressed classes being represented in the future cabinets of the country. But there is not the remotest chance of this in view of the fact that the depressed classes will always remain in minority. This makes it all the more necessary why you should insist upon such a guarantee.” 123

122 Ibid., p-104
123 Ibid., p-265
Dr Ambedkar pointed that, “If we wish do maintain democracy not merely in form, but also in fact, …we must do is to hold fast to constitutional methods of achieving our social and economic objectives. It means we must abandon the bloody methods of revolution. That we must abandon the method of civil disobedience, non-cooperation and satyagraha. When there was no way left for constitutional method for achieving economic and social objectives, there was a great deal of justification for unconstitutional methods. But where constitutional methods are open, there can be no justification for these unconstitutional methods. These methods are nothing but anarchy and the sooner they are abandoned, the better for us.” 124

According to Ambedkar the ways to deliver social justice to the individual was breaking the monopoly of the upper strata. Ambedkar in this regard opined, “…The down-trodden classes are tired of being governed. They are impatient to govern themselves. …They are getting tired of government by the people. They are prepared to have Government for the people…” 125 Dr Ambedkar always tried to give upliftment to down trodden classes and and the government should have adopt the better policy for these peoples.

3.5 Dr. Ambedkar’s Vision Behind Flexibility Of Constitution-

Dr Ambedkar notify that, “I am all for a flexible Constitution and not a rigid Constitution. There is likely to arise a revolutionary situation in Asia in the near future. In order to meet that situation, the Government of India should not be fettered in any way whatsoever. There is another reason why I am in favor of a flexible Constitution, as opposed to a rigid Constitution. I hold the opinion that we are passing through a period of decadence. It is only

124 Ambedkar B.R. “Speeches and Writings”, 1994, p-1215
with the establishment of a new social order that we will be in a position to sense the needs of the coming century. For heaven’s sake do not make your Constitution rigid. The constitution is flexible but the basic structure of the Constitution shall not be change, the provisions of the constitutions are amendable.

3.6 Indian court have expanded the meaning of rights.

Hon’ble Mr. K.G. Balakrishnan, Chief Justice of India, Address at Trinity College Dublin, Ireland – October 14, 2009 that

Because of the flexibility in Constitution Indian court have expanded the meaning of rights. It can be postulated that the doctrine of ‘judicial review’ helps in binding a polity to its core constitutional principles. In the post World War II era, the memory of devastating conflicts and oppressive colonialism ensured that these principles were initially centered on the protection of basic civil-political rights such as free speech, assembly, association and movement as well as guarantees against abusive practices by state agencies such as arbitrary arrest, detention, torture and extra-judicial killings. The growth of Constitutionalism has also been synonymous with that of liberal values which privilege an individual’s dignity as well as collective welfare. In highly disparate and iniquitous societies, such a commitment also requires some counter-majoritarian safeguards.

the role of the Courts in protecting constitutional values goes beyond the enforcement of clearly defined civil-political rights applicable to individual citizens and extends towards an engagement with the continuously evolving understanding of ‘group rights’ which necessarily have socio-economic dimensions. To appreciate the transformation in the

126 Constituent Assembly of India –Volume IX, Constituent Assembly Debate Saturday, the 17th September, 1949
The substantive nature of justifiable rights, it is necessary to reiterate the theoretical distinction between their ‘negative’ and ‘positive’ dimensions.\textsuperscript{128} The classification of enumerated rights can be based on who they are directed against and whether they involve a ‘duty of restraint’ or a ‘duty to facilitate entitlements’

\textit{Review} 1861-1891 (2004); In this article he has stressed on the importance of constitutionalism for ensuring stability in post-apartheid South Africa as well as Bosnia after the conflict which accompanied the break-up of Yugoslavia.\textsuperscript{129}

The language of a substantive right usually indicates whether it is directed against state agencies, private actors or both. For instance in the Indian Constitution, civil-political rights such as ‘freedom of speech, assembly and association’ are directed against the State, since the text expressly refers to the State’s power to impose reasonable restrictions on the exercise of the same.

They are the creative part of the Constitution, and fundamental to the governance of the country. However, the key feature is that the Directive Principles are ‘non-justifiable’ but are yet supposed to be the basis of executive and legislative actions. It is interesting to note that at the time of drafting of the Constitution, some of the provisions which are presently part of the Directive Principles were part of the declaration of fundamental rights adopted by the Congress party. K.M. Munshi (a noted lawyer and a member of the Constituent Assembly) had even included in his draft list of rights, the ‘rights of workers’ and ‘social rights’, which included provisions protecting women and children and guaranteeing the

\textsuperscript{128} The distinction between the notions of ‘negative’ and ‘positive’ rights in legal theory was first prominently discussed by Wesley Newcomb Hohfeld.
\textsuperscript{129} http://supremecourtofindia.nic.in/speeches/speeches_2009/judicial_activism_tcd_dublin_14-10-09.pdf
right to work, a decent wage, and a decent standard of living. \textsuperscript{130} Subsequently, the objective of ensuring these entitlements was included in the Directive Principles.

The primordial importance of these principles can be understood by the following words of Dr. B.R Ambedkar, when he insisted on the use of the word ‘strive’ in the language of Article 38 which mentions the governmental objective of an equitable distribution of material resources:

“We have used it because it is our intention that even when there are circumstances which prevent the Government, or which stand in the way of the Government giving effect to these directive principles, they shall, even under hard and unpropitious circumstances, always strive in the fulfillment of these directives. … Otherwise it would be open for any Government to say that the circumstances are so bad, that the finances are so inadequate that we cannot even make an effort in the direction in which the Constitution asks us to go.”\textsuperscript{131}

Every individual is having their personal liberty the concern Article 21 of the Constitution of India reads as follows: “No person shall be deprived of his life or personal liberty except according to procedure established by law.” The interpretation of this article in the early years of the Supreme Court was that ‘personal liberty’ could be curtailed as long as there was a legal prescription for the same. In A.K. Gopalan’s case, the Supreme Court had ruled that ‘preventive detention’ by state agencies was permissible as long as it was provided for under a governmental measure and the Court could not inquire into the fairness of such a measure. It was held that the words ‘procedure established by law’ were different from the ‘substantive due process’ guarantee provided under the

\textsuperscript{130} \url{http://supremecourtofindia.nic.in/speeches/speeches_2009/judicial_activism_tcd_dublin_14-10-09.pdf}. At the same time, even some controversial as well as communally sensitive issues such as the desirability of enacting a Uniform Civil Code (Article 44) and the prohibition of cow-slaughter (Article 48) came to be included in the non-justiciable Directive Principles.

\textsuperscript{131} Constituent Assembly Debates, 19-11-1948
14th amendment to the US Constitution. It was also reasoned that the framers of the Indian Constitution consciously preferred the former expression over the latter. This narrow construction of Article 21 prevailed for several years until it was changed in *Maneka Gandhi’s* case. In that decision, it was held that governmental restraints on ‘personal liberty’ should be collectively tested against the guarantees of fairness, non-arbitrariness and reasonableness that were prescribed under Articles 14, 19 and 21 of the Constitution. The Court developed a theory of ‘inter-relationship of rights’ to hold that governmental action which curtailed either of these rights should meet the designated threshold for restraints on all of them. In this manner, the Courts incorporated the guarantee of ‘substantive due process’ into the language of Article 21. This was followed by a series of decisions, where the conceptions of ‘life’ and ‘personal liberty’ were interpreted liberally to include rights which had not been expressly enumerated in Part III. In the words of Justice Bhagwati:

“*we think that the right to life includes the right to live with human dignity and all that goes along with it, namely the bare necessities of life such as adequate nutrition, clothing and shelter over the head and facilities for reading, writing and expressing oneself in diverse forms.*”

Notably, over the decades, the Supreme Court has affirmed that both the Fundamental Rights and Directive Principles must be interpreted harmoniously. It was observed in the *Kesavananda Bharati* case, that the directive principles and the fundamental rights supplement each other and aims at the same goal of bringing about a social revolution and the

133 Maneka Gandhi v. Union of India, AIR 1978 SC 597
135 Observations in FrancisCoralie v. Union Territory of Delhi, (1981) 1 SCC 688
establishment of a welfare State, the objectives which are also enumerated in the Preamble to the Constitution.\textsuperscript{136} Furthermore, in \textit{Unni Krishnan, J.P. v. State of Andhra Pradesh}, Justice Jeevan Reddy declared:

\textit{“The provisions of Parts III and IV are supplementary and complementary to each other and not exclusionary of each other and that the fundamental rights are but a means to achieve the goal indicated in Part IV”}.\textsuperscript{137}

This approach of harmonizing the fundamental rights and directive principles has been successful to a considerable extent. As indicated earlier, the Supreme Court has interpreted the ‘protection of life and personal liberty’ as one which contemplates socioeconomic entitlements. For instance, in \textit{Olga Tellis v. Bombay Municipal Corporation}, a journalist had filed a petition on behalf of hundreds of pavement-dwellers who were being displaced due to construction activity by the respondent corporation. The Court recognized the ‘right to livelihood and housing’ of the pavement-dwellers and issued an injunction to halt their eviction.\textsuperscript{138}

In \textit{Parmanand Katara v. Union of India}, the Court held that no medical authority could refuse to provide immediate medical attention to a patient in need in an emergency case; The public interest litigation had arisen because many hospitals were refusing to admit patients in medico-legal cases. Hence, the Supreme Court ruled that access to healthcare, is a justifiable right. In another prominent Public Interest Litigation, the Supreme Court ordered the relocation of hazardous industries located near residential areas in New Delhi. In the process, it spelt out the citizens’ ‘right to clean environment’ which was in turn derived from

\textsuperscript{138} \textit{Olga Tellis v. Bombay Municipal Corporation},AIR 1985 SC 2039

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the protection of life and liberty enumerated in Article The court has also recognized access to free education as a justifiable right. This decision prompted a Constitutional amendment which inserted Article 21-A into the Constitutional text, thereby guaranteeing the right to elementary education for children aged between 6-14 years. The Courts have also pointed to Directive principles in interpreting the prohibitions against forced labor and child labor. The enforcement of these rights leaves a lot to be desired, but the symbolic value of their constitutional status should not be underestimated.

3.6.1 In Sufficient Scholarship and Out Come of It-

August 1917 - Dr. Ambedkar had to leave his studies of law, economics and political science half way in London due to expiration of scholarship

1. Today also it will be found that students are leaving their higher education due to insufficient funds for their basic requirement. The scholarships provided today are not sufficient. By the virtue of Article 46 that is about promotion of educational and economic interest of Schedule Caste, Scheduled Tribes and other weaker section protected. The scholarships which were in the academic year 1980/1990 they are as like same today. The issue which is raised is about rise in prices of necessary commodities is hundred times more than what was prevalent in that decade. The employees who work for the State and Union due to they are organized by Union and Association, the legislature established Pay Commission to recommend increase in Pay. The Students who are the beneficiaries of Government of India’s scholarships, they are due to insufficient scholarship are found mostly leaving their studies. Some of them work in the hotels, restaurants as a waiter. Many a times i.e. the

139 Letters of Dr. Babasaheb Ambedkar to Karmaveer Dadasaheb Gaikwad Editor Prof. Waman Nimbalkar First Edition Prabodhan Prakasan Nagpur 440027 page No.508
Schedule Caste Commission has recommended in his recommendation about higher education scholarship as follows:

Scholarship for higher education for technical professional courses should be provided. Sometime it is found that in some States post matric scholarships given is less than the amount of prematric scholarship. Therefore it is suggested that State Government should utilities matching grants where funds are inadequate. Since committed liabilities are not met by the State Government due to financial constraint and Central Government is not providing fund due to strict financial discipline imposed by Ministry of finance and welfare. Schedule Caste and Schedule Tribe boys and girls are facing hardship due to non payment of scholarship amount under post matric and prematric scholarship scheme. Commission therefore recommends that state should get their full requirement of non plan funds for post matric scholarship and prematric scholarship to children of those engaged in unclean occupation as a part of Finance Commission Award. If states are not able to meet the requirement from non plan side the central Government may continue to release the funds under the scheme to protect the interest of Schedule Caste and Schedule Tribes for their educational development.\footnote{140 National Commission for Schedule Caste Government of India Annual Reports 1996 and 1997 and 1997-1998 by the Commission which works under Article 338 of Indian Constitution and bound to submit a report to President of India under clause 5 (d) to present to the President, annually and at such other time as commission may deem fit, reports upon the working of these safeguards. (e) to make in such report recommendation as to the measures that should be taken by union or any state for the effective implementation of those}
safeguards and other measures for the protection, welfare and socio economic development of Schedule Caste.

2. The President shall cause all such reports to be laid before each house of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the union and the reasons for the non acceptance, if any, of any of such recommendation.

3. Where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to the State and the reasons for the non-acceptance, if any, of any of such recommendations.\textsuperscript{141}

The settled position of law protects by the virtue of above stated provision of Constitution, thereafter also students of certain classes are to be suffered. It is necessary to establish scholarship commission as like Pay Commission. National Commission for Schedule Castes in Financial Year 1997 about the scholarship issue but the subject remains as on place but the academic journey of the students of Schedule Castes also break down. This is nothing but failure on the part of welfare State. Dr. Ambedkar’s vision one can say remains in Constitution not in practical life. State Government as the State like Maharashtra if not sharing into those scholarships, it is a hardship for the students. Establishing a scholarship commission is must in the present scenario when the 80% and more students after matriculation are leaving the academic studies from Schedule Caste and Schedule Tribes.

\textsuperscript{141}The Constitution of India Eastern Book Co. Lucknow page 268 Edition 2009
3.7 Dr. Ambedkar’s State Socialism As Reflected In The Policy Of The Supreme Court

Ram Jethmalani & Ors. V/S Union Of India & Ors. Writ Petition (Civil) No.179 Of 2009 The Honble Supreme Court pointed out the vision of Dr Ambedkar

Dr. Ambedkar, have been on account of the fact that man has been vile, and not the defects of a Constitution forged in the fires of wisdom gathered over eons of man experience. If the politico-bureaucratic, power wielding, and business classes bear a large part of the blame, at least some part of blame ought to be apportioned to those portions of the citizenry that is well informed, or is expected to be informed. Much of that citizenry has disengaged itself with the political process, and with the masses.

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content. Knee jerk reactions, and ill advised tinkering with the constitutional framework are not the solutions.\textsuperscript{142}

In Para 71 Court observe that, the major problem, in the matters before us, has been the inaction of the State. This is so, both with regard to the specific instances of Hassan Ali Khan and the Tapurias, and also with respect to the issues regarding parallel economy, generation of black money etc. The failure is not of the Constitutional values or of the powers available to the State; the failure has been of human agency. The response cannot be the promotion of vigilantism, and thereby violate other constitutional values. The response has to necessarily be a more emphatic assertion of those values, both in terms of protection of an individual’s right to privacy and also the protection of individual’s right to petition this Court, under Clause (1) of Article 32, to protect fundamental rights from evisceration of content because of failures of the State.\textsuperscript{143}

Dr Ambedkar’s speech on adoption constitution: 25\textsuperscript{th} November, 1949

looking back on the work of the Constituent Assembly it will now be two years, eleven months and seventeen days since it first met on the 9\textsuperscript{th} of December 1946.

The condemnation of the Constitution largely comes from two quarters, the Communist Party and the Socialist Party. Why do they condemn the Constitution? Is it because it is really a bad Constitution? I venture to say no'. The Communist Party want a Constitution based upon the principle of the Dictatorship of the Proletariat. They condemn the Constitution because it is based upon parliamentary democracy.

Dr. Ambedkar referred to the statement of Jefferson, the great American statesman as follows,
We may consider each generation as a distinct nation, with a right, by the will of the majority, to bind themselves, but none to bind the succeeding generation, more than the inhabitants of another country."

In another place, he has said: "The idea that institutions established for the use of the national cannot be touched or modified, even to make them answer their end, because of rights gratuitously supposed in those employed to manage them in the trust for the public, may perhaps be a salutary provision against the abuses of a monarch, but is most absurd against the nation itself. Yet our lawyers and priests generally inculcate this doctrine, and suppose that preceding generations held the earth more freely than we do; had a right to impose laws on us, unalterable by ourselves, and that we, in the like manner, can make laws and impose burdens on future generations, which they will have no right to alter; in fine, that the earth belongs to the dead and not the living,\textsuperscript{144}

Dr. Ambedkar’s view regarding the power to amend constitution

The Assembly has not only refrained from putting a seal of finality and infallibility upon this Constitution as in Canada or by making the amendment of the Constitution subject to the fulfillment of extraordinary terms and conditions as in America or Australia, but has provided a most facile procedure for amending the Constitution. I challenge any of the critics of the Constitution to prove that any Constituent Assembly anywhere in the world has, in the circumstances in which this country finds itself, provided such a facile procedure for the amendment of the Constitution. If those who are dissatisfied with the Constitution have only to obtain a 2/3 majority and if they cannot obtain even a two-thirds majority in the parliament elected on adult franchise in their favour, their

\textsuperscript{144} Constituent Assembly Of India - Volume Xi, Friday, the 25th November, 1949
dissatisfaction with the Constitution cannot be deemed to be shared by the general public.\textsuperscript{145}

Dr. Ambedkar’s views regarding the objection that the constitution can be called centralism:

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.\textsuperscript{146}

Powers of the centre and judiciary to alter the boundaries of partition Dr. Ambedkar’s express in following manner

"Courts may modify, they cannot replace. They can revise earlier interpretations as new arguments, new points of view are presented, they can shift the dividing line in marginal cases, but there are barriers they cannot pass, definite assignments of power they cannot reallocate. They can give a broadening construction of existing powers, but they cannot assign to one authority powers explicitly granted to another."\textsuperscript{147}

The second charge is that the Centre has been given the power to override the States. This charge must be admitted. But before condemning the Constitution for containing such overriding powers, certain considerations must be borne in mind. The first is that these overriding powers do not form the normal feature of the constitution. Their use and operation are expressly confined to emergencies only. The second consideration is: Could we avoid giving overriding powers to the Centre when an emergency has arisen?\textsuperscript{148}

\textsuperscript{145} Constituent Assembly Of India - Volume Xi, Friday, the 25th November, 1949
\textsuperscript{146} Constituent Assembly Of India - Volume Xi, Friday, the 25th November, 1949
\textsuperscript{147} Constituent Assembly Of India - Volume Xi, Friday, the 25th November, 1949
\textsuperscript{148} Dayal Keshav, Makers of Indian Constitution, Universal Law Publishing Company, New Delhi, 2013, p-87
Dr. Ambedkar’s views on powers to the centre in case of emergency:

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 all Centre certain overriding powers to be used in an emergency. And after all what is the obligation imposed upon the Constituent States by these emergency powers? No more than this – that in an emergency, they should take into consideration alongside their own local interests, the opinions and interests of the nation as a whole. Only those who have not understood the problem, can complain against it.¹⁴⁹

Dr. Ambedkar’s view on future of this country:

On 26ᵗʰ January 1950, India will be an independent country (Cheers). What would happen to her independence? Will she maintain her independence or will she lose it again? This is the first thought that comes to my mind. It is not that India was never an independent country. The point is that she once lost the independence she had. Will she lost it a second time?¹⁵⁰

Dr. Ambedkar’s stated that, defend our independence with the last drop of our blood. (Cheers)

Will history repeat itself? It is this thought which fills me with anxiety. This anxiety is deepened by the realization of the fact that in addition to our old enemies in the form of castes and creeds we are going to have many political parties with diverse and opposing political creeds.

¹⁴⁹ Constituent Assembly Of India - Volume Xi, Friday, the 25th November, 1949
¹⁵⁰ Constituent Assembly Of India - Volume Xi, Friday, the 25th November, 1949
Will Indian place the country above their creed or will they place creed above country? I do not know. But this much is certain that if the parties place creed above country, our independence will be put in jeopardy a second time and probably be lost for ever. This eventuality we must all resolutely guard against. We must be determined to defend our independence with the last drop of our blood. (*Cheers*)

3.7.1 Dr. Ambedkar’s view to maintained democracy is as follows:

The first thing in my judgement we must do is to hold fast to constitutional methods of achieving our social and economic objectives. It means we must abandon the bloody methods of revolution. It means that we must abandon the method of civil disobedience, non-cooperation and satyagraha. When there was no way left for constitutional methods for achieving economic and social objectives, there was a great deal of justification for unconstitutional methods. But where constitutional methods are open, there can be no justification for these unconstitutional methods. These methods are nothing but the Grammar of Anarchy and the sooner they are abandoned, the better for us.

The second thing we must do is to observe the caution which John Stuart Mill has given to all who are interested in the maintenance of democracy, namely, not "to lay their liberties at the feet of even a great man, or to trust him with power which enable him to subvert their institutions". There is nothing wrong in being grateful to great men who have rendered life-long services to the country. But there are limits to gratefulness. As has been well said by the Irish Patriot Daniel O'Connel, no man can be grateful at the cost of his honour, no woman can be grateful at the cost of her chastity and no nation can be grateful at the cost

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151 Constituent Assembly Of India - Volume Xi, Friday, the 25th November, 1949

152 Constituent Assembly Of India - Volume Xi, Friday, the 25th November, 1949
of its liberty. This caution is far more necessary in the case of India than in the case of any other country. For in India, Bhakti or what may be called the path of devotion or hero-worship, plays a part in its politics unequalled in magnitude by the part it plays in the politics of any other country in the world. Bhakti in religion may be a road to the salvation of the soul. But in politics, Bhakti or hero-worship is a sure road to degradation and to eventual dictatorship.

The third thing we must do is not to be content with mere political democracy. We must make our political democracy a social democracy as well. Political democracy cannot last unless there lies at the base of it social democracy. What does social democracy mean? It means a way of life which recognizes liberty, equality and fraternity as the principles of life. These principles of liberty, equality and fraternity 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. It would require a constable to enforce them. 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 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 is Assembly has to laboriously built up.\textsuperscript{153}

Dr. Ambedkar’s state caste are anti-national in India:

In India there are castes. The castes are anti-national. In the first place because they bring about separation in social life. They are anti-national also because they generate jealousy and antipathy between caste and caste. But we must overcome all these difficulties if we wish to become a nation in reality. For fraternity can be a fact only when there is a nation. Without fraternity equality and liberty will be no deeper than coats of paint.\textsuperscript{154}

\textit{H.V. Kamath saying that this Constitution is a Federal Constitution with a facade of Parliamentary democracy}

There is provision for village panchayats in the directives of State policy. Though Dr. Ambedkar at first stigmatised the villages as senks of superstition and ignorance or something like that, it is good that we embodied in the Directive Principles the salutary provision for village panchayats. These are all good features and I welcome them

\textsuperscript{153} Constituent Assembly Of India - Volume Xi, Friday, the 25th November, 1949

\textsuperscript{154} Dayal Keshav, Makers of Indian Constitution, Universal Law Publishing Company, New Delhi, 2013, p-90
wholeheartedly. Then we have abolished titles, those vulgar distinctions. Untouchability which has been a canker on Hindu society has been abolished. But other features are there which mar the harmony and the beauty of the Constitution. As I said, we are going to have parliamentary democracy in this country.\footnote{\textit{Constituent Assembly Of India - Volume Xi, Saturday, the 19th November, 1949}}

3.8 summary:

Thus all these discussions bring us to the conclusion that Dr. Ambedkar himself has made interesting contributions to state socialism. Further number of other scholars have also written their books and articles on the topic. The concept of state socialism being significant in political economy has affected the constitutional personality of India. The study of provisions made in Directive Principles of State Policy have approved that they have aimed to establish India as a welfare state. Dr. Ambedkar’s genius scholarship has clearly reflected in the making of Indian constitution. The spirit of state socialism was infused effectively in Indian constitution due to rigorous and persistent efforts made by Dr. Ambedkar. The study of constituent assembly debates amply testifies this phenomenon.

In the next chapter social and economic ideas of Dr. Ambedkar have been discussed in the new spectrum of globalization.