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## UNIT 6 CONSTITUTIONAL MEANS AND SOCIAL JUSTICE

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### 6.0 OBJECTIVES

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This unit would enable you to understand:

- Ambedkar's efforts for social justice in the British period;
- Ambedkar's contribution in the Constituent Assembly towards the cause of social justice; and
- Special provisions for certain classes.

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### 6.1 INTRODUCTION

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Ambedkar was born in an untouchable community, in a society based on graded inequality. The injustice and deprivation of basic human rights that he endured during his childhood and youth gave him a purpose and mission in life. During his time Ambedkar was the most articulate spokesman of the exploited and the downtrodden, particularly, of the depressed classes. He held pragmatic views on the amelioration of the sufferings of these classes and the role of the government in this regard.

In earlier units of this block we discussed the concept and bases of social justice. In this unit we will trace Ambedkar's quest for social justice through constitutional means and safeguards in British period. Ambedkar played a major role in the Constituent Assembly in enshrining constitutional rights and safeguards for ensuring social justice.

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### 6.2 AMBEDKAR'S STRUGGLE FOR SOCIAL JUSTICE IN BRITISH INDIA

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In his innumerable statements, representations and evidences Ambedkar spoke eloquently in support of adequate representation and constitutional safeguards for Depressed Classes. On 29 May 1928, he submitted a statement before the Indian Statutory Commission (better known as Simon Commission) on its arrival in India. Ambedkar demanded protection of the interests of the Depressed Classes

through representation in his “Statement concerning the safeguards for the protection of the interests of the Depressed Classes as a minority in the Bombay Presidency, and the changes in the composition of and the guarantees from the Bombay Legislative Council necessary to ensure the same under Provincial Autonomy.<sup>1</sup> He believed the quantum of representation should depend on the population and social status of the group. Moreover, the Government must ensure that:

- education is spread
- no discrimination is done during recruitment and
- adequate safeguards are provided.

Ambedkar, therefore, demanded:

- 1) That the education of the Depressed Classes shall be recognized as the first charge on the revenue of the Province and that an equitable and just proportion of the total grant for education should be earmarked for the benefit of the Depressed classes.
- 2) That the right of the Depressed Classes to unrestricted recruitment in the army, navy and the police shall be recognized without any limitation to the caste.
- 3) That for a period of 30 years, the right of the Depressed Classes for priority in the matter of recruitment to all posts, gazetted as well as non-gazetted, in all civil services, shall be recognized.<sup>2</sup>

Ambedkar insisted on adequate safeguards, as he believed that the “first essential of any scheme of reform is that adequate safeguards should be provided for the good Government of the inarticulate masses of the population.”<sup>3</sup> A committee had been constituted by the Government of Bombay in November 1928 to enquire into the educational, economic and social conditions of the Depressed Classes and the Aboriginal Tribes in the Presidency and to recommend measures for their uplift. Ambedkar was a prominent member of this Committee, popularly known as the State Committee. The Committee submitted its report to the Government in March 1930.

The Committee recommended scholarships and students’ hostels. For the economic uplift of the backward classes, it stressed on the need to recruit depressed classes in the police and urged that the present bar to the recruitment of the Depressed Classes in the army should be removed; that a Backward Class officer should maintain lists of qualified candidates from the backward classes and promote their recruitment; that hereditary services rendered by the backward classes should be enquired into; and the housing schemes for the backward classes should be promoted. On the social front, the Committee recommended legislations to prevent dedication of devdasis; and that boycott be checked by propaganda and legislation.<sup>4</sup>

During 1930-32, when the Round Table Conferences were held in London, Ambedkar played a stellar role in focussing Britain’s and the world’s attention on the problems of Depressed Classes and other weaker sections of India. Ambedkar and Rai Bahadur Srinivasan represented the Depressed Classes at the Round Table Conferences.

At the first Round Table Conference, Ambedkar spoke on his 'Scheme for Political Safeguards for the protection of the Depressed Classes in the Future Constitution.'<sup>5</sup> He demanded that the Depressed Classes should be given a fundamental right enacted in the future constitution of India, which will declare untouchability to be illegal for all public purposes. Secondly, this fundamental right must also invalidate and nullify all such disabilities and all such discriminations that may have been made hitherto.<sup>6</sup> He demanded safeguards to ensure the right to adequate representation in the legislature. Speaking on the subject of joint versus separate electorates, Ambedkar said:

We, the Depressed Classes, demand a complete partition between ourselves and the Hindus. We have been called Hindus for political purposes, but we have never been acknowledged socially by the Hindus as their brethren.<sup>7</sup>

At the same conference, Ambedkar also insisted on recruitment for the Depressed Classes in the services. Moving the resolution, he said, "the Sub-committee on Services desires that a generous policy be adopted in the matter of employment of the Depressed Classes in the public services; and it particularly recommends that the recruitment to the Police and Military Departments, from which they are now excluded, should be thrown open to them."

Ambedkar submitted to the Round Table Conference on 4 January 1931, a Supplementary Memorandum on the Claims of the Depressed Classes for Special Representation, which defines the extent of special representation. He demanded representation for the Depressed Classes in proportion to their population as estimated by the Simon Commission and the Indian Central Committee. Subsequently he also demanded that the Depressed Classes shall have the right to elect their representatives to the provincial and central legislatures through separate electorates for their votes. To hit the nail on the head, he demanded that the Depressed Classes not only have the right to their electorate, but should also have the right to be represented by their own men.

The central focus of Ambedkar's struggle in the British period, for constitutional rights of untouchables may be listed as follows:

- 1) All educational facilities should be provided to the Depressed Classes.
- 2) Depressed Classes should be given representation in state and central legislative councils on the basis of their population, needs and importance.
- 3) Jobs in the state and central government services should be reserved.
- 4) Depressed Classes should be given representation in all the democratic bodies of the country.
- 5) Provision of separate electorate should be made for the Depressed Classes.
- 6) Separate settlements should be established for the Depressed Classes.

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### **6.3 AMBEDKAR'S ROLE IN THE CONSTITUTIONAL ASSEMBLY TOWARDS THE CAUSE OF SOCIAL JUSTICE IN INDEPENDENT INDIA**

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As the Chairman of the Drafting Committee, Ambedkar was closely associated with drafting of the Constitution for free India. As the unquestioned spokesman

of the untouchables, Ambedkar kept in mind the interests of Scheduled Castes while drafting the Constitution. As a matter of fact, Ambedkar was a party to general consensus in the Constituent Assembly that the term 'Backward Classes' would cover three principle components:

- Scheduled Castes
- Scheduled Tribes
- Other Backward Classes.

And Ambedkar addressed himself to the task of securing social justice for all backward classes in the country under the mandate of a new Constitution.

### **Fundamental Rights**

Ambedkar was convinced of the need for a Bill of Rights in the Indian Constitution. He was continuously pleading for an elaborative system of fundamental rights for the minorities in particular and all the citizens in general. His fight for social justice was the main plank in his struggle as the leader of the minorities. He was also convinced that social justice could not be secured unless it was enshrined in the Constitution itself.

One of the first tasks to which the Constituent Assembly addressed itself was the formulation of a Bill of Rights with a pride of place accorded to social justice and non-discrimination. A comprehensive charter of rights was soon evolved through various stages in the Assembly and Committees. In the Indian Constitution, provisions aimed at preventing discrimination and promoting social justice are known as Fundamental Rights. Fundamental Rights in the Indian Constitution are more elaborate and comprehensive than the Bill of Rights in any other Constitution, because, India being a heterogeneous society, has diversity of religions and culture and social conditions. They are intended to provide not only security and quality of citizenship but also certain standards of conduct, citizenship, justice and fairplay.

The Fundamental Rights enshrined in the Indian Constitution are:

- guaranteeing equality before the law and equal protection of law (Article 14),
- prohibition of discrimination on grounds of religion, race, caste, sex or place of birth (Article 15),
- equality of opportunity in matters of public employment (Article 16),
- abolition of untouchability (Article 17),
- prohibition of traffic in human beings and forced labour (Article 23).

Ambedkar's efforts to abolish social inequality, social stigma and social disabilities in our society culminated in these provisions.

In nutshell it may be said that Ambedkar and the founding fathers of our Constitution emphasized that the objective of the Constitution was to establish an egalitarian society where rights were guaranteed to not a few but to all. They firmly believed that right to equality of opportunity has no meaning unless the vast disparities in society are reduced. Political liberties and individual freedoms are of little value when the fear of starvation compels the vast majority of the

people to the will of a few. Right to private property has no meaning for those who have no roof over their heads. Right to leisure or freedom to choose one's profession conveys nothing to an unemployed person.

The Indian constitutional format is remarkable in respect of human rights, as a significant and unique attempt at conflict resolution. It seeks to achieve a balance between political and civil rights on the one hand and social and economic rights on the other or between the individual rights and demands of social justice. The whole scheme is based on a philosophy postulating a dialogue between individualism and state control.

### **Directive Principles of State Policy**

While the Fundamental Rights guarantee the rights and liberties of the individual against arbitrary state action, the Directive Principles seek to emphasize economic and social goals. It was the intention of the founding fathers of Indian Constitution to incorporate into the Constitution concepts and principles that should determine governmental activity, which would bring about a social and economic change in the country.

Ambedkar defended the Directives Principles of State Policy in the following words:

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 at election time. What great value these directive principles possess will be realized better when the forces of right contrive to capture power.<sup>88</sup>

The Directive Principles strive to create a welfare state and a just social order without any economic exploitation. Article 38 contains the essence of these principles:

The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political shall inform all the institutions of national life.

### **Special Provisions**

The provisions of Part XVI of the Indian Constitution may be described as special provisions relating to certain classes – the Scheduled Castes and Tribes, the Anglo-Indians and the socially and educationally Backward Classes.

- Article 330 provides that seats shall be reserved for Scheduled Castes and Scheduled Tribes in the House of the People.
- Article 331 provides for representation of the Anglo-Indian community by nomination by the President, in case that community is not adequately represented in the House of the People.
- Article 332 provides that seats shall be reserved for Scheduled Castes and Scheduled Tribes in the Legislative Assemblies of the States.
- Article 333 provides for representation of the Anglo-Indian community by nomination by the Governor, in case that community is not adequately represented in the States' Lower Houses.

- According to Article 334, the period of such reservations is fixed as ten years from the commencement of the Constitution.
- Article 335 stipulates that the “claim of the members of the Scheduled Castes and Scheduled Tribes shall be taken into consideration, consistence with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State”
- Article 336 deals with special provisions for appointments in certain services for the Anglo-Indian community.
- Article 337 deals with educational grants for the Anglo-Indian community.
- Article 338 provides for a Special Officer for the Scheduled Castes and Scheduled Tribes to be appointed by the President, whose duty is to investigate all matters relating to the safeguards for the Scheduled Castes and Scheduled Tribes and to report to the President. For the purpose of Article 338, reference to Scheduled Castes and Scheduled Tribes are to be construed as including references to such other backward classes as may be specified by the President on receipt of a report from a commission which may be appointed under Article 340 (1).
- Article 339 provides for the appointment of a commission to report in regard to the administration of the scheduled areas and the welfare of the Scheduled Tribes.
- Article 340 (1) provides for the appointment, by the President, of a commission to investigate the conditions of socially and educationally backward classes within the territory of India and the difficulties under which they labour and to make recommendations as to the steps that should be taken by the Union or any State to remove such difficulties and improve their conditions etc.

Speaking about the special provisions incorporated in the Indian Constitution, Ambedkar made the following observation:

Speaking for myself, I have no doubt that the Constituent Assembly has done wisely in providing such safeguards for minorities as it has done. In this country, both the minorities and the majority 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 will serve a double purpose. It must be to recognise the existence of minorities to start with. It must also be such that it will enable majorities and minorities to merge someday into one. The solution proposed by the Constituent Assembly is to be welcomed because it is a solution which serves this two-fold purpose. To die-hards, who have developed a kind of fanaticism against minority protection, I would like to say two things. One is that minorities are an explosive force, which, if it erupts, can blow up the whole fabric of the state. The history of Europe bears ample and appalling testimony to this fact. The other is that minorities in India have agreed to place their existence in the hands of the majority...

The details of the constitutional provisions amply demonstrate the remarkable manner in which Ambedkar applied his mind to the problems confronting the country, his acute sense of observation and in-depth understanding of the social

and cultural background of the Indian society. He combined in himself the role of social reformer, a political leader and a spiritual guide of the untouchables.

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## 6.4 LET US SUM UP

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Ambedkar's idea of constitutionalism revolved around social justice. He wanted to create an egalitarian society through the process of constitutionalism. He wanted an India free from discrimination, exploitation and untouchability. His initial efforts, during the British period, lay in demanding constitutional rights and safeguards, including separate electorates for the Depressed Classes. After independence, Ambedkar approached the problem from a wider perspective of nationalism, democracy, humanity and justice.

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## 6.5 QUESTIONS TO CHECK YOUR PROGRESS

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- 1) Discuss the constitutional safeguards Ambedkar demanded for Depressed Classes in British India.
- 2) Discuss Ambedkar's efforts for Fundamental Rights in Constitutional provisions aimed at preventing discrimination and promoting social justice.
- 3) Elaborate the special provisions related to the Scheduled Castes and Tribes, the Anglo-Indians and the socially and educationally Backward Classes.

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## SUGGESTED READINGS

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Ambedkar and Social Justice, 1992. Vol. 1. Directorate of Publications Division, Ministry of Information and Broadcasting, Government of India

Sushma Yadav. 2006. Social Justice: Ambedkar's Vision. Indian Institute of Public Administration, New Delhi

Vasant Moon (ed.) 1982. Dr. Babasaheb Ambedkar: Writing and Speeches, Vol. 2. Government of Maharashtra, Bombay

### Endnotes

<sup>1</sup> Vasant Moon (ed.) 1982. Dr. Babasaheb Ambedkar: Writing and Speeches, Vol. 2. Government of Maharashtra, Bombay, pp. 435-438

<sup>2</sup> Ibid. p. 442.

<sup>3</sup> Ibid., p. 445.

<sup>4</sup> D. Jeevan Kumar. 1992, cited in Ambedkar and Social Justice, Vol. 1. Directorate of Publications Division, Ministry of Information and Broadcasting, Government of India, p. 268.

<sup>5</sup> Sushma Yadav. 2006. Social Justice: Ambedkar's Vision, Indian Institute of Public Administration, New Delhi.

<sup>6</sup> Vasant Moon (ed.). 1982. Dr. Babasaheb Ambedkar: Writing and Speeches, Vol. 2. Government of Maharashtra, Bombay, pp. p. 532.

<sup>7</sup> Ibid., p. 533.

<sup>8</sup> Debates, vol. VII, p. 41.