

## DERIVING AUTHORITY FROM 'WE THE PEOPLE'

Relevant for: Indian Polity | Topic: Indian Constitution - Features & Significant Provisions related to The Preamble, Union & its Territories and The Citizenship

India's streets are agog today with a clamour, calling for a return to constitutional imaginary. The preamble to the Constitution, little invoked till the Kesavananda Bharati case (1973), and given a new lease of life by this epochal judgement, is being read to large protest audiences across the country, and even beyond. It has turned out to be more than merely a salutary invocation at the start of a protest -- artists are busy weaving it in song and dance, and calligraphy and paintings are flourishing around the few mantras it is composed of. The emphasis is on the preamble's character as the Constitution's very soul. While there seems to be no doubt across the protest spaces that the Constitution is the 'authoritative horizon' of India's public life, the preamble is held aloft as our lens to it.

But, it is important here to also draw attention to the fact that small parties such as Prakash Ambedkar's Vanchit Bahujan Aghadi and Asaduddin Owaisi's All India Majlis-e-itehadul Muslimeen, and even Adivasi autonomy assertions, often around the slogans of 'jal, jameen, jangal' (water, land, forests), have been mobilising for years their respective social constituencies in defence of the Constitution. Besides, a crop of young, bright constitutional scholars are pushing the boundaries of the document's interpretation to encompass and reach out to the complexities of Indian polity little explored before.

However, the euphoria surrounding the Constitution in general and the preamble in particular is understandable now considering the situation we are in. As a specific idea of the nation brags triumphalism, the republican turn to the constitutional imagery, expressed in vibrant citizen activism and initiative, seems to be reorienting the idea of nation in a different direction.

There is a close relation between India's distinctive struggle for national independence against colonial rule that brought the large masses to the fore in a non-violent movement of epic proportions, and the way India went about constituting itself into a sovereign democratic republic. At the same time, they were two very distinct moments and, more than ever, it is important to recognise this distinction. In the Constituent Assembly debates, we find that several voices wished to reduce the latter into the former while many others prevaricated. Today, this tendency probably threatens to become our common sense.

It is important to recall that Jawaharlal Nehru, while moving 'Aims and Objects' resolution in the Constituent Assembly on December 13, 1946, proposed that the task before the Assembly was to cast India as an 'independent, sovereign, republic,' and spelt it out in a few memorable phrases, terming them as 'the fundamentals' which were 'commonly held' by Indians. He also suggested that the resolution be regarded as "higher than the law" and nothing should be "added to or subtracted from" it. But this resolution, as the preamble of the Indian Constitution, underwent a metamorphosis in the Drafting Committee and one can read B.R. Ambedkar's stamp etched on it. When Ambedkar moved the draft Constitution in the Assembly on November 4, 1948, it turned out to be, "we the people" who had resolved to constitute India into "sovereign democratic republic", and the Constituent Assembly became only its representative. There was also the additional clause on "fraternity" that upheld "dignity of the individual" and "integrity of the nation". Many of the immediate concerns of welding the nation together that crowded Nehru's draft resolution were either shed or packed off to other parts of the Constitution. This shift did not go unnoticed and several speakers charged Ambedkar of hijacking the resolution and repacking it with fundamentals of his choice. Nehru did not intervene in defence of his characterisation of India. Ambedkar's response was short, rounding off the debate: "This preamble embodies that

this Constitution has its root, its authority, its sovereignty from the people” (October 17, 1949).

The usage of the idea of ‘republic’ in the nationalist discourse of India was relatively feeble and even Nehru, when he used the term in his speech, seemed uncomfortable with it, contrasting it merely with monarchical regimes. One of his defences for not bringing in ‘democracy’ upfront to characterise India’s constitutional regime was that the word ‘republic’ already contained it. A few speakers in the House later pointed out that a republic need not necessarily be a democracy. The Drafting Committee, however -- and Ambedkar played a major role in it -- brought in the idea of ‘republic’ alongside ‘democracy’ as attributes of India’s sovereign polity, giving it a twist markedly different from what the term had connoted in Nehru’s usage as an anti-monarchical regime. As a disciple of the Jotirao Phule school of thought, Ambedkar was the inheritor of an idea of republicanism, with its stress on the citizen, citizen agency and public spiritedness arising therefrom, and citizens bonding themselves into a community of equals, and enabling it in turn. Phule had argued, and Ambedkar was in agreement with it, that the spirit of republicanism vanished from India with the rise of monarchy and its entwinement with Brahminism, and resurrected itself in the West. He thought the masses could rediscover their initiative as citizens only through the overthrow of servility that the caste order, revamped by colonialism, subjected them to.

Ambedkar remained deeply suspicious that an ‘independent’ India would be able to move much further as a political community of free and equal citizens reproducing itself overtime. However, at the same time, if India was move in that direction, constitutional democracy was a sine qua non. His final speech in the Constituent Assembly on November 25, 1949 argued that if constitutional democracy did not make way for social and economic democracy, there was little hope of political democracy surviving in India. He saw in republicanism a hope that it would rally a critical energy/social capital to subserve the latter. But the spirit of republicanism could only be enabled through what he called constitutional morality, i.e. a citizen acting by taking overboard constitutional principles and norms.

There was no doubt that by substituting the idea of ‘independent sovereign republic’, with ‘sovereign democratic republic’, Ambedkar was trying to redirect India into a very different trajectory. However, as the decades passed, the vision behind such an idea of India became ever more elusive. The invocation of the preamble, in the citizen-activism of the present, is undoubtedly a call to action. But the onus it bears seems far heavier.

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