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Gray's Inn

“The Living Document 75 Years of the Constitution of India and
the Enduring Relevance of Dr Ambedkar”

Justice B.R. Gavai

Chief Justice of India

My esteemed colleague Hon'ble Justice Vikram Nath,

*His Excellency, High Commissioner of India Mr. Vikram
Doraiswami*

Lady Arden of Heswall

Lady Justice Andrews,

Shri Tushar Mehta, the learned Solicitor General of India,

The distinguished Members of the Gray's Inn;

Friends from legal fraternity both from India and U.K.

1. Today is an incredibly emotional moment for me as I stand before you at Gray's Inn, a place that holds so much historical significance. This is where Dr. B.R. Ambedkar, one of the greatest legal minds in modern history, pursued his legal education. To be present at this institution, where he shaped his legal thoughts and developed the intellectual foundation that would later contribute to the formation of India's

Constitution, is nothing short of humbling. In a way it is a privilege for me to be here.

2. Standing here today, I am reminded of the incredible legacy Dr. Ambedkar left behind, not only in the legal field but in the very fabric of Indian democracy. His efforts to ensure that India's Constitution enshrines equality, liberty, justice and fraternity for all resonate deeply, and being in this space today, where it all began for him, brings a sense of connection to his enduring impact on our legal system.
3. It's a moment to reflect on the long journey we have travelled and the work that still lies ahead in ensuring that the ideals of justice and equality that Dr. Ambedkar envisioned and which are so dear to him, have been given to guide us.
4. Furthermore, whenever I am invited to speak about Dr. Ambedkar, it is always a moment of reflection, not only on his legacy but also on my own family's contribution to his mission. My late father, R.S. Gavai, had the privilege of working closely with Dr. Ambedkar.
5. After Babasaheb Ambedkar passed away in 1956, my father continued the movement of social justice. He continued the struggle, often leading protests to ensure that Dalits had

access to basic public resources, like village water tanks, village water wells, that had long been denied to them on account of societal discrimination. His life was shaped by Babasaheb Ambedkar's teachings, and growing up in the same environment, so was mine.

6. I was born in 1960, almost four years after Dr. Ambedkar left us. I was born as a citizen of India, and not as an *untouchable*. Dr Ambedkar's presence was always felt in my home. From a young age, I would hear stories, of his courage, his intellect, his relentless pursuit of equality. Those stories became a part of my values, my outlook, and my purpose. Like millions of others, I have been deeply influenced by Dr. Ambedkar's life and vision.
7. It is solely due to the visionary framework laid down by Dr. B.R. Ambedkar that individuals like me, who come from humble beginnings, having studied in a municipal school and grown up in a family that faced numerous challenges, are able to aspire to, and eventually attain, the highest positions in the country.
8. Dr. Ambedkar's vision of a just and inclusive society, as enshrined in our Constitution, opened the doors for

individuals from marginalized communities to overcome the social and economic barriers that once kept them away from entering the mainstream of life.

9. This year marks a significant milestone. On 26th of January 2025, we have completed the journey of 75 years of Indian Constitution and started our march towards the century. As we reflect on this remarkable journey, I can confidently affirm that it is the foresight and vision of Dr. B.R. Ambedkar that have enabled the Constitution to endure and stand the test of time.

10. The making of independent India and the drafting of the Constitution were inseparable processes, each influencing and complementing the other. As India embarked on its journey as a sovereign nation, it required a guiding framework that could uphold the values of justice, equality, and liberty for all its citizens. As Hon'ble Lady Justice Andrews has mentioned that it is difficult for providing a Constitution for a diverse country like India, it is a herculin task for the Constituent Assembly consisted of the people belonging to different regions, different religions, different political ideologies, different social and economic strata and,

therefore, for Dr. Ambedkar and the framers of the Constitution it was a difficult job to ensure that the Constitution would reflect the aspirations of every section of society, especially the marginalized and those who were kept away from the mainstream of the society.

11. As we look back in the last 75 years, we see how Dr. Ambedkar played a crucial role in embedding fundamental rights within the Constitution, emphasizing their crucial nature as enforceable guarantees. Dr. Ambedkar not only stressed the importance of fundamental rights but also placed equal emphasis on the availability of effective remedies for citizens.

12. As a matter of fact, as we gather from Dr. Ambedkar's first speech in the Constituent Assembly on 17th December 1946, he was called upon within four days after Pandit Jawahar Lal Nehru, the first Prime Minister of India had placed 'Objective Resolution' before the Constituent Assembly. Dr. Ambedkar thought that he would get his turn after a few days, but within four days, he was called upon to address the Constituent Assembly. He stated that his main purpose of entering the Constitution was to safeguard the

interests of Scheduled Castes, Scheduled Tribes, the marginalised who were depressed over the centuries together. But his reflection would be gathered from his first speech made on 17th December 1946. Dr. Ambedkar stated that the objective resolution coming from none else from Pandit Jawahar Lal Nehru was not as per his expectation. He stated that though the Objective Resolution provided for rights, but he said that there were no provision for remedies. Dr. Ambedkar said that rights without remedies are meaningless and therefore we can see that the foundation of Article 32 which we find in the final Constitution have their seeds in the very first speech of Dr. Ambedkar made on 17th of December 1946.

13. He also stated that coming from Pandit Jawahar Lal Nehru, he expected more provisions in the Constitution so as to advance the purpose of economic and social justice and that we find that the Directive Principles, the Part IV of the Constitution also has foundation in the very first speech that he rendered before the Constituent Assembly.

14. It was under his guidance that the right to constitutional remedies was enshrined as a cornerstone of

the Constitution, providing citizens with direct access to the courts to protect their rights. Dr. Ambedkar while delivering his last speech on 25th November 1949 said that he was asked to name the most important article in the Constitution. He without hesitation mentioned Article 32, which was the “heart” and the “soul” of the Constitution.

15. Dr. Ambedkar attached great significance to the Directive Principles of State Policy, recognizing them as a vital part of the Constitution that embodied the vision of a just and humane society. Dr. Ambedkar was criticised that the Directive Principles are nothing else but a post-dated cheque on a bankrupt bank. While replying the said criticism he said that I am willing to accept that the Directive Principles are post-dated cheques but he said that I am not willing to accept the criticism that the post-dated cheques are on a bankrupt bank. He said that I am sure that my country will be one day so able that the post-dated cheques that we are issuing today will be encashed in future. Dr. Ambedkar when he presented the final draft in the Constituent Assembly on 4th November 1948, stated that while the people will determine who holds power, those in power will have to give due respect to the

Directive Principles. Though the Directive Principles may not be enforceable in the court of law, he stated that whenever a party in power goes to the electorate after 5 years, it will be answerable to the citizens of this country and whether the party in power is working in furtherance of social and economic justice would be answered by the electorate.

16. Dr. Ambedkar poignantly reaffirmed his faith in the three ideals of liberty, equality and fraternity. Dr. Ambedkar said that the principle of liberty, equality and fraternity are not to be treated as separate items in a trinity. But liberty, equality and fraternity form a union of trinity. He said that liberty without equality will give rise to the situation of anarchy, the stronger will win over the weak. The equality without liberty will give rise to a position of inertia because nobody will have initiative to do better in his life. He said fraternity is required so that both the liberty and equality reside together in harmony without conflict and it will act as a policeman. He said that to divorce anyone of them from one another is to defeat the very purpose of democracy.

17. In his final speech in the Constituent Assembly on 25 November 1949, Dr. Ambedkar warned that if India failed to

achieve social and economic democracy, the very foundation of political democracy would be at risk. Dr. Ambedkar said that though we have promised political, social and economic equality in our Constitution and though we have attempted to achieve political equality, political democracy by adopting the principle 'one person one vote one value', what about economic and social justice and what about economic and social equality. He said that on economic plain, the entire wealth of the country is concentrated in few hands and on a social plain, the society is divided in four compartments wherein one cannot travel from one compartment to the other and, therefore, Dr. Ambedkar warned the country and I quote him,

“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.”

18. In other words, Dr. Ambedkar laid the foundation for India's legal framework with the Constitution, which, upon coming into force, evolved into a living document of justice, shaping the actions of the legislature, executive, and judiciary alike.
19. Dr Ambedkar envisioned the Constitution as embodying guiding principles for the nation, emphasizing that the exercise of power should not be arbitrary. This vision has been reflected in several landmark judgments by the Supreme Court.
20. For today's function, I have been allotted only 15-20 minutes, and, therefore, it will not be possible for me to speak at length on this vast subject within the time allotted and, therefore, I will refer to only a few judgments.
21. As all of us know that the initial journey of the Indian Supreme Court with regard to the supremacy of fundamental rights over the directive principles was settled in the milestone Judgment of *Kesavananda Bharati*. *Till then the view of the Supreme Court was that the fundamental rights are superior than the directive principles and wherever there is a conflict between the directive principles and the*

fundamental rights, the directive principles will have to give way to the fundamental rights.

22. *Though in Kesavananda Bharati, the judgment is popularly known for upholding the basic structure doctrine wherein on the issue regarding the amending power of the Parliament, there is almost divide in the Judges, 6 judges holding that the power of the Parliament to amend the Constitution is unlimited, whereas the other six holding that the power of the Parliament to amend the Constitution is limited and it cannot amend the Constitution so as to take away the fundamental rights. It is only the view of Justice H.R. Khanna partly accepted by 6 on the one hand and 6 on the other hand, is the ratio of Kesavananda Bharati. But insofar as the conflict between the directive principles and fundamental rights is concerned, all the 13 judges were on the same page. Everybody recognised the importance of directive principles and it was held that the directive principles and fundamental rights together and only together are soul of the constitution. They run like two parallel lines, at times intersecting each other. Various learned judges have extensively referred to the importance of the Directive*

Principles and co-equal treatment to be given to the Directive Principles and Fundamental Rights. However, on account of the paucity of time, it is not possible for me to recall all of them.

23. The 1980 *Minerva Mills* judgment the constitution takes further the importance role assigned to the Directive Principles and Fundamental Rights. Chief Justice Chandrachud in his judgment quotes that “Directive principles and fundamental rights are like two wheels of the Golden Chariot of the Constitution. To span one wheel, the efficacy of the entire Constitution will come to a standstill.”
24. Though Justice Bhagwati was dissenting in that judgment, he also emphasized on the importance of the Directive Principles in his own words.
25. Dr. Ambedkar was also a strong believer that education should be a Fundamental Right. However, he had his limitations, and therefore, in the original Constitution, the right to education does not find a place as a Fundamental Right.
26. But the supreme court in the further judgments, like *Mohini Jain v. state of Karnataka* and *Unnikrishnan v. state of*

Andhra Pradesh, while deliberating and giving importance to Article 21 in conjunction with Article 45, that is the state's obligation to provide primary education, held that right to education was also a Fundamental Right. No doubt that the Parliament subsequently has introduced Article 21A in place of free and compulsory primary education, a fundamental right for children of age of 14 years.

27. In the journey of the last 75 years, the Indian Executive, the Indian Parliament, and the Indian judiciary have played a pivotal role in expanding and furthering the constitutional aim of social and economic justice. Various enactments, like the Bonded Labour Abolition Act, like the Agricultural Ceiling Act, like the Tenancy Act, various enactments in order to protect the labour system have been enacted by the Parliament and by the State Legislature in order to further the social and economic justice. Whenever challenges were made to such legislations, the courts have always been in favour of the enactments which have been enacted by the parliament and by the legislature in furtherance of the objective of economic and social justice.

28. Not only that, but the Indian judiciary has played a critical role in expanding the scope of the right to Life under Article 21 of the Constitution. The court has interpreted this right as beyond its mere existence. The three words in Article 21 have been given such a wide meaning that nobody could have imagined in 1950. It encompassed the right to live with dignity. It includes the right to legal dignity, the right to die with dignity, and several other socio-economic rights.
29. The Supreme Court has expanded the right to life to include the right to food, the right to clean environment, the right to shelter, the right to potable water, the right to live with dignity, the right against torture, the right to speedy trial, the right to complete fair trial, the right to free legal aid, the right to education, the right to privacy, the right to basic medical health and so on. Furthermore, the Supreme Court has even extended the right to life to include protection against the adverse impacts of climate change, highlighting the dynamic and evolving nature of human rights in India. Through these interpretations, the judiciary has ensured that the fundamental right to life is understood as a

comprehensive and transformative concept, safeguarding the well-being and dignity of every citizen.

30. Furthermore, over the last 75 years, both Parliament and the judiciary have significantly expanded the scope of affirmative action provisions in the Constitution, with several landmark judgments referencing Dr. B.R. Ambedkar's statements made during the Constituent Assembly debates. These statements, particularly those relating to the inclusion of backward classes, have been crucial in shaping the legal framework for affirmative action. In the case of *Indira Sawhney*, wherein the court upheld the power of the executive to provide reservations for the backward classes, it extensively referred to Dr. Ambedkar's views in the Constituent Assembly debates.

31. As a matter of fact, insofar as the reservations for the Scheduled Castes, the Scheduled Tribes, and the other backward classes are concerned, the initial view of the Supreme Court prior to *N.M Thomas* was that Article 16(4) is by way of an exception to Article 16(1). Because that is an enabling provision, and it is for the state to provide a reservation or not. But in the *N.M. Thomas*, the seven judges

unanimously took the view that Article 16(4) is not by an exception to Article 16(1). But it is an emphatic way of stating what is already there in Article 16(1).

32. It should also be emphasized that Dr. Ambedkar was also a firm advocate of gender equality. Dr. Ambedkar was of the view that in the past history of the Indian society, women were considered to be worse than the *Shudras* and the Scheduled Tribes, and therefore he advocated in favour of gender equality. And we therefore find that there are various judgments which have advanced gender equality, giving equal protection or equal treatment to women as men.

33. On account of the paucity of time, it would not be possible to refer to many of them. I will only refer to one of the recent judgments in the *Secretary of Defence v. Babita Puniya* and *Lt. Col. Nitisha v. Union of India*, where the woman officer in the highest position acted with force to demand the right of a permanent commission, a privilege that has been denied to them for decades. Relying on principles of gender discrimination and substantive equality, the Supreme Court granted permanent commissions to women officers, thereby effecting a profound shift in the representation and inclusion

of women in the military. It was a matter of great pride for all Indian citizens when, in the last Republic Day Parade in 2024, the entire contingent of all the forces and the para-military Forces contained only women officers. And today we see women officers not only flying in the Sindoor operation, which is a matter of pride for all Indians, but also they are in Siachen and they are in sea and it's really a matter of great pride for Indian citizens.

34. I would also like to delve into the fundamental principle of dignity, which was very dear to Dr. Ambedkar. According to him, a truly just society could only be built when every person was treated with the inherent dignity, respect, and value they deserve. In my own judgments, I refer to the right to live with dignity, to stop arbitrary actions against citizens. You know, the Solicitor General was also appearing in that matter, I must state that he was also of the same view.

35. These cases illustrate how Dr. Ambedkar's ideals of justice, equality, and non-discrimination continue to shape judicial decisions and empower marginalized communities to claim their constitutional rights.

36. To summarize, as we reflect on 75 years of our Constitution and democracy, we witness the profound and lasting impact of Dr. Ambedkar's leadership. The enactment of various social welfare legislations stands as a testament to Dr. Ambedkar's vision of equality of opportunity, ensuring that the state takes active steps to address social disparities. Additionally, the emphasis on the Directive Principles of state policy has been instrumental in guiding governance towards the welfare of the people, ensuring that social and economic justice remains at the core of policymaking.

37. Equally significant is the ongoing protection against arbitrary use of power, a safeguard that ensures the rule of law is upheld and that liberty and equality are never compromised. These are the very themes that Dr. Ambedkar championed- protection of individual rights, the prevention of discrimination, and the promotion of social and economic justice. His vision for a society where every citizen enjoys the full benefits of constitutional protection has been steadily realized through the judiciary, legislation, and administrative actions.

38. Dr. Ambedkar always felt that the Constitution was a living, organic, evolving document, adapting to the changing situation. Dr. Ambedkar said that we cannot bind future generations with this document, and they should have freedom to change the constitution, adapt the constitution to the changing societal and economic needs.
39. For any Constitution, the journey of 75 years is not too long. But with pride, I can say that the journey of 75 years of the Indian constitution has clearly travelled in the direction of the aim of the Constitution makers for providing social and economic justice.
40. In the last 75 years, various enactments have been enacted on account of which billions of landless labourers have been allotted lands which were available on account of the abolition of the *Zamindari* system. Billions of tenants who have been tilling the land on account of the Tenancy Protection Act have become owners of agricultural lands. The living conditions of the labour class have been enhanced so as to ensure that they live with dignity.
41. The country has progressed towards women empowerment, it is a matter of pride that the country in last

75 years has witnessed two women Presidents, and now we have President, who is not only a woman President but represents the most marginalised section of the society of the tribal area.

42. We have had a Prime Minister of India who was a lady, we have had a Chief Justice of India who is a Dalit, we have had two speakers of Lok Sabha who belong to Dalit community. And when the Constitution of India has completed 75 years, it is a matter of great coincidence that India has a President who is a woman and belongs to tribal class. We have a Prime Minister who comes from backward classes and who takes pride in saying it is only because of Indian Constitution that he could adorn the position of Prime Minister. And I take pride in saying that India has a Chief Justice who comes from marginalised section and humble background, and arose to the post of Chief Justice of India.

43. We have three Constitutional heads belonging to the marginalized section, and here incidentally we have a law minister who also belongs to marginalised section.

44. Today, I am happy that I have been given an opportunity by all of you to come here and pay my tributes to Dr.

Ambedkar. As I said in the beginning, it is a matter of privilege for me, and I am really happy to know that Gray's Inn has contributed to restoring the dignity of one of its greatest alumni. It has given a place of prominence to Dr. Ambedkar's portrait, and it has also dedicated a wing in the name of Dr. Ambedkar. Therefore, on this occasion, I only appeal to everyone concerned, the Indian Parliament, Indian Executive and the Indian Judiciary, the citizens of India, to make every attempt to achieve constitutional goal of social and economic justice and try to realise the dream of our constitution makers, including Dr Ambedkar.

45. I am really grateful to you for giving me an opportunity to be here with all of you, and also equally grateful to all of you for hearing with patience.

46. Thank you! Thank you very much.