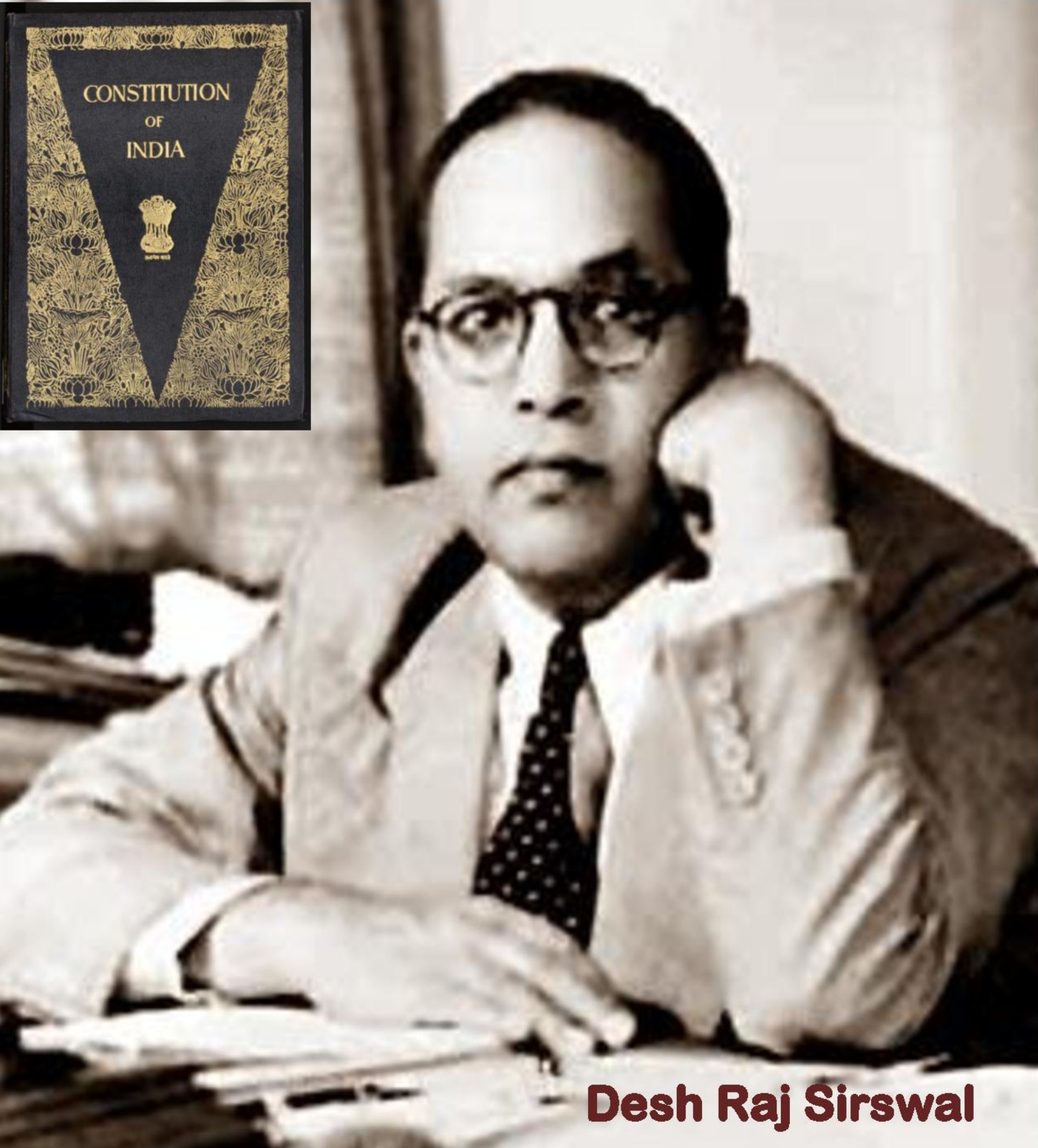
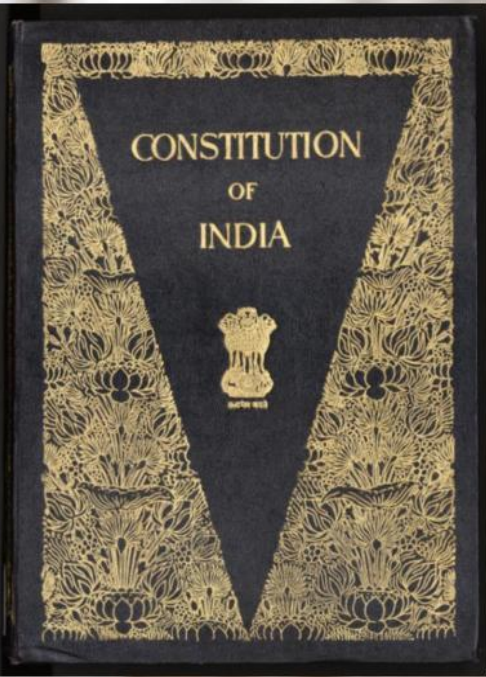


Rights of Depressed Classes: A Constitutional Approach



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Preface

The Milestone Education Society (Regd.) Pehowa (Kurukshetra) working since 2005 in the field of school education, social work and higher education through its research initiatives. It started Center for Positive Philosophy and Interdisciplinary Studies (CPPIS) in 2010 and contributing continuously in the field of higher education through research journal, various programmes, and published books. The second, Centre for Studies in Educational, Social and Cultural Development (CSESCD) works on the issues related to downtrodden people through its various activity like discussions, programmes and publications etc. It also promotes the ideology of the educational thinkers who positively contributed in the society.

The present book, "Rights of Depressed Classes: A Constitutional Approach" is the fourth e-book of the Centre which includes the essence of the occasional papers presented in several seminars. Human Rights is one of the major subjects for discussion in academics as well as in social sector and has an international approach to social issues and problems. The struggle to promote, protect and preserve human rights changes and holds continuity in every generation in our society. The concept and practice of human rights is the hallmark of any modern society. Marginalized Groups of India includes SCs/STs,

Women and Children etc. The Constitution of India provides equal rights to all its citizens' right to live with equality, honour and dignity. But the caste system and untouchability somehow and others are still playing negative roles from different parts of the society. Talhan, Meham, Dulina, Gohana, Saalwan, Chakwada, Khairlanji, Khandamal and Mirchpur are some of the recent instances of atrocities against Dalits in India. Atrocities against Dalits thus continue to exist even today, despite constitutional safeguards, and various legislative measures. Empowerment is the process of increasing the capacity of individuals or groups to make choices and to transform those choices into desires actions and outcomes.

In this context, this writing tries to analyze the increasing and perpetuating atrocities on the dalits and other sections of the society which leads to gross violation of their Human Rights in a larger context. I must congratulate all the members of Milestone Education Society (Regd.) Pehowa (Kurukshetra) and submit my humble gratitude towards their positive efforts and kind-cooperation in all works of the Society.

Dr. Desh Raj Sirswal

December 06, 2019

Rights of Depressed Classes: A Constitutional Approach

Dr. B. R. Ambedkar was one of the pioneers of social justice in India. It was Ambedkar who provided new dimensions to the concept of justice. We regard him as the 'Champion of Social justice.' He was himself a victim of social injustice, faced its difficulties; and he not tolerated the injustice, but boldly fought against it. He had a liberal concept of justice. Like Gandhi, for Ambedkar, justice is simply an another name of liberty, equality and fraternity.' In this sense, the core value of Ambedkar's concept of justice is human equality, equal distribution of the welfare materials and discrimination less society. Thus, the spirit of social justice, according to Ambedkar, gives a significant place to mutual sympathy and respect. He immersed himself in the world of ideas and came up with his own perspectives in an attempt to find answers to the problems posed by his life experience. In fact Dr. Ambedkar on many occasions used to be very rigid and dogmatic in his demands, but whenever the situation turned to be very critical he withdraw some of his demands and came to a compromise. Although he spoke of strong resistance and virility he never attempted to disturb the peace and order. He thus reached the pinnacle of the humanism.

Present Situation of Depressed Classes in India

According to a report by Human Rights Watch, “Dalits and indigenous peoples (known as Scheduled Tribes or adivasis) continue to face discrimination, exclusion, and acts of communal violence. Laws and policies adopted by the Indian government provide a strong basis for protection, but are not being faithfully implemented by local authorities.” Human rights issues are very often understood and analyzed from socio-political and cultural perspectives. Apart from such perspectives, the issue of human rights also can be analyzed from a strictly philosophical perspective, which implies that the idea of human rights is centered on the inspiration of human dignity. Several studies on the situation of human rights of Dalits in several parts of India show more reports on violation of human rights than on protection of them. Dalits are discriminated against, denied access to land, forced to work in degrading condition, and routinely abused at the hands of the police and higher-caste groups that enjoy state protection. For example, Dalit women are regularly subjected to sexual violence as a result of their lower caste status-often in response to their demands of basic rights. Hate crimes towards indigenous peoples is a daily reality in many countries across the globe. The challenge is to change such a dehumanized situation. The challenge is to each one of us that whether engaged in governance of the civil society or

voluntarily engaged in social and economic development of society, one thing to remember is that leaving behind the vulnerable units of our society – Dalits and indigenous peoples – will not take us to a prosperous society.

Women in India, traditionally and in the postcolonial period, have suffered multiple oppressions. They are denied, in most instances, equal access to food, health and education, in addition to carrying the double burden of household and wage work. Moreover, when they are engaged in the latter, they invariably earn lower wages and become the first targets of economic retrenchment. Alongside oppression and invisibility in the public sphere, women face an atmosphere of debilitating violence bride burning, rape and unrelenting physical and psychological battering both within and outside the family. With the rise rather than abatement of these challenges to women's equality, the movement is questioning contemporary development processes, particularly the patriarchy encoded in modern development. Moreover, as the family members most critically affected by growing shortages of fuel, fodder and water, women are spearheading the current ecological movements. They are also in the forefront of efforts to contain communal disputes, for it is they who have felt the severity of codified and rigid male dominated religions.

The recent upsurge in the cases of atrocities on Scheduled Castes and incidents

of caste violence has perturbed the entire socio-political ambience of the Indian society. The figure of atrocity on Scheduled Castes over the years has shown upward trend. They have suffered not only from economic exploitation but also from social discrimination. The situation has become worse than before because of the migration of population under economic pressure. The existing inequalities in urban areas have added a new dimension to the problem. Violence is gradually becoming a common strategy against those whom they consider responsible for taking a major share of their lives. After a careful analysis of the problem the study holds following reasons responsible for the growing menace:

- a. Improper implementation of the Minimum Wages Act and non-payment of minimum wages fixed by the government for rural labourers
- b. Absence of proper employment opportunities
- c. Rigid caste-based social structure
- d. Atrocities on women of lower castes
- e. Lack of industrialisation and other development programmes
- f. Illegal occupation of uncultivated public land by landlords
- g. Lack of irrigation facilities for rural poor mostly belonging to the Scheduled Castes,
- h. Denial of political rights to rural poor

- i. Nexus between landowners and the police
- j. Tussle over political domination
- k. Caste and class violence in rural areas.

In addition to these causes, widespread unemployment, underdevelopment, poverty, the continuing feudal order and growing cases of corruption among local politicians and bureaucrats combined with socio-political and economic disparities among the upper, middle and Scheduled Castes have added new dimensions to the problem of naxal violence.

Depressed Classes and Indian Constitution

Dr. Bhim Rao Ambedkar's contribution in shaping the modern India is remarkable. He showed the way to millions of the downtrodden to a life of self-respect, dignity and responsibility. He always stressed spreading education as the only hope among dalits for their upliftment in the society. He emphasized education as a key instrument of liberation from oppression from Hindu caste-patriarchy structures and was the capable of establishing a new social order. His interpretations about the origins of castism and untouchability are not only rational and logical but are grounded in grass-roots reality of which he himself was an integral part. India, have no other leader of the kind Dr. Babasaheb

Ambedkar, The great Indian Crusader for Social Justice and Champion of Human Rights. Fundamental Rights and Directive Principles of State Policy enshrined in the Indian Constitution is one of the greatest contributions of Dr. Ambedkar to India. The establishment of Dr. Ambedkar Chair (Constitutional Law) in Columbia University from where he learnt his lessons of social equality, liberty and democracy under the guidance of reputed scholar Professor Dewey is a great and real tribute to messiah of downtrodden.

After independence Dr. Ambedkar became the First Law Minister of nation. He was appointed as Chairman of the Constitution Drafting Committee by the Assembly to write India's new constitution. The text prepared by Ambedkar provided constitutional guarantees and protection for a wide range of civil liberties for individual citizens including freedom of religion, the abolition of untouchability and outlawing all forms of discrimination. He had a real visionary towards the fundamental rights of Indian citizens and upliftment of Dalits. He made several provisions in the form of *Articles* in the Constitution for the upliftment of the Dalits:

- Dr. Ambedkar introduced Article 13(2), which describes – "The State shall not make any law which takes away or abridges the rights conferred by this part and any law made in this contravention of this cause shall, to the

extent of the contravention, be void".

- Article 14 of the Constitution declares that "the State shall not deny to any person equality before the laws or equal protection of laws". Article 15 of the Indian Constitution gives "fundamental rights to all Indian Citizens against any form of discrimination either by State or by any citizen on the basis of religion, race, caste, sex, place of birth or any of them".
- Article 15(4) of the Constitution of India declares that "Nothing can prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes (SCs) and the Scheduled Tribes (STs)".
- Article 16(4A) declares that "Nothing can prevent prevent the State from making any provision for reservation in matters of provision with consequent seniority to any class or classes of posts in the services under the State in favour of SCs and STs which in the opinion of the State are not adequately represented in the service under the State".
- Article 16(4B) states that "Nothing in the Article shall prevent the state from considering any unfilled vacancies of year which are reserved for being filled in that year in accordance with any provision for reservation made under clause (4) or clause as a separate class of vacancies shall not be

considered together with the vacancies of the year in which they are being filled up for determining the ceiling of 50% reservation on total number of vacancies of the year".

- Article 17 of the Indian Constitution declares that " Untouchability is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of untouchability shall be an offence punishable in accordance with law". Based on this Article the Civil Right Protection Act 1965 and the Prevention of Atrocities (SCs and STs Act 1989) was enacted by the Parliament for the protection of Dalit rights.
- Article 330 of the Indian Constitution declares reservation of seats for Scs and STs in the House of the People for Scheduled Castes, Scheduled Tribes except some STs in the autonomous districts of Assam and Scheduled Tribes in the autonomous districts of Assam.
- Article 332 in the constitution of India states about the reservation of seats of SCs and STs in Legislative Assemblies of the States. 73rd amendment of constitution in the Article 243 declares that "Panchayat bodies must have proportionate representation of SCs and STs and women. Such reservation should also apply in the case of Chairperson and Deputy Chairpersons of their bodies". Besides these several programmes of the

Indian State in the form of grants, scholarships, loans, stipends etc. are being provided for Dalits. This is all due to provisions of constitution drafted by Dr. Ambedkar. He was really a *God Father for the Dalits* in true sense.

Caste clashes bound to occur so long the unequal socio-political and economic order is not changed and the scheduled castes remain undefended. Despite a number of constitutional safeguards the condition of the scheduled castes and the scheduled tribes continues to be pathetic. This is an indicative of unequal efforts and inadequate mechanism. The age old upper caste hegemony over the scheduled castes still exist. In most of the villages their position is further deteriorated by the powerful land owning upper castes who exploit their educational and economic backwardness. Therefore, the state and the central government should ensure the proper and speedy implementation of various preventive measures carefully throughout in various meetings and committees. The long term structural changes such as gradual industrialization and rural employment could also prove useful. In this regard, the center and state governments must ensure that the financial resources allocated for the development of rural areas are properly utilised.

As the First Law Minister of India, Dr. Ambedkar for the first time really tried to defend the women of India specially the weaker sections in the form of Hindu Code Bill on 11th April 1947. The Bill has the provisions for several basic rights to women. It attempted to establish monogamy as the only legal system and abolish different marriage systems prevalent among the Hindus. Its main aim was to ferment the right to property and adoption of women. It provided for restitution of conjugal rights and judicial separation. It sought to unite the Hindu Code with progressive and modern thought. This Bill invited strong opposition from the Hindu Orthodoxy in post independent India in 1948 when Hindu Code Bill was introduced in Parliament and debated on the floor of the House. Ambedkar tried his level best to defend the Bill by pointing out the drawbacks of Indian Society and arguing that the ideals in the Bill are based on the constitutional principle of equality, liberty and fraternity. However the Bill could not withstand the opposition of Hindu orthodoxy. Their major argument was that the Bill will demolish the entire structure and fabric of Hindu Society. Finally in 1951 PM J. L. Nehru dropped the Bill by saying that there was too much opposition. On this issue the then Law Minister resigned for the cause of the disadvantaged.

Dr. B.R. Ambedkar believed that women should have equal position with that of men in the society. He was influenced by the views of Gautam Buddha on women. According to Buddha women are one of the seven Treasures and a thing of supreme value. Dr. Ambedkar blamed man for giving woman a degraded position in the society. Hence he fought for giving justice to women. As a member of Bombay Legislative Council, Dr. Ambedkar fought for the 'Maternity Benefit Bill' to recognize the dignity of women. As a law minister of India he introduced the 'Hindu Code Bill' in the year 1951. This bill introduced few new things in the existing law such as; right of property to women, share to daughters from the parental property, provision for divorce etc. In his speech which Dr. Ambedkar delivered in D.C. Women's college of Amaravati in 1942 he said that he measured the progress of the community by the degree of progress women had achieved. He asked the women to maintain hygiene, to educate themselves and their children, and to overcome inferiority complex.

Conclusively, we can say that the democratic principles of life, liberty and pursuit of happiness are considered to be the essentials of human life in Dr. Ambedkar's concept of justice. He attaches importance to human well-being and human rights. The essence of democracy, to Dr. Ambedkar, is that, as many members of a society as far as possible should share in the exercise of human rights. It

means that there should be equal opportunities for all citizens and harmony among the claims of each person. Discrimination in human rights is the very negation of social and political democracy. Thus, Ambedkar puts emphasis on equality, and liberty of human rights. He fought against caste and injustice because he found that there were no human rights for a large majority of the people. He rebelled against such a social organization. He wanted to vitalize the masses in India, for equal human rights. For removing the social, economic, political and religious disabilities of the untouchables, it was necessary to establish Government of the people, for the people and by the people. Only under a democratic system of government could social economic, political and religious freedom be ensured equally to every man and woman. His ultimate aim of life was to create a "real social democracy". Dr. B.R. Ambedkar's philosophy has great ideas for practical fulfillment and these ideas have the relevance to modern society and guide us to empowerment of depressed classes in a proper manner.

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Annexure-I

Centre for Studies in Educational, Social and Cultural Development (CSESCD)

Milestone Education Society (Regd.) Pehowa (Kurukshetra) established a Centre to study our great social reformers and their ideas with implications in the educational, social and cultural development of the oppressed society. Dr. Ambedkar stressed on the empowerment of the oppressed as a means of their release from exploitation and injustice. To follow the lines of our great scholars, we initiated this programme.

Vision : “My final words of advice to you are educate, agitate and organize; have faith in yourself. With justice on our side I do not see how we can loose our battle. The battle to me is a matter of joy. The battle is in the fullest sense spiritual. There is nothing material or social in it. For ours is a battle not for wealth or for power. It is battle for freedom. It is the battle of reclamation of human personality.” -Dr. Bhim Rao Ambedkar

Mission : Every educational institution from secondary school to University College should be developed to become an agency of change.

Objectives:

The Centre will be concentrated on the following programmes:

- To understand and disseminate the concepts relating to Social reformers like Buddha, Jyotiba Phoolé, Savitri Bhai Phoolé, Ambedkar etc. and the philosophies enunciated by them related to social justice and equity, conflict resolution, empowerment of women, rural development and related topics.

- To set up a Library and Reading room for researchers, students scholars and other readers outside the society, so that an increasing number of persons become acquainted with the thoughts of our enlightened thinkers.
- To organize seminars/lecture series on some identified topics on such studies. Lecture series may be organized in the Centre or in any other suitable place and material of these lectures may be placed in the library / website & publish for the use of the researchers, students and other interested persons.
- To conduct research/studies in the thoughts and programmes of the above mentioned thinkers.
- To conduct field work and action programmes on the basis of constructive programme related to the thoughts of the respective thinkers.
- To conduct a full-time or part-time course of about 3 to 6 months, or of similar duration, for a group of researchers/social workers/students/functionaries of nongovernmental organizations focusing on particular aspects of thinking and work of our great social thinkers.
- The Centre also do some studies in folk literature and their implications of these ideologies in oppressed peoples.
- Besides above mentioned activities, the Centre does some comparative studies with relation to these specific social thinkers of India.

Link:

<http://msesaim.wordpress.com>

Milestone Education Review (ISSN:2278-2168)

Milestone Education Review (The Journal of Ideas on Educational & Social Transformation) is an online peer-reviewed bi-annual journal of Milestone Education Society (Regd.) Pehowa (Kurukshetra). For us education refers to any act or experience that has a formative effect on the mind, character, or physical ability of an individual. The role of education must be as an instrument of social change and social transformation. Social transformation refers to large scale of social change as in cultural reforms and transformations. The first occurs with the individual, the second with the social system. This journal offers an opportunity to all academicians including educationist, social-scientists, philosophers and social activities to share their views. Each issue contains about 100 Pages.

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