

BOOK REVIEW: RATHORE'S AMBITIOUS VENTURE OFF THE WELL-TRODDEN PATH OF PREAMBULAR DISQUISITION

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I. INTRODUCTION

Academic inquiry over Indian constitutional history has been in vogue for the last decade, and rightly so. Whether it is Madhav Khosla's *India's Founding Moment: The Constitution of a Most Surprising Democracy*,¹ Rohit De's *A People's Constitution: Everyday Life of Law in the Indian Republic*,² Gautam Bhatia's *The Transformative Constitution: A Radical Biography in Nine Acts*,³ or more recent works such as Tripurdham Singh's *Sixteen Stormy Days*,⁴ all of them have significantly contributed to the discourse of Indian constitutional philosophy and history. Aakash Singh Rathore's *Ambedkar's Preamble* is an enriching and appealing addition to the scholarship on Indian constitutional history.⁵ The book is premised upon challenging the established mainstream dissemination concerning the authorship of the Preamble (Nehru's Objective Resolution as a forebearer of the Preamble.) He argues that the most

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¹Madhav Khosla, *India's Founding Moment: The Constitution of a Most Surprising Democracy* (Harvard University Press, 2020).

²Rohit De, *A People's Constitution: The Everyday Life of Law in the Indian Republic* (Princeton University Press, 2018).

³Gautam Bhatia, *The Transformative Constitution: A Radical Biography in Nine Acts* (HarperCollins India, 2019).

⁴Tripurdaman Singh, *Sixteen Stormy Days: The Story of the First Amendment of the Constitution of India* (Vintage Books, 2020).

⁵Aakash Singh Rathore, *Ambedkar's Preamble: A Secret History of the Constitution of India* (Vintage Books, 2020).

legitimate claim of authorship of the Preamble lies with Dr. B.R. Ambedkar. He does so by (i) tracing the making of the Preamble (From July 22, 1946, to November 26, 1949), (ii) excavating the key preambular concepts (Justice, Liberty, Equality, Fraternity, Dignity, and Nation), and (iii) looking at them through Ambedkarite discourse (his life story and his corpus of work). Most of the available book reviews of the work are panegyric and have not critically engaged with the central argument of the book.⁶

I have structured my book review in three parts. In the first part, I will summarize the thematic underpinnings and core arguments of the book. In the second part, I will address my reservations and criticisms of Rathore's assertions, and in the last part, I will leave with merits and concluding remarks on the significance of this work.

II. PART I

Through the Introduction, Rathore directly dives into the questionable legitimacy of Preamble's authorship by bringing out 'a tale of four preambles'. He excavates four source documents which were seminal to tracing the making of Preamble – (i) 22 July 1946 'Declaration' by CWC (Congress Working Committee) headed by Jawaharlal Nehru; (ii) 13 December 1946 Nehru's Objective Resolution; (iii) Ambedkar's proposed Preamble which appears in his *States and*

⁶Jadumani Mahanand, 'Preamble of India in Ambedkarite Politics' (2020) 44 The Book Review; *See also* Sarthak Bharadwaj, 'Book Review: Rathore's "Ambedkar's Preamble" reminds us to reawaken our passion for the Preamble' (The Leaflet, 29 November 2020) <<https://www.theleaflet.in/book-review-rathores-ambedkars-preamble-reminds-us-to-reawaken-our-passion-for-the-preamble/>> accessed 2 July 2021; Shaileshwar Yadav, 'Book Review – Ambedkar's Preamble' (Live Law, 3 April 2021) <<https://www.livelaw.in/columns/dr-ambedkar-professor-aakash-singh-rathore-ambedkars-preamble-172063?infinitemscroll=1>> accessed 2 July 2021; Raja Shekar Vundru, 'Constitution is the flavour of season' (The Tribune, 27 March 2020) <<https://www.tribuneindia.com/news/reviews/story/constitution-is-the-flavour-of-season-49249?category=book-reviews>> accessed 2 July 2021.

Minorities, and (iv) 30 May 1947 B.N. Rau's draft preamble. Rathore asserts in the introduction that it is Ambedkar's Preamble not only procedurally but also conceptually. He advocates that the birth of the Preamble took place on February 6, 1948, and it was nothing like the earlier drafts or source documents. He states that this 'out of blue' Preamble, which was later submitted to the Constituent Assembly and adopted, was the ingenuity of Dr. B.R. Ambedkar. He buttresses his argument conceptually through six chapters of the book. Each chapter is dedicated to one important preambular concept of the descriptive part (Justice, Liberty, Equality, Fraternity, Dignity, and Nation). The book juxtaposes biography of Ambedkar with the biography of preambular terms to emphasize the lasting effect of Ambedkar's philosophy in the descriptive part of the Preamble.

For instance, in the chapter concerning Justice (Chapter 1), Rathore shows Ambedkarite articulation of the multifaceted concept of justice. He does so by taking the reader through the 'lived reality' of Ambedkar, who was denied justice and suffered humiliation because of caste-based discrimination. He adds that Ambedkar's life's odyssey from young Bhim to Dr. Ambedkar to Babasaheb to Boddhisattva Ambedkar is the manifest expression of pursuit of justice. The chapter also contains some of the celebrated events from his life (Publicly burning the *Manusmriti* in 1927, 1930 round table conference, his rivalry with Gandhi, and polemic writings against the Gandhian romanticization of the village model). Ambedkar's articulation laid incessant emphasis on social and economic justice by 'removing social, political and economic inequalities. On a related note, Ambedkar's opposition and resistance to the Gandhian model and the absence of the Gandhian school of thought from the constitutional and preambular discourse strengthens his argument about Ambedkar's bearing on the Preamble.

III. PART II

Engagement with Rathore's story opens avenues for certain reservations. My primary reservation with his work is that while challenging the established dissemination, he does not do justice to his central argument. It seems that he has selectively emaciated the meat enough to suit his palate but unfortunately, the challenge that he aspired to make required fleshing out completely so that the conceptual marrow lay bare. For example, in Chapter II, concerning liberty, he has evocatively reasoned as to why Ambedkar preferred usage of liberty over freedom or 'swaraj'. However, he does not provide context or explanation regarding Ambedkar's migration from usage of freedom (he used that in his proposed Preamble) to liberty. This lack of inquiry over Ambedkar's migration weakens his argument, especially when he has throughout the work reiterated that replacement had deeper political underpinnings rather than a surface explanation that it fits the French tripartite formulation of *Liberté, égalité, fraternité* better.

Rathore has attentively stated the chronology in the work to make it a consistent story. However, the investigation of change in Ambedkar's articulation from March 15, 1947, to February 21, 1948, is pertinent to provide a more nuanced understanding of Ambedkar's Preamble, which he suspiciously does not engage with. Similarly, in Chapter 3, he has traced the genealogy of Ambedkar's conception of equality. The chapter does not shed light on what propelled Ambedkar to retract to Nehruvian articulation of equality after his initial dismissal of it. The cherry-picking becomes prominent in Chapter 5. In this chapter, he rightfully states that the authorship of the term 'dignity' lies undisputedly with Ambedkar. He does so by highlighting the complete abstinence of the term in any of the source documents (CWC Expert Committee declaration of 1946, Nehru's objective resolution, BN Rao's preliminary draft constitution, or even informal documents such as MN Roy's *Constitution of free India: A draft*). He

even dedicates a paragraph to explain why the Karachi resolution was a ripe opportunity to mention it. Again, he does not explain, nor does he engage with the absence of the term dignity in Ambedkar's proposed Preamble.

The core reason for bringing this out is to emphasize that Rathore's challenge and its conceptual argument is an uphill battle, and he falters by picking it selectively and making it more speculative. As it is said that one can understand a lot by engaging with what is missing, and in the case of this work – a lot is missing, which unfortunately posits doubts on the legitimacy of his core arguments (an extent of which was also conceded by him in his epilogue stating that Ambedkar's claim also suffers from the same limitations that the other version suffers). It is paradoxical that his challenge to Rau's authorship or even Nehru's is premised on the 'word for word sourcing' (in Rau's case – it was Irish Constitution, and in Nehru's case, it was earlier CWC declaration), without excavating the underlying principles for the use of it. He used the arsenal of looking beyond the mechanics of clauses to buttress Ambedkar's claim. His terse dismissal of other versions based on the mechanics of clauses remains unjustified.

My second scepticism concerns the title explanation, "A secret history of the Constitution of India." Most of the book revolves around the descriptive part of the Preamble and looks at those concepts through Ambedkarite discourse (his life story and his corpus of work). The rest of the Constitution is put into the background, and inquiry is limited to this exploration. The author himself accepted in conversations over the book that he made a conscious choice of foregrounding the Preamble. Calling it a secret history of the Constitution is alluring but misleading.

IV. PART III

The aforementioned criticism blurs the legitimacy of his central argument. However, Rathore's insightful work is praiseworthy in multiple aspects. First and foremost, he deserves praise for engaging with the uncharted terrain of Preambular discourse. The chapter concerning fraternity is a fresh air of academic discourse considering the political climate and pulse of the time. He introduces the readers to the evolution in Ambedkar's understanding of fraternity. Rathore's formulations of Ambedkarite fraternity with Constitutional morality and Rawlsian public reason are erudite. Similarly, Chapter 6 concerning nationalism is significant in this context. He brings out possible avenues of reasons as to why Ambedkar, despite being averse to the concept of a nation (amidst spiritual cry by Gandhians and hegemonical aspiration by Right-leaning intelligentsia), conceded to include it in the Preamble in connection with Fraternity. The assertion of shifting of the centre of gravity of preambular concepts by the introduction of fraternity and dignity is worthy of admiration and further academic discourse. Rathore, in this chapter, reaffirmed that Ambedkar's formulation of constitutional morality (different from the celebrated rhetoric of constitutional morality in the Constituent Assembly speech) placed fraternity (*metta*) at the fulcrum of the principle.

It is interesting to note that Courts' diverse formulation of the concept of Constitutional morality (invoking Ambedkar's celebrated speech) has not deliberated upon fraternity as constitutional morality.⁷ With the question of morality in front of its referral bench, it might be a good time to reclaim the lost value of fraternity as a constitutional

⁷Abhinav Chandrachud, 'The Many Meanings of Constitutional Morality' <<https://ssrn.com/abstract=3521665>> accessed 4 July 2021; Pratap Bhanu Mehta, 'What is constitutional morality' <https://www.india-seminar.com/2010/615/615_pratap_bhanu_mehta.htm> accessed 4 July 2021.

principle, or more importantly, as an essential component of constitutional morality.⁸

My departing note would be that this book is a fitting challenge to the mainstream dissemination of Nehru's objective resolution (and hence his claim of authorship) as a progenitor of the Preamble. More importantly, it is not an esoteric work. It takes you through the odyssey of a person who has fought for his entire life in pursuit of justice and has an overwhelming presence in Indian political thought.

However, the challenge demands more merit and leaves you somewhere with Barthes' disavowal of the role of the author (The Death of the Author).⁹ In this seminal essay, Barthes argued that giving author to a text is an imposition of interpretive stop clause and "*to furnish it with a final signification, to close the writing*". He argued that the reader must separate the text from its author in order to liberate it (locating it in constitutional theory, a more relatable argument was made by Aditya Nigam in his 'A Text without Author' wherein he argued about the polyphonic nature of constitution-making).¹⁰

⁸*Kantaru Rajeevaru v. Indian Young Lawyers Association*, (2020) 2 SCC 1.

⁹Roland Barthes, *Image, Music, Text* (Stephen Heath tr., Fontana Press, 1977) 142, 147.

¹⁰Aditya Nigam, 'A Text without Author' (2015) 39 Econ. & Pol. Wkly 7, 8.