

**Shrimati Purnima Banerji** (United Provinces: General): Sir, at the cost of a little repetition, I would at the outset like to associate myself with my colleagues in their expression of thanks to the Members of the Drafting Committee, to you and to all others who played such an important and necessary role in the various stages of this Constitution. Without being open to the charge of making any invidious distinction, I would like to add a special word of thanks to you on behalf of the back-benchers of this House. For, at various stages of the Constitution, when we were rightly or wrongly exercised by certain doubts in regard to certain Clauses of the Constitution, you used your good influence on our behalf with the Drafting Committee to clear these doubts.

Sir, the Constitution of a country always is a very important and precious document, because it gives us an idea of how the great people of a country fashion their institutions, how they want to live, what are the political arrangements under which they exercise their judgment and what are the hopes and aspirations which they entertain for the future. Sir, when we are considering the present Constitution, our minds involuntarily go back to the olden times and contemplates the stages through which India has passed and recalls those periods, the recent periods in the history of our political subjection, when we were told that we were hardly a nation, that we were divided among ourselves in mutually hostile groups, that democratic institutions were congenitally not suited to Indian conditions, etc. We were told in patronising and high sounding phrases that the goal of this country will be the increasing association of Indians in the governance of the country with a view to the gradual realisation of responsible self-government. There was a time when in any concessions in the form of liberty which were granted to us, words such as 'Our subjects of whatever race, creed or colour will be impartially admitted to office and service', or 'No native of India will in future be debarred from employment by reason of birth, descent or colour', or 'We shall respect the right and the dignity and honour of the native princes as our own' were used. These phrases, in short, summed up the conception that was before those who were in charge of our destiny, meant for the future of the country. From such a conception of things we know with what gesture of impatience of country turned away and took, in historical words, the Independence Pledge which other countries have also taken whenever freedom was denied to them. We pledged that: "We believe that it is the inalienable right of the people of India to get liberty and freedom." With these words we entered upon a new career and worked for the independence of this country. And today we find that in this Constitution are embodied those historical words which were again raised in some other corner of the world and have since then been making a circle round the world and will continue to circulate till it becomes a reality. These words are the call of Equality, Liberty and Fraternity which today find a place in our Constitution.

Judging from those days to this day it seems, that although we may not have arrived at a stage of our fulfilment and completion, we have progressed and surely at least the immediate requirements of a normal society have been today provided. We can no longer be told that we are a race apart and that we are unable to govern ourselves.

I feel, Sir, that in the debate that has been taking place in this House during the last few days, it is amply proven that this Constitution has received a very mixed reception. Perhaps the Constitution fully deserves a varied interpretation. The main foundation of the Constitution however rests on our common nationality and on democracy. In our Constitution we say that no matter in which part of the country we may reside, we are integral parts of a common Motherland, that we shall, wherever we may be, unite in working for the greatness of this country, that there shall be

no distinction of caste, creed or colour or province and that no separatist tendencies will divide us and that whoever is an adult and fulfills the minimum qualifications laid down for candidature, can aspire to the highest office in this land. Therefore, at least one milestone we have reached and we have reached the stage when we no longer feel that the tallest amongst us must bow before any foreign ruler.

But, Sir, I still think that great as the change is, all these things provide only the minimum requirements of a society. We ourselves during our freedom movement said that it was not for the loaves and fishes of office that we were fighting but rather that we might have the political power in our hands with which we could fashion and remould and change the whole structure of society in such a manner that the grinding poverty of the masses may be removed, the living conditions of the people may improve and we could establish a society of equals in this great country of ours. To apply that test to this Constitution, Sir, I feel that it does provide those minimum necessities with which we can change things, and for this I take my clue from the Directive Principles of State Policy. We could not merely rest content with negative democracy, *i.e.*, the right to cast votes, the right to form a government and the right to change it. In passing I would pause and say that important as these rights are in themselves, I consider that Fundamental Rights that we have provided are absolutely necessary for the working of democracy. If we want to establish a democracy which should answer the needs of the growing pattern of society, we should place the means at the disposal of the people by which Governments can be established, which in its turn can be done by the right of free association and free expression of opinion, with the exercise of which institutions can be changed. I feel, Sir, that the Clauses restricting these Fundamental Rights should not have been in the Constitution and the impression should have been well founded so that one may change the Government of this country to the best interests of the people by peaceful means.

Sir, in the Directive Principles of State Policy we have said that although they may not be enforceable in a court of law, they are nevertheless fundamental for the governance of this country and we have in Articles 38 and 39 stated that the economic policy of the country will be worked in such a manner as would subserve the common good. To quote the exact words, we have said 'that the ownership and control of the material resources of the community are so distributed as best to subserve the common good; that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment.' These vital principles shall not be enforceable in a court of law but nevertheless they are fundamental in the governance of the country and all the future laws of this country shall have to take note of this. By the

inclusion of these Clauses I personally feel that this Constitution has provided us with the means for changing the structure of society. It will all depend on us whether we are able to establish that sovereign democratic republic, not for the hollow benefit of registering one's vote and passing legislation, not a democracy which will simply maintain the *status quo* or which will take upon itself the policy of *laissez faire*, but a democracy which will combine with it the healthy principle that the government governs the best which governs the least, with the principle that it should encourage the active citizenship of the country. The two Articles that I have read out are the cornerstone of this Constitution. If you want the people to meet peacefully and without resorting to violence, then we must give them the free exercise of their right to meet.

At least in one aspect of this Constitution, I most categorically hold that the Fundamental Rights of meeting and forming associations should under no circumstances have been circumscribed or limited by any provisos. I would rather take my inspiration from the American Constitution in this respect where they prescribe the Fundamental Rights boldly, and merely state that they will be subject to laws made by Parliament. I do not hold the fantastic theory that all rights are always absolute. They are relative, but when it comes to stating the rights, I should think, Sir, that they should not be burdened by giving the circumstances in which those rights cannot be exercised. If these circumscribing Clauses had not been stated in this Constitution the difference would have been psychologically great – the difference would be that the laws which circumscribe the right of free speech and impose other restrictions would have been repealed when the necessity for them was no longer there; they would not have been statutorily fixed by the Constitution. The complaint already is that this is a written Constitution and a bulky Constitution, and the more a Constitution is written, the more rigid it becomes. Considering this, Sir, I feel more so that in the Fundamental Rights these restrictive provisos to freedom should not have been there.

Sir, Article 21 guarantees personal liberty and Article 22 provides for preventive detention. In Article 21, I would have liked to include the safety of the person, his dwelling and his personal property from being searched or confiscated, because the powers of search and detention by Governments have played a disastrous part in our own political history, and we would not like these powers to hamper the growth of healthy political movements in future.

Then, Sir, in the Directive Principles of State Policy, under Article 39, we have provided that while we may change the whole structure of society in such a way as will subserve the general good of the country, there is no categorical statement that any industry might be taken over by the State

should that be necessary for the general good. In the Karachi Resolution of the Congress where most of these Fundamental Rights were incorporated for the first time in a political document, there was a provision that key industries and all the mineral resources of the country shall be State-controlled. That, I think, should have found a specific place in the Directive Principles of State Policy.

If the powers of government for protecting the State against foreign aggression are considered necessary, then I hold that key industries and mineral resources of the country should have been taken over from the hands of private enterprise, and these should also be exempt from justiciability or property compensation which we have dealt with elsewhere.

Another thing which I would like to mention and I think I will be voicing the views of most of my colleagues in this, is on the subject of salt. Salt has a big history in this country like the Boston tea of the Americans. Even though, I understand that the intention of the Government is not to levy any duty on salt, I feel that it should have been a gift of free India to the people of this country and Constitution should have specifically provided that salt manufactured in India would be free of duty. That also finds a place in our Karachi Resolution on Fundamental Rights.

In the Preamble, Sir, I find the absence of the word which was dear to us and therefore should have found a place there, and that word is "*Purna Swaraj*". I would have wished that the Drafting Committee had said that "We, the People of India, having attained *Purna Swaraj*, now constitute ourselves into a Democratic Republic". That, I think, would have been a happy thing.

There is another point regarding the services. Many friends have dealt with that subject. I personally think that even from the point of maintaining a healthy spirit of permanency in services, I do not think they should have been statutorily safeguarded thereby bringing in another difference between themselves and the people. The services are usually guided in respect of the manner in which a man should be engaged and the manner in which a man should be dismissed by Service Manuals providing these rules and if that is good enough for the rest of the services of the country, it should be good enough for the higher services of this land.

With your permission I would add another point. We have in this Constitution some references to women. I would beg my colleagues in this House particularly Rohini Babu not to deal with the subject with any levity or any lightness of spirit because we have to realize that women also as the rest of India are standing upon a new threshold of life. As between the purdah-system and the new life which awaits the development of her personality, she is finding a new place in her home and her country and it

is difficult enough. The part she has played in the building up of her home where she has been described as *Sahadharmini* has to be extended and she has to receive that recognition in the national sphere also. She is also man's equal partner and help-mate and in the nation-building activities of the country she has much to do. That position still is to come into being, and therefore I would request my honourable friend Mr. Rohini Kumar Chaudhuri and others who are present here to look upon this problem with the gravest possible thoughts and to give it their best help and assistance. I hope that as in the freedom of the country the women of India did not fail this land so in the preservation of this freedom she shall not fail.

Sir, with these words I would conclude with the words employed on the 14th of August by Pandit Jawaharlal Nehru when moving here a resolution, he said that it may not be given to all of us to fulfil the ambition of the greatest man of our age which was to wipe every tear from every eye but till the poverty of the masses has not been relieved and suffering remains, we pledge ourselves to the service of this country. I hope that in the short span which is allotted to us, you and I as colleagues and comrades will work hand in hand for the greatness of our country.