

Chapter 15

Framing the Constitution The Beginning of a New Era

- Indian constitution was prepared by the learned members of the Constituent Assembly.
- The constitution was framed between December 1946 to December, 1949.
- Each clause of the constitution was discussed by the Constituent Assembly. All in all, eleven sessions of Constituent Assembly were held and 165 sittings took place.
- Different committees and sub-committees carried out the work of revising and refining the drafts of the constitution.
- The Constituent Assembly had 299 members. The assembly adopted the constitution on 26 November 1949, but it came into effect on January 26, 1950.
- The members of the Constituent Assembly were elected on the basis of provincial election held in 1946.
- Muslim League did not participate in the meeting of Constituent Assembly. These meetings were held before the partition of India.
- The Constituent Assembly remained as a one party show as its 82% members belonged to Congress party.
- The meeting of the Constituent Assembly was influenced by the public opinion. The arguments of various sections were published in all leading newspapers and there was a public debate on all proposals.
- Dr. B.R. Ambedkar played an important role in Constituent Assembly. He acted as the Chairman of the Drafting Committee of the constitution.
- Pt. Jawaharlal Nehru moved the objective resolution in the Constituent Assembly.
- Objective Resolution was a historic resolution which defined the ideals of the constitution of free Indian.
 - It proclaimed India as an independent sovereign Republic.
 - It guaranteed justice, equality and freedom to all citizens of India .
 - It assured that safeguards shall be provided for all the minorities, backward and tribal area.
- By 1949, most of the members of the Constituent Assembly agreed that the resolution of separate electorate is against the interest of minorities.
- A socialist leader and the leader of the peasant movement N.G. Ranga urged that the word minorities must be interpreted in economic terms.

- Dr. B.R. Ambedkar demanded the separate electorates for scheduled caste. He raised this issue during the national movement. It was opposed by Mahatma Gandhi, who said that this would segregate from the rest of the society.
- K. Santhanam favoured the right to the states because he felt that a reallocation of powers of the state as well as the centre is necessary.
- The language issue was debated in the Constituent Assembly for many months.
- Till the decade of 1930s the Congress accepted the Hindustani out to be given the status of national language. Hindustani which was blend of Hindi and Urdu was a popular language among most of people of India.
- R.V. Dhulekar favoured the use of Hindi language as a language of constitution making. He argued that the Hindi must be declared as a national language not as an official language. He criticised that those who protested that the Hindi language was being forced on the nation.
- Most of the members of the Assembly were agreed on the fact that all the adult citizens of India must be granted the right to vote.
- Our constitution is a very long and detailed document. Therefore, it needs to be amended quite regularly to keep it updated.
- Those who drafted the constitution of India felt that it has to be in accordance with people's aspiration and changes in the society. So, they made provisions to incorporate changes from time to time.
- The constitution describes the institutional arrangements in a very legal language. It lays down the procedure for choosing person to govern the country.
- Constitution declares India as a secular state. Every person is allowed to practise the religion of his/her choice.
- The Indian Constitution came into effect on 26 January 1950.
- It is the largest Constitution of the world.
- On 16 Jun, 1946 Cabinet Mission presented scheme for the formation of an Interim Government at Centre.
- On 2nd September 1946, the Indian National Congress formed Interim Government with Jawaharlal Nehru as the Vice-President.
- On 13 October 1946, Muslim League decided to join the Interim Government.
- Federal form of government was adopted in which political power is divided among Centre and States . It means Government works at two levels.
- Citizens of India have been granted Fundamental Rights. These are important for the progress and development of any individual.
- Division of power was made between the Centre and the States. There are 97 issues in the Union List, 66 issues in the State list and 47 in the Concurrent List.
- On the subjects of the Union List only Centre can make laws.
- State has the power to make laws on subjects related to the State List.
- State and the Centre both have the power to make laws on the subject related to Concurrent list. But whenever there is a clash, the centre Law will prevail.

- At present there are 30 states and 7 Union territories in the Union of India.

The constitution of India is the longest constitution in the world. It was framed between December 1946 and December 1949. It came into effect from 26th January, 1950. A Constitution is designed to keep the country together and to take it forward. A constitution is an elaborated and carefully worked out document.

The Making of the Constituent Assembly:

- Members of the constituent assembly were indirectly elected. Members were elected by provincial legislature. Constituent assembly was dominated by the Congress.
- The Muslim League boycotted the assembly as it wanted separate constitution and separate state.
- Though members were mostly from the Congress but views and opinion of its members were diverse. In constituent assembly, there was intense debate between the members regarding different ideas and proposals.
- Intense discussion within the constituent assembly was also influenced by opinion of the public. Public was also asked to send in their views and ideas.
- Linguistic minorities asked for protection of their mother tongue, religious minorities demanded for special safeguards. While dalits asked for abolition of caste suppression and reservation in education and government jobs.

The Dominant Voices in the Constituent Assembly:

- Out of all 300 members of the constituent assembly, few members like Pt Nehru, Vallabh Bhai Patel, Rajendra Prasad, BR Ambedkar, ICM Munshi and Alladi Krishna Swamy Aiyar had a remarkable contribution. Pt. Jawaharlal Nehru, Vallabh Bhai Patel and Rajendra Prasad were representatives of the National Congress.
- Pt Jawaharlal Nehru moved crucial "objectives resolution" as well as proposal of National Flag. While Vallabh Bhai Patel played an important role in negotiating with princely states, merging these princely states with India. He drafted several reports and worked for reconciling the opposing point of view.
- Rajendra Prasad as a President of assembly steered the discussion along the constructive lines and made sure that all members had a chance to speak.
- Dr BR Ambedkar joined the cabinet on advice of Gandhiji and worked as law minister. He was the chairman of drafting committee of the constitution. KM Munshi and Alladi Krishnaswamy Aiyar were another two lawyers who played important role in drafting of the Constitution.
- There were two civil servants who gave vital assistance to these leaders, one among them was B.N. Rao, who worked as constitutional advisor to

government of India and another was S.N. Mukherjee who put up complex proposal in clear legal language.

The Objective of Indian Constitution:

- On 13th December, 1946, Jawaharlal Nehru introduced “Objective Resolution”. It proclaimed India to be an “Independent Sovereign Republic” guaranteed its citizen, justice, equality, freedom and assured “adequate safeguards for minorities, backward and tribal areas, depressed, and backward classes”.
- Objective resolution outlined the ideals of constitution and provided frame-work for constitution making.
- Nehru referred to American and French constitution and event associated with its making. He said that we are not just going to copy them, instead he said it is important to learn from these, so mistakes can be avoided.
- Nehru said the system of government to be established in India had to fit in with the temper of our people and should be acceptable to them.
- The objective of the Indian constitution would be to fuse the liberal ideas of democracy with socialist idea of economic justice, and re-adapt and rework on all these ideas within the Indian context.

The Aspiration of the People:

- Somnath Lahiri, a communist member said ‘we Indians need to be free from British influences’. He further said Constituent Assembly was British-made and was working with British plan.
- Nehru said, in his response that it is true, British government played role in Assembly’s birth and attached conditions to the function of assembly. But, he also said, we have met because of strength of the people behind us and we shall go as far as people wish to go alongwith us.
- He believed that members of assembly were elected by provincial legislature and provincial legislature is elected by Indian people. So here, we represent our country men.
- The constituent assembly was expected to express the aspirations of people. Democracy, equality and justice were ideals that people of India aspires for.

Rights of People:

- The way of defining the rights of people was quiet different. Different demands were made by different groups of people. These demands, ideas, opinions were debated, discussed and conflicting idea were reconcilled and then consensus was made to take collective decision.

The Problem with Separate Electorates:

- Intense debate took place in assembly on the issue of separate electorate. B. Pocker Bahadur gave powerful presentation for continuation for separate electorate. He said electorate will help in giving minorities representation in the political system and in governance of the country. The need of Muslim could not be understood by non-Muslims-he further said.
- Many nationalist leaders saw separate electorates system as a tool to divide people on the basis of religion and they also believed that this idea was finally culminated in partition of the country. Therefore many leaders were against of it.
- Sardar Patel strongly declared that separate electorate was a poison that has entered the body of politics of our country and turned one community against other, caused blood sheds, riots and partition. So for a peace we need to remove separate electorate.
- GB Pant in a debate said, separate electorate is not only harmful for nation but also for minorities. He said that majority community had an obligation to try and understand the problem of minorities and empathise with their aspirations. Demand of separate electorate would permanently isolate the minorities and will make them vulnerable and in addition it will deprive them of any effective say within government.
- All these arguments against separate electorate was based on the unity of nation, where every individual is a citizen of a state, and each group had to be assimilated within the nation.
- The Constitution will grant citizenship and rights, and in return citizens had to offer their loyalty to the state. Communities could be recognized as cultural entities and. politically members of all communities are equal to the member of the state.
- By 1949, most of the Muslim members of constituent assembly were agreed against separate electorates and removed it.
- Muslims needed to take an active part in the democratic process to ensure that they had a decisive voice in the political system.

Objective Resolution of the Constitution:

- NG Ranga, a socialist and a leader of peasant movement welcomed the Objective Resolution and urged that the term minority be interpreted in economic terms. The real minorities are poor and downtrodden.
- NG Ranga welcomed all legal and civil rights granted by the constitution to its citizen but said these rights can only be enjoyed when suitable conditions or opportunities are provided. Therefore to make the condition of poor and downtrodden better and protect them, there is need of much more than this resolution.
- Ranga also talked about huge gap between the masses of India and their representatives in the assembly. Most of members of constituent assembly

does not belong to masses. But, they are representing them as their trustees, their companions and trying best to work for them.

- Jaipal Singh a representative, a tribal, spoke in detail about the exploitation, oppression and discrimination faced by tribal all through the history. He further said about the need to protect the tribes and to make provisions that would help them come to the level of the general population.
- Jaipal Singh said, there is a need to break physical and emotional distance to integrate them into mainstream. He stressed on reservation of seat in legislature, as it helps them to give their demands voice and people would be compelled to hear it.

Provision in the Constitution for Depressed Classes of our Country:

- Depressed classes form 20-25% population of our country, so they are not minority but they have faced marginalization continuously.
- Members of Depressed classes suffered systematic marginalization. They had no access to public places, they were suppressed through distorted social and moral orders. Depressed classes had no access to education and had no share in the administration.
- Members of Depressed classes emphasized the problem of untouchability that could not be resolved through safeguard and protection. To completely remove this, there is a need to integrate these people into mainstream and bring attitudinal change in the society.
- The constituent assembly made a provision that abolished untouchability, Hindu temples be thrown open to all castes and seats in legislature, jobs in government offices be reserved for lowest castes. Many recognized that social discrimination could only be solved through a change in the attitudes within society.

The Powers of the State:

- Issue of division of power of the government at the centre and at state level was intensely debated.
- Draft constitution provided three lists of subject i.e. Union List-union government can make laws on it. State List, State government can make laws on it and Concurrent List-Both Union and State government can make laws on listed items.
- More items are listed in Union list. In India-Union government is made more powerful so that it can ensure peace, security, and can coordinate on the matter of vital interest and to speak for whole country in the international sphere.
- However some taxes such as land and property taxes, sales tax and tax on bottled liquor could be levied and collected by the state on their own.

View of Santhanam on Powers of Centre and State:

- K Santhanam said reallocation of power was necessary, not only to strengthen the state but also the centre. He said if centre is overburdened with responsibility it could not function properly. So it is important that some powers to the state should be transferred.
- Again, Santhanam said states should be given appropriate fiscal provision so that they can work independently and they do not need to depend on centre for even nominal expenditure,
- Santhanam and many others predicted dark future if allocation is not done properly. He further said that province might revolt against centre and centre will break, as excessive power is centralised in the constitution.

Need for Strong Government:

- The need for strong government had been further reinforced by the events of partition. Many leaders like Jawaharlal Nehru, BR Ambedkar, Gopalaswami Ayyangar etc advocated for strong centre.
- Before Partition the Congress had agreed to grant considerable autonomy to the provinces. This was agreed to satisfy the Muslim League. But after partition, there was no political pressure and violence aftermath of partition gave further fillip to centralised power.

The Language of the Nation:

- In the Constituent Assembly issues over national language was intensely debated over months. Language was an emotional issue and it was related to culture and heritage of the particular region.
- By 1930s, Congress and Mahatma Gandhi accepted Hindustani as National language. Hindustani language was easy to understand and was a popular language among large section of India. Hindustani developed with the interaction of diverse culture and language.
- Hindustani language was chiefly made up of Hindi and Urdu but it also contained words of another language. But unfortunately, the language also suffered from communal politics. Gradually, Hindi and Urdu started moving apart. Hindi started using more Sanskritise words similarly Urdu became more persianised. Even then, Mahatma Gandhi retained his faith in Hindustani. He felt that Hindustani was a composite language for all Indians.

A Plea for Making Hindi as National Language:

- RV Dhulekar, a member of constituent assembly made a strong plea to make Hindi as national language and language in which constitution should be made. The plea evoked strong opposition.
- Language committee of assembly produced a report in which it tried to resolve the issue by deciding that Hindi in devanagiri script would be an official language but transition to Hindi would be a gradual process and for initial 15 years after Independence, English to be used as official language.
- Provinces were allowed to choose one language for official work within the province.

The Fear of Domination of Hindi:

- SG Durgabai, a member of constituent assembly said that there is intense opposition against Hindi in South India.
- After the eruption of controversy regarding the language, there is a fear in the opponent that Hindi is antagonistic to provincial language and it cuts the root of provincial language and cultural heritage associated with it.
- She had accepted Hindustani as language of people but the language is being changed. Words from Urdu and regional languages were removed. This move erodes the inclusive and composite character of Hindustani, and due to this, anxieties and fear developed in the mind of people of different language groups.
- Many members felt that issue of Hindi as a national language must be treated cautiously and the aggressive tenor and speech will only create fear in non-Hindi speaking people and will further complicate the issue. There should be mutual understanding between different stake holders.

Important Terms:

- Constitution: Set of rules and regulations according to which a country is governed.
- Draft: A premier version of legal document.
- Clause: A distinct section of a document.
- Constituent Assembly: An assembly of people's representative that writes a constitution for a country.
- Constituent Amendment: A change in the constitution made by the supreme legislative body in the country.

Time line:

- 26 July 1945 – Labour Government comes to power in India
- 16th May 1946 – Cabinet Mission announces its constitutional scheme.

- 16th June 1946 – Cabinet Mission presented the scheme for the formation of an interim government at centre.
- 2 Sept 1946 – Congress forms the interim govt.
- 13 October 1946 – Muslim League decides to join the interim government.
- 11 August 1947 – Jinnah was elected as the president of Constituent Assembly of Pakistan.
- 14 August 1947 – Pakistan Independence
- 15 August 1947 – India became an independent nation.

