Constitution of India: 
An Instrument of Social Change

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When a question is asked to the Indian students, “Why do you observe 26 January since 1950 as Republic Day?” It then follows with an obvious answer, “The Constitution of India came into effect on that momentous day”. The term ‘Republic Day’ thus used to overshadow the term ‘Constitution’. Perhaps that was sincerely felt by some for which 26 November is being observed as the ‘Constitution Day’ for the first time last year i.e. 2015 as on that day in 1949 the Constitution of India was adopted, enacted and given to the people of India. Similarly, a study or discussion on the Constitution, as observed by Heywood (1997), is also regarded as ‘distinctly unfashionable’, ‘legalistic’ or an ‘outdated’ approach to politics. Focus is rather given to deeper political realities or how things actually happen. Thus the study of ‘Constitution’ has remained a neglected topic in Politics. But the constitutional question has received an increasing attention these days across the world since ‘political conflicts have increasingly been expressed in terms of calls for constitutional reforms’ (Heywood, 1997:273), and, judiciary is asked to interpret the Constitution to provide justice and to promote the cause of the underprivileged sections of the society so that public policies would be made to address them. Against this background, this paper wishes to evaluate the promises and performance of the Constitution of India as envisioned by the makers of the Constitution of the largest democracy.

It is pertinent here to mention and discuss some of the eminent Indian leaders who had their own views regarding the Constitution of India. This paper quotes only three of them. They are M.K. Gandhi, Jawaharlal Nehru and B.R. Ambedkar. Writing on the future Constitution of India long before it really came into being Gandhi wrote, “Swaraj will not be a free gift of the British Parliament. It will be a declaration of India’s full self-expression, expressed through an Act of Parliament. But it will be merely a courteous ratification of the declared wish of the people of India. The ratification will be a treaty to which Britain will be a party. The British Parliament, when the settlement comes, will ratify the wishes of the people of India as expressed through the freely chosen representatives.” Gandhi laid importance on the wishes of the people to be reflected in the Constitution of India. Mr. Nehru said, “The first task of this Assembly (Constituent Assembly of India) is to free India through a new Constitution, to feed the starving people, and to clothe the naked masses, and to give every Indian the fullest opportunity to develop himself according to his capacity.” Nehruji had a vision of social change through the Constitution. But the
opinion of Dr. B.R. Ambedkar as expressed in his speech just a day before the Constitution of India was adopted is very important as it was just like a warning served to the future governments. In his last visionary speech after the submission of the drafted Constitution on November 25, 1949, Dr. Ambedkar warned of three possible dangers to the new-born democracy. These related to social and economic inequalities, the use of unconstitutional methods, and hero-worship. Here we would confine to the first one. (Mohapatra, pointed to the contradiction between equality in politics in the form of one-person-one-vote and the inequalities in social and economic life.) He argued that for political democracy to succeed, it needed to be founded on the tissues and fibres of social and economic equality. He warned that we must remove this contradiction at the earliest possible moment, or else those who suffer from inequality will blow up the structure of political democracy.

On the whole, there was a consensus that the task of the Constituent Assembly was to draft a Constitution that would provide a framework for democratic government and an institutional structure capable of both sustaining and accelerating change. It was to provide the instrument for stimulating increased participation and for securing the higher levels of institutionalisation necessary to accommodate expanding demands. The following paragraphs shall examine how far the Constitution of India has been able to accommodate, reflect and bring the desired changes, what are the gray areas and how the Constitution has been adaptive to the incremental challenges of developments and circumstances through amendments that have scored a century in 2015.

**Constitution as an instrument of Social Change**

Before going to discuss how the Constitution of India has served as an instrument of social change let’s discuss three important things that are related to this. First, Constitution of India should be understood as the original Constitution adopted on 26 November 1949 along with successive amendments of the constitutional provisions. Article 368(1) says, “Notwithstanding anything in this Constitution, Parliament may in exercise of its constituent power amend by way of addition, variation or repeal any provision of this Constitution in accordance with the procedure laid down in this article.” So far the Constitution has been amended one hundred times responding to the demands of circumstances. Many times the constitutional provisions are also being supplemented and complemented by the Acts passed by the Parliament and the State Legislatures and judicial interpretations on them. These can also be included in the term ‘Constitution’ to have a proper grasp of the Constitution of India. Second, as Heywood (1997: 280) has put it, one of the functions or purposes of the Constitution is that, “in addition to laying down a framework for government, constitutions invariably embody a broader set of political values, ideals and goals. This is why constitutions can not be neutral; they are always entangled, more or less explicitly, with ideological priorities. The creators of constitutions therefore seek to invest their regime with a set of unifying values, a sense of ideological purpose, and a vocabulary that can be used in the conduct of politics. In many cases, these aims are accomplished explicitly in preambles to constitutional documents which often function as statements of national ideals.” In that sense the preamble of Indian Constitution represents the nature of the state and the objectives or values
before its future governments to be achieved. The words such as ‘Sovereign Socialist Secular Democratic Republic’ represent the nature of the state where as the words such as “Justice (social, economic and political); Liberty (of thought, expression, belief, faith and worship); Equality (of status and of opportunity); and Fraternity, the dignity of the individual and the unity and integrity of the Nation” represent the values or objectives to pursue or fulfill. And, third, the meaning of social change needs to be explained. The following definitions have been quoted from C.N Shankar Rao (1994)’s book “Sociology”. MacIver and Page have said, “Social change refers to a process responsive to many types of changes; to changes in the manmade conditions of life; to changes in the attitudes and beliefs of men, and to the changes that go beyond the human control to the biological and the physical nature of things”. MacIver also in some other context has referred to it as simply a change in the human relationships. M.E. Jones says, “Social change is a term used to describe variations in, or modifications of, any aspect of social processes, social patterns, social interaction or social organisation” All these definitions hint at a marked or observable difference between two different times in the way of life, social processes and interactions of a society or social relationships. In the case of India that conspicuously happened following the Constitution of India coming into effect in 1950.

Let’s now move to discuss the changes the Constitution of India has mandated and have been brought about by the governments through public policies.

First, the nature of the state as discussed earlier gives a definite hint at the changes that have taken in the Indian society. India is now a sovereign state. With the Constitution coming into effect the dominion status came to an end and India became a virtual sovereign state. India’s adherence to socialism (Democratic Socialism which is not state socialism) witnessed the introduction of planning and nationalization of heavy industries along with banks. Several socialistic measures have been taken to end poverty, ignorance, disease, inequality between man and woman especially in wages, insecurity of the old, disable, orphans, invalid and widow; exploitation of the working class etc. Abolition of Zamindari, Land reforms, abolition of intermediaries, tenancy reforms, ceiling on land holdings, consolidation and cooperative farming etc. are the other measures. India is secular state that accords same status to all religions in the country and the state is prohibited to make discrimination on the grounds of religion, caste etc. India is a democratic republic. Universal adult suffrage has been introduced and any Indian who completes the age of 18 is a citizen or elector without any discrimination other than that are prescribed by law. Therefore, Indian women got the right to vote and contest elections immediately with the inauguration of the Constitution which was a long struggle for the women in the West. Periodic elections, Parliamentary democracy, rule of law and majority rule are its features. The 73rd and 74th Constitution (Amendments) Acts in 1992 have introduced local self government in rural and urban areas and we have now a three-tier government in the country. Republic has opened the highest office of the state i.e. president to any citizen of India who could hold it through winning the election for that office.

Second, the objectives and values such as liberty, justice and equality have wider social implications. The Constitution has guaranteed to all the Indians a set of Fundamental Rights. Rights are not only given but also protected by the courts. The bitter experiences of people during British rule with regard to freedom of speech and expression, formation of unions or associations,
holding meetings, voicing against the wrongs etc. have witnessed a reversal following the coming into force of this Constitution of 1950. Untouchability has been declared as a punishable crime. Hindu temples of a public character are thrown open to all classes and sections of Hindus as per Article 25(2)(b) of the Indian Constitution. Minorities have been given protection by the state for their language, culture and education etc. Traffic in human beings and forced labour have been declared unlawful and thus punishable. The system of reservation has been an instance of justice given to the marginalized or underprivileged sections of Indian society. Receiving mandate from Article 37 to apply the Directive Principles in making laws, the government that includes Parliament, Executive and Judiciary, is trying to introduce new laws so that socio-economic justice could be provided to all sections of Indian society. Some examples of how these principles have been translated into laws in these years need to be mentioned so that one can appreciate them as means of socio-economic change. Almost all the states have passed land reform laws to bring changes in the agrarian society and to improve the conditions of the rural masses. The Minimum Wages Act (1948), the Contract Labour Regulation and Abolition Act (1970), the Child Labour Prohibition and Regulation Act (1986), the Bonded Labour System Abolition Act (1976), the Trade Unions Act, the Mines Act, the Factories Act, the Maternity Benefit Act (1961), the Equal Remuneration Act (1976), the Khadi and Village Industries Board etc. are few of such exemplary Acts in that direction.

Third, free and compulsory education through the Right to Education Act, right to work through Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), Right to Information Act, Lok Pal and Lokayuktas Act etc. are also some important acts of Parliament that have wider social impact. The Scheduled Caste/Tribe Commissions, Minority Commission and Women Commission are also some important institutions in that direction.

Fourth, several amendments of the Constitution also have brought revolution in the society. Justice Sikri (2002) observes that, “A number of amendments (1st, 4th, 17th, 24th, 25th, 26th, 29th, 34th, 42nd, 64th etc.) have been carried out in the context of the changing socio-economic scene”. The Union Government was determined to see that the right to property conferred by the Constitution did not come in the way of the development of the country towards an egalitarian society. The 1st and 4th amendments were inspired primarily by this objective in view. The first one (1951) placed the Zamindari Abolition Laws beyond challenge before the courts of law and inserted Article 31-A for the purpose. It also amended Article 15 in the interest of educationally and economically backward classes. In a similar way the other amendments have been brought to bring social revolution in the country.

Fifth, the role of judiciary has been remarkable in the direction of social change and justice dispensing. The Public Interest Litigation / Social Interest Litigation has revolutionized the judicial system. It is a cheap, quick and not-so-formal system of grievance hearing and justice giving. The Apex Court sometimes considers such cases suo moto. However, this sort of Judicial Activism has received a mixed response. When many look upon judiciary as the savior of the voiceless or the weak, some others criticize it as interference in others domain. But credit goes to the Constitution of India that despite the explicit mention of separation of power, the three branches of the government –Legislature, Executive and Judiciary are pulling up well together for the service of the people of the country.
Indian Constitution has survived the test of time. It has shown its adaptability and dynamism. However, some have criticized it as too much flexible unlike any other federal state. They have therefore, suggested for the rewriting or revision of the Constitution of India. In response to that, even a National Commission to review the working of the Constitution under the chairmanship of Mr. Justice M.N. Venkatachalaiah was established in February 2000. The recommendations have been well taken up by the government and accordingly efforts have been made to accommodate them. But one thing is clear in defence of the flexibility of the Constitution. Here, we have to remember what our first Prime Minister of independent India (Mr. Nehru) once said, “While we want this Constitution to be as solid and as permanent a structure as we can make it, nevertheless there is no permanence in Constitutions. There should be a certain flexibility. If you make anything rigid and permanent, you stop a nation’s growth, the growth of a living, vital, organic people.” While concluding one must admit that the successes achieved by the Indian Constitution are many and the gray areas are still there to overcome. Fraternity and secularism have been found to be very vulnerable in the face of the acts of fundamentalism and communalism. Regionalism, insurgency, hidden separatist movements, demands for separate states and state autonomy, anti-Centre stand of several states, unemployment, security of women, protest for and against reservation policy and the debate over its future, criminalization of politics, political instability, declining parliamentary democracy and corruption are many such issues which need to be addressed with the instrumentality of the Constitution. Thus Indian Constitution has to move from relative successes to substantial achievements.

References:


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