



# Making of the Indian Constitution

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The Constitution of India was not prepared in a single day but the process of the evolution of the Indian Constitution started many decades before India became independent in 1947. The process continued unabated since it originated in the freedom struggle till a new Constitution was drafted after series of debates and discussion in the Constituent Assembly. The day 26<sup>th</sup> of January, 1950 was a red-letter day in the history of modern India. On that particular day, the written Constitution of India came in to force.

January 26<sup>th</sup> was purposefully chosen as the date on which the Constitution became operative because since 1930, the day has been celebrated as the day of complete independence throughout India by millions of people. It is very befitting to declare such historic day as the day of operation of the Constitution of Republic of India. The Constitution of India was the longest written Constitution having the best elements of all the existing Constitutions up to that date.

The Constitution of India was the modern sacred text of the contemporary India. It reflects the new aspirations and values of the people of India and testifies how the people of India are the supreme masters in all matters concerning the welfare of Indians.

A galaxy of learned wise men were interested in the longevity of the emerging nation of India framed the Constitution in its present form after a thorough debate and discussion of each proposal. The nationalist consciously, popularized the concept of parliamentary democracy, republicanism, civil liberties, social and economic justice which happen to be the most basic tenets of the Constitution.

An eminent historian Bipan Chandra rightly remarks “When the Constitution in 1950 a parliamentary form of Government, with a Cabinet led by a Prime Minister it was not, as it commonly supposed, the British Parliament that it was emulating. It was formalizing nationalist practices, which the people were already familiar with”. Even the spirit of democracy was familiarized by the national movement. Bipin Chandra rightly points out, “this found expression in large scale mass participation. It ensured a place for adult franchise after Independence.”

A view is in this regard that the British initiated a modern responsible constitutional government in India and the Constitution was merely the culmination of the series of constitutional development made by them in 1861, 1892, 1909, 1919, and at last the government of India Act of 1935. This view is not totally correct



as the British Government conceded reluctantly and belatedly only partially the demands of the leaders of the national movement and tried to produce the intensity of the movement as a last resort.

Gandhi's statement made in 1922 proves "Swaraj will not be a free gift of the British Parliament. It will be a declaration of India's full self expression. That it will be expressed through an act of Parliament is true. Swaraj can never be a free gift by one nation to another. It is a treasure to be purchased with a nation's best blood. It will cease to be a gift when we have paid clearly for it".

The statement of Gandhi clearly proves beyond doubt that the British did introduce constitutional reforms by their voluntary initiative is a myth. No doubt, the British introduced the principle of election in the 1892 Indian Council Act in partial response to a sustained struggle by the press and the Indian nationalist for more than two decades and while the nationalist demanded elections to the councils and elected majorities and greater powers to the non-official members, the British by the Act of 1892 provided for election but limited it to minority only.

There was a tough battle between the demands of the national movement and concession granted through the Acts of 1909, 1919, and 1935. The leaders of the national movement started demanding for grant of responsible government in India from 1890 onwards and by 1916 they began to "espouse the doctrine of self-determination or the right of the Indians to frame their own Constitution". Thus the desire to have a constitution based on self-determination was as old as 1916.

In response to the continuous demand of the national movement, the British government appointed all-white Simon Commission in November 1927 to recommend constitutional changes. The Secretary of State, Lord Borkenhead, challenged the Indians "Let them produce a Constitution which carries behind it a fair measure of general agreement among the great peoples of India" in 1925 and reiterated the challenge again in 1927, moving a bill for the appointment of the Simon Commission.

In response to the national movement each Indians boycotted the Simon Commission in all parts of India and appointed a committee with Motilal Nehru as the Chairman in 1928 "to determine the principles of the Constitution for India" The Nehru report was submitted on 10 August, 1928. It was an outline of a draft constitution for India. Most of its features were later included in the Constitution of India. It was visualized a parliamentary system with full responsible government and joint electorates with time bound reservation of seats for minorities class. The Nehru's report laid special emphasis on securing fundamental human rights for the people of India. Of the nineteen rights listed in the Nehru's report, ten were incorporated in to the Constitution. The Nehru's report has recommended that "the redistribution of provinces should take place on linguistic basis for the first time".

This was followed by the declaration of complete independence as their objective and followed with the launching of mass civil disobedience movement in April 1930. In 1934, the Congress Working Committee rejected the white paper presented by the British Government on further constitutional reforms and resolved that



the “only satisfactory alternative to the white paper is a Constitution drawn by a Constituent Assembly elected on the basis of adult suffrage or as near it possible”.

After 1934, the demand for the Constituent assembly became very frequent and they included it in the Congress manifesto for the year 1936-37 elections. The Congress won majority of states in 1937 elections and its Faizpur session demanded the newly elected members of the assemblies to articulate the demand for a Constituent Assembly as soon as possible in the new legislatures.

The demand for the Constituent Assembly became high and in the meantime the Second World War broke out in the year 1939. In order to secure the support of the Indians in the Second World War, the British for the first time announced in 1940 by August Offer that the framing of the new Constitution should be primarily the responsibility of the Indians themselves. It also offered to set up, after the end of the Second World War, “a body representative of the principal elements in India’s national life, in order to devise the framework of the new Constitution”.

This offer, unfortunately, did not spell out, how the body is going to be constituted, and also the method to be followed in deciding the membership of the body to be constituted. This vague aspect proves that the British reluctantly agreed to this idea of the Constituent Assembly and were not serious about its implementation. Consequently the offer of 1940 was rejected by all shades of Nationalists and the Congress Party started the Individual Civil Disobedience to register their protest. In 1942, the British Government appointed Cripps Mission. The

Cripps proposals categorically stated that the Constitution would be the sole responsibility of the Indians alone.

The idea of the Constituent Assembly was also accepted and they spelt out its modalities and other aspects.. It failed; once again there was confrontation between the Congress and the British, which resulted in the form of Quit India Movement of 9 August 1942. For the first time the nationalists openly demanded the British to “Quit India” and exhorted the Indians ‘Do or Die’ in this peoples struggle. The Government of India took all necessary measures to suppress the Quit India Movement and at the end of the War in 1945, they issued a white paper, which was followed by the abortive Simla Conference.

The Victory of the Labour Party in England and change in the guard enabled the British Government to declare and promise to convene a Constitution making -body as soon as possible. The Cabinet Mission was appointed to carry out this purpose and it visited India in 1946, on 24<sup>th</sup> March after a lot of deliberation between the Congress and the Muslim League and the British. Finally the Constituent Assembly came in to existence. The Constituent Assembly was set up for making the new Constitution of India. Members of the Constituent Assembly were elected by the elected members of the Legislative Assemblies of the Province. A total of 292 seats were allotted to the British Indian Provinces and 93 seats, in addition, were set apart for the Indian State’s representatives in the Assembly. Thus the total membership of the Constituent Assembly was 385. It was entrusted with the task of framing the Indian Constitution.



The members of the Constituent Assembly were not selected purely on party basis, but were drawn from all walks of life. Indeed they represented almost every section of the Indian people. They also included some of the most leading personalities of Indian public life. The moving spirit of the Assembly was Pandit Jawaharlal Nehru. Dr. Rajendra Prasad was its President. Vallabhbhai Patel was one of the most important among the leading members of Constituent Assembly. Dr. B.R. Ambedkar was the Chairman of Drafting Committee and was ably assisted by other members like Alladi Krishnaswami Aiyar, N. Gopalswami Iyengar, K.M. Munshi and T.T. Krishnamachari etc. The Committee was assisted by the Constitutional Advisor to the Assembly, B.N. Rau, a distinguished Jurist.

It took 2 years, 11 months, and 18 days to complete its historic task of drafting the Constitution for Independent India. During this period, it held eleven sessions covering a total of 165 days. Of these, 114 days were spent on the consideration of the Draft Constitution. In the final form, the Constitution was passed and adopted by the Constituent Assembly on November 26, 1949.

Finally the Constitution was inaugurated only on January 26, 1950 which was the twentieth anniversary of the day on which the Indian National Congress adopted the resolution on complete independence. This day has ever since become the Republic Day of India.

On 26<sup>th</sup> January, 1950 India became a Republic at 10:18 a.m. A few minutes later, at 10:24 a.m. Dr. Rajendra Prasad was sworn in as the first President of India. The first Constitution was hand written in Hindi and in English. It was

signed by the members of the Constituent Assembly on 24<sup>th</sup> January, 1950. These copies are still preserved in the Parliament Library and are one of the significant relics of independent India.

Between 1950 and 1954, India did not have a fixed venue for the Republic day celebration. Initially it was held in Red fort then National Stadium, then in Kingsway Camp, and then in Ramlila Ground. Finally in 1955, Rajpath was chosen as the permanent and fixed venue for Republic celebration. This was the first Republic day Parade the members of Constituent Assembly also adopted the National Anthem – Jana Gana Mana – on 24<sup>th</sup> January 1950. It was written by Rabindra Nath Tagore in Bengali and the later translated in to Hindi. President Sukarno of Indonesia had attended as the chief guest of first Republic Day held on 26<sup>th</sup> January 1950. The Constituent Assembly became the Parliament of India under the transitional provision of the new Constitution.

On 26<sup>th</sup> January, 1950, the Assembly ceased to exist, transforming itself into the Provisional Parliament of India until a new Parliament was constituted in 1952. In addition to the making of the Constitution and enacting of ordinary laws, the Constituent Assembly also performed a number of functions like it ratified the India's membership of the Common Wealth in May 1949, adopted National Flag on 22<sup>nd</sup> July, 1947, adopted National Song on 24<sup>th</sup> January, 1950 and it elected Dr. Rajendra Prasad as the first President of India on 24<sup>th</sup> January, 1950. B.R. Ambedkar is rightly regarded as the father of the Constitution of India. Indian Constitution establishes the structure, procedures, powers and duties of Government institutions and set out fundamental rights, directive principles, and also



duties of the citizens towards their motherland. It is the longest written Constitution of any sovereign country in the world. At the time of commencement, the Constitution had 395 Articles in 22 parts and 8 schedules. The Constitution emerged as a basis for all the people India to work in cooperation and collaboration in a mighty endeavour to build a new free India as stated by Ambedkar.

Last but not the least to quote Dr. Babasaheb Ambedkar, which he had made in the concluding remarks of his speech in 1948.

"I feel that the Constitution is workable; it is flexible and it is strong enough to hold the country together both in peace-time and in war-time. Indeed, if I may say so, if things go wrong under the new Constitution, the reason will not be that we had a bad Constitution. What we will have to say is that man was vile.

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