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Political Science

Paper: Constitutional Democracy of India

Lesson: Constituent Assembly of India

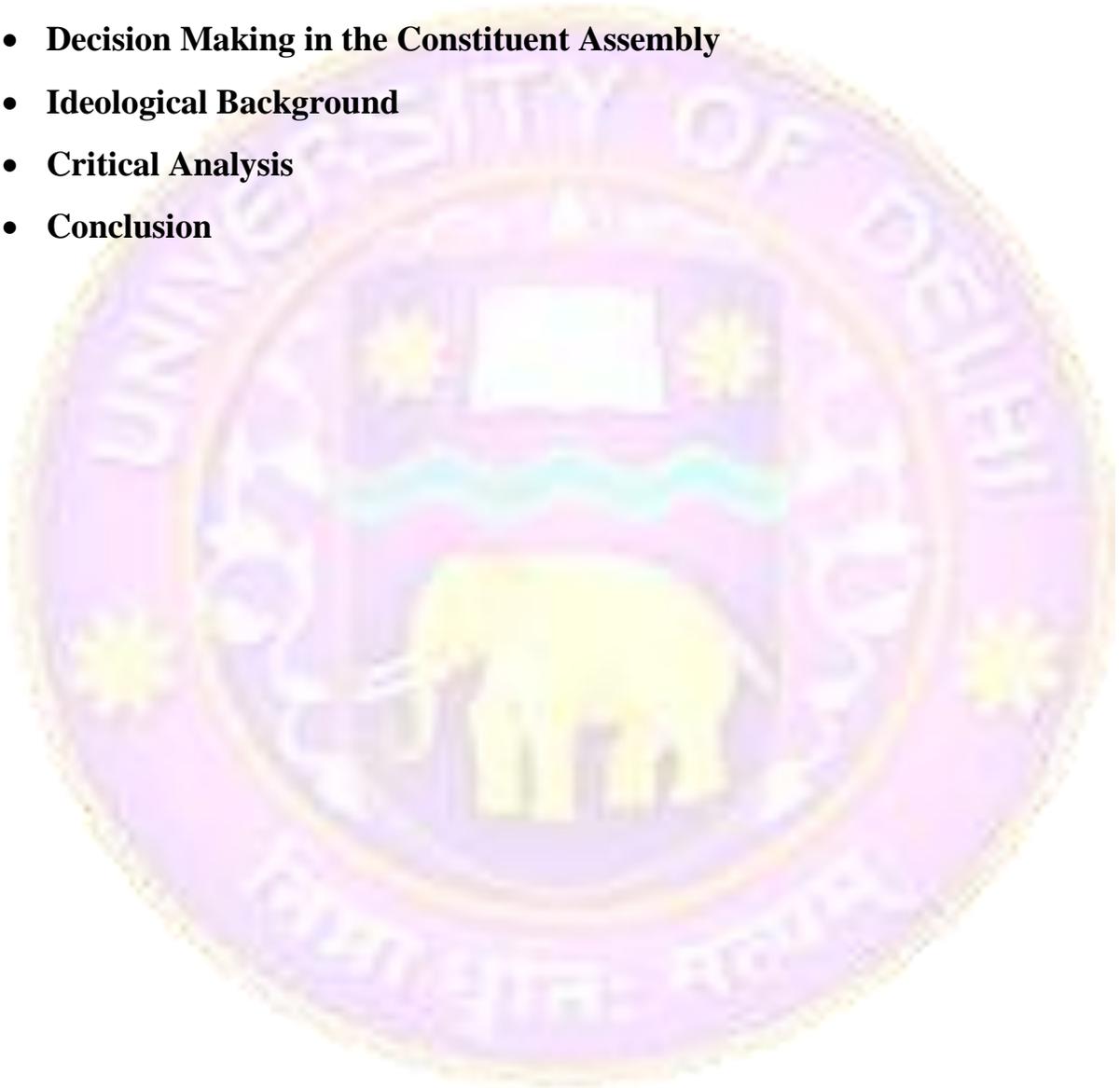
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THE CONSTITUENT ASSEMBLY OF INDIA

On The fifteenth of August, 1947, a mixture of hope and disappointment marked the end of the 200 years old British rule in India. Finally, Indian Independence Act 1947 handed over the political authority to the Indian hands but the end of one struggle marked the beginning of another; which was to live in an independent nation by the establishment of a democracy based upon the ideals of liberty, equality, justice and fraternity. Therefore, one of the first tasks taken by the leaders of the Indian freedom struggle was the framing of a new constitution.

Unlike the Philadelphia Constitutional Convention (1787) and the French National Assembly (1789-91), convened at the height of two major national revolutions, the Indian Constituent Assembly was the result of negotiations between the members of the Cabinet Mission and the leaders of the Indian Independence movement. On the setting up of the Indian Constituent Assembly, Jawaharlal Nehru said,

“Ordinarily, such sovereign assemblies come into existence after a successful revolution in a country. But it is certainly a possibility, if not a probability., that the shadow of the coming events and world changes might lead to an agreement that such an assembly should function as formulated. The demand for such an assembly is ultimately a declaration of what we want to do whenever we have the power to do so. That power may conceivably come to us by agreement without a conflict or it may come after a conflict.” (cited in S.K. Chaube 2000:233)

The Constituent Assembly was backed by the strength of a mass struggle and had come at a high cost of “the country’s partition”.

Functions of a Constitution

According to Thomas Munro, a constitution is “a complex amalgam of institution, principles and practices, it is a composite of charters, statutes of judicial decisions, of common law, of precedents, usages and traditions”. Simply put, “a constitution is a set of laws and rules setting up the machinery of the government of a State and which defines and determine the relations between the different institutions and areas of government, the executive, the legislature and the judiciary, the central, the regional and the local governments.”(M.V. Pylee 1962:3) The

Constitution of India is therefore said to represent the economic, political and social ideals and aspiration of the majority of the Indian people. It holds the vision of independent India, the present India which is the result of a difficult struggle and whose past was riven by uncertainty, factionalism and Partition. “Nehru’s famous inaugural address on the night of 14 August 1947 made clear that the only temporal register in which the nation could be spoken of was the future, and the vision associated with it.” (Uday S. Mehta 2010:16)

The question arises that why did we, after all need a constitution? A constitution provides basic rules, to keep a check on the state power, to restrict the abuse of power and prevent it from turning tyrannical. Apart from this traditional viewpoint, constitutions are believed to be very important for a nation. If we believe the constitution makers, India was just developing its democratic traditions and had a population marked by diversity. Though believed that power resides in the people, in a democracy; the reality is that, power resides in the majority and the constitution gives laws to prevent the tyranny of the majoritarian, democratic state and protect the minority groups.

Rajeev Bhargava points out that “human beings are fallible, that they sometimes forget what is good for them in the long run, and that they yield to temptations which bring them pleasure now but pain later. It is not unknown for people to acquire the mentality of the mob and act on the heat of the moment only to rue the consequences of the decision later. By providing a framework of law culled over from years of collective experience and wisdom, constitutions prevent people from succumbing to currently fashionable whims and fancies.” (Rajeev Bhargava, 2008:14-15). Our constitution makers realised these needs and decided to frame a constitution based on them.

The Constitution of India came into force on 26th January 1950, after a hard work of 2 years 11 months and 18 days. Granville Austin wrote: “With the adoption of the Constitution by the members of the Constituent Assembly on November 26, 1949, India became the largest democracy in the world. By this act of strength and will, Assembly members began what was perhaps the greatest political venture since that originated in Philadelphia in 1787” (Granville Austin, 1966:308). Constitution in the final form had 395 Articles and 8 Schedules.

Formation and Composition

The Constituent Assembly constituted of Pandit Jawaharlal Nehru, the first Prime Minister of free India, Dr. Rajendra Prasad was its President, Sardar Vallabh Bhai Patel was one of the leading lights. Dr. B. R. Ambedkar headed the Drafting Committee, assisted by people like Alladi Krishnaswamy Aiyar, N. Gopaldaswami Ayyangar, K.M. Munshi and T.T. Krishnamachari among others.

Gandhi, writing in *Young India* in 1922, expressed his desire of Indians shaping their own future and emphasised that “swaraj would not be the gift of the British Parliament, but must spring from ‘the wishes of the people of India as expressed through their freely chosen representatives’”(Austin 1966:1). The Nehru Report (1928), prepared under the chairmanship of Motilal Nehru was the first attempt by the Indians to frame a constitution for themselves. In March 1933, the British government put forth before Indians the White Paper which contained proposals for the constitutional reforms for India but the nationalists found it highly objectionable and therefore unacceptable. Later in 1934, the demand for a constituent assembly became a part of the Congress’ official policy.

After World War II, Britain was no longer in a position to continue to rule by repression; therefore, in March 1946, a Cabinet Mission consisting of Sir Stafford Cripps, Lord Pethick Lawrence and Mr. A.V. Alexander arrived in India to draw a scheme of transfer of power in consultation with the major political parties and interests. It drew up the scheme of a Constituent Assembly to constitute partly by elections from the provincial legislatures and partly by representation of princely states.



Members of the 1946 Cabinet Mission to India meeting Muhammad Ali Jinnah. On the extreme left is Lord Pethick Lawrence; on the extreme right, Sir Stafford Cripps.

(Source: http://en.wikipedia.org/wiki/Partition_of_India#mediaviewer/File:Cabinet_mission_to_india1946.jpg)

The members of the Constituent Assembly were not selected on the party basis, but were drawn from all walks of life and represented almost every section of the Indian people. The Congress demanded for an assembly elected on the basis of adult suffrage but the Cabinet Mission Plan rejected it for being too cumbersome and slow. In order to provide proportionate equality of representation to the communities the Cabinet Mission had the plan:

- a) To allot to each province a number of seats proportional to its population, roughly in the ratio of one to a million, as the nearest substitute for representation by adult suffrage;
- b) To divide this provincial allocation of seats between the main communities in each province in proportion to their population;
- c) To provide that the representatives allotted to each community in a province shall be elected by the members of the community in its legislative assembly.

The Congress had to agree to the decision. Nehru argued that “the Constituent Assembly is not just a body of people or a gathering of able lawyers. Rather, it is a ‘nation on the move, throwing away the shell of its past political and possibly social structure, and fashioning for itself a new garment for its own making’”. (Bhargava, 2008:15)

In 1945, the Congress and the Muslim League campaigned furiously, trying to establish claim for maximum seats in the Assembly and the elections in July 1946 allowed representation of every community in the Assembly. Though the League was against the elections, it participated. Muslim League was afraid of suppression of the minority interests in the Constituent Assembly due to the Congress majority. The cabinet mission recognised only three communities in India: “general”, Muslims and Sikhs, the “general” community including all who were not Muslims or Sikhs. “League members won all but seven of the seats reserved for Muslims. Congress candidates filled 203 of the 212 general places (representing every community except Sikhs and Muslims). Congress had a built-in majority of 69 percent in the assembly” but “after partition when the number of Muslim League representatives fell to 28, the Congress majority jumped to 82 percent” (Austin 1966:9). Therefore, the Constituent Assembly became a “one-party body in essentially a one-party country. The assembly was the Congress and the Congress was India. There was a third point that completed a tight triangle” (Austin, 1966). Granville Austin believed that “the assembly, the congress, and the government were, like the points of a triangle, separate entities, but, linked by over-lapping membership, they assumed a form infinitely meaningful for India” (Austin 1966:9).

The Constituent Assembly was partly elected and partly represented by the Princely states. The provinces were to be represented in the assembly in the approximate ratio of one to one million of their population. The members of three communal categories in the legislatures, Muslim, Sikhs and general (Hindus and all other communities), would elect separately, according to their percentage of the province’s population, their proportion of the provincial delegation. The princely states were to have 93 representatives but the method of selecting these representatives was left to the consultation between assembly and the states’ rulers.

“The membership of the Constituent Assembly fell into four groups:

1. The representatives of the Congress

2. A few independent members elected with Congress tickets
3. Independents representing non-Congress provincial legislators (including the representatives of the small parties);
4. The Muslim League who had chosen to stay in India.” (Chaube 2000:97)

The first meeting of Constituent Assembly was held on 9th December 1946, and reassembled on the 14th August 1947, as the sovereign Constituent Assembly for independent India (after the Partition). In its first meeting the Assembly adopted the “Objectives Resolution” which later

OBJECTIVES RESOLUTION

This constituent assembly declares its firm and solemn resolve to proclaim India as an Independent Sovereign Republic and to draw up for her future governance a Constitution:

(2) WHEREIN the territories that now comprise British India, the territories that form Indian states, and such other parts of India as are outside British India and the states as well as such other territories as are willing to be constituted into the Sovereign India, shall be a union of them all; and

(3) WHEREIN the said territories whether with their present boundaries or with such others as may be determined by the Constituent assembly and thereafter according to the law of the constitution, shall possess and retain the status of autonomous units, together with residuary powers, and exercise all powers and functions as are vested in or assigned to the union, or as are inherent or implied in the Union or resulting therefrom; and

(4) WHEREIN all power and authority of the Sovereign, Independent India, its constituent parts and organs of governments, are derived from the people; and

(5) WHEREIN shall be guaranteed and secured to all the people of India justice, social, economic and political; equality of status, of opportunity, and before the law; freedom of thought, expression, belief, faith, worship, vocation, association and action, subject to law and public morality; and

(6) WHEREIN adequate safeguards shall be provided for minorities, backward and tribal areas, and depressed and other backward classes; and

(7) WHEREIN shall be maintained the integrity of the territory of the Republic and its sovereign rights on land, sea, and air according to justice and the law of civilized nations; and

(8) The ancient land attain its rightful and honoured place in the world and make its full and willing contribution to the promotion of world peace and the welfare of mankind.

Source: D.D. Basu, 1960.

became the Preamble of the Constitution.

Pandit Jawaharlal Nehru categorically presented the objective of the Constitution in a lucid statement: “The first task of this Assembly (Constituent Assembly) is to free India through a new Constitution, to feed the starving people and clothe the naked masses and to give each Indian the fullest opportunity to develop himself according to his capability” (Constituent Assembly Debates, Volume II 1947:316).

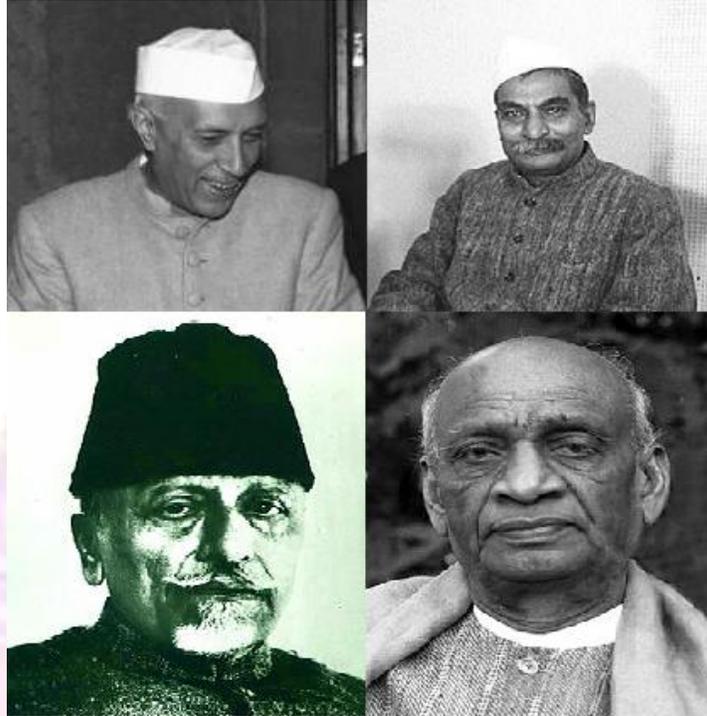


First day (9 December 1946) of the Constituent Assembly. From right: B. G Kher and Sardar Vallabhbhai Patel; K. M. Munshi is seated behind Patel.

(Source: http://en.wikipedia.org/wiki/Constituent_Assembly_of_India#mediaviewer/File:Indian_Constituent_Assembly.JPG)

The members brought diverse personalities, backgrounds and qualifications to constitution-making for example, they comprised of eminent lawyers, teachers, high ranking officials in civil government, businessmen, doctor etc. Austin called the leadership of Nehru, Patel, Azad, Prasad ‘the oligarchy’. Nehru and Patel were the most influential persons of the working committee. Nehru was assembly’s idealist, humanist and had a wide reading in Political Theory. In the words of Subash Kashyap,

“While others fashioned its structure and shape, most significantly Nehru gave to the Constitution its spirit, its soul, its philosophy and its vision.” (Kashyap, 1982: 92).



The leadership of Nehru, Patel, Azad, Prasad was called 'the oligarchy'. (self-made)

Source: http://en.wikipedia.org/wiki/Jawaharlal_Nehru

http://en.wikipedia.org/wiki/Rajendra_Prasad

http://en.wikipedia.org/wiki/Abul_Kalam_Azad

http://en.wikipedia.org/wiki/Vallabhbhai_Patel

Patel was an iron-fisted statesman, responsible for conciliatory and considerate negotiations with the princely states and dealings with the minorities. They brought a spirit of unity, a national awareness. They all had the practical experience, the personal popularity, the intellectual ability, and the political power to impress upon the Assembly their concept of the type of constitution best able to bring about the new India. They were dedicated to the cause and had put their minds' hard work to it. B.N. Rau, though not a member of the Assembly, played the role of a constitutional advisor and his advice was heard in the inner councils of the assembly.

The Constituent Assembly had a total of more than fifteen committees. Union Power Committee, the Union Constitution Committee, the Provincial Constitution Committee, the Advisory Committee on Minorities and Fundamental Rights, the Committee on Chief Commissioners'

Provinces, the Committee on Financial Provisions of the Union Constitution and the Advisory Committee on Tribal Areas were the major constituent committees of the Assembly (most of them headed by Nehru, Patel and Prasad) and provided the foundation on which Sir B.N Rau, the Constitutional Advisor, prepared a series of background papers, based on a close study of the political system prevailing in other countries. The revised draft was then prepared by the drafting committee under the chairmanship of Dr. B.R. Ambedkar.



Dr. B.R. Ambedkar: Chairman of the Drafting Committee

(source: http://en.wikipedia.org/wiki/B._R._Ambedkar)

MEMBERS OF THE DRAFTING COMMITTEE

Alladi Krishnaswamy Aiyar, an astute lawyer of liberal views from Madras who came with a Congress ticket and later made outstanding contribution to constitution-making

N. Gopaldaswami Ayyangar, another brilliant legal brain from Madras, with a liberal outlook, a congress ticket and a civilian background

B.R. Ambedkar, the leader of the Scheduled Castes Federation, also an outstanding lawyer, who shed several ideological differences with the Congress. On the eve of independence, he joined the government as the law minister, without leaving his party.

K.M. Munshi, a Congress leader, occasionally working in the states' people's movement. Also a lawyer

Saiyad Mohammad Saadullah, a League supporter from Assam of rather liberal outlook and a profound legalist

B.L. Mitter, an ex-law member of the Government of India and the Dewan of Baroda, who made remarkable contribution to the integration of the states with India.

D.P. Khaitan, an industrialist from West Bengal who had come with a Congress ticket.

Source: (Chaube 2000:105)

Decision Making in the Constituent Assembly

The process of decision making was democratic and pragmatic. The debate comprised of many conflicting ideas such as- of what language Indians should speak; of political and economic system the nation should follow; of what moral values its citizens should uphold; how to protect the minorities etc. the members expressed many diverse viewpoints that made the sessions lively and interesting. “The leadership of the Constituent Assembly followed the process of decision making by the consensus, by the policy of accommodation and by the art of selection and modification.” (Austin, 1976: 4)

The framers of the constitution agreed that consensus of the members was required to make the provisions of the constitution effective and long lasting. Consensus means, to make decisions with near unanimity. The principle of consensus was followed to decide the fundamental issues such as federal structure, language etc.

The policy of accommodation helped reconcile the conflicting views, behind the scene discussions and negotiations and to accommodate these divergent views.

Through the principle of selection and modification the constitution makers made sure that it did not blindly followed the other constitutions but chose and modified the provisions to suit the Indian circumstances and the aspirations of the Indian people.

S.K. Chaube, criticising the process of decision-making by the constituent assembly points out that the solution to the problem of political minorities was not to the satisfaction of the minorities and the solution to the problem of national language been called a “half-hearted compromise”, by Austin. Muslim League members called it a packed house and even the members of the assembly such as Shibbanlal Saxena who was also a Congressite believed that meetings of the Constituent assembly registered the decisions taken at the meeting of the Congress party. “Ambedkar himself observed on the floor of the assembly that ‘they had to go to another place to obtain a decision and come to the assembly’. The socialists were cold-shouldered, even occasionally snubbed. Complaints were often heard of the Congress Party steam-rolling the Constituent Assembly” (cited in Chaube2000:237). Therefore the ‘accommodation’ better defines the process of decision making in the assembly.

Ideological Background

The membership of the Assembly was attempted to be kept diverse and represent all communities therefore there were also attempts to mould the Constitution according to their requirements.

Gandhian ideals played an important role in shaping the Indian freedom struggle and it was bound to have an influence on the working of the Constituent Assembly but this has been largely believed that the Congress had ignored it and instead followed the western principles. Gandhi believed in the amalgam of reformism and revolution. To him virtues of rural simplicity and decentralization of the country's economy to the rural communities would help realise the establishment of Swaraj. He criticized the modern bourgeois civilization, use of modern machinery and technology and emphasized on the revival and extension of craft and cottage industry. This idea of "reconciliation of tradition and modernity in Gandhi was looked upon as tenuous and fragile by the socialists and communists" (A.S. Narang, 1987:58). The Gandhian ideal was totally ignored by the congress and the constitution makers had followed the western principles. Austin mentions that "of a large number of articles published in the *Indian Journal of Political Science* from 1940 to 1945 concerning India's future constitution, everyone used the Euro-American constitutional tradition as its source of both principles and detailed suggestions". However, S.K. Chaube believes that Gandhi had remained the vanguard of the Congress and though his role has paradoxically subdued in the formulation of several policies of the Congress from time to time. He finds Austin's comment that "the Congress had never been Gandhian", superficial.

Socialist ideology was quite dominant in the working of the Assembly and gave way to the assembly's belief in Parliamentary government. According to Austin, the members committed to socialism "ranged from Marxists to Gandhian socialists to conservative capitalists, each with his own definition of 'socialism' nearly everyone in the Assembly was Fabian and Laski-ite enough to believe that 'democratic constitutions are... inseparably associated with the drive towards economic equality'" (Austin 1966:41). Out of the two kinds of leftists the ones "who wanted to change the feudal system, favoured egalitarianism to an extent opposed the idea of private property, but believed in peaceful change without undue confrontation... were more prominently present and active in the Constituent Assembly" (Narang 1987:59) (the other kinds were ones

with a Marxian conviction of revolutionary reconstruction of society). Austin thus argues that the emphasis was not that “socialism be embodied in the constitution but that a democratic constitution with a socialist bias be framed so as to allow the nation in the future to become as socialist as its citizens desired or its needs demanded” (Austin 1966:43)

There was the third group led by Sardar Vallabh Bhai Patel. This was a rightist group and represented the interests of the bourgeoisie and the landed class “who were filling the nationalist movement with the content of their own class needs and aspirations, for a political system conducive to the growth and unrestricted development of private enterprise, to suppress the struggle of the working people and to look to the western countries for the guidance” (Narang 1987:59). This was the class providing financial assistance to the working of the assembly therefore their aspirations had to be kept in mind along with the welfare of the common population of the nation.

As a chairman of the Drafting Committee, B.R. Ambedkar played a unique role in the writing of the constitution incorporated with the idea of liberty, equality and justice. Ambedkar had entered the Assembly with the only hope of safeguarding the rights of the downtrodden but was more than surprised when the Drafting Committee elected him to be its chairman. To achieve the required degree of unity in the life of the newly born Republic, he called India a “Union of states” and provided for a Single judiciary. He believed that people may be divided into different states but the country is an integral whole and its people a single people living under a single imperium derived from a single source. He believed in a strong central government but keeping in mind the will and needs of the people and the centripetal and centrifugal forces operating in the country, he provided for a less rigid form of federalism. He evolved and incorporated a philosophy of rights based on the need for balancing individual liberty and social justice. He used the opportunity of constitution making for solving the problem of Scheduled castes and also recognising the rights for the religious and cultural minorities in the country and make adjustments among the majority and minority communities.

Critical Analysis

The sovereignty of the Constituent Assembly was questioned by many. Since, it was meeting with the permission of the British Government and was not elected on the basis of adult suffrage

it was believed that it cannot be called a sovereign body and representative of whole India. Though Gandhi emphasised on the participation of all parties to make it work he believed that it was no use calling it a sovereign body. He expressed his strong views (writing to Patel 4 December 1946) about the Constituent Assembly under the Cabinet Mission Plan, in the following words:

“Even if the Constituent Assembly meets in spite of the boycott but with the willing cooperation of the British Government, it will be under the visible or invisible protection of the British forces, whether Indian or European. In my opinion we shall never reach a satisfactory constitution under these circumstances.” (cited in Chaube 2000:112)

The larger questions faced by the Assembly was whether such a body had any power or authority of its own and could it speak and act for India? On the other hand, Maulana Azad, Nehru and Rajendra Prasad believed that although the Cabinet Mission placed some limitations on its activities, the assembly was sovereign since it drew its authority from the people of India. Moreover it “arrogated itself the authority to control its own being: ‘the Assembly shall not be dissolved except by a resolution assented to by at least two-thirds of the whole number of members of the Assembly’” (Chaube 2000). Nehru remarked:

“the main point about the Constituent Assembly has been that it is as self-governing and self-determining body and any kind of imposition from outside will not be welcomed. It has been our purpose all along to make the Constituent Assembly as representative as possible of all groups in the country, but if some people unfortunately keep away, this cannot be allowed to stop the functioning of the Constituent Assembly as a whole”(cited in Chaube 2000:56).

Shibanikinkar Chaube argues that it was the greatest mistake of the Congress to believe that the assembly was sovereign instead it should have worked to make the Assembly sovereign. The British Government regarded it merely as a conference of the delegates of the major political parties in the country and this became a bargaining asset for Jinnah. On 27 July 1946, at a meeting of the League, Jinnah said:

“It is no use imagining things. The constituent assembly is not a sovereign body. Either we accept that view or not. If we accept the view that it is not a sovereign body, the only

honourable course open to us is to treat it for what it is. It is an assembly summoned by the Viceroy who has been appointed by the British government. It is not going to be a sovereign body by a statement or show of bravado.” (cited in Chaube 2000:49)

The other major problem with the Assembly was that it was dominated by the Congress. Nehru, Patel, Prasad and Azad were believed to constitute an oligarchy within the Assembly and their influence was irresistible. But this Congress domination did not create much of a problem since the congress leadership seemed to be eager to get the cooperation of other parties in the framing of the Constitution and working of the government. Dr. B.R. Ambedkar, who himself was not a member of the Congress, felt that this dominance was beneficial for the Constituent Assembly and commented that-

“The task of the Constituent Assembly would have been a very difficult one if this Constituent Assembly had been merely a motley crowd, a tessellated pavement without cement, a black-stone here and a white-stone there in which each member or each group was a law unto itself. There would have been nothing but chaos. This possibility of chaos was reduced to nil by the existence of the Congress Party inside the assembly which brought into its proceedings a sense of order and discipline. It is because of the discipline of the Congress Party that the Drafting Committee was able to pilot the Constitution in the Assembly with the sure knowledge as to the fate of each article and each amendment. The Congress Party is, therefore, entitled to all the credit, for the smooth sailing of the Draft constitution in the assembly” (cited in Chaube 2000:97).

The domination also, did not obstruct the working of the Assembly and it is said that the issues were decided democratically and after genuine debates, since it was made up of strong-minded men and the leaders themselves was peculiarly responsive. They held social, economic and political views and did not hesitate to voice them. The Indian Constitution was therefore an attempt to express the will of the many rather than the needs of the few.

Another challenge faced by the Assembly was that important people and groups were absent from the Assembly, the Muslim League had boycotted the Assembly, Gandhi was absent and also some state representatives. Charges were levelled against it for being partial to some minority communities since the cabinet mission plan guaranteed seats in the assembly only for

Muslims and Sikhs and it contained no specific provisions for other minorities. Austin rejected this view and emphasized that Congress made all efforts to include Parsis, Anglo-Indians, Indian Christians, members of the Scheduled Castes and Scheduled Tribes, and even women under the 'general' category and tried to make the Assembly representative of diverse viewpoints. K.Santhanam believed that "there was hardly any shade of public opinion not represented in the Assembly" (cited in Austin 1966:13).

The class character of the Assembly was believed to be favouring one majority community. It was believed to be a Hindu-majority body and moreover had about 74 percent of its members belonging to upper castes. 18 percent of the membership of the Assembly was constituted by the lower middle castes such as Marathas from Maharashtra, the pattidars from Gujrat and non-Brahmins from Southern Indian states. Schedule castes and tribes membership in the assembly was merely at 6 percent. To Churchill, the Assembly represented only one major community of India and for Viscount Simon it was "a body of Hindus." (B. Shiva Rao, 1968; 130)

Arguing against the charge of mass interests being neglected, Austin writes that the party policy ensured that the "Congress members there represented the country... The electoral process itself could not have produced a representative body because it was based on the restricted franchise established by the Sixth Schedule of the 1935 Act, which excluded the mass of peasants, the majority of small shopkeepers and traders and countless others from the rolls through tax, property and educational qualifications...But because the congress and its candidates covered a broad ideological spectrum, those elected to the assemblies did represent the diverse view-points of voters and non-voters alike" (Austin 1966:10). Only 28.5% of the adult population and 14% of the total population had voting rights in 1946. Apart from Austin's opinion of diverse views being represented, another group of scholars believe that there were attempts to silence some voices by raising the fear of separatism. It has been argued that since the Assembly was not a directly elected body, at least the members should have put the Constitution that they prepared, before the people for their final approval in a referendum. Referring to its unrepresentative character, Jayaprakash Narayan calls it a restricted and curbed Constituent Assembly, a creation of British imperialism and thus unable to bring freedom to India.

Regarding the process of decision making, many believe that the framers of the Constitution have shown haste in the framing of the Constitution. There were many provisions in the

constitution that were passed without much discussions and deliberations. One of them was the passing of the Article 360 (financial emergency) that was passed on the same day it was presented. Several important Articles were referred to sub-committees; hence no discussion could take place on them before the arrival of Committee reports. The Assembly also had to cope with a strange economic dilemma. The Assembly had to take care of the workers, peasants and the poor masses of the country along with making provisions for the propertied class since they were the ones providing financial assistance.

Criticizing the Constituent Assembly, Jaya Prakash Narayan wrote that “the Constituent Assembly’s deliberations have been dominated by cool and sedate lawyers who give no evidence that they comprehend the significance the turmoiled birth of a nation” (Chaube 2000:238) and because of the participation of a large number of lawyers in the Assembly our Constitution has also been criticized as being a ‘Lawyer’s Paradise’. The Assembly was dominated by the lawyers and the politicians and the language used in the constitution seems difficult for the ordinary citizens, to understand.

Since the Constituent Assembly of India was created by an alien government, scholars argue that it had some inherent handicaps, and had to face certain limitations to prepare a constitution for India. “Born with a particular stigma, the Assembly was confronted not only with the task of drafting a constitution for India but also with the odd jobs of making the most important political decision for the country namely the state structure. No other constitutional body in the world has had to make such an important decision as each of them has merely recorded the achievements of the revolution through which the major political decisions had already been reached.” (Chaube, 1973: 270)

Conclusion

The framers of the Constitution tried to provide the Indians the best suited constitution based on the philosophy of a welfare state. The Indian constitution seems to be inspired from different sources such as the constitutions of many countries, the Government of India Acts etc. and the framers have tried to gather the best features from each of them. Constitutions are also influenced by a nation’s history and our constitution was also a reflection of the political developments taking place in the national arena. The makers of the constitution made sure that

the constitution should have such features so that it can stand the test of time and can be modified according to the changing circumstances and moreover minimise the uncertainty, the independent Indian state started its journey with. The constitution makers believed that since India had yet to develop its democratic traditions, it would be too much of a risk to leave the Constitution in general terms therefore the flexibility of the constitution was ensured by them. Too much flexibility would also lead to subversion of the sacred legal document therefore rigidity was provided through some of the provisions. The Constitution of India therefore is a blend of idealism and realism and tries to address most of the problems that occurred in the past and problems that might occur in the present and future.

The Constituent Assembly though criticised extensively, its membership was a blend of expertise, practical experience, intellectual ability and political power to formulate a constitution best able to bring about the new India. Its members brought a spirit of unity and national awareness. It did a balancing act between the claims of stability and adaptability. No Constitution is perfect and our Constitution also follows this universal rule. However it has proved to be a workable Constitution and has stood the test of time. It not only tries to establish a political democracy but also social and economic democracy.

EXERCISES

1. Discuss the main ideologies guiding the working of the Constituent Assembly of India.
2. Critically analyse the working of the Constituent Assembly of India.
3. Discuss the debates regarding the composition of the Constituent Assembly of India.
4. Analyse Ambedkar's role in the Constituent Assembly.

GLOSSARY

Factionalism Conflict within an organisation or nation; internal dissension

Consensus An opinion or position reached by a group as a whole

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