



UNIT 1

MAKING OF THE CONSTITUTION

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TOPICS TO BE COVERED

- What is the Constitution?
- Why do we need a Constitution?
- Making of the Constitution
 - Challenges faced
 - Path to the Constitution
- The Constituent Assembly
- Drafting Committee
- Commencement of the Constitution
- A written Constitution
- Reasons to accept our constitution
- Institutional design
- A detailed and lengthy Constitution
- Trivia

WHAT IS A CONSTITUTION?

- The Constitution of India is the supreme law of India.
- A constitution is a set of rules and regulations according to which a nation is governed.
- The ordinary laws of the country must conform to these set of rules.
- It frames fundamental political principles, procedures, practices, rights, powers, and duties of the government.
- It outlines the democratic and parliamentary form of government adopted by our country.
- It defines the position and powers of the three organs of the government—the Executive, the Legislature and the Judiciary.
- It also enshrines the Fundamental Rights to be granted to every citizen and the Directive Principles to be followed to establish a welfare society.

WHY DO WE NEED A CONSTITUTION?

- First, it generates a degree of trust and coordination that is necessary for different kind of people to live together;
- Second, it specifies how the government will be constituted, who will have power to take which decisions;
- Third, it lays down limits on the powers of the government and tells us what the rights of the citizens are; and
- Fourth, it expresses the aspirations of the people about creating a good society.

FUNCTIONS OF A CONSTITUTION

- Coordination and Assurance
- Specification of Decision Making Powers
- Limitations on Government Powers
- Enabling Positive Measures
- Expressing National Identity

It is the soul of a society, guiding its governance, protecting individual rights, and expressing its collective identity.

MAKING OF THE CONSTITUTION

1. Challenges faced:

- Huge and diverse country
- The country was born through a partition based on religious differences. This was a traumatic experience for the people of India and Pakistan.
- At least ten lakh people were killed on both sides of the border by partition-related violence.
- The British had left it to the rulers of the princely states to decide whether they wanted to merge with India or with Pakistan or remain independent.
- The merger of these princely states was a difficult and uncertain task. When the Constitution was written, the country's future did not look as secure as it does today.
- The makers of the constitution had anxieties about the present and the future of the country.

MAKING OF THE CONSTITUTION

2. The Path to the Constitution

- Differences of opinion within the freedom struggle about the path India should take after Independence.
- In 1928, Motilal Nehru and eight other Congress leaders drafted a constitution for India. In 1931, the resolution at the Karachi session of the Indian National Congress dwelt on how independent India's constitution should look like.
- Both these documents were committed to the inclusion of a universal adult franchise, the right to freedom and equality, quality, and to protection of the rights of minorities in the constitution of independent India. Thus some basic values were accepted by all leaders much before the Constituent Assembly met to deliberate on the Constitution.
- Elections were held in 1937 to Provincial Legislatures and Ministries all over British India. These were not fully democratic governments, the experience gained by Indians in the working of the legislative institutions proved to be very useful for the country in setting up its institutions and working in them.
- That is why the Indian constitution adopted many institutional details and procedures from colonial laws like the Government of India Act, of 1935. Our leaders gained the confidence to learn from other countries but on their own.
- Many of our leaders were inspired by the ideals of the French Revolution, the practice of parliamentary democracy in Britain, and the Bill of Rights in the US. The socialist revolution in Russia inspired many Indians to think of shaping a system based on social and economic equality.
- Yet they were not simply imitating what others had done. At each step, they were questioning whether these things suited our country. All these factors contributed to the making of our Constitution.

THE CONSTITUENT ASSEMBLY

- In 1938, Pandit Jawaharlal Nehru put forward the demand for a Constituent Assembly.
- It was proposed that the Constitution of free India must be framed, without outside interference, by a Constituent Assembly elected on the basis of adult franchise.
- The British Government sent a delegation of three Cabinet ministers to India. The Cabinet Mission arrived in India on 24 March 1946.
 - It decided that the legislative assemblies of the provinces were to elect the members of the Constituent Assembly.
 - The Princely States would have their own representatives by way of nomination.
- Members
 - The Constituent Assembly comprised 389 members, of which 296 were from British India and 93 from the Princely States of India.
 - With the partition of the country the number was reduced to 299, with 90 members forming a separate body to frame the Constitution of Pakistan.
- Representatives
 - Hindus, Muslims, Sikhs, Indian Christians, Parsis, Anglo-Indians, Scheduled Castes, Scheduled Tribes and women to ensure fair representation.
- Prominent members –
 - Dr Rajendra Prasad, Sardar Patel, Jawaharlal Nehru, Dr HC Mukherjee, Sardar Baldev Singh, Frank Anthony, Dr HP Modi, Sarojini Naidu and others.

THE CONSTITUENT ASSEMBLY

- At 11 a.m., on 9 December 1946, the Constituent Assembly began its first session, which was attended by 207 members.
- The Muslim League members did not join the deliberations.
- Chairman of the Constituent Assembly
 - Temporary - Sachchidananda Sinha
 - Permanent - Dr Rajendra Prasad.
- On 9 December 1946, Jawaharlal Nehru as head of the interim government, moved the famous Objectives Resolution, which formed the basis of the Preamble of the Constitution. It was passed on 22 January 1947.
- With the announcement of the Mountbatten Plan for partition of India, the perspective of the Constituent Assembly also changed.
- After India gained independence on 15 August 1947, the Constituent Assembly became a sovereign body. It doubled up as the legislature for the new nation, which was to make ordinary laws as well as frame a new constitution.

THE CONSTITUENT ASSEMBLY

- The task of framing the Constitution was accomplished in five stages:
 1. Committees like the Constitution Committee, Powers Committee, Fundamental Rights Committee were formed to present reports on basic issues.
 2. The Constitutional Advisor prepared a draft on the basis of these reports and his own research into other world constitutions.
 3. The Drafting Committee, chaired by Dr BR Ambedkar, presented a detailed draft of the Constitution for public discussion.
 4. The Draft Constitution was discussed and amendments proposed.
 5. The Constitution was adopted.
- Time taken - two years, eleven months and eighteen days
- Out of a total of 7,635 amendments tabled in the Constituent Assembly during the deliberations, as many as 2,473 were disposed of after discussion.
- The members deliberated for 114 days.
- Every document presented and every word spoken in the Constituent Assembly has been recorded and preserved. These are called 'Constituent Assembly Debates'.
- The newly adopted Constitution was signed by 284 members of the Constituent Assembly on 24 January 1950.
- After the Constitution came into force, the Constituent Assembly was made the Provisional Parliament of India until a new Parliament was constituted in 1952.

DRAFTING COMMITTEE

- Chairman of the drafting Committee – Dr. B.R. Ambedkar appointed on 29 August 1947.
- This Committee prepared a Draft Constitution in line with the general guidelines provided by the Constituent Assembly.
- It was published in February 1948.
- The Constituent Assembly next met in November 1948 to consider the provisions of the draft, clause by clause.
- The second reading was completed by October 1949.
- The Constituent Assembly sat again for the third and final reading, which was completed on 26 November 1949. The Constitution was then signed by the President and declared as passed officially.
- The making of the Indian Constitution was a remarkable feat of collective endeavor and visionary leadership. Through meticulous planning, inclusive representation, and democratic principles, the Constituent Assembly laid the foundation for a vibrant and progressive nation.

COMMENCEMENT OF THE CONSTITUTION

- The Constitution of India came into force on 26 January 1950, a day specially selected for its historical significance.
- At the Lahore Session in 1929, the Congress had passed a resolution declaring 'Purna Swaraj' as the goal for India. It had also decided to observe the Independence Day on 26 January every year till India actually gained freedom.
- Thus it was appropriate to choose that day to show the continuity of our freedom struggle from the beginning to the adoption of the Constitution, which made India a 'republic'.

A WRITTEN CONSTITUTION

- The Constitution of India is a written document comprising in its original form 395 Articles and 8 Schedules.
- As the makeup of this country was diverse and varied, our Constitution makers decided to prepare a written document based on laws framed by members of the Constituent Assembly.
- No aspects of governance were left to conventions, traditions and practices.
- There are also unwritten constitutions as in the case of England.

REASONS TO ACCEPT OUR CONSTITUTION

- The Constitution does not reflect the views of its members alone. It expresses a broad consensus of its time. Over the last half a century, several groups have questioned some provisions of the Constitution.
- But no large social group or political party has ever questioned the legitimacy of the Constitution itself. This is an unusual achievement for any constitution.
- It was elected mainly by the members of the existing Provincial Legislatures This ensured a fair geographical share of members from all the regions of the country. The Assembly was dominated by the Indian National Congress, the party that led India's freedom struggle.
- The Congress itself included a variety of political groups and opinions. The Assembly had many members who did not agree with the Congress. In social terms too, the Assembly represented members from different language groups, castes, classes, religions, and occupations.
- Even if the Constituent Assembly was elected by universal adult franchise, its composition would not have been very different.
- Finally, the Constituent Assembly worked to give sanctity to the Constitution. The Constituent Assembly worked in a systematic, open, and consensual manner.

INSTITUTIONAL DESIGNS

- . Those who crafted the Indian Constitution felt that it had to be in accordance with people's aspirations and changes in society. They did not see it as sacred or as an unalterable law. So, they made provisions to incorporate changes from time to time. These changes are called constitutional amendments.
- . The Constitution describes the institutional arrangements in a very legal language. Like any Constitution, the Indian Constitution lays down a procedure for choosing persons to govern the country.
- It defines who will have how much power to make which decisions. And it puts limits to what the government can do by providing some rights to the citizen that cannot be violated.

A DETAILED AND LENGTHY CONSTITUTION

1. The framers decided to include in our Constitution the relevant features from all known constitutions and avoid the defects and loopholes that might be encountered by them. For example, the Fundamental Rights are based on the American Constitution, the Directive Principles of State Policy were taken from the Constitution of Ireland.
2. The vastness of the country with its diverse cultures, traditions and customs and the peculiar problems linked to this diversity has also contributed to the bulk of the Constitution. There are sections dealing with the Scheduled Tribes and the Backward Classes, the Official Languages and Emergency Provisions as well.
3. Not only does the Constitution provide for the functions and role of the Union Government but a detailed powers of the State Governments are also dealt with. To avoid any controversies between the two sets of Governments a detailed distribution of powers is given, which has also added to the bulk of the document.
4. The Constitution makers adopted the bulk of the provisions from the Government of India Act, 1935, which contributed to the volume of the Constitution. The Act itself was very lengthy and much was borrowed from it, as people were familiar with the contents. All details about the administrative processes were included.
5. It also includes the justifiable fundamental rights of the individual along with the Directive Principles, which are fundamental in the governance of the country. These are by way of moral restraints and are in such details that they add bulk to the Constitution.

TRIVIA

- **WHO PHYSICALLY WROTE THE CONSTITUTION OF INDIA?**

- Prem Behari Narain Raizada (Saxena), the man who hand-wrote the original Constitution of India. He was the calligrapher of the Indian Constitution. The original constitution was handwritten by him in a flowing italic style.
- The original version was beautified and decorated by artists from Shantiniketan including Nand Lal Bose and Beohar Rammanohar Sinha.

THE MAKING OF INDIA'S CONSTITUTION

Dec. 9, 1946
First meeting
of the
Constituent
Assembly



Dec. 11, 1946
Dr Rajendra
Prasad elected as
its President

Aug. 29, 1947
Drafting
Committee
appointed


Nov. 4, 1947
Draft
constitution
submitted

Nov. 26, 1949
Drafting
completed

Jan. 24, 1950
The handwritten
Constitution signed

**Jan. 26,
1950**
Constitution
legally
enforced

**2 YEARS,
11 MONTHS,
18 DAYS**

 Time taken to prepare
the final draft



2000

Amendments made
before it was finalised



Thank You