BLOGS

Making of The Constitution of India

Harshita Gulati · 17 Sep 2021

The constitution of a country is the fundamental law of the land on the basis of which all other laws are made and enforced. It sets out the framework and principal functions of the organs of the Government within the state and declares the principles by these organs must operate.

The Constitution has devised a structure of power relationship with checks and balances and limits are placed on the powers of every authority or instrumentality under the Constitution.

The constitution is the supreme or fundamental law of the country which not only defines the framework of the basic political principles but also establishes what the different government institutions should do in terms of procedure, powers and duties.

According to KC Wheare, ‘Constitutionalism means government according to rule as opposed to the arbitrary government, it means government limited by the terms of a Constitution, not government limited only by the desires and capabilities of those who exercise power’.

Constitutionalism is different from ‘constitution’. A country may have the constitution but not necessarily constitutionalism. For example, a country with a dictatorship, where dictator’s word is the law can be said to have a constitution but not constitutionalism. Constitutionalism recognizes the need for the government but insists upon limitations being placed upon governmental powers.

Making of the Indian Constitution

Indian Constitution was made by the Constituent Assembly which had been elected for undivided India. It was constituted under the scheme formulated by the cabinet mission plan.

The Constituent Assembly of India sat for the first time on December 9, 1946, and started a historical journey which saw India attainting independence, deciding on its national flag, national insignia, national anthem; and ultimately adoption of the Constitution which made our country a democratic republic.

India under the British Raj consisted of two types of territories, that is, British India and the Princely States. The Constituent Assembly was formed on the basis of the population. So there

were 389 representatives who were called from entire India to form the Constituent Assembly, 296 representatives from British India and 93 representatives from the Princely States.

The Princely States denied participation so it was formed with the 296 representatives from British India. The members of the Constituent Assembly met for the first time on 9th December 1946. The first temporary two-day president of the Constituent Assembly was Dr. Sachchidananda Sinha. The second meeting of the Constituent Assembly was on 11th December 1946 wherein Dr. Rajendra Prasad was elected as the president and HC Mukherjee as Vice President.

On December 13, 1946, Jawaharlal Nehru moved the historic 'objectives resolution'. The resolution encapsulated the aspiration and values behind the constitution. It laid down the fundamentals and philosophy of the constitutional structure. On August 29 1947, under the chairmanship of Dr. BR Ambedkar drafting committee was formed to prepare a draft of the Constitution. It consisted of seven members.

The Assembly met in sessions open to the public, for 166 days, spread over a period of 2 years, 11 months and 18 days before adopting the Constitution. It submitted its first report on February 21, 1948. At that time draft constitution contained 315 articles and 8 schedules. The people of India were given 8 months to discuss the draft and propose amendments and as many as 7635 amendments were proposed.

In the light of the public comments, criticisms and suggestions, the drafting committee prepared a second draft and published it in October 1948 and was presented to Constituent Assembly on November 4, 1948, for first reading. The final draft was concluded on November 26, 1949.

In the last meeting of the Assembly, that is, on 24th January 1950 the members of the Assembly signed two copies of the document (one each in Hindi and English) and also" Jana Gana Mana" was adopted as the national anthem and the first two verses of" Vande Mataram" as the national song.

On 26th January 1950, the Constitution of India became the law of all the States and territories of India, i.e. on 26th January 1930, that is, exactly 20 years before India became a republic. The Indian National Congress in an electrifying resolution declared Purna Swaraj – complete freedom from the British Raj.

The Congress declared 26th January, 1930 as 'Independence Day', when the Declaration of Independence was officially promulgated. 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 and consists of almost 80,000 words.

The main time taken by the Constituent Assembly that went on for almost three years was to strike the right balance so that institutions created by the Constitution would not be haphazard or tentative arrangements but would be able to accommodate the aspirations of the people of India for a long time.

The architects of Indian Constitution went through all the then exiting major Constitutions of the world before drafting their own and as Dr. Ambedkar observed, they tried to accommodate the best possible and time-tested features of each of them to the requirement of the country, the largest influence was exercised on them by the Government of India Act, 1935.

The Constitution of India was adopted on 26 November 1949 and came into effect on 26 January 1950.

Salient features of Constitution

The Indian Constitution is unique in its spirit and content. Following are the features of Indian Constitution:

- Written and lengthiest constitution
- Framed by the people of India
- Derived from various sources
- Parliamentary form of government
- Universal adult franchise
- A federation with a strong centralizing tendency
- Fundamental rights and duties
- Independent judiciary
- Single citizenship
- A unique blend of rigidity and flexibility
- Secular policy

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