

Chapter - 3

MAKING OF THE CONSTITUTION

It was in 1934 that the idea of a Constituent Assembly for India was put forward for the first time by M. N. Roy. In 1935 the Indian National Congress (INC), for the first time, officially demanded a Constituent Assembly to frame the Constitution of India. In 1942, Sir Stafford Cripps, a member of the cabinet, came to India with a draft proposal of the British Government on the framing of an independent Constitution to be adopted after the World War II.

COMPOSITION OF THE CONSTITUENT ASSEMBLY

The Constituent Assembly was constituted in November 1946 under the scheme formulated by the Cabinet Mission Plan. The features of the scheme were:

1. The total strength of the Constituent Assembly was to be 389. Of these, 296 seats were to be allotted to British India and 93 seats to the Princely States.
2. Roughly, one seat was to be allotted for every million population.
3. Seats allocated to each British province were to be decided among the three principal communities—Muslims, Sikhs and general in proportion to their population.
4. The representatives of each community were to be elected by members of that community in the provincial legislative assembly and voting was to be by the method of proportional representation by means of single transferable vote.
5. The representatives of princely states were to be nominated by the heads of the princely states.

It is thus clear that the Constituent Assembly was to be a partly elected and partly nominated body.

Although the Constituent Assembly was not directly elected by the people of India on the basis of adult franchise,

WORKING OF THE CONSTITUENT ASSEMBLY

The Constituent Assembly held its first meeting on December 9, 1946. Dr. Sachchidanand Sinha, the oldest member, was elected as the temporary President of the Assembly, following the French practice.

Later, on December 11, 1946, Dr Rajendra Prasad and H C Mukherjee were elected as the President and Vice-President of the Assembly respectively. Sir B N Rau was appointed as the Constitutional advisor to the Assembly.

Other Functions Performed:

In addition to the making of the Constitution and enacting of ordinary laws, the Constituent Assembly also performed the following functions:

1. It ratified India's membership of the Commonwealth in May 1949.
2. It adopted the national flag on July 22, 1947.
3. It adopted the national anthem on January 24, 1950.
4. It adopted the national song on January 24, 1950.
5. It elected Dr Rajendra Prasad as the first President of India on January 24, 1950.

In all, the Constituent Assembly had 11 sessions over two years, 11 months and 18 days. The Constitution-makers had gone through the constitutions of about 60 countries, and the Draft Constitution was considered for 114 days. It, however, did not end, and continued as the provisional parliament of India from January 26, 1950 till the formation of new Parliament⁸ after the first general elections in 1951—52.

COMMITTEES OF THE CONSTITUENT ASSEMBLY

The Constituent Assembly appointed a number of committees to deal with different tasks of constitution-making. Out of these, eight were major committees and the others were minor committees. The names of these committees and their chairmen are given below:

Major Committees:

1. Union Powers Committee — Jawaharlal Nehru
2. Union Constitution Committee — Jawaharlal Nehru
3. Provincial Constitution Committee — Sardar Patel
4. Drafting Committee — Dr. B.R. Ambedkar
5. Advisory Committee on Fundamental Rights and Minorities — Sardar Patel. This committee had two sub-committees:
 - (a) Fundamental Rights Sub-Committee — J.B. Kripalani.
 - (b) Minorities Sub-Committee — H.C. Mukherjee
6. Rules of Procedure Committee — Dr. Rajendra Prasad
7. States Committee (Committee for Negotiating with States) — Jawaharlal Nehru
8. Steering Committee — Dr. Rajendra Prasad

Minor Committees:

1. Committee on the Functions of the Constituent Assembly — G.V. Mavalankar
2. Order of Business Committee — Dr. K.M. Munshi
3. House Committee — B. Pattabhi Sitaramayya
4. Ad-hoc Committee on the National Flag — Dr. Rajendra Prasad
5. Special Committee to Examine the Draft Constitution — Alladi Krishnaswamy Ayyar
6. Credentials Committee — Alladi Krishnaswamy Ayyar
7. Finance and Staff Committee — A.N. Sinha
8. Hindi Translation Committee
9. Urdu Translation Committee
10. Press Gallery Committee
11. Committee to Examine the Effect of Indian Independence Act of 1947
12. Committee on Chief Commissioners' Provinces
13. Commission on Linguistic Provinces
14. Expert Committee on Financial Provisions
15. Ad-hoc Committee on the Supreme Court

Drafting Committee:

Among all the committees of the Constituent Assembly, the most important committee was the Drafting Committee set up on August 29, 1947. It was this committee that was entrusted with the task of preparing a draft of the new Constitution. It consisted of seven members. They were:

1. Dr B R Ambedkar (Chairman)
2. N Gopalaswamy Ayyangar
3. Alladi Krishnaswamy Ayyar
4. Dr K M Munshi
5. Syed Mohammad Saadullah
6. N Madhava Rau (He replaced B L Mitter who resigned due to ill-health)
7. T T Krishnamachari (He replaced D P Khaitan who died in 1948)

The Drafting Committee, after taking into consideration the proposals of the various committees, prepared the first draft of the Constitution of India, which was published in February 1948. The people of India were given eight months to discuss the draft and propose amendments. In the light of the public comments, criticisms and suggestions, the Drafting Committee prepared a second draft, which was published in October 1948.

ENACTMENT OF THE CONSTITUTION

Dr. B R Ambedkar introduced the final draft of the Constitution in the Assembly on November 4, 1948. The motion on Draft Constitution was declared as passed on November 26, 1949, and received the signatures of the members and the president. Out of a total 299 members of the Assembly, only 284 were actually present on that day and signed the Constitution.

*The Constitution as adopted on November 26, 1949,
contained a Preamble, 395 Article and 8 Schedules*

Dr B R Ambedkar, the then Law Minister, piloted the Draft Constitution in the Assembly. He is recognised as the 'Father of the Constitution of India'. This brilliant writer, constitutional expert, undisputed leader of the scheduled castes and the 'chief architect of the Constitution of India' is also known as a 'Modern Manu'.

ENFORCEMENT OF THE CONSTITUTION

Some provisions of the Constitution pertaining to citizenship, elections, provisional parliament, temporary and transitional provisions, and short title contained in Articles 5, 6, 7, 8, 9, 60, 324, 366, 367, 379, 380, 388, 391, 392 and 393 came into force on November 26, 1949 itself.

The remaining provisions (the major part) of the Constitution came into force on January 26, 1950. This day is referred to in the constitution as the 'date of its commencement', and celebrated as the Republic Day.

