



Vol.: IV, Month : January, Year : 2025

संवाद

BULLETIN

Political Science Department
P.G.D.A.V. College, University of Delhi

Special Edition
The Constitution of India

Editor-in-Chief

Prof. Krishna Sharma

Editor

Prof. Abhay Prasad Singh

Advisory Board

Prof. Pinki Punia

Dr. Duryodhan Nahak

Dr. Hira Singh Bisht

Dr. Chhote Lal Singh

Dr. Ravindra Kumar Meena

Mr. Jagannath Kumar Kashyap

Dr. Virendra Singh Gaur

Ms. Anima Sonkar

Executive Editor

Dr. Bhanu Kumar

Editorial Board

Dr. Mangal Deo Singh

Dr. Harish Chandra

Dr. Pawan Singh

Dr. Kundan Kumar

Student Editorial Board**Executive Editor**

R. Abimathi

Associate Editor

Bhawesh Binwal

Khushi

Assistant Editor

Kajal Yadav

Kritika

Gaurav Singh

Evesita Rai

Content

- संदेश – प्रो. कृष्णा शर्मा
- **Editor Message- Prof. Abhay Prasad Singh**
- संविधान : सुशासन के लिए एक प्रारूप- राष्ट्रपति महामहिम श्रीमती द्रौपदी मुर्मू का दृष्टिकोण – संवाद संपादक मंडल
- The Constitution as a Living Document- Ajay Kumar Singh
- Constitution Making and Dr. Bhimrao Ambedkar- Harish Chandra
- B. N. Rau's Role in Constitution Making in India - Bhanu Kumar
- संविधान सभा की विस्मृत महिलाएं - खुशी
- Executive and Legislature in the Constitution: Alladi Krishnaswami Iyer- From Archive
- Everyone Must Do His Allotted Task: Shri Chakravarti Rajagopalachari
- Women's Journey with the Constitution of India- R. Abimathi
- Special Constitutional Provisions for Northeast India- Evesita Rai
- Constitutional Values and Fundamental Duties- Arpita Singh
- Constitutional Morality- Anshika Pandey

Constitution Amendment

- First Amendment Act of the Indian Constitution-Pratham Ranjan
- 42nd Constitutional Amendment: Mini Constitution- Fathima Fidha
- Forty-Fourth Constitutional Amendment- Ayush Tripathi
- 73rd and 74th Constitution Amendment Act- Aditi Kumari
- Constitution 101st Amendment Act- Hemant Yadav
- EWS Reservation: 103rd Constitutional Amendment- Pinky Jha
- 106th Constitutional Amendment - Nari Shakti Vandan Adhinyam- Riddhima Bhatnagar

Chapter Review

- भारतीय संविधान अनकही कहानी "राम बहादुर राय" - गौरव सिंह
- Conceptualizing Constitutions: 3rd chapter of The Endurance of National Constitutions- Bhawesh Binwal
- Chapter 4: The Endurance of National Constitutions- Kajal Yadav
- Chapter Review of You Must Know Your Constitution The Constitution Today: Challenges and Prospects- Krisha
- Know Your Republic: Report-2025- Student Editorial Board

* This newsletter is published monthly by the Department of Political Science. Responsibility for all published articles rests with the authors. The articles have been peer-reviewed by the department's faculty members.

Contact: Department of Political Science, P.G.D.A.V. College, University of Delhi, Delhi-110065

Email: samvaadbulletin@pgdav.du.ac.in

संदेश

प्रिय पाठकों,

26 नवंबर 2024 को संविधान दिवस के अवसर पर प्रधानमंत्री श्री नरेंद्र मोदी ने अपने संबोधन में कहा था, “हमारा संविधान, हमारे वर्तमान और हमारे भविष्य का मार्गदर्शक है। बीते 75 वर्षों में देश के सामने जो भी चुनौतियाँ आई हैं, हमारे संविधान ने हर उस चुनौती का समाधान करने के लिए उचित मार्ग दिखाया है।” उनके इस कथन का स्पष्ट अर्थ यह है कि हमारे देश और समाज के लिए संविधान आशा और उम्मीद का एक जीवंत ग्रंथ है, जिसकी छाया में भारत 2047 से पूर्व विकसित भारत बनने के लक्ष्य को प्राप्त करेगा। यह बात मैं न केवल अपने अनुभव, बल्कि अपने अंतःकरण की आवाज से भी कह रही हूँ।

हम सभी जानते हैं कि संविधान निर्माण के 75 वर्ष पूर्ण हो चुके हैं, जो हम सभी के लिए गौरव और हर्ष का विषय है। साथ ही, आगे आने वाली चुनौतियों के लिए हमें तैयार रहने और सही दिशा में आगे बढ़ने के लिए संविधान आज भी एक प्रकाश स्तंभ की भांति मार्गदर्शन प्रदान कर रहा है।

25 नवंबर 1949 को बाबा साहब डॉ. भीमराव अंबेडकर ने संविधान सभा में संविधान के गुणों पर उठाए गए प्रश्नों का उत्तर देते हुए कहा था, “मैं समझता हूँ कि संविधान चाहे जितना भी अच्छा हो, यदि उसे कार्यान्वित करने वाले लोग बुरे हैं, तो वह निश्चय ही बुरा हो जाता है।” वहीं, 26 नवंबर 1949 को संविधान सभा के समापन भाषण में डॉ. राजेंद्र प्रसाद ने कहा था, “भारत को आज ईमानदार लोगों के एक समूह से अधिक और कुछ नहीं चाहिए, जो अपने हितों से ऊपर देश के हित को रखें। ‘राष्ट्र सर्वप्रथम’ की यही भावना भारत के संविधान को आने वाली अनेक सदियों तक जीवंत बनाए रखेगी।” इससे यह स्पष्ट होता है कि संविधान की सफलता केवल उसके प्रावधानों पर निर्भर नहीं करती, बल्कि उसे लागू करने वाले व्यक्तियों की निष्ठा, ईमानदारी और राष्ट्रहित के प्रति उनकी प्रतिबद्धता पर भी निर्भर करती है। यदि शासक और नागरिक संविधान के मूल्यों का ईमानदारी से पालन करें, तो यह आने वाली पीढ़ियों तक लोकतंत्र और न्याय की आधारशिला बना रहेगा।

‘संवाद न्यूज लेटर’ के चौथे अंक को आप सभी के समक्ष प्रस्तुत करते हुए मुझे अत्यंत हर्ष हो रहा है। भारतीय संविधान पर केंद्रित यह अंक न केवल आपके प्रज्ञा को समृद्ध करेगा, बल्कि नए विमर्शों को जन्म देने के लिए भी प्रेरित करेगा। राजनीति विज्ञान विभाग और संवाद न्यूज लेटर के संपादकीय मंडल को इस उत्कृष्ट अंक के प्रकाशन हेतु हार्दिक बधाई। इसकी समृद्ध सामग्री को देखते हुए मैं पूर्ण विश्वास के साथ कह सकती हूँ कि यह एक महत्वपूर्ण दस्तावेज है, जिसे संविधान-विमर्श से जुड़े प्रत्येक छात्र, अध्यापक और शोधार्थी को अवश्य पढ़ना चाहिए।

– प्रो. कृष्णा शर्मा

प्रधानाचार्या

पीजीडीएवी महाविद्यालय

दिल्ली विश्वविद्यालय

Editor Message

Dear Readers,

As India celebrates the 75th Anniversary of her Constitution, it is with immense pride that we dedicate this special edition of the संवाद Bulletin to the Constitution of India. In these pages, you'll find thoughtful analyses that span from the Constitution's inception to its evolution through significant amendments that have shaped our nation's journey.

Our journey begins with a thought-provoking piece examining the Constitution as a blueprint for good governance through the eyes of the Honourable President Draupadi Murmu. Her valuable insights offer a unique perspective on how our constitutional framework continues to guide national progress while upholding democratic values. The distinguished speech delivered by Mr. Ajay Kumar, Press Secretary to the President of India in the Department's Know Your Republic event, eloquently explores how the Constitution, as a living document, keeps adapting itself to the needs of the time.

Dr. Harish Chandra's examination of Dr. Bhimrao Ambedkar's contribution illuminates Ambedkar's profound influence on ensuring social justice, equality, and dignity for all citizens that shaped the values of our nation. Dr. Bhanu Kumar's meticulous research highlights how B.N. Rau's legal expertise and drafting skills were instrumental in crafting our Constitution. The article on "संविधान सभा की विस्मृत महिलाएं" by Khushi brings to light the crucial yet frequently unacknowledged role of women in the Constituent Assembly. The archival pieces provide valuable historical context, while R. Abimathi's "Women's Journey with the Constitution of India" traces the evolving relationship between constitutional provisions and women's rights over the years. Evesita Rai's article on special constitutional provisions for Northeast India highlights how the Constitution accommodates regional diversity, embodying the principle of unity in diversity. Arpita Singh's article thoughtfully connects constitutional values with fundamental duties and reminds us how our rights are inextricably linked to

our duties as citizens. Anshika Pandey's article on constitutional morality stresses how this remarkable document serves not just as a legal framework but also as a moral compass guiding us toward its values.

The section on the significant amendments to the Constitution represents the critical junctures in our constitutional history, while the book chapter review section engages with thoughtful reviews on constitutional literature, including Gaurav Singh's chapter review of "भारतीय संविधान: अनकही कहानी" by Ram Bahadur Rai, Bhawesh Binwal and Kajal Yadav's chapter reviews of "The Endurance of National Constitutions" by James Melton, Tom Ginsburg, Zachary Elkins, and Krisha's chapter review of "You Must Know Your Constitution" by Fali S. Nariman.

As we reflect on our constitutional heritage, we hope this diverse collection enriches your understanding and appreciation of the Constitution of India as a living document that continues to be the cornerstone of our democracy.

– **Prof. Abhay Prasad Singh**

Teacher-in-Charge

Department of Political Science

P.G.D.A.V. College, University of Delhi

संविधान: सुशासन के लिए एक प्रारूप

भारत की राष्ट्रपति महामहिम श्रीमती द्रौपदी मुर्मु का दृष्टिकोण

संवाद संपादक मंडल¹

भारतीय संविधान अपने निर्माण के अमृत काल में प्रवेश कर चुका है, और इस ऐतिहासिक यात्रा की सफलता का सबसे बड़ा प्रतीक भारत की राष्ट्रपति महामहिम द्रौपदी मुर्मु स्वयं हैं। स्वतंत्र भारत में जन्म लेने और इस पद तक पहुँचने वाली वे प्रथम राष्ट्रपति हैं। उनका जीवन संघर्ष भारतीय जनमानस के लिए उसी प्रकार प्रेरणास्रोत है, जैसा भारत का संविधानादोनों की यात्रा में संकट और संघर्ष का काल आया है। लेकिन मूल्यों ने दोनों की यात्रा को प्रशस्त किया है। एक आदिवासी महिला के रूप में सर्वोच्च संवैधानिक पद को सुशोभित करना भारतीय संविधान की संकल्पना और उसकी व्यावहारिक उपलब्धि का प्रमाण है।

इस प्रमाण को राष्ट्रपति महोदया के गणतंत्र दिवस की पूर्व संध्या पर दिए गए भाषण से स्पष्ट रूप से समझा जा सकता है। उनके अनुसार, संविधान की प्रस्तावना “हम, भारत के लोग” हमारे लोकतांत्रिक मूल्यों को रेखांकित करती है² क्योंकि भारत की लोकतांत्रिक व्यवस्था पश्चिमी अवधारणाओं से अधिक प्राचीन है, इसीलिए भारत को “लोकतंत्र की जननी”³ कहा जाता है। भारतीय गणराज्य की मुखिया के रूप में उनके शब्द संविधान के प्रति भारतीय जनमानस की प्रतिबद्धता का शब्द होता है। इसीलिए इस आलेख में राष्ट्रपति महोदया के संविधान से संबंधित भाषणों का विश्लेषण किया गया है।

सामाजिक लोकतंत्र की आवश्यकता

राष्ट्रपति महोदया ने संविधान के प्रति अपने विचारों को व्यापक दृष्टिकोण प्रदान किया है। उनके अनुसार, डॉ.

बी.आर. आंबेडकर द्वारा संविधान सभा में व्यक्त विचार कि “हमें अपने राजनीतिक लोकतंत्र को सामाजिक लोकतंत्र भी बनाना चाहिए”⁴ आज भी उतना ही प्रासंगिक हैं, जितना उस समय था। वे आंबेडकर की इस बात से पूर्णतः सहमत हैं कि “राजनीतिक लोकतंत्र तब तक टिकाऊ नहीं हो सकता जब तक कि उसके आधार में सामाजिक लोकतंत्र न हो।”⁵ सामाजिक लोकतंत्र को सुदृढ़ करने की दिशा में निरंतर प्रयास आवश्यक हैं। समावेशी भावना हमारे सामाजिक जीवन के प्रत्येक पहलू में दिखाई देती है।

राष्ट्रपति महोदया ने पिछले वर्ष स्वतंत्रता दिवस के पूर्व संध्या पर राष्ट्र को संबोधित करते कहा, हमें “अपनी विविधताओं और बहुलताओं के साथ, हम एक राष्ट्र के रूप में, एकजुट होकर, एक साथ, आगे बढ़ते रहना चाहिए। और इस कड़ी में समावेश को और सुदृढ़ करने के लिए “सकारात्मक कार्रवाई” (affirmative action) को और सशक्त किया जाना चाहिए⁶ वे दृढ़ता से मानती हैं कि भारत जैसे विशाल देश में सामाजिक स्तरों के आधार पर विभाजन को बढ़ावा देने वाली प्रवृत्तियों को अस्वीकार करना होगा।

संविधान की सफलता का रहस्य

भारत में व्याप्त विविधताओं और चुनौतियों के बावजूद संविधान कैसे सफल रहा? यह प्रश्न आज हमें भले ही साधारण लगे, किंतु स्वतंत्रता के बाद विश्व की एक बड़ी बिरादरी इस उम्मीद में थे कि कोई भी कानून भारत को एक साथ रखने में सफल नहीं हो पाएगा। किंतु भारतीय संविधान ने उनकी मंशा

1 महामहिम राष्ट्रपति श्रीमती द्रौपदी मुर्मु जी के संविधान विषय पर दिए गए वक्तव्यों के आधार पर इस लेख को संवाद संपादक मंडल द्वारा तैयार किया गया है।
 2 PIB, 25th January 2025
 3 Ibid.
 4 PIB, 14th August 2024.
 5 Ibid.
 6 PIB, 14th August 2024.

पर पानी फेर दिया। लेकिन आज हमें दुनिया को इसीलिए भी इसका उत्तर देना जरूरी है क्योंकि संविधान पालन करने का सबसे सटीक उदाहरण भारत है, जिसका अनुपालन कर दुनिया के कई देश शांति और विकास के पथ पर आगे बढ़ सकते हैं।

राष्ट्रपति महोदया के शब्दों में हमारे संविधान की सफलता का उत्तर 2022 में संविधान दिवस पर दिए गए पहले भाषण में मिलता है। उन्होंने कहा कि “संविधान सभा निर्वाचित सदस्यों से बनी थी जो राष्ट्र के सभी क्षेत्रों और समुदायों का प्रतिनिधित्व करते थे। उनमें हमारे स्वतंत्रता आंदोलन के दिग्गज शामिल थे। उनकी बहसें और उनके द्वारा तैयार किया गया संविधान उन मूल्यों को प्रतिबिंबित करता है जिनके लिए स्वतंत्रता संग्राम लड़ा गया था।”⁷

उन्होंने इस बात पर भी प्रकाश डाला कि संविधान सभा के 389 सदस्यों में 15 महिलाएँ थीं। जब पश्चिमी राष्ट्र महिलाओं के अधिकारों पर बहस कर रहे थे, तब भारत में महिलाएँ संविधान निर्माण में सक्रिय भागीदारी कर रही थीं।⁸ स्वतंत्रता संग्राम से लेकर संविधान निर्माण तक सबकी भागीदारी ने भारतीय संविधान को एक शक्ति-पुंज बना दिया, जिसने भारतीय लोकतंत्र को न्याय और समानता के मार्ग पर आगे बढ़ाया।

भारतीय सांस्कृतिक मूल्यों को पुनर्स्थापित करने का प्रयास

जब उन्होंने राष्ट्रपति पद की शपथ ली, तब भारत स्वतंत्रता के अमृत काल में प्रवेश कर रहा था, और आज राष्ट्र संविधान निर्माण के अमृत काल में प्रवेश कर चुका है। इसीलिए वे स्वतंत्रता और गणराज्य की मूल्यों को संरक्षित करने हेतु प्रयासरत हैं। उनके कार्यकाल के दो वर्ष पूरे होने पर एक ऐतिहासिक निर्णय लिया गया, जिसके तहत 25 जुलाई 2024 को राष्ट्रपति भवन के दो प्रमुख हॉलों – ‘दरबार हॉल’ और ‘अशोक हॉल’ का नाम क्रमशः ‘गणतंत्र मंडप’

और ‘अशोक मंडप’ कर दिया गया।⁹ उनका मत स्पष्ट है कि “राष्ट्रपति भवन के वातावरण को भारतीय सांस्कृतिक मूल्यों एवं लोकाचार के अनुरूप बनाने की दिशा में निरंतर प्रयास किए जाने चाहिए।”¹⁰

संविधान और राष्ट्र निर्माण

संविधान भारत का शासकीय ग्रंथ तो है किंतु इसे राष्ट्र निर्माण के ग्रंथ के रूप में भी क्या देखा जा सकता है? इसका उत्तर भी महामहिम राष्ट्रपति द्रौपदी मुर्मू के भाषण में मिलता है। उनके अनुसार, संविधान भारत के जनमानस के लिए केवल एक कानूनी दस्तावेज नहीं, बल्कि राष्ट्र निर्माण का एक ग्रंथ भी है। 26 नवंबर 2023 को संविधान दिवस के अवसर पर उन्होंने कहा, “न्याय, स्वतंत्रता, समानता और बंधुत्व के मूल्य ऐसे सिद्धांत हैं जिन पर हम एक राष्ट्र के रूप में स्वयं को संचालित करने के लिए सहमत हुए हैं। इन मूल्यों ने हमें स्वतंत्रता प्राप्त करने में सहायता की और ये हमारे राष्ट्र-निर्माण के मार्गदर्शक बने हैं।”¹¹

संविधान: अधिकारों और कर्तव्यों का संगम

26 नवंबर 2024 को संविधान निर्माण के 75 वर्ष पूरे होने के उपलक्ष्य में संसद भवन के केंद्रीय कक्ष में आयोजित समारोह में उन्होंने कहा, “हमारा संविधान हमारे लोकतांत्रिक गणराज्य की सुदृढ़ आधारशिला है। यह हमारी सामूहिक और व्यक्तिगत गरिमा को सुनिश्चित करता है।”¹²

उन्होंने संविधान की प्रस्तावना में उल्लिखित मूल्यों की व्याख्या करते हुए कहा, “न्याय, स्वतंत्रता, समानता और भ्रातृत्व के आदर्श एक-दूसरे के पूरक हैं। ये एक ऐसे समाज की नींव रखते हैं जहाँ प्रत्येक नागरिक को फलने-फूलने, समाज में योगदान देने और अन्य नागरिकों की सहायता करने का अवसर मिलता है।”¹³

राष्ट्रपति महोदया संविधान को एक जीवंत दस्तावेज

7 PIB, 26th November 2022.

8 Ibid.

9 PIB, 25th July 2024.

10 Ibid.

11 PIB, 23rd November 2024.

12 PIB, 26th November 2024.

13 PIB, 26th November 2024.

मानती हैं, अपने पुर्वर्ती राष्ट्रपतियों के अनुसार। उनके अनुसार संविधान न केवल जीवंत बल्कि प्रगतिशील भी है।¹⁴ उनके अनुसार, “भारत के दूरदर्शी संविधान निर्माताओं ने इसे समय की बदलती आवश्यकताओं के अनुरूप नया रूप देने की व्यवस्था सुनिश्चित की थी।” संविधान की सफलता तभी संभव है जब नागरिक उसके मूल्यों को आत्मसात करें।¹⁵ उन्होंने इस संदर्भ में भीमराव आंबेडकर के विचार को स्मरण कराया कि “संविधान अच्छा होने से अधिक महत्वपूर्ण यह है कि उसे मानने वाले नागरिक अच्छे हों।”

संविधान और अंतरराष्ट्रीय दृष्टिकोण

राष्ट्रपति महोदया संविधान के उस मूल्य को भी महत्वपूर्ण और अत्यधिक प्रासंगिक मानती हैं, जिसे अनुच्छेद 51 के माध्यम से स्थापित किया गया है, जिसके तहत हमारे संविधान निर्माताओं ने अंतर्राष्ट्रीय शांति और सुरक्षा को बढ़ावा देने की दिशा में महत्वपूर्ण भूमिका निभाने का निर्देश दिया था। इसी आधार पर आज प्रधानमंत्री नरेंद्र मोदी की सक्रिय और बहुपक्षीय विदेश नीति, विशेष रूप से “वसुधैव कुटुंबकम्” की अवधारणा पर आधारित वैश्विक कूटनीतिक पहल, इस संवैधानिक सिद्धांत को सशक्त बनाने में सहायक रही है। फलस्वरूप, आज भारत न केवल एक अग्रणी अर्थव्यवस्था के रूप में उभर रहा है, बल्कि विश्व बंधु के रूप में भी अपनी उल्लेखनीय भूमिका निभा रहा है।¹⁶

निष्कर्ष

राष्ट्रपति द्रौपदी मुर्मू का संविधान के प्रति गहरा समर्पण न केवल उनके सार्वजनिक वक्तव्यों में परिलक्षित होता है, बल्कि उनकी नीतिगत प्राथमिकताओं और प्रशासनिक निर्णयों में भी स्पष्ट रूप से दृष्टिगोचर होता है। उनके संवैधानिक दृष्टिकोण का यदि गहन विश्लेषण किया जाए, तो यह निष्कर्ष निकाला जा सकता है कि उनका समस्त विमर्श भारतीय संविधान की मूल भावना—न्याय, स्वतंत्रता, समानता और बंधुत्व के संरक्षण और संवर्धन पर केंद्रित है, जिसे वे अपने विचारों और आचरण से निरंतर प्रसारित कर रही हैं।

उन्होंने अपने कार्यकाल में न केवल संवैधानिक आदर्शों की व्यापकता को रेखांकित किया, बल्कि भारतीय लोकतंत्र की बुनियादी संरचना को अधिक समावेशी और सुदृढ़ बनाने की दिशा में भी उल्लेखनीय योगदान दिया है। उनकी विचारधारा संविधान को मात्र एक विधिक दस्तावेज के रूप में नहीं, बल्कि राष्ट्र के समग्र विकास और सुशासन के लिए एक मूलभूत दिशानिर्देशक के रूप में प्रस्तुत करती है।

इस परिप्रेक्ष्य में, यदि उनके संवैधानिक विमर्श का सार संक्षेप में व्यक्त किया जाए, तो इसे दो भागों में अभिव्यक्त किया जा सकता है, पहला, “संविधान के प्रति समर्पित सम्पूर्ण भारत” की अवधारणा, और दूसरा, संविधान को सुशासन हेतु एक मार्गदर्शक मानचित्र के रूप में स्थापित करने की उनकी प्रतिबद्धता।

14 Ibid.

15 PIB, 26th November 2023.

16 PIB, 26th November 2024.

The Constitution as a Living Document¹

✍️ **Ajay Kumar Singh**

Press Secretary to the President of India

I am really grateful to the organizers of this program for having given me an opportunity to have an interaction with you all, although it would be brief, but I assure you that the next time, I will be here for more time. I'll keep it to some kind of mutual interaction, other than a speech, and discuss some important aspects about the Constitution.

On the issues related to the constitution and its making, I will request to read an article authored by The President in "The Week magazine". The magazine made a request if the President could write an article for them on the Constitution. The article written by Hon'ble President covers a wide range of issues, particularly about the role of women members of the constituent assembly in making of the document.

In my own experience as a journalist, I have always found that the Constitution is a living document, that even if you don't know it, even if you don't realize it, it gives you a sense of power that nobody can give you. The first thing that stands out to me about the Constitution is that it was drafted by founders, who were like us. It is not something that is God-ordained scripture.

Those founding mothers and fathers are made of flesh and blood just like any of us. It consists of words that have more sanctity than even scriptures or religious texts. It has got acceptance beyond religions, regions, castes, communities, and genders. I don't see any modern document that has found so much universal acceptance in a diverse country like India.

As I said earlier, the Constitution is a living document. It is dynamic and keeps changing with time. Although the Constitution keeps getting amended, it is the doctrine of its basic structure that remains intact. There may be debate on basic structure because it is kind of undefined. However, despite all those political changes, the Constitution is a compass that guides you and allows you to navigate the turbulent phase. It expands with time. Now it has expanded.

As an Indian, we live the Constitution every day. Think of the time when the developed countries were still struggling with the concept of universal franchise; but we had implemented it; it came naturally to us. We didn't have to put in much effort. Remembering the Constituent Assembly in

1 Speech delivered at the Political Science Department's program, "Know Your Republic," at P.G.D.A.V. College, University of Delhi, on 29 January 2025, on the glorious journey of the Indian Constitution.

which around 300 people debated intensely nearly for 3 years and put forward diverse opinions, but everyone had agreed on the universal franchise of 'one person, one vote, one value.' Some of the best-developed nations were still struggling to decide whether women could be granted voting rights, including Scandinavian countries that are well developed today. But the revolutionary decision was taken in India by those genius founders at that time to implement 'one person, one vote, one value' that fostered the spirit of unity in diversity, which is seen in the spirit of the Constitution as well.

We won't go into the academic debate on the Constitution, but as a journalist when I worked with the Times of India, we used to feel like we were given an authority by the Constitution. I didn't have to go to my media house to get empowered; I was already empowered. I felt empowered to speak the truth. That I have to speak truth to the power. And I would do it, and I have done that. We got this authority from the Constitution. The constitution reminds us of our duties just as much as it grants us our rights. How to balance your rights and duties, this the Constitution has taught us.

So, when you read this document, you would ask if these written words alone hold much importance. When the Constitution was adopted, Dr. Ambedkar,

in the last speech, had said, "However good a constitution may be, if those who are implementing it are not good, it will prove to be bad. However bad a constitution may be, if those implementing it are good, it will prove to be good." Our Constitution has passed through many phases of time and driven the nation towards the right path while keeping the diversity intact. Today we speak of becoming a developed nation by 2047; there will be many changes and challenges ahead that we will be facing.

For instance, AI has been used for molding public opinion, so the biggest challenge for the Constitution will be to navigate that part. Although our country has the executive, legislative, and judiciary, and there are checks and balances between all three. Along with these, we have the media and social organizations as well. So, there won't be a major problem, but still there lies some challenge in navigating the bot-driven opinions. Since our Constitution is a dynamic document that keeps changing over time, and you all are the students of political science, I would end today's discussion by asking you all to ponder upon the question of whether there should be any provisions in the Constitution to address this challenge of bot - driven opinions that may put stress on the democracy and may pose a challenge in future.

Constitution Making and Dr. Bhimrao Ambedkar

✍ Harish Chandra

One of India's greatest achievements after gaining independence was the framing of its Constitution between December 1946 and November 1949. Given India's vast size, diversity, and complex socio-political challenges, this was an arduous and remarkable task. The credit for this accomplishment belongs to the national leaders and their enlightened leadership during that critical period. The Constituent Assembly was fortunate to have distinguished statesmen, freedom fighters, intellectuals, and patriots representing various regions, social groups, and political parties. Among them, Dr. Bhimrao Ambedkar played a crucial role¹ in the making of India's Constitution. Persuaded by the leaders of the Indian National Congress, upon the suggestion of various eminent National & International leaders, Ambedkar accepted the Chairmanship of the Drafting Committee of the Constituent Assembly.² His leadership in this historic task fulfilled the expectations of the Assembly and the people of India.

Today, the Constitution stands as the most widely accepted and living document

of the Indian state, society, culture, and civilization, commanding the complete trust of all its citizens. The nation's 1.4 billion people regard it as the ultimate source of solutions to their problems. The primary reasons for this widespread acceptance lie, first, in the vision and foresight of its framers and, second, in the leadership of Dr. B.R. Ambedkar, under whose guidance the Constitution was drafted. Ambedkar's profound insight and comprehensive understanding shaped the Constitution in such a manner that, even after 75 years, when we witness the success of Indian democracy, it is the Constitution that emerges as the central pillar of this achievement. Therefore, it is imperative to academically analyse and study the efforts and wisdom of Dr. Ambedkar, the chief architect of the Constitution, in its drafting process. This article has been written in this context, aiming to explore and understand his contributions from an academic perspective.

Dr. Ambedkar as a General Member of the Constituent Assembly:

Eminent scholar Prof. Vivek Kumar has

1 Vivek Kumar, How B.R. Ambedkar acted as the Constituent Assembly's conscience keeper, The Week, 26th January 2025. <https://www.theweek.in/theweek/cover/2025/01/25/ambedkar-defended-the-draft-constitution-for-165-days-and-incorporated-more-than-2000-amendments.html> (Accessed on 12th February 2025).

2 Ibid.

highlighted that, as a general member of the Constituent Assembly, Dr. Ambedkar served as a conscience keeper³, guiding members on the fundamental principles of constitutionalism and nation-building. His entry into the Constituent Assembly was not without challenges; he was elected despite significant opposition from the Congress Party, largely due to the support of the Scheduled Caste Federation (which he founded in 1942) and the Muslim League. Consequently, he had to contest from Bengal (a general seat) to secure his position in the Assembly.⁴

Dr. Ambedkar made his first intervention⁵ in the Constituent Assembly on December 17, 1946, delivering a 3,310-word speech in which he critically examined the aims and objectives of the Constitution as laid out by Jawaharlal Nehru. He observed that, although Nehru had included certain rights for the people, he had not specified any remedies for their enforcement. Ambedkar was particularly concerned that the draft did not explicitly state that no individual could be deprived of life, liberty, or property without due process of law. Consequently, he underscored the significance of Article 32, which guarantees constitutional remedies, referring to it as the “heart and soul of the Constitution.”⁶

Additionally, Ambedkar played a crucial role in mediating between the leaders of the

Muslim League and the Congress during pivotal negotiations. He argued that in determining the nation’s future, the prestige of individual leaders and political parties should be secondary to the larger objective of national unity and stability.

When reflecting on India’s democratic framework today, it is imperative to recall Dr. Ambedkar’s historic speech in the Constituent Assembly on November 17, 1946. This address was not merely a component of the constitution-making process but also a profound vision for India’s unity, social harmony, and inclusivity values that remain relevant even today.

Dr. Ambedkar candidly acknowledged the deep divisions in Indian society based on caste, religion, and ideology. He recognized that the nation was fragmented into warring factions and admitted that he, too, was perceived as a leader of one such group. However, despite these divisions, he expressed an unwavering belief that no force in the world could ultimately prevent India from achieving unity, provided that time and circumstances became favourable.

He further noted that while the Muslim League was then actively advocating for partition, he believed that, in the long run, Muslims themselves would recognize that a united India would be more beneficial for their welfare. This perspective was not merely political but reflected a profound

3 Vivek Kumar, How B.R. Ambedkar acted as the Constituent Assembly’s conscience keeper, The Week, 26th January 2025. <https://www.theweek.in/theweek/cover/2025/01/25/ambedkar-defended-the-draft-constitution-for-165-days-and-incorporated-more-than-2000-amendments.html>

4 Ibid.

5 17th December 1946, CAD.

6 Ibid.

understanding of India's social fabric.⁷

Dr. Ambedkar asserted that the fundamental challenge was not about envisioning India's future but about how to navigate the complexities of the present and reconcile the nation's vast diversity into a common decision-making framework. The issue was not the "goal" but the "path" to achieving it. While the ultimate vision for the nation was clear, the real challenge lay in initiating the journey towards that vision.⁸

In this context, Dr. Ambedkar emphasized that political prudence required the majority to acknowledge the concerns of the minorities and make concerted efforts to bring them into the fold. He underscored that the stability of a nation does not rest solely on legal rights but on the active participation of all its communities. Thus, he advocated that the majority must be willing to offer certain concessions in its policies to encourage voluntary participation from those who had not yet joined the collective national endeavour.

Dr. Ambedkar's vision remains profoundly relevant today. If India is to emerge as a strong, inclusive, and democratic nation, it must recognize that merely discussing legal rights is insufficient. There is a pressing need to foster a socio-political environment where all communities, groups, and sections of society can come together and actively contribute to nation-building.

As custodians of India's democratic system today, it is incumbent upon us

to embrace Dr. Ambedkar's teachings. Our objective must transcend the mere administration of power; it must be centre on ensuring national unity and equality. This was the essence of his foresight, and it remains the foundational pillar of our Constitution.

The Temporal Framework of Constitution-Making and Its Justification:

The process of drafting the Indian Constitution was an intricate and multidimensional endeavour, which engendered several deliberations regarding its temporal framework within the Constituent Assembly. Addressing these critiques, Dr. B. R. Ambedkar, in his address to the Constituent Assembly on November 25, 1949, emphatically asserted that the duration allocated for the drafting of the Constitution was entirely justifiable and judicious. He repudiated these criticisms as unfounded and provided a cogent counterargument.

Dr. Ambedkar refuted the allegation that the Constituent Assembly had expended an inordinate amount of time and had engaged in the inefficient utilization of resources. He presented a comparative analysis of the constitution-making processes in other nations, thereby demonstrating that the duration devoted to the formulation of the Indian Constitution was relatively balanced and well-founded.

For instance, he cited that the Constitutional Convention of the United States commenced on May 25, 1787, and

7 17th December 1946, CAD.

8 Ibid.

concluded on September 17, 1787, thereby completing the process within merely four months. In Canada, the process was initiated on October 10, 1864, and persisted until March 1867, consuming a total of two years and five months. The drafting of the Australian Constitution commenced in March 1891 and was legally ratified on July 9, 1900, thereby spanning approximately nine years. Similarly, the constitutional development in South Africa commenced in October 1908 and culminated within a year on September 20, 1909.⁹

Dr. Ambedkar elucidated that although the Indian Constitution necessitated a longer duration than those of the United States and South Africa, its temporal scope was comparatively shorter than that of Canada and Australia. He also underscored the complexity and comprehensiveness of the Indian Constitution. For instance, the Indian Constitution encompassed 395 articles, whereas the U.S. Constitution contained merely seven articles. Likewise, the Canadian Constitution comprised 147 provisions, the Australian Constitution included 128, and the South African Constitution consisted of 159 provisions. This comparative study underscores the expansive, inclusive, and meticulously structured nature of the Indian Constitution, which warranted an extended drafting period.¹⁰

Additionally, Dr. Ambedkar highlighted

that the constitution-makers of other nations did not have to deliberate upon an extensive number of amendments, unlike the Indian Constituent Assembly. The Indian Constituent Assembly had to examine and deliberate upon 2,473 amendments¹¹, which underscores its comprehensiveness and complexity. In this context, he concluded that despite the extensive and intricate nature of constitution-making, the Indian Constituent Assembly successfully completed its task in a relatively short period, which is commendable rather than subject to criticism.

Dr. Ambedkar's speech makes it evident that the time expended in drafting the Indian Constitution was entirely justified. Given its complexity, extensive structure, and the sheer volume of amendments considered, the efficiency and dedication of the Constituent Assembly deserve recognition and appreciation. This accomplishment reflects the scholarship, diligence, and unwavering commitment of the assembly members to democratic values.

The Indian Constitution as a Social Reform Document

The Indian independence movement brought several contradictions for Dalits and other marginalized communities. In his final speech to the Constituent Assembly on November 25, 1949, Dr. Ambedkar famously stated, "In politics, we will have equality, but in social and economic life,

9 25th November 1949, CAD.

10 Ibid.

11 Ibid.

we will have inequality.”¹² He was referring to the deep-seated social and economic disparities perpetuated by the caste system.

Ambedkar’s relentless efforts ensured that the Constitution granted universal adult franchise, fundamental rights, the abolition of untouchability, and a quota-based system of affirmative action (reservations) for Dalits and Adivasis in education, employment, and legislatures. He strongly believed that “the right of representation and the right to hold office under the State are the two most important rights that make up citizenship”. His insistence on universal franchise and political representation was aimed at empowering the oppressed castes by providing them with the political education necessary to advocate for their own interests.¹³

Dr. Ambedkar as Chairman of the Drafting Committee

As Chairman of the Drafting Committee, Dr. Ambedkar played a pivotal role in formulating specific articles and sub-clauses, ensuring the protection of citizens’ rights while defining the structure of institutions. Historical records reveal that Edwina Mountbatten congratulated Ambedkar on his election as Chairman, citing the recommendation of Valara, an Irish freedom fighter and constitutional expert who had framed Ireland’s Constitution in 1937.¹⁴

The Drafting Committee initially had seven members, but T.T. Krishnamachari, a respected member of the Constituent Assembly, pointed out that six of them were unable to contribute significantly due to resignations, health issues, or other obligations. Consequently, Ambedkar bore the primary responsibility for drafting the Constitution.

During the process, Ambedkar reviewed 7,635 suggested amendments to the draft Constitution, of which he rejected 5,162 and incorporated 2,473.¹⁵ His technical expertise was evident in the meticulous refinement of provisions that balanced individual rights with institutional frameworks. He played a central role in defending the articles of the Constitution, sometimes standing up as many as 25 to 26 times a day to respond to motions, answer questions, or modify arguments.¹⁶ The Constitution was ultimately adopted after two years, eleven months, and seventeen days a testament to Ambedkar’s relentless dedication.

Dr. Ambedkar’s Last Speech in Constituent Assembly:

On January 26, 1950, India formally adopted its democratic system, which Dr. Ambedkar described as “a government of the people, by the people, and for the people.”¹⁷ However, he also expressed concerns about the sustainability of democracy in India. He warned that the country had previously

12 Ibid.

13 Madhav Khosla, *The Indian Constitution*, Oxford India Short Introductions, 2020, p. 10

14 Vivek Kumar, How B.R. Ambedkar acted as the Constituent Assembly’s conscience keeper, *The Week*, 26th January 2025

15 25th November 1949, CAD

16 Vivek Kumar, How B.R. Ambedkar acted as the Constituent Assembly’s conscience keeper, *The Week*, 26th January 2025.

17 25th November 1949, CAD.

lost its democratic traditions and cautioned that democracy could deteriorate into dictatorship if not diligently safeguarded. Citing the example of Buddhist Bhikshu Sanghas¹⁸, he emphasized that India had a historical precedent for democratic governance but warned that once lost, democracy would be difficult to reclaim.

In his concluding remarks before the Constituent Assembly on November 25, 1949, Ambedkar underscored that independence came with immense responsibilities. He stressed that India could no longer attribute its problems to colonial rule and that any failures would be the nation's own. He warned of emerging threats to democracy, particularly the tendency of people to favor governments that serve their immediate interests rather than uphold democratic principles. He urged vigilance in identifying and addressing social and political challenges that might lead citizens to prefer authoritarian rule over democratic participation. According to Ambedkar, this was the only way to preserve the Constitution and ensure the nation's long-term stability and progress.

On the same day, while addressing the Constituent Assembly, Dr. Ambedkar provided a detailed account of the drafting process, stating:

“The Drafting Committee was elected by the Constituent Assembly on August 29, 1947, and held its first meeting on August 30. The committee worked for a total of

141 days to prepare the draft Constitution. The initial draft contained 243 articles and 13 schedules. The first draft presented by the Drafting Committee consisted of 315 articles and 8 schedules. After deliberations, this number increased to 386. Ultimately, the final draft contained 395 articles and 8 schedules. A total of 7,635 amendments were submitted, of which 2,473 were formally moved in the Constituent Assembly.”¹⁹

These figures underscore that the Indian Constitution was not merely a legal document but a product of intense deliberation and extensive debate. It reflects the meticulous efforts of the Constituent Assembly in crafting a constitutional framework that was both comprehensive and inclusive.

Article 32: The “Heart and Soul” of the Constitution

Dr. Ambedkar called Article 32 the “heart and soul” of the Indian Constitution.²⁰ This provision grants citizens the right to approach the Supreme Court if their fundamental rights are violated. Article 32 is significant because it ensures access to justice irrespective of social or economic status, protects fundamental rights from legislative encroachment, reinforces the rule of law by holding the government accountable, and grants the Supreme Court the authority to issue writs (Habeas Corpus, Mandamus, Prohibition, Certiorari, and Quo Warranto) to enforce fundamental rights.

18 Ibid.

19 Ibid.

20 Vivek Kumar, How B.R. Ambedkar acted as the Constituent Assembly's conscience keeper, The Week, 26th January 2025.

The Constitution as a Living Document and Concerns about Democracy:

The core theme of our discussion today revolves around the fundamental structure of Indian democracy and the constitutional principles that shape the nation's future. The Constitution is not merely a compilation of legal provisions but a living document whose relevance and durability depend on its ability to evolve with changing social and political circumstances.

Dr. B.R. Ambedkar, in his historic speech before the Constituent Assembly on November 25, 1949, emphasized that the principles enshrined in the Constitution reflected the aspirations of that generation. To regard the Constitution as static and immutable would be tantamount to restricting the autonomy of future generations. His perspective aligns with that of American statesman Thomas Jefferson, who argued that each generation has the right to determine its social, economic, and political policies independently. No preceding generation has the authority to impose an unchangeable legal framework on the next. If a nation's institutions fail to fulfil their fundamental objectives, maintaining them in an unaltered state would be against public interest.

Building on this concept, Dr. Ambedkar asserted that the adaptability of the Constitution is not just desirable but essential. He stressed that the Constitution is not a rigid and unchangeable code but a dynamic framework that must be

periodically revised in response to the evolving needs of society.²¹

In the present context, as we seek to strengthen India's democratic system, it is crucial to recognize that the essence of the Constitution lies not merely in its legal provisions but in its foundational values equality, liberty, justice, and fraternity. Thus, it is our duty not only to uphold the Constitution but also to continually empower and maintain its relevance.

Inspired by Dr. Ambedkar's vision, we must ensure that the Constitution is regarded as a sacred yet flexible and progressive document. Its true strength lies in its ability to grant every citizen freedom and rights while also entrusting them with the responsibility to protect and promote constitutional values.

Conclusion

Dr. Bhimrao Ambedkar's role in drafting the Indian Constitution was monumental. On November 26, 1949, he handed over a Constitution with 395 articles and 8 schedules to the first President of India, marking a defining moment in the nation's history. Given his unparalleled contributions, it is fitting to regard him as the principal architect of the Indian Constitution. His extensive speeches, meticulous drafting work, and tireless advocacy for social justice ensured that the Constitution became a transformative document aimed at fostering equality, liberty, and fraternity in Indian society.

21 25th November 1949.

B. N. Rau's Role in Constitution Making in India

✍ Bhanu Kumar

The Indian Constitution is the elixir born from the churning of the freedom struggle. This monumental process directly involved 284 members¹ who signed the final Constitution and, indirectly, the entire Nation. Since the process of drafting the Constitution began before independence, it becomes essential to understand its making and the key figures behind it. Among them, the foremost name is that of Sir Benegal Narsing Rau. He was the first Indian to be officially associated with the constitution-making process, having been appointed as the Constitutional Adviser to the Constituent Assembly—a role he earned through his vast experience and profound knowledge.

Despite his crucial contributions from the inception to the finalization of the Constitution, Rau's role has largely remained academically obscure and often overlooked in scholarly discussions. However, as I delved into the available literature on his contributions, I discovered that, in recent years, the academic community and media

have made efforts to do justice to his work.

Several key publications provide valuable insights into Rau's role in shaping the Indian Constitution. The most widely discussed among them is *The Framing Of India's Constitution Select Documents*² & *India's Constitution in the Making*³, edited by his brother, B Shiva Rao. Another significant work is *Norms and Politics: Sir Benegal Narsing Rau in the Making of the Indian Constitution, 1935–50*⁴, authored by Arvind Elangovan. Additionally, Chapter 49 of Ram Bahadur Rai's book *Samvidhan: Ankahī Kahānī*⁵ is titled *Samvidhan ke Pradhan Nirmata: Benegal Narsing Rau*, highlighting his pivotal role. Furthermore, Rohan J. Alva's *Liberty After Freedom*⁶ dedicates its second chapter, *Due Process: The Middle Path Solution of B. N. Rau*, to his contributions. Apart from these, newspaper articles and journal publications occasionally acknowledge his contributions.

The objective of this article is to examine Rau's role in the making of the Constitution, particularly focusing on

1 <https://static.pib.gov.in/WriteReadData/specificdocs/documents/2024/nov/doc20241125450301.pdf> (Accessed on 12th February 2025).

2 First Published in 1966.

3 First Published in 1960

4 First Published in 2019.

5 First Published in 2022.

6 First Published in 2022.

the intricate technical and administrative aspects that shaped the Constituent Assembly and the political dynamics surrounding it. It also seeks to analyse the interactions and negotiations between the British government, the Muslim League, the Congress, and other stakeholders. Lastly, this study aims to explore those aspects of the constitution-making process that have remained absent from mainstream discourse, questioning the reasons behind such omissions.

Evolution of the Constituent Assembly: A Systematic Analysis

Following the Cabinet Mission's announcement on May 16, 1946⁷, preparatory measures were undertaken to establish secretariats responsible for drafting constitutional frameworks at the provincial, group, and union levels.⁸ The Governor-General's Secretary (Reforms), V. P. Menon, initiated this process, entrusting B. N. Rau with the organizational design of the Secretariat. Consequently, on June 5, 1946, Rau formulated a structural framework outlining the organization of the Constituent Assembly.⁹

Rau's proposal recommended the appointment of a Secretary for each of the three Sections (A, B, and C) alongside a separate Secretary for Indian States.¹⁰ Each Sectional Secretary was to be supported by Provincial Secretaries for

individual Governor's Provinces, reflecting their integral role in drafting group and provincial constitutions. The necessity of recruiting officials with technical expertise, particularly in light of administrative complexities such as those in Assam, was underscored.

The functional structure envisioned that the Sectional Secretariats and the Indian States Secretariat would operate under the supervision of a Constitutional Adviser. This adviser was responsible for coordinating activities, ensuring impartiality, and providing expert guidance. The Secretariat was modelled on the Legislative Assembly Secretariat and was tasked with managing correspondence, seating arrangements, travel logistics, and other essential administrative functions. Additionally, the Constitutional Adviser was designated to report directly to the Viceroy.¹¹

B. N. Rau was approached to serve as the Constitutional Adviser and expressed his willingness to do so in an honorary capacity, contingent upon safeguarding his impartiality and ensuring that bureaucratic inefficiencies would not delay the drafting process. His acceptance of this role was followed by correspondence with G. E. B. Abell on June 8, 1946¹², wherein Abell acknowledged Rau's willingness to serve and emphasized the necessity of a robust drafting team to address financial, strategic,

7 B. Shiva Rao, *The Framing Of India's Constitution Select Documents Vol.I, 1960*, p. 360.

8 *Ibid.*

9 *Ibid.*

10 *Ibid.*

11 *Ibid.*, p.361.

12 *Ibid.*, p.362.

and legal complexities. He further advocated for the establishment of an independent administrative office for the Constituent Assembly, rather than relying on the Legislative Assembly Secretariat, to ensure administrative efficiency and autonomy.

A document dated July 24, 1946, prepared by the Reforms Office under V. P. Menon, further refined the proposal for appointing a Constitutional Adviser.¹³ This role was envisioned to be twofold: first, to provide guidance to various constituent assemblies—whether at the group, provincial, or union level—with the support of draftsmen; and second, to maintain liaison with Indian States through an assigned officer. This framework was designed to ensure a coherent and legally sound approach to constitutional drafting.

Further deliberations on the appointment of the Constitutional Adviser were reflected in an exchange between B. N. Rau and Rajendra Prasad in December 1946. In his letter dated December 7, 1946¹⁴, Rau asserted that the Constitutional Adviser must remain an impartial entity accessible to all members of the Assembly, irrespective of political affiliations. He advocated for the Adviser's appointment by the Assembly itself to maintain institutional coherence and operational independence. Rajendra Prasad, in his response dated December 8, 1946, acknowledged Rau's concerns and assured him that the matter would be

addressed in due course.

Meanwhile, Jawaharlal Nehru's correspondence with B. N. Rau in 1946 highlights key procedural aspects concerning the convening of the Constituent Assembly. Nehru underscored that the Assembly would establish its own procedural rules and proposed extending the session beyond the initially suggested nine-day period. He also addressed logistical considerations, such as the admission of the press and public, medical facilities, and the selection of Dr. Sachchidananda Sinha as the provisional chairman.¹⁵ Additionally, Nehru proposed compiling Rau's pamphlets into a reference book exclusively for Assembly members while emphasizing the need for a research and reference section within the Assembly.

The summoning of the Constituent Assembly, particularly regarding the issuance of invitations to its members, was a subject of negotiation between the Viceroy, Lord Wavell, and Pandit Nehru. Correspondence between B. N. Rau and G. E. B. Abell from September to November 1946 reveals deliberations on the format and authority of the invitation. Following Nehru's approval, December 9, 1946¹⁶, was finalized as the date for the first Assembly meeting. Abell's letter on November 20, 1946¹⁷, confirmed the Viceroy's approval of the proposed format for issuing invitations, thereby formalizing the process.

A critical challenge emerged with the

13 Ibid., p.367.

14 Ibid., p.371.

15 Ibid., p.376.

16 Ibid., p.385.

17 Ibid., p.388.

Muslim League's decision to boycott the Constituent Assembly, raising concerns over the legitimacy of its proceedings. B. N. Rau, in his communication with Nehru in November 1946, analysed the implications of this absence. He noted that the Cabinet Mission Plan did not stipulate a quorum for Assembly meetings but cautioned against proceeding with only a small representation, as this could undermine legitimacy. Drawing upon legal principles from Halsbury's Laws of England, he argued that if Sections B and C were significantly weakened due to the boycott, the constitutional drafting process could face indefinite delays. Rau also speculated on the possibility of a legal challenge to the Assembly's legitimacy in London, though he remained uncertain about its likelihood.

Despite these concerns, the Constituent Assembly formally convened on December 9, 1946, marking a pivotal moment in India's constitutional history. The meticulous planning, administrative structuring, and legal deliberations undertaken in the preceding months were instrumental in ensuring the Assembly's operational effectiveness, despite the challenges posed by political boycotts and procedural uncertainties.

Commendation of B. N. Rau's Contributions to Constitutional Drafting:

Dr. Rajendra Prasad, in the foreword of *India's Constitution in the Making* by B.

Shiva Rao, remarked, "If Dr. B. R. Ambedkar was the skilful pilot of the Constitution through all its different stages, Sri B. N. Rau was the person who visualized the plan and laid its foundation."¹⁸ Further emphasizing Rau's contributions, he also stated, "When the history of the Indian Constitution comes to be written, Sri B. N. Rau will occupy in it a significant place."¹⁹ Among the many stalwarts who played their part in the Constituent Assembly in the fulfilment of an extremely difficult undertaking, he distinguished himself by his erudition and detachment and his quietly persistent efforts."²⁰ This assertion underscores the pivotal role played by B. N. Rau in the constitutional drafting process.

Similarly, in his final address to the Constituent Assembly on November 25, 1949, Dr. B. R. Ambedkar acknowledged Rau's contributions, stating, "The credit that is given to me does not really belong to me. It belongs partly to Sir B. N. Rau, the Constitutional Adviser to the Constituent Assembly, who prepared a rough draft of the Constitution for the consideration of the Drafting Committee."²¹

Further, on November 26, 1949, in his thanksgiving speech in the Constituent Assembly, Dr. Rajendra Prasad once again highlighted Rau's instrumental role, stating, "I have only to add that they all worked in a business-like manner and produced reports which were considered by the Assembly and

18 B. Shiva Rao, *The Framing Of India's Constitution Select Documents Vol.I, 1960,p.VI.*

19 *Ibid.*, p. VII.

20 *Ibid.*

21 25th November, 1949, Dr. B. R. Ambedkar, CAD.

their recommendations were adopted as the basis on which the draft of the Constitution had to be prepared. This was done by Mr. B. N. Rau, who brought to bear on his task a detailed knowledge of Constitutions of other countries and an extensive knowledge of the conditions of this country as well as his own administrative experience. The Assembly then appointed the Drafting Committee which worked on the original draft prepared by Mr. B. N. Rau and produced the Draft Constitution which was considered by the Assembly at great length at the second reading stage.”²²

Additionally, he expressed his deep gratitude towards Rau, stating, “I must convey, if you will permit me, my own thanks as well as the thanks of the House to our Constitutional Adviser, Shri B. N. Rau, who worked honorarily all the time that he was here, assisting the Assembly not only with his knowledge and erudition but also enabled the other Members to perform their duties with thoroughness and intelligence by supplying them with the material on which they could work.”²³

These statements collectively highlight that B. N. Rau was a foundational figure in the making of the Indian Constitution. His involvement was not merely peripheral but central to the drafting process, wherein he provided essential technical expertise and solutions. Despite working behind the scenes, his contributions were instrumental in shaping the constitutional framework. This study endeavours to examine and

elucidate his role in the making of the Indian Constitution.

Rau’s Initial Contributions to the Assembly:

Rau’s contributions extended to procedural dimensions of constitution-making. He was committed to ensuring procedural equality among provinces, irrespective of their demographic or territorial disparities. Drawing on constitutional precedents from the United States, Canada, and Australia, Rau advocated for equal representation of provinces in decision-making. He cited the Philadelphia Convention of 1787, where each state, irrespective of size, was accorded an equal vote, and the Canadian model, which granted equal voting rights to provinces despite demographic variations. These precedents significantly influenced the decision to grant British Indian provinces and princely states equal representation in the Assembly.

Rau also influenced the selection process for the Chairman of the Constituent Assembly. He referenced historical precedents from the United States and Australia, where elder statesmen were chosen to preside over constitution-making bodies. This principle guided the unanimous selection of Dr. Rajendra Prasad and Lord Sachchidanand Sinha as Chairman and interim Chairman, respectively.

Beyond procedural fairness, Rau endeavoured to prevent Partition by

22 26th November, 1949, Dr. Rajendra Prasad, CAD.

23 Ibid.

advocating for a flexible approach to federalism. He examined historical instances where provinces initially opted out of federations but later re-joined, such as Queensland's initial reluctance before joining the Australian Federation. Rau suggested that a similar approach could be employed to persuade the Muslim League to reconsider its stance on Partition.

Rau's constitutional philosophy was marked by a commitment to compromise and negotiation, seeking a balanced approach between federalism and provincial autonomy. While his emphasis on directive principles over fundamental rights was not entirely realized in the final constitutional framework, his influence shaped critical aspects of India's governance structure.

Panchayat as Electoral Colleges

During the drafting of India's Constitution, a proposal emerged advocating for village panchayats to serve as the foundation for elections.²⁴ This idea was not novel, having been previously endorsed in the 1924 Commonwealth of India Bill, which recommended adult suffrage at the panchayat level and an indirect electoral system for the Central and provincial legislatures. Dr. Rajendra Prasad, President of the Constituent Assembly, sought the opinion of Constitutional Adviser B. N. Rau on the feasibility of incorporating this model into the Constitution.²⁵

Rau highlighted several challenges in

implementing such a system. He noted that the Constituent Assembly had already decided on direct elections for the Lower House at both Central and provincial levels, aligning with global trends favouring direct representation. To adopt an indirect electoral model via panchayats, these decisions would need to be reversed, which Rau deemed impractical.²⁶ As a compromise, he suggested amending the Constitution to permit either direct or indirect elections, allowing legislatures to determine the mode of election.

Additionally, Rau emphasized the complexities of operationalizing the panchayat-based electoral model, given India's diverse administrative structures across provinces and states. Rather than embedding detailed provisions within the Constitution, he recommended relegating these aspects to auxiliary legislation. He also acknowledged the difficulty of defining qualifications for legislators beyond basic educational criteria, as attributes like social service and moral character are inherently subjective.

Rau further questioned the viability of extending constitutional provisions to the village level, arguing that such an approach would unnecessarily lengthen and rigidify the Constitution. While he acknowledged the potential role of panchayats in electoral processes, he deemed it impracticable to constitutionally assign them legislative, administrative, or judicial functions,

24 B. Shiva Rao, *The Framing Of India's Constitution Select Documents Vol.I, 1960,p.321.*

25 *Ibid.*

26 *Ibid.*

advocating instead for their development through subsequent legislation.²⁷

Oaths under the Dominion Constitution

At the request of Prime Minister Jawaharlal Nehru, B. N. Rau examined the issue of the oath to be taken under the Dominion Constitution. His analysis revealed that members of the Constituent Assembly were not required to take an oath under the existing Assembly rules or the adapted Government of India Act of 1935, as section 24, prescribing an oath for Central legislature members had been omitted. However, the Constituent Assembly retained the authority to introduce an oath at its discretion.

Regarding Dominion ministers, Rau noted that the draft adaptations to the 1935 Act did not mandate an oath.²⁸ However, in some Dominions, royal instructions directed the Governor-General to administer an oath of allegiance to ministers. For instance, in South Africa (1937), the Governor-General was authorized to administer an oath of fidelity and office.²⁹ Rau suggested that similar instructions might be under consideration for India's Governor-General and recommended discussing the form of the oath with Cabinet members in advance.

To accommodate differing views, Rau proposed adapting the Irish Free State's

1922 oath³⁰, which balanced allegiance to the Constitution with fidelity to the British Crown. Such an adaptation would align India's Dominion status with constitutional precedents while addressing concerns within the leadership.

B.N. Rau's First Constitutional Draft's Vision:

In January 1946, Rau drafted a new constitution to convince the Congress and the League to come together and join a federation. This document is very interesting for a number of reasons, though its place of production is not entirely clear.³¹ However, Rau failed to convince the stakeholders. When he later joined as a constitutional advisor during the drafting of the Indian Constitution, he played a crucial role in shaping its foundational principles. His 1947 draft reflected an idealistic vision that emphasized fundamental rights, directive principles, and a well-balanced separation of powers. Although his recommendations were not fully incorporated into the final Constitution, they provide significant insights into the debates that shaped India's governance structure.

Rau's version of the Preamble differed from the final text as it omitted the phrase "We, the People." Instead, he emphasized governance through elected representatives and promoted the idea of the "common good," prioritizing economic development

27 Ibid, p.333.

28 Ibid, p.329.

28 Ibid.

29 Ibid., p.330.

30 Arvind Elangovan, Norms and Politics: Sir Benegal Narsing Rau in the Making of the Indian Constitution, 1935–50, 2019,OUP, p.142.

over immediate political concerns.³¹ His approach to citizenship was notably inclusive, allowing individuals with ancestral ties to India to claim nationality, focusing on residence rather than religious or ethnic identity. He also recognized maternal lineage in citizenship determination, a progressive stance for that time. The only exclusion from his broad eligibility criteria was for individuals who owed allegiance to a foreign power.³²

In terms of executive authority, Rau proposed a strong President with discretionary powers to act as a check on the legislature, particularly in matters of judicial appointments.³³ He suggested limiting the President to a single re-election and proposed a unique system for presidential succession, where a commission consisting of the Chief Justice, the Speaker of the Lower House, and the Chairman of the Upper House would take charge instead of a Vice President.³⁴ Additionally, he recommended a non-partisan advisory council comprising former Presidents, Prime Ministers, Chief Justices, and other eminent figures to aid the President in governance.³⁵

Rau's vision for the judiciary balanced independence with legislative oversight. He proposed appointing ad hoc judges to address case backlogs and structured the federal system based on the 1935 Government of India Act, ensuring a

balance between central authority and provincial autonomy. His framework allowed states to request central intervention in legislative matters when necessary. He also uniquely embedded India's global obligations within the Constitution, emphasizing international peace and treaty commitments. Furthermore, he sought constitutional guarantees to protect the rights of princely states. Rau's draft reflected a pragmatic yet idealistic vision, aiming to establish a governance structure that ensured stability, inclusivity, and long-term national development.

Comment on Draft Prepared by B.R. Ambedkar:

The draft of India's new Constitution was made public on February 26, 1948. Considering its extensive framework, comprising 395 articles and eight schedules, this number appears justified in light of the nation's broad and complex socio-political challenges. The Constituent Assembly was scheduled to review the proposed amendments in October. Meanwhile, several overarching criticisms of the draft merited discussion. In response, B. N. Rau authored an article in *The Hindu* on August 15, 1948, to address these concerns and elucidate the issues associated with the draft.³⁶

Rau systematically engaged with the critiques put forth by various commentators. He presented his arguments concisely

31 Ibid., p.183.

32 Ibid., pp.184-185.

33 Ibid., p. 185.

34 B. N. Rau, *India's Constitution in the Making*, 68.

35 Ibid., p.187.

36 P.360.

and in an academically rigorous manner, explaining the necessity of the Constitution's comprehensive structure for India. One of the primary criticisms levelled against the draft was that it heavily borrowed from other constitutions, particularly the Government of India Act, 1935. Addressing this concern, Rau asserted:

*"But so long as the borrowings have been adapted to India's peculiar circumstances, they cannot in themselves be said to constitute a defect. Most modern constitutions do make full use of the experience of other countries, borrow whatever is good from them, and reject whatever is unsuitable. To profit from the experience of other countries or from the past experience of one's own is the path of wisdom."*³⁷

This response underscores Rau's conviction that drafting an effective Constitution necessitated drawing insights from global experiences.³⁸ He firmly believed that external references were indispensable to creating a robust constitutional framework for India. Beyond this, three additional criticisms emerged, primarily from legal scholars. The first pertained to the perceived neglect of India's indigenous village governance system, the second concerned the rigidity of the constitutional amendment process, and the third focused on the Directive Principles of State Policy (DPSP).³⁹ Rau addressed these critiques in detail, particularly

justifying the considerations behind the amendment provisions. While some readers may initially contest his perspective on village governance, a contextual reading of his arguments offers a more nuanced understanding.

Of particular significance is the concluding section of Rau's article, where he discussed the amendment process. Drawing a comparative perspective from the Irish Constitution of 1937, he noted:

*"The Irish Constitution, as enacted in 1937, contained a provision empowering Parliament to amend it by the ordinary law-making process during the first three years (subject to a referendum, if the President, after consulting the Council of State—a kind of Privy Council—so directed). Certain Irish authorities whom I consulted on this matter in December last strongly advised that we should have a similar provision in our constitution for at least the first five years. Apart from the logical justification for such a provision, we have to bear in mind that conditions in India are rapidly changing; the country is in a state of flux politically and economically; and the constitution should not be too rigid in its initial years."*⁴⁰

Rau's argument highlights the necessity of a flexible amendment process during the formative years of the Indian Constitution, considering the rapidly evolving political and economic landscape of the country.

37 P.361.

38 Pp., 362-366.

39 Pp, 360-366.

40 P, 366.

His reasoning was rooted in both logical pragmatism and comparative constitutional analysis, reinforcing the view that a dynamic legal framework was imperative for India's governance in the post-independence period.

Commonwealth:

The publication of the first draft of the Constitution by Drafting Committee ignited national debates on key issues. The Constituent Assembly session date underwent several revisions before being finalized for July 1948. Amid these developments, Dr. Rajendra Prasad sent an important letter to B.N. Rau addressing constitutional concerns, including India's relationship with the Commonwealth.⁴¹ Many saw continued membership as an extension of colonial influence, raising concerns over sovereignty.

Beyond the Commonwealth issue, the letter delved into the broader constitutional draft. Recognizing the significance of these deliberations, B.N. Rau sought a private discussion with Rajendra Prasad, proposing Shimla as the meeting location.⁴² However, no concrete evidence confirms whether the meeting occurred. While their direct exchange remains unclear, the correspondence underscores Rau's dedication to resolving constitutional ambiguities. His analysis of the Commonwealth question demonstrated strategic foresight. Though often seen as a bureaucrat, his intellectual depth was

invaluable to the constitution-making process.

Rajendra Prasad's letter also subtly addressed India's Commonwealth engagement's broader implications. B.N. Rau's views on the matter later shaped Constituent Assembly debates, where even Nehru acknowledged their merit.

In his writings, B.N. Rau reflected on British administration's impact on his thinking while remaining critical of its lingering influence. Having closely observed colonial governance, he recognized the need to balance continuity with reform. While some British-established institutions persisted post-independence, Rau emphasized their redefinition to serve Indian interests. He questioned their benefits and potential compromises in their retention.

Rau was particularly critical of the Westminster model, citing its inconsistencies. Though acknowledged, his concerns were often side-lined in public debates. A staunch advocate for judicial independence, he argued that political interference undermined governance integrity. His recommendations ensured that India's constitutional framework prioritized an independent judiciary.

Beyond legal and structural matters, Rau influenced India's foreign policy stance on the Commonwealth. He viewed continued membership not as colonial subjugation but as a strategic tool for

41 Ram Bahadur Rai, *Samvidhan ki Ankahi Kahani*, 2022, Prabhat Prakashan, p.414.

42 *Ibid.*, p. 415.

diplomatic and geopolitical advantage.⁴³ His arguments reflected a deep understanding of international relations, advocating for a pragmatic approach that preserved sovereignty while leveraging benefits from the association.

The Commonwealth debate highlighted India's strategic considerations regarding its membership. While some perceived it as a vestige of colonialism, others recognized its potential for diplomatic engagement. Historically, the Commonwealth had facilitated political cooperation, particularly during World War II. As global power dynamics shifted, Indian policymakers, including Rau, carefully assessed the benefits of continued association, ensuring that India's interests remained central to the discourse.

Jawaharlal Nehru adeptly balanced historical experiences with contemporary geopolitical imperatives in shaping India's engagement with the Commonwealth. His approach was informed by diplomatic and legal insights, particularly those provided by B.N. Rau. As Foreign Secretary, Shankar Bajpai played a crucial role in implementing these policies, while Rau, who later represented India at the United Nations, made significant contributions to discussions concerning India's constitutional framework and its membership in the Commonwealth.

Rau's legal expertise was instrumental in formulating India's official stance,

culminating in a pivotal memorandum drafted by Nehru. In this document, Nehru conveyed message to Lord Chancellor Towit and Stafford Cripps⁴⁴, articulating the legal and political complexities surrounding India's continued association with the Commonwealth in early 1949. In the memorandum, Nehru underscored India's sovereign interests, stating: "*Britain must respect India's sentiments. It should not appear that India is compromising its independence on the issue of Commonwealth membership.*"

According to Ram Bahadur Rai, Britain had been anticipating this formal communication from Nehru. Upon its receipt, the British government granted India an unprecedented exemption concerning Commonwealth membership. Consequently, India secured its position within the Commonwealth under unique terms, marking a significant departure from conventional membership requirements.

The government formalized its stance in a statement issued on April 27, 1949, at the conclusion of the Commonwealth Prime Ministers' Conference.⁴⁵ This declaration affirmed India's decision to remain within the Commonwealth while asserting its sovereign status. It marked India's transition from a colony to an independent nation engaging with global institutions on its own terms. The official position underscored India's commitment to self-determination, ensuring that Commonwealth membership

43 B. N. Rau, Pp., 334-359.

44 Ram Bahadur Rai, Samvidhan ki Ankahi Kahani, 2022, Prabhat Prakashan, p.417

45 16th May 1949, CAD.

was based on mutual interests rather than colonial subjugation.⁴⁶

Conclusion:

It is essential to study and comprehend the contributions of B. N. Rau, as his insights remain fundamental to constitutional discourse. As a staunch constitutionalist, he asserted that “a Constitution is only a means to an end. When, by working together as a team, the various parties realize that the ends are common, there will be little difficulty in agreeing upon the means.”⁴⁷ This statement underscores the significance of the Constitution as an instrument for achieving collective goals through consensus and cooperation.

The drafting of the Indian Constitution was an intricate process, shaped by numerous political, social, and legal challenges. Amidst these complexities, B. N. Rau played a pivotal yet often understated role in laying the groundwork for constitutional deliberations. His contributions, particularly in structuring the initial draft and integrating comparative constitutional insights, significantly influenced the final document.

Rau’s approach to constitution-making was characterized by pragmatism, emphasizing directive principles and state policy as mechanisms for socio-economic transformation over rigid legalism. His advocacy for a strong executive, structured federalism, and balanced group representation reflected his belief in a governance model attuned to India’s diverse needs. While some of his proposals were modified or rejected in the final draft, they provided a crucial foundation for later constitutional developments and judicial interpretations. Arvind Elangovan categorizes B. N. Rau as an idealist and a staunch constitutionalist⁴⁸, underscoring his deep commitment to institutional integrity and constitutional democracy.

In the end, the Indian Constitution emerged as a synthesis of idealism and pragmatism. While visionaries like B. R. Ambedkar and S. Radhakrishnan articulated broader philosophical aspirations, Rau ensured procedural coherence and institutional stability. His contributions, though less celebrated, remain embedded in the constitutional framework, reinforcing its adaptability in the face of evolving socio-political challenges.

46 Ibid.

47 Arvind Elangovan, Norms and Politics: Sir Benegal Narsing Rau in the Making of the Indian Constitution, 1935–50, 2019, OUP, p. 123.

48 <https://www.hindustantimes.com/india-news/bn-rau-an-idealist-and-a-staunch-constitutionalist/story-IG9tBvsvmm2TTfTs5L9l0N.html> (Accessed on 23rd February 2025).

संविधान सभा की विस्मृत महिलाएँ

✍ खुशी

वर्तमान समय में यह व्यापक रूप से स्वीकार किया जा रहा है कि विधायी निकायों में संतुलित लैंगिक प्रतिनिधित्व सामाजिक और आर्थिक समस्याओं से प्रभावी रूप से निपटने में मदद कर सकता है।¹ इस पर किसी को असहमति नहीं हो सकता है। स्वतंत्रता संग्राम के दौरान महात्मा गांधी ने पहली बार महिलाओं को सार्वजनिक जीवन में समान भागीदारी का अवसर दिया। 1930 के दशक में उन्होंने कहा था कि यदि भारत की भावी विधायिका में पर्याप्त महिला सदस्य नहीं होंगी, तो वे उसका बहिष्कार करेंगे।² इन्हीं कारणों का परिणाम रहा कि, आगे चलकर महिलाओं ने राजनीति और सार्वजनिक जीवन में एक सशक्त नेतृत्व प्रस्तुत किया। संविधान निर्माण में भी भूमिका इसका स्पष्ट उदाहरण है। इस सभा में पंद्रह महिलाओं ने सक्रिय रूप से भाग लिया। और संविधान निर्माण में महत्वपूर्ण योगदान दिया। वे देश की आधी आबादी का प्रतिनिधित्व कर रही थीं, और उनके प्रभावी हस्तक्षेप ने संविधान में महिलाओं की स्थिति को न सिर्फ मजबूत किया बल्कि संविधान को अधिक समावेशी और न्यायसंगत बनाया।

आज, जब राजनीति में लैंगिक असमानता को सुधारने की नई जागरूकता और प्रयास देखे जा रहे हैं, तो संविधान सभा की इन महिलाओं के योगदान का पुनरावलोकन इस बहस को एक ऐतिहासिक दृष्टि प्रदान करता है। हालांकि संविधान सभा पर पर्याप्त साहित्य उपलब्ध है, लेकिन महिला सदस्यों की भूमिका पर अपेक्षाकृत कम ध्यान दिया गया है।

संविधान सभा में महिलाओं ने अपने पुरुष साथियों के साथ सभी सामाजिक मुद्दों पर विशेष ध्यान दिया,

जिनमें जबरन श्रम, मानव तस्करी, देवदासी प्रथा का उन्मूलन, शैक्षणिक संस्थानों में धार्मिक शिक्षा पर नियंत्रण, अल्पसंख्यकों के अधिकार, बच्चों के शोषण से सुरक्षा और शैक्षिक योजनाओं जैसे विषय शामिल थे। उन्होंने मौलिक अधिकारों और राज्य के नीति-निदेशक तत्वों पर भी प्रभावी चर्चा की।

महिला सदस्यों ने राज्य और कानून में विश्वास व्यक्त किया, जिसे वे स्वयं बना रही थीं, ताकि समाज के हर वर्ग को समान अधिकार और अवसर मिल सके। यह भी महत्वपूर्ण है कि इनमें से किसी भी महिला ने आरक्षण या लिंग एवं धर्म के आधार पर पृथक निर्वाचक मंडल जैसी व्यवस्थाओं का समर्थन नहीं किया।

इन महिलाओं की भूमिका अत्यंत महत्वपूर्ण थी। इसलिए, इस लेख को बिना किसी उपशीर्षक के प्रस्तुत किया गया है, और चूंकि यह पूरा लेख उनके योगदान पर केंद्रित है, इसमें अलग से निष्कर्ष भी नहीं जोड़ा गया है। भारतीय संविधान का निर्माण अपने आप में बहुत विशेष है क्योंकि इसमें सभी सदस्यों के द्वारा समस्त भारत जिसमें महिलाएं भी शामिल थी, का प्रतिनिधित्व किया गया, परंतु हम केवल संविधान निर्माण के रूप में 'संस्थापक पुरुषों'³ के योगदान को ही जानते हैं। ऐसे शायद इसलिए है कि जिन 15 महिलाओं ने अपने संपूर्ण जीवन को महिला अधिकारों की लड़ाई तथा समाज को सुधारने में समर्पित कर दिया। वह इस संस्थापक पिताओं की छांव में कहीं लापता हो गई है, जिन्हें हमें खोजना और उनके योगदान को जानना उतना ही आवश्यक है जितना के संस्थापक पिताओं के योगदान को जानना है। इस

1 Selected speeches of women members of the Constituent Assembly, Rajya Sabha Secretariat, New Delhi, 2012, p. v.

2 Ibid.

3 <https://indianexpress.com/article/research/the-women-who-wrote-the-constitution-of-india-9198311/> (Accessed on 23rd February 2025).

15 महिलाओं ने ना केवल भारतीय बल्कि समस्त विश्व कि महिला को समानता का दर्जा दिलाया। वे संविधान सभा का पहला दिन था, 9 दिसंबर 1946 सभा में 10 महिलाएं शामिल थीं धीरे-धीरे 15 महिलाओं ने संविधान सभा में हिस्सा लिया। 2 साल 11 महीने तक चली संविधान सभा में इन महिलाओं ने अपना अद्भुतपूर्व योगदान दिया। बहस में खुलकर अपने विचार रखे और नीति निर्माण में बढ़ चढ़कर अपनी हिस्सेदारी दर्ज कराई।

19 दिसंबर 1948 को एनी मास्केन 15वीं सदस्य बनीं। इन सदस्यों ने मौलिक अधिकार, अल्पसंख्यक समस्या, मजदूरों की समस्या सहित हिंदी राष्ट्रभाषा जैसे विषयों पर अपनी बात रखी। 14 अगस्त 1947 की रात संविधान सभा में वंदे मातरम् और राष्ट्र गान गाने वाली महिला स्वयं सुचेता कृपलानी थीं। परंतु मुख्य बात यह है कि भारतीय संविधान लागू होने के 75 वर्ष बाद भी यह महिलाएं इनके संघर्ष और योगदान आज भी अदृश्य ही हैं।

स्वर की कोकिला 'सरोजिनी नायडू' ने अपने व्यक्तित्व को अपने जोश और उमंग भरी कविताओं के माध्यम से प्रस्तुत किया। वह केवल एक कवयित्री नहीं थी, बल्कि एक नारीवादी, स्वतंत्रता सेनानी, मताधिकार और राजनेता भी रही। मद्रास यूनिवर्सिटी तथा लंदन के कैम्ब्रिज विश्वविद्यालय से शिक्षा पूरी करने के बाद उन्होंने अपना संपूर्ण जीवन समाज सुधारकों के रूप में समर्पित कर दिया। भारतीय राष्ट्रीय कांग्रेस की अध्यक्षता तथा भारत की राज्यपाल बनने वाली पहली महिला नायडू ने महिला अधिकारों के लिए खूब संघर्ष करा⁴ जिसके कारण उनके जन्म दिवस 13 फरवरी को 'महिला दिवस' के रूप में मनाया जाता है। उन्होंने संविधान सभा में राष्ट्रीय ध्वज अपनाने के महत्व के बारे में कहा कि "हमें अपना स्वतंत्र भारत का झंडा मिला है, पुरुष और महिला, बूढ़े और जवान, राजकुमार और किसान, हिंदू और मुस्लिम, सिख,

जैन, ईसाई, पारसी सभी ने इस झंडे के नीचे लड़ाई लड़ी है।"⁵ यह केवल नायडू की ही बात नहीं है अन्य महिलाओं जैसे 'राजकुमारी अमृत कौर' जिन्होंने अपना जीवन केवल देश की स्वतंत्रता और महिलाओं के अधिकारों की लड़ाई में समर्पित कर दिया।

कौर महिला अधिकारों के कट्टर समर्थक थीं। उन्होंने भेदभावपूर्ण प्रथाओं को खत्म करने का प्रण लिया। जिसे उन्होंने अपने प्रबल विचारों व संघर्षों से लड़कर हासिल भी किया। संविधान सभा में कौर मौलिक अधिकार उप समिति और अल्पसंख्यक समिति की सदस्य रही। उन्होंने सार्वभौमिक मताधिकार तथा समान नागरिक संहिता की वकालत कर अल्पसंख्यकों तथा महिलाओं को अपने अधिकारों से परिचित करवाया।⁶ 1947 में कौर स्वतंत्र भारत की पहली महिला स्वास्थ्य मंत्री रही जिन्होंने 1956 में अखिल भारतीय आयुर्विज्ञान संस्था (एम्स) की स्थापना कर 'डॉक्टर ऑफ लॉ' की मादक उपाधि से सम्मानित भी हुईं।⁷ इसी तरह संविधान सभा की सबसे युवा सदस्य 'दाक्षायानी वेलायुधन' दलित होने के कारण उनके परिवार को कई भेदभावपूर्ण अपमानों को सहना पड़ा। तभी दाक्षायानी ने तय किया कि वह समाज की सोच को बदलेगी तथा अन्य किसी दलित के साथ अन्याय नहीं होने देगी। आंखों के इस सपने को उन्होंने सकार किया और भारतीय संविधान सभा की एकमात्र दलित महिला सदस्य बनीं। उन्होंने अस्पृश्यता, जबरन श्रम तथा दलितों के लिए अलग निर्वाचन के खिलाफ आवाज उठाई। दाक्षायानी कहती थी कि "सामाजिक आधार के बिना दलित समुदाय कभी भी अपनी असली स्थिति को नहीं पा सकेगा।"⁸

संविधान के बारे में उनके विचार कि "संविधान सभा केवल एक नया संविधान नहीं बना रही है बल्कि लोगों को जीने का नया तरीका दे रही है जिसमें सत्ता लोगों से आएगी और जातीय समुदाय के आधार पर कोई बाधा नहीं होगी।"

4 Rahul Kumar Bharti1 & Ritesh Kumar, THE ROLE OF WOMEN IN MAKING OF INDIAN CONSTITUTION, IJEKS, 29 February 2024,p.84.

5 Priya Ravichandran, The Women Architects of India's Constitution, The Mint, 25th January 2025.p.8.

6 Rahul Kumar Bharti1 & Ritesh Kumar, THE ROLE OF WOMEN IN MAKING OF INDIAN CONSTITUTION, IJEKS, 29 February 2024,p.84.

7 Ibid.

8 Ibid

उनकी जीवनी 'द सी हेज नो कास्ट' उनके संघर्ष भरे जीवन से समानता तक के सफर का वर्णन करती है।⁹ संविधान सभा की अन्य नायिका जिसे भारत में 'सामाजिक कल्याण की जननी' कहा गया जिन्होंने 12 वर्ष की उम्र से ही स्वतंत्रता आंदोलन में हिस्सा लेना शुरू कर दिया 'दुर्गाबाई देशमुख'। जिनके नाम से ही शक्ति का रूप झलकता है उन्होंने संविधान सभा के सदस्य के रूप में कल्याणकारी नीतियों, न्यायिक संरचना, मानव तस्करी, राष्ट्रीय भाषा तथा महिला अधिकारों की बात रखी। 1968 में उन्होंने 'आंध्र महिला सभा' का गठन कर बाल विवाह, दहेज प्रथा, और विधवा उत्पीड़न के खिलाफ लड़ाई लड़ी। शायद उनके जीवन का एक ही लक्ष्य था समाज में सुधार करना। देशमुख कहती है "कि मैंने कानून की पढ़ाई करने का निर्णय लिया ताकि मैं महिलाओं को मुफ्त कानूनी शिक्षा तथा उनके आत्मरक्षा में मदद कर सकूँ"¹⁰

अपनी बहुमुखी प्रतिभा समाज सुधारक, स्वतंत्रता सेनानी, शिक्षिका और लेखिका के रूप में समाज को एक नई दिशा में ले जाने वाली 'हंसा मेहता' संविधान सभा की मौलिक अधिकार समिति और प्रांतीय संवैधानिक समिति की सदस्य थी। उन्होंने भारतीय महिला अधिकार चार्टर के प्रारूपण का नेतृत्व किया तथा संयुक्त राष्ट्र के मानव अधिकार की सार्वभौमिक घोषणा के अनुच्छेद एक "सभी पुरुष स्वतंत्र और समान पैदा होते हैं।" में बदलाव कर इसे "सभी मनुष्य स्वतंत्र और समान पैदा होते हैं"¹¹ लिखवाया जिसके द्वारा उन्होंने समानता के सिद्धांतों को प्रदर्शित किया। कम शब्दों में अपने विचारों को प्रस्तुत करने वाली संविधान सभा की शांत महिला 'कमला चौधरी' जिन्होंने अपनी लेखन शक्ति को ही बात रखने का जरिया बनाया। उनके लेखन के मुख्य विषय 'महिला उत्पीड़न' तथा 'किसानों के संघर्षों' से संबंधित होते थे। वह अपनी लेखक के जरिए विचारों को भावपूर्ण बना देती थी जिसे महसूस किया जा सके। उन्होंने भारतीय महिला अधिकार, कर्तव्य का चार्टर तैयार करने में महत्वपूर्ण योगदान दिया।¹²

समाज के लोगों द्वारा एक महत्वपूर्ण विषय 'निवारक निरोध' जिस पर शायद ही किसी ने इतना काम किया होगा जितना 'पूर्णिमा बनर्जी' ने किया।

उन्होंने संविधान सभा में निवारक निरोध प्रस्तावना जैसे विषयों पर बहस कर उसमें उपस्थिति कर्मियों को उजागर किया। उन्होंने मौलिक अधिकार की उप समिति के द्वारा धार्मिक स्वतंत्रता और सामाजिक आर्थिक न्याय की वकालत कर समाज में एक नया परिवर्तन करने का संकल्प लिया। निवारक निरोध के बारे में वह कहती हैं कि "हिरासत में लिए गए व्यक्ति अगर अपने परिवार के कमाने वाले सदस्य हैं तो उन्हें भरण पोषण भत्ता दिया जाना चाहिए"¹³ उनका यह विचार वर्तमान समय में लागू होकर अपने महत्व को समझता है।

इसी प्रकार रेणुका रे समिति जिसमें समाज की अल्पसंख्यकों के विकास के लिए स्थापित किया गया था। 'रेणुका रे' कोई असाधारण नाम नहीं है इन्होंने संविधान सभा में शामिल होकर अल्पसंख्यक के अधिकारों, द्विसदनीय विधायिका तथा पैतृक संपत्ति में उत्तराधिकार के अधिकार को प्रस्तुत किया। 19वीं और 20वीं सदी के शुरुआती दौर में महिलाओं की सामाजिक आर्थिक और राजनीतिक मामलों की दायनीय स्थिति दूर करने के लिए 'अम्मू स्वामीनाथन' ने 'भारतीय महिला संघ' का गठन किया। ये पहला संघ था जिसने सार्वभौमिक मताधिकार और महिलाओं की संवैधानिकता की बात करी। संविधान सभा में उन्होंने बाल विवाह निरोधक अधिनियम, सहमति आयु अधिनियम और देवदासी प्रथा अधिनियम की समर्थक रही। अम्मू स्वयं कभी स्कूल नहीं गईं परंतु वह शिक्षा की अहमियत जानती थी उन्होंने शिक्षा के क्षेत्र में अहम योगदान दिया।¹⁴ इन्हें हस्तियों में से 'दीपाली संघ' और 'छात्री संघ' की स्थापना करने वाली 'लीला राय' ने स्वतंत्रता सेनानी होने के साथ-साथ वह महिला शिक्षा के प्रबल समर्थक रही। उन्होंने न केवल महिलाओं को

9 Ibid

10 Ibid

11 Ibid

12 <https://www.thisday.app/story/of-women-for-women-the-life-and-struggles-of-kamla-chaudhary-25340> (Accessed on 10th February 2025).

13 Ibid

14 Ibid

मानसिक, सामाजिक व आर्थिक रूप से शक्तिशाली बनाने में योगदान दिया बल्कि शारीरिक रूप से उन्हें मजबूत करने के लिए मार्शल आर्ट की शिक्षा भी दी। संविधान सभा में उन्होंने अपने विचारों से सबको प्रभावित किया तथा शरणार्थियों के अधिकारों के लिए उत्साह पूर्वक काम किया।¹⁵ उन्होंने 'जय श्री' पत्रिका का संपादन के तहत समाज की बुराइयों को उजागर कर उन्हें समाप्त करने पर काम किया।¹⁶ 1990 में 'द वीक' की 'वूमन ऑफ द ईयर' बनने वाली राजनेता 'मालती चौधरी' ने अपने समाज सेवा की शुरुआत वंचित समुदाय के लिए काम करने से शुरू किया। उन्होंने बाजीराव छात्रावास की स्थापना से शिक्षा को सब तक पहुंचने का लक्ष्य रखा। उन्होंने संविधान सभा में मजदूरों और आदिवासी के विचारों को प्रस्तुत कर कई आंदोलन भी चलाए। जिसके तहत उन्होंने किसानों का शोषण करने वाले 'जमींदारी प्रथा' को भी समाप्त किया।

उन्हें उनके योगदान व संघर्षों के लिए 'उत्कल सेवा सम्मान' तथा 'टैगोर संरक्षण पुरस्कार' भी दिया गया।¹⁷ संविधान सभा की महिला सदस्य विजय लक्ष्मी पंडित जो केवल एक राजनीतिक हस्ती ही नहीं बल्कि एक सच्चे लोकतंत्र को स्थापित करने वाली महिला थी। वह एक वास्तविक लोकतंत्र के आदर्शों को जानती और समझती थी। उन्होंने संविधान सभा के सदस्य के रूप में लोकतंत्र, मानव अधिकार तथा धर्मनिरपेक्षता के सिद्धांत की वास्तविकता को प्रस्तुत किया। वह संयुक्त राष्ट्र महासभा की पहली महिला अध्यक्ष रहने के साथ-साथ मैक्सिको और सोवियत संघ की राजदूत भी रही।¹⁸ पंडित की आत्मकथा "द स्कोप ऑफ़ हैप्पीनेस ए पर्सनल मेनायर" जिसमें उन्होंने स्वतंत्रता संग्राम से स्वतंत्र भारत के अद्भुत काल पर व्यक्तिगत समझ को वर्णित किया।¹⁹ संविधान

सभा में केवल हिंदू महिलाओं का प्रतिनिधित्व नहीं था अपितु एकमात्र मुस्लिम महिला सदस्य बेगम ऐजाज रसूल जिन्होंने धर्मनिरपेक्षता और सांप्रदायिक सद्भाव को सबसे ऊपर रखा। उन्होंने इस्लामी तथा हिंदू दोनों धर्मों के कुप्रथाओं में सुधार की मांग प्रस्तुत करी और इसकी शुरुआत उन्होंने स्वयं पर्दा प्रथा से मुक्त होकर की।

उन्होंने संविधान सभा में राष्ट्रीय भाषा, आरक्षण, अल्पसंख्यक अधिकारों की वकालत कर अपने विचारों को प्रस्तुत किया। रसूल ने अपने भाषण में कहा "कि राष्ट्र की धर्मनिरपेक्षता इसकी एकता के लिए मौलिक है उन्होंने आशा व्यक्त की इस धर्मनिरपेक्षता को हमेशा 'सुरक्षित' और 'बेदाग' बनाया जाएगा क्योंकि इससे भारत के लोगों की पूर्ण एकता निर्भर करती है जिसके बिना प्रगति की सभी उम्मीदें व्यर्थ होगी।"²⁰ उन्होंने अपनी आत्मकथा "पर्दा से संसद तक" में भारतीय राजनीति और संवैधानिक क्षेत्र में एक मुस्लिम महिला के रूप में अपनी यात्रा का वर्णन किया।²¹ इस तरह भारत की पहली महिला मुख्यमंत्री सुचिता कृपलानी जिन्होंने अपनी साधारण जीवन को असाधारण बनाकर इस पद को प्राप्त करा। वह संविधान सभा के ध्वज प्रदर्शन समिति की सदस्य थी। उन्होंने संविधान की सराहना करते हुए कहा कि "यह एक बहुत ही महत्वपूर्ण और कीमती दस्तावेज है, जिसमें ऐतिहासिक शब्द सन्निहित हैं जो तब से दुनिया भर में घूम रहे हैं और तब तक प्रसारित होते रहेंगे जब तक कि वे वास्तविकता नहीं बन जाते। ये शब्द समानता, स्वतंत्रता और बंधुत्व का आह्वान हैं, जिन्हें आज हमारे संविधान में जगह मिली है।"²² संविधान सभा की 15वीं महिला सदस्य एनी मास्केन जिन्होंने सभा में संघवाद के मुद्दे तथा हिंदू बिल कोड पर संवाद किया। संघवाद पर उनके विचार थे "हम लोकतंत्र

15 Ibid

16 <https://www.constitutionofindia.net/members/leela-roy/> (Accessed on 10th February 2025).

17 <https://www.constitutionofindia.net/members/malati-chaudhary/> (Accessed on 11th February 2025).

18 <https://www.thelawadvice.com/articles/16-women-of-constituent-assembly#:~:text=Born%20on%20July%203%2C%201897,first%20Gujarati%20novel%20Karan%20Ghelo> (Accessed on 10th February 2025).

19 Ibid

20 Ibid

21 <https://doi.org/10.1017/9781108961547> (Accessed on 10th February 2025).

22 <https://pressreader.duelibrary.in/india/mint-delhi/20250125/page/8> (Accessed on 10th February 2025).

के आगमन पर है लोकतंत्र में अस्थिर भावनाओं और विघटनकारी ताकतों को मुक्त करने की प्रवृत्ति होती है इन परिस्थितियों में एक मजबूत केंद्र के बिना मुझे नहीं लगता कि हम एक सफल लोकतंत्र बना सकते हैं।”²³

इस प्रकार भारतीय संविधान जो सबसे बड़े लोकतांत्रिक देश का एक सफल संविधान है जिसमें भारत जैसे विविधतापूर्ण देश की व्यवस्था को कायम रखा। इतने सफल संविधान निर्माण के पीछे इन 15 महिलाओं का योगदान रहा, जिन्होंने अपने दम पर अपनी पहचान बनाई और संविधान सभा की सदस्य बनीं। उनके संघर्षों का अंदाजा हम इस बात से लगा सकते हैं कि वह उसे समय राजनीतिक में आई जिस समय मैग्नाकार्टा में भी महिलाओं को राजनीतिक अधिकारों से वंचित रखा गया था। इन्होंने न केवल स्वयं के लिए बल्कि समस्त विश्व की महिलाओं समानता की लड़ाई लड़ी। वर्तमान में जिस प्रकार राजनीति में महिलाओं का प्रतिनिधित्व बढ़ रहा है यह इन्हीं महिलाओं की ही देन है। समानता की इस यात्रा में 2023 का नारी शक्ति वंदन अधिनियम लोकसभा, राज्य

विधानसभा, और दिल्ली विधानसभा में महिलाओं के लिए कुल सीटों में से एक तिहाई सीट आरक्षित करने का प्रावधान करता है। गणतंत्र दिवस के महान अवसर पर भारत कि राष्ट्रपति द्रौपदी मुर्मू इन महिलाओं को याद करती हुई कहती है कि “हमारे संविधान सभा की संरचना हमारे लोकतांत्रिक मूल्यों का परिणाम था। इसमें देश के सभी वर्गों और सभी समुदाय के प्रतिनिधित्व शामिल थे। सबसे खास बात यह थी, कि इसके सदस्यों में 15 महिलाएं थीं जिसमें सरोजिनी नायडू, राजकुमारी अमृत कौर, सुचेता कृपलानी, हंसा मेहता और मालती चौधरी जैसी दिग्गज महिलाएं शामिल थीं। जब दुनिया में के कई क्षेत्रों में महिलाओं की समानता एक दूर की दृष्टि थी, तब भारत में महिलाएं देश के भाग्य को आकार देने में कड़ी मेहनत कर रही थीं।

इस प्रकार महिला अधिकारों की नींव इन्हीं महिलाओं के द्वारा अन्य महिलाओं के साथ मिलकर रखी गई जिन्हें हमें जानना आवश्यक है।

23 <https://www.livemint.com/mint-lounge/art-and-culture/annie-mascarene-a-trailblazer-who-wanted-women-to-get-their-political-due-11726119176009.html> (Accessed on 10th February 2025).

Executive and Legislature in the Constitution¹

✍ Alladi Krishnaswami Iyer

This 1950 article by Alladi Krishnaswami Iyer remains relevant today as it provides foundational insights into India's parliamentary system and the relationship between the executive and legislature. It explains why the Constituent Assembly adopted the cabinet system over the presidential model, emphasizing stability, continuity, and democratic accountability. The article clarifies the President's role as a constitutional head, acting on ministerial advice, and highlights the adaptability of responsible government. As contemporary debates on executive authority and legislative power persist, this article offers a historical perspective essential for understanding India's governance structure and constitutional evolution.

After weighing the pros and the cons of the Parliamentary executives as it obtains in Great Britain, in the Dominions and in some of the Continental Constitutions and the Presidential type of Government as it obtains in the U.S.A. the Indian Constitution has adopted the institution of parliamentary executive. In the decision taken by the Constituent Assembly, the assembly was influenced by the following considerations.

Firstly, the harmonious relations that

should subsist between the legislature and the executive to ensure the smooth working of an infant democracy. Secondly, for some years at least prior to the new constitution the Cabinet System has been working in a fairly satisfactory manner in the different provinces in India. Thirdly, the need for bringing the constitution in the Indian States into line with the responsible Government in the different provinces of India. Fourthly, the inappropriateness of having a presidential type of Government in the Union, and what is familiarly known as the Cabinet System in the different units comprising the Union. And fifthly, the fact that in no Constitutional State in the world today exists such an officer with such vast powers as the President of the American Union and the historical accidents connected with the institution of the American Presidency.

The Two Systems

It will thus be seen that the Constituent Assembly in adopting the Cabinet System of Government has not proceeded upon any theoretical consideration or upon the relative merits of the two systems from an academic point of view. The assembly was quite alive to the fact that in many

1 On January 19, 1950, Mr. Alladi Krishnaswami Iyer delivered a broadcast talk from All India Radio (A.I.R.), Delhi. The full text of his speech was released in New Delhi on January 20, 1950

respects the Presidential system has served as a great unitary and unifying institution in the general Government of the U. S. A. Prof. Leski has pointed out, in a crisis the American President can speak on behalf of the nation in a manner in which no other executive head can speak and the more the President gives the lead, the greater the stature he assumes and is in a position to mobilize the nation in a manner in which nobody else can.

The result of having a cabinet type of Government is that the executive department of Government in a modern Constitutional state will have the initiative in legislation, control, and be controlled in its turn in regard to the framing of the budgets and taxation proposals and generally in regard to the entire working of administrative machinery.

The relevant provisions of the Constitution bearing upon the union executive are: -

1. Article 53, which in general terms vest the Executive. power of the union in the President as also be supreme command of the defense forces of the union;
2. Article 77 which provides that all executive action shall be exported to be taken in the name of the President;
3. Article 72, which invests the President with power to grant pardon to suspend, remit or commute sentence in certain cases;
4. Article 73 which defines the scope and the extent of the executive power of the union and makes it coextensive with the legislative power;

5. Article 85 invests the President with power the to summon prorogue and dissolve the house of the people and article 86 and 87 which deal with the right of the President to address and send messages to the Houses.

In exercise of all these functions, article 74 provides that there shall be a Council of Ministers with the Prime Minister at the head to aid and advise the president, no exception being made in regard to any function or functions.

Position Of The President

The reference to the President in several articles must be understood, having regard to provisions in the Constitution which establish the Cabinet System of Government as meaning the President or the Council of Ministers. Even in informed circles, there has been some misunderstanding in regard to the reference to the President in the various articles of the Constitution. Having regard to the frame-work of the Constitution and the main provisions in it, the President in the various articles referred to above will have necessarily to be understood as the President acting on the advice of his Ministers.

In one sense it may be stated that the expression "Aid and Advice" is euphemistic phraseology. Apart from the fact, it would be impossible for the President to work any of the provisions in the Constitution without reference to and independent of, his ministers, he would be guilty of violating the Constitution if he purports to act without reference to and independent of their advice and he may easily bring himself under the

article relating to penalties imposed upon him for violating the Constitution.

The working of the Cabinet Government in England at the present day shows, though in theory the Ministers are the advisers of the Crown, in the actual working, if the Crown is to usefully function, it has to advise the Cabinet and exert a moral and social influence over the members of the Cabinet. Similar would be the position of the President in the Indian Constitution who is elected by the elected member of the both Houses of Parliament and the elected members of the Legislative assemblies of the states. The personality, the prestige and the moral influence of the President both in the internal and in the external sphere will be a great factor in the mutual relations between the President and his Cabinet. To keep up a continuous liaison between the Cabinet, and the President, Article 78 of the Constitution provides that it shall be the duty of the Prime Minister to keep the President in touch with the administration or affairs of the Union and the proposals for legislation. This article is a very salutary provision and is based upon the Constitutional practice obtained in England at the present day.

Responsible Government

A point has been made in certain quarters that the Constitution does not contain detailed provisions as to the incidents of responsible Government. There is the general provision to the effect that the Council of Ministers shall be collectively, responsible to the House of the People, that the Minister must become a Member of either House within a period of six months and that the salaries and allowances

of Ministers may from time to time be determined by law.

In not attempting detailed provisions in regard to the incidents of responsible Government the Constituent Assembly was to a very large extent influenced by the example of England and of the Constitutions of most of the Dominions, the Irish Constitution 1937 being the only exception in this regard. In some of the Dominion Constitutions there is not even an express declaration as to the executive being responsible to the legislature, the responsibility is left to be inferred by necessary implication from the various provisions in the Constitutions dealing with the relations between the Legislation and the Executive in regard to the legislation, budget and other administrative matters. The detailed provisions in the Irish Constitution are to some extent traceable to historical accidents - the distrust of the Irish people in the British Cabinet during the course of their long association with England. The Indian Constitution, while declaring in express terms in article 75 that the Council of Ministers shall be collectively responsible to the House of the People, has advisedly refrained from enumerating in detail the incidents of responsible government. A provision like this will give sufficient scope for conventions at responsible Government to grow up stereo-typing of such incidents into a statutory mold will not impart an element of elasticity to the Constitution.

The Constituent Assembly has not drawn upon the French and other Continental Constitutions which had not the long experience which England had in

the working of responsible Government.

In regard to the subject of the relation between the two Houses, the control of the budget and money bills being entirely in the hands of the House of the People, the resolving of any deadlock between the Houses in legislative procedure, the Indian Constitution has mainly followed the example and adopted the procedure of the British Parliament,

The relation between the Legislature and the Executive in the provinces or

states is to a large extent modelled on the provisions of the Constitution in regard to the Centre with this difference that certain special provisions have introduced, with a view to provide against the breakdown of the Constitutional machinery in the states as also to meet any financial emergency. In this context again the expression "President" in article 352 etc. has to be understood as referring to the President acting on the advice of his Cabinet which is responsible to the Parliament.

Everyone Must Do His Allotted Task

✍ Governor-General, Shri Chakravarti Rajagopalachari

On the eve of India's transition from a dominion to a sovereign republic, His Excellency the Governor-General, Shri Chakravarti Rajagopalachari, addressed the nation through a broadcast from the Delhi station of All India Radio at 8:30 p.m. on January 25, 1950. As the last Governor-General of India, his farewell address carried profound significance, marking the closure of the colonial era and the dawn of a democratic republic. In his speech, Rajagopalachari reflected on the ideals and aspirations that had guided India's struggle for independence, emphasizing the responsibilities that came with nation-building. His message of hope, resilience, and collective responsibility remains deeply relevant in contemporary times. At a time when economic uncertainties, political divisions, and social tensions dominate public discourse, his emphasis on industriousness as the foundation of national prosperity serves as a powerful reminder that progress depends on sustained effort and integrity. His call to reject pessimism and work toward a stronger future resonates today, when skepticism and disillusionment often overshadow constructive engagement. Furthermore, his appeal for loyalty and cooperation with capable leadership

underscores the necessity of civic

responsibility in a democracy. In a rapidly evolving global landscape, where India aspires to greater economic and strategic prominence, the core values he championed—honest labor, national unity, and faith in democratic governance—offer enduring wisdom. His speech urges us to rise above short-term setbacks, contribute to the nation's progress with sincerity, and uphold the ideals that define a great republic.

Speech:

“On the eve of my laying down office with the inauguration of the Republic tomorrow, should like to tender my greetings and my best wishes to the men and women of India who will henceforth be citizens of a Republic. I feel deeply thankful for the affection showered on me by all sections of the people, which alone enabled me to bear the burden of an office to the duties and conventions of which I had been an utter stranger,”

“I am confident our Government will overcome all difficulties and that we shall march steadily forward. There are some people who have no ear for the voice of Hope and who have acquired a taste for evil omens. May that melancholy tribe grow less. I speak now to those cheerful men and women who hope rather than despair and - God bless them - who would work each

in his or her allotted task believing that things are bound to come right if we carry on honestly, I do not believe that India has suddenly got economically poorer. Relative values have changed. Distribution has been modified. These are necessary changes and should not be deplored, although they may be disturbing for the time being. As long as we continue to work, I assure you, no economic disaster can come down upon us. We should not give way to depression. The fundamental basis of national wealth is industriousness and as long as we preserve that from deterioration, we cannot be worse off than we were before and it lies with us

to improve our condition by greater effort. We should not confuse individual ups and downs with the country's prosperity as a whole."

"We have capable and, what is even more important, good men to guide the country. Let us give our utmost loyalty and cooperation to them. Let us not be fortune-hunters but devoted citizens of a great Republic in which everyone must do his allotted task with zeal and integrity so that we may fulfil the hopes which the civilized nations of the world have entertained about us."

Women's Journey with the Constitution of India

✍ R. Abimathi

“We the People of India, ... Hereby Adopt, Enact and Give to Ourselves this Constitution,” reads the Preamble to the Indian Constitution. In this way, “We” and “Ourselves” are fundamentally inclusive of women as active participants in drafting India’s Constitution. In this regard, President of India, Draupadi Murmu, in her Republic Day speech had highlighted, “When women’s equality was only a distant ideal in many parts of the world, in India women were actively contributing in shaping the destiny of the nation¹.”

Kamaladevi Chattopadhyay, one of the founding members of the All-India Women’s Conference, had noted, “The new Constitution of India marks a turning point in the history of women in India. It guarantees them equal status with men. The new situation has shifted the old emphasis from equality of status to common economic and social objectives and common problems that are now shared by men and women alike².” Indeed, by granting equality before law and equal protection of law, the

Constitution positions women on the same pedestal as men and views them as integral to the development of the nation.

However, it doesn’t fail to recognize the centuries of subjugation leading to historical disadvantages that women continue to face. Therefore, the Constitution not only grants equality to women, but also empowers the State to adopt measures of positive discrimination for the upliftment of women. Acknowledging this, Chattopadhyay added, “Appropriately, the AIWC at its last session in 1950 changed its previous aims of gaining equal rights of women, to acquiring equal opportunities for all and establishing a society based on equity and social justice³.”

Some problems, however, are beyond just the purview of law; the women’s question is one of the most important among them. Renuka Ray did not congratulate the Constituent Assembly for creating the Constitution, of which they should be proud. Instead, she reminded them, “It is not for us to say whether we have done our job well or badly. It is only posterity that can really judge us⁴.” Within the framework of a democratic polity, our laws, development

1 <https://knowindia.india.gov.in/republic-day-celebration/president-speech.php> (Accessed on 4th February 2025).

2 Chetan, A. (2022). *Founding Mothers of the Indian Republic: Gender politics of the framing of the Constitution*. Cambridge University Press. P. 254.

3 Ibid.

4 Ibid, p.252.

policies, schemes, and programs have aimed at women's advancement in different spheres.

Over the years, the legislature has laid down numerous acts for the upliftment of women; the executive has implemented special policies and schemes; and the judiciary has ensured gender justice through its judgments impacting women's rights. Further, various organizations have voiced their concerns and demands regarding the women's issues at the ground level. All these institutions and their interventions derive their legitimacy from the provisions granted in the constitutional framework.

For 75 years now, the Constitution of India has guided the path of our progress. Women, who make up over half the population in India, have been beneficiaries of the rights and privileges granted to them by the Constitution, and at the same time, have been playing a significant role in protecting, practicing, and promoting its values for the greater good of the nation. Just as Sarojini Naidu had expressed, "Every woman is a creator in the ideals of nationhood. I want the women of India to have consciousness of the great and dynamic nation whose energies have to be mobilized and harmonized for common purpose⁵." This article, therefore, aims to study the journey of women with the Constitution of India and examine its capacity to confront the emerging issues in gender justice.

Preamble to the Constitution and its Philosophy

The Preamble to the Indian Constitution presents the aspirations of the people through the ideals enshrined in it. The source of the Constitution is thus traced to the people, i.e., men and women of India, irrespective of caste, community, or religion⁶.

On October 17, 1949, in the Constitutional Assembly debate, Purnima Banerji emphasized that the preamble is viewed as a charter of freedom, and the measure of success or failure is set by it, as it sets the goals for the nation. She had advocated to explicitly mention that the idea of "sovereign" as enshrined in the preamble derives its power from the people, whose sovereignty is not just limited to voting every five years⁷.

The ideals of "socialist" and "secular" were formally added to the Preamble through the 42nd Amendment Act. However, the spirit of secularism in its manifestation of Indian interpretation was inherent in the Constitution since its inception, as highlighted by Begum Aizaz Rasul in her arguments against separate electorates for minority communities, where she expressed, "The sanctity of the Constitution lies essentially in its affirmation of secularity, and we are proud of it⁸."

5 Narain, Y. (2003). *Women members of Rajya Sabha*. Rajya Sabha Secretariat. P. 9. <http://parliamentofindia.nic.in> (Accessed on 4th February 2025).

6 <https://irjhis.com/paper/IRJHIS2107030.pdf> (Accessed on 4th February 2025).

7 https://cms.rajyasabha.nic.in/UploadedFiles/ElectronicPublications/Selected%20Women%20Speech_Final.pdf p. 86 (Accessed on 4th February 2025).

8 https://cms.rajyasabha.nic.in/UploadedFiles/ElectronicPublications/Selected%20Women%20Speech_Final.pdf p. 27. (Accessed on 4th February 2025).

Similarly, while “socialist” was added later, India had embraced a mixed economic model, as emphasized by G. Durgabai: “Ours is a constitution which is neither a socialist constitution, nor a communist constitution, nor even for that matter, a Panchayat Raj constitution. It is a people’s Constitution and a Constitution that gives free and ample scope to the people of India to make experiments in socialism or any other ism in which they believe would make this country prosperous and happy⁹.” The Constitution does however, reflect its commitment to uplifting marginalized communities, including women from disadvantaged backgrounds. This vision aligned with Dakshayani Velayudan’s belief, “Only an independent socialist Indian republic can give freedom and equality of status to the Harijans¹⁰.”

Dr. Ambedkar’s interpretation of a “Democratic Republic” envisages democratic not only from the political view, but also in the social way of life, infused with the spirit of liberty, equality and fraternity as its principles. He emphasised on measuring the progress of a community by the degree of progress which women have achieved. By advocating ‘one person, one vote, one value,’ he established the foundation for gender

equality in political, social and economic sphere¹¹.

Hansa Mehta’s speech in the Constituent Assembly highlighted the Preamble’s commitment to social, economic and political justice¹². Her statement, “It will warm the heart of many a woman to know that free India will mean not only equality of status, but equality of opportunity,¹³” further emphasised the need for equality through genuine cooperation and mutual respect between men and women.

In the Constituent Assembly, Purnima Banerji had also highlighted how the Constitution rejects the colonial patronage by enshrining the universal ideals of Liberty of thought, expression, belief, faith, and worship; and Fraternity, affirming the dignity of individuals and the integrity and unity of the nation¹⁴.

Citizenship

The widely accepted definition of citizenship by Marshall as ‘full and equal membership in a political community’ holds a double promise. It seeks to assure a ‘horizontal camaraderie’ as opposed to hierarchical inequalities among members of a ‘political community’. It integrates various marginalised sections of population and

9 https://cms.rajyasabha.nic.in/UploadedFiles/ElectronicPublications/Selected%20Women%20Speech_Final.pdf p. 54 (Accessed on 4th February 2025).

10 https://cms.rajyasabha.nic.in/UploadedFiles/ElectronicPublications/Selected%20Women%20Speech_Final.pdf p. 31 (Accessed on 4th February 2025).

11 https://www.mea.gov.in/images/attach/amb/volume_01.pdf (Accessed on 4th February 2025).

12 https://cms.rajyasabha.nic.in/UploadedFiles/ElectronicPublications/Selected%20Women%20Speech_Final.pdf p. 68 (Accessed on 4th February 2025).

13 https://cms.rajyasabha.nic.in/UploadedFiles/ElectronicPublications/Selected%20Women%20Speech_Final.pdf p. 67 (Accessed on 6th February 2025).

14 https://cms.rajyasabha.nic.in/UploadedFiles/ElectronicPublications/Selected%20Women%20Speech_Final.pdf p. 88 (Accessed on 8th February 2025).

provides a sense of belonging, to a political community, which is the nation state. Thus, the second promise of citizenship, is to ensure the identity of an equal citizen through a common (national) culture and social heritage¹⁵.

The women in constituent assembly, recognised the necessity of political citizenship for social transformation and for the achievement of freedom from oppressive boundaries like caste and male-dominated communities. The ideas of equality and freedom through constitutionalism, created 'constructive citizenship' produced by 'the daily exercise of these rights and duties and in the opportunities which the state affords to the individual of developing his or her faculties,' as identified by Amrit Kaur.¹⁶

By providing equal citizenship status, the Constitution provides a single citizenship, rather than dual state/federal citizenship to all. This unified citizenship means women, regardless of their state of residence, have the same fundamental rights. In India multiple paths exist for acquiring citizenship: birth, descent, registration, and naturalization. Article 5 (b) explicitly recognizes citizenship through mother's birth in India. Further, as per the Constitution, on or after 10 December 1992, either parent can configure citizenship through descent. This recognised maternal

descent equally. Certain fundamental rights including Article 15, 16, and 19, are specifically reserved only for citizens, which women too exercise¹⁷.

Therefore, Ammu Swaminathan said in the constituent assembly, "People outside have been saying that India did not give equal rights to her women. Now we can say that when the Indian people themselves framed their Constitution, they had given rights to women equal to every other citizen of the country. That in itself is a great achievement¹⁸."

Fundamental Rights

Various 19th century social reformers had strongly advocated for women's rights in India. Pandita Ramabai established Arya Mahila Samaj and Sharada Sadan to eradicate structural inequalities imposed on women. Ishwar Chandra Vidyasagar led efforts for widow remarriage, influencing the Window remarriage Act of 1856. Dayanand Saraswati founded Arya Samaj and advocated for gender equality within the Hindu religious framework. Jyotirao Phule established the first school for girls in India in 1848 with his wife, Savitribai Phule, and founded Satyashodhak Samaj in 1873. Justice M.G. Ranade through the India social Conference, worked for eradication of social injustices against women¹⁹. Swami Vivekananda criticized the restrictions

15 <https://www.jstor.org/stable/4410548> (Accessed on 8th February 2025).

16 Chetan, A. (2022). *Founding Mothers of the Indian Republic: Gender politics of the framing of the Constitution*. Cambridge University Press. P. 79.

17 Basu, D. D. (2022). *Introduction to the Constitution of India* (26th ed.). LexisNexis India.

18 <https://www.theweek.in/theweek/cover/2025/01/25/fifteen-extraordinary-women-who-laid-the-foundation-for-a-democratic-and-inclusive-india.html> (Accessed on 8th February 2025).

19 Chakrabarty, B., & Pandey, R. K. (2024). *Modern Indian Political Thought: text and context* (By British Library & KnowledgeWorks Global Ltd. Routledge. <https://doi.org/10.4324/9781003440062> (Accessed on 8th February 2025).

imposed on women by society and called for freedom and dignity for women. Raja Ram Mohan Roy, Debendranath Tagore and Keshab Chunder Sen, fought for women's rights through Brahma Samaj. Rabindranath Tagore widely advocated gender justice through his literary and social contributions²⁰. Subramania Bharati laid 10 commandments for the upliftment of women and advocated for their emancipation through his impactful poems²¹.

The aspirations laid through these powerful movements successfully found their place in the Indian Constitution in the form of fundamental rights as enshrined in 3rd part of the Constitution. The right to equality including - Article 14 ensures equality before the law and equal protection of laws to all persons; Article 15 prohibits discrimination on grounds of religion, race, caste, sex, or place of birth; Article 16 guarantees equality of opportunity in matters of public employment, thus paving the way for women's involvement in different areas of governance and administration²².

Further, as Fali. S. Nariman had stated, "Preferential treatment for women and children is not only easily explained, but also it is amply justified."²³ The fundamental

rights consists of special provisions for women including - Article 15(3), which allows the state to make special provisions for women and children; Article 15(4), which empowers the state to make reservations in educational institutions for socially and educationally backward classes, including women; and Article 15(5), which enables the state to make reservations in appointments or posts in favours of any backward class of citizens, including women²⁴.

Right to Freedom including - Article 22, which guarantees the right to life and personal liberty, encompassing the right to live with dignity has been expansively interpreted by the judiciary to include the right to gender equality and protection against gender-based violence. And Article 23 prohibits trafficking in human beings and forced labour, that have a disproportionate impact on women and girls²⁵.

Fundamental Rights protect the most crucial rights of the citizens against the state and other fellow citizens. Commending the work of the drafting committee, Begum Aizaz Rasul highlighted, "Even though these Fundamental Rights are hedged in by various conditions and provisos, yet to my mind, they guarantee to the citizen that measure of liberty which is necessary for

20 Guha, R., Dalton, D., Group of Seven, & Tully, J. (1982). Indian Ideas of Freedom. In *Indian Ideas of Freedom*.

21 C. SUBRAMANIA, B., S. Vijaya, B., Digitized by the Internet Archive, Public.Resource.Org, & PUBLICATIONS DIVISION MINISTRY OF INFORMATION AND BROADCASTING GOVERNMENT OF INDIA, 1972, C. SUBRAMANIA BHARATI (Edition : Shyamala M. Iyer, Ed.; 1st ed.). Addl. Director General, Publications Division, Ministry of Information and Broadcasting, Government of India. <https://archive.org/details/csubramaniabharaOOsvil> (Accessed on 8th February 2025).

22 <http://jesdrf.com/IJIPAR%20Vol%2014%20SI%205%20May%202024.pdf#page=141> (Accessed on 8th February 2025).

23 https://www.nja.gov.in/Concluded_Programmes/2024-25/SE-05_Nov_2024_PPTs/4.Gender%20Equality.pdf (Accessed on 8th February 2025).

24 <http://jesdrf.com/IJIPAR%20Vol%2014%20SI%205%20May%202024.pdf#page=141> (Accessed on 8th February 2025).

25 <http://jesdrf.com/IJIPAR%20Vol%2014%20SI%205%20May%202024.pdf#page=141> (Accessed on 8th February 2025).

a free and full development of their total personality. These are also justiciable which is an essential corollary to the theory of Fundamental Rights which are incorporated in a constitution to ensure the principle that people have certain rights independently of the Government under which they live and a court of justice is there to see that these rights are not infringed by any of the governmental bodies—the Legislature or the Executive.²⁶

Directive Principles of State Policy

According to Ammu Swaminathan, the Constitution actually rests on two pillars—Fundamental Rights and the Directive Principles of State Policy²⁷. The Directive Principles of State Policy, containing important socio-economic and political aspects, envisage setting up a ‘Welfare State.’ Coupled with the provisions in the chapter on Fundamental Rights, the Directives have envisioned a new social order²⁸. And as Purnima Banerji had stated, “although the directive principles of state policy may not be enforceable in a court of law, they are nevertheless fundamental for the governance²⁹.”

Some of the directive principles concern women directly and have a special bearing on their status. Article 39 lists

certain principles of policy to be followed by the state. The State shall, in particular, direct its policy towards securing - (a) That the citizen, men and women equally, have the right to an adequate means of livelihood; (d) That there is equal pay for equal work for both men and women. The State in furtherance of this directive passed the Equal Remuneration Act, 1976 to give effect to the provision ;(e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength; Article 42 of the Constitution directs the State to make provisions for securing just and humane conditions of work and for maternity relief. The State has implemented this directive by incorporating health provisions in the Factories Act, Maternity Benefit Act, Beedi and Cigar Workers (Conditions of Employment) Act, etc. Article 44 directs the State to secure for the citizens a uniform civil code throughout the territory of India. This particular goal is towards the achievement of gender justice³⁰.

Fundamental Duties

The philosophy of integral humanism explains how the development of a nation,

26 https://cms.rajasabha.nic.in/UploadedFiles/ElectronicPublications/Selected%20Women%20Speech_Final.pdf p.28 (Accessed on 8th February 2025).

27 https://cms.rajasabha.nic.in/UploadedFiles/ElectronicPublications/Selected%20Women%20Speech_Final.pdf p.1. (Accessed on 8th February 2025).

28 Narain, Y. (2003). *Women members of Rajya Sabha*. Rajya Sabha Secretariat. P. 4. <http://parliamentofindia.nic.in> (Accessed on 8th February 2025).

29 https://cms.rajasabha.nic.in/UploadedFiles/ElectronicPublications/Selected%20Women%20Speech_Final.pdf p.89(Accessed on 8th February 2025).

30 <http://210.212.169.38/xmlui/bitstream/handle/123456789/4362/Inclusion%20of%20women%20through%20indian%20constitution.pdf?sequence=1&isAllowed=y> (Accessed on 8th February 2025).

is a multidimensional aspect. It starts from the self, and expands towards the family, the society, the nation, humanity, the world, and the divine. The duties of women for a very long time were confined to the private space – the self and the family. It goes without saying that a person's responsibilities to their family and to themselves are crucial, regardless of their gender. However, it becomes problematic when it is defined exclusively in terms of the gender binary, limiting women's potential to grow and contribute in the public sphere. "As long as women of India do not take part in public life, there can be no salvation for the country," as Gandhiji had rightly stated³¹. Set in 19th century India during contestation between patriarchal orthodoxy and reform, Tarabai Shinde's "Stree Purush Tulana," poses a frustrated rebuttal to exactly this form of confinement of women in the "inner domain" that establishes rigid obligations for women, based on their roles about men³².

Parts IV-A of the Indian Constitution, which consist of only one Article 51-A was added by the 42nd Amendment, 1976³³. These eleven fundamental duties, by being gender neutral, formally broaden women's responsibilities as citizens, beyond their family, towards the society, the

nation, humanity, and the world at large. Furthermore, Article 51-A (e) specifically highlights everyone's duties towards women. It states that; "It shall be the duty of every citizen of India to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religion, linguistic, regional or sectional diversities; to renounce practices derogatory to the dignity of women."³⁴

In Governance

In 1947, when India became independent from British colonial rule, its literacy rate was less than 20%, and women's literacy less than 10%. And yet, in a breath-taking act of democratic faith, every adult person in newly independent India had the right to vote³⁵. To ensure civic equality the Constitution seeks to achieve political equality by providing for Universal Adult Franchise through Article 326 to all adult population, irrespective of their differences in religion, race, caste or sex, which acts as an effective medium of popular sovereignty in a modern democracy. The electorate has further been widened by lowering the voting age from 21 to 18, by the 61st Constitution Amendment Act, 1988³⁶.

However, it is an accepted fact that without being proportionately present in

31 Narain, Y., 2003, *Women members of Rajya Sabha*. Rajya Sabha Secretariat. P. 1 <http://parliamentofindia.nic.in> (Accessed on 8th February 2025).

32 O'Hanlon, R. (n.d.). *A Comparison Between Women and Men: Tarabai Shinde and the critique of gender relations in colonial India*. Oxford University Press, New Delhi.

33 <https://irjhis.com/paper/IRJHIS2107030.pdf> (Accessed on 8th February 2025).

34 <https://irjhis.com/paper/IRJHIS2107030.pdf> (Accessed on 8th February 2025).

35 <https://www.thehindu.com/opinion/how-every-adult-in-independent-india-got-the-right-to-vote-in-1947/article68170736.ece> (Accessed on 8th February 2025).

36 Basu, D. D. (2022). *Introduction to the Constitution of India* (26th ed.). LexisNexis India.

the political system, a group's ability to influence policy-making, or indeed the nature of representative system, is rather limited³⁷. Therefore, over the years, electoral gender quotas have been introduced in an increasing number of countries in all the major regions of the world. Informal and formal discrimination against women is widespread in politics through exclusion and glass ceilings, hence quotas shall be seen as compensation for structural barriers, not discrimination³⁸. In the discourse about the proportion of reservation required to bring about significant visible change, Dahlerup's "critical mass" theory mentions 30% as the turning point. The expression critical mass stems from nuclear physics and refers to a certain quantity that is needed to start an irreversible chain reaction that could change a process³⁹.

In India, through the 73rd and 74th amendment, 1993, the Constitution mandates reservation of seats for women in local governance bodies. In Panchayats, not less than one-third of the total seats filled by direct election, inclusive of seats reserved for women belonging to Scheduled Castes and Scheduled Tribes, shall be reserved for women, with such seats being allotted by rotation to different constituencies (Article 243 D (3)). Similarly, not less than one-third

of the offices of Chairpersons in Panchayats at each level shall be reserved for women (Article 243 D (4)). In Municipalities, the same one-third reservation requirement applies for women in directly elected seats, including those reserved for SC and ST women, with rotational allocation among constituencies (Article 243 T (3)). Additionally, the State legislature shall, by law, provide for reservation of offices of Chairpersons in Municipalities for Scheduled Castes, Scheduled Tribes, and women (Article 243 T (4))⁴⁰.

Further, through the 106th amendment act of the Constitution, the *Nari Shakti Vandan Adhiniyam*, reserves one-third of the total number of seats for women in Lok Sabha, State Legislative Assemblies and Delhi Assembly, including those reserved for SCs and STs. In his remarks in the Rajya Sabha over its bill, the Prime Minister, highlighted the positive thinking of all the political parties, towards women's empowerment through their unanimous acceptance of the bill⁴¹. Feminist scholar Anne Philip in her work advocated a combination of "politics of presence" and "politics of ideas", and gave four main reasons for the need of female representatives, which includes – Symbolic representation of women that demonstrates their equality and inclusion;

37 http://164.100.213.102/RSCMSNew/UploadedFiles/ElectronicPublications/reserv_women_pers2008.pdf (Accessed on 8th February 2025).

38 <https://www.tandfonline.com/doi/full/10.1080/1461674042000324673?scroll=top&needAccess=true> (Accessed on 8th February 2025).

39 <https://www.cambridge.org/core/journals/politics-and-gender/article/abs/story-of-the-theory-of-critical-mass/592171C05B9B828DBBDCC121B05780D4> (Accessed on 8th February 2025).

40 https://mospi.gov.in/sites/default/files/reports_and_publication/cso_social_statices_division/Constitutional%26Legal_Rights.pdf (Accessed on 8th February 2025).

41 <https://pib.gov.in/PressNoteDetails.aspx?NotelD=151863&ModuleId=3®=3&lang=1> (Accessed on 8th February 2025).

their involvement in formulating political agendas by incorporating women's interest; including women's lived experiences and experiential knowledge for gaining authentic perspectives; and for breaking exiting hegemonies by challenging power hierarchies⁴².

Good scrutiny makes good government. Apart from raising parliamentary questions to address both immediate concerns and long – term national development issues; actively participating in budget discussions; taking parliamentary initiatives; participating in committees; serving as presiding officers; women members, over the years, have brought another essential component to the table in both houses of the parliament – wit and humour. For example - Dr. (Smt.) Najma Heptulla who had resigned from the post of Deputy Chairman of Rajya Sabha, while bidding her farewell, alluded the following remarks to Shri Asoke Sen in a lighter vein: I had some of the very enlightened moments in the House which I remember such as our Law Minister, Mr. Asoke Sen, who once said that in the other House, he forgets sometimes and calls the Speaker as 'My Lord'. Now, I won't be in the Chair to give him opportunity to call me 'My Lady'. Another time she recalled an amusing conversation with a member of parliament that ran somewhat like this:

Member of Parliament: You have done your Ph. D. in Zoology; you are a Zoologist?

Deputy Chairman: Yes.

Member of Parliament: What are you doing over here?

Giving the Member of Parliament a close look up and down, Dr. (Smt.) Najma Heptulla retorted: What do people do after qualifying as Zoologists? Where do they go?⁴³

Legal and Judiciary

The state has enacted various laws to realize the Constitution's mission, with the goals of guaranteeing equal rights, fighting social discrimination and other types of violence and atrocities, and offering support services—especially to working women.⁴⁴

To ensure equality and non-discrimination of women, various legislations have been implemented, such as the Protection of Human Rights Act, 1993; the National Commission for Women Act, 1990; the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989; the Indecent Representation of Women (Prohibition) Act, 1989; the Equal Remuneration Act (ERA), 1976; and the Companies Act, 2013. One of the case judgments under this aegis includes State of Jammu and Kashmir v. Susheela Sawhney, in which a landmark judgment was held on 7 October 2002 by a majority view that the daughter of a permanent resident of Jammu and Kashmir will not lose her status as a permanent resident upon her marriage to a

42 <https://academic.oup.com/book/7080> (Accessed on 8th February 2025).

43 Narain, Y. (2003). *Women members of Rajya Sabha*. Rajya Sabha Secretariat. P. 123, 126 <http://parliamentofindia.nic.in>

44 https://mospi.gov.in/sites/default/files/reports_and_publication/cso_social_stactices_division/Constitutional%26Legal_Rights.pdf (Accessed on 8th February 2025).

person from outside the state⁴⁵.

The Government of India has implemented various measures to address human trafficking, sexual exploitation, and gender-based discrimination through a strong legal framework, progressive judicial decisions, and initiatives promoting women's empowerment. Legal provisions such as Section 143 and Section 144 of the Bhartiya Nyaya Sanhita (BNS), the Immoral Traffic (Prevention) Act, 1956, and the National Investigation Agency (Amendment) Act, 2019 play a crucial role in combating trafficking. In *Budhadev Karmaskar v. State of West Bengal 2022*⁴⁶, the Supreme Court upheld the dignity of sex workers and directed the government to provide vocational training for their rehabilitation.

Furthermore, the Indian Constitution upholds gender equality through Fundamental Rights and Directive Principles, particularly Articles 14, 15, 39, and 42, which empower the State to take affirmative action.

These collective efforts reflect India's commitment to fostering an inclusive society where women are safeguarded, rehabilitated, and empowered to live with dignity, equality, and economic independence.

In political and public life, the

Representation of the People Act of 1951, the National Commission for Women Act, 1990; the Industrial Relations Code, 2020; the Registration of Societies Act, 1860; the Foreign Contribution (Regulation) Act, 2010; and the recent Nari Shakti Vandan Adhiniyam, 2023, were included⁴⁷.

In education and employment, the Right of Children to Free and Compulsory Education Act (RTE), 2009, the Equal Remuneration Act (ERA), 1976, the Mahatma Gandhi National Rural Employment Guarantee Act (2005) (MGNREGA), the Unorganized Workers Social Security Act (UWSSA), 2008, the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, the Companies Act, 2013, the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act (POSH), 2013, the Maternity Benefit Act (MBA), 1961, and the Maternity Benefit (Amendment) Act, 2017, have been included. In *Air India v. Nergesh Meerza AIR 1981 SC 1829*, the Supreme Court struck down the provision in *Air India and Indian Airlines Regulations* stipulating the retirement of the air hostess on her first pregnancy as unconstitutional, void, and violative of Article 14.⁴⁸

On health and reproductive rights of women, the Maternity Benefit Acts, the Medical Termination of Pregnancy Acts,

45 https://nhrc.nic.in/sites/default/files/Women%E2%80%99s%20Rights%20in%20India%20complete_compressed.pdf p. 8 – 14 (Accessed on 8th February 2025).

46 <https://indiankanoon.org/doc/145721634/> (Accessed on 8th February 2025).

47 https://nhrc.nic.in/sites/default/files/Women%E2%80%99s%20Rights%20in%20India%20complete_compressed.pdf p. 34 – 38 (Accessed on 8th February 2025).

48 https://nhrc.nic.in/sites/default/files/Women%E2%80%99s%20Rights%20in%20India%20complete_compressed.pdf p. 41 – 53 (Accessed on 8th February 2025).

the Protection of Women from Domestic Violence Act, 2005, the National Food Security Act, 2013, the Rights of Persons with Disabilities Act, 2016, the Mental Healthcare Act, 2017, the Surrogacy (Regulation) Bill, 2020, and the HIV & AIDS (Prevention and Control) Act, 2017, have been included. In the *Suchita Srivastava v. Chandigarh Administration*: (2009) case, the Supreme Court upheld women's reproductive autonomy as a fundamental right, including the reproductive rights of mentally challenged women.⁴⁹

In Marriage, Family and Legal Rights, Citizenship Act, 1955; The Citizenship, Hindu Marriage Act, 1955; The Special Marriage Act, 1954; Indian Divorce Act, 1869; Law relating to marriage and divorce governing Christians, Parsi Marriage and Divorce Act, 1936, The Muslim Personal Law (Shariat) Application Act, 1937, The Dissolution of Muslim Marriages Act, 1939, The Muslim Women (Protection of Rights on Marriage) Act, 2019, Hindu Minority and Guardianship Act, 1956, The Hindu Adoption and Maintenance Act of 1956 (HAMA, 1956), Criminal Procedure Code, 1973, The Guardianship and Wards Act, 1890, Prohibition of Child Marriage Act, 2006, have been included. In *Lata Singh v. State of Uttar Pradesh* (2006), the SC upheld the right to marry a person of her own choice and remarked that “this is a free and democratic country, and once a person

becomes a major, he or she can marry whoever he/she likes⁵⁰”

In the social and cultural life of women, the Sati Prohibition Act, 1829 (repealed), the Commission of Sati (Prevention) Act, 1987, the Tamil Nadu Devadasis (Prevention of Dedication) Act, 1947 (and other state acts), and the Prohibition of Child Marriage Act, 2006, have been included. In *Indian Young Lawyers' Association v. State of Kerala* (Sabarimala case—2019), the Supreme Court declared unconstitutional the Sabarimala Temple's custom of prohibiting women in their 'menstruating years' from entering the temple. Presently this judgment is under review before the SC⁵¹.

For women in rural areas, the Hindu Succession Act, 1956, land tenure and usage rights, and the Indian Shariat Act, 1937 The Indian Shariat Act, 1937; the National Co-operative Development Corporation Act, 1962 (NCDC Act); and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, are some that have been included. In *Suresh Balkrishna Pogale v. State of Maharashtra*, Section 30(4)(c) of the Bombay Village Panchayats Act, the Court held that appointing a male candidate in place of a woman candidate in the absence of unavailability of a woman candidate amounted to de-reservation of the post of Sarpanch and consequently frustrated the very intention of the legislature.⁵²

49 https://nhrc.nic.in/sites/default/files/Women%E2%80%99s%20Rights%20in%20India%20complete_compressed.pdf p. 62 – 67 (Accessed on 8th February 2025).

50 https://nhrc.nic.in/sites/default/files/Women%E2%80%99s%20Rights%20in%20India%20complete_compressed.pdf p. 70 - 79 (Accessed on 10th February 2025).

51 https://nhrc.nic.in/sites/default/files/Women%E2%80%99s%20Rights%20in%20India%20complete_compressed.pdf p. 85 – 91 (Accessed on 10th February 2025).

Government Policies and Initiatives

The principle of gender equality is enshrined within the Constitution of India that empowers the State to formulate affirmative action for the upliftment of women. Some of the schemes introduced by the current government to empower women socially, educationally, economically, and politically are listed as follows. These include social security initiatives like Beti Bachao Beti Padhao and Pradhan Mantri Awas Yojana; educational programs such as Samagra Shiksha and the National Education Policy 2020 which prioritizes gender equity; economic empowerment through skill development via Women Industrial Training Institutes and Pradhan Mantri Kaushal Vikas Kendras; entrepreneurship support through Pradhan Mantri Mudra Yojana and Stand-Up India; and health initiatives like Ayushman Bharat and Ujjwala Yojna. Additionally, the government has enacted various laws to ensure women's safety, including the Criminal Law Amendment Acts of 2013 and 2018, established One Stop Centres, Women Helplines, and implemented the "Mission Shakti" umbrella scheme to address women's issues throughout their lifecycle and make them equal partners in nation-building⁵³. Further various state level awards are given to women who have done outstanding work

in different fields, so that they become role models for future generation of Indian women. These include, Sushma Swaraj Award, Indira Gandhi Mahila Shakti Award, Kalpana Chawla Shaurya Award, Bahin Shanno Devi Panchayati Raj Award, and Women Outstanding Achievers Award⁵⁴.

Constitutional Approaches for Addressing Future Challenges Related to Women's Rights

The debate about the introduction of the Uniform Civil Code in India, is an ongoing one. Shri K.M. Munshi, in the Constituent Assembly expressed, "If the personal law of inheritance, succession, etc. is considered as a part of religion, the equality of women can never be achieved."⁵⁵ For Hansa Mehta a common civil code was much more important than even the national language. She highlighted, "We have too many personal laws in this country and these personal laws are dividing the nation today. It is therefore very essential if we want to build up one nation to have one Civil Code."⁵⁶ Opponents of the current debate over bringing uniformity to civil laws link uniformity to the homogeneity of diverse religious laws, through the domination of majoritarian practices. On this, Hansa Mehta had warned, "It must be remembered that the Civil Code that we wish to have must be on a par with, or

52 https://nhrc.nic.in/sites/default/files/Women%E2%80%99s%20Rights%20in%20India%20complete_compressed.pdf p. 92-101 (Accessed on 10th February 2025).

53 <https://pib.gov.in/Pressreleaseshare.aspx?PRID=1776873> (Accessed on 10th February 2025).

54 <https://wcdhry.gov.in/state-level-award-for-women/> (Accessed on 10th February 2025).

55 <http://210.212.169.38/xmlui/bitstream/handle/123456789/4362/Inclusion%20of%20women%20through%20indian%20constitution.pdf?sequence=1&isAllowed=y> (Accessed on 10th February 2025).

56 https://cms.rajyasabha.nic.in/UploadedFiles/ElectronicPublications/Selected%20Women%20Speech_Final.pdf p. 71 (Accessed on 10th February 2025).

in advance of, the most progressive of the personal laws in the country. Otherwise, it will be a retrograde step and it will not be acceptable to all.⁵⁷” However, Prime Minister Narendra Modi, while addressing the Lok Sabha during special discussion on 75th anniversary of adoption of Constitution had stated, “Keeping with the spirit of the Constitution and the intentions of its framers, the government is fully committed to establishing a secular civil code.⁵⁸” In *Mohd. Ahmad Khan v. Shah Bano Begum* case, the Supreme Court expressed, “A Common Civil Code will help the cause of national integration by removing disparate loyalties to laws which have conflicting ideologies.” It further wrote, “We understand the difficulties involved in bringing persons of different faiths and persuasions on a common platform, but a beginning has to be made if the Constitution is to have any meaning. Justice to all is a far more satisfactory way of dispensing justice than justice from case to case.⁵⁹” After Uttarakhand became the first state in independent India to have a Uniform Civil Code, Chief Minister Pushkar Singh Dhami wrote on X, “The oppression of women will be curbed. The UCC will play an important role in promoting harmony by proving the importance of social equality in the State.” The Bill has kept tribals out of

its ambit; put a complete ban on polygamy, polyandry, halala, iddat, and talaq; made it mandatory to register marriage and divorce, failing which the couple concerned will be deprived of the benefits of all government facilities; equal rights in property have been given to sons and daughters for all classes; after the death of a person, his wife and children are given equal rights in his property along with the deceased’s parents. The mandatory registration of live-in relationships is currently a subject of extensive debate.⁶⁰ The principles of a Uniform Civil Code (UCC) have already been incorporated into Indian law through legislations such as the Hindu Code Bills, the Indian Christian Marriage Act, the Indian Divorce Act, and the Indian Succession Act, albeit within their respective domains. However, this debate is not new. During the drafting of the Constitution, key figures extensively discussed this issue. Dr. B.R. Ambedkar emphasized the need for a decisive effort to extend the principle of a UCC to areas where it had not yet been applied.⁶¹ At the same time, K.M. Panikkar raised a pertinent concern regarding the feasibility of achieving such a significant social transformation solely through legislative measures, arguing that history demonstrates the limitations of legal interventions in altering deeply

57 Ibid.

58 https://www.pmindia.gov.in/en/news_updates/pm-addresses-lok-sabha-during-special-discussion-on-75th-anniversary-of-adoption-of-constitution/ (Accessed on 10th February 2025).

59 <https://www.hpnl.ac.in/PDF/a2b71128-66bf-486f-81ba-aac183aa576b.pdf> (Accessed on 10th February 2025).

60 <https://www.thehindu.com/news/national/president-approves-uttarakhands-ucc-bill/article67947099.ece> (Accessed on 10th February 2025).

61 <https://patimes.org/dr-b-r-ambedkars-legacy-how-the-uniform-civil-code-will-contribute-to-social-justice-and-equality-in-india/> (Accessed on 10th February 2025).

ingrained social traditions.⁶² Consequently, the discussion on formulating a progressive and inclusive UCC has become increasingly significant, necessitating both policy deliberations and grassroots engagement to foster public awareness and acceptance.

In the arena of politics and governance, the enactment of Women Reservation Bill, 2023 is a historic milestone. However, the implementation of the bill is set to be enforced following the publication of a new census and the completion of the delimitation exercise⁶³. In the constituent Assembly, In July 1947, Renuka Ray expressed her dissent over the idea of reservation for women, “When there is reservation of seats for women, the question of their consideration for general seats, however competent they may be, does not usually arise. We feel that women will get more chances in the future to come forward and work in free India, if the consideration is of ability alone.⁶⁴” Indeed, the goal is to reach to a point in time when reservation would not be necessary to bring women at the forefront of politics, but as of September 2023, only 15% of Lok Sabha MPs and 13% of Rajya Sabha MPs were women. No state had more than 20% women representation in its Assembly. Chhattisgarh had the highest representation with 18% women MLAs, while Himachal Pradesh had just

one-woman MLA and Mizoram had none⁶⁵. In the above section on governance, we have explored the crucial need for quotas in politics for women. However, simply increasing the number of women in political institutions, without addressing the ground level issues, such as, that of ‘Pati sarpanch,’ lack of real authority for elected women; the existence of gender authority gap; limited interaction between female representatives and citizens; etc, alone doesn’t guarantee that their voices will be heard⁶⁶. Therefore, these issues must also be addressed for the effective implementation of the bill.

In the economic sphere too, India has shifted its focus from women empowerment to developing a woman – led nation. As per the finding on “Female Labour Force Participation Rate”, there has been a significant increase in the women’s labour force participation even in the rural areas, from 24.6% in 2017 – 18 to 41.5% 2022 – 23. Rural women consistently show higher labour participation than urban woman, however, results vary regionally, based on their age, marital status, and presence of children⁶⁷. However, while we appreciate and encourage women stepping out of their homes, becoming financially independent and contributing to national income; we often fail to recognize the double burden of unpaid care work that

62 <https://www.hpnl.ac.in/PDF/a2b71128-66bf-486f-81ba-aac183aa576b.pdf> (Accessed on 14th February 2025).

63 <https://pib.gov.in/PressNoteDetails.aspx?NotelD=151863&ModuleId=3®=3&lang=1> (Accessed on 14th February 2025).

64 <https://frontline.thehindu.com/books/constitution-at-75-history-the-fifteen-women-leaders-constituent-assembly-contribution-legacy/article68832699.ece> (Accessed on 14th February 2025).

65 <https://prsindia.org/parliament/vital-stats/women-in-parliament-and-state-assemblies> (Accessed on 14th February 2025).

66 https://impact.stanford.edu/article/increasing-number-women-politics-india-doesnt-guarantee-their-voices-will-be-heard?utm_source (Accessed on 14th February 2025).

67 <https://eacpm.gov.in/wp-content/uploads/2024/12/EACPM-WP-Female-LFPR-India.pdf> (Accessed on 14th February 2025).

women face when they step back into their homes after their work. Feminist scholar, Nancy Fraser's concept of "crisis of care" and "social reproduction", examines how on one hand development depends on social reproduction as a background condition for economic production, yet it also separates social reproduction from economic production, assigns it to women in an unpaid domestic sphere, and devalues this work while depending on it⁶⁸. The debate of economic value of unpaid care work in India traces back to the Constituent Assembly, where the founding mothers presented a "Women's Charter" that viewed women not passive workers bound to their houses but homemakers whose work was 'as important as any other' and needed to be given its full legal and economic status⁶⁹. The problems surrounding this issue includes- the rise in gender gap in unpaid care work, where women spend 5.6 hours daily on unpaid work versus 30 minutes for men, and working women perform 6 times more unpaid care work than employed men. Women's unpaid domestic and care work is valued at 15-17% of GDP. Further, there has been growing care needs with 360 million children (25%) and 147 million elderly (10.5%) requiring care, and elderly population expected to increase to 20.8% by 2050⁷⁰. As a way forward, a 3R Framework

was emphasised at UNDP meeting in 2008. These are - To Recognize the extensive childcare responsibilities currently borne by mothers; To Reduce the load on mothers through redistribution of childcare, within households by greater involvement of fathers, and outside households through affordable, quality neighbourhood childcare options; and to Redistribute childcare as a social responsibility, not just an individual burden on mothers⁷¹. While government initiatives like Namo Drone Didi and the Ujjwala Scheme help alleviate women's burdens, further efforts are needed at the social level and potentially through constitutional reforms.

When discussing women's status in the social, economic spheres, and political spheres, it is essential to focus on the rising frequency of crimes targeting women. Despite the implementation of various laws aimed at reducing these issues, as mentioned in the preceding sections, the problem persists and keeps increasing over time. Violence against women is a manifestation of historically unequal power relations between men and women. It is not a private matter but a human rights violation. That way, The Committee on the Elimination of Discrimination Against Women, recognises three obligations of the state – to respect, protect, and fulfil women's

68 https://complit.utoronto.ca/wp-content/uploads/Tithi-Nancy-Fraser-Crisis-of-Care_-On-the-Social-Reproductive-Contradictions-of-Contemporary-Capitalism.pdf (Accessed on 14th February 2025).

69 Chetan, A., 2022, *Founding Mothers of the Indian Republic: Gender politics of the framing of the Constitution*. Cambridge University Press. P. 97.

70 <https://static.pib.gov.in/WriteReadData/specificdocs/documents/2024/mar/doc202435319501.pdf> (Accessed on 14th February 2025).

71 <https://www.undp.org/sites/g/files/zskgke326/files/publications/Unpaid%20care%20work%20English.pdf> (Accessed on 14th February 2025).

right to a life free of violence.⁷² For paving women-centric perspectives, there is a need for more representation of women in the judiciary. The stark gender disparity in India's judiciary remains a critical concern, particularly at higher levels. While women constitute 36.3% of the district judiciary, their representation drops dramatically to just 13.4% in High Courts and 9.3% in the Supreme Court (as of January 2024).⁷³ In one of the above passages regarding adult suffrage, the need was felt to write "one man, one vote, one value" as "one person, one vote, one value" to make it sound as inclusive as it is in India. Language shapes perception and influences how legal concepts, roles, and principles are understood. When legal texts consistently use masculine pronouns or gender-specific terms like "policeman" or "chairman," they subtly reinforce outdated assumptions about who can hold positions of authority or engage with the legal system. Using gender-neutral alternatives like "police officer," "chairperson," or "they" as a singular pronoun helps ensure legal language reflects and promotes equality.⁷⁴ Another important issue to address is that despite women officers being mandated to handle all crimes against women, they constitute only 11.7% of state police forces (as of January 2022, per MHA data). This

creates an overwhelming workload on the limited women personnel, leading to delays in charge-sheeting and lower conviction rates.⁷⁵ At the social level, it is also necessary to comprehend the media's role in moulding public perception and affecting people's everyday activities. Over time, there has been a rise in the amount of violence we are exposed to in a variety of media, including video games, television, and movies. Despite legislation regarding indecent and derogatory representations of women, the problem persists. But beyond all the government's laws and policies such as the One Stop Centre Scheme and SHE-Box⁷⁶ provide immediate support to women facing violence and the judiciary's role in ensuring gender justice through its judgments, the ultimate responsibility in this regard starts with the people. As Aruna Roy had stated in her book, "The Personal is Political," "The failure of the collective spirit is reflected in the fact that individual rights are dominant in struggles. Access to rights must be seen as collective for real empowerment."⁷⁷ Therefore, regardless of gender, people should ensure that they uphold the dignity of others. For this, people should be educated about the rights they are responsible to protect for themselves, as well as the duties enshrined in the constitution

72 https://www.ohchr.org/sites/default/files/Documents/Issues/Women/WRGS/SexualHealth/INFO_VAW_WEB.pdf (Accessed on 14th February 2025).

73 <https://www.thehindu.com/opinion/lead/the-under-representation-of-women-in-the-judiciary/article68807637.ece> (Accessed on 14th February 2025).

74 <https://www.unodc.org/dohadeclaration/en/news/2021/152/the-importance-of-women-in-the-judiciary-to-integrate-the-gender-perspective-and-bring-equal-visibility-.html> (Accessed on 14th February 2025).

75 <https://www.thehindu.com/news/national/are-crimes-against-women-on-the-rise-explained/article67622430.ece> (Accessed on 15th February 2025).

76 <https://shebox.wcd.gov.in> (Accessed on 14th February 2025).

77 Roy, A. (2024). *The personal is political*. HarperCollins India.

to protect the rights of others.

Conclusion

“यदा यदा हि धर्मस्य ग्लानिर्भवति भारत ।
अभ्युत्थानमधर्मस्य तदात्मानं सृजाम्यहम् ॥
परित्राणाय साधूनाम् विनाशाय च दुष्कृताम्।
धर्मसंस्थापनार्थाय सम्भवामि युगे युगे ॥”

-Bhagavad Gita (Chapter 4, Verses 7-8)

These philosophical verses from Gita, which translates to “Whenever there is decline of righteousness, and rise of unrighteousness; I incarnate myself, to protect the virtuous and destroy the wicked from age to age,⁷⁸” is parallelly descriptive of the Constitution of India as a living document, upholding its values in every age.

The women’s journey with the Indian Constitution over the past 75 years reflects a remarkable evolution. The principle of gender equality is enshrined in the Indian Constitution in its Preamble, Fundamental Rights, Fundamental Duties and Directive Principles. The Constitution not only grants equality to women, but also provides the mechanism for social transformation through affirmative actions. Our laws, development policies, schemes and programmes have aimed at women’s advancement in different spheres.

India has also ratified various international conventions and human rights instruments committing to secure equal rights of women.

Despite having robust laws and policies, the effectiveness of these provisions depends on the internalization of the constitutional values. Their impact remains limited when beneficiaries are unaware of their rights and duties, or face barriers in accessing them. The ‘Hamara Samvidhan Hamara Samman’ campaign, which aims to promote the understanding of the Indian Constitution and raise awareness about legal rights among citizens is a significant step towards it⁷⁹.

As India progresses towards becoming women – led nation, we shall take pride in celebrating a woman president, who is also the first president from the tribal community. Smt. Draupadi Murmu’s journey from a sparsely populated tribal hamlet to the highest office in the land, and her commitment towards the tribal cause, portrays the significance of representation⁸⁰. As we look to the future, the journey ahead requires a continued commitment to constitutional values, along with innovative approaches to address emerging issues in gender justice.

78 Basu, D. D. (2022). *Introduction to the Constitution of India* (26th ed.). LexisNexis India.

79 <https://pib.gov.in/PressReleasePage.aspx?PRID=2074811#:~:text=The%20'Hamara%20Samvidhan%20Hamara%20Samman'%20campaign%2C%20which%20was%20officially,about%20legal%20rights%20among%20citizens> (Accessed on 15th February 2025).

80 <https://www.theweek.in/theweek/cover/2022/07/23/droupadi-murmu-a-story-of-resilience-pain-and-hope.html> (Accessed on 15th February 2025).

Special Constitutional Provisions for Northeast India

✍ Evesita Rai

The Indian constitution portrays a vision of democracy that embodies equality and equal opportunity. It reflects the ideas of asymmetrical federalism, whereby the union is flexible and grants special status to some federative units due to their cultural diversity and socio-political or economic situations.¹ Thus, the constitution legitimizes these provisions to protect and uplift specific communities from certain regions, the Northeast part of India being one of them.

Northeast India comprising eight states - Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, and Tripura, is home to more than 200 ethnic groups or tribes, each with a unique culture, tradition, and language. This diversity has led to complicated tribal relationships, fights, and isolation from mainland India due to which there is a constant struggle between the native and local citizens of these regions, for recognition, protection, and acceptance. Therefore, these special safeguards were inserted to preserve these states' cultural identities, social and political structures, and natural and economic resources.

The constitutional provisions have been instrumental in safeguarding the sanctity of the north-eastern region and promoting its growth and development. The Sixth Schedule establishing Autonomous District Councils (ADCs) has empowered local communities to preserve their cultural heritage and practice self-governance. Article 371 safeguards the region's customary laws, administration, and protection of land from encroachment, preventing people from outside these regions from settling on tribal lands. Additionally, the constitution ensures representation for scheduled tribes in parliament and government positions. Ultimately, these constitutional provisions aim to elevate the Northeast to an equal status with other states through reservations and quotas.

Historical Context

Before independence, British India followed a policy of non-interference in the internal affairs of the hill tribes. However, considering the difference in socio-cultural life among the people of the hills and plains, the British introduced laws like the Inner Line Regulation System of 1873, the Scheduled District Act of 1874,

1 https://www.jstor.org/stable/23065612?read-now=1&seq=1#page_scan_tab_contents (Accessed on 14th January 2025).

‘Excluded’ and ‘Partially Excluded areas’ under the Govt of India Act, 1935, etc.². Post-independence, many ethnic groups demanded full autonomy, leading to a complex integration process. Integration in a multi-ethnic context demanded constitutional provisions recognizing the region’s diverse realities, unique histories, and geographical spaces.³

The Sixth Schedule: Autonomous Governance

The Indian constitution’s Article 244 (2) addresses the sixth schedule, which gives special attention to the administration of ancestral regions in the provinces of Assam, Meghalaya, Mizoram, and Tripura. It allows for the creation of Autonomous district councils (ADCs) There are three regions in each of these states. In Assam- The Bodoland territorial autonomous district, the Karbi-Anglong Locale, and the North Cachar Slopes Region. In Meghalaya- The Khasi Slopes Region, the Jaintia Slopes Locale, and the Garo Slopes region. In Mizoram- The Chakma Region, Mara Locale, and Lai region. And in Tripura- The Tripura ancestral regions are the main locale.⁴

The intention behind the sixth schedule is to offer the tribal communities in northeast India a straightforward administrative and political framework that can protect their

customs, traditions, judicial system, etc while granting them autonomy in managing their daily life concerning agriculture, animal husbandry, community projects, cooperative societies, social welfare, village planning, etc.⁵.

The most essential provisions of the sixth schedule provide independently run areas and districts of the ancestral grounds. The legislative leader of the states picks which domain will be assigned as managerial divisions of the independent locale and independent districts along with the power to change the name of any independent area or locale, its regional limits, and names. Various leaders and administrative and legal powers have allowed the ADCs to sanction regulations administering their utilization of land, woods, the choice of conventional bosses and headmen, the legacy of property, marriage, tax assessment, social traditions, and so on.⁶

Article 243 M: Panchayat Exemptions

Article 243M inserted through the 73rd Amendment, exempts certain northeast states from the application of panchayat provisions under part IX. It states that nothing in this part will apply to the scheduled areas, and tribal areas that have been referred to in Article 244. This goes for the states of Nagaland, Meghalaya,

2 https://www.ijmra.us/project%20doc/2023/IJRSS_AUGUST2023/IJRSS10Aug23_pori.pdf (Accessed on 14th January 2025).

3 https://www.researchgate.net/publication/373265739_National_Integration_of_NorthEast_India (Accessed on 14th January 2025).

4 https://www.researchgate.net/publication/379681691_Understanding_The_Dynamics_Of_The_6th_Schedule_Of_The_Indian_Constitution_A_Comprehensive_Analysis (Accessed on 16th January 2025).

5 https://www.researchgate.net/publication/379681691_Understanding_The_Dynamics_Of_The_6th_Schedule_Of_The_Indian_Constitution_A_Comprehensive_Analysis (Accessed on 16th January 2025).

6 https://www.ijmra.us/project%20doc/2023/IJRSS_AUGUST2023/IJRSS10Aug23_pori.pdf (Accessed on 14th January 2025).

and Mizoram along with Manipur where district councils exist⁷. In Arunachal Pradesh, Tripura, Sikkim, and Manipur, article 243 inserted through the 73rd and 74th amendments, are used. Therefore, article 243M recognizes the distinct administration needs of some northeast states, protecting their autonomy.⁸

Further, Article 244 under part X addresses the administration of scheduled areas and tribal areas whereby the provisions of the fifth schedule will not apply to the administration and control of the scheduled areas and scheduled tribes in the states of Assam, Meghalaya, Tripura, and Mizoram. Instead, the provisions of the sixth schedule will apply to these tribal areas in Assam, Meghalaya, Tripura, and Mizoram granting the creation of ADCs with legislative, judicial, and administrative powers. The inner line regulation covers the three states of Arunachal Pradesh, Mizoram, Nagaland, and Assam's North Cachar area.⁹

State Specific Provisions: Articles 371A - H

Article 371 and its subsections- under part XXI, Article A, B, C, F, G, and H grants special status to the Northeast states of India.

Article 371 A grants special provisions to Nagaland. It was inserted in the constitution after the Naga Peoples Convention was signed by the centre in 1960, which further

led to the creation of the state of Nagaland. This article grants Nagaland autonomy over customary laws, procedures, or social and religious practices. The parliament is prohibited from enacting any laws relating to the administration of civil and criminal justice, along with matters relating to the transfer of land ownership and the extraction of its resources without consent from the state legislature. The governor of Nagaland with advice from the council of ministers has the power to deal with internal disturbances and maintain law and order in the Naga Hills Tuensang area. The governor has the ultimate discretion and the final say under Article 371 (1b) whereby if there's ever a doubt regarding his authority, the validity of his decision will remain unquestionable¹⁰.

Article 371 B states the special provisions for Assam and was inserted by the 22nd Amendment Act of 1969. According to this article, the president can pass an order to provide for the constitution and functions of the legislative assembly of Assam, which should contain elected tribal representatives, from the tribal areas as specified in the sixth schedule. The president also has the power to order the modification of the procedural rules of the assembly for the proper functioning of the state¹¹.

Article 371C was inserted by the 27th

7 <https://necouncil.gov.in/sites/default/files/uploadfiles/243M.pdf> (Accessed on 18th January 2025).

8 <https://necouncil.gov.in/sites/default/files/uploadfiles/244.pdf> (Accessed on 18th January 2025).

9 <https://necouncil.gov.in/sites/default/files/uploadfiles/244.pdf> (Accessed on 18th January 2025).

10 https://juriscentre.com/2021/06/25/explained-special-provisions-for-north-eastern-states/#_ftn2 (Accessed on 14th January 2025).

11 <https://www.constitutionofindia.net/articles/article-371b-special-provision-with-respect-to-the-state-of-assam/> (Accessed on 14th January 2025).

Amendment Act in 1971 following the formation of Manipur. It gives the president the power to make orders for provisions of the constitution and the functioning of the legislative assembly consisting of members of the assembly elected from the hill regions of Manipur. The governor is entrusted with the responsibility to submit a report regarding the administration of the hill areas in Manipur annually or whenever required by the president. The executive power of the union is extended to giving directions to the administration of those hilly areas, to the state¹².

Article 371 F is unique as it was inserted by the 36th Amendment Act of 1975, before which Sikkim was a monarchy with its own set of laws and regulations. Article 371F of the Indian Constitution provides several special provisions that aim to safeguard the religious, cultural, and social rights of the people of Sikkim¹³.

Article 371F states that Sikkim shall have a legislative assembly of at least 30 members. This ensures adequate representation of the people's voice in Sikkim's legislative processes. It also guarantees the protection of the religious and social practices of the various communities of Sikkim, ensuring respect and preservation of their traditions and customs¹⁴.

The article grants special provisions regarding the ownership and transfer of

land and its resources in Sikkim. It seeks to protect the rights of the indigenous people and secure control over their land and resources. It safeguards the rights and interests of the tribal communities in Sikkim by ensuring the protection of their unique cultural and social identity and equal opportunities for development and progress. This provision also provides reservations in public appointments and educational institutions to its people¹⁵.

All laws existing before the appointed day continue to operate even after the appointed day, no court will have jurisdiction regarding any dispute that occurs over any treaty, agreement, or instrument that has been executed by the government of India. Any action taken within the territory of Sikkim is considered valid as long as it is intra-vires and done with presidential assent.¹⁶

Article 371 G was inserted by the 53rd Amendment Act in 1986 following the creation of Mizoram prohibits the parliament from enacting the social and religious practices of the Mizos or regarding their customary laws and procedures without the assent of the legislative assembly of Mizoram. Unless the assembly decides by a resolution to the enactment made by the parliament in regards to the ownership and transfer of land administration of land and

12 <https://juriscentre.com/2021/06/25/explained-special-provisions-for-north-eastern-states/> (Accessed on 14th January 2025).

13 <https://constitutionsimplified.in/blog-post408> (Accessed on 14th January 2025).

14 <https://constitutionsimplified.in/blog-post408> (Accessed on 14th January 2025).

15 <https://constitutionsimplified.in/blog-post408> (Accessed on 14th January 2025).

16 https://juriscentre.com/2021/06/25/explained-special-provisions-for-north-eastern-states/#_ftn2 (Accessed on 18th January 2025).

administration of civil and criminal justice, will not apply to the state of Mizoram¹⁷.

Article 371 H was inserted by the 55th Amendment Act in 1986, following the creation of Arunachal Pradesh. The governor of Arunachal Pradesh with the assent of the council of ministers has the power to deal with internal disturbances and maintain law and order. In case there is doubt in the governor's authority and judgment, the governor has the ultimate discretion and final say. The validity of the decision will remain unquestionable. However, the president can order the cessation of the governor's special responsibility if he receives a report from the governor¹⁸.

Challenges and Way Forward

Despite special constitutional provisions, issues regarding the effective implementation of the intended protections persist, not fully addressing the objectives of the tribes leading to dissatisfaction, unrest, and distrust in the government. Moreover, frequent political disturbances and insurgency disrupt governance and development further complicating the implementation of policies.

Recently, Manipur has witnessed ethnic violence between the Meiteis and the Kuki-Zos due to the Meitei's demand to be listed as a scheduled tribe which would bring them benefits like quotas in jobs and education to which the Kukis opposed as they consider the Meiteis as

developed community. 250 people killed and 60,000 displaced since¹⁹.

Many north-eastern states continue to grapple with economic challenges, poor and inadequate infrastructure, medical facilities, and industries, high unemployment rates, and corruption, which hinder the region's overall development and integration with the rest of India.

Therefore, addressing these challenges requires a balanced and inclusive approach based on the people's consensus. The government should prioritize dialogue among ethnic groups, state legislative bodies, and the central government along with grievance and conflict resolution, fostering mutual respect and trust.

A comprehensive review of the existing constitutional provisions is also required. The northeast states through various initiatives of the central government, including the North-eastern Council (NEC) and the Ministry of Development of North-eastern Region (DONER), have given financial assistance for the development of their infrastructure, education, and healthcare.

The education system in the northeast region should primarily focus on imparting quality education and awareness to bridge the differences among the communities creating a sense of unity and understanding about the provisions, their benefits, and responsibilities. Lastly, the promotion of small-scale local industries can trigger

17 <https://juriscentre.com/2021/06/25/explained-special-provisions-for-north-eastern-states/> (Accessed on 18th January 2025).

18 <https://juriscentre.com/2021/06/25/explained-special-provisions-for-north-eastern-states/> (Accessed on 18th January 2025).

19 <https://apnews.com/article/manipur-india-violence-ae9b0f553a7f631971f5453e3f58e17d> (Accessed on 16th January 2025).

growth momentum and employment facilities²⁰.

Beyond these challenges, the special constitutional provisions for northeast India are an exemplary example of a coordinated effort to recognize and safeguard the distinct historical, cultural, socio-political, and overall diversity of the area while promoting inclusive development. The constitution through the classification of several north-eastern tribes as scheduled

tribes and articles 330, 332, and 335 has guaranteed their representation in the parliament as well as government jobs. it safeguards the culture of the tribes their land, occupations, and practices allowing them to stay connected with their roots. Moreover, these constitutional provisions have been essential in the development of the northeast and are an affirmation of India's commitment to preserving its cultural diversity.

20 https://www.jneis.com/wp-content/uploads/2018/02/7.2.6.pdf?utm_ (Accessed on 18th January 2025).

Constitutional Values and Fundamental Duties

✍ Arpita Singh

On the 75th anniversary of the adoption of the Constitution of India, the Prime Minister, Shri Narendra Modi, addressed the Lok Sabha special discussion and expressed pride in the resilience and foresight of India's Constitution and the democratic principles that it upholds. He remarked that the citizens of India deserve all the accolades for passing every test in successfully adopting and living the values of the Constitution as envisioned by its makers. Referring to Mahatma Gandhi, he highlighted that rights emanate from the performance of duties and underscored that while the Constitution enshrines fundamental rights for its citizens, it equally emphasizes their duties. He therefore believes that 75 years of the Constitution should give the nation more strength to move forward with a sense of duty, which is also the need of the hour¹.

In the midst of celebrating the 75th anniversary of the Constitution, this article explores the deeper understanding of the constitutional values that demand not just legal compliance but a genuine internalization of civic responsibility. Further, by examining the fundamental

duties enshrined in our Constitution, this article demonstrates how individual commitment to these ideals is essential for India's transformation into a truly developed nation.

Constitutional Values

“The Constitution is not a mere lawyer's document; it is a vehicle of life, and its spirit is always the spirit of the age.” – Dr. B.R. Ambedkar

One fine day, the college canteen was abuzz with discussion; a plate of sizzling Chole Bhature sat barely touched as conversations flowed. Friends from diverse backgrounds gathered, bound by camaraderie forged over countless meals and shared experiences. It was natural to exchange ideas and laughter, yet such inclusivity might have been unimaginable decades ago in a society divided by caste, gender, and religion. This is an ordinary scene from everyday life that spoke of the principles of the Indian Constitution that are ingrained in our value systems; just like former Chief Justice of India, D.Y. Chandrachud, had stated, “The best and surest way to make inequality a distant

1 https://www.pmindia.gov.in/en/news_updates/pm-addresses-lok-sabha-during-special-discussion-on-75th-anniversary-of-adoption-of-constitution/ (Accessed on 06/02/25)

2 Constitutional Values and Indian Constitution.pdf (Accessed on 06/02/25)

dream of the past is to inculcate the spirit of constitutionalism in our society. But much work remains to be accomplished till we rest³.”

Earlier that day, a professor had passionately explained the ideals enshrined in the Preamble of the Constitution—sovereign, socialist, secular, democratic, and republic. Sitting in the canteen, it became clear how these principles played out in our daily lives. Sovereignty, by definition, speaks not only about national independence but also about individual freedom to express your ideas, seek your dreams, and define one’s own fate. In front of me sat a classmate who would narrate how difficult it was to attain education in some remote village. Here sat the symbol of socialist values that had been brought into the Constitution in 1976. This lad, from a distant village, to this premier institute presented dreams of egalitarian India.

The conversation turned to festivals to be observed. One of the friends called everyone to join in the celebrations of Eid. Another friend began planning a Christmas feast with biryani and plum cake. The light-hearted banter represented the essence of secularism—India’s promise to treat every religion equally. Stories of previous communal tensions kept reminding everyone of why this was important. The Constitution made sure that everyone around the table, regardless of their faith, was included and treated with respect.

As plates were emptied, the discussion turned to student elections, reminding us of the essence of democracy. Elections at every level, from the student council to national governance, reminded us that true power lay with the people. A friend was excited because the first daughter of his locality was standing for class representative, which indicated the very nature of a republic in which leadership is by merit and not by privilege.

He had further spoken about justice—social, economic, and political—the basic way of the Constitution. It was social justice where caste, religion, and gender no longer decided who could sit with whom to share the meal. Economic justice was reflected in financial support for the students in need and political justice that granted every citizen participation in decision-making, regardless of their status. Dr. B.R. Ambedkar, in his last speech in the Constituent Assembly, stated that political democracy cannot last unless there lies at the base of its social democracy. Social democracy means a way of life that recognizes liberty, equality, and fraternity, which are not to be treated as separate entities but as a trinity⁴.

There was laughter and debates filling the air, reflecting liberty—freedom of speech, thought, and expression. However, liberty was bound by the responsibility to respect the rights of others just as much while exercising one’s own rights. Fraternity was felt while sharing a meal,

3 <https://www.thehindu.com/news/national/constitution-remarkable-homegrown-product-of-self-governance-dignity-and-independence-says-cji/article66496846.ece> (Accessed on 06/02/25)

4 <https://prasarbharti.gov.in> (Accessed on 06/02/25)

as it progressed to transcending social and cultural differences in its quest to knit meaningful relationships with people from different regions. This small group reflected exactly what the framers of the Constitution had foreseen for a nation: to be united in its diversity. It was then, as the canteen emptied and students dispersed, that reality sank in, that these values were not simply the law, but life-shapers of daily courses.

Fundamental Duties

In his address at the Supreme Court, former Chief Justice of India N.V. Ramana had said that the fundamental duties in the Constitution are not merely to serve a “pedantic or technical” purpose; they are meant to guide citizens to engineer a social transformation⁵.

The fundamental duties were incorporated in Article 51A [Part IVA] through the 42nd Amendment Act, 1976. Under this Article, it shall be the duty of every citizen of India- to abide by the constitution and respect the ideals and institutions, the National Flag and the National Anthem; to cherish and follow the noble ideals which inspired our national struggle for freedom; to protect the sovereignty, unity and integrity of India; to defend the country; to promote the spirit of common brotherhood among all the people of India; to preserve the rich heritage of our composite culture; to protect and improve the natural environment; to develop the scientific temper and spirit of inquiry; to

safeguard public property; to strive towards excellence in all spheres of individual and collective activity; and to provide opportunities for education to one’s child or ward between the age of six and fourteen years. Although there is no provision in the constitution for direct enforcement of any of these duties nor for any sanction to prevent their violation, if a court seeks to give effect to any of these duties, it may consider such law to be “reasonable” in relation to Article 14 or 19, and thus save such law from unconstitutionality⁶.

The Supreme Court of India, the apex court, heard a plea filed by lawyer Durga Dutt, which sought direction to the Centre for enacting well-defined laws to ensure adherence to fundamental duties as enshrined in the Constitution. Attorney General R. Venkataramani stated that the effectuation of fundamental duties is a continuing task, calling for duty-specific legislations, schemes, and supervision. However, the executive and judiciary have always been aware that mere incorporation of these duties in Article 51-A of the Constitution is insufficient to ensure their actual effectuation, particularly given their non-justiciable status. To address these concerns, the Centre had, in 1998, constituted a committee to operationalize suggestions to teach fundamental duties to the citizens of the country. The plea sought the issuance of directives to ensure adherence to the mandates postulated under Part IV-A of the Constitution, stating that

5 <https://www.thehindu.com/news/national/fundamental-duties-are-not-just-pedantic-they-are-key-to-social-transformation-cji/article65771369.ece> (Accessed on 06/02/25)

6 <https://archive.org/details/in.ernet.dli.2015.103074> (Accessed on 06/02/25)

non-adherence has a direct bearing on the exercise and enjoyment of the fundamental rights guaranteed under Articles 14, 19, and 21. It also sought directions from the Centre and states for framing guidelines for taking appropriate steps to sensitize people and spread general awareness among the citizens in relation to the performance of fundamental duties under the Constitution⁷.

Relationship between Fundamental Rights and Fundamental Duties

A common thread runs through Parts III, IV, and IVA of the Constitution of India. One part enumerates the fundamental rights, the second declares the fundamental principles of governance, and the third lays down the fundamental duties of the citizens. Fundamental Duties, as defined in Article 51A, are not made enforceable by a writ of court just as the Fundamental Rights are; however, it is important to note that the term 'duties' in Part IVA Article 51A is preceded by the same word 'fundamental,' just as 'rights' in Part III was designated by the constitution's founding members⁸.

The question of whether fundamental rights or fundamental duties should assume priority for the nation is akin to asking which came first, the chicken or the egg. Pandit Deen Dayal Upadhyaya, in his Integral Humanism, had explained how the holistic development of a person relies on the integrated progress of Dharma, Artha, Kama, and Moksha. Even though Dharma regulates Artha and Kama, all three are

interrelated and mutually complementary. The saying "What sin will not be committed by one who is starving? Those who have lost everything become ruthless," explains how it is not possible to practice Dharma in the absence of Artha. Kama too has been considered on the same lines. If the physical needs are neglected and desires are entirely suppressed, Dharma does not grow⁹. Therefore, Dharma (duty) could be best performed when the right to fulfilling the basic needs of lives is applied. Similarly, performing one's duties responsibly would safeguard the rights of others. Hence, rights and duties have a positive correlation.

The stability of the state is also essential for the prevalence of Dharma. The state comprises all citizens collectively, and even though Article 51A does not expressly cast any fundamental duty on the state, the fact remains that the duty of every citizen of India is the collective duty of the state.

Hamara Samvidhan, Hamara Samman Campaign

In a bid to promote constitutional values among citizens, the Ministry of Social Justice and Empowerment announced on 19th November 2015 that the Government of India would celebrate 26th November every year as Constitution Day. This observance serves as a reminder of the democratic principles that guide the nation.

As part of this endeavor to build awareness regarding constitutional ideals, the 'Hamara Samvidhan, Hamara Samman' campaign

7 <https://indianexpress.com/article/cities/delhi/fundamental-duties-attorney-general-sc-9562570/> (Accessed on 06/02/25)

8 Ibid

9 <https://deendayalupadhyay.org/images/book/Booklet%20on%20IntegralHumanism.pdf> (Accessed on 06/02/25)

was launched on January 24, 2024, by the Hon'ble Vice President of India at the Dr. B.R. Ambedkar International Centre, New Delhi. This initiative aims to ensure that the values enshrined in the Constitution remain integral to daily life. By educating people about their legal rights and responsibilities, the campaign reinforces the principles of justice, equality, liberty, and fraternity that define Indian democracy.

The campaign includes key sub-themes to ensure broad outreach. 'Sabko Nyay, Har Ghar Nyay' promotes legal awareness and accessibility to justice, while 'Vidhi Jagriti Abhiyaan' focuses on legal literacy, particularly for marginalized communities. 'Nav Bharat, Nav Sankalp' encourages active democratic participation, inspiring citizens to uphold constitutional values in their daily lives.

Through regional events, workshops, and seminars, the campaign simplifies constitutional ideals, making them more accessible. By fostering discussions and engagement, it encourages citizens to embrace these values as a guiding force in their actions and interactions. Understanding fundamental rights, such as equality, free speech, and fair trials, empowers individuals to seek justice and participate in governance, while an emphasis on fundamental duties highlights the role of responsible citizenship in sustaining democracy¹⁰.

Conclusion

The original calligraphed draft of the Indian Constitution was done by Prem Behari Narain Raizada, using a holder and nib. It was illuminated by Nandalal Bose, known as the artist laureate of India. The illustrations were done in indigenous methods, using gold leaf and stone colours¹¹. Dr. Ambedkar had once stated, "We have a constitution that contains legal provisions, only a skeleton. The flesh of that skeleton is to be found in what we call constitutional morality¹²." Therefore, to make this beautifully calligraphed and illustrated document more practicable, it requires an unwavering commitment to the principles enshrined in the Constitution, a testament to the spirit and resilience of the Indian people.

In the democratic world, citizenship has gained new meaning and purpose, emphasizing rights while also being sincere about one's duties towards society and the country, especially its safety and security imperatives. The Indian Constitution, a living document reflecting the aspirations of its people, serves as guiding principles for a harmonious and progressive society. Fundamental rights empower citizens, while fundamental duties remind them of their responsibilities. As India celebrates 75 years of its Constitution, it is crucial to renew our commitment to its values and work collectively to realize the vision of a developed and inclusive India by 2047.

10 <https://pib.gov.in/PressReleasePage.aspx?PRID=2075924> (Accessed on 06/02/25)

11 <https://archive.org/details/the-constitution-of-india-original-calligraphed-draft/page/n6/mode/1up> (Accessed on 06/02/25)

12 Ambedkar, B.R. (2017) "The Challenges before the Parliamentary Democracy in India and their Remedies", in B.L.Munekar, The Essential Ambedkar, Rupa, Chap-09

Constitutional Morality

✍ Anshika Pandey

The definition of morality is a subject of much debate. It holds different meanings for different people. The circumstances to which one is exposed greatly influence how the person understands this term and incorporates it into their life. Nyaya philosophy, which provides an epistemological and metaphysical framework, recognises four Pramanas or knowledge sources – Perception (Pratyaksa), Inference (Anumana), Analogical Reasoning (Upamana), and Testimony (Sabda)¹. Applying these in the debate about morality, we can comprehend how different people with varying degrees of access to the four Pramanas could arrive at different moral understanding of the same situation. A person who experiences a situation firsthand may come to a different judgment than those who depend on testimony. While some people may depend on reasoning, others may use the element of tarka to test claims against deeply – rooted beliefs or norms. In his theory of forms and allegory of caves, Plato also differentiates between objective truth and subjective understanding of truth. While answering the ceaseless inward question of what is right or wrong and what is good or bad, a

lot of times the conclusions derived by an individual may be influenced by the crowd's understanding of what is moral, which is often difficult to transcend.

Then, into the picture comes the tug of war between constitutional morality and social or popular morality. The Constitution of India, viewed as a people's constitution that emphasizes individual rights as a collective good, was drafted after years of deliberation tailored to the specific needs of the Indian people. It embodies the aspirations of all social communities and continues to evolve and adapt in accordance with contemporary needs. "We have a constitution that contains legal provisions, only a skeleton. The flesh of that skeleton is to be found in what we call constitutional morality," said Dr. Ambedkar while highlighting the challenges before the parliamentary democracy in India and its remedies². This article therefore attempts to study the concept of constitutional morality, the challenges pertaining to it, and its increasing appreciation over the years.

Origin of its Doctrine

The origin of constitutional morality as a doctrine could be traced back to English historian George Grote's work on the

1 <https://iep.utm.edu/nyaya/> (Accessed on 2nd February 2025).

2 Ambedkar, B.R. (2017) "The Challenges before the Parliamentary Democracy in India and their Remedies", in B.L.Mungekar, The Essential Ambedkar, Rupa, Chap-09.

history of Greece, Athenian democracy, and the perils surrounding it³. By constitutional morality, Grote meant... a paramount reverence for the forms of the constitution, enforcing obedience to authority and acting under and within these forms, yet combined with the habit of open speech, of action subject only to definite legal control, and unrestrained censure of those very authorities as to all their public acts combined, too with a perfect confidence in the bosom of every citizen amidst the bitterness of party contest that the forms of the constitution will not be less sacred in the eyes of his opponents than his own⁴. At its heart, Grote's formulation of constitutional morality essentially implied a "coexistence of freedom and self-imposed restraint, - of obedience to authority with unmeasured censure of the persons exercising it"⁵.

Dr. Ambedkar's View on Constitutional Morality

In India, the concept of constitutional morality was first introduced by Dr. Ambedkar in the Constituent Assembly. By asking, "If we wish to maintain democracy not merely in form, but also in fact, what must we do?" in his speech delivered on November 25, 1949, he identified three essential necessities to maintain democracy. These include the need to "hold fast to constitutional methods of achieving social

and economic objectives," not practicing hero-worship of leaders, and upholding social democracy by recognizing the union of trinity—liberty, equality, and fraternity. Further, Dr. Ambedkar firmly believed that the observance of Constitutional Morality is a precondition for the successful working of democracy. He emphasised, that if Indians celebrate mechanisms instead of values, there will be a crisis for democracy⁶.

Constitutional Morality vs. Popular Morality

Over the years, two meanings have been attributed to constitutional morality. One is to act as a counterpoise to 'Popular Morality,' and the other is to act as 'Constitutional Silences,' when grouped with the basic structure doctrine. The initial referrals of it in judiciary can be seen in the matter of Keshavananda Bharati v. State of Kerala case and later, in the First Judges case. However, in the Supreme Court judgment in Islamic Academy of Education v. State of Karnataka, it was directly held that violation of equality would amount to a violation of 'constitutional morality'. S B Sinha, J., explained its concept, "It would be constitutionally immoral to perpetuate inequality among majority people in the country in the guise of protecting the constitutional rights of minorities and constitutional rights of the backward and downtrodden."⁷ In Manoj Narula v. Union

3 https://www.lawctopus.com/academike/constitutional-morality-india/#_ftnref2 (Accessed on 2nd February 2025).

4 https://www.india-seminar.com/2010/615/615_pratap_bhanu_mehta.htm (Accessed on 2nd February 2025).

5 Chandrachud, Abhinav, The Many Meanings of Constitutional Morality <https://ssrn.com/abstract=3521665> (Accessed on 2nd February 2025).

6 https://lii.ac.in/pdf/12_Ajay_Kumar.pdf (Accessed on 2nd February 2025).

7 S Kumar, Abhijith, ANALYSIS OF THE APPLICATION OF THE DOCTRINE OF CONSTITUTIONAL MORALITY BY INDIAN SUPREME COURT -A DEPARTURE FROM GROTE'S VISION? (November 01, 2022). XV (1&2) Kerala University Journal of Legal Studies 148 (2022) <https://ssrn.com/abstract=5014077>

of India, the Supreme Court, while deciding if a person with a criminal background or charges framed in a criminal case involving moral turpitude could be prevented from becoming a minister in the central or state government, the court referred to Babasaheb Ambedkar's speech in the Constituent Assembly on constitutional morality and stated, "(Constitutional morality) means to bow down to the norms of the Constitution and not to act in a manner that would become violative of the rule of law. It, along with commitment to the Constitution, is a facet of constitutional morality"⁸. In *NCT of Delhi v. Union of India*, "strict and complete adherence to constitutional principles" and "substantive provisions of the constitution" is understood as constitutional morality; constitutional morality here therefore meant the "spirit of the constitution"⁹. In the *Naz Foundation v. Government of NCT of Delhi* judgment, which challenged the constitutional validity of Section 377 of the Indian Penal Code, which made "carnal intercourse against the order of nature" a criminal offense, the court referred to the European Court of Human Rights in *Norris v. Republic of Ireland* and stated, "[a]lthough members of the public who regard homosexuality as immoral may be shocked, offended, or disturbed by the commission by others of private homosexual acts, this cannot on its own warrant the application of

penal sanctions when it is consenting adults alone who are involved." Chief Justice A.P. Shah of the Delhi High Court further held that "popular morality or public disapproval of certain acts is not a valid justification for restriction of the fundamental rights under Article 21"¹⁰. In *Joseph Shine v. Union of India*, Justice Chandrachud held that Section 497 denuded a married woman of "her agency and identity, employing the force of law to preserve a patriarchal conception of marriage which is at odds with constitutional morality". "Criminal law," he held, "must be in consonance with constitutional morality"¹¹. Even before the term became more common, the courts had already been prioritizing constitutional morality, even if it wasn't explicitly referenced in many instances, including the triple talaq case or *Lata Singh vs. State of UP*, which upheld the right to choose a partner, including inter-caste marriage. "This is a free and democratic country, and once a person becomes a major, he or she can marry whosoever he/she likes," held the Supreme Court of India.

Civil Disobedience with Respect to Constitutional Morality

Constitutional morality would stand impoverished if it failed to accommodate the principle of civil disobedience¹². "Democracy and its Institutions" is a book by André Bételle. In its chapter titled

8 https://www.lawctopus.com/academike/constitutional-morality-india/#_ftnref2 (Accessed on 2nd February 2025).

9 S Kumar, Abhijith, ANALYSIS OF THE APPLICATION OF THE DOCTRINE OF CONSTITUTIONAL MORALITY BY INDIAN SUPREME COURT -A DEPARTURE FROM GROTE'S VISION? (November 01, 2022). XV (1&2) Kerala University Journal of Legal Studies 148 (2022) <https://ssrn.com/abstract=5014077>

10 Chandrachud, Abhinav, The Many Meanings of Constitutional Morality <https://ssrn.com/abstract=3521665> (Accessed on 2nd February 2025).

11 Ibid.

12 <https://www.jstor.org/stable/40278025> (Accessed on 2nd February 2025).

“Constitutional Morality,” he argues for the “virtue of civility” that “calls for tolerance, restraint, and mutual accommodation in public life.¹³” In the past for Mahatma Gandhi, civil disobedience became the cornerstone of nationalist movements. However, it incorporated the ideals of non – violent resistance as a moral force. Contemporary movements, however, invoke civil disobedience but diverge from Gandhi’s vision¹⁴. Looking back in history, according to P. N. Dhar, “The Emergency as well as the JP movement further weakened the institutions essential for genuine democracy. Both these events reduced respect for the rule of law: the Emergency by an authoritarian disregard for legal norms and the JP movement by rationalizing and glamorizing the defiance of all authority¹⁵.” On this Dr. Ambedkar had said in the past, “But where constitutional methods are open, there can be no justification for these unconstitutional methods. These methods are nothing but the Grammar of Anarchy, and the sooner they are abandoned, the better for us.¹⁶”

Critical Analysis of Constitutional Morality

According to former Attorney General of India, K.K. Venugopal, “The use of constitutional morality can be very, very

dangerous, and we can’t be sure where it’ll lead us to. I hope constitutional morality dies. Otherwise, our first PM, Pandit Nehru’s fear that SC will become the third chamber might come true.¹⁷” In the Sabarimala temple case, different judges held different opinions; for Justice Dipak Misra, “The notions of public order, morality and health cannot be used as colourable device to restrict the freedom to freely practise religion and discriminate against women of the age group of 10 to 50 years by denying them their legal right to enter and offer their prayers at the Sabarimala temple for the simple reason that public morality must yield to constitutional morality.¹⁸” Justice Chandrachud had observed, “Constitutional morality is not subject to fleeting fancies of every time and age but is deeply rooted in fundamental postulates of human liberty, equality, fraternity and dignity.¹⁹” However, for Justice Indu Malhotra, “A balance is required to be struck between the principles of equality and non-discrimination on the one hand, and the protection of the cherished liberties of faith, belief, and worship guaranteed by Articles 25 and 26 to persons belonging to all religions in a secular polity, on the other hand. Constitutional morality requires the harmonization or balancing of all such rights to ensure that the religious beliefs

13]<https://docs.manupatra.in/newsline/articles/Upload/DD9473E1-AA68-4AF7-B6B8-119EA1196E6F.pdf> (Accessed on 2nd February 2025).

14 <https://www.jstor.org/stable/40278025> (Accessed on 2nd February 2025).

15 <https://archive.org/details/indiragandhiemer0000dhar> (Accessed on 2nd February 2025).

16 https://ili.ac.in/pdf/12._Ajay_Kumar.pdf (Accessed on 2nd February 2025).

17 https://www.lawctopus.com/academike/constitutional-morality-india/#_ftnref2 (Accessed on 2nd February 2025.)

18 https://www.lawctopus.com/academike/constitutional-morality-india/#_ftnref2 (Accessed on 2nd February 2025.)

19 https://www.lawctopus.com/academike/constitutional-morality-india/#_ftnref2 (Accessed on 2nd February 2025.)

of none are obliterated or undermined.²⁰ This privity to subjective interpretations by individual judges having different perceptions, and the lack of clarity or literature on the concept of Constitutional Morality, is the first criticism of this doctrine. The then law minister Ravi Shankar Prasad had highlighted, “We hear about Constitutional Morality, we appreciate innovations but nuances of Constitutional morality should be outlined with clarity and should not differ from judge to judge and there must be a consensus.”²¹

According to Justice Nariman, “It is not...open for a constitutional court to substitute societal morality with constitutional morality.” He held that “social morality” was “inherently subjective” and morality and criminality were not coextensive²². Indeed, but for India, society has always been an integral part of the nation. “We have original creations in the life of our society. We did not always remain mere passive witnesses to whatever new challenging situations arose, nor did we merely react to every alien action. We have attempted to reshape our life as was required to face the new situations²³.” Thus, societal morality cannot be completely alienated as well; however, in the tussle between diverse pratyaksha (perceptions) within the

society, constitutional morality emerges as a significant means to reinforce justice and the democratic ideals of the nation.

Conclusion

While Rumi poetically wrote, “Out beyond ideas of wrongdoing and right doing, there is a field. When the soul lies down in that grass, the world is too full to talk about.” Justice Chandrachud observed, “Public morality may be deeply offensive to individual dignity. The Constitution wouldn’t render the existence of rights so precarious by subjecting them to passing fancies or to the aberrations of a morality of popular opinion. Content of morality cannot vary with change in social conceptions when the term is used within constitutional text²⁴.” Is there any correlation between these two quotations that are forcefully connected, you may ask. The answer shall be left open-ended for the readers to comprehend for themselves.

While populism invokes the principle of numbers, constitutionalism invokes the principle of legality. Although the Constitution doesn’t explicitly define constitutional morality, for Dr. Ambedkar, it meant to have a sense of respect for procedures and constitutional forms. Justice RF. Nariman held that the concept of constitutional morality is the essence

20 https://www.lawctopus.com/academike/constitutional-morality-india/#_ftnref2 (Accessed on 2nd February 2025.)

21 <https://ijcrt.org/papers/IJCRT2407970.pdf> (Accessed on 4th February 2025.)

22 Chandrachud, Abhinav, The Many Meanings of Constitutional Morality <https://ssrn.com/abstract=3521665> (Accessed on 6th February 2025.)

23 <https://deendayalupadhyay.org/images/book/Booklet%20on%20IntegralHumanism.pdf> (Accessed on 6th February 2025.)

24 S Kumar, Abhijith, ANALYSIS OF THE APPLICATION OF THE DOCTRINE OF CONSTITUTIONAL MORALITY BY INDIAN SUPREME COURT -A DEPARTURE FROM GROTE'S VISION? (November 01, 2022). XV (1&2) Kerala University Journal of Legal Studies, p. 148. <https://ssrn.com/abstract=5014077> (Accessed on 2nd February 2025).

and soul of the Constitution of India that can be found in the 'Preamble' itself as it declares the 'ideals and aspirations' of the constitution²⁵.

To conclude, in the words of William D. Guthrie, "It is the duty of lawyers worthy of the profession, to defend constitutional guaranties before the courts for individual clients, to teach the people in season and out of season to

value and respect the constitutional rights of others, to value and respect the moral principles embodied in our constitutions, to value and respect the rights of person and property, to respect and cherish the institutions we have inherited. To preach to all classes the virtue of self-restraint and respect for the rights of others, without which there can be no true constitutional morality.²⁶"

25 https://ili.ac.in/pdf/12._Ajay_Kumar.pdf (Accessed on 2nd February 2025.)

26 <https://www.jstor.org/stable/25119811> (Accessed on 8th February 2025).

First Amendment Act of the Indian Constitution

✍ Pratham Ranjan

Only 16 months after the Constitution came into force, Prime Minister Nehru introduced the Constitution (First Amendment) bill in May 1951. In his book “Sixteen Stormy Days” (2020), Tripurdaman Singh notes that the courts’ repeated invalidation of government initiatives related to land reforms, press regulation, caste-based reservations, and nationalization—on the grounds of fundamental rights—led to the enactment of the First Constitutional Amendment Bill.

While Nehru called the restrictions posed by the courts an act of “kidnapping and purloining” of the Constitution by lawyers, strong opposition to the amendment was led by S.P. Mookerjee, who called it “the beginning of the encroachment of liberty.” Over the years, there have been hundreds of amendments to the constitution, for it is a living document that keeps evolving over time. This article, therefore, explores the backdrop to the first-ever amendment to the Constitution of India while examining its needs and its critiques.

Backdrop to the Amendment

The Constituent Assembly aimed to create a constitution that would uphold

individual freedoms, contrasting with the repressive colonial past. Early constitutional tensions began when the Bombay High Court struck down preventive detention practices, which was in direct conflict with the new Constitution’s Article 22. Despite differences on other issues, Nehru and Patel shared a common consensus on preserving state security over civil liberties. On February 11, 1950, more than 200 communist prisoners went on strike in Salem Central Jail and demanded political detainee status. Romesh Thapar’s left-leaning magazine, *Crossroads*, and Hindu nationalist magazine, *Organizer*, were censored and banned. The Supreme Court’s verdict from May 26, 1950, stated that laws restricting free speech must be directed solely against undermining state security and that public order concerns alone couldn’t justify speech restrictions. This incident was seen as the first major confrontation between the judiciary and the government over fundamental rights¹.

The Bihar Management of Estates Act 1949 allowed the government to take over colonial zamindari estates before final acquisition. The Patna High Court, however, ruled it to be unconstitutional. Nehru

1 Tripurdaman Singh, *Sixteen Stormy Days: The Story of the First Amendment to the Constitution of India*, New Delhi: Vintage, Penguin Random House, 2020, p.12.

believed, “Having proclaimed the abolition of zamindari as a major policy, we cannot stop this process due to legal difficulty.”² The Central Provinces and Berar Regulation of Manufacture of Bidis Act, which controlled and regulated bidi production, was also held void by the Supreme Court because it violated the right to carry on any trade or profession. The Madras High Court struck down the ‘Communal Government Order’ granting caste-based reservations in educational institutions for contravening Article 15(1). The Supreme Court upheld this decision and also struck down communal reservations in government jobs. Against this backdrop, Nehru wrote to his chief ministers: “It is impossible to hang up urgent social changes because the Constitution comes in the way... We shall have to find a remedy, even though this might involve a change in the Constitution.”³

Constitutional Provisions of the Amendment

The Constitution (First Amendment) Act, 1951, aimed to secure the validity of land reforms, protect the State’s powers, and provide clear guidance on the relationship between fundamental rights and the State legislation. Article 15 (4) was added, allowing the State to make special provisions for the advancement of socially and educationally backward classes of citizens and for the Scheduled Castes

(SCs) and Scheduled Tribes (STs). Article 19 (2) was amended to expand reasonable restrictions on the freedom of speech and expression (Article 19 (1) (a)) to include security of the State, friendly relations with foreign States, public order, decency or morality, contempt of court, defamation, or incitement to an offence. Further, Article 19 (6) was also amended to provide that the State could make laws regulating professional or technical qualifications. Article 31A was also inserted to validate laws concerning the acquisition of estates and rights over land. This was particularly aimed at abolishing zamindari systems and land reforms. Through the insertion of Article 31B, certain laws and regulations listed in the Ninth Schedule were validated. Articles 85 and 87 were amended regarding the sessions of the parliament to ensure that six months would not lapse between the last sitting of one session of Parliament and the next and that the President has to address the Parliament at the beginning of the first session after each general election. Similarly, the same rule applied at the State Legislature through the amendment of articles 174 and 176. Additionally, amendments regarding the continuance of existing laws and the eligibility of judges’ appointments were also included. Besides, the Ninth Schedule was added to provide a list of land reform laws that were protected from judicial review.⁴

2 Ibid.

3 <https://indianhistorycollective.com/how-the-first-amendment-to-the-indian-constitution-circumscribed-our-freedoms-how-it-was-passed- amendmentoftheconstitution-nehruhistory-constitutional-gov-congressbill-parliamentarydemocracy/> (Accessed on 22nd January 2025).

4 <https://www.india.gov.in/my-government/constitution-india/amendments/constitution-india-first-amendment-act-1951> (Accessed on 22nd January 2025).

Conflicts and Debates

On 12 May 1951, when Jawaharlal Nehru introduced the bill, he defended the bill passionately and criticized the press for spreading falsehoods, vulgarity, and indecency, which he believed negatively influenced the people. He emphasized the need for constitutional amendments to address social and economic conditions in India. Shyama Prasad Mookerjee, the leader of the opposition, however, fiercely opposed the amendment, viewing it as an encroachment on civil liberties and an undermining of the Constitution. He described the Constitution as being treated like a “scrap of paper” by the government and warned that the country would lose its liberty if the amendment passed without checks. On 31 May 1951, a new draft of the amendment was debated, and it infuriated all the participants. While Acharya Kripalani mocked the government, Frank Anthony justified his vote for the amendment as a preventive measure against communism. As an outcome of the debate, the First Amendment was passed on 31 May 1951, with 228 votes in favour, 20 votes against, and 50 abstentions. This debate was seen as one of the finest in India’s parliamentary history due to the intellectual depth, passion, and strong opposing viewpoints.⁵

Therefore, the debates surrounding this amendment primarily focused on the issues of freedom of speech, judicial vs. legislative powers, its retrospective and

prospective effect, and forming a balance between state control and fundamental rights. Some argued that the amendment was merely a tool for the political class to consolidate power, while others maintained that it was essential for modernizing the state’s policies to meet the challenges of a rapidly changing society. However, the First Amendment was not only a reaction to judicial interpretations, but it also set the stage for future constitutional amendments that aimed to address government concerns with judicial rulings, such as the Golaknath vs. State of Punjab, Keshavananda Bharathi judgment, and the Minerva Mills Ltd vs. Union of India judgment.⁶

Conclusion

The First Constitutional Amendment Act of 1951 had a profound influence on Indian society. Many laws today trace their constitutional basis to the First Amendment. It also set a precedent for constitutional modifications that continue. By abolishing the colonial zamindari system and by including affirmative action measures within Article 15(4), the amendment did create the legislative basis for reservations in public employment and education, promoting further equality and social mobility for historically disadvantaged groups.

In contemporary times, The 105th Amendment Act that restored the power of state governments to identify and recognize Socially and Educationally Backward Classes; the 104th Amendment

5 <https://theprint.in/india/how-sp-mookerjee-took-on-nehru-in-one-of-the-fiercest-finest-parliamentary-duels-in-india/776258/> (Accessed on 22nd January 2025).

6 <https://www.jstor.org/stable/44003470> (Accessed on 22nd January 2025).

Act that extended the reservation of seats for Scheduled Castes (SC) and Scheduled Tribes (ST) in the Lok Sabha and State Legislative Assemblies for an additional ten years; the 103rd Amendment Act that introduced a 10% reservation for economically weaker sections (EWS); the 102nd Amendment Act that provides for the establishment of a commission for the socially and educationally backward classes to be known as the National Commission for Backward Classes; and even the 106th Amendment Act that reserves one-third of all seats for women in Lok Sabha, State legislative assemblies, and the Legislative Assembly of the National Capital Territory of Delhi, including those reserved for SCs and STs, all find their roots in the aim at promoting social, economic, and political equality and mobility.⁷

The restriction posed on the freedom of speech through the First Amendment Act, however is highly contested till date.

The Constitution framers initially provided sweeping freedom of speech and expression based on their own experience fighting for independence. However, idealism had to be toned down when practical issues on governance emerged.⁸

Ultimately, the First Amendment embodied the struggle to balance competing priorities—individual rights versus collective welfare and judicial independence versus legislative supremacy. Its legacy holds contemporary relevance, as the Supreme Court agreed to hear a petition challenging the validity of the First Amendment in 2022, and the sedition laws (Section 124A) were also revalidated through this amendment.⁹ While debates about the Constitution, free speech, and dissent are ongoing, it becomes increasingly important for us as political science students to be aware of this moment in history. Which is also the purpose behind exploring this topic in this article.

7 <https://legislative.gov.in/document-category/amendment-acts-102-to-onwards/> (Accessed on 22nd January 2025).

8 <https://www.jstor.org/stable/44003470> (Accessed on 22nd January 2025).

9 Tripurdaman Singh, *Sixteen Stormy Days: The Story of the First Amendment to the Constitution of India*, New Delhi: Vintage, Penguin Random House, 2020.p.12.

42nd Constitutional Amendment: Mini Constitution

✍ Fathima Fidha

The purpose of this article is to explore the journey of the Indian Constitution, particularly the critical period when the Forty-Second Amendment altered its very essence. Due to its far-reaching impact, this amendment has often been referred to as a “mini-Constitution.” The process surrounding this amendment created a level of unrest in the country that is difficult to fully imagine. Intellectuals, lawyers, and opposition parties, who had survived imprisonment, made extensive efforts to intervene. However, in the face of Congress’s overwhelming influence, no one succeeded in halting the process.

The study of this amendment is essential as it reflects potential crises that could arise in the very Constitution underpinning the success of our democracy. This article aims to present the facts of that period, with the objective of strengthening constitutional awareness and discourse. In other words, if the Constitution is indeed a living document for us, it must be nurtured by every generation. Furthermore, it is crucial to keep informing future generations about past events so they take the success of our democracy seriously and with the respect it

deserves.

The Constitution (Forty-Second Amendment) Act, 1976

The Constitution (Forty-Second Amendment) Act, 1976, a significant milestone in India’s constitutional history, has been subject to intense debate for its substantial alterations. Initially introduced as the Constitution (Forty-Fourth Amendment) Bill, 1976¹, it was renumbered and became the Forty-Second Amendment Act following its passage through the Indian Parliament. The bill, introduced in the Lok Sabha on September 1, 1976², incorporated key recommendations from the Swaran Singh Committee³, and its passage was marked by considerable controversy and opposition, particularly from the opposition parties and legal experts. The Lok Sabha passed the amendment on November 2, and the Rajya Sabha followed suit on November 11. State ratifications were completed by December 7, and the President granted assent to the bill on December 18, 1976.

Opposition and Debate

On September 1, 1976, when Law Minister H.R. Gokhale presented the

1 https://eparlib.nic.in/bitstream/123456789/923111/1/lcd_05_17_01-09-1976_hindi.pdf pp, 9-15. (Accessed on 26th February 2025).

2 Ibid.

3 G. G. Mirchandani, *Subverting the Constitution*, South Asia Book, 1977, p.66.

amendment in the Lok Sabha, Professor Sibban Lal Saxena, an independent Member of Parliament from Maharajganj and a former member of the Constituent Assembly, was the first to register his opposition.⁴ CPI's Indrajit Gupta, while not opposing the bill outright, refrained from supporting it, stating that "the bill is partially good."⁵ Trideb Chaudhary, leader of the Revolutionary Socialist Party and a Member of Parliament from Bahrapur, opposed the bill, arguing that it violated the basic structure of the Constitution as established in the Kesavananda Bharati case.⁶ PG Mavlankar from Ahmedabad also opposed the bill, asserting that the Constitution binds both the government and the public in a true democracy, and that it cannot be the master of the people.

The Law Minister, in his speech, attempted to discredit all opposition arguments. He remarked, "Opposition parties refer to the Supreme Court's decision, which asserts that the basic elements of the Constitution cannot be altered. However, the Supreme Court did not clarify what the basic elements of the Constitution are. I do not agree with the proposition that there are fundamental elements in the Constitution that cannot be changed or amended. If the correct process is followed, every provision of the Constitution can be amended."⁷ This

statement emphasized the government's belief that its authority to amend the Constitution outweighed that of the Constituent Assembly itself.

The Swaran Singh Committee

The Forty-Second Amendment is directly linked to the Swaran Singh Committee, established on February 26, 1976, in response to the political climate following the Emergency.⁸ Chaired by former External Affairs Minister Swaran Singh, the committee included figures like West Bengal Chief Minister Siddhartha Shankar Ray and Union Law Minister H.R. Gokhale. Its mandate was to recommend constitutional amendments based on the Constitution's functioning since its adoption.

The committee deliberated from March to July 1976, releasing tentative proposals for national debate. On May 28, the Congress Working Committee approved these recommendations, followed by ratification by the All-India Congress Committee (AICC).⁹ The primary recommendations included incorporating "fundamental obligation and duties,"¹⁰ reinforcing national unity, and ensuring the judiciary would not obstruct government progress. The Mrs. Indira Gandhi and AICC argued that these changes were essential to fulfil the mandate given by the people during the

4 https://eparlib.nic.in/bitstream/123456789/923111/1/lsd_05_17_01-09-1976_hindi.pdf (Accessed on 26th February 2025).

5 Ibid.

6 Ibid.

7 Ibid.

8 G. G. Mirchandani, *Subverting the Constitution*, South Asia Book, 1977, p.64.

9 Ibid, p.66.

10 Ibid.

1971 elections.¹¹

Committee Recommendations

The committee continued refining its proposals and, on July 16, 1976, released additional recommendations, including limiting judicial review, granting the Centre more powers in areas like education and agriculture, and establishing administrative tribunals.¹² Additionally, the Preamble was proposed to be amended to reflect India's democratic, secular, and socialist character.

In its final report on August 4, 1976, the committee recommended incorporating family planning, workers' participation in management, and free legal aid into the Directive Principles. It also suggested restricting the powers of High Courts and empowering the Centre in various areas, such as police deployment and public affairs regulation.¹³

Intellectuals' Meeting and Constitutional Reforms

In mid-January 1976, Acharya Vinoba Bhave, the distinguished Gandhian leader, convened a conference of intellectuals, known as Acharyas, at Paunar, near Nagpur.¹⁴ The conference was attended by 26 eminent individuals, including renowned jurists, vice-chancellors, senior professors, notable constructive workers, and distinguished writers, all of whom were politically unaffiliated. After three days

of deliberation, the participants issued a statement, comprising approximately 1,000 words, on January 18, 1976, which was subsequently sent to the Prime Minister.¹⁵

The statement addressed the need for constitutional reforms, emphasizing a collective recognition that the Constitution should facilitate rapid social and economic progress, particularly for the vulnerable sections of society. The participants acknowledged that several amendments had already been made to the Constitution, but argued that further amendments should also be considered. They endorsed the Prime Minister's recent statements regarding the necessity of ensuring that any fundamental changes to the Constitution should only occur after extensive consultations and discussions at various levels throughout the country. They advocated for the establishment of a broad-based committee by the Union Government to study these issues in greater depth. An important goal of such a committee, they proposed, should be to devise effective mechanisms for decentralizing power and responsibility to the grassroots level.

On January 18, Bhave addressed the meeting and proposed three natural forms of government:¹⁶ *Ekayatan* (rule by one), *Bahusankhyatan* (rule by more than one), and *Sakalayan* (rule by all). He argued that while the first form could lead

11 Ibid.

12 Ibid, pp.67-68.

13 Ibid, p.70.

14 Ibid, p.62.

15 Ibid.

16 Ibid.

to either an ideal kingdom (Ramrajya) or a tyrannical rule (Ravan Rajya), the second form reflected the existing state of governance in India. Bhavé identified the third form, *Sakalayan* (rule by all), as the ideal form of governance. He critiqued the Western model of democracy, particularly the British system, which, he argued, was unsuited to India. According to Bhavé, Western democracy, which operates on majority rule, was incompatible with India's pluralistic society, which encompasses multiple religions and languages, in contrast to the homogeneity of religion and language in Western countries.

Judge's View on Judicial Review

On March 26, 1976, Justice K.K. Mathew, a former judge of the Supreme Court, delivered the Sir Tej Bahadur Sapru Memorial Lecture¹⁷, where he discussed the concept of judicial review in the context of a written constitution. Justice Mathew argued that the power of constitutional review was inherent in the very nature of a written constitution, which delegates limited powers to the government. He stated that if each governmental department were allowed to be the ultimate judge of the constitutionality of its measures, legislative acts could be deemed constitutional irrespective of their compatibility with previous legislation, leading to inconsistent interpretations of the Constitution.

Justice Mathew contended that vesting the power of constitutional review in

Parliament or a committee would be incompatible with the concept of limited government, as it would effectively grant the executive an absolute veto power.¹⁸ He also expressed concern that the simplification of the idea that a democratic society must grant sovereign powers to its legislature ignored the fact that constitutional imperatives placed many aspects of community life beyond the direct reach of the legislature.

The separation of powers, he asserted, served the purpose of protecting democracy by delineating the functions of different branches of government and safeguarding citizens and various state entities from encroachment.¹⁹ However, he noted that while judges play an essential role in interpreting the law, shaping future law should primarily be the responsibility of the legislature, and judges should avoid opposing the efforts of those tasked with governance.

Justice Mathew acknowledged that judicial misinterpretation of constitutional provisions could be corrected through constitutional amendments. However, he observed that the Keshavananda Bharati case had made constitutional amendment a more challenging process, as the doctrine of the "basic structure" had introduced numerous uncertainties, leaving the amending body without clear guidelines.

Opposition to the Amendment:

The recommendations sparked significant debate, particularly regarding

¹⁷ Ibid, p.63.

¹⁸ Ibid.

¹⁹ Ibid.

the balance between Fundamental Rights and Directive Principles. Dr. P.B. Gajendragadkar, Chairman of the Law Commission, argued that Directive Principles should take precedence over Fundamental Rights. He emphasized that Parliament's plenary constituent powers under Article 368 were beyond judicial review. Prime Minister Indira Gandhi supported the changes, claiming they would enhance freedoms for a broader population and facilitate societal progress.

However, opposition to the amendments came from various quarters, notably the State Citizens' Committee, which expressed concerns about the erosion of judicial review and the centralization of power. The National Committee for the Review of the Constitution, comprising opposition parties, strongly opposed the changes, particularly the deletion of property rights and the removal of judicial safeguards.²⁰ The committee also recommended that constitutional amendments be subject to a referendum, especially when altering the Constitution's basic structure.

Further criticism came from CPI(M) leader E.M.S. Namboodiripad, who argued that the amendments would empower the executive at the expense of the judiciary and democracy.²¹ He suggested postponing reforms until after the Emergency and allowing a broader public discussion.

The Amendment's Provisions

The Forty-Second Amendment introduced 59 new provisions²², including two new parts—Part IVA (which deals with Fundamental Duties) and Part XIV-A (relating to tribunals). It also inserted 11 new articles into the Constitution.²³ A significant aspect of the amendment was its alteration of the Preamble to emphasize securing justice, liberty, equality, and fraternity, and highlighting the importance of socialist, secular, and democratic ideals. This shift reflected the government's desire to prioritize the Directive Principles of State Policy (DPSP) over Fundamental Rights. These changes aligned with the government's aim to ensure that socio-economic reforms could be implemented more effectively without judicial interference.

Controversy and Legal Implications

Despite its sweeping nature, the amendment passed without the participation of major opposition parties, which boycotted the special session of Parliament. Critics contended that the Forty-Second Amendment undermined democratic principles by prioritizing Directive Principles over Fundamental Rights, thus compromising individual liberties. The expansion of parliamentary authority over constitutional amendments was seen as an attempt to erode judicial independence and weaken the checks and balances central to India's democratic framework.

20 Ibid, p.75.

21 Ibid, p.78.

22 Ibid, p.82.

23 Ibid.

Impact on Fundamental Rights and Directive Principles

One of the most significant aspects of the Forty-Second Amendment was the shift in the balance between Fundamental Rights and the Directive Principles of State Policy. The amendment ensured the primacy of the Directive Principles over certain Fundamental Rights, particularly regarding laws enacted for socio-economic reforms. For instance, Article 31C was amended to shield laws promoting Directive Principles from judicial review, even if such laws violated Fundamental Rights like equality before the law (Article 14), freedom of speech (Article 19), and protection of property rights (Article 31). This shift raised concerns about the erosion of individual freedoms.

Amendment passed unanimously:

During a parliamentary session, all major opposition parties collectively decided to boycott the proceedings. Nevertheless, 371 members were present in the Lok Sabha.²⁴ The voting outcome was as follows: 366 votes in favour, four votes against, and one abstention.²⁵ Notably, the Communist Party of India, the Muslim League, the Anna Dravida Munnetra Kazhagam (Anna DMK), and several independent members aligned themselves with the ruling party.²⁶

In the Rajya Sabha, all 191 members in attendance voted in favour of the bill²⁷,

while opposition parties abstained from participation. The opposition justified their boycott on the grounds that the existing Parliament had exceeded its mandated tenure and was, therefore, constitutionally unfit to deliberate and approve the bill. Furthermore, they argued that the proposed amendment to the Fundamental Rights lay beyond the legislative competence of Parliament and necessitated the establishment of a constituent assembly for appropriate consideration.

The decision to abstain from the constitutional debate was taken during a meeting attended by prominent opposition leaders²⁸, including Satyendra Narain Singh and Digvijay Narain Singh (Congress-O), Bhanu Pratap Singh (Bharatiya Lok Dal), Virendra Aggarwal (Jana Sangh), Samar Guha and Surendra Mohan (Socialist Party), Era Sezhiyan (Dravida Munnetra Kazhagam), Samar Mukherjee (Communist Party of India-Marxist), Tridib Chaudhury (Revolutionary Socialist Party), Krishan Kant, and Lakshmi Kantamma (Congress for Democracy).

While presenting the bill, Law Minister Gokhale elaborated on its principal objectives. He underscored that the bill sought to reaffirm the supremacy of Parliament and its absolute authority to amend any constitutional provision.²⁹ It aimed to accord primacy to the Directive Principles of State Policy over Fundamental

24 Ibid.

25 Ibid.

26 Ibid.

27 Ibid, p.83.

28 Ibid.

29 Ibid.

Rights, thereby rendering them legally enforceable. However, he assured that the constitutional rights of minority communities would remain unaltered. Additionally, it was clarified that the bill would not modify the federal structure of the Union, as it required ratification by state legislatures.

Moreover, the bill did not seek to diminish the Supreme Court's power of judicial review concerning constitutional amendments. For the first time, it proposed the incorporation of the terms "socialism" and "secularism" into the Preamble of the Constitution. Furthermore, it sought to formally codify the duties of citizens within the legal framework.

Introduction of Fundamental Duties

The amendment also introduced the concept of Fundamental Duties for citizens under Article 51A. While framed as a way to promote civic responsibility, it also drew criticism for potentially being used to suppress dissent, linking citizens' duties

to the state's agenda. Furthermore, the amendment granted the government power to prohibit "anti-national" activities, which could be broadly defined to include actions such as advocating for the secession of Indian territory or attempting to overthrow the government. Critics argued that this provision could stifle opposition and dissent.

Conclusion

The Forty-Second Amendment remains a critical and controversial chapter in India's constitutional history. While it was justified by the government as necessary for socio-economic reforms and strengthening parliamentary authority, it was criticized for undermining the core democratic principles upon which the Constitution was founded. The debates surrounding the amendment highlighted tensions between state authority and individual liberties, and its long-term implications continue to influence constitutional and political discourse in India.

Forty-Fourth Constitutional Amendment

✍ Ayush Tripathi

The Forty-fourth Amendment was implemented as a corrective response to the excesses observed during the Emergency, with the primary aim of safeguarding fundamental rights and ensuring that any changes that might impair the Constitution's secular or democratic character or abridge core freedoms would require direct popular approval or a supermajority in Parliament. To achieve this, the amendment reclassified the right to property from a fundamental right to a legal right—ensuring that while compensation for those holding land for personal cultivation remains protected, the autonomy of minority educational institutions is not compromised.¹

An understanding of the Forty-fourth Amendment Act, 1976, could be made by learning its key provisions, the background in which the amendment was implemented, and the debates that occurred in the Parliament.

Background to the Amendment

In an interview, Shanti Bhushan, a senior advocate in the Supreme Court, who represented Raj Narain in the case against then Prime Minister Indira Gandhi, explained the background situation during

the Emergency, which led to the enactment of the 44th Constitutional Amendment Act. He started by narrating how on June 12, 1975, the Allahabad High Court found Indira Gandhi guilty of corrupt electoral practices. The case gained national attention when she appeared as a witness in early 1975. Following the limited stay order granted by a Supreme Court Judge, Krishna Iyer, and protests led by Jayaprakash Narayan, she imposed a national emergency, as suggested by then Chief Minister of West Bengal, Siddhartha Shankar Ray, and signed by President Fakhruddin Ali Ahmed.

The Emergency was an aberration in Indian democracy, and people revolted against it. There was total censorship of the media. Opposition leaders like Jayaprakash Narayan, Moraji, Vajpayee, and L.K. Advani—anyone of any consequence in the opposition—were restricted and put in jail. Ram Jethmalani had to flee abroad. There was no habeas corpus. Then Turkman Gate paved the way for any police officer to detain anyone. There were also compulsory sterilization camps with quotas for government employees. In order to fulfil the quota, they brought anyone—old people, even students—for a vasectomy. Due to the strictness of the government, people were

1 <https://www.india.gov.in/my-government/constitution-india/amendments/constitution-india-forty-fourth-amendment-act-1978> (Accessed on 21st January 2025).

coming on time, punctuality had improved and trains were running on time. The 44th Amendment Act was therefore passed in 1977 as a response to this crisis situation as a consequence of abuse of power. Created with bipartisan support through consultation with the opposition, the key provisions protected Articles 19 and 21 even during the emergency, maintained habeas corpus rights, prevented the replication of 1975 emergency conditions, and ensured democratic safeguards. Its legacy is demonstrated in people's power to resist authoritarian rule, political parties learning the lesson to not misuse power against people, and through the strengthened democratic safeguards.²

Debates in the Parliament Surrounding the Amendment

Dr. B. R. Ambedkar once vocalized his views on the Emergency in the Constituent Assembly as, "All federal systems, including America, are placed in a tight mould of federalism. No matter what the circumstances, it cannot change its form and shape. It can never be unitary. On the other hand, the Constitution of India can be both unitary and federal according to the requirements of the time and circumstances. In normal times it is free to work as a federal system, but in times of emergency it is designed to work as though it was a unitary system."³

The Constitution (forty-fourth amendment) Bill, 1976, was heavily debated in the parliament, where many different

views were presented. Dr. V.B. Singh raised several objections to the amendment. First, he argued there was no public mandate, citing the Congress party's 1971 Election Manifesto. He also questioned parliament's authority to comprehensively alter the Constitution and dismissed the concept of 'basic structure' and referred to it as undefined and imaginary. In response, Prime Minister Indira Gandhi defended the amendment. While acknowledging the emergency period had not brought direct benefits, she claimed it had made people more aware of their civic responsibilities. While addressing the concerns about police abuse, she promised to investigate complaints, though noting such problems weren't new. She emphasized the importance of elections but also justified their temporary suspension during an emergency, arguing that national unity required a strong central government. She further categorized the 44th Amendment as an effort to revitalize the Constitution and restore balance between the branches of government. Explaining her actions, she stressed that the amendments weren't radical changes and that while the Parliament was sovereign, it ultimately derived its power from the Indian people, and the amendments aimed to improve problem-solving capabilities.⁴

Key Provisions in the Amendment Act

The provisions of the 44th Amendment Act, 1974, include the reversal of the 42nd Amendment provisions, which

2 <https://www.livemint.com/Politics/zwYWP4CHWdDDZ3KY7xHUVK/The-44th-amendment-ensured-democracys-survival-in-India-Sh.html> (Accessed on 21st January 2025).

3 <https://www.journalsalliancepub.com/index.php/ijls/article/download/79/76/160> (Accessed on 21st January 2025).

4 https://rsdebate.nic.in/bitstream/123456789/434417/2/ID_98_08111976_4_p13_p234_21.pdf (Accessed on 21st January 2025).

had curtailed fundamental rights and increased executive powers. Articles 19(1) (f) and 31(2), which guaranteed the right to property as a fundamental right, were omitted. Instead, a new provision (Article 300A) was introduced to protect property rights as a legal right. The amendment also restored judicial review; it repealed certain provisions that restricted it, such as those in Articles 31D, 32A, 144A, 226A, and 228A, which had been added by the 42nd Amendment. Further, and most importantly, as a result of the stringent consequences of the emergency, modifications were made to its provisions. The term “internal disturbance” was removed as a ground for imposing a national emergency under Article 352. Instead, “armed rebellion” was introduced as the new criterion. Henceforth, a proclamation of emergency required written approval from the Cabinet before being presented to the President. The approval period for an emergency by Parliament was reduced from one year to six months. Fundamental rights under Articles 20 and 21 (protection in respect of conviction for offenses and protection of life and personal liberty) could no longer be suspended during an emergency. Changes to the presidential powers were made by amending Article 74(1) to clarify that the president could return advice for reconsideration once, but if the Council of Ministers reiterated its advice, the president was bound to act on it. Parliamentary approval for preventive detention was also made necessary. Amendments to Article 226 restored the power of high courts to issue writs for enforcement of fundamental

rights and other legal rights. These changes aimed to restore democratic balance and limit executive overreach introduced by the 42nd Amendment.⁵

Evolution of the Right to Property in India

Under British rule, in 1895, the Home Rule Bill specified basic rights including freedom of expression, house inviolability, and equality. In 1925, the Commonwealth of India Bill proposed rights similar to the Irish Constitution, and in 1935, the Government of India Act granted certain rights, including property, to British subjects. The Joint Committee recommended safeguards against property expropriation, requiring compensation for public purpose acquisitions. Between 1946 and 1950, the Constituent Assembly debated how to structure the property rights. K.M. Munshi drafted, “No person shall be deprived of his property except by due process of law.” Concerns were soon raised about the “due process” clause potentially impeding zamindari abolition. The constitutional provisions regarding property rights were included in Article 19(1)(f), Article 31, and Article 26. Later, many amendments were added regarding property in the Constitution. The First Amendment of 1951 added Article 31-A and 31-B to validate zamindari abolition laws. The Fourth Amendment of 1955, modified Articles 31 and 31-A with retrospective effect and added clause (2A) regarding property transfers. Notable cases include *State of West Bengal v. Bela Banerjee* (1954), *State of West Bengal v. Subodh Gopal Bode* (1954), and *K.K. Kochuni v. State of Madras*

5 Basu, D. D. (1966). Introduction to the Constitution of India (4th ed.). S.C. Chand, p.379.

(1960). Thereafter, the 17th Amendment of 1964 modified the definition of “estate” in Article 31-A to include land under ryotwari settlement. It also added 44 state enactments to the 9th Schedule and was challenged in *Sajjan Singh v. State of Rajasthan* (1965). Key Supreme Court rulings also include the *Metal Corporation Case* (1967) and the *Golak Nath Case* (1967). In later development, the 24th, 25th, and 29th Amendments changed “compensation” to “amount” in property acquisition provisions, added provisions regarding directive principles, gave immunity to certain laws from fundamental rights challenges, and added Kerala land reform Acts to the 9th Schedule. The *Keshavnanda Bharati Case* in 1973 upheld the validity of these three amendments, established the “basic structure” doctrine, held that the parliament could amend but not deny basic features of the Constitution, and identified key basic features including democracy, secularism, and federal character. Finally, the landmark 44th Amendment of 1978 removed property from fundamental rights and made it a legal right under the new Article 300-A. This aimed to reduce constitutional amendments related to property rights and maintained protection for minorities’ educational institutions.

Conclusion

The debates surrounding the imposition of emergency and its impacts didn’t end with the enactment of the 44th

Constitutional Amendment Act. The Union government even announced June 25 to be observed annually as “Samvidhaan Hatya Diwas.”⁶ Looking back in history, according to P. N. Dhar, the Emergency as well as the JP movement that consequently led to the Emergency both further weakened the institutions essential for genuine democracy. “Both these events reduced respect for the rule of law: the Emergency by an authoritarian disregard for legal norms and the JP movement by rationalizing and glamorizing the defiance of all authority,” he stated⁷. On this, Dr. Ambedkar had said in the past, “But where constitutional methods are open, there can be no justification for these unconstitutional methods. These methods are nothing but the Grammar of Anarchy, and the sooner they are abandoned, the better for us.”⁸ However, the voter’s verdict on the 1977 elections that turned out to be a referendum on the experience of emergency teaches one important lesson—it is extremely difficult to do away with democracy in India. The Constitution as a living document also keeps adapting to the necessary changes over time. The transformation of property rights from a fundamental right to a legal right under Article 300-A addressed the practical challenges that had necessitated numerous prior constitutional amendments. Perhaps, most significantly, the 44th Amendment’s enduring legacy lies in its constitutional safeguard against authoritarian tendencies.

6 <https://ddnews.gov.in/en/centre-declares-june-25-as-samvidhaan-hatya-diwas/#:~:text=%E2%80%9CTo%20observe%2025th%20June%20as,dark%20phase%20of%20Indian%20history.%E2%80%9D> (Accessed on 21st January 2025).

7 <https://archive.org/details/indiragandhiemer0000dhar> (Accessed on 21st January 2025).

8 https://ili.ac.in/pdf/12._Ajay_Kumar.pdf (Accessed on 21st January 2025).

73rd and 74th Constitutional Amendment

✍ Aditi Kumari

It is a Swaraj when we learn to rule ourselves. A society must be built in which every village has to be self-sufficient and capable of managing its own affairs. Growth will not be a pyramid with the apex sustained by the bottom.” Said Gandhiji.¹

The 73rd and 74th Constitutional Amendments, enacted by the Indian Parliament in 1992, marked a significant shift towards decentralized governance in India. On April 24, 1993, the Constitution (73rd Amendment) Act came into force, introducing Part IX entitled “The Panchayats,” covering Articles 243 to 243O, which specify the structure and functions of the Panchayats, rural local bodies. Likewise, the Constitution (74th Amendment) Act, effective June 1, 1993, included Part IXA called “The Municipalities,” covering Articles 243P to 243ZG, affording urban local bodies their due treatment. These amendments actualized Article 40 of the Directive Principles of State Policy, which advocates for the organization of village panchayats, thereby realizing the framers’ vision of decentralized governance.²

The 73rd and 74th Amendments to the Indian Constitution require an understanding of their underlying objectives, historical context, and the circumstances surrounding their enactment. However, a crucial point is to examine their impact on contemporary society and their current relevance. Although the amendments grow out of desires based on the specific needs of their time, the current relevance should also be viewed from the perspectives of their efficacy and impact on today’s societal systems, which is also the objective of this article.

Gandhi’s Vision of Swaraj and Self-Governance

For Gandhi, true freedom was “when people begin to feel they can change their destiny by their own effort.” For him, swaraj was not just freedom from British rule but creating a new social order. It involved self-restraint and moral authority. He believed, “True democracy cannot be worked by twenty men sitting at the centre. It has to be worked from below by the people of every village.”³

1 <https://panchayat.tripura.gov.in/sites/default/files/2024-08/Indian%20constitution%20%26%20PR%20System.pdf> (Accessed on 12th February 2025).

2 <https://sansad.in/getFile/BillsTexts/LSBillTexts/Asintroduced/420LS%20As%20Int...pdf?source=legislation> (Accessed on 12th February 2025).

3 <https://dspace.kila.ac.in/bitstreams/2893b158-35b4-4572-8b71-9ea9665c30a1/download> (Accessed on 12th February 2025).

In a decentralized structure, he saw villages as autonomous self-governing units forming the basis of a society. Through the “oceanic circle” model, which shall be ever widening with the individual at the centre, but not a pyramid with hierarchical power. The outer circles strengthen the inner ones, not crush them. While each village unit is self-reliant, they are also interdependent with others for mutual benefit.⁴

Gandhi’s criteria for development included five components: human resources, sustainability, equity, basic needs, and peace. Though the establishment of a Panchayati Raj system, his vision was to focus on education, recreation and culture, agriculture, industry and commerce through khadi production, health, security, and justice. The historical development of Panchayati Raj in India could be in the Community Development Programme of 1952, the Belwant Rai Committee of 1957, the Ashok Mehta Committee of 1997, and the 73rd and 74th Constitutional Amendments of 1992.⁵

Origin and Evolution of the 73rd and 74th Amendments

The established Madras Municipal Corporation in 1687 was the starting point of municipal governance in the country. Thereafter, Lord Mayo, in 1870, urged financial decentralization to strengthen local institutions. A major landmark was Lord Ripon’s 1882 resolution relating to local

self-government; this resolution is often called the Magna Carta of local democracy in India, advocating for elected local bodies and greater administrative autonomy. In the 1930s and 1940s, Mahatma Gandhi pioneered the idea of Gram Swaraj, which represented self-sufficient village republics. In 1957, the Balwantraji Mehta Committee recommended a three-tier Panchayati Raj system, which was inaugurated in 1959, to govern at village, block, and district levels. The Ashok Mehta Committee inspected the working of these institutions in 1977 and suggested reforms for their strengthening. A milestone event took place in 1992 when the Lok Sabha passed the 73rd and 74th Constitutional Amendment Bills on December 22. This was followed by the enactment of the 73rd Amendment Act on April 24, 1993, and the 74th Amendment Act on June 1, 1993. While these amendments accorded constitutional status to rural and urban local bodies, they also provided for a framework of institutional democratic governance in India.⁶

Impact on Women

The 73rd Amendment empowered local self-governance through Panchayati Raj institutions, and as Gandhiji believed, “When the Panchayati Raj is established, public opinion will do what violence cannot do.”⁷ By reserving one-third of electoral seats for women, it brought more than 1.45 million women into leadership

4 Ibid

5 Ibid

6 <https://mahasec.maharashtra.gov.in/Upload/PDF/National%20Conference-25%20Years%20of%2073rd%20&%2074th%20Constitutional%20Amendment-Progress%20&%20Future%20Directions-%20Compendium%20Of%20Base%20Papers.pdf> (Accessed on 12th February 2025).

positions at the grassroots level. Research evidence suggests that when elected women representatives emerge as leaders in delivering welfare programs, more female citizens are likely to participate in Gram Sabha meetings, and investment in women's interests is prioritized. Women's leadership has challenged gender norms and inspired more women to engage in public life and invest in education. During Covid – 19, women leaders demonstrated effectiveness by identifying returning migrants, spreading disease awareness, arranging ration distributions, securing hospital beds, supporting pregnant women and by volunteering in other helpful ways.⁸

However, there are many challenges for women in this journey. Their contributions are undervalued, the patriarchal issue of 'pati-sarpanch', and the digital divide in rural areas all pose a hindrance to their effective participation. The rotation of seats every five years also seems to disrupt experience-building for women. Self-reflection and institutional reforms are needed for improving these conditions. Investing sustainably in knowledge development, focusing on altering gender prejudices, regularly overseeing self-help groups, and enhancing capabilities through skill enhancement could assist in controlling the issues.⁹

Impact on Oppressed Classes

According to the 2011 Census, the marginalized social class constituted approximately one-fourth of the total population. Since independence, the government has undertaken various measures to enhance their socio-economic conditions through a range of initiatives, including policy interventions, constitutional provisions, and legislative enactments. Nevertheless, the constitutional amendments of 1992 varied the script fundamentally by making it mandatory for Scheduled Castes and Scheduled Tribes to reserve seats in Panchayats on a rotational basis along with one-third of the seats reserved for women. This legislative intervention made it possible not only to ensure representation of marginalized groups in grassroots institutions but also created a platform—through Gram Sabhas and a uniform three-tier system—whereby their voices could be heard and their needs addressed. These amendments have constitutionally ensured representation for marginalized groups in local decision-making, formatted a structure for inclusive politics, and made further moves towards social cohesion that are a disruption of traditional caste hierarchies.¹⁰

However, the lasting caste biases, lower levels of education and social capital, and underrepresentation in unreserved seats continue to exist, necessitating societal-level

7 <https://lawcolumn.in/73rd-amendment-of-the-constitution/> (Accessed on 15th February 2025).

8 <https://www.orfonline.org/research/elected-women-representatives-in-local-rural-governments-in-india-assessing-the-impact-and-challenges> (Accessed on 15th February 2025).

9 Ibid

10 <https://journalppw.com/index.php/jpsp/article/download/5714/3749/6557> (Accessed on 16th February 2025).

attention. Ambedkar defined discrimination as any form of social separation. However, the reservation scheme for vulnerable sections in Panchayats had brought about significant changes in the grassroots democratic structure nationwide.¹¹

Challenges and Contemporary Relevance

Local-level governments in India face numerous interrelated challenges that undermine their capability to function as effective, decentralized, and responsive institutions. Because of elite capture, centralized bodies are dominated by a concentrated few. Modern funders and social entrepreneurs are often nervous about working with local governments, which deprives local institutions of innovative funding and resource support. Corruption inhibits efforts to streamline procedures, which compels an individual to ask if the trend toward decentralization is merely corruption decentralization instead of genuine local governance empowerment.¹²

Current administrative classifications regarding rural-urban governance in India date back to the 73rd and 74th Constitutional Amendments in the country. These amendments laid down the binary distinction of rural vs. urban local bodies. However, many areas don't fit in this dichotomy. For example, a good number of census towns and large villages, although technically classified as rural areas, give way to economic activities, consumption

patterns, and infrastructural demands resembling urban settings-rich and diverse. These 'Rurban' spaces, which lie on the periphery of large cities or along industrial corridors, display non-agricultural activities and urban-like growth that the current rigid framework does not adequately accommodate. Because of the misalignment of these spaces between the 11th schedule that primarily focuses on rural functions and the 12th schedule that focuses on urban functions, many places, such as the areas between Dew and Jammu, often governed by gram panchayats, lack capacity, which leads to an insufficient supply of needed services. As a consequence, the clear boundary between the governance and management of rural and urban inherently fails to capture the complex realities that characterize these 'Rurban' areas. The spatial aspect could be understood by how, while core cities like Mumbai and Delhi have slow growth, their peripheries as well as small towns are expanding at much faster rates. Thus, a continuum approach to assessment based on economic and infrastructural development is also needed to design more responsive governance for diverse localities.¹³

Conclusion

The historical evolution of local governance—from the early practices during colonial times, through Lord Ripon's call for decentralization, to the

11 Ibid

12 <https://mahasec.maharashtra.gov.in/Upload/PDF/National%20Conference-25%20Years%20of%2073rd%20&%2074th%20Constitutional%20Amendment-Progress%20&%20Future%20Directions-%20Compendium%20Of%20Base%20Papers.pdf> (Accessed on 18th February 2025).

13 <https://cprindia.org/bridging-the-local-beyond-the-73rd-and-74th-amendment/> (Accessed on 18th February 2025).

conceptualization of Gram Swaraj by Mahatma Gandhi—illustrates the long journey toward participatory democracy in India. Yet, despite these advances, local institutions have faced significant challenges that undermine the effectiveness of decentralization, as evidenced by recurring issues of mismanagement and corruption.

Over the years, enhanced representation through reserved seats has fostered greater inclusion, particularly for marginalized

communities and women, thereby improving social equity. However, the emergence of Rurban areas that blur the traditional rural–urban divide requires attention. Further, for the enduring relevance of the 73rd and 74th Amendments, ongoing reforms must focus on strengthening institutional capacity, bridging the digital divide, challenging patriarchal norms and investing in knowledge development for local leaders and citizens.

Constitution

101st Amendment Act

✍ Hemant Yadav

Prime Minister Narendra Modi, in his speech at launch of GST from the Parliament had stated, “At the stroke of the midnight hour today, together we shall ensure a pioneering future of the nation. Within few moments from now, our nation will embark upon a new economic regime. The entire 1.25 billion citizens of the country are a witness to this historical event. I do not believe that this process at GST is restricted to the scope of economy only. This momentous occasion stands today as a testimony to the concept of Co-operative Federalism in Indian Democracy. This hallmark day was possible due to the relentless efforts put in over decades by several stalwarts under whose guidance various teams developed this GST framework.”¹

As emphasised by the Prime Minister, the introduction of the Goods and Services Tax (GST) in India represent a landmark example of cooperative federalism that transformed centre-state relations in the world’s largest democracy. The implementation of GST necessitated the 101st Constitutional Amendment and established the GST Council. For political science students, GST serves as a case study

in how major institutional reforms are negotiated and implemented in a diverse federal democracy, therefore, this article aims to study the same.

Evolution of the Bill

The Kelkar Task Force, formed by Vajpayee government suggested a comprehensive GST based on the Value Added Tax principle on the Fiscal Responsibility and Budget Management (FRBM) Act, 2003. In the Budget Speech in the year 2006, then Finance Minister, P. Chidambaram proposed a Nationwide GST. Empowered Committee of State Finance Ministers (EC) was asked to prepare a Design and Road Map for the implementation of GST. The EC released its First Discussion Paper on Goods and Services Tax in November 2009. The Constitution (115th Amendment) Bill was introduced in the Lok Sabha in March 2011 by then Finance Minister Pranab Mukherjee. However, in the face of resistance in the Parliament, the Constitution (115th Amendment) Bill was referred to the Standing Committee on Finance, headed by Yashwant Sinha, former Union Finance Minister for examination. No consensus could be formed between the Centre and States till the dissolution of the

1 <https://static.pib.gov.in/WriteReadData/userfiles/GST%20E.pdf> (Accessed on 24th February 2025).

15th Lok Sabha in May 2014, therefore the amendment bill lapsed. In June 2014, the draft Constitution Amendment Bill was sent to the Empowered Committee after approval of the new Government – BJP – led NDA. The Union Finance Minister held two meeting with the Chairman of the Empowered Committee and Finance Ministers of different states in which the contentious matters were resolved and it was decided that a provision would be inserted in the Constitution Amendment Bill itself for payment of compensation to the States due to the transitioning process. In terms of this broad consensus, the Government sought the approval of the Cabinet to introduce the revised Constitution (122nd Amendment) Bill in the Parliament. The Constitution (122nd Amendment) Bill, 2014, was thus introduced in the Lok Sabha on 19th December 2014. Meanwhile the Union Finance Minister obtained approval from the cabinet over the long-standing demand of the States over the payment of compensation amount. The Constitution (122nd Amendment) Bill was passed by the Lok Sabha on 6th May 2015, and was sent to Rajya Sabha for consideration. In Rajya Sabha, the Bill was sent to a Select Committee for examination on 12th May 2015. The Select Committee submitted its report on 22nd July 2015. Thereafter, the Bill was passed by both Houses of the Parliament on 8th August 2016. And finally, after ratification by 50% of the States, the Constitution (101st Amendment) Act, 2016 was assented to by then President, Pranab

Mukherjee on 8th September 2016.²

Parliamentary debates Surrounding the Implementation of GST

The rollout of the Goods and Service Tax on 1st July, 2017, was marked by debates and political discussions. Then Finance Minister Arun Jaitley played a pivotal role in navigating the discussions. The GST aimed to replace multiple central and state levies with a single tax structure, promoting economic integration under the principle of ‘one nation, one tax, one market.’ In the session, the opposition parties raised concerns regarding its impact on states’ fiscal autonomy, revenue distribution, and administrative complexities. Particularly manufacturing states like Tamil Nadu, feared a substantial loss in earning. AIDMK MP’s voiced concerns that the new tax regime would weaken the fiscal autonomy of states and their financial decisions. Similarly, Congress leader Veerappa Moily, while acknowledging that GST was a historic reform, also pointed out that the multiple tax rates contradicted the idea of ‘one nation, one tax’ system, making the policy a ‘baby step’ rather than a game – changer. The opposition parties including the Congress, Trinamool Congress, RJD, DMK, boycotted the midnight launch event in Parliament. Former Prime Minister Manmohan Singh, who played instrumental role in economic liberalization, also abstained from the event in line with his party’s decision. However, Former Finance Minister, Arun Jaitley highlighted that all

2 https://gstcouncil.gov.in/sites/default/files/2024-04/the-gst_saga.pdf (Accessed on 24th February 2025).

political parties had played a role in shaping the tax reform. During the debates, Prime Minister Narendra Modi also stressed that GST was not the achievement of any single government or political party but a product of consensus and cooperation. Linking political unification led by Sardar Vallabhbhai Patel, the Prime Minister, noted that in the 18 GST Council's meeting before finalising the framework, was an example of cooperative federalism, ensuring that both the states and the Centre had a voice in shaping the tax system. Despite the opposition's reservations, the ruling government emphasised that GST would simplify taxation, eliminate multiple layers of taxes, and promote economic growth.³

Key Provisions under 101st Constitution Amendment Act

The Constitution (One Hundred and First Amendment) Act, 2016, introduced a significant reform in India's taxation system by implementing the Goods and Service Tax. The Act inserted Article 246A, granting both Parliament and State legislatures the power to make laws on GST, while giving the Parliament the exclusive power over inter – State trade and commerce. It also added Article 269A, stipulating that GST on inter – State trade would be collected by the Central Government recommendations of GST Council. The Act amended several articles, including Articles 248, 249, 250, 268, 269, and 270, to align the taxation framework with the new GST regime. The creation of the GST Council under 279A

is a notable one. The Council, chaired by the Union Finance Minister, included representativeness from all States and is responsible for making recommendations on various aspects of GST, such as tax rates, exemptions, threshold limits, and special provisions for certain States. The Seventh Schedule of the Constitution was also amended, revising the Union and State Lists to reflect the new taxation structure. Duties of excise on specific items like petroleum, natural gas, and tobacco were retained under the Union list, while certain State taxation powers, such as entertainment and amusement, were restrained to local bodies. Furthermore, the Act provided for compensation to States for revenue losses due to the transition process, for a period of five years. Although there have been modifications to these provisions over the years, these provisions collectively aimed at creating a unified national market, simplifying the indirect tax structure, and ensuring cooperative federalism in India's taxation system.⁴

Salient Features of GST

Launched on July 1, 2017, it represents a unique experiment in fiscal federalism where both Central and State governments partially surrendered their tax autonomy in favour of a harmonized tax structure. The GST unifies multiple indirect taxes under a single framework, comprising Central GST (CGST), State GST (SCST), and Inter – State GST (IGST). The system is governed by the GST Council, a constitutional body

3 <https://www.theweek.in/news/biz-tech/goods-and-services-tax-launched.html> (Accessed on 24th February 2025).

4 <https://www.gstcouncil.gov.in/sites/default/files/2024-02/consti-amend-act.pdf> (Accessed on 24th February 2025).

chaired by the Union Finance Minister with State Finance Ministers as members, exemplifying cooperative federalism in action. It includes a multi – level rate system of 0%, 5%, 12%, 18%, and 28%, with special rates. The implementation was supported by technology infrastructure through GST Network, facilitating electronic filing and an E– way bill system for goods movement. The destination – based principle, where tax revenue accrues to the state was also included. Further, a compensation mechanism to States through 14% annual revenue growth for five years, funded through a special cess on luxury and demerit goods was guaranteed. It also included anti – profiteering measures to ensure that businesses pass on tax benefits to its consumers.⁵

Political Economy after GST

The shift from coalition governments between 1996 – 2013, to the formation of majority government in 2014 and its expansion in 22 states by 2017 facilitated the successful implementation of GST in India after years of deliberations. The political economy after GST implementation reveals a complex interplay of centralization and federal negotiations. The establishment of GST Council as a constitutional body marked a shift toward “pooled sovereignty” rather than “split sovereignty.” The voting structure of the council with its 75% majority requirement and carefully balanced

power distribution (33% for centre, 66% for states), ensure that neither the centre can unilaterally impose decisions without the support from at least 19 states, nor the states can collectively override the centre. The post – GST landscape also transformed interstate completion. While earlier, the States engaged in tax rate wars to attract investment, now with standardized tax rates, the completion has shifted to infrastructure and business climate improvements, as evidenced by renewed investment flows to states like Gujarat and Maharashtra. The system has also introduced a new model of collaborative federalism, and its effectiveness depends on the political actors’ willingness to engage in collective action.⁶

Cooperative Federalism

In the Constituent Assembly, Dr. Ambedkar had emphasised that even though Article 1 of the Constitution holds India to be a Union of States, it is not a loose organization of States, nor are the States mere agents of the Centre. The Constitution empowers both the States and the Centre to be supreme in their spheres and are co – equal in the spirit of a federal polity.⁷

Equity, capacity, stability and growth are the four important pillars of fiscal federalism in India. Constitutional economics is further marked by policy overlap and fiscal interdependence. The first challenge of structuring a new tax system was to preserve the federal nature of the Indian polity. Thus,

5 <https://indianeconomy.columbia.edu/sites/default/files/content/201902-Govinda%20Rao%20-%20GST.pdf> (Accessed on 24th February 2025).

6 <https://www.jstor.org/stable/resrep28523> (Accessed on 24th February 2025).

7 <https://gstcouncil.gov.in/sites/default/files/gst-knowledge/GST-and-Co-operative-Federalism.pdf> (Accessed on 24th February 2025).

the One Hundred and First Amendment to the Constitution, which introduced Goods and Service Tax (GST) regime, included Article 246A, which confers concurrent jurisdiction of both the Union and State to levy tax on supply of goods and services. The Centre let go of its exclusive power to tax manufacture of goods (i.e. Excise) and provision of services (i.e. Service Tax), and the States gave up their exclusive power to tax sale of goods (sales tax / VAT). The spirit of co-operative federalism has thus helped remove compartmentalisation in indirect taxation.⁸

In the Union of India & Ors. Vs VKC Footsteps India Pvt Ltd case, it was noted “the GST Council is to be guided by the need for a harmonised structure of goods and services tax and the development of a harmonised national market for goods and services.” In the Union of India v. Mohit Mineral case, it was observed how the GST Council practices collaborative and cooperative federalism where the States and Centre indulge in dialogue and constructive discourse. While GST Council’s decisions may be recommendatory, GST law says that the recommendation is a condition precedent, or something that must occur, for the governments to act, and once such

decision is taken the States do abide by such decisions in spirit of Constitutional Morality.⁹

Conclusion

The 101st Constitutional Amendment, which introduced the Goods and Services Tax (GST), marks a significant step towards a unified tax regime in India. By replacing a complex system of indirect taxes with a single tax framework, GST enhances economic efficiency and simplifies compliance. The reform mitigates unnecessary legal and constitutional challenges, fostering a more predictable business environment. Speaking at the launch of GST in the Central Hall of Parliament on the midnight of June 30–June 1, 2017, President Pranab Mukherjee described it as a “momentous event for the nation.”¹⁰ He further expressed personal satisfaction, recalling that as Finance Minister, he had introduced the Constitutional Amendment Bill on March 22, 2011. The introduction of GST not only streamlines taxation but also strengthens the economic integration of the country. It reflects India’s commitment to economic modernization and cooperative federalism, thereby contributing to sustainable economic growth.

8 Ibid

9 Ibid

10 https://presidentofindia.nic.in/pranab-mukherjee/press_releases/president-india-addresses-special-function-parliament-organized (Accessed on 21st February 2025).

EWS Reservation: 103rd Constitutional Amendment

✍ Pinky Jha

The demand for economic reservation in India has been a persistent issue, encapsulated in the slogan Arthik Aarakshan, Samajik Nyay (Economic Reservation, Social Justice). This principle advocates for affirmative action for the Economically Weaker Sections (EWS) who do not fall under the reservation policies designated for Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes (OBCs).

On 9 January 2019, the Indian Parliament, in a record time, approved the 124th Constitutional Amendment Bill to provide 10% reservation in jobs and education for the EWS, including upper castes. The bill was passed with overwhelming support 323 votes in favour and only three against in the Lok Sabha, and 165-7 in the Rajya Sabha.¹ However, while most political parties endorsed the bill, but they also raised concerns about its timing and the government's intent. Introduced just months before the general elections, the move was widely perceived as a strategic effort to appease non-Dalit and non-OBC voters, particularly after the BJP's setbacks in the 2018 state elections in Chhattisgarh, Madhya Pradesh, and Rajasthan.

The Observer Research Foundation article "Who Will Gain from 10% Reservation for EWS?"² written by Satish Mishra provides an in-depth analysis of the implications of this policy. This article examines the rationale, impact, and potential consequences of economic reservation in India, assessing whether it genuinely addresses socio-economic disparities or merely serves as a political manoeuvre with long-term repercussions.

Historical Background

The demand for economic reservation dates back to the tenure of former Prime Minister P. V. Narasimha Rao. During his administration, attempts were made to introduce a 10% reservation for economically weaker sections among the unreserved categories. However, this effort was challenged in court, leading to the landmark *Indra Sawhney & Others v. Union of India* case in 1992. The Supreme Court ruled against the provision of economic reservation and also imposed a ceiling of 50% on the total percentage of reservations, ensuring that merit-based selections were not unduly restricted. This ruling became a significant precedent in India's reservation

1 <https://www.indiatoday.in/india/story/parliament-okays-10-quota-bill-to-secure-jobs-seats-for-poor-president-s-nod-awaited-10-points-1427479-2019-01-09> (Accessed on 25th January 2025).

2 <https://www.orfonline.org/expert-speak/who-will-gain-from-10-reservation-for-ews-47312> (Accessed on 25th January 2025).

policy and is widely referred to as the Indra Sawhney case.

The 103rd Constitutional Amendment Act, 2019

On January 9, 2019, the Parliament of India enacted the Constitution (One Hundred and Third Amendment) Act, 2019. It received presidential assent on January 12, 2019, and was published in the Gazette on the same day.³ The Central Government subsequently appointed January 14, 2019⁴, as the date on which the provisions of the Act would come into force, enabling the state to implement reservations in higher education and public employment based solely on economic criteria. The Act amended Articles 15 and 16 of the Constitution by incorporating Clauses 15(6) and 16(6).

Under Article 15(6), the State is empowered to make special provisions for the advancement of economically weaker sections (EWS) of citizens, including reservations in educational institutions. These reservations extend to both aided and unaided private institutions, excluding minority educational institutions protected under Article 30(1). The provision specifies that EWS reservations will be capped at 10%, independent of existing reservation limits.

Article 16(6) enables the State to provide reservations in public employment for EWS citizens. These provisions are subject to a 10% ceiling and operate in addition to pre-existing reservations.

The Constitution (One Hundred and Third Amendment) Act, 2019⁵, explicitly states:

1. This Act may be cited as the Constitution (One Hundred and Third Amendment) Act, 2019.

2. It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

3. In Article 15 of the Constitution, after clause (5), the following clause shall be inserted:

(6) Nothing in this article or sub-clause (g) of clause (1) of Article 19 or clause (2) of Article 29 shall prevent the State from making—

(a) any special provision for the advancement of economically weaker sections of citizens other than those mentioned in clauses (4) and (5); and

(b) any special provision for the advancement of economically weaker sections of citizens other than those mentioned in clauses (4) and (5) insofar as such special provisions relate to their admission to educational institutions, including private educational institutions, whether aided or unaided by the State, other than minority educational institutions under clause (1) of Article 30. Such reservations shall be in addition to existing reservations and subject to a maximum of ten per cent of the total seats in each category.

3 <https://socialjustice.gov.in/writereaddata/UploadFile/Notification636832294965888976.pdf>

4 Ibid.

5 <https://www.scobserver.in/wp-content/uploads/2021/10/103rdAmendment.pdf>

Explanation: For the purposes of this article and Article 16, “economically weaker sections” shall be as notified by the State from time to time, based on family income and other indicators of economic disadvantage.

4. In Article 16 of the Constitution, after clause (5), the following clause shall be inserted:

(6) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favor of any economically weaker sections of citizens other than those mentioned in clause (4), in addition to existing reservations and subject to a maximum of ten per cent of the posts in each category.

Legal Challenges and Judicial Review

On September 21, 2022, the Constitution Bench led by Chief Justice U.U. Lalit heard arguments from the Union and Madhya Pradesh governments defending reservations for economically weaker sections (EWS). Attorney General K.K. Venugopal argued that EWS reservations were independent of the 50% cap on reservations for backward classes.⁶ Senior Advocate Mahesh Jethmalani and Solicitor General Tushar Mehta further contended that the 103rd Constitutional Amendment did not violate the basic structure of the Constitution, which is the only ground on which a Constitutional Amendment can be struck down.

The Supreme Court, in a 3-2 verdict⁷ on November 7, 2022, upheld EWS Reservations introduced through the Constitution (One Hundred and Third Amendment) Act, 2019. This Amendment allows States to make reservations in educational institutions and in matters of public employment on the basis of economic criteria alone. All five Judges agreed that the Constitution permits reservations based solely on economic criteria, but disagreed on who can avail of EWS reservations and how many seats may be reserved.⁸ Justices Dinesh Maheshwari, Bela Trivedi, and J.B. Pardiwala upheld the Amendment in its entirety in separate concurring opinions, stating that the economic criteria for reservations is constitutionally valid. Justice Maheshwari explained that reservations are an affirmative action measure to counter not just social and educational backwardness, but all sorts of disadvantages.

On the other hand, Justice Ravindra Bhat, writing for himself and Chief Justice U.U. Lalit, found the concept of EWS reservation itself permissible but held that the Amendment is unconstitutional.⁹ Expressing his dissent, he stated that ‘this court has for the first time in several decades of the republic avowed an expressly discriminatory principle... the Amendment’s language of exclusion undermines...the fabric of social justice and the basic structure of the Constitution.’

6 <https://www.scobserver.in/reports/ews-reservation-judgment-sc-upholds-103rd-amendment-in-3-2-split-verdict/> (Accessed on 21st February 2025).

7 Ibid.

8 Ibid.

9 <https://www.scobserver.in/reports/ews-reservation-judgment-sc-upholds-103rd-amendment-in-3-2-split-verdict/> (Accessed on 21st February 2025).

Conclusion

The 103rd Constitutional Amendment Act represents a landmark step in India's reservation policy by recognizing economic disadvantage as a valid basis for affirmative action. While concerns over verification, transparency, and

misuse persist, the amendment remains a crucial initiative to promote social equity. Robust implementation and stringent monitoring mechanisms are essential to ensuring that the benefits reach the truly deserving and contribute to a more inclusive society.

106th Constitutional Amendment - Nari Shakti Vandan Adhiniyam

✍ Riddhima Bhatnagar

“I measure the progress of a community by the degree of progress that women have achieved,” as rightly said by Dr. B.R. Ambedkar, the basic unit of society is a woman. A good and healthy society doesn't automatically emerge on its own and stand firm. It requires the strong hand of women.

‘Towards Equality’ is a report of the Committee on the Status of Women in India (CSWI). The report was submitted under the stewardship of Vina Mazumdar in 1974, on the eve of 1975, declared as International Women's Year by the United Nations. One of the guiding principles of the committee stated, “if our society is to move in the direction of the goals set by the Constitution, then special temporary measures will be necessary to transform de jure into de facto equality.” (legal to real). For that, the committee believed, equality of women is necessary, not merely on the grounds of social justice, but as a basic condition for social, economic, and political development of the nation¹.

For the past ten years, the government of India has placed Nari Shakti at the forefront for the wholesome development of women in India. Moving from women

empowerment to women – led development, Nari Shakti Vandan Adhiniyam 2023, which seeks to reserve one-third of the total number of seats for women in Lok Sabha, State Legislative Assemblies and Delhi Assembly, was passed on 21st September, 2023, through the 106th Amendment Act². However, the journey of this bill has been a long one. The bill's lapse can be attributed to various factors, including the dissolution of Lok Sabhas, patriarchal beliefs that women do not belong in positions of power, concerns regarding gender and caste, and scepticism about a bill aimed at altering women's representation. Consequently, the bill's passage was being repeatedly postponed. This article, therefore, examines these issues in relation to women's representation in governance and politics.

Evolution of Women Reservation in India

The history of legalization of the Women's Reservation spans decades of debates and attempts before finally becoming a law in September 2023. Starting from the Constituent Assembly itself, in July 1947, Renuka Ray spoke “When there is reservation of seats for women, the question of their consideration for general seats, however competent they may be, does not

1 https://www.jstor.org/stable/23610453?read-now=1&seq=1#page_scan_tab_contents (Accessed on 15th January 2025).

2 <https://pib.gov.in/PressNoteDetails.aspx?NoteId=151861&ModuleId=3®=3&lang=1> (Accessed on 15th January 2025).

usually arise. We feel that women will get more chances in the future to come forward and work in free India, if the consideration is of ability alone.³

However, since women's ability alone did not define their level of political participation in the years to come, the debates on reservation continue to date. In 1971, the National Action Committee on the Status of Women in India raised concerns about women's low participation in politics. The National Perspective Plan for Women recommended reservations for women at all levels of governance, from Panchayat to Parliament. Consequently, the 73rd and 74th amendments were passed⁴.

In May 1989, the then Prime Minister Rajiv Gandhi introduced the Women Reservation Bill for the first time, proposing one – third reservation for women in local bodies. In September 1989 the bill passed in Lok Sabha but failed in Rajya Sabha. In September 1996, Deve Gowda – led United Front Government introduced 81st Constitutional Amendment bill in Lok Sabha, which referred to Joint Parliamentary Committee chaired by Geeta Mukherjee. In December, Mukherjee committee presented its report but the bill lapsed with the dissolution of Lok Sabha. Atal Bihari Vajpayee – led NDA government reintroduce multiple times in 1998, 1999,

2002, and 2003, but they were not successful. In 2004, UPA government included it in Common Minimum Programme. On May 6, 2008, the bill was tabled in Rajya Sabha to prevent lapsing; on December 17, 2009, the standing committee presented the report; in February 2010, the bill received Union cabinet approval; and on March 9, 2010, it was passed in Rajya Sabha with 186 – 1 vote. However, it lapsed in Lok Sabha in 2014 with its dissolution⁵.

Finally, when the bill was almost unanimously passed in September 2023, one-third of the total number of seats for women in Lok Sabha, State Legislative Assemblies and Delhi Assembly, were reserved for women through the 106th Amendment Act. UN Women's India Country Representative, Susan Ferguson, acclaimed it by stating "India's bold step sends a clear message to the world that the path to gender equality is not only essential, but attainable."⁶

Why Women Reservation is Needed

In 1957, there were just 45 women candidates contesting the Lok Sabha election; in 2024, 18th Lok Sabha, 74 were elected, representing 13.6% of the MPs in the 543-seat House. 150 Lok Sabha constituencies had no women candidates. Some States saw no women candidates at all — such as Manipur and Nagaland

3 <https://frontline.thehindu.com/books/constitution-at-75-history-the-fifteen-women-leaders-constituent-assembly-contribution-legacy/article68832699.ece> (Accessed on 15th January 2025).

4 https://www.business-standard.com/india-news/the-long-journey-of-the-women-s-reservation-bill-in-india-explained-123091900371_1.html (Accessed on 15th January 2025).

5 <https://www.livemint.com/news/india/whats-the-womens-reservation-bill-its-history-and-who-brought-it-first-11695068266469.html> (Accessed on 15th January 2025).

6 <https://www.unwomen.org/en/news-stories/feature-story/2023/10/india-passes-law-to-reserve-seats-for-women-legislators> (Accessed on 15th January 2025).

(which have two and one Lok Sabha seats respectively)⁷.

The underrepresentation of women in politics reveals the existence of structural discriminations. Descriptive representation, therefore emerged as a theory that advocates for the legislatures to mirror the societies composition and its shared experiences through representation. Historically, as Iris young noted, men were associated with reason and public life while women were relegated to emotions and private spaces, restricting their access to power. Anne Phillip argues that the significantly disproportionate gender distribution in political bodies, demonstrates discrimination that denies women equal rights and opportunities. Young therefore believed that greater inclusion of underrepresented groups is necessary for society to address and remedy these structural inequalities⁸.

As per the statement of objectives and reasons released for the introduction and passing of Women Reservation Bill 2023, the realisation of the goal of becoming 'Viksit Bharat' by 2047, will require the contributions of all sections of society in the spirit of 'Sabka Saath, Sabka Vikas, Sabka Vishwas, Sabka Prayas.' While women participate substantively in the Panchayati Raj institutions and municipal bodies, their representation in the State Legislature

as well as in Parliament is still limited. Therefore, to enable greater participation of women as public representative in policy making at State and national level, the bill was introduced and passed⁹.

The intersectionality of caste and gender has been widely discussed in the arena of representation. The discourse delves into the question of whether women can be viewed as a homogenous group with identical needs and interests. As Jane Mansbridge stated, "Essentialism involves assuming a single or essential trait, or nature, that binds every member of a descriptive group together, giving them common interests that, in the most extreme versions of the idea, transcend the interests that divide them." But for Iris young, "The effort to locate particular social attributes that all women share is likely to leave out some persons called women or to distort their lives to fit the categories."¹⁰ Through the insertion of Article 330 (2), as nearly as may be, one-third of the total number of seats shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes. And clause 330 (3), which states, "as nearly as may be, one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election to the

7 <https://www.thehindu.com/news/national/women-mps-in-the-18th-lok-sabha/article68321180.ece> (Accessed on 18th January 2025).

8 <https://www.degruyter.com/document/doi/10.1515/humaff-2015-0012/pdf?srsId=AfmBOoqb6bLq8ypeeAJrIMYJ3cs-13C39HRdRy1wvh6wWjraQvFmj3mt> (Accessed on 15th January 2025).

9 [https://prsindia.org/files/bills_acts/bills_parliament/2023/Constitution_\(128th_Amendment\)_Bill_2023.pdf](https://prsindia.org/files/bills_acts/bills_parliament/2023/Constitution_(128th_Amendment)_Bill_2023.pdf) (Accessed on 15th January 2025).

10 <https://www.degruyter.com/document/doi/10.1515/humaff-2015-0012/pdf?srsId=AfmBOoqb6bLq8ypeeAJrIMYJ3cs-13C39HRdRy1wvh6wWjraQvFmj3mt> (Accessed on 15th January 2025).

House of the People shall be reserved for women.¹¹ However, it doesn't give such recognition to the OBC category.

But is reservation enough?

In a research dedicated to advancing women's political representation in local Indian politics, the following problems were identified – The “pati sarpanch” phenomenon where husbands serve as proxies for elected women representatives, with men holding the actual political authority; 89% of male leaders from the sample have a final say over governance decisions, compared to only 43% of women leaders; female representatives have fewer interactions with citizens and other elected representatives; female representatives tend to have fewer interactions with citizens and other elected representatives; there exists gender – based reporting patters and communication barriers; women also face social discouragement in the field of politics, which leads to their passive participation. These issues highlight how quotas alone are insufficient in translating to genuine empowerment for women.

In the academic discourse, many alternatives to the system have been suggested. One approach is to mandate political parties to reserve a specific percentage of candidacies for women, ensuring they compete in open elections while promoting diverse representation.

Another option is dual-member constituencies, where certain constituencies elect two representatives, with one seat reserved for a woman¹².

However, beyond the debates about systems, it is crucial to realise that women's underrepresentation in politics is rooted more in social structures. Dr. B.R. Ambedkar, while strongly advocating for women's rights, emphasized that political representation alone would not suffice if deep-seated issues such as patriarchy, caste discrimination, and lack of education were not addressed. He advocated for women's education as a means to prepare them for leadership roles and active participation in the democratic process. He believed that educated women would be better equipped to represent their interests and contribute to the development of the nation¹³. Therefore, without parallel efforts to dismantle these structural barriers, reservations might result in symbolic representation rather than substantive political empowerment.

Conclusion

As Rudolf C Heredia poignantly notes “For women's liberation is not just for women, its promise is to liberate society as a whole, men from their patriarchies and all of us from our hierarchies, bringing us closer to a more egalitarian society, a more representative democracy, and a more inclusive citizenship.¹⁴”

11 <https://egazette.gov.in/WriteReadData/2023/249053.pdf> (Accessed on 15th January 2025).

12 <https://prsindia.org/billtrack/the-constitution-one-hundred-twenty-eighth-amendment-bill-2023> (Accessed on 15th January 2025).

13 https://www.researchgate.net/publication/381850388_Dr_BR_Ambedkar's_Vision_for_Women_Empowerment_and_Social_Transformation_A_Blueprint_for_Gender_Equality_and_Inclusive_Education_in_Contemporary_India (Accessed on 15th January 2025).

The Nari Shakti Vandan Adhiniyam reflects a significant milestone in India's journey towards equality in political representation. Although the journey ahead is a long one still, the head of the Republic of India being a woman, from a tribal community, demonstrates the intersectionality of representation as India progresses to become a woman – led nation.

As the reservation is set to be enforced following the publication of a new census and the completion of the delimitation exercise¹⁵; its success will ultimately depend on addressing the underlying social structures that have historically marginalized women in politics, to translate it into women's participation, voice, and influence in shaping India's future.

14 <https://www.epw.in/engage/article/womens-reservation-act-2023-symbolic-gesture-or-0>

15 <https://pib.gov.in/PressNoteDetails.aspx?NoteId=151863&ModuleId=3®=3&lang=1> (Accessed on 15th January 2025).

भारतीय संविधान अनकही कहानी

“रामबहादुर राय”

✍ गौरव सिंह

2022 में प्रकाशित भारतीय संविधान: अनकही कहानी संविधान निर्माण को समझने के लिए एक प्रवेश ग्रंथ के समान है। जिसे संविधान सभा के बहस के आधार पर तैयार किया गया है। यह पुस्तक उन्हीं घटनाओं की राजनीतिक गाथाओं का दस्तावेज़ है। इसे दस्तावेज़ कहने का मुख्य कारण यह है कि पुस्तक में अधिकांश शब्द संविधान निर्माताओं के हैं। लेखक ने इन शब्दों के महत्व को वर्तमान परिप्रेक्ष्य में समझाने का प्रयास किया है।

इस पुस्तक को पढ़ते हुए हमें अनुभव हुआ कि इस दस्तावेज़ी रूपक पुस्तक का समग्र अध्ययन किया जाना चाहिए, साथ ही अध्याय-केंद्रित विमर्श और समीक्षा भी आवश्यक है। अपनी क्षमता के अनुसार पुस्तक के महत्व के साथ न्याय करने हेतु मैंने इसकी समीक्षा के लिए केवल दो अध्यायों का चयन किया, जिनका मैंने कई बार पुनर्पाठ किया। हालाँकि, इसका अर्थ यह कतई नहीं है कि अन्य अध्याय किसी भी प्रकार से मेरे चयनित अध्यायों की तुलना में कम तथ्यपरक हैं। अध्यायों के चयन के पीछे मेरी व्यक्तिगत रुचि थी। आगे मैं अन्य अध्यायों की भी समीक्षा करने का प्रयास करूँगा।

मेरी समीक्षा के अंतर्गत जिन दो अध्यायों को सम्मिलित किया गया है, उनमें पहला अध्याय पुस्तक की भूमिका है। जिसका शीर्षक है, यह पुस्तक क्यों, कैसे और किसलिए? है, जो 17 पृष्ठों में विस्तृत है। यह लेखक द्वारा लिखा गया एक रोचक एवं तथ्यपरक परिचयात्मक अध्याय है। इसमें लेखक के जीवन संघर्ष की अनकही कहानी और भारतीय संविधान से उनके शोधार्थी के रूप में संबंध का विश्लेषण किया गया है। इस अध्याय में मीसा कानून, जेपी आंदोलन, 1992 में आईआईसी द्वारा किए गए संविधान अध्ययन, अटल बिहारी

वाजपेयी सहित कई महत्वपूर्ण प्रसंगों का उल्लेख मिलता है। यह अध्याय स्वतंत्र भारत में संविधान विमर्श को व्यापक परिप्रेक्ष्य में समझने का अवसर प्रदान करता है।

समीक्षित दूसरा अध्याय कैसे बची संविधान सभा है, जो पाँच पृष्ठों में संक्षिप्त किंतु अत्यंत महत्वपूर्ण है। यह अध्याय उस संविधान सभा के अस्तित्व पर केंद्रित है, जिसने भारतीय संविधान का निर्माण किया। इसमें नौसेना विद्रोह, कैबिनेट मिशन, महात्मा गांधी, डॉ. राजेंद्र प्रसाद, के. एम. मुंशी तथा संविधान सभा के अध्यक्ष की नियुक्ति जैसे कई अल्पज्ञात अथवा अलिखित प्रश्नों के उत्तर प्रस्तुत किए गए हैं। यह अध्याय राजनीतिक एवं ऐतिहासिक घटनाओं से परिपूर्ण है। वस्तुतः, यह पुस्तक का सबसे रोचक अध्याय प्रतीत होता है।

आगे, मैंने इन दोनों अध्यायों की समीक्षा अपने ज्ञान और समझ के अनुसार करने का प्रयास किया है।

भूमिका की समीक्षा

इस अध्याय की शुरुआत उस घटना से होती है जब मीसा एक्ट के तहत लेखक की गिरफ्तारी ने उन्हें संविधान को जानने के लिए प्रेरित किया। सुप्रीम कोर्ट ने उनके पक्ष में निर्णय देते हुए गिरफ्तारी को असंवैधानिक ठहराया, क्योंकि शांतिपूर्ण प्रतिरोधकर्ताओं की गिरफ्तारी संविधान के मूल अधिकारों का उल्लंघन है। यह निर्णय अभिव्यक्ति की स्वतंत्रता से संबंधित एक महत्वपूर्ण मिसाल था, जिसमें महात्मा गांधी और मार्टिन लूथर किंग के सत्याग्रह का संदर्भ दिया गया था। इस घटना का पुनः उल्लेख जयप्रकाश नारायण ने 1974 में पटना के गांधी मैदान में अपने भाषण में किया और कहा कि शांतिपूर्ण प्रदर्शन, धरना देना तथा उसकी तैयारी करना गैरकानूनी नहीं हो सकता।

भूमिका के दूसरे पृष्ठ पर लेखक ने 1959 में जयप्रकाश नारायण द्वारा लिखित पुस्तक का हवाला दिया है, जिसमें संविधान समीक्षा का उल्लेख किया गया था। इसके साथ ही, लेखक ने समय-समय पर हुए संवैधानिक संशोधनों का व्यापक विश्लेषण प्रस्तुत किया है। इस संदर्भ में उन्होंने पहले उदाहरण के रूप में तत्कालीन प्रधानमंत्री जवाहरलाल नेहरू द्वारा संविधान की कुछ कमियों को रेखांकित किए जाने का उल्लेख किया है। लेखक ने आपातकाल के दौरान संविधान में किए गए परिवर्तनों को एक “काला अध्याय” बताते हुए, उस समय संविधान को बदलने की साजिश का विस्तार से वर्णन किया है। उन्होंने इंदिरा गांधी द्वारा लोकतंत्र के हनन और कांग्रेस के कामागाटा मारु अधिवेशन प्रस्ताव का उल्लेख किया है, जो कि 42वें संविधान संशोधन का आधार बना।

आपातकाल के बाद संविधान में किए गए परिवर्तनों का वर्णन करते हुए लेखक लिखते हैं, “आपातकाल के बाद मोरारजी देसाई सरकार ने संविधान में कुछ सुधार किए, वहीं संसदीय प्रणाली को सुदृढ़ करने के लिए जयप्रकाश नारायण ने चुनाव सुधार के मुद्दे को केंद्र में रखा। यह उस समय की बात है जब 1971 के चुनाव अत्यधिक खर्चीले हो गए थे।” अटल बिहारी वाजपेयी की राष्ट्रीय जनतांत्रिक गठबंधन (राजग) सरकार ने संविधान समीक्षा एवं चुनाव सुधार के लिए कदम उठाए। लेखक इस बात पर भी प्रकाश डालते हैं कि संविधान की आलोचना और समीक्षा से राजनीतिक वर्ग प्रायः बचता है, क्योंकि बिना गहन अध्ययन के ही अनेक लोग संविधान को लेकर अपनी धारणाएँ बना चुके होते हैं। वह यह भी इंगित करते हैं कि संविधान सभा के गठन के समय देश में विभिन्न समूहों द्वारा वैकल्पिक संविधानों के प्रारूप भी तैयार किए जा रहे थे।

आगे, लेखक ने अटल बिहारी वाजपेयी के तीसरी बार प्रधानमंत्री बनने के बाद संसद के संयुक्त अधिवेशन में राष्ट्रपति के अभिभाषण में संविधान समीक्षा की पहल का उल्लेख किया है। इसके बाद इस विषय पर जो व्यापक बहस हुई, उसका भी पुस्तक में विस्तृत विश्लेषण प्रस्तुत किया गया है। लेखक ने संविधान को समझने की प्रक्रिया को एक

सतत अभियान के रूप में देखा है और अध्याय के अंत में यह स्पष्ट करने का प्रयास किया है कि 2014 के बाद से संविधान को लेकर एक नई बहस प्रारंभ हुई है। वह न केवल इस बहस की व्याख्या करते हैं, बल्कि संविधान आधारित विमर्श को भारतीय परिप्रेक्ष्य में और अधिक व्यापक बनाने की दिशा में भी विचार प्रस्तुत करते हैं। लेखक के अनुसार, भारतीय संविधान की सुरक्षा और उसे सांस्कृतिक एवं सभ्यतागत दृष्टिकोण से समझने का प्रयास आज के समय में और अधिक प्रासंगिक हो गया है।

पाँच पन्नों का दस्तावेजी अध्याय

अध्याय 26 “कैसे बची संविधान सभा” में मैंने अधिकांशतः लेखक के ही शब्दों का प्रयोग किया है। यह अध्याय भारत के राजनीतिक इतिहास के उस महत्वपूर्ण पृष्ठ को उजागर करता है, जिससे हमारी पीढ़ी अब तक अनभिज्ञ थी। यदि संविधान निर्माण की राह में उत्पन्न अड़चनों को दूर नहीं किया गया होता, तो आज का संविधान शायद अपने वर्तमान स्वरूप में अस्तित्व में नहीं होता।

लेखक ने वर्ष 1946 की दो घटनाओं पर ध्यान आकृषित किया है। पहली, नौसेना विद्रोह जिसने ब्रिटिश सरकार को झकझोर दिया। इस विद्रोह के अगले ही दिन ब्रिटिश प्रधानमंत्री क्लिमेंट एटली ने कैबिनेट मिशन योजना को भारत भेजने की घोषणा कर दी। दूसरी घटना महात्मा गांधी की वह भूमिका है, जिसने भारतीय संविधान को बचाने में अहम योगदान दिया। लेखक ने 1946 को भारतीय इतिहास में परिवर्तन का प्रतीक माना, क्योंकि उसी वर्ष घटित घटनाओं ने स्वतंत्र भारत के भविष्य की नींव रखी।

अध्याय में संविधान सभा में कैबिनेट मिशन योजना के समूह संबंधी खंड को लेकर कांग्रेस और मुस्लिम लीग के बीच गहरे मतभेदों का उल्लेख है। इस दौरान ब्रिटिश सरकार ने मुस्लिम लीग का समर्थन करते हुए यह घोषणा की कि यदि कोई ऐसी संविधान सभा बनती है, जिसमें भारत की संपूर्ण जनसंख्या का प्रतिनिधित्व नहीं है, तो ब्रिटिश सरकार उस संविधान को देश के असंतुष्ट हिस्सों पर जबरन लागू नहीं करेगी। इसके बाद मुस्लिम लीग ने संविधान सभा का बहिष्कार कर दिया और इसे भंग करने की माँग की। इन

तमाम अड़चनों के बावजूद संविधान सभा अस्तित्व में बनी रही, और इसका श्रेय महात्मा गांधी को जाता है।

लेखक ने उस अनसुनी कहानी का भी उल्लेख किया है, जिसके अनुसार जब ब्रिटिश प्रधानमंत्री एटली ने कैबिनेट मिशन की घोषणा की, तो उसके एक दिन पहले के.एम. मुंशी गांधीजी से मिलने बंबई गए थे। उन्होंने गांधीजी को बताया कि मुख्य न्यायाधीश स्टोन ने उन्हें वकीलों के एक समूह का नेतृत्व करने के लिए जापान जाने का अनुरोध किया था, जिसे उन्होंने अस्वीकार कर दिया। गांधीजी ने उनकी बात ध्यानपूर्वक सुनी और कहा कि उन्हें कांग्रेस में लौट आना चाहिए। मुंशी कांग्रेस में शामिल हो गए। गांधीजी सरदार पटेल, नेहरू और मुंशी की क्षमताओं से भली-भाँति परिचित थे। 10 जुलाई 1946 को गांधीजी ने घोषणा की कि कांग्रेस कार्यसमिति ने एक विशेष समूह बनाने का निर्णय लिया है, जो संविधान सभा के उद्देश्य प्रस्ताव और नियमों का प्रारूप तैयार करेगा। इस समूह में कांग्रेस अध्यक्ष जवाहरलाल नेहरू द्वारा के.एम. मुंशी को भी मनोनीत किया गया।

लेखक ने के.एम. मुंशी की डायरी और संवैधानिक दस्तावेजों का हवाला देते हुए इस दौरान की कई महत्वपूर्ण घटनाओं का वर्णन किया है। 17 मई 1946 को सरदार पटेल ने मुंशी को एक पत्र लिखा, जिससे यह संकेत मिलता है कि पटेल मुस्लिम लीग के साथ एक संयुक्त सरकार बनाने के लिए तैयार थे। परंतु अंतरिम सरकार में काम करने के अनुभव के आधार पर मात्र एक वर्ष के भीतर ही पटेल समझ गए कि भारत का विभाजन ही अंतिम समाधान है।

मुस्लिम लीग के बहिष्कार के बाद भी संविधान सभा अस्तित्व में तो आ गई, लेकिन अपने स्वयं के अस्तित्व के संकट से जूझ रही थी। इस अध्याय में उन शुरुआती और सबसे महत्वपूर्ण संकटों का वर्णन किया गया है। लेखक के अनुसार, संविधान सभा के समक्ष सबसे बड़ी समस्या यह थी कि वह सार्वभौमिक नहीं थी। जहाँ डॉक्टर राजेंद्र प्रसाद इसे सार्वभौमिक मानते थे, वहीं इस पर गहरा विवाद था। कैबिनेट मिशन योजना के तहत संविधान सभा को भारत के लोकतांत्रिक स्वरूप को निर्धारित करने का अधिकार दिया गया था, लेकिन राज्यों की राजनीतिक संरचना को नियंत्रित

करने का अधिकार नहीं दिया गया था। यह संविधान सभा की एक प्रमुख कमजोरी थी।

इसके अतिरिक्त, संविधान सभा में कई और समस्याएँ भी थीं। इनमें से एक प्रश्न यह था कि क्या कोई विदेशी नागरिक संविधान सभा का सदस्य बन सकता है? कैबिनेट मिशन योजना में इसकी अनुमति थी, परंतु के.एम. मुंशी की सलाह पर गांधीजी ने इस प्रावधान को समाप्त करवा दिया। संविधान सभा के पहले दिन, परंपरा के अनुसार, अमेरिका और फ्रांस की संविधान सभाओं की भाँति, सबसे बुजुर्ग सदस्य सच्चिदानंद सिन्हा को अध्यक्ष बनाया गया। संविधान निर्माण की प्रक्रिया आरंभ ही हुई थी कि सभा कक्ष की दीवारों पर ब्रिटिश गवर्नर-जनरलों की पेंटिंग्स को लेकर विवाद उठ खड़ा हुआ। अंततः इन पेंटिंग्स को हटा दिया गया और बाद में उनके स्थान पर भारत के प्रमुख नेताओं की पेंटिंग्स स्थापित की गईं। आज यही स्थान सेंट्रल हॉल के नाम से प्रसिद्ध है।

महात्मा गांधी की सलाह पर जब के.एम. मुंशी ने कैबिनेट मिशन योजना का अध्ययन किया, तो उन्हें कई समस्याएँ दिखाई दीं। पहली, ब्रिटिश नीति और उसके अंतर्गत कैबिनेट मिशन योजना की जटिलता। दूसरी, मुस्लिम लीग द्वारा निरंतर उत्पन्न की जा रही विभाजनकारी गतिविधियाँ। तीसरी, अल्पसंख्यकों से जुड़ी संवैधानिक समस्याएँ। चौथी और सबसे बड़ी समस्या यह थी कि कैबिनेट मिशन योजना के तहत भारतीय केंद्रीय सरकार का स्वरूप अत्यंत ढीले-ढाले संघ के रूप में प्रस्तावित था।

संविधान सभा की नियमावली का प्रारूप 4 अगस्त 1946 को तैयार किया गया। 11 दिसंबर 1946 को संविधान सभा की एक विशेष समिति गठित की गई, जिसमें के.एम. मुंशी सहित 14 अन्य सदस्य थे। मुंशी ने इस नियमावली को इस प्रकार तैयार किया कि मुस्लिम लीग, ब्रिटिश सरकार, या वायसराय वेवल चाहकर भी संविधान सभा को भंग न कर सकें। इस नियमावली के आधार पर संविधान सभा को सार्वभौमिक शक्तियों से सुसज्जित किया गया, ताकि वह अपनी वैधता को न्यायालय में भी स्थापित कर सके।

तथ्य यह है कि यदि के.एम. मुंशी महात्मा गांधी की

सलाह मानकर पुनः कांग्रेस में न लौटते, तो संभवतः मुस्लिम लीग संविधान सभा को भंग कर देती। लेखक के अनुसार, गांधीजी की सलाह से भी अधिक महत्वपूर्ण वह दृढ़ता थी, जिसके साथ के.एम. मुंशी ने उस सलाह का पालन किया और संविधान को बचाने की दिशा में निर्णायक भूमिका निभाई। भारत के संवैधानिक इतिहास में कम प्रसिद्ध व्यक्तित्वों ने भी महत्वपूर्ण योगदान दिया, और के.एम. मुंशी उनमें से एक प्रमुख शिल्पकार थे। उन्होंने संविधान निर्माण की प्रक्रिया को न केवल नई दिशा दी, बल्कि उसे एक सुदृढ़ आधार भी प्रदान किया।

सही अर्थों में, यह अध्याय हमें संविधान के वास्तविक नायकों से परिचित कराता है—उनकी प्रतिभा, विचारधारा और दूरदृष्टि से अवगत कराता है। यह पुस्तक प्रत्येक भारतीय और विश्व के प्रत्येक स्वतंत्र विचारधारा वाले व्यक्ति को पढ़नी चाहिए, विशेष रूप से युवा पीढ़ी को। यह पुस्तक यह दर्शाती है कि भारत को चलाने वाला यह संविधान मात्र एक कानूनी दस्तावेज नहीं, बल्कि वर्षों की कठिन तपस्या, सूझबूझ और अद्वितीय दृष्टिकोण का परिणाम है, जिसने एक विविधतापूर्ण राष्ट्र को एकीकृत करने में ऐतिहासिक भूमिका निभाई।

Conceptualizing Constitutions

3rd chapter of The Endurance of National Constitutions

✍ Bhawesh Binwal

To comprehend the significance of constitutions, a plethora of intellectuals have undertaken extensive studies on the subject. *The Endurance of National Constitutions*, published in 2009, stands out as a noteworthy contribution to this discourse. The present review aims to evaluate the third chapter of this volume, though it should be noted that the analysis presented here is more of a summary than a critical review. The intention behind this writing is to engage with the ongoing academic discourse concerning the constitution.

The chapter titled “Conceptualizing Constitutions” is situated within the broader framework of *The Endurance of National Constitutions*, authored by Zachary Elkins, Tom Ginsburg, and James Melton. The authors seek to explore the factors contributing to the endurance of constitutions from an institutional perspective. Drawing upon both statistical data and case study evidence, they argue that specific constitutional design features have the capacity to ensure the persistence of a constitution, even in the face of profound crises that would seemingly threaten its stability.

Walter Murphy, a renowned scholar of constitutional law, often clarifies the

distinction between constitutions as texts and broader constitutional concepts. This chapter focuses on the written constitutional charters of independent nations, aligning with S.E. Finer’s definition of constitutions as sets of rules that allocate powers and duties among government bodies and define their relationship with the public. While recognizing the limits of focusing solely on written texts—since not all constitutional elements are written and not all written content is constitutional—the chapter argues that examining these texts provides significant analytical insights and understanding of constitutional change, despite potential challenges in measuring and comparing concepts across different contexts.

The formal constitution consists of a written document, yet not all constitutions are written. The difference between written and unwritten constitutions is important because different countries follow different systems. For instance, to explain this chapter gives an example that ‘x’ as constitution and ‘y’ as nation now not all nations can adapt to this system as their regulations are different. Despite these variations, all nations function under a constitutional framework, whether written or not are understood through legal traditions.

Constitution-as-function versus constitution-as-form

The debate on the concept of “constitution” revolves around its reference to either function or form. The constitution-as-function view encompasses laws, theories, and interpretations that perform constitutional roles, such as limiting government behaviour, defining national identity, and setting up governmental institutions. The constitution-as-form, however, refers specifically to the formal written charter of a state.

The primary function of constitutions, as conceptualized in the first view, is to limit government, ensuring adherence to inviolable principles and protecting the rights of minority groups. This function, known as constitutionalism, supports democracy by establishing higher laws that bind future governments. Another critical role is the symbolic function, where a constitution declares the legitimacy of a state and sets its aspirations, particularly important in young states with competing ethnic or communal identities. Finally, constitutions serve a practical function by establishing governmental institutions, facilitating the administration of policy.

While these functions contribute to a “thicker” conception of constitutions, which includes both the written text and the broader constitutional order, a narrower view limits the term to the founding charter. Scholars like Walter Murphy argue that the “constitutional order” includes not just the text but also political theories, traditions, and interpretations, forming a broader understanding of the constitution.

In contrast, scholars such as Persson and Tabellini adopt a functional perspective, focusing on elements like electoral systems that may not be part of the written constitution but are integral to its functioning. Although scholars use shorthand terms like “constitution” to refer to the written text, it is essential to recognize that constitutions encompass more than just the formal document. The study of written constitutions, while crucial, should consider their role within the larger constitutional order, and empirical analysis is needed to assess their actual impact.

The Elements of the Constitutional Order:

Aristotle who founded the word “constitution,” which has various translations and have been invoked to refer as the higher law of political jurisdictions. He, indeed, analyzed constitution from Greek city states in the Constitution of Athens, Politics, and Nicomachean Ethics. Nevertheless, no universal model existed until the rise of the modern state in the 18th century.

The country that was formed prior to 1789, 50% of them went more than 300 years without any formal constitution. Whereas the countries after 1789, immediately adopted Constitution after their birth. Not only that but also 85% of post-1789 states had adopted their first constitution, and by five years of being independent but there was also some countries who went without adopting Constitution even after 1789 some prominent example is China, Thailand and Iran. Even though Western

European Countries didn't follow to make Constitution like other but later in the years they also adopted Constitution as it has become an essential symbol for the modern states.¹

Not Only Written Constitution was there but also other texts were also held were important like in USA, Ernest Young (2007) adopts a functional approach to describe the United States "Constitution Outside the Constitution." Young includes materials such as the Clean

Water Act, as legal decisions of the U.S. Supreme Court. Critics says that such quasi-constitutional documents differ from the formal constitution. This idea of entrenchment is important because the status of the constitution as seen as the higher law.

Unwritten constitutional norms serve as supplement to the written text, helping it to maintain its provisions. For example, Judicial review in the USA is something the government is aware of, yet most scholars believe that the founders meant to include it. Similarly, the right to privacy is not written, but found only in the so-called penumbra of the text.

Analytic Challenges in the Cross-Nation Study of Written Constitution

The context of Constitutional Documents of different countries have different impact on their society for example of Latin American and Soviet Union constitution is different so the impact on one and another are different. Conceptual

Stretching means that the concept is highly comparable to one context and may not adapt to other. Similarly, Scholar argues that Written Constitution might be important to one section of the society but not necessarily for other, hence in this case Small-c is difficult to understand but Big-C is easier so, big-C provides a starting point for identifying the scope of small-c.

So, in this book to identify the written Constitution is done by invoking three conditions 1) sufficient to qualify the document as written Constitution whereas others are applied as supplementary test, if it's not met. 2) contains the provision to declare as highest law either through entrenchment or limits on future law; 3) define the basic pattern of authority by establishing or suspending an executive or legislative branch of government. For example, in Israeli case the the Constitution is define as the basic law. Whereas, in Saudi Arabia, the holy Qur'an is the highest law and there is no formal constitution. The promulgation of new, interim, and reinstated constitutions marks the beginning of constitutional systems. Constitutional death occurs when the systems are replaced by other new, interim, or reinstated documents or when they are formally suspended. For example, pre-Soviet republics like Estonia is often make a new constitution. The census reveals a group of 935 new constitutional systems, of which 746 have been replaced or suspended, and 189 are still in force.²

1 Elkins, Ginsburg, & Melton, Why Constitutions Endure, p.42.

2 Elkins, Ginsburg, & Melton, Why Constitutions Endure, p.51-52

Written Charters in Wider Perspective

In the issues of completeness and representativeness of the Written Charter, we are in a position to say about the relationship of the written constitution to the larger constitutional order because many written Constitution have been failed to function that were deemed to be crucial for the Constitutional Order. For example, many Constitution pay a little focus on Electoral but more focus on how the national symbols such as anthems and flags of the country should look like, only 19% of about the electoral system are written despite their importance in democratic governance. The chapter have given an example, Afghanistan's 1977 document, for example, provides that the flag "consists of black, red and green colors arranged horizontally in fixed proportions from top downwards with the national emblem of the state affixed in its upper left hand corner."³

There is sometimes a fuzzy line inbetween amendment and replacement which is important to know and is explained in this chapter. Amendments are constitutional death as explained above and, thus, mistaking one for the other is fatal for the constitution. We call a constitutional change an amendment when the actors claim to follow the amending procedure of the existing constitution and a replacement when they undertake revision without claiming to follow such procedure. For example, USA Constitution

is a replacement and not an amendment of the Articles of Confederation because it changed the basic structure and many countries do not make changes in their Constitution like the Mexican Constitution is 87% similar to of the year of 1857 Constitution.⁴

Constitutional replacements occur within one year on other side a regime transition in occur roughly 19% in the cases of democratic transition and 27% in the cases of authoritarian transition as mentioned in the chapter, Regime change, then, is not a sufficient condition for constitutional change, nor it is a necessary one. Three of the six countries, new constitutions have corresponded with major shifts in the structure of authority. For example, Japan's overall history has been one of punctuated equilibrium with a jump shift in their democratic directions which were marked by constitutional change. Panama, represents another pattern which we label as 'Jeffersonian' which means periodic renewal of the constitution, every generation or so this happens in the case of regime changes.⁵

In the conclusion of this chapter the concept of a constitution remains the same, while some scholars emphasize that it is the formal written document, meanwhile others argue that it should be a broader understanding that includes unwritten traditions and legal practices. This is the distinction between Big-C (formal, written constitution) and small-c (constitutional

3 Elkins, Ginsburg, & Melton, Why Constitutions Endure, p.52

4 Elkins, Ginsburg, & Melton, Why Constitutions Endure, p.55-56

5 Elkins, Ginsburg, & Melton, Why Constitutions Endure, p.59 and 62-63

order) which provides a useful framework for analysis for our work.

Conclusion

This chapter 'Conceptualizing Constitutions' helps us to understand the different dimensions of constitution and how can we understand them. This chapter includes of formal written constitution as well as broader perspective of constitution which

is not written. This chapter also provides us of the importance of understanding constitution and what part of the constitution should be amended and why.

This chapter provides a framework of different categories of constitutional order and also the comparison among different nations also why the Constitution is important.

Chapter 4: The Endurance of National Constitutions

✍ Kajal Yadav

In *The Endurance of National Constitutions*, Zachary Elkins, Tom Ginsburg, and James Melton examine the fundamental factors that contribute to the longevity of constitutions. Chapter 4 opens with an engaging analogy between the U.S. Constitution and Jeanne Calment, the longest-living human, to underscore that constitutional endurance does not necessarily result from ideal conditions. The authors critically analyse the “Philadelphia model”¹ of constitutional design, arguing that while it possesses advantages, longevity is not among them. The chapter advances a central argument that constitutional durability is determined by three essential elements: inclusion, flexibility, and specificity.² These factors enable a constitution to adapt to dynamic political landscapes, thereby ensuring its survival.³ Additionally, the authors propose a theory of constitutional renegotiation⁴, suggesting that a constitution’s endurance is contingent upon key political actors perceiving greater benefits in maintaining the existing framework rather than seeking alternatives.⁵

Determinants of Constitutional Endurance

The chapter identifies three primary factors influencing constitutional durability: inclusion, flexibility, and specificity. Inclusion ensures broad participation in the drafting, approval, and enforcement processes, fostering a sense of ownership and legitimacy. Flexibility allows a constitution to adapt to changing socio-political conditions, thereby mitigating the risk of obsolescence. Specificity provides clarity in governance, reducing ambiguities that may lead to conflicts; however, excessive detail can hinder adaptability, making amendments challenging. The authors emphasize that a balanced integration of these factors is crucial for constitutional resilience.

The Theory of Constitutional Renegotiation

To elucidate the mechanisms behind constitutional longevity and failure, the authors introduce the theory of constitutional renegotiation. They argue that the longevity of a constitution is determined by whether key political actors derive greater benefits from preserving the status quo or

1 Elkins, Ginsburg, & Melton, *Why Constitutions Endure*, p.65.

2 *Ibid.* pp. 69-71.

3 *Ibid.* pp.88-89.

4 *Ibid.*

5 *Ibid.* pp-74-76.

from pursuing alternatives. The process of constitutional bargaining is influenced by incomplete information, which can create challenges in negotiations and affect long-term stability.⁶ The authors explore the complexities of constitutional bargaining, categorizing missing information into two types: uncertainty over future rewards and hidden information. These factors impact the sustainability of constitutional agreements.⁷

The Dynamics of Constitutional Bargaining

The chapter delves into the intricacies of constitutional negotiations, illustrating how power dynamics shape constitutional stability. For instance, the authors discuss the drafting of the Japanese constitution under an authoritarian regime, where public participation was minimal, and analyze a hypothetical case of Sunni, Shia, and Kurdish groups negotiating a constitutional framework. These examples highlight the challenges posed by asymmetrical power structures and the difficulties inherent in constitutional negotiations.

Moreover, the authors examine the role of uncertainty in constitutional bargaining, emphasizing that external factors such as economic, technological, and geopolitical changes can alter the perceived benefits of a constitutional agreement. The U.S. Constitutional Convention is cited as an example, where compromises on slavery were made under the assumption of

Southern demographic growth. However, unforeseen territorial expansion ultimately shifted the balance of power, necessitating renegotiations such as the Missouri Compromise.⁸ The authors also discuss the implications of hidden information, exemplifying how Shia politicians in Iraq miscalculated revenue-sharing agreements due to a lack of knowledge about Kurdistan's oil resources.

Standard Contractual Solutions and Constitutional Enforcement

To address the challenges of imperfect information, the authors propose contractual mechanisms that allow for flexibility and adaptation over time. They argue that constitutions should incorporate mechanisms for periodic renegotiation to accommodate emerging circumstances. However, they caution against overly vague provisions, which may lead to disputes over constitutional interpretation. Additionally, the authors highlight the role of third-party enforcement, such as courts, in resolving constitutional ambiguities and ensuring compliance. Courts function as arbiters, facilitating the resolution of disputes arising from constitutional uncertainty.⁹

Enforcement is identified as a crucial factor in constitutional durability. The authors outline three conditions necessary for effective enforcement: clarity about constitutional violations, a shared belief in the legitimacy of the constitution, and collective action by opposition groups or

6 Ibid. pp. 66-67.

7 Ibid. pp. 73-74.

8 Ibid. pp. 68-69.

9 Ibid. pp. 71-72.

citizens. They argue that constitutional enforcement is contingent upon the willingness of political actors to uphold constitutional principles.

Predictions and Empirical Applications

The authors develop a model predicting constitutional longevity based on inclusion, flexibility, and specificity. Empirical examples illustrate the significance of these factors. For instance, the highly participatory process of drafting the 1988 Brazilian Constitution contributed to its durability, whereas constitutions with limited public involvement tend to be more fragile. India's Constitution serves as an example of flexibility¹⁰, having undergone numerous amendments to accommodate evolving political realities. Conversely, excessive specificity can render constitutions rigid, as seen in cases where highly detailed provisions become obstacles to necessary reforms.

The Temporal Dimension of Constitutional Longevity

The chapter further explores the implications of constitutional aging. Over time, constitutions may become outdated due to shifting political, social, and economic contexts. The authors cite the U.S. Constitution as an example, highlighting how its endurance has been tested by political conflicts, particularly those related to slavery.¹¹ They argue that constitutional

longevity is not merely a function of design but also of a constitution's capacity to evolve in response to changing circumstances.

Conclusion

Chapter 4 of *The Endurance of National Constitutions* offers a nuanced analysis of the determinants of constitutional longevity. Through theoretical models and empirical case studies, the authors underscore the importance of inclusion, flexibility, and specificity in shaping constitutional endurance. By integrating historical and contemporary examples, such as the U.S. Constitution, the Indian Emergency, and constitutional negotiations in Iraq, the chapter grounds its theoretical insights in practical realities. While the discussion effectively addresses constitutional design and survival, it largely overlooks broader destabilizing factors such as social movements, wars, and economic crises. Nevertheless, the authors provide a compelling framework for understanding constitutional resilience, offering valuable insights for scholars, policymakers, and legal practitioners engaged in constitutional design and governance. Their analysis serves as a foundational contribution to the study of constitutional stability, emphasizing the intricate interplay between political incentives, institutional design, and enforcement mechanisms in determining the endurance of national constitutions.

¹⁰ Ibid. pp. 81-83.

¹¹ Ibid. pp.90-91.

Chapter Review of You Must Know Your Constitution

The Constitution Today: Challenges and Prospects

✍️ Krishna

Fali S. Nariman, a distinguished senior advocate of the Supreme Court of India and a globally recognized authority in arbitration and law, passed away on 21st February 2024. Throughout his illustrious career, he held several significant positions, including chairing the executive committee of the International Commission of Jurists (1995–1997), serving as a member of the London Court of International Arbitration (1988–2003), and acting as vice president of the ICC International Court of Arbitration (1989–2005). Additionally, he presided over the International Council for Commercial Arbitration (1994–2002) and was later designated its honorary president.

In recognition of his remarkable contributions to law and public affairs, Nariman was awarded the Padma Bhushan in 1991 and the Padma Vibhushan in 2007. He also served as a nominated member of India's Rajya Sabha from 1999 to 2005, where he played a crucial role in legal and constitutional debates.

His book, *You Must Know Your Constitution*, serves as an important resource for understanding constitutional principles. Dedicated to “the little Indian in whom rests the future of the nation,” the book comprises an introduction and

eight chapters. Among them, the eighth chapter, *The Constitution Today and Prospects for the Future*, has been selected for review due to its compelling title and relevance to contemporary constitutional discourse. Given the increasing frequency of debates on constitutionalism in India, particularly in light of the present political landscape, this chapter provides critical insights. This section aims to examine and analyse the key arguments presented by Nariman, highlighting their significance in shaping contemporary discussions on the Constitution.

The chapter begins with a powerful and thought-provoking examination of the pressing challenges facing the Indian Constitution and its crucial role in safeguarding democracy. Fali S. Nariman's arguments in *You Must Know Your Constitution* go beyond superficial critiques, highlighting the deep flaws in its implementation. Through sharp insights, Nariman emphasizes the urgent need for ethical and capable individuals to uphold the Constitution's values, making his observations both a cautionary tale and a wake-up call for leaders, institutions, and citizens.

Nariman begins by underlining the

Constitution's role as more than a legal framework; it embodies the essence of India's democratic aspirations. However, he argues that its ideals remain ineffective without the commitment and moral integrity of those entrusted with governance. Citing Granville Austin, Nariman reminds readers that "a constitution cannot function on its own; it is inert without human agency." This statement critiques India's persistent struggle to align governance with the lofty ideals enshrined in its foundational document. This analysis forms part of Chapter 8 of Nariman's book, which examines the Constitution's challenges and opportunities in detail.

One of the most striking observations in this section is Nariman's focus on the role of the opposition in a parliamentary democracy. Dispelling that the opposition merely obstructs governance, he presents it as a cornerstone of democratic accountability. Quoting Ivor Jennings' assertion, "If there be no opposition, there is no democracy," Nariman underscores the opposition's vital function in checking authoritarianism and ensuring transparency. Yet, India's political history reveals a troubling reality: successive governments have undermined the opposition's role, discrediting or side-lining it. This critique is not limited to any single regime; Nariman highlights the failures of both Congress-dominated governments (1952–1989) and BJP-led administrations (2014 onwards) in fostering constructive dialogue, leaving Indian democracy skewed and weakened.

Nariman's analysis takes a critical turn when addressing the rise of majoritarianism, which he identifies as

a significant threat to India's democratic framework. He draws historical parallels to illustrate how majoritarian politics—irrespective of the party in power—has consistently eroded the rights of minorities, stifled dissent, and consolidated power. Citing historian Romila Thapar's warning that "majoritarianism can easily become—and often does—an authoritative anti-democratic system," Nariman highlights the real and present dangers posed by such a trajectory. This section further elaborates on the growing polarization within India's political and social spheres, warning against the consequences of alienating significant sections of the population.

This critique extends beyond the political domain to its societal implications, particularly the diminishing commitment to secularism. According to Nariman, secularism is not merely an ideal but necessary for a nation as diverse as India. He argues that the increasing prevalence of religious polarization and majoritarian rhetoric jeopardizes the Constitution's foundational promise of equality and justice for all. Referencing Neeraja Chowdhury's observations on India's shift towards majoritarianism, Nariman raises urgent concerns about the sustainability of a democracy that excludes or marginalizes its minority communities.

Throughout the discussion, Nariman invokes the wisdom of Dr B.R. Ambedkar, who famously remarked, "However good a constitution may be, it is sure to turn out bad because those who are called to work it happen to be a bad lot." This poignant reminder forms the crux of

Nariman's argument: the Constitution's success is inextricably tied to the ethical and intellectual Caliber of its custodians. Without these attributes, even the most visionary document is rendered ineffective.

Another important theme explored in this chapter is the increasing concentration of power at the centre and its implications for the balance between the central and state governments. Nariman discusses how this shift weakens state governments and undermines the spirit of cooperative governance, challenging the vision of harmonious collaboration envisioned by the framers. While acknowledging the challenges of governance in a diverse nation, he stresses the importance of maintaining the equilibrium necessary for a healthy democratic setup.

A unique aspect of Nariman's analysis is his emphasis on public engagement. He warns against the dangers of public apathy, arguing that the Constitution's survival hinges not just on political leaders but on the vigilance and participation of ordinary citizens. Democracy, he asserts, is not a spectator sport; it requires active involvement. In an era marked by misinformation and polarization, Nariman's call for civic education and an informed

citizenry is both timely and crucial. His insistence on empowering citizens to understand their rights and responsibilities reflects his belief in the transformative potential of an engaged public.

Nariman's arguments are strengthened by his use of historical references and contemporary examples. Drawing on scholars like Granville Austin and Romila Thapar, he provides a nuanced perspective on the evolution of the Constitution and its current challenges. This combination of historical insight and modern relevance makes his analysis profound and accessible.

From the above discussion, it can be said that the Indian Constitution is a remarkable framework that has withstood decades of challenges and transformations. However, its efficacy depends on the integrity and vision of those who implement it. Nariman's reflections compel us to confront the uncomfortable truth that the Constitution's ideals can only be realized through the collective efforts of ethical leaders, independent institutions, and vigilant citizens. His discussion serves as a powerful reminder of the ongoing responsibility to protect and uphold the values enshrined in the Constitution.

Know Your Republic: Report-2025

✍ Student Editorial Board

Samvaad, the Department of Political Science, P.G.D.A.V College, University of Delhi, organized its calendar event, 'Know Your Republic,' from January 29 to January 31, 2025. This year's program was particularly special as it marked the 75th anniversary of the Indian Constitution.

Day 1: January 29, 2025

The event commenced with the traditional lighting of the lamp by Mr. Ajay Kumar Singh, press secretary to the President of India, and esteemed faculty members. This was followed by an engaging speaker session by Mr. Ajay Kumar Singh, who delivered an insightful speech on the glorious journey of the Indian Constitution, focusing on its evolution, legal framework, and the power vested in citizens within the democratic structure of the Republic. His talk provided a deep understanding of constitutional principles, rights, and duties, making it highly enriching for all attendees. The session witnessed active student participation, with numerous questions asked to Mr. Ajay Kumar Singh. A total of 114 attendees, along with 24 legislative members, were present at the seminar.

Day 2: January 30, 2025

Day two featured two key events. The first was a speaker session by Dr. Anirban Ganguly, Director of the Shyama Prasad

Mukherjee Research Foundation, held in the new seminar hall between 11:15 AM and 1:00 PM. The session commenced with an introductory speech by Professor Abhay Prasad Singh, followed by Principal Professor Krishna Sharma ma'am expressing gratitude to the Department of Political Science for consistently organizing informative events. Dr. Anirban Ganguly's lecture focused on the 75-year journey of the Indian Constitution, covering various constitutional aspects. The event recorded an attendance of 148 participants, including 22 legislative members.

The second event of the day was an inter-college policy-making competition conducted between 1:00 PM and 3:00 PM in the new seminar hall. The topic given for this competition was "Strategic Policy Solutions for Environmental Conservation and Climate Change Mitigation in India." The competition followed a presentation format with a maximum of five slides. Participants were given 40 minutes for preparation, with five minutes allocated for the presentation and an additional five minutes for interaction. There were 11 participating teams, with a total attendance of 66 individuals.

Day 3: January 31, 2025

The final day featured two competitions

along with an interactive session with alumnus Mr. Abhishek Sharma. Mr. Abhishek shared his valuable experiences with the attendees, providing inspiration and guidance.

Following the alumnus session, the poster-making competition commenced at 11:00 AM. This event took place in the Political Science department room and History department room. The theme for the poster-making competition was “The Idea of Bharatvarsh Through Your Lens.” A total of 12 participants showcased their creativity on A3 sheets, evaluated by five judges.

Simultaneously, the inter-college debate

competition was held between 11:00 AM and 2:30 PM in the old seminar hall and the Commerce Department room. The topic for the debate was “Should Voting Be Made Compulsory: Civic Duty vs. Individual Duty.” The debate featured 89 participants, organized into 44 teams with one solo participant. Each participant was allotted four minutes—three minutes for their speech and one minute for interjection.

The event concluded with a prize distribution ceremony, celebrating the winners of various competitions. The ‘Know Your Republic’ 2025 was successfully conducted, fostering lasting impact on all attendees.

