

Making of the Constitution of India

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Abstract: *The basic idea and purpose of this paper is to depict and deliver the process of framing the Constitution of India. This paper is an attempt to do extensive research, comprehensively study and present authentic comprehensive content that gives the information and understanding about how the machinery functioned for drafting the Constitution of India. Functioning of Constituent Assembly and various committees formed as a part carrying various task as well as the approach and method adopted in framing the Constitution off India.*

Key Words: *Constitution of India, Drafting Constitution, Constituent Assembly.*

1. INTRODUCTION:

The basic idea and purpose of this paper is to depict and deliver the process of framing the Constitution of India. This paper is an attempt to do extensive research, comprehensively study and present authentic comprehensive content that gives the information and understanding about how the machinery functioned for drafting the Constitution of India. Functioning of Constituent Assembly and various committees formed as a part carrying various task as well as the approach and method adopted in framing the Constitution off India.

An attempt has been made to do extensive research of authentic literature and content from various official government documents, government publication, and websites of various government departments as well as parliament etc. Since the content is very comprehensively presented the readers can get the information and knowledge about the content with chronology and steps followed in Drafting Constitution with major dates and roles off various bodies constituted especially for this purpose of drafting the constitution.

The paper is divided in two major parts; the first part of the paper is dedicated to introduce various actors in terms of bodies involved and formed to carry this mammoth task of drafting the Constitution. These includes the Constituent Assembly and Drafting Committee as well as their roles. The second part of the paper is planned to present the process drafting the Constitution taking into account the activities and tasks carried out in chronological order.

2. CONSTITUENT ASSEMBLY:

In order to frame Constitution of India the Constituent Assembly formed. The idea of constituting a Constituent Assembly was given by Shri. M.N.Roy in 1934. When Government of India Act – 135 was enacted, it was considered as imposed legislation and official demand for forming Constituent Assembly was started.

On 15 November 1939 C. Rajagopalachari raised the demand for a Constituent Assembly. His idea of formation of Constituent Assembly was based on adult franchise. British Government accepted the demand of forming Constituent Assembly in 1940 but the idea of adult franchise was discarded and the Constituent Assembly was elected with limited franchise. The Assembly was recognized by Section 8 of the Indian Independence Act, 1947. There were indirect elections and accordingly 292 Members were elected by the Provincial Legislative Assembly, 93 members were from Princely States and 4 members were from Chief Commissioners Provinces which ultimately make the number 389. But after partition of Pakistan from India several Provinces and Princely States become a part of Pakistan and due to that 90 members dropped and the number came to 299. During December 1947, there were 299 members that comprised of 229 members elected from 12 Provinces and 70 nominated members belonging to total 29 Princely States.

There was the majority of male Hindu members in the Constituent Assembly. There was very thin representation of women with a proportion of only 15 women representatives in the Constituent Assembly. There were at least 2 representatives from each religion. 80% members of the Constituent Assembly were from Congress party. Though there

was a majority of members from the Congress party, there was representation of diverse ideologies ranging from socialism to liberalism and conservatism in the Constituent Assembly.

The Constitution making process done by Constituent Assembly. Rajendra Prasad was elected as the Chairman of the Constituent Assembly. Drafting Committee used to prepare Drafts and members of the Constituent Assembly had to propose amendments which had to be submitted to the Chairman in advance. The proposed drafts and amendments were debated and deliberated in detailed, lot of discussions use to take place before finalizing each and every clause and decisions were taken with majority vote.

Constituent Assembly started its work on 9/12/1946. It worked for 2 years and 11 months and ultimately completed the mammoth task of drafting the Constitution. Constituent Assembly adopted the Constitution of India that came into force on 26/1/1950.

3. COMMITTEES:

The role of various committees appointed by The Constituent Assembly at various points during the constitution making process was also very remarkable. Major such committees can be enlisted as Advisory Committee on Fundamental Rights and Minority Rights, Union Powers Committee, Union Constitution Committee, Provincial Constitution Committee. The purpose of such committees was to do in-depth study, extensive research, discussions and deliberations in smaller groups. Even in these committees the decisions were taken by majority of votes and there was a system available to record dissents if someone wishes so. Such committees use to make reports and then the reports used to be discussed in the Constituent Assembly where all the members of the Constituent Assembly use to participate. B.N.Rau was The Constitutional Adviser, the reports of various committees were compiled by him. The reports compiled by him were submitted to Drafting Committee.

4. DRAFTING COMMITTEE:

Drafting Committee played a very crucial and central role in drafting the Constitution. Drafting Committee was constituted on 29/8/1947. The functions of the committee were as follows:

1. *Scrutinize the draft of the text of the Constitution of India prepared by Constitutional Adviser*
2. *Giving effect to the decisions already taken in the Assembly and including all matters which are ancillary thereto or which have to be provided in such a Constitution,*
3. *To submit to the Assembly for consideration the text of the draft constitution as revised by the committee...'*

There were following seven members in the Drafting Committee:

Alladi Krishnaswami Ayyar,
N. Gopaldaswami;
B.R. Ambedkar,
K.M Munshi,
Mohammad Saadulla,
B.L. Mitter and
D.P. Khaitan.

The Drafting Committee met for the first time on 30/8/1947 and the committee elected B.R Ambedkar as Chairman of this committee. Committee started to scrutinize the draft of Constitution which was prepared by B N Rau during around the end of October in the year 1947. The Drafting Committee made various changes in the Draft and submitted the Draft on 21/2/1948 to the President of Constituent Assembly. Out of total 166 sittings of Constituent Assembly, 144 sittings were dedicated to debating the Draft Constitutions prepared by Drafting Committee. Hence the role of Drafting Committee was the crucial and important in making of the Constitution of India.

5. CONGRESS ASSEMBLY PARTY:

Though the Congress Assembly Party had also one of the important and influential role in making of the Constitution of India, but this body was not a statutory backup or to say inclusion in the official structure of the Constitution making organs or the committees. This was an informal form of members of the Congress party with some special invitees, this forum use to discuss and debate various issues before they were to be discussed in Constituent Assembly. However, this informal body has wield influence because of Party whip.

6. PROCESS OF MAKING CONSTITUTION OF INDIA

In order to understand the process of making of the constitution it is necessary to study the exact procedure and steps that were followed in making the Constitution. The whole process can be divided in 10 different stages as mentioned below:

Stage: 1:

The very first stage is the beginning of the work of the Constituent Assembly i.e. the very First Session of the Constituent Assembly. The Constituent Assembly officially started its functioning in the direction of framing the Constitution on 13/12/1946. It was Jawaharlal Nehru who moved the Objectives Resolution. The purpose of the resolution was to “... *proclaim India as an Independent Sovereign Republic and to draw up for her future governance a Constitution...*” the task of drafting began with this Objectives Resolution. The resolution revealed the principle of the working of the Constituent Assembly and the objective of the the Constituent Assembly. This resolution was adopted by the Constituent Assembly on 22/1/1947.

Stage: 2:

After the first stage i.e. the first session of the Constituent Assembly, the second stage is the stage of formation of various committees and second session of the Constituent Assembly Debates.

The second stage consist off formation of following 4 committees:

1. Advisory Committee on Fundamental Rights and Minority Rights (which consisted of the Sub-Committee on Fundamental Rights and the Sub-Committee on Minority Rights),
2. Union Powers Committee,
3. Union Constitution Committee
4. Provincial Constitution Committee.

The committees worked on the issue assign to them and submitted their report at various times during a period of April to August in the year 1947. The Constituent Assembly than debated on these reports especially on the broad principals and recommendations of the reports of these committees. This stage continued till 30/8/1947.

Stage: 3:

The third and very important stage can be described as the preparation of Draft Constitution by the Constitutional Advisor. Based on the reports of various sub committees and discussions, deliberations and debates of the Constituent Assembly the Constitutional Advisor B.N.Rau prepared a Draft Constitution and submitted during October 1947. This Draft Constitution than submitted to Drafting Committee.

Stage: 4:

The fourth stage of the process of making Constitution of India is the First Draft of the Constitution. The Drafting Committee started working on the Draft of the Constitution Prepared by the Constitutional Advisor. The Drafting Committee proceeded to make changes in the Draft Constitution and prepared a Draft which was submitted to the President of the Constituent Assembly on the 21/2/1948.

Stage: 5:

The fifth stage of the making of Constitution of India is circulation of the Draft Constitution amongst the Public in order to receive the feedback from the people at large. Many people gave comments and suggestions on the Draft Constitution. A Special Committee of members of the Union Constitution Committee, Provincial Constitution Committee, Union Powers Committee and the Drafting Committee studied and scrutinized the received comments, critiques and suggestions received from the people. Special attention was given to the feedback received from the various stakeholders, the Drafting Committee took these insights into consideration and discussed on Mach 23, 24, 27 and October 18, 1948. The Draft of the Constitution was revised, reprinted and resubmitted.

Stage: 6:

The Chairman of the Drafting Committee B.R. Ambedkar presented the revised, reprinted and revised Draft Constitution to the Constituent Assembly on 4/11/1948. The Draft Constitution was then taken up clause after clause for discussion. The Constituent Assembly debated each and every Article. Those who were members of the Constituent Assembly proposed and moved their amendment on the various clauses of the Draft Constitution especially to change or drop specific clause, article or matter thereto. These debates are very much insightful in terms of various intellectual inputs, ideologies, concerns over various socio-economic groups of the country, philosophies of various governance as well as

knowledge and sensitizing elements from Vedic to Indigenous wisdom and morality. These debates continued till 17/10/1949.

Stage: 7:

The seventh stage is the step wherein the Draft Constitution was revised incorporating the debates of Constituent Assembly. After concluding the debates the Drafting Committee again revised the Draft Constitution in accordance to the decisions taken in the Constituent Assembly. There are also some revisions pertaining to language corrections, removing and including several clauses as well as arranging and re-numbering the Articles. On 3/11/1949 the revised Draft Constitution was submitted to the President of the Constituent Assembly. This revised Draft was then presented in the Constituent Assembly on 14/11/1949.

Stage: 8:

The eighth stage comprises of the Second Reading of Draft Constitution, even during the second reading stage many amendments were moved but most of them were rejected as most of content was already discussed and revised at consensus.

Stage: 9:

After that very important and essential ninth stage comes up with in the form of third reading of the Draft Constitution. This time it was in the form of a motion presented to be passed by the assembly and hence the Chairman of the Drafting Committee Dr. B.R.Ambedkar moved a motion '*that the Constitution as settled by the assembly be passed*'. Even during this phase there were also several debates but most of them were kind of speeches on various aspects of the Constitution. Most of the members expressed their opinions pertaining to the satisfaction about the process and content of the Constitution whereas several members expressed their concern over certain provisions and their implementation level implications.

Stage: 10:

After the third reading there comes the very important stage of the Enactment and Adoption of the Constitution of India. The third reading of the Constitution came to an end on 26/11/1949, at this stage there was voting on the motion that the Chairman of Drafting Committee Dr. B.R.Ambedkar proposed i.e. passing the Constitution. After the motion passed the members of the Constituent Assembly signed the final Constitution on 24/1/1950 and the Constitution of India came into effect on 26/1/1950.

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