



## MAKING OF CONSTITUTION OF INDIA – A STUDY

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**BEST CITATION** – MANISH D BHANE, MAKING OF CONSTITUTION OF INDIA – A STUDY, ILE MULTIDISCIPLINARY JOURNAL, 4 (1) OF 2025, PG. 470-479, APIS – 3920-0007 | ISSN – 2583-7230

### ABSTRACT

*Profound historical journey of how India's constitution was crafted, with a focus on the underlying principles and the contemporary relevance of this monumental endeavour. The history of COI dates back to the pre-independence period, when India was under British colonial rule. It explores the background of the struggle for freedom and the need for a new constitution to lay the foundation for an independent, democratic nation. Today, the Indian Constitution stands as one of the world's lengthiest written constitutions. It has evolved over the years through amendments and interpretations by the judiciary, shaping the legal and political landscape of the nation. This research provides a comprehensive summary of the historical context, development, and current status of the Indian Constitution, highlighting its key features, amendments, and judicial interpretations that have shaped the country's governance. The aim of this research is to understand the historical context and significance of the Indian Constitution and explore how it has adapted to the changing needs of the nation. Our approach to solving this problem involves examining the historical evolution of the Indian Constitution and its adaptability to changing circumstances. We will investigate how effective the constitution has been in upholding democratic principles, protecting citizens' rights, and addressing current societal and political challenges. This study may identify areas where the Constitution of India may need reform or improvement to better align with modern challenges. Potential reforms might include amendments to address issues related to federalism, minority rights, environmental concerns, or the functioning of the executive, legislative, and judicial branches. This research holds significant importance as it aims to shed light on the historical, legal, and political significance of the Indian Constitution. It strives to achieve a better understanding of how the constitution has evolved, what it means for India today, and its potential to adapt to future challenges. Ultimately, this study seeks to contribute to a broader discussion on the effectiveness and relevance of constitutional documents in modern democracies.*

**Keywords:** Amendments, Challenges, Constitution of India, Crown Rule, Democracy, Independence

### 1. Introduction

In the annals of history, the formulation of a constitution marks a pivotal moment that shapes the destiny of a nation. The creation of the Constitution of India stands as a monumental testament to the aspirations, struggles, and visionary leadership that defined a newly independent nation in the aftermath of colonial rule. This assignment delves into the captivating saga of the making of the Constitution of India, exploring the intricate web

of events, ideologies, and diverse perspectives that converged to lay the foundation for one of the world's largest and most vibrant democracies.

Set against the backdrop of post-independence India, this study unravels the threads of history that led to the Constituent Assembly's formation and traces the labyrinthine journey undertaken by the framers of the Constitution. From the ideals enshrined in the Preamble to the intricate details of



fundamental rights and directive principles, the Constitution of India is a living document that reflects the hopes and dreams of a diverse and pluralistic society.

As we embark on this exploration, we will navigate through the political, social, and cultural landscapes that influenced the drafting process. The assignment will shed light on the key architects of the Constitution, their philosophical underpinnings, and the debates that echoed within the hallowed halls of the Constituent Assembly. Moreover, we will examine the challenges and compromises that were navigated to weave together a constitutional tapestry that accommodates the myriad identities and aspirations of a nation on the cusp of transformation.

Through a comprehensive analysis of primary sources, historical accounts, and scholarly perspectives, we aim to unravel the layers of complexity that characterized the making of the Constitution of India. By understanding the historical context, the socio-political dynamics, and the visionary leadership that steered this transformative process, we hope to gain a deeper appreciation for the enduring significance of the Constitution in shaping the democratic ethos of the Indian nation.

## 2. Making of the Constitution of India

The Government of India Act was passed in 1935 but only its part relating to the provinces came into force in 1937. Consequently, elections were held in the provinces in the beginning of 1937. The Congress decided to accept the offices.

### 4.1. World War II and Resignation of Congress Ministries

In September 1939 when World War II broke out, the British government declared India a belligerent country without consulting Indian political parties. The 129 working Committee of the Congress declared that the issue of war and peace for India must be decided by the Indian people. It

declined to give any cooperation in war, which was conducted on imperialistic lines and which was meant to consolidate imperialism in India and elsewhere.<sup>213</sup>

The Committee asked a clear statement from the British government about their war-aims and in regard to democracy and imperialism and the new order that was envisaged after the termination of war. The British government however through Lord Linlithgow in January 1940 gave a general assurance based on the complexity of Indian problem and in particular referred to the lack of unity among the different communities in India and the consequent inability of His Majesty's government to divest themselves of their responsibility for the welfare and good government of the people of India. Consequently, Congress Ministries in eight Provinces resigned leaving only Bengal, Punjab and Sind governments to function as before.<sup>214</sup>

### 4.2. Government of India Act, 1935

The Act marked a second milestone towards a completely responsible government in India. It was a lengthy and detailed document having 321 Sections and 10 Schedules. This Act was adopted in response to opposition and criticisms from the National Congress of India to the 1919 Act for doing too little in terms of granting autonomy. This Act continued until it was replaced by the new Indian Constitution.

### 4.3. Two-Nation Theory

On the resignation of the Congress Ministries, Jinnah was most happy and delighted and soon after the introduction of provincial autonomy in 1937, he began to preach the two-nation theory. He injected the idea of perpetual separation and hostility between the Muslims and the Hindus. The Congress won an absolute majority in Madras, the Central Provinces, Bihar, Orissa and the United Provinces. The Muslim League members

<sup>213</sup> V.D. Kulshreshtha's Landmarks in Indian Legal & Constitutional History, 129 (Sumeet Malik, 12th Ed., 2019)

<sup>214</sup> M. Laxmikanth, Indian Polity, 2.1. (6th ed., 2019)



of the Provincial Councils in some of the Hindu-Majority Provinces, particularly in the United Provinces, had hoped that they would be invited by the Congress to form coalition governments. However, that was not true and the Congress told the Muslim League in the Assembly that they must cease to function as a separate group. As observed by Penderel Moon, this was a fatal error – the prime creation of Pakistan – but in the circumstances it was a very natural one.<sup>215</sup>

The Muslims league rejected this offer. Jinnah thereafter proclaimed “Muslims can expect neither justice nor fair play under Congress government” and “all hope of communal peace had been wrecked on the rocks of Congress Fascism”. It’s interesting to note, writes Javid Iqbal, that it was the Muslims of the Hindu Majority Provinces who made the whole of Muslim India conscious that Islam was in danger. It was thus from United Provinces that the cry of Pakistan really spread. Since then, with the Muslims a creed to remain apart started and it was strengthened step by step, so that when the Congress Ministries resigned in 1939 the Muslim League celebrated their exit from office as a day of “Deliverance and Thanksgiving”. Thereafter the Muslims tried their level best to defame the Congress by issuing three reports criticising the Congress alleged atrocities over the Muslims.

#### 4.4. The August Offer, 1940

The Viceroy, on behalf of the British government, published a new declaration of the British policy in India on 8 August 1940. It was declared on the eve of the Battle of Britain, and became famous as the “August Offer”.<sup>216</sup> It mainly referred to the fact that the constitutional issue could not be decided at “a moment when the national life is engaged in a struggle existence”; but after the war, a representative Indian body should be set up to formulate a new Constitution and, in the meantime, the British government would

welcome and assist any efforts to reach an agreement as to the form and operation of the Constitution-making body and as to the principles of the Constitution. It was further stated that in the interval, the British government hoped that all parties and communities in India would cooperate in India’s war effort and by thus working together pave the way for India’s attainment of free and equal partnership in the British Commonwealth of Nations.

The August Offer was considered an advancement of great importance in the method of handling the constitutional problem of India by the British government. But the Congress refused to accept the offer.

#### 4.5. The Cripps Mission March, 1942

The deadlock in Indian policies was continuing due to the refusal of the Congress to cooperate. The events of World War II and specially Japan’s victories created new international situations. On 11 March 1942 Mr Churchill announced to send Sir Stafford Cripps, the leader of House of Commons (England) to India. The Cripps Mission came to India in March 1942 with a draft declaration of the British government and began constitutional negotiations but returned unsuccessfully and empty-handed in April 1942.<sup>217</sup>

#### 4.6. Quit India Resolution, 1942

The failure of the Cripps Mission further added to the existing discontentment in the country against the British rule. The All-India Congress Committee passed the “Quit India” Resolution on 8 August 1942. The Resolution emphasised the necessity of immediately ending the British rule in India. This movement was violently suppressed by the government. The deadlock continued up to 1944 when Mahatma Gandhi was released.<sup>218</sup>

In order to ease the political situation Mahatma Gandhi began negotiations with Lord

<sup>215</sup> Supra 1.

<sup>216</sup> V. D. Mahajan’s Constitutional Law of India, 07 (Sanjay Jain 8th ed, 2021)

<sup>217</sup> Mamta Rao, Constitutional Law, 20 (2nd ed., 2021)

<sup>218</sup> M. Laxmikanth, Indian Polity, 2.1. (6th ed., 2019)



Wavell. Sri Rajagopalachari prepared a plan in 1944 for a settlement with the Muslim League. He proposed a formula to which Mahatma Gandhi also agreed. According to it, the Muslim League was to endorse the Indian demand for independence and to cooperate with the Congress in the formation of a provisional interim government for the transitional period, subject to certain terms (as stated in the plan) which Mr Jinnah refused to accept.

#### 4.7. The Wavell Plan, 1945

Lord Wavell, the Governor-General and Viceroy of India gave a broadcast speech on 14 June 1945 to the people of India and on the same day L.S. Amery, Secretary of State for India made a similar statement in the House of Commons in England.<sup>219</sup> In both speeches the contents were the same. The Wavell plan provided for a conference of representatives chosen by the Viceroy for the purpose of obtaining from the leaders of various parties a joint list or separate lists of worthy persons in order to constitute a new Executive Council of the Viceroy. Lord Wavell pleaded for “men of influence and ability to be recommended by the various parties who would be prepared to take decision and responsibility of administration of all portfolios”.<sup>220</sup>

#### 4.8. The Shimla Conference

The conference was called at Shimla on 25 June 1945 under the Presidentship of Lord Wavell. When it reassembled on 14 July 1945, Lord Wavell announced the failure of the conference to reach any agreed conclusion. It failed mainly because the demands of Mr Jinnah were not acceptable to the Congress. The Governor-General was not prepared to have an interim settlement without the cooperation and consent of the Muslim League.

The failure of the Wavell Plan made it clear that the Pakistan issue had gained importance and the Congress realised that it could not prevent its formation.

#### 4.9. The Cabinet Mission Plan, 1946

The British Cabinet Mission consisting of Lord Patrick Lawrence, the Secretary of State, A.V. Alexander and Sir Stafford Cripps came to Delhi on 24 March 1946. Prolonged discussions took place between the members of the Mission, the Congress leaders and the leaders of the Muslim League.<sup>221</sup> The two main political parties could not come to any mutual understanding. The Cabinet Mission suggested its own formula on 16 May 1946 for solving the constitutional problem.

The Cabinet Mission ruled out British government would implement the Constitution drawn by the Constituent Assembly. These were some of the important recommendations of the Cabinet Mission. There appeared to be an honest effort to solve the political problem of India, however, on 31 January 1947 the Muslim League resolved that the proceedings of the Constituent Assembly were “ultra vires” and “invalid” and demanded its dissolution. It was Mr Jinnah who became the instrument of the British to oppress the Congress Party and to divide India into two. This was the British plan and Mr Jinnah became the British Stooze.

#### 4.10. Indian Independence Act, 1947

On February 20, 1947, the British Prime Minister Clement Atlee declared that the British rule in India would end by June 30, 1948; after which the power would be transferred to responsible Indian hands. This announcement was followed by the agitation by the Muslim League demanding partition of the country. Again, on June 3, 1947, the British Government made it clear that any Constitution framed by the Constituent Assembly of India (formed in 1946) cannot apply to those parts of the country which were unwilling to accept it. On the same day (June 3, 1947), Lord Mountbatten, the viceroy of India, put forth the partition plan, known as the Mountbatten Plan. The plan was accepted by the Congress and the Muslim

<sup>219</sup> Mamta Rao, Constitutional Law, 21 (2nd ed., 2021)

<sup>220</sup> V. D. Kulshreshtha's Landmarks in Indian Legal & Constitutional History, 131 (Sumeet Malik, 12th Ed., 2019)

<sup>221</sup> V. D. Mahajan's Constitutional Law of India, 11 (Sanjay Jain 8th ed, 2021)



League. Immediate effect was given to the plan by enacting the Indian Independence Act.<sup>222</sup>

#### 4.11. Lord Mountbatten's Plan, 1947

Lord Mountbatten succeeded Lord Wavell in India on 24 March 1947. He declared that he would complete the work of the transfer of power within the next few months.<sup>223</sup> Lord Mountbatten's Plan of 3 June 1947 as accepted by the Indian parties consisted of the following two essential proposals:

- 3) The partition of India was inevitable.
- 4) The representatives of the Muslim majority districts and those representing the rest of a Province in the Legislative Assemblies of both Bengal and Punjab would meet separately and decide by a simple majority vote whether their respective Provinces were to be divided or not.

If either part decided in favour of partition, it would be made. In the event of the partition being decided upon, each part would then decide whether to join the existing Constituent Assembly in Delhi or the new Constituent Assembly to be set up. Legislation was proposed for transfer of power.

#### 4.12. Partition of India

The Mountbatten Plan was accepted by the Muslim League and All-India Congress Committee. Accordingly, Bengal and the Punjab were partitioned, Sindh and the North-West Frontier Provinces decided to join Pakistan. The Indian Independence Bill was passed by Parliament on 18 July 1947.<sup>224</sup>

#### 3. Demand for a Constituent Assembly

It was in 1934 that the idea of a Constituent Assembly for India was put forward for the first time by M. N. Roy, a pioneer of communist movement in India. In 1935, the Indian National Congress (INC), for the first time, officially demanded a Constituent Assembly to frame the Constitution of India. In 1938,

Jawaharlal Nehru, on behalf the INC declared that 'the Constitution of free India must be framed, without outside interference, by a Constituent Assembly elected on the basis of adult franchise'.<sup>225</sup>

The demand was finally accepted in principle by the British Government in what is known as the 'August Offer' of 1940. In 1942, Sir Stafford Cripps, a member of the cabinet, came to India with a draft proposal of the British Government on the framing of an independent Constitution to be adopted after the World War II.<sup>226</sup> The Cripps Proposals were rejected by the Muslim League which wanted India to be divided into two autonomous states with two separate Constituent Assemblies. Finally, a Cabinet Mission was sent to India. While it rejected the idea of two Constituent Assemblies, it put forth a scheme for the Constituent Assembly which more or less satisfied the Muslim League.<sup>227</sup>

#### 4. Composition Of the Constituent Assembly

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

The features of the scheme were:

6. The total strength of the Constituent Assembly was to be 389. Of these, 296 seats were to be allotted to British India and 93 seats to the Princely States. Out of 296 seats allotted to the British India, 292 members were to be drawn from the eleven governors' provinces and four from the four chief commissioners' provinces, one from each<sup>228</sup>.
7. Each province and princely state (or group of states in case of small states) were to be allotted seats in proportion to their respective population. Roughly, one seat was to be allotted for every million population.

<sup>225</sup> Ibid

<sup>226</sup> V. D. Mahajan's Constitutional Law of India, 11 (Sanjay Jain 8th ed, 2021)

<sup>227</sup> Supra 12.

<sup>228</sup> Making of the Constitution, Press Information Bureau Government of India, available at <https://pib.gov.in/PressReleaseDetail.aspx?PRID=1749614> last seen on 15/11/2023

<sup>222</sup> V.D. Kulshreshtha's Landmarks in Indian Legal & Constitutional History, 132 (Sumeet Malik, 12th Ed., 2019)

<sup>223</sup> Mamta Rao, Constitutional Law, 22 (2nd ed., 2021)

<sup>224</sup> M. Laxmikanth, Indian Polity, 2.1. (6th ed., 2019)



8. Seats allocated to each British province were to be divided among the three principal communities—Muslims, Sikhs and general (all except Muslims and Sikhs), in proportion to their population.

9. The representatives of each community were to be elected by members of that community in the provincial legislative assembly and voting was to be by the method of proportional representation by means of single transferable vote.

10. The representatives of princely states were to be nominated by the heads of the princely states.<sup>229</sup>

It is thus clear that the Constituent Assembly was to be a partly elected and partly nominated body. Moreover, the members were to be indirectly elected by the members of the provincial assemblies, who themselves were elected on a limited franchise.

The elections to the Constituent Assembly (for 296 seats allotted to the British Indian Provinces) were held in July–August 1946. The Indian National Congress won 208 seats, the Muslim League 73 seats, and the small groups and independents got the remaining 15 seats. However, the 93 seats allotted to the princely states were not filled as they decided to stay away from the Constituent Assembly.

Although the Constituent Assembly was not directly elected by the people of India on the basis of adult franchise, the Assembly comprised representatives of all sections of Indian Society—Hindus, Muslims, Sikhs, Parsis, Anglo-Indians, Indian Christians, SCs, STs including women of all. The Assembly included all important personalities of India at that time, with the exception of Mahatma Gandhi.

## 5. Working Of the Constituent Assembly

The Constituent Assembly held its first meeting on December 9, 1946.<sup>230</sup> The Muslim League boycotted the meeting and insisted on

a separate state of Pakistan. The meeting was thus attended by only 211 members. Dr Sachchidanand Sinha, the oldest member, was elected as the temporary President of the Assembly, following the French practice.

Later, Dr. Rajendra Prasad was elected as the President of the Assembly. Similarly, both H.C. Mukherjee and V.T. Krishnamachari were elected as the Vice-Presidents of the Assembly. In other words, the Assembly had two Vice-Presidents.

### 8.1. Objectives Resolution

On December 13, 1946, Jawaharlal Nehru moved the historic 'Objectives Resolution' in the Assembly. It laid down the fundamentals and philosophy of the constitutional structure.<sup>231</sup> It read:

9. "This Constituent Assembly declares its firm and solemn resolve to proclaim India as an Independent Sovereign Republic and to draw up for her future governance a constitution:

10. Wherein the territories that now comprise British India, the territories that now form the Indian States, and such other parts of India as are outside India and the States as well as other territories as are willing to be constituted into the independent sovereign India, shall be a Union of them all; and<sup>232</sup>

11. wherein the said territories, whether with their present boundaries or with such others as may be determined by the Constituent Assembly and thereafter according to the law of the Constitution, shall possess and retain the status of autonomous units together with residuary powers and exercise all powers and functions of Government and administration save and except such powers and functions as are vested in or assigned to the Union or as are inherent or implied in the Union or resulting therefrom;

12. wherein all power and authority of the Sovereign Independent India, its constituent

<sup>229</sup> Committees Of The Constituent Assembly, Unacademy, available at <https://unacademy.com/content/karnataka-psc/study-material/polity/committees-of-the-constituent-assembly/>, last seen on 15/11/2023

<sup>230</sup> Ibid

<sup>231</sup> Making of the Constitution, Press Information Bureau Government of India, available at <https://pib.gov.in/PressReleaseDetail.aspx?PRID=1749614> last seen on 15/11/2023

<sup>232</sup> V. D. Mahajan's Constitutional Law of India, 13 (Sanjay Jain 8th ed, 2021)



parts and organs of Government are derived from the people; and

13. wherein shall be guaranteed and secured to all the people of India justice, social, economic and political; equality of status of opportunity, and before the law; freedom of thought, expression, belief, faith, worship, vocation, association and action, subject to law and public morality; and

14. wherein adequate safeguards shall be provided for minorities, backward and tribal areas, and depressed and other backward classes; and

15. whereby shall be maintained the integrity of the territory of the Republic and its sovereign rights on land, sea and air according to justice and the law of civilized nations; and

16. This ancient land attains its rightful and honoured place in the world and makes its full and willing contribution to the promotion of world peace and the welfare of mankind.”

This Resolution was unanimously adopted by the Assembly on January 22, 1947. It influenced the eventual shaping of the constitution through all its subsequent stages. Its modified version forms the Preamble of the present Constitution.

## 8.2. Changes by the Indian Independence Act, 1947

The representatives of the princely states, who had stayed away from the Constituent Assembly, gradually joined it. On April 28, 1947, representatives of the six states were part of the Assembly. After the acceptance of the Mountbatten Plan of June 3, 1947 for a partition of the country, the representatives of most of the other princely states took their seats in the Assembly. The members of the Muslim League from the Indian Dominion also entered the Assembly.<sup>233</sup>

The Indian Independence Act of 1947 made the following three changes in the position of the Assembly:

4. The Assembly was made a fully sovereign body, which could frame any Constitution it pleased. The act empowered the Assembly to abrogate or alter any law made by the British Parliament in relation to India.

5. The Assembly also became a legislative body. In other words, two separate functions were assigned to the Assembly, that is, making of a constitution for free India and enacting of ordinary laws for the country. These two tasks were to be performed on separate days. Thus, the Assembly became the first Parliament of free India (Dominion Legislature). Whenever the Assembly met as the Constituent body it was chaired by Dr. Rajendra Prasad and when it met as the legislative body, it was chaired by G V Mavlankar. These two functions continued till November 26, 1949, when the task of making the Constitution was over.<sup>234</sup>

6. The Muslim League members (hailing from the areas 7 included in the Pakistan) withdrew from the Constituent Assembly for India. Consequently, the total strength of the Assembly came down to 299 as against 389 originally fixed in 1946 under the Cabinet Mission Plan. The strength of the Indian provinces (formerly British Provinces) was reduced from 296 to 229 and those of the princely states from 93 to 70. The state wise membership of the Assembly as on December 31, 1947.<sup>235</sup>

## 8.3. Other Functions Performed

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

6. It ratified the India's membership of the Commonwealth in May 1949.

7. It adopted the national flag on July 22, 1947.

8. It adopted the national anthem on January 24, 1950.

9. It adopted the national song on January 24, 1950.

<sup>234</sup> Mamta Rao, Constitutional Law, 23 (2nd ed., 2021)

<sup>235</sup> Committees Of The Constituent Assembly, Unacademy, available at <https://unacademy.com/content/karnataka-psc/study-material/polity/committees-of-the-constituent-assembly/>, last seen on 15/11/2023



10. It elected Dr Rajendra Prasad as the first President of India on January 24, 1950.<sup>236</sup>

In all, the Constituent Assembly had 11 sessions over two years, 11 months and 18 days. The Constitution-makers had gone through the constitutions of about 60 countries, and the Draft Constitution was considered for 114 days. The total expenditure incurred on making the Constitution amounted to ₹ 64 lakh.

On January 24, 1950, the Constituent Assembly held its final session. It, however, did not end, and continued as the provisional parliament of India from January 26, 1950 till the formation of new Parliament 8 after the first general elections in 1951–52.

## 6. Committees Of the Constituent Assembly

The Constituent Assembly appointed a number of committees to deal with different tasks of constitution-making. Out of these, eight were major committees and the others were minor committees.<sup>237</sup> The names of these committees and their chairmen are given below:

### 8.1. Major Committees

1. Union Powers Committee – Jawaharlal Nehru
2. Union Constitution Committee – Jawaharlal Nehru
3. Provincial Constitution Committee – Sardar Patel
4. Drafting Committee – Dr. B.R. Ambedkar
5. Advisory Committee on Fundamental Rights, Minorities and Tribal and Excluded Areas – Sardar Patel. This committee had the following five sub-committees:
  - (f) Fundamental Rights Sub-Committee – J.B. Kripalani
  - (g) Minorities Sub-Committee – H.C. Mukherjee
  - (h) North-East Frontier Tribal Areas and Assam Excluded & Partially Excluded Areas Sub-Committee – Gopinath Bardoloi

(i) Excluded and Partially Excluded Areas (Other than those in Assam) Sub-Committee – A.V. Thakkar

(j) North-West Frontier Tribal Areas Sub-Committee

6. Rules of Procedure Committee – Dr. Rajendra Prasad

7. States Committee (Committee for Negotiating with States) – Jawaharlal Nehru

8. Steering Committee – Dr. Rajendra Prasad<sup>238</sup>

### 8.2. Minor Committees

1. Finance and Staff Committee – Dr. Rajendra Prasad

2. Credentials Committee – Alladi Krishnaswami Ayyar

3. House Committee – B. Pattabhi Sitaramayya

4. Order of Business Committee – Dr. K.M. Munshi

5. Ad-hoc Committee on the National Flag – Dr. Rajendra Prasad

6. Committee on the Functions of the Constituent Assembly – G.V. Mavalankar

7. Ad-hoc Committee on the Supreme Court – S. Varadachari (Not an Assembly Member)<sup>239</sup>

8. Committee on Chief Commissioners' Provinces – B. Pattabhi Sitaramayya

9. Expert Committee on the Financial Provisions of the Union Constitution – Nalini Ranjan Sarkar (Not an Assembly Member)

10. Linguistic Provinces Commission – S.K. Dar (Not an Assembly Member)

11. Special Committee to Examine the Draft Constitution – Jawaharlal Nehru

12. Press Gallery Committee – Usha Nath Sen

13. Ad-hoc Committee on Citizenship – S. Varadachari<sup>240</sup>

<sup>236</sup> Making of the Constitution, Press Information Bureau Government of India, available at <https://pib.gov.in/PressReleaseDetail.aspx?PRID=1749614> last seen on 15/11/2023

<sup>237</sup> M. Laxmikanth, Indian Polity, 2.4 (6th ed., 2019)

<sup>238</sup> M. Laxmikanth, Indian Polity, 2.4 (6th ed., 2019)

<sup>239</sup> Committees Of The Constituent Assembly, Unacademy, available at <https://unacademy.com/content/karnataka-psc/study-material/polity/committees-of-the-constituent-assembly/>, last seen on 15/11/2023

<sup>240</sup> Supra 25



### 8.3. Drafting Committee

Among all the committees of the Constituent Assembly, the most important committee was the Drafting Committee set up on August 29, 1947.<sup>241</sup> It was this committee that was entrusted with the task of preparing a draft of the new Constitution. It consisted of seven members. They were:

8. Dr B. R. Ambedkar (Chairman)
9. N. Gopalaswamy Aiyengar
10. Alladi Krishnaswamy Ayyar
11. Dr K. M. Munshi
12. Syed Mohammad Saadullah
13. N. Madhava Rau (He replaced B L Mitter who resigned due to ill-health)
14. T. T. Krishnamacharya (He replaced D P Khaitan who died in 1948)

The Drafting Committee, after taking into consideration the proposals of the various committees, prepared the first draft of the Constitution of India, which was published in February 1948.<sup>242</sup> The people of India were given eight months to discuss the draft and propose amendments. In the light of the public comments, criticisms and suggestions, the Drafting Committee prepared a second draft, which was published in October 1948.<sup>243</sup>

The Drafting Committee took less than six months to prepare its draft. In all it sat only for 141 days.

### 7. Enactment Of the Constitution

Dr B R Ambedkar introduced the final draft of the Constitution in the Assembly on November 4, 1948 (first reading). The Assembly had a general discussion on it for five days (till November 9, 1948).

The second reading (clause by clause consideration) started on November 15, 1948 and ended on October 17, 1949. During this stage, as many as 7653 amendments were proposed and 2473 were actually discussed in the Assembly.

The third reading of the draft started on November 14, 1949. Dr B R Ambedkar moved a motion; 'the Constitution as settled by the Assembly be passed'. The motion on Draft Constitution was declared as passed on November 26, 1949, and received the signatures of the members and the president. Out of a total 299 members of the Assembly, only 284 were actually present on that day and signed the Constitution. This is also the date mentioned in the Preamble as the date on which the people of India in the Constituent Assembly adopted, enacted and gave to themselves this Constitution.<sup>244</sup>

The Constitution as adopted on November 26, 1949, contained a Preamble, 395 Articles and 8 Schedules.<sup>245</sup> The Preamble was enacted after the entire Constitution was already enacted.

Dr B R Ambedkar, the then Law Minister, piloted the Draft Constitution in the Assembly. He took a very prominent part in the deliberations of the Assembly. He was known for his logical, forceful and persuasive arguments on the floor of the Assembly. He is recognised as the 'Father of the Constitution of India'. This brilliant writer, constitutional expert, undisputed leader of the scheduled castes and the 'chief architect of the Constitution of India' is also known as a 'Modern Manu'.

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<sup>241</sup> Supra 25

<sup>242</sup> Mamta Rao, *Constitutional Law*, 23 (2<sup>nd</sup> ed., 2021)

<sup>243</sup> M. Laxmikanth, *Indian Polity*, p. 2.4. (6<sup>th</sup> ed., 2019)

<sup>244</sup> Committees Of The Constituent Assembly, Unacademy , available at <https://unacademy.com/content/karnataka-psc/study-material/polity/committees-of-the-constituent-assembly/>, last seen on 15/11/2023

<sup>245</sup> Making of the Constitution, Press Information Bureau Government of India, available at <https://pib.gov.in/PressReleaseDetail.aspx?PRID=1749614> last seen on 15/11/2023



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