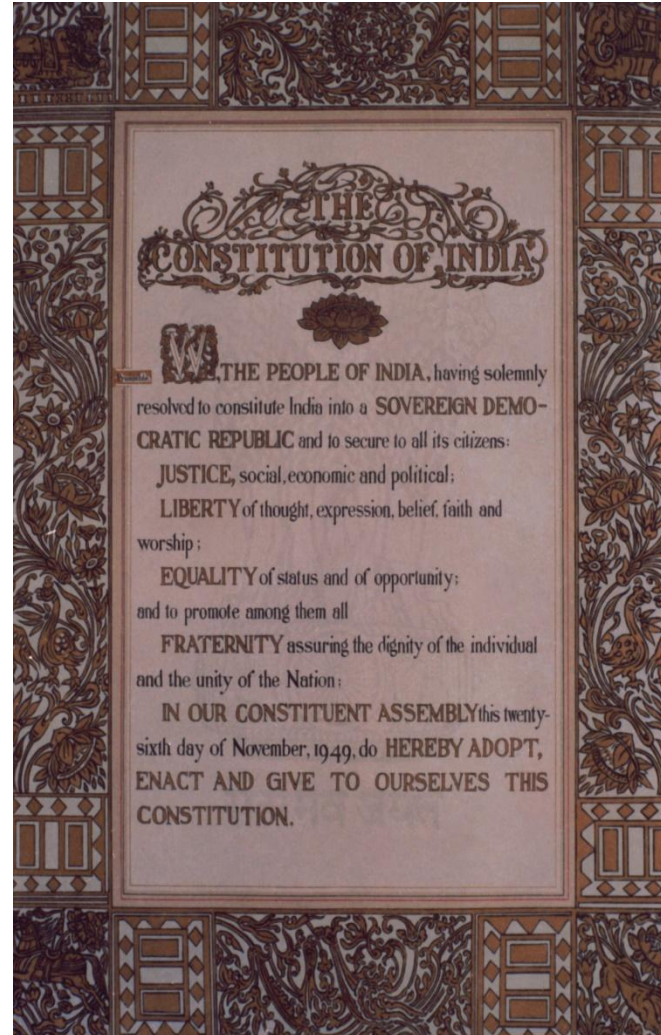
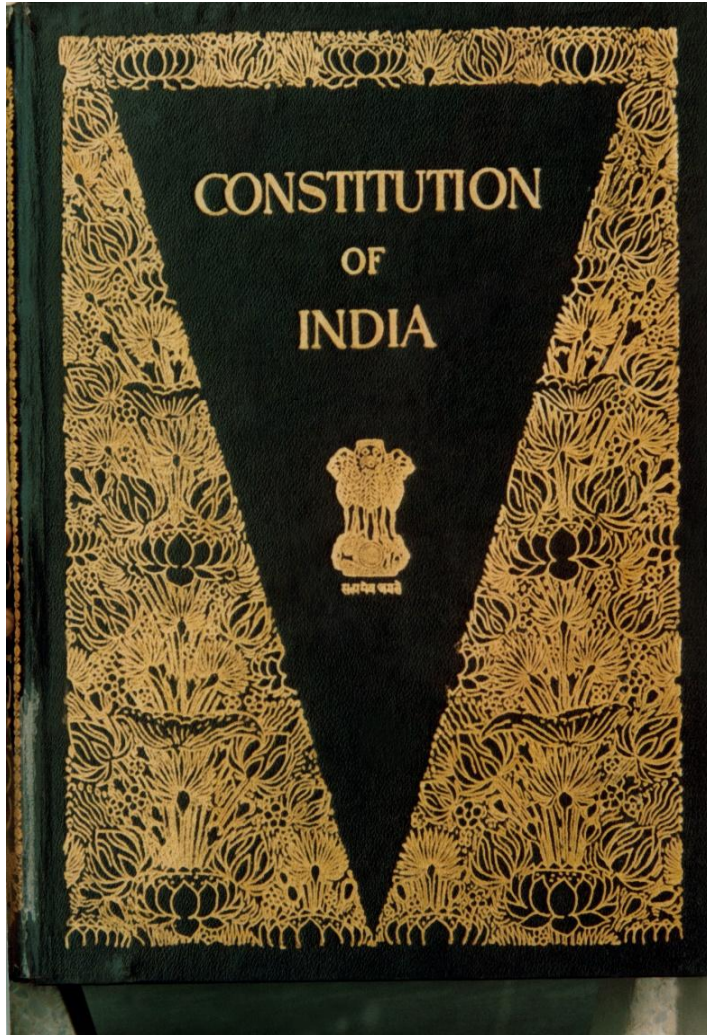


CONSTITUTIONAL DESIGN



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What is a constitution?

- The constitution is a set of written rules that are accepted by all the people living together in a country.
- Constitution is the Supreme Law that determines the relationship among people living in a territory(called citizens) and also relationship between people and government

Why do we need constitution ? What does constitution do?

- It generates a degree of trust and coordination
- It specifies how the government will be constituted
- It lays down the limits on the power of the government
- It expresses the aspiration of the people

Africa continent

South Africa country



South African Society

1. The native people of South Africa were called as **black**
2. Besides these group, there were people of mixed races who were called 'coloured'
3. And people migrated from India.

Indian Migrates

- The white rulers treated all non whites as inferior

Policy of Apartheid

- An official policy of racial separation, discrimination and ill treatment of blacks on the basis of skin colour was called Apartheid
- The apartheid system was particularly oppressive for the blacks. They were forbidden from living in white areas.

Practice of the policy of Apartheid:

- The Black could work in white areas only if they had a permit
- Trains, Buses, taxis, hotels, hospitals, schools and collages, libraries, cinema halls, theatres, beaches, swimming pools public toilets were all separate for the whites and blacks. This was called segregation
- They could not even visit the churches where the whites worshipped.

Segregation of non whites

South Africa History Online



John Mullen, Wikipedia, GNU Free Documentation License

Fight against Apartheid

- Since 1950, the **blacks, coloured and Indians** fought against the apartheid system.
- African National Congress (ANC) was the umbrella organization that led the struggle against the policies of segregation.
- Several countries also denounced apartheid as unjust and racist.
- But the white government continued to rule by detaining, torturing and killing thousands of black and coloured people.

Suppression of Freedom Movement

- The leader of ANC, Nelson Mandela ,being tried for **treason** by the white South African government.
- He and seven other leaders were sentenced to life **imprisonment in 1964** for daring to oppose the apartheid regime in his country.
- He spent the next 28 years in South Africa's most dreaded prison. **Robben Island.**

Nelson Mandela leader of ANC



Towards Freedom.....

- As protest and struggles against apartheid had increased, the government realized that they could no longer keep the blacks under their rule through repression.
- The white regime changed its policies.
- Discriminatory laws were repealed.
- Ban on political parties and restrictions on the media were lifted.

Release of Nelson Mandela

- After 28 years of imprisonment, Nelson Mandela walked out of the jail as a **free man**.
- Finally at the midnight of **the 26 April 1994** National flag of the republic of South Africa was unfurled making the newly born democracy in the world. The apartheid government came to an end, paving way for the formation of a multi- racial government.

Towards a new Constitution

- After the emergence of the new democratic South Africa,
- Black leaders appealed to fellow blacks to forgive the whites for the atrocities they had committed while in power.
- They said let us build a new South Africa based on **equality of all races men and women, on democratic values, social justice and human Rights** and drawn up a constitution

- **Designing of Constitution**

- After long negotiations both party agreed to :
- The principle of majority rule and that one person and one vote
- They also agreed to accept some basic rights for the poor and the workers
- The blacks agreed that majority rule would not be absolute.
- They also agreed that the majority would not take away the property of the white minority

Drafting of Constitution

- How was this compromise going to be implemented?
- Even if they manage to trust to each other, what was the guarantee that this trust will not be broken in future?
- The only way to build and maintain trust in such situation was to write down some rules of the game in the form of constitution that every one would abide by.

Making of Indian Constitution

- The difficulties faced by Indian constituent Assembly:
- Huge and diverse country.

Emergence from the status of subjects to that of citizens

- Partition on the basis of religious differences.
- **At least ten lakh** people were killed on both sides of the border in partition related violence

Other difficulties faced at the beginning

- Princely states and their rights
- The merger of these princely states was a difficult and uncertain task.
- The future of the country did not look as secure as it does today.
- The makers of the constitution had anxieties about the present and the future of the country

The path of constitution:

- Some advantages to our constitution framers
- 'Consensus about democracy'
- Our national movement was not merely a struggle against a foreign rule.
- It was also a struggle to rejuvenate our country and to transform our society and politics

Factors contributed in making of constitution

1. **Motilal Nehru Constitution:** drafted by **Motilal Nehru** and eight other in 1928

2. **Karachi Congress Session:** Indian National Congress Session held in 1931 at Karachi had dwelt on how Independent India's constitution should look like.

Other factors helped in making constitution

- 3. Government of India Act 1935:
- Provincial legislatures were not fully democratic governments.

But the experience gained by Indians in the working of the

legislative institutions proved to be very useful for the country in setting up its own institutions.

Inspiration by other countries constitutions

- Inspiration by the ideas of French Revolution, the practice of parliamentary democracy in Britain and the Bill of Rights in US, the Socialist revolution in Russia based on economic equality.
- Indian leaders not simply imitating what others had done. At each step they were questioning whether these things suited to our constitution

Formation of the Constituent Assembly

- Who were the makers of Indian constitution?
- The drafting of document called the constitution was done by an Assembly of elected representatives called the **Constituent Assembly**
- Elections were held in July 1946. Its first meeting was held in December 1946

Soon after, the country was divided into India and Pakistan, the Constituent

Designing of Indian constitution:

- Assembly was also divided into Constituent Assembly of India and that of Pakistan
- The Constituent Assembly that wrote the Indian Constitution had 299 members.
- The Assembly adopted the constitution on **26th November 1949** but it came into effect on **26th January 1950**
- To mark this day we celebrate January 26th as **Republic Day every year**

Acceptance of Constitution even after 50 Years

- 1.The constitution does not reflect the views of its members alone. It expresses a broad consensus of its time.
- 2.Over the last half a century, several groups have questioned some provisions of the constitution. But no large social group or political party has ever questioned the legitimacy of the constitution itself.

Accepted constitution even after 50 years

2. Constitutional Assembly represented the people of India.

- It was elected mainly by the members of the existing provincial legislatures
- This ensured a fair geographical share of members from all the regions of the country

Acceptance of Constitution: (cont)

3. The Assembly was dominated by the Indian national congress, the party that led India's freedom struggle.

- But the congress itself included a variety of political groups and opinions.
- The Assembly represented members from different language groups, castes, classes, religions and occupations.

Why accepted even today?

4. Finally the manner in which the constitution Assembly work

- The constitutional Assembly worked in a systematic, open and constitutional manner:
 - First the basic principles were decided and agreed upon.
 - Then Drafting committee chaired by Dr.B.R Ambedkar prepared a draft constitution for discussion.

Deliberation and discussion

- The members deliberated for 114 days spread over three years.
- Every document presented and every word spoken in the constitution Assembly has been recorded and preserved.
- These are called 'Constitution Assembly Debate'
- When printed, these debates are in 12 bulky volumes!
- These are used to interpret the meaning of the constitution

The dream and promises of great leaders

- Many Indian great leaders and freedom fighters often expressed their opinions and ideas were also included
- Example: Mahatma Gandhi was not a member of the constitutional Assembly.
- Yet there were many members who followed his vision
- Years ago, writing his magazine *Young India* in 1931, he had spelt out what he wanted the constitution to do.
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Some of the members of Constituent Assembly



**Kanhaiyalal Maniklal
Munshi**

(1887-1971) born: Gujarat. Advocate, historian and linguist. Congress leader and Gandhian. Later: Minister in the Union Cabinet. Founder of the Swatantra Party.



**Bhimrao Ramji
Ambedkar**

(1891-1956) born: Madhya Pradesh. Chairman of the Drafting Committee. Social revolutionary thinker and agitator against caste divisions and caste based inequalities. Later: Law minister in the first cabinet of post-independence India. Founder of Republican Party of India.



**Shyama Prasad
Mukherjee**

(1901-1953) born: West Bengal. Minister for Industry and Supply in the Interim Government. Educationist and lawyer. Active in Hindu Mahasabha. Later: Founder President of Bharatiya Jansangh.



Jawaharlal Nehru

(1889-1964) born: Uttar Pradesh. Prime Minister of the interim government. Lawyer and Congress leader. Advocate of socialism, democracy and anti-imperialism. Later: First Prime Minister of India.



Sarojini Naidu

(1879-1949) born: Andhra Pradesh. Poet, writer and political activist. Among the foremost women leaders in the Congress. Later: Governor of Uttar Pradesh.

Some of the members of Constituent Assembly



**Vallabhbhai
Jhaverbhai Patel**

(1875-1950) born: Gujarat.
Minister of Home,
Information and
Broadcasting in the Interim
Government. Lawyer and
leader of Bardoli peasant
satyagraha. Played a
decisive role in the
integration of the Indian
princely states. Later:
Deputy Prime Minister.



Abul Kalam Azad

(1888-1958)
born: Saudi Arabia.
Educationist, author and
theologian; scholar of
Arabic. Congress leader,
active in the national
movement. Opposed
Muslim separatist politics.
Later: Education Minister in
the first union cabinet.



T.T. Krishnamachari

(1899-1974)
born: Tamil Nadu.
Member, Drafting
Committee. Entrepreneur
and Congress leader. Later:
Finance Minister in the
Union Cabinet.



Rajendra Prasad

(1884-1963) born: Bihar.
President of the Constituent
Assembly. Lawyer, known
for his role in the
Champaran satyagraha. Three
times the president of
Congress. Later: the first
President of India



Jaipal Singh

(1903-1970)
born: Jharkhand
A sportsman and
educationist. Captain of the
first national Hockey team.
Founder President of
Adivasi Maha Sabha. Later:
founder of Jharkhand Party

Some of the members of Constituent Assembly



G. Durgabai Deshmukt
(1909-1981)
born: Andhra Pradesh.
Advocate and public activist for women's emancipation. Founder of Andhra Mahila Sabha. Congress leader. Later: Founder Chairperson of Central Social Welfare Board



Baldev Singh
(1901-1961)
born: Haryana.
A successful entrepreneur and leader of the Panthic Akali Party in the Punjab Assembly. A nominee of the Congress in the Constituent Assembly. Later: Defence Minister in the Union Cabinet.



H. C. Mookherjee
(1887-1956)
born: Bengal.
Vice-Chairman of the Constituent Assembly. Reputed author and educationist. Congress leader. Member of All India Christian Council and Bengal Legislative Assembly. Later: Governor of West Bengal.



Somnath Lahiri
(1901-1984) born: West Bengal. Writer and editor. Leader of the Communist Party of India. Later: Member of West Bengal Legislative Assembly.

Preamble of Indian Constitution

WE, THE PEOPLE OF INDIA, having
solemnly resolved to constitute India into a
SOVEREIGN, SOCIALIST, SECULAR,
DEMOCRATIC REPUBLIC

and to secure to all its citizens:

JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief,
faith and worship;

EQUALITY of status and of opportunity;

and to promote among them all

FRATERNITY assuring the dignity of the
individual and the unity and integrity
of the Nation;

IN OUR CONSTITUENT ASSEMBLY
this twenty-sixth day of November, 1949, do
HEREBY ADOPT, ENACT AND GIVE TO
OURSELVES THIS CONSTITUTION.

Philosophy of Indian Constitution

WE, THE PEOPLE OF INDIA

The constitution has been drawn up and enacted by the people through their representatives, and not handed down to them by a king or any outside powers.

REPUBLIC

The head of the state is an elected person and not a hereditary position.

SOVEREIGN

People have supreme right to make decisions on internal as well as external matters. No external power can dictate the government of India.

JUSTICE

Citizens cannot be discriminated on the grounds of caste, religion and gender. Social inequalities have to be reduced. Government should work for the welfare of all, especially of the disadvantaged groups.

SOCIALIST

Wealth is generated socially and should be shared equally by society. Government should regulate the ownership of land and industry to reduce socio-economic inequalities.

LIBERTY

There are no unreasonable restrictions on the citizens in what they think, how they wish to express their thoughts and the way they wish to follow up their thoughts in action.

SECULAR

Citizens have complete freedom to follow any religion. But there is no official religion. Government treats all religious beliefs and practices with equal respect.

EQUALITY

All are equal before the law. The traditional social inequalities have to be ended. The government should ensure equal opportunity for all.

DEMOCRATIC

A form of government where people enjoy equal political rights, elect their rulers and hold them accountable. The government is run according to some basic rules.

FRATERNITY

All of us should behave as if we are members of the same family. No one should treat a fellow citizen as inferior.

Can constitution be amended with the changing time?

- Those who drafted Indian constitution felt that it has to be in accordance with people's aspiration and changes in the society.
- They did not see it as a **sacred, static and unalterable law**
- So, they made provisions to incorporate changes from time to time. These changes are called are called constitutional **amendments**

Institutional Design:

- Like any other constitution, the Indian constitution lays down a procedure for choosing persons to govern the country
- It defines who will have how much power to take which decisions.
- It puts limits to what the government can do

Constitution Assembly Members' rare photo

