UNIT 1: MAKING OF THE INDIAN CONSTITUTION

UNIT STRUCTURE

1.1 Learning Objectives

1.2 Introduction

1.3 Making of the Indian Constitution

1.4 Formation of the Constituent Assembly

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1.1 LEARNING OBJECTIVES

After going through this unit, you will be able to:

- explain the formation of Constituent Assembly
- analyze the role of the Drafting Committee
- discuss the process of adoption of the Constitution of India.

1.2 INTRODUCTION

By the end of the second decade of the twentieth century, there was a growing consciousness among the people of India that they must have the right of self-determination and should have a Constitution of their own. In the previous units, we have discussed in what ways the demand for the Constitution of India emerged during the Freedom struggle. In the early 20thcentury the demand for the Constitution became more intensified. During the time of the First World War, Bal GangadharTilak and Annie Besant had launched a Home Rule agitation. It is considered to be one of the milestones in the development of the constitutional process in India. In this unit, we shall discuss the process of constitutional development in India with special reference to the role of the Constituent Assembly and the Drafting Committee.

1.3 MAKING OF INDIAN CONSTITUTION

During the Freedom Movement, the demand was raised to form a Constituent Assembly to frame the Constitution of free India and accordingly the Constituent Assembly of India came into existence after a long struggle. A representative body of the people of India namely Constituent Assembly had its first meeting on 9 December, 1946. The Constituent Assembly has been working for about three years since December 9, 1946. As a result of the sincere efforts of the Constituent Assembly,the Constitution of India was adopted on 26 November, 1949 and promulgated on 26 January, 1950. The Constitution of India is said to be a borrowed constitution. The credit of its framers lies in assimilating the best features of each of the existing constitutions and in modifying them to suit the needs of the country.

1.4 FORMATION OF THE CONSTITUENT ASSEMBLY

In India, during the first half of the 20th century, the demand for self-determination was raised with a new vigour. The 33rd session of the Indian National Congress, held in December 1918, passed the resolution that the Indians should have the right to self-determination and for that India must have a Constitution of its own. In 1924, Motilal Nehru was the president of the Indian National Congress, raised the demand for a “scheme of a Constitution for India. The Bombay session of the Indian National Congress, held in the year 1927, again passed a resolution that the Congress Working Committee should frame the Constitution for India in consultation with the elected members of the Central and Provincial Legislatures. In 1934, leading political thinker and the founder of the Communist Party of India, M. N. Roy raised the demand for a Constituent Assembly to frame the Constitution for India for the first time.The Swaraj Party further raised this demand in the same year. The Indian National Congress repeated this demand in a resolution passed at the Faizpur Session on December 28, 1936. In 1939, the Working Committee of the Indian National Congress passed a resolution asserting for India’s independence and formation of a Constituent Assembly. The demand of the Indians for a Constituent Assembly was conceded in March 1942,

when Sir Stafford Cripps brought the proposals of the British government in India. The British Government came to the discussion table in order to achieve active co-operation of Indian National Congress during World War II, when Great Britain was facing a great threat from Japan. The Indian National Congress considered other proposals of Sir Stafford Cripps as inadequate and rejected them, but the idea of the constituent assembly remained. After the end of the World War II, the Labour Party formed the government in Britain and it accepted the demand of the Indian people for independence. The British government sent the Cabinet Mission to India in 1946 to discuss the procedure of transfer of power from the British government to the Indian leadership and the Cabinet Mission accepted the demand of the formation of the Constituent Assembly for framing the Constitution of free India.

The Constituent Assembly of India was supposed to becomposed of the representatives of the dominant communities of India, seats being distributed among the different provinces and states roughly in the ratio of one member to a million of the population. The election to the Constituent Assembly was held under the Cabinet Mission Plan in July 1946. Out of 210 general seats, the Congress won 199 and the Muslim League captured 73 seats out of a total of 78 Muslim seats. Many top ranking Congress and Muslim League leaders, eminent statesman, administrators, eminent Jurists and public man drawn from all walks of life were electedto the Constituent Assembly.The Constituent Assembly was scheduled to meet on December 9, 1946, but the Muslim League boycotted it and demanded a separate Constituent Assembly and the establishment of Pakistan. In the Mountbatten Plan, the demand for establishment of Pakistan and a separate Constituent Assembly for her was accepted.

In the wake of the partition of the India, the composition of the Constituent Assembly underwent further changes, because some of the parts and provinces were ceded to Pakistan and consequently could not be represented in the Constituent Assembly. The total strength of the Assembly came down from 389 to 299. The representatives from princely states slipped from 93 to 70 while from that of British India and Chief Commissioners provinces declined from 296 to 229.

Constituent Assembly met first on 9th December, 1946 under the chairmanship of Dr. Sachidanand Sinha and on 11th December, 1946 elected Dr. Rajendra Prasad as its permanent chairperson. The Constituent Assembly had a number of committees and the most important was the Drafting Committee.

Objective Resolution: On 13 December, 1946 Jawaharlal Nehru moved the Objective Resolution which provided the ideological foundation of the Indian Constitution. The Constituent Assembly in its first two sessions devoted itself to the framing of the Objective Resolution. The Constituent Assembly passed the Objective Resolution on 22 January, 1947.The Resolution stated that–

- 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.
- 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 British India and the state as well as such other territories as are willing to be constituted into the Independent Sovereign India, shall be a Union of them all.
- Wherein all powers and authority of the sovereign Independent India, its constituent parts and organs of government are derived from the people
- Wherein shall be guaranteed and secured to all the people of India Justice, social, political and economic; 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.
- Wherein adequate safeguards shall be provided for minorities, backward and tribal areas and depressed and other backward classes.
- Wherein 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.

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

It is evident that the Objective resolution highlighted the basic requirement of the people which were deliberately needed by the Indian citizens for their betterment.



CHECK YOUR PROGRESS

Q.1: Who launched the Home Rule agitation in India?

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Q.2: 'In which year was the Faizpur Session of Indian National Congress held?

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Q.3: Jawaharlal Nehru moved the objective resolution on ..... (Fill in the blank)

Q.4: Who was the permanent chairperson of the Constituent Assembly?

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Q.5: In which year did the Cabinet Mission come to India?

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Q.6: Write briefly about the formation of the Constituent Assembly.

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1.5 DRAFTING COMMITTEE

There were a number of Committees within the ambit of Constituent Assembly. The most important of all the Committees was the Drafting Committee. The task of preparing a draft of the Constitution, in accordance with the decisions taken on the reports of the various committees, was entrusted to the Drafting Committee under the Chairmanship of Dr. B. R. Ambedkar. The Drafting Committee was constituted on 29th August, 1947 and consisted of the following members– ***Dr. B. R. Ambedkar*** (Chairman), Sir N. Gopalaswami Ayyangar, Sir Alladi Krishnaswamy Ayyar, Dr. K. M. Munshi, Sir Sayed Muhammad Saadulla, Sir N. Madhava Rau and Sri D. PKhaitan. Sri T. T. Krishnamachari was appointed as amember of the Committee after the death of Sri D. P. Khaitan.



BhimraoRamjiAmbedkar (14 April, 1891- 6 December, 1956):
He was a distinguished social reformer, jurist, economist and political leader of India and was the first Law Minister of India. He was awarded the Bharat Ratna posthumously in 1990.

Under the Chairmanship of Dr. B. R. Ambedkar, the Drafting Committee submitted the draft constitution consisting of 397 Articles and 8 Schedules before the Constituent Assembly. The Drafting Committee embodied the decision of the Assembly with alternative and additional proposals in the form of a “Draft Constitution of India”, which was published in February 1948. It took less than six months to prepare its draft. At the second stage of its consideration, the draft was considered Article by Article. In the process of scrutiny, 7,635 amendments to various Articles had been received. Of these 2,473 were actually moved and discussed. The rest were either withdrawn or overlapped with each other. The Constituent Assembly met for 114 days to devote itself to the consideration of the draft constitution.



LET US KNOW

The Constituent Assembly constituted different Committees to deal with different aspects of the Constitution. Among these, one of the committees constituted was the North-East Frontier Tribal Areas and Assam, Excluded and Partially Excluded Areas Sub-Committee under Sri Gopinath Bordoloi.

1.6 ADOPTION OF CONSTITUTION OF INDIA

The report submitted by the various committees were considered by the Constituent Assembly at the plenary session and most of the decisions were unanimously taken. The Constituent Assembly held eleven plenary sessions. Since the task of preparing the draft of the Constitution was entrusted upon the Drafting Committee, the Committee submitted its report on 21st February, 1948. A sufficient time gap was allowed to enable the people, the press as well as the provincial legislatures to hold free and frank discussions on the report. The Drafting Committee presented a draft constitution to the Constituent Assembly which started a general discussion on the draft constitution on 4th November, 1948. The second reading on the draft constitution was completed by the Assembly on 17th October, 1949. The Constituent Assembly finally adopted the Constitution on 26th November, 1949 and the President of the Assembly formally assigned his signature to the Constitution. Thus the Constituent Assembly which held its first meeting on 9th December, 1946, took 2 years, 11 months and 18 days to complete the work.

It goes to the credit of the Constituent Assembly that despite various tensions prevailing in the country at the time of the enactment of the Constitution, it succeeded in providing a Constitution which received unanimous support from the various sections of the society and thus succeeded in maintaining the unity of the country.

The adoption of the Constitution of India was indeed an event of great constitutional significance and Dr. Rajendra Prasad, the president of the Constituent Assembly expressed satisfaction over the stupendous job accomplished by the Assembly. Eminent scholar of the Indian Constitution Professor Granville Austin describes the adoption of the Constitution of India as “the greatest political venture since Philadelphia” referring to the adoption of the Constitution of the USA in 1787 in the Philadelphia Convention.



CHECK YOUR PROGRESS

Q.7: Who was the chairperson of Drafting Committee of Indian Constitution?

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Q.8: Mention the names of the members of the Drafting Committee of Indian Constitution.

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Q.9: The constitution of India was adoptedon .....
(Fill in the blank)

Q.10: Who opined "The adoption of the Constitution of India is the greatest political venture since Philadelphia"?

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1.7 LET US SUM UP

- In India the demand for the Constitution was raised during the freedom movement. During the time of the First World War, Bal Gangadhar Tilak and Annie Besant had launched a Home Rule Agitation. It is considered to be one of the milestones in the development of the constitutional process in India. With the effort of Motilal Nehru, for the first time, a systematic demand was madefor the adoption of a Constitution for the Indians.
- In India, the demand for a Constituent Assembly was for the first time made by M.N Roy in 1934. The Swaraj Party further raised this demand in the same year. The Indian National Congress repeated this demand in a resolution passed at the Faizpur Session on December 28, 1936. In 1939, Working Committee of the Indian National Congress passed a resolution asserting for India's independence and formation of a Constituent Assembly.

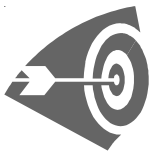
- The Constituent Assembly of India consisted of the representatives of the dominant communities of India, seats being distributed among the different provinces and states roughly in the ratio of one member to a million of the population. The election to the Constituent Assembly was held under the Cabinet Mission Plane in July 1946. Out of 210 general seats, the Congress won 199 and the Muslim League captured 73 seats out of a total of 78 Muslim seats.
- The Constituent Assembly met first on 9th December, 1946 under Dr. Sachidanand Sinha and on 11th December, 1946 and it elected Dr. Rajendra Prasad as its permanent chairperson. The Constituent Assembly had a number of committees and the most important was the Drafting Committee.
- On 13 December, 1946 Jawaharlal Nehru moved the Objective Resolution which provides the ideological foundation of the Indian Constitution.
- The task of preparing a draft of the Constitution, in accordance with the decisions taken on the reports of the various committees of the Constituent Assembly, was entrustedupon the Drafting Committee under the Chairmanship of Dr. B. R. Ambedkar.
- The Constituent Assembly finally adopted the Constitution on 26th November, 1949 and the President of the Assembly formally assigned his signature to the Constitution. The Constituent Assembly which held its first meeting on 9th December, 1946, took 2 years, 11 months and 18 days to complete the work.



1.8 FURTHER READING

1) Chander, Prakash (2000). *Indian Government and Politics*. New Delhi: Cosmos Bookhive Pvt. Ltd.
2) Ghai, K. K. (2007). *Indian Government and Politics*. New Delhi: Kalyani Publishers.
3) Kapur, Anup Chand and Misra, K. K. (2006). *Select Constitutions.* New Delhi: S. Chand and Company.

4) Pylee, M. V. (2006). *Constitutional Government in India.* New Delhi: S. Chand and Company.



1.9 ANSWERS TO CHECK YOUR PROGRESS

Ans. to Q. No. 1: Annie Besant and Bal Gangadhar Tilak.

Ans, to Q. No. 2: 1936

Ans. to Q. No. 3: 13th December, 1946.

Ans, to Q. No. 4: Dr. Rajendra Prasad.

Ans. to Q. No. 5: 1946

Ans. to Q. No. 6: The Constituent Assembly of India consisted of the representative of the dominant communities of India, seats being distributed among the different provinces and states roughly in the ratio of one member to a million of the population. The election to the constituent assembly was held under the Cabinet Mission Plane in July 1946. Out of 210 general seats, the congress won 199 and the Muslim League captured 73 seats out of a total of 78 Muslim seats. To the constituent assembly many top ranking Congress and Muslim League leaders, eminent statesman, administrators, eminent Jurists and public man drawn from all walks of life were elected.

Ans. to Q. No. 7: Dr. B. R. Ambedkar

Ans. to Q. No. 8: Dr. B. R. Ambedkar (Chairman), Sir N. Gopalaswami Ayyangar, Sir Alladi Krishnaswamy Ayyar, Dr. K. M. Munshi, Sir Sayed Muhammad Saadulla, Sir N. Madhava Rau and Sri D. P. Khaitan.

Ans. to Q. No. 9: 26th November, 1949

Ans. to Q. No. 10: Professor Granville Austin.



1.10 POSSIBLE QUESTIONS

Q.1: Mention the names of any two members of the Drafting Committee.

Q.2: Write a short note on the Objectives Resolution.

Q.3: Write briefly about the Composition of the Constituent Assembly.

Q.4: Examine the role of the Drafting Committee in the framing of the Indian Constitution.

Q.5: Analyse the process of adoption of the Indian Constitution.

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