ISSN-0971-8400

YOJANA

APRIL 2020 | A DEVELOPMENT MONTHLY | ₹ 22

THE CONSTITUTION OF INDIA

The Handwritten Constitution

The Constitution of India was not typeset or printed but was handwritten and calligraphed in both English and Hindi. It was entirely handcrafted by the artists of Shantiniketan under the guidance of Acharya Nandalal Bose, with the calligraphy texts done by Prem Behari Narain Raizada in Delhi.

The original copies of the Constitution of India are kept in special helium-filled cases in the Library of the Parliament of India. Each part of the Constitution begins with a depiction of a phase or scene from India's national history. At the beginning of each part of the Constitution, Nandalal Bose has depicted a phase or scene from India's national experience and history. The artwork and illustrations (22 in all), rendered largely in the miniature style, represent vignettes from the different periods of the history of the Indian subcontinent, ranging from Mohenjodaro in the Indus Valley, the Vedic period, the Gupta and Maurya empires and the Mughal era to the national freedom movement. By doing so, Nandalal Bose has taken us through a veritable pictorial journey across 4000 years of rich history, tradition, and culture of the Indian subcontinent.

It is the longest written Constitution in the world containing 395 Articles, 22 Parts, and 12 Schedules. ❑

Source: www.doj.gov.in

Some illustrations from the handwritten Constitution

ISSN-0971-8400

Website: www.yojana.gov.in

YOJANA

Since 1956 A DEVELOPMENT MONTHLY

April 2020

Volume-64
No. 4

Let noble thoughts come to us from all sides
Rig Veda

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Number of pages: 68

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YOJANA is published in Assamese, Bengali, English, Gujarati, Hindi, Kannada, Malayalam, Marathi, Odia, Punjabi, Tamil, Telugu and Urdu.

Chief Editor's Office:
Room No. 763, Soochna Bhawan, CGO Complex, Lodhi Road, New Delhi- 110 003, **Phone:** 24369422

Yojana (English): Room No. 647, Soochna Bhawan, CGO Complex, Lodhi Road, New Delhi - 110 003.
E-mail (Editorial): yojanace@gmail.com

SUBSCRIPTION

1 year ₹ 230, 2 years ₹ 430, 3 years ₹ 610.

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Business Wing (Hqrs.): Phone: 011-24367260, 24365609, 24365610 Publications Division, Room No. 56, Soochna Bhawan, CGO Complex, Lodhi Road, New Delhi-110 003.

Website: www.publicationsdivision.nic.in
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The 'Environment' Issue

Yojana is a book worth its price. The quality of content and the choice of topics are literally praiseworthy. It gives us a wide view of everything and helps us to broaden our horizons. I really liked the January issue on 'Environment'. I would highly appreciate if you can include articles on polity, economy, and history in your next issue.

– Harshit Bhatt
harshitbhatt1920@gmail.com

For the Forthcoming Issues

I am a UPSC aspirant. I want to thank the Yojana team for publishing the issues that are helpful for preparing for the civil services examination. I would like to suggest the following topics to be covered in the forthcoming issue of Yojana—Manufacturing sector and food processing industries in Indian economic system, rise and fall of GDP growth rate and issues regarding Intellectual Property Rights.

– Giduthuri Ajay
giduthuriajay@gmail.com

Trustworthy Source of Information

I am preparing for bank exam for the last two years on my own. Firstly, I would like to express my gratitude to the entire team of Yojana for providing me such solid and trustful information. I want you to cover bitcoins and share market in your next edition. Thank you, Yojana team.

– Abhishek Mourya
Gorakhpur, Uttar Pradesh
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Indian Society

Every Yojana edition is like Bible for a UPSC aspirant, so here I would like to request you to please publish Yojana edition on 'Indian Society' and cover the following topics—Diversity of India, role of women and women organisation in development of Indian society, effect of globalisation on Indian society, regionalism, communalism and secularism.

– Manish Kumar
mkigl1996@gmail.com

From an Aspiring Civil Servant

As an aspiring bureaucrat, I am an assiduous reader of this developmental monthly. I thank the Publications Division of Ministry of Information and Broadcasting for uninterruptedly bringing out this journal for many years and hope they would continue to cater it to the pillar of posterities for many years without any hindrance. I urge the editorial team to bring out issues on federalism, self-help groups, fisheries and allied sectors and cash crops.

– Nirman Pal
Panihati, West Bengal
nirmansarathi69@gmail.com

Focus on Hindi Cinema

I have been a reader of Yojana for almost a decade. Through these years, I haven't seen any special issue on the "Hindi Cinema". I request Yojana team to provide some commendable work on this topic which has a great impact on society in every manner. It is rightly said that the influence of films on India is greater than newspaper and book combined. Films are mere reflection of the society so much that sometimes they can even influence the public opinion or can mould the viewpoint of the public of the society. So, I think it is worth to produce an issue of this beautiful and knowledgeable magazine on this so-long ignored topic.

– Mithalal Meena
mithalalmeena7@gmail.com

Rights and Duties

I express my gratitude to the team for choosing an extremely relevant and pressing topic of "The Constitution of India". I am an avid reader of your monthly magazine. I hope we will get to know about our 'Fundamental Duties' as well, because it is commonly seen that citizens are more concerned about their 'Fundamental Rights' only, whereas Rights and Duties go hand in hand. We are very grateful to the team for always providing exciting and excellent content on every subject matter.

– Nitesh Kumar
niteshmanjhi97@gmail.com

Health and Labour Migration

I feel grateful for the efforts of the intellectual Yojana team which provide us an informative and knowledgeable product, it is not only helpful in the exam but also develops our fact-based analysis. The special issue on Union Budget cover in March month is also wonderful and remarkable. I want to suggest that you kindly also cover "Health and Labour Migration" related topics in your upcoming issue.

– Biyaso Thakur
Himachal Pradesh
biyasorajpoot08@gmail.com

We, The People

It was in 2015, the 125th birth anniversary year of Baba Bharat Ratna Saheb Dr. Bhimrao Ambedkar that the Government of India decided to celebrate 26th November, as 'Constitution Day' every year. The year 2019 marked the 70th year of the adoption of the Constitution. To reiterate our gratitude to the chief architect of our Constitution, and publicise the glorious and rich composite culture and diversity of our nation, the Government is celebrating the spirit of Constitution through a series of initiatives and activities till 26th November 2020. Also, 14th April is the 130th Birth Anniversary of Dr. Ambedkar.

This issue of Yojana is a tribute to the legacy of this great man and the greatness of the Constitution. The document written over 70 years ago is the most relevant at these times for the government, judiciary and citizens alike. Withstanding its core principles of justice, liberty and equality, reminding the citizens of their fundamental duties to uphold unity and integrity, and the Directive Principles for the government, our Constitution is the guiding light for the Indian society as a whole.

The Constitution of India is a result of exhaustive research and deliberations of a body of experts. These makers of our Constitution, with their foresight and wisdom, prepared a futuristic and vibrant document that reflects our ideals and aspirations on the one hand, and protects the future of all Indians on the other. They are credited to bring in the best features of all the hitherto existing related documents and making it the most lengthy and detailed constitutional document in the world. The document in itself is well-equipped for future amendment provisions. It was made sure that the Constitution should neither be too rigid nor too flexible. The hundred-plus amendments over the seven decades have strengthened it further and made the constitution even more relevant in the present times.

The Preamble to the Constitution declares India to be a sovereign, socialist, secular democratic republic and a welfare state committed to secure justice, liberty and equality for the people and for promoting fraternity, dignity of the individual and unity and integrity of the nation.

These Rights go hand-in-hand with the Fundamental Duties. It is the duty of every citizen to abide by the Constitution and respect its ideals and institutions; to cherish and follow the noble ideals of our freedom struggle; to renounce practices derogatory to the dignity of women; and to value and preserve the rich heritage of our culture.

The Rule of Law has been a core civilisational value of Indian society since ages. India has been cherishing values of trust and faith towards justice that inspire our Constitution. About 1500 archaic laws have been repealed. And speed has been demonstrated not only in doing away with irrelevant laws but also in enacting new legislations aimed at strengthening the social fabric. The architect of our Constitution, Dr. B. R. Ambedkar had said: "Constitution is not a mere lawyer's document, it is a vehicle of life, and its spirit is always a spirit of age."

In legislating the rights for transgender, the law against the practice of Triple Talaq, expanding the rights of Persons with Disabilities, the government has worked with complete sensitivity and responsiveness to the needs of modern society.

The 'Constitution of India' lies at the foundation of the world's largest democracy. This is the supreme document in the country's democratic framework and it continuously guides us in our endeavors.

Our readers are the pulse of Yojana. We hope that this edition will help them including students, academicians, lawyers, and civil servants alike. ❑

Safeguarding Human Rights

Jaideep Govind

"Human rights are not a privilege conferred by the government. They are every human being's entitlement by virtue of his humanity."

– Mother Teresa

The world has witnessed myriad scientific and technological advancements in its journey of development. However, in this pursuit, it is often forgotten that no development is sustainable if it does not respect and honour the human rights of the people. The question is, "What are human rights?" To be precise, human rights are the rights which are possessed by every human being, irrespective of his or her nationality, race, religion, sex, etc, simply by virtue of being a human. They are inherent in our nature and without them we cannot live as human beings. Human rights and fundamental freedom allow us to fully develop and use our human qualities, our intelligence, our talents, and our conscience and to satisfy our physical, spiritual and other needs.

By the Universal Declaration of Human Rights, the nations of the world were specifically exhorted to act as the guardians of human rights. By 1966, the United Nations General Assembly adopted two important covenants which are at the same time both general and universal, one dealing with civil and political rights and the other with economic, social and cultural rights. Both the covenants principally deal with rights which were to be enjoyed by individuals. The International Covenant on Civil and Political Rights, 1966 and the Optional Protocol dealt with the rights of equality, personal liberty, freedom from arbitrary arrest and detention, freedom from rendering compulsory personal service, freedom of expression and conscience, right to participate in the administration of the country etc. The International Covenant on Economic, Social and Cultural Rights, 1966 deals with the right to work, the right to fair wages, the right to collective bargaining, the right to carry on trade or profession, the right to establish institutions to conserve culture etc. As human rights and fundamental freedoms are indivisible and interdependent, equal attention and urgent consideration should be given to the implementation, promotion and protection of all the rights. Many countries have passed legislations to bring their laws as far as possible in conformity with the spirit and letter of the Universal Declaration of Human Rights and other International instruments. India is a sovereign, socialist, democratic Republic. Long before these international covenants came into force, the Indian Constitution has guaranteed several rights for its citizens which are known as fundamental rights as enshrined in Part III of the Constitution. Right to Life, Liberty, Equality, Dignity, Freedom of speech and expression besides religious freedom that includes right to profess, practice and propagate one's own belief, faith and worship and right against exploitation and rights of minorities towards culture and to establish education institutions are some of the enforceable rights which cannot be infringed upon by the State through executive action.

The Constitution safeguards all citizens, individually and collectively, human rights by protecting basic freedoms. These are guaranteed in the Constitution in the form of six broad categories of Fundamental Rights, which are justiciable. Article 12 to 35 contained in Part III of the Constitution deals with Fundamental Rights.

The author is the Secretary General, National Human Rights Commission (NHRC). Email: sgnhrc@nic.in

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The Fundamental Rights have been accorded prime importance in the Constitution of India. There have been judicial pronouncements which have upheld the superiority of Fundamental Rights as provided in the Constitution of India. The Supreme Court of India in the Kesavanand Bharti case, Minerva Mills and I.R. Coelho case have upheld that though fundamental rights, as such, are not immune from amendment en block, particular rights or part thereof may be held as basic features which cannot be amended by exercising the power of amendment under Article 368 of the Constitution of India.

With the passage of time and new developments, the concept of rights in India underwent reviews and renewed interpretations by judiciary and other state and non-state actors. The Right to Life and Liberty, which occupies a place of pride, is the most sacred and cherished right. Experiences and growing concerns gave recognition to new generation of rights through judicial pronouncements. Prior to the decision in Maneka Gandhi case, in 1978, Article 21 of the Constitution of India was construed narrowly only as a guarantee against executive action unsupported by law. But this case opened up a new dimension and laid down that it imposed a limitation upon law-making as well, that while prescribing a procedure for depriving a person of his life or personal liberty, it must prescribe a procedure which is reasonable, fair, and just. The Supreme Court in its various decisions has stated that Right to Life, enshrined in Article 21 means something more than mere survival or animal existence. Over the years, human rights jurisprudence has developed allowing the judiciary the power of judicial review of all legislation in India. The main object is to secure the paramountcy of the Constitution in regard to fundamental rights which represent the basic human rights of the people. This is done by prohibiting the State from making a law which either takes away or abrogates the part of fundamental rights totally. As a result of which human rights of the people are now fundamental edifices of social, political and cultural milieu, some of them are outlined below:

- The right of a person not to be subjected to "bonded labour" or to unfair conditions of labour.
- The right of a bonded labourer to rehabilitation after release.
- Right to livelihood by means which are not illegal.
- Right to a decent environment and a reasonable accommodation.
- An obligation upon the State is to preserve the life of every person by offering immediate medical aid to every patient, regardless of the question whether he is innocent or guilty. The criminal law operates after the life of the injured is saved.
- Right to the appropriate life insurance policy within the paying capacity and means of the insured.
- Right to good health.
- Right to food.
- Right to water.
- Right to education.

Fundamental Rights

1. Right to equality, including equality before law, prohibition of discrimination on grounds of religion, race, caste, sex or place of birth, and equality of opportunity in matters of employment;
2. Right to freedom of speech and expression, assembly, association or union, movement, residence, and right to practice any profession or occupation (some of these rights are subject to security of the State, friendly relations with foreign countries, public order, decency or morality);
3. Right against exploitation, prohibiting all forms of forced labour, child labour and traffic in human beings;
4. Right to freedom of conscience and free profession, practice, and propagation of religion;
5. Right of any section of citizens to conserve their culture, language or script, and right of minorities to establish and administer educational institutions of their choice; and
6. Right to constitutional remedies for enforcement of Fundamental Rights.

Indian Constitution has guaranteed several rights for its citizens which are known as fundamental rights as enshrined in Part III of the Constitution. Right to Life, Liberty, Equality, Dignity, Freedom of speech and expression besides religious freedom that includes right to profess, practice and propagate one's own belief, faith and worship and right against exploitation and rights of minorities towards culture and to establish education institutions are some of the enforceable rights which cannot be infringed upon by the State through executive action.

- As applied to a prisoner, it would include his right to bare necessaries of life such as, adequate nutrition, clothing, shelter over the head, facilities for reading, writing, interviews with members of his families and friends, subject to the prison regulations.
- Right to reputation.
- Right of women to be treated with decency and proper dignity.
- Right to speedy trial.
- Right against handcuffing.
- Right against custodial violence.
- Right to privacy.
- Right to freedom from malnutrition.
- Right to information.

In *Ranjitsing Brahmajeetsing Sharma v. State of Maharashtra,* the Supreme Court opined that gender injustice, pollution, environmental degradation, malnutrition, social ostracism of dalits are various forms of violations of human rights. The presumption of innocence is also a human right.

It may therefore be seen that safeguarding individual's rights, so protected and sacrosanct, by judicial activism has been a catalyst in creating a national atmosphere where various aspects of human existence have been given an impetus to enable them to be respected and developed as part of human right of common man. Moreover, Part IV of the Constitution lays down the Directive Principles of State Policy which are fundamental in the governance of the country and it shall be the duty of the state to apply these principles in making laws. The courts have opined that these directives supplement fundamental rights in achieving a welfare state. They cannot be seen in isolation and are rather contributory and complementary to each other.

In recent times, the Apex Court has been taking a lead in protection of the rights of the vulnerable communities like LGBTI etc. and have come up with many landmark judgments. In the case of *National Legal Services Authority v. Union of India,* the Supreme Court of India declared transgender people to be a 'third gender' and affirmed that the fundamental rights granted under the Constitution of India will be equally applicable to transgender people. The Apex Court directed the Centre and the State governments to take steps to treat them as socially and educationally backward classes and to extend reservation in case of admission in educational institutions and for public appointments. This judgment is a major step towards gender equality in India.

The Supreme Court in *Navtej Singh Johar v. Union of India* gave a historic, and unanimous decision on Section 377 of the Indian Penal Code, decriminalising homosexuality. The Apex Court ruled that sexual orientation is an intrinsic element of liberty, dignity, privacy, individual autonomy and equality, and that intimacy between consenting adults of the same-sex, is beyond the legitimate interests of the state.

The growing concern regarding violation of human rights led to the enactment of Protection of Human Rights Act which provided for constitution of National Human Rights Commission (NHRC), State Human Rights Commission in states and Human Rights Courts for protection of Human Rights and for matters connected therewith of incidental thereto in the 44th year of Indian Republic. The NHRC came into being in October, 1993. It is in conformity with the Paris Principles, adopted at first international workshop on national institutions for the promotion and protection of human rights held in October 1991, and endorsed by the General Assembly of the United Nations by its Regulations 48/134 of 20 December, 1993. It is an embodiment of India's concern for the promotion and protection of human rights. Some of the main functions of the Commission are to;

a. Inquire, on its own initiative or on a petition presented to it by victim or any person on his behalf, into complaint of—
   i) violation of human rights or abetment thereof, or
   ii) negligence in the prevention of such violation, by a public servant;

b. Intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court;

c. Visit, under intimation to the State Government, any jail or any other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection, to study the living condition of the inmates and make recommendations thereon;

d. Review the safeguards by or under the Constitution, or any law for the time being in force, for the protection of human rights and recommend measures for their effective implementation;

e. Review the factors, including acts of terrorism that inhibit the enjoyment of human rights and recommend appropriate remedial measures;

f. Study treaties and other international instruments on human rights and make recommendations for their effective implementation;

g. Undertake and promote research in the field of human rights;

h. Spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, media, seminars and other available means;

i. Encourage the efforts of non-governmental organisations and institutions working in the field of human rights;

j. Such other functions as it may consider necessary for the promotion of human rights.

During the last 26 years, the NHRC has endeavoured to protect and promote human rights in the country for the common masses including poor, under-privileged and backward classes.

One of the main functions of the NHRC is to inquire into complaints of human rights violations. Since its inception in 1993, the Commission has registered 18,95,153 cases of human rights violations. Out of the same, 18,74,002 cases have been disposed off by the Commission. In totality, overall, the Commission has recommended compensation of Rs. 181,20,00,026 **(**Rupees One Hundred Eighty One Crore Twenty Lakh Twenty Six**)** in 6815 cases throughout the country. More than 99 percent of the NHRC's recommendations have been complied with by the States.

The NHRC has also focused on other human rights issues like rights of the elderly, women, children, transgender, elimination of bonded labour, mental health,

Challenges

India's socio-economic cultural framework and its colonial past have sprung many challenges in its efforts to promote and protect human rights. The main issues where majority of human rights violations in India take place are as under;

- Failure in taking action by the police
- Unlawful detention
- False implication
- Custodial violence
- Illegal arrest
- Custodial deaths
- Encounter deaths
- Harassment of prisoners; jail conditions
- Atrocities on SCs and STs
- Bonded labour; child labour
- Child marriage
- Communal violence
- Dowry death or its attempt; dowry demand
- Sexual harassment and indignity to women
- Exploitation of women
- Discrimination against persons with disabilities
- Discrimination against persons with HIV/AIDS
- Discrimination against sex workers etc.

and silicosis. This is undertaken through research studies, spot investigations on critical issues, workshops, seminars, constitution of core groups, trainings, internships etc. The Commission has issued guidelines on important issues of custodial deaths, custodial rapes, encounter deaths during the course of police action and has also granted relief in form of monetary compensation as also recommending disciplinary action against the delinquent public servants.

The NHRC, by way of recent innovations, has tried to enhance its outreach. Some important steps in this regard are—online complaint registration through HRCNet portal, provision for the authorities to upload the reports directly on the HRCNet portal, taking on board the SHRCs in the HRCNet portal to avoid duplication of cases, conducting video conferencing with the States to follow up the submission of reports, involving around three lakhs common Service Centres for registration of complaints, revamping the website where the status and all the orders of the cases are uploaded and a dedicated MADAD counter which assists the complainants in filing complaints. NHRC has a dedicated focal point for Human Right Defenders who extends assistance to HRDs in case they are in distress due to state action.

The National Human Rights Commission came into being in October, 1993. It is in conformity with the Paris Principles, adopted at first international workshop on national institutions for the promotion and protection of human rights held in October 1991, and endorsed by the General Assembly of the United Nations by its Regulations 48/134 of 20 December, 1993. It is an embodiment of India's concern for the promotion and protection of human rights.

NGOs, HRDs and media have also played important role in safeguarding the human rights of the common man. They raise issues of importance on which the Commission takes cognisance and gives relief to victims.

The NHRC is also concerned with the condition of prisons, prisoners, old age homes etc. The Commission through its own visits and also by the special rapporteurs finds out the situation prevalent in the prisons etc. and recommends corrective measures.

It is the cardinal duty of the state and the non-state actors to work in unison to enable the best promotion and protection of human rights of common man in the country and overcome all the challenges.

Conclusion

It will not be an exaggeration to say that following the principles laid down in the Constitution, India has performed magnificently when it comes to safeguarding the human rights of the common man. The Executive, Legislature, Judiciary and the autonomous institutions like NHRC etc. have all contributed towards creating a social framework where human rights are ensured to all. There are challenges but they can be met with the concerted efforts of all.

It is also very important to understand that rights are best safeguarded when we perform our duties. To conclude, Mahatma Gandhi has rightly said:

"I learned from my illiterate but wise mother that all rights to be deserved and preserved came from duty well done. Thus, the very right to live accrues to us only when we do the duty of citizenship of the world. From this one fundamental statement, perhaps it is easy enough to define the duties of man and woman and correlate every right to some corresponding duty to be first performed. Every other right can be shown to be a usurpation hardly worth fighting for." ❑

Balancing Fundamental Rights and Duties

Dr Ranbir Singh
Dr Ritu Gupta

This year marks the 70th year of adoption of the Constitution of India. The ideals and aspirations of a renascent India and the vision of our founding fathers are contained in the Preamble, the Fundamental Rights (Part III) and the Directive Principles of State Policy (Part IV) of the Constitution. These three may aptly be described as the soul of the Constitution and the testament of the founding fathers to the succeeding generations together with the later part on Fundamental Duties (Part IV-A).

The longest written Constitution in the world, lays down the basic structure and the framework of India's polity. It is built on the foundations of certain fundamental values that have been embedded in it by the makers of the Constitution to ensure that there should be fairness and justice for every citizen of India. The inclusion of the Fundamental Rights in the Constitution is in furtherance of the same thought. The object is to ensure the inviolability of certain essential rights against political vicissitudes.[1] *"[A] bill of rights is what the people are entitled to against every government on earth, general or particular, and what no just government should refuse."* [2]

However, it has been made very clear that:

- lot of restraint is required while exercising this freedom.
- the absolute freedom is an illusion and cannot survive alone.
- the fundamental rights need to be paired with fundamental duties.

To offset the increasing tendencies of indifference towards the business of the government amongst its citizens and to check fissiparous growth, the Constitution (Forty-Second) Amendment Act, 1976 introduced the concept of fundamental duties by adding Part IV-A, consisting of the sole Article 51A.That the Constitution ought to be amenable to change to allow for emerging needs was always recognised.[3]

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This year the government is laying more emphasis on creating awareness on eleven fundamental duties as part of celebration of 70th year of adoption of the Constitution through its various initiatives. The underlying idea is that these precepts should become a part and parcel of every Indian's thoughts and actions.[4] The balancing of fundamental rights is a constitutional necessity as every right gives rise to a corresponding duty. In the words of Mahatma Gandhi:

"The true source of right is duty. If we all discharge our duties, rights will not be far to seek. If leaving duties unperformed we run after rights, they will escape us like will-o-the-wisp, the more we pursue them, the farther they will fly".

"I learned from my illiterate but wise mother that all rights to be deserved and preserved come from duty well done. Thus, the very right to live accrues to us when we do the duty of citizenship of the world. From this one fundamental statement, perhaps it is easy enough to define duties of man and woman and correlate every right to some corresponding duty to be first performed..."[5]

The fundamental duties are the mechanism that aims at striking a balance between individual freedom and social interests. These duties do not cast any public duties but are applicable only to individual citizens. However, in a judgment, the Supreme Court held that the Fundamental Duties are as important as Fundamental Rights and that though Article 51A does not expressly cast any fundamental duty on the State, the duty of every citizen of India is the collective duty of the state- its *de facto* enforceability in the sense that Article 51A is a yardstick against which the action of the State may be assessed.[6]In *Union of India v Naveen Jindal*[7], the Supreme Court observed that fundamental duties are implicit in the concept of fundamental duties, the former providing certain restrictions on the exercise of the latter.

In *Shyam Narayan Chouksey v UOI*[8], the Supreme Court stated that Article 51A(a) enjoins a duty on every citizen of India the duty to respect ideals and institutions, including the national flag and national anthem. This was the case in which the Apex Court of India passed a judgment regarding compulsory display of the national anthem prior to screening any movie in the theatres or cinema halls. The Hon'ble SC made it mandatory for all patrons to rise for the duration of this feature presentation. Through this case, the Court intended to bring in standardisation in the way people portrayed their love for the country and provided set actions and procedures to fulfil the underlying idea of Article 51A of the Indian Constitution. In yet another case, the SC relied on Article 51A (d) to state that any citizen may bring it to the notice of the Court if any Act[9] of the legislature provides shelter and protection to the illegal foreign nationals.

This year the government is laying more emphasis on creating awareness on eleven fundamental duties as part of celebration of 70th year of adoption of the Constitution through its various initiatives. The underlying idea is that these precepts should become a part and parcel of every Indian's thoughts and actions.

Further, interestingly, Article 51A(k) was introduced as a fundamental duty in 2002, along with Article 21A as a fundamental right. Through Article 51A(k) read with Article 21A, the State and the parents are made to share obligation with regard to education of the children in the following manner:

- the State with free education
- the parents with compulsory education.

The State has been entrusted with the responsibility to ensure compulsory education while at the same time Article 51A(k) does not penalise parents or guardians for not being able to send their wards to school.[10] In similar manner, right to hoist the national flag has been granted to the citizens subject to the restrictions specified in the Article 51A (c).

Thus, it may be observed that, in umpteen number of cases, the various contours of Article 51A have been interpreted and applied by the Apex Court. The unenforceable duties have got a booster dose of contents as well as some sort of enforceability through increased references in various judicial pronouncements. In

certain situations, where the Courts have been called upon to examine the reasonableness of any legislative restriction on the exercise of a freedom, the fundamental duties are of relevant consideration.[11]

The constitutional standards of reasonableness of the restrictions on the entrenched rights cannot be compared with the reasonableness as provided under any other branch of law since the court of judicial review acts as arbiter. In such case, the doctrine of proportionality or Wednesbury reasonableness (judicial review of administrative actions) approach, while consisting of several hierarchical standards internally, is followed that requires judicial interference only for the decisions that are seriously unreasonable.

It may not be inappropriate to state that, the entirely laudable principles enshrined in the constitution and the well-crafted laws enacted after India's independence could not percolate and be made part and parcel of the lives of the people at large. Lack of awareness and sensitivity towards those noble principles could be few of the reasons. Therefore, it is extremely important to create a conducive environment where dissemination of the precepts of duly may be taken care of at a priority level.

Everybody should remember that entitlements come with duties and responsibilities as well.[12]The grassroot approach should be to work earnestly and give practical expression to both the rights and the duties that democracy entails. The Universal Declaration of Human Rights also declares:

"Everyone has duties to the community in which alone the free and full development of the personality is possible.[13] .

The presence of a chapter on fundamental duties in our constitution along with the fundamental rights should have the effect of reminding the citizen that every right one exercises is balanced by a duty he has to fulfil.[14]Since the duties were spelt out by the preamble to the constitution, whatever is needed to achieve the goals set in the Constitution, is our obvious duty to perform-is a dictate of the preamble.[15]

Everybody should remember that entitlements come with duties and responsibilities as well. The grassroot approach should be to work earnestly and give practical expression to both the rights and the duties that democracy entails.

In 1999, the Justice Verma committee had suggested ways and means to make fundamental duties more effective.[16]The question that was most crucial before the National Commission constituted to review the working of the Constitution twenty years ago that considered the Justice Verma committee's suggestions also, remains the most challenging one even today and it was:

Has article 51A served its purpose, and if not, where have the people who worked the provision defaulted in the discharge of their democratic duties of citizenship and failed their fellow citizens?[17]

Various current crises related to environment, mob-violence and terrorism etc. could have been regulated to a large extent if the human values could be inculcated right from the formative period of life so as to lay a strong foundation for effectuation of Fundamental Duties along with the strong desire to avail the rights.

Thus, there is a strong necessity to maintain a strong balance between the rights and the duties. One does not have existence as well as the meaning without the other. The fine relationship between the two may be summarised in the following words of Lippmann:

"For every right that you cherish you have a duty which you must fulfil. For every hope that you entertain, you have a task you must perform. For every good that you wish could happen... you will have to sacrifice your comfort and ease. There is nothing for nothing any longer."[18] ❑

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Objectives and Challenges

Anubhav Kumar

Nation is made by its citizens. Mahatma Gandhi believed that the true source of right is duty. If every individual performs ones duty, the rights of the others will be protected. The fundamental duties are a constant reminder to every citizen that while the Constitution confers upon them certain fundamental rights, it also expects its citizens to observe certain basic norms of democratic behaviour.

Every right comes with a corresponding duty. Whenever the law recognises that a person has right, it also means that another person is under a legal duty to comply with that right. The Constitution of India provides for fundamental rights guaranteed under Part III, and thus the duty lies upon the state to protect those rights. On the other hand, the Constitution categorically provides for certain fundamental duties enshrined under Part IV A, to be performed by its citizens. Originally, fundamental duties as such were not a part of the Constitution. These were introduced for the first time in 1976 by the 42nd Amendment of the Constitution after the recommendations of the Swaran Singh Committee. This insertion was in line with Article 29(1) of the Universal Declaration of Human Rights which states, "Everyone has duties to the community in which alone the free and full development of the personality is possible". While ten of the duties were incorporated in the Constitution of India in 1976, 11th was included in the year 2002 by the 86th Amendment.

Part IV of the Constitution of India provides for Directive Principles of State Policy. A common thread runs through Part III, Part IV and Part IV A of the Constitution of India. The first lays down the fundamental rights, second enumerates the fundamental principles of governance and the third prescribes the fundamental duties of the citizens. Thus, where the state is obliged not to infringe the rights of individuals, the individuals are under a duty towards the state and to contribute for the social welfare and nation building. The insertion of the fundamental duties certainly had an object but it cannot be denied that the same has not been achieved effectively till date. The 'National Commission to Review the Working of the Constitution (NCRWC)' was set up by Government in the year 2000 under the Chairmanship of Justice M.N. Venkatachaliah. The Commission submitted its report in which it emphasised upon the importance and enforcement of the Fundamental Duties. The Verma Committee (1999) categorically made certain recommendations for the effectiveness of the Fundamental Duties.

Concept of duty already existed in the text of the Constitution

Though fundamental duties were manifestly incorporated by the 42nd Amendment, the obligation of the state towards individual rights and the duty of individuals towards the state were always there in the Constitution since its inception. A careful perusal of the provisions of the Constitution suggests both rights and duties of the citizens. The Preamble of the Constitution affirms "liberty of thought, expression, belief, faith and worship"; and also dictates securing "Justice- Social, Economic and Political", Equality and Fraternity. It shoulders upon every individual, duty to respect the sovereignty of India and protect the Unity of the Nation. While on one hand a new chapter on Fundamental Duties was added, on the other

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Though fundamental duties were manifestly incorporated by the 42nd Amendment, the obligation of the state towards individual rights and the duty of individuals towards the state were always there in the Constitution since its inception. A careful perusal of the provisions of the Constitution suggests both rights and duties of the citizens.

hand words like Socialist, Secular and integrity were also added to the Preamble.

As observed by the NCRWC, the framers of the Constitution believed that these basic duties are naturally followed by every individual and so there is no need to mention them specifically. Also, the preamble itself incorporates the objective resolution of the Constituent Assembly which inherently had duties in it. Moreover, Part-III of the Constitution which provides for the Fundamental Rights has inbuilt obligations therein. Before the insertion of the chapter on Fundamental Duties, the Supreme Court of India in 1969 observed in the case of *Chandra Bhavan Boarding v. The State of Mysore* 1970 AIR 2042:

"It is a fallacy to think that under our Constitution there are only rights and no duties. While rights conferred under Part III are fundamental, the directives given under Part IV are fundamental in the governance of the country. We see no conflict on the whole between the provisions contained in Part III and Part IV. They are complementary and supplementary to each other. The provisions of Part IV enable the legislatures and the Government to impose various duties on the citizens. The provisions therein are deliberately made elastic because the duties to be imposed on the citizens depend on the extent to which the directive principles are implemented."

Purpose of Duties

Nation is made by its citizens. Harold Laski has said that, "rights are related to functions and are given only in return for some duties to be performed". Though it was not felt necessary to include the duties specifically by the framers, the need was indeed felt at a later stage. Justice Verma Committee on Fundamental Duties observed, "with the lapse of time, degradation of values, particularly values in public life became blatantly evident and the nation felt the need to amend the Constitution and incorporate these values specifically as the Fundamental Duties of every citizens". Justice Rangnath Mishra in a letter to the Chief Justice of India wrote, "If society becomes duty based, everyone in India should turn attention on performance of duties and through such performance ensure and be entitled to the rights of a citizen". The insertion of fundamental duties is a constant reminder to its citizens to follow the noble ideals and strive for excellence.

What is expected of citizens by Article 51A?

The mandate of Article 51A is obligatory and not mandatory in nature. It simply says that it shall be certain duties of every citizen which they are expected to observe. There should not have been any need to state so, nonetheless it states such duties.

It expects the citizens to abide by the Constitution and respect "to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem". India became independent after a lot of struggle and hence it is important "to cherish and follow the noble ideals which inspired our national struggle for freedom". Being a citizen of India, it is a sacred duty of every citizen "to uphold and protect the sovereignty, unity and integrity of India" and where the need is felt so "to defend the country and render national service".

With so much of diversity in religion, region and languages in the country, the citizens are expected "to promote harmony and the spirit of common brotherhood amongst all the people of India. Women have always been revered in this country, and it goes without stating that the citizens ought "to renounce practices derogatory to the dignity of women". It is also expected "to value and preserve the rich heritage of our composite culture. As a part of the Directive Principles of State Policy, the state has to make laws for the protection of environment and safeguarding the forests and wildlife, at the same time it is the duty of the citizens "to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures". For citizens it is also important "to develop the scientific temper, humanism and the spirit of inquiry and reform". Many a time, people destroy public property in the garb of protests, which is not acceptable of the citizenry. Citizens are under an obligation "to safeguard public property and to abjure violence".

The nation grows and develops with its citizens and so they must "strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement".

Enforcement of the Fundamental Duties of Citizens

There is no provision for enforcement of the Fundamental Duties, nor there is any sanction for the violation of the duties under the Constitution. The Constitution of India neither intends nor prescribes for sanctions. These duties are obligatory in nature. At the same time we have provisions under the Indian Penal Code, 1860 which punishes for the act done against the

sovereignty and integrity of the State. The penal code also punishes for the outrageous acts committed against women, acts damaging the public property etc. There are laws for the protection of forests, environment, and wildlife. But before these sanctions are used, it should be the duty of the citizens to act in accordance with the laws of this country and strengthen the Constitutional morality.

The apex court in A.I.I.M.S. Students Union v. A.I.I.M.S. & Ors, AIR 2001 SC 3262 observed:

"Fundamental duties, as defined in Article 51A, are not made enforceable by a writ of court just as the fundamental rights are, but it cannot be lost sight of that duties in Part IVA - Article 51A are prefixed by the same word fundamental which was prefixed by the founding fathers of the Constitution to rights in Part III. Every citizen of India is fundamentally obligated to develop the scientific temper and humanism. He is fundamentally duty-bound to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievements. State is, all the citizens placed together and hence, 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."

The Supreme Court in Union of India v. Naveen Jindal (2004) 2 SCC 510 reiterated the observation made by the Verma Committee as:

"Duties are observed by individuals as a result of dictates of the social system and the environment in which one lives, under the influence of role models, or on account of punitive provisions of law. It may be necessary to enact suitable legislation wherever necessary to require obedience of obligations by the citizens. If the existing laws are inadequate to enforce the needed discipline, the legislative vacuum needs to be filled. If legislation and judicial directions are available and still there are violations of fundamental duties by the citizens, this would call for other strategies for making them operational. The desired enforceability can be better achieved by providing not merely for legal sanctions but also combining it with social sanctions and to facilitate the performance of the task through exemplar, role models."

The fundamental duties are a constant reminder to every citizen that while the Constitution confers upon them certain fundamental rights, it also expects its citizens to observe certain basic norms of democratic behaviour.

Conclusion

The fundamental duties are a constant reminder to every citizen that while the Constitution confers upon them certain fundamental rights, it also expects its citizens to observe certain basic norms of democratic behaviour. Even though the Indian society has largely been duty-based, lot of emphasis has been given on the rights in the recent past. Even the scriptures like Gita talks about performance of one's duty and not to be concerned about the fruits of such duty. However, from the point of social contract theory of Locke, it may be reasonably expected from the state by its citizens that the state protect their rights and the citizens too have a duty towards the state for its making and welfare. Every office holder, elected or appointed, is as much bound by the provisions of article 51A as other fellow citizens. The Verma Committee has specifically mentioned about certain legislation which are already in existence to cater to the implementation of the Fundamental Duties. The list of these duties as incorporated is not exhaustive and citizens may be expected to do more for the state. The feeling of fraternity and secular values are required to be promoted. Teaching of Fundamental Duties in every institution of the country shall be made mandatory as a part of either curricular or co-curricular activity. The state is duty bound to educate its citizens about their duties, as a right balance can be maintained between the rights and the duties. And they may not remain merely in the text of the Constitution. Indeed, every step has to be taken for awareness, inculcation and implementation of the Fundamental Duties. ❑

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Drafting of the Constitution of India

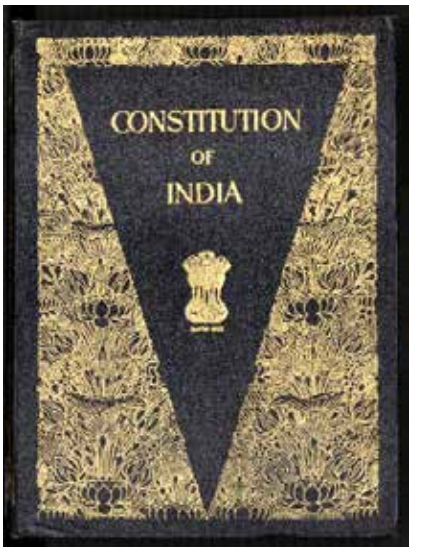
Dr R S Bawa

The Constitution of India is its lex loci i.e. the parent of all laws in the country. The three pillars of Indian State (Legislature, Executive & Judiciary) derive their authority from the Constitution. It was framed by a Constituent Assembly set up under the Cabinet Mission Plan of 1946. The Assembly set up 13 committees for framing the constitution including a Drafting Committee under the Chairmanship of Dr B R Ambedkar. On the basis of the reports of these committees, a draft of the Constitution was prepared by a seven-member Drafting Committee.

The Constitution of India has a very unique position in the history of our great country, as it has created the Sovereign Republic of India. It took several years for its drafting and enacting. The Constitution of India is one of the most comprehensive and longest enumerated documents of its kind in the world. It is the prime law of India. It contains the minutest details for governance of Indian State. Prior to independence, there were two entities—the British Government and Princely States. The Constitution formally ended these distinctions and created the Union of India. The Constitution of India is its lex loci i.e. the parent of all laws in the country. This is because all laws of Parliament and State Legislatures derive their authority from the Constitution. The three pillars of Indian State (Legislature, Executive & Judiciary) derive their authority from the Constitution. Without the Constitution, there would not have been the administrative machinery for running the Indian State so well.

History

The history of our Constitution is very interesting as it elucidates how and why our country chose the Parliamentary form of democracy. The British came to India in the 17th century for trading purpose. Thereafter, they slowly gained more power. Later, they attained the rights to collect the revenue and self-governance. For doing this, they enacted various laws, rules and regulations. Further with the Charter Act of 1833, the Governor General of Bengal became the Governor General of India. A Central Legislature was created which made the British supreme rulers of India. The rule of the Company finally ended with the enactment of the Government of India Act 1858. Consequently, British Crown became the ruler of India and started administrating our country through its Government.



Source: www.doj.gov.in

The Indian Council Acts of 1861, 1892 and 1909 started giving representation to the Indians in the Viceroy's Councils. Thereafter, the Britishers restored legislative powers back to some provinces (States). They adopted decentralisation of powers between the Centre and States. Later, with the enactment of the Government of India Act 1919, Legislative Councils came into existence in all the States. The Britishers adopted bicameral structure with separate Central and State Governments. It was for the first time when people could elect their own representatives through direct elections. The Constitution of India later adopted this quasi-federal and bicameral structure of governance.

The enactment of Government of India Act 1935 was one of the most important events in the history of the Constitution as this law divided powers of governance into Federal List, Provincial List, and Concurrent

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Dr. Rajendra Prasad, President of the Constituent Assembly, signing the Constitution of India, as passed by the Constituent Assembly

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List. Later, the Constitution of India also incorporated this division of powers between the Central and State Governments. This act provided more autonomy of self-governance to the provinces. It had also established the Federal Court which is now called the Supreme Court of India.

The enactment of the Indian Independence Act of 1947 marked the final step in the departure of the British from India. Our country became an independent and sovereign state after this act. This act de facto established Central and Provincial Governments besides laying the foundation of the Constituent Assembly.

Constituent Assembly

The Constituent Assembly of India came into existence as per the provisions of Cabinet Mission Plan of May 1946. Its major task was to facilitate transfer of sovereign power from British authorities to Indian hands. The Assembly was to have proportional representation from existing provincial legislatures and from various princely states. The elections were completed by the end of 1946 under the supervision of Reforms Office under the Governor General. The members of Provincial Assemblies indirectly elected the members of the Constituent Assembly. This Assembly served as the first Parliament of India. It first met on 9 December, 1946 in Delhi and historical journey was started which saw India attaining independence, deciding on its national flag, national insignia and national anthem. After independence, the Assembly elected Dr. Rajendra Prasad as its Chairman while V.T. Krishnamachari and H.C. Mookerji served as Vice-Chairmen. H.V.R Iyengar was the Secretary General of the Assembly and S.N. Mukerji was the Chief Draftsman. Thus, began the exercise for drafting of the Constitution with Dr. B.R. Ambedkar as the Chairman of the Drafting Committee who is often called the father of the Indian Constitution.

The Constituent Assembly also took help from many non-members in the formulation of the Constitution. Eminent public figures outside the Assembly were requested to work as members of the committees formed by the Assembly for focused deliberations on specific features from time to time. Much of the constitution making took place in the meetings of these committees, both from procedural and substantive viewpoint. However, there seems to be no official document in public domain on the exact number of committees formed by the Constituent Assembly. Resolutions were moved for setting up committees as per need and adopted after careful discussion. Depending on the swiftness of nomination/ election of members of various committees, their formal appointment took only few hours/ days from the adoption of the resolution. A Special Committee was also constituted to decide on the future course of action after receiving the comments of the Draft Constitution in February 1948. There seems to be no resolution for the constitution of this special committee and; how and why this committee of great importance was formed. Thirty two members attended the meeting of Special Committee on 10-11 April, 1948 chaired by Pt. Jawaharlal Nehru. After more than two years of deliberations, the Constituent Assembly finally approved the Constitution on 26 November, 1949, which is now celebrated as Constitution Day. The Constituent Assembly formally adopted the Constitution on 26 January, 1950 to make our country a Sovereign Republic.

The Constitution of India is a unique and most comprehensive document representing the aspirations of our diverse population. It has very beautifully laid down various principles and acts on how the authority of the Government of a country should be exercised. India is a diverse nation with respect to its culture, citizens and this is why the drafting committee took so long to complete the draft and therefore the historical growth of our Constitution can be traced back to many acts mentioned in this article. Our Constitution has been inspired by various Constitutions of different nations and its spirit has been duly upheld over the years. ❑

Mending Court Judgments: The First Constitutional Amendment

N L Rajah

Very few amendments to our constitution have had such wide ranging effect on the common man as the First amendment. For this reason, it shall always be much discussed, deliberated and continue to be applied or adapted according to the felt necessities of the time.

First amendment to the Constitution of India was undoubtedly a momentous one.

However, it leads to this interesting question. When much thought and perseverance had gone into the creation of the magnificent constitution and some of the best minds in the country had been deployed in its creation, how did it come to pass that amendments became imminent so early in its life?

The need arose on account of some judgments of High Courts and the Supreme Court that interpreted the constitution vastly differently from the manner the ruling class came to interpret it or wanted it to be interpreted.

Journalist Romesh Thapar, challenged the ban on the publication of his English weekly "Crossroads". Similarly a publication was banned in Delhi for allegedly hurting religious sentiments, which ban came to be challenged in courts. (Brij Bhushan And Another vs The State Of Delhi)[1] These restrictions on freedom of speech and expression came to be challenged before the Supreme Court.

The Supreme Court in the much cited judgment Romesh Thapar Vs. State of Madras[2] held in no uncertain terms that securing "public order" was not one of the enumerated exceptions to free speech under Article 19(2).

The other area in which courts differed with the executive, was in the realm of land reform. To end the zamindari oppression, some states gave low compensation to the zamindars and appropriated their land. Such measure was held unconstitutional by some high courts notably the Patna High Court in Kameshwar Singh v. State of Bihar[3]. On 12 March, 1951 the High Court held that the Bihar Land Reforms Act was invalid as it violated Article 14 of the Constitution. The court held that Article 14 guaranteed equal protection under the law and therefore it did not allow discrimination against the richer zamindars. In effect they held that the compensation to be paid must be the same whether the land was acquired from a poor person or a Zamindar.

In all the cases, the provisions impugned and the Acts in which they were placed were different. For example in Romesh Thapar Vs. State of Madras[4], it was the provisions of the Madras Maintenance of Public Order 1949 that was challenged. In Brij Bhushan Vs. State of Delhi[5] the provisions challenged related to the East Punjab Public Safety Act, 1949. However, in all these cases the Supreme Court addressed the single most important point, which was, were these provisions constitutionally valid? A majority of the Supreme Court struck down the impugned provisions. In doing so they invoked the doctrine of "over breadth". The court ruled that "Public order" was synonymous with public tranquillity and peace, while undermining the security of, or tending to overthrow the state referred to acts which could shake the very foundation of the State. It was therefore held that while acts that undermined or tended to overthrow the State would also lead to public disorder, it could not be said that acts against public order would be said to undermine the security of the state. This meant that the impugned legislations proscribed acts that under Article 19(2) the government was entitled to prohibit as well as those that it could not. In such cases the Court held that it made the laws

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"Over board", and consequently unconstitutional.

In Romesh Thapar[6] and Brij Bushan[7] the Supreme Court also held that the impugned provisions of the legislations imposed a regime of "prior restraint". It held that the impugned provisions permitted the Government to prohibit the circulation of newspapers in anticipation of public disorder. It held that they choked off speech before it even had the opportunity to be made. Applying an accepted tradition in common law as well as American constitutional jurisprudence, the court held that a legislation imposing prior restraint bore a heavy burden to demonstrate its constitutionality.

These judgments made Jawaharlal Nehru feel that the judiciary was making unwarranted intrusions into the power of the executive. He reminded the Court that,

"If the Constitution is interpreted by the Courts in a way which comes in the way of the wishes of the legislature in regard to basic social matters, then it is for the legislatures to consider how to amend the Constitution so that the will of the people as represented in the legislature should prevail."

It was this collective angst of the parliament against judgments of the High Courts and the Supreme Court that lead to the First amendment to our constitution.

It is worthwhile at this juncture to observe the unique circumstances in which the first amendment was proposed. We must remember that till end 1951, the elections that were to be held under the constitution we had adopted had not been held. Critics of the Amendment therefore charged the Parliament with lack of representative capacity to bring in the amendments. However, the legitimacy of the parliament to amend the constitution could not be doubted. This was because under the provisions of the Indian Independence Act of 1947, the constituent assembly was empowered to sit in a legislative capacity until the new constitution came into force and to exercise its powers. In effect therefore the constitutional amendments were debated by the very people who had framed the constitution.

The fiery debates in Parliament relating to the suggested amendments turned largely on two questions. The first relating to the power of the Parliament to overturn a judgment passed by the Supreme Court and the second related to the merits of the suggested changes.

After sixteen days of fiery debates and deliberations the First Amendment came to be passed which ultimately came to be a much diluted version of the one proposed by Nehru especially in respect of Article 19. The exact nature of the debates and the stand taken by various parties and parliamentarians have now been narrated in the book "Sixteen Stormy days: The story of the First amendment to the Constitution of India"[8] and makes for very interesting reading.

The statement of objects and reasons appended to the First Amendment express the concerns of the Government succinctly. They state:

"During the last fifteen months of the working of the Constitution, certain difficulties have been brought to light by judicial decisions and pronouncements especially in regard to the chapter on fundamental rights. The citizen's right to freedom of speech and expression guaranteed by article 19(1)(a) has been held by some courts to be so comprehensive as not to render a person culpable even if he advocates murder and other crimes of violence. In other countries with written constitutions, freedom of speech and of the press is not regarded as debarring the State from punishing or preventing abuse of this freedom. The citizen's right to practise any profession or to carry on any occupation, trade or business conferred by article 19(1)(g) is subject to reasonable restrictions which the laws of the State may impose "in the interests of general public". While the words cited are comprehensive enough to cover any scheme of nationalisation which the State may undertake, it is desirable to place the matter beyond doubt by a clarificatory addition to article 19(6). Another article in regard to which unanticipated difficulties

have arisen is article 31. The validity of agrarian reform measures passed by the State Legislatures in the last three years has, in spite of the provisions of clauses (4) and (6) of article 31, formed the subject-matter of dilatory litigation, as a result of which the implementation of these important measures, affecting large numbers of people, has been held up.

The main objects of this Bill are, accordingly to amend article 19 for the purposes indicated above and to insert provisions fully securing the constitutional validity of zamindari abolition laws in general and certain specified State Acts in particular. The opportunity has been taken to propose a few minor amendments to other articles in order to remove difficulties that may arise".

The First Amendment Act therefore went on to amend articles 15, 19, 85, 87, 174, 176, 341, 342, 372 and 376. It inserted articles 31A and 31B.

The Ninth schedule to the constitution was also added in this amendment vide Article 31B. It is relevant to note that at this point of time there were 7 groups of rights guaranteed under the constitution. These were:

Right to Equality; Right to Freedom; Right to Property; Right against Exploitation; Right to Freedom of Religion; Cultural and Educational Rights and Right to Constitutional Remedies.

However, vide the 44th Constitutional Amendment (1978) Right to Property was taken away from the list of Fundamental rights and placed in a new Article 300A as an ordinary legal right and thus currently there only 6 groups of rights exist.

Any law included in the Ninth Schedule was protected from judicial review, even if it was unconstitutional and violating Fundamental Rights. What started as a list of 13 laws enabling land reforms has since expanded to protect 282 laws enabling nationalization, currency controls, price and quantity controls, and even the excesses of the Emergency.

The provisions introduced by the First amendment have been subject matter of much judicial deliberation and decisions. The amended Article 19 (2) came to be first interpreted by the Supreme Court in Ramji Lal Modi Vs State of U.P.[9]. We saw how in Romesh Thapar V The State of Madras[10] the Supreme Court was fiercely protective of the rights of free speech and expression. After the changes inducted by the First amendment there was marked dilution of the Courts' stand as its decision in Ramji Lal Modi would reveal. At issue was a challenge to Section 295A of the Indian Penal Code, which criminalised insulting religious beliefs with an intent to outrage religious feelings of any class. The challenge advanced an over- breadth argument: it was contended that while some instances of outraging religious beliefs would lead to public disorder, not all would, consequently, the section was unconstitutional. The court rejected this argument and upheld the section. The court went on to hold that the calculated tendency of any speech or expression aimed at outraging religious feelings was, indeed, to cause public disorder and consequently, the section was unconstitutional.

However, in the last few decades courts have started asserting their status as guardian of free speech and expression more effectively. In S.Rangarajan Vs. P.Jagjivan Ram[11] the Supreme Court required proximity between the expression and the likelihood of the same causing public disorder to be akin to a "spark in a powder keg". Most recently, in Arup Bhuyan Vs. State of Assam[12], the court read down a provision in the TADA criminalising membership of a banned association to only apply to cases where an individual was responsible for incitement to imminent violence.

In striking down Section 66 A of the Information Technology Act in Shreya Singhal _Vs_ Union of India[13] the Court once again assertively established its constitutional role as protector of freedom of speech and expression. Section 66A empowered authorities to punish for sending "offensive" messages through a computer or any other communication device. Striking down the provision the court therefore held, "we therefore hold that the section is unconstitutional also on the ground that it takes within its sweep protected speech and speech that is innocent in nature and is liable to be used in such a way as to have a chilling effect on free speech and would therefore have to be struck down on the ground of over breadth".

Therefore, the very same concept of "over breadth" that aided the court to strike down provisions in Romesh Thapar has come to the aid of the court in striking down Section 66A of the IT Act notwithstanding the first amendment.

Very few amendments to our constitution have had such wide ranging effect on the common man as the First Amendment. For this reason, it shall always be much discussed, deliberated and continue to be applied or adapted according to the felt necessities of the time. ❑

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The Indian Parliament: Performance and Challenges

M R Madhavan

The Parliament plays a central role in the Indian system of representative governance, affecting all aspects of lives of citizens. It has done a remarkable job for seventy years, helping manage internal tensions of perhaps the most diverse set of people in any country. Many social reforms and economic progress have been led by Parliament.

As the central legislative body in India, the Parliament has four main roles—it makes laws, it holds the executive to account for its actions, it allocates government finances, and represents the interests and aspirations of citizens. The Parliament is also a constituent body in the sense that it can amend the Constitution.

Functioning of Parliament

Over the years, the Parliament has been meeting for a fewer days. Figure 1 shows that the number of sitting days has declined from 125-140 in the 1950s to about 70 days in the last twenty years. Also, disruptions have further reduced the amount of time available for discussion in Parliament. During the period of the 15th Lok Sabha, one-third of the scheduled time was lost to disruptions (Figure 2).

An important casualty is Question Hour. If the House is disrupted, it often sits late or through the lunch hour to make up for lost time. However, the time lost in Question Hour is never made up. As a result, only a few questions listed for oral answers are actually answered on the floor, and the rest get a written reply (Figure 3).

The shortage of time has also affected discussion on bills. Every bill is expected to go through three readings at the stage of introduction, consideration when there is a detailed discussion on each clause, and passing. The Parliament rarely discusses any bill at the first or third reading. Many bills are not discussed at the consideration stage either,

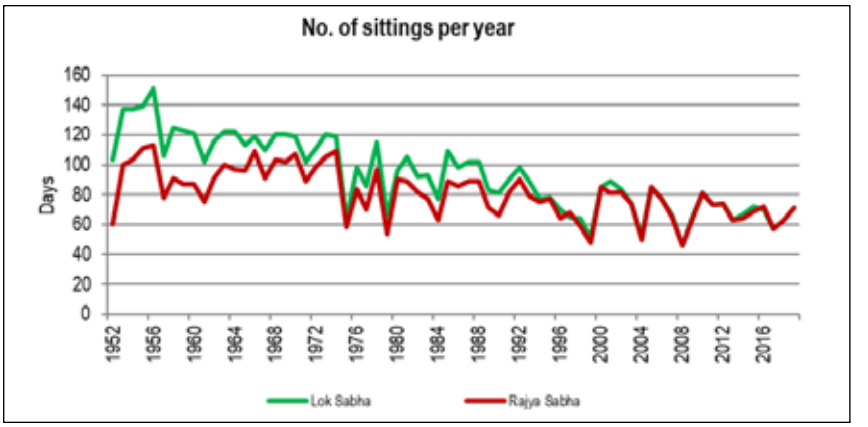

Figure 1. Number of sittings has declined over time

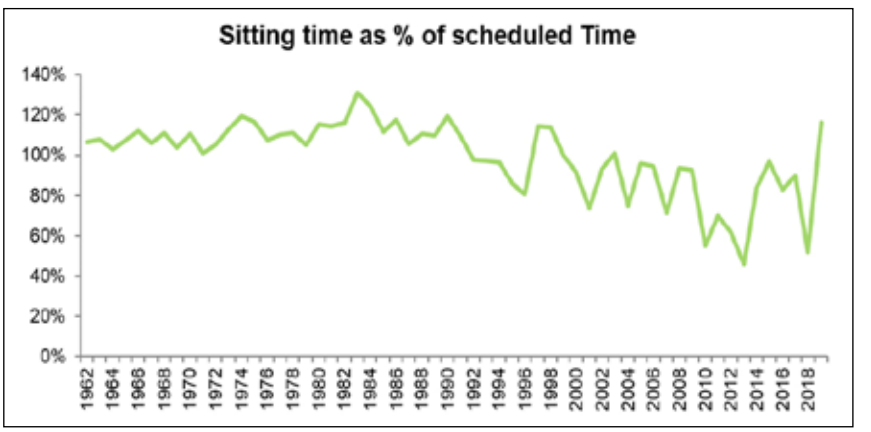

Figure 2. A significant amount of time of Lok Sabha is lost to disruptions

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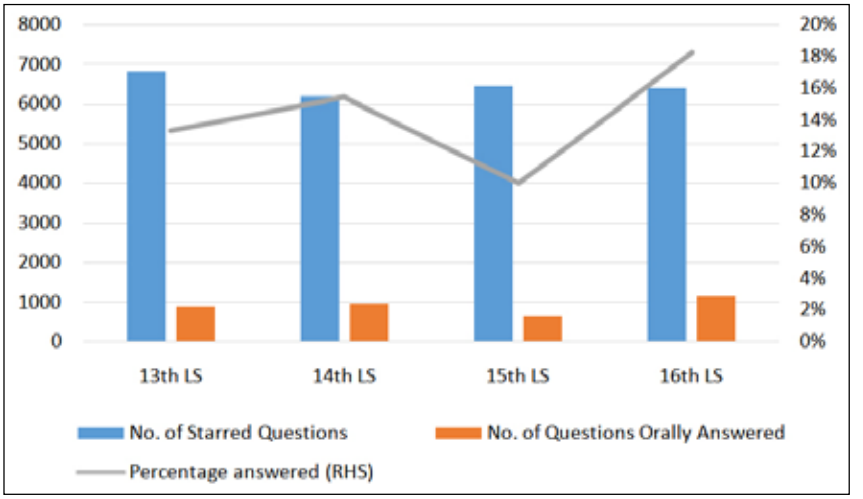

Figure 3. Only a seventh of the Starred Questions are orally answered

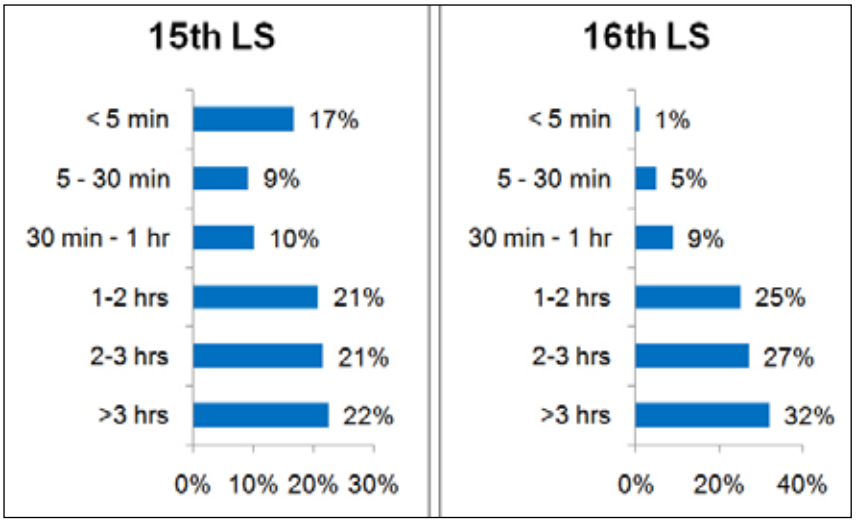

Figure 4. Many Bills are passed without much discussion

though the record has improved in the last five years (Figure 4).

Areas of Reform

There are some structural issues that need to be addressed to improve the effectiveness of Parliament. These include the repeal of the anti-defection law, recording all votes on bills and major debates, referring all bills to committees and strengthening the support system for committees.

The Anti-Defection Law

The Tenth Schedule of the Constitution was added in 1985 through the fifty second amendment. In brief, it provides for the disqualification of an MP if he defects from his party or if he does not vote in accordance with the whip issued by his party. Effectively, this gives control to the party leadership over the votes of all its members. Any member who disobeys the party diktat would lose his seat and there would be by-elections.

It is our contention that the anti-defection law goes against the very concept of representative democracy. It has weakened the role of Parliament as a body that scrutinises legislative proposals and that oversees the functioning of the executive.

As Burke explained in a famous speech, "Parliament is a deliberative assembly, and that the parliamentarian owed his constituents not his industry only, but his judgment"[1]. While introducing the draft Constitution, Ambedkar discussed the differences between the presidential form and the parliamentary form of government. He said that while the former provided greater stability, the latter provided more accountability, and that this was needed for a country like India. He explained that accountability was done on a daily basis through questions, resolutions, no-confidence motions, adjournment motions and debates on addresses.[2] That is, the key role of every member of the Parliament is to exercise their judgment, deliberate on issues, ask questions of the Government, and hold the Government to account.

The anti-defection law negates this principle. It reduces the role of the member to follow the instructions given by the party leader. If a party has a majority in Parliament, this implies

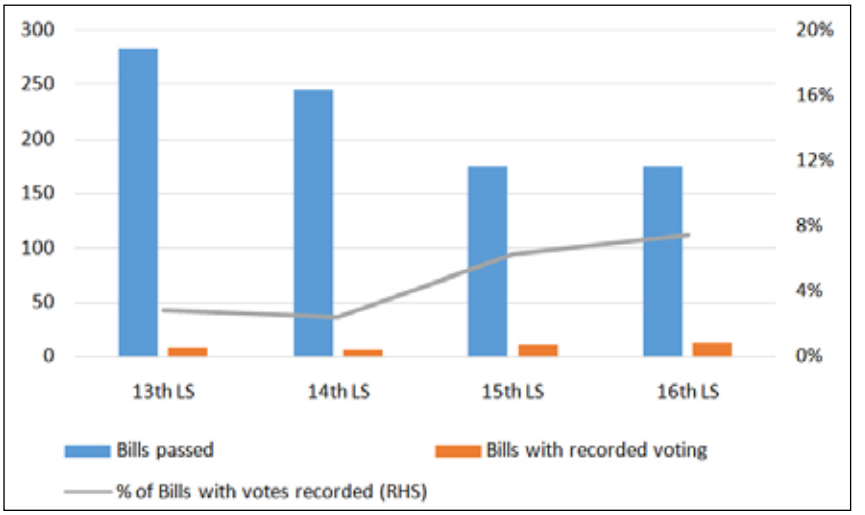

Figure 5. Less than 10% of Bills have recorded votes

that there is no effective discussion on or challenge to a Government bill or motion. As members have no freedom to vote as per their judgment, it takes away the incentive to invest time and resources in understanding the nuances of issues before making a decision. It effectively converts Parliament from a body that consists of thinking men and women to one controlled by a few party leaders.

In our representative system, every member of Parliament is elected by citizens from a constituency. The member is accountable to his constituents for his actions, and the periodic electoral process helps maintain this accountability. That is, the member has to justify his votes in the legislature to the citizens, who may express their displeasure by voting against him. This system of accountability breaks down with the anti-defection law as the representative can justify his actions—which may go against the interests of his constituency— by stating that he was following the party directions and had no choice in the matter.

Interestingly, the anti-defection law has had limited effect during no-confidence motions. The last significant such motion, when the government was at stake, was in 2008 after the left parties withdrew their support to the UPA Government. In that vote, 21 MPs voted across party lines. We have seen several instances in the recent past in states such as Karnataka, Uttarakhand and Arunachal Pradesh, where this provision has failed to maintain party discipline.

It therefore appears that the anti-defection law has weakened the power of Parliament to oversee the work of the executive. It has also reduced the accountability of the representative to citizens. And there have been many instances of Governments being brought down by defections. Therefore, it is time to revisit this provision in the Constitution and consider whether it should be repealed.

In our Parliament, most Bills and motions are passed by voice votes. That is, the Speaker asks the members supporting a motion to say "aye", and then those opposing to say "no", and then the chair judges which side has more voices. This implies that voters cannot question their MPs on their voting behaviour.

Recorded Voting

This brings us to the issue of accountability of MPs to their constituents. In democracies such as the United States or the United Kingdom, the voting records of legislators are easily available to citizens. Voters as well as the media question representatives on the position taken by them on various issues and require them to justify their choices. This information also feeds in to the voting choices of citizens at the time of elections. This process helps voters hold their representatives accountable for their actions.

In our Parliament, most Bills and motions are passed by voice votes. That is, the Speaker asks the members supporting a motion to say "aye", and then those opposing to say "no", and then he/she judges which side has more voices. The votes of individual members are recorded (called a division) only if any MP demands so. The exception is for bills that amend the Constitution. As a result, only a few bills or motions go through a division (Figure 5) shows the number of bills that recorded votes.

This implies that voters cannot question their MPs on their voting behaviour. The importance can be gleaned from some rare instances when votes were recorded. For example, there was a division when the Criminal Laws Amendment Bill was discussed in the aftermath of the Delhi gang rape incident of 2012 and Justice Verma Committee report. While there was unanimous support for the Bill among the members present in Lok Sabha, we know–thanks to the fact that the vote was recorded–that there were only 198 of the 545 MPs present in Lok Sabha during the vote.

Committee System

Given the vast amount of work and range of topics, it becomes difficult to examine all issues in detail in a house of over 500 members. Therefore, Parliament has constituted several committees, each

typically having 20-35 members, to scrutinise various issues and make recommendations to the full House. These include financial committees, departmentally related standing committees (DRSCs), and various other committees such as those looking at privileges and ethics, setting the daily agenda for the two Houses, and looking at subordinate legislation. It may be useful to understand some critical work that committees perform which would be tough to do in the full House. During the process of examination of any issue, committees often engage with experts and stakeholders to understand issues from different perspectives. This enables Parliament to access external expertise and also to understand the concerns of people who may be impacted by an issue or a bill. The committee system also enables MPs to negotiate across conflicting priorities and positions. This can be seen from the fact that most reports are given a unanimous vote, though there are a few instances of dissent notes by some members.

Financial Committees

There are three financial committees. The Public Accounts Committee (PAC) examines the reports of the Comptroller and Auditor General (CAG) on the working of various Ministries, considers the responses of the officials, and makes its recommendations. In this way, it helps ensure post-facto scrutiny of use of public funds. The Committee on Public Undertakings (CoPU) performs a similar role with respect to public sector enterprises. The Estimates Committee looks at whether funds were allocated efficiently for various priorities.

The PAC is chaired by a senior member of the opposition. In the period of the 16th Lok Sabha (2014-19), the committee submitted 137 reports containing 957 recommendations, 80% of which were accepted by the Government.

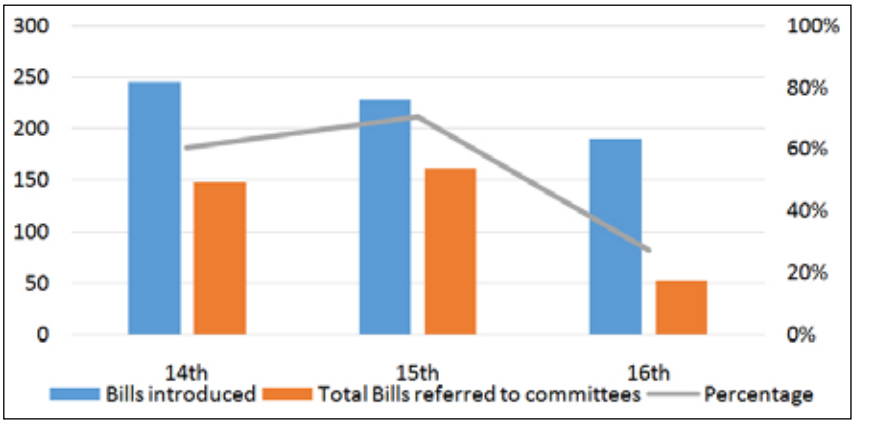

Figure 6. Fewer Bills being referred to Committees in recent years

Departmentally Related Standing Committees

The Parliament has constituted 24 such committees, each of which examines the functioning of a set of Ministries and departments. They examine bills that are referred to them, demand for grants of the departments, and various subjects that fall within the jurisdiction of the respective ministry (for example, the committee on home affairs may examine the working of CRPF). The reports of the committees are tabled in the House. The Government also responds to its recommendation and the final report is prepared.

All bills are not automatically referred to Committees (unlike the British Parliament where scrutiny by committee is a mandatory step in the process for all bills other than money bills). The decision is made by the Speaker of Lok Sabha or Chairman of Rajya Sabha in consultation with the Government. The percentage of bills referred to committees has declined in recent years (Figure 6).

Committee on Subordinate Legislation

While Parliament passes a bill into an Act, it often delegates details to be laid out by the Government through rules or statutory bodies through regulations. For example, the RBI Act allows RBI to determine the statutory liquidity ratio subject to a maximum level. The committee on subordinate legislation examines rules and regulations to ensure that they follow the legislative intent in letter and spirit.

There is a need to strengthen the working of parliamentary committees. They do not have expert research staff to assist the members. Often important bills are not referred to these committees; it may be time to revisit parliamentary processes to make this a mandatory step. The attendance of members is close to 50%, much thinner than the 80% plus in the House.

Conclusion

Parliament plays a central role in the Indian system of representative governance, affecting all aspects of lives of citizens. It has done a remarkable job for nearly seventy years, helping manage internal tensions of perhaps the most diverse set of people in any country. Many social reforms and economic progress have been led by Parliament. However, there are ways in which its effectiveness can be improved. These include revocation of the anti-defection law, making recorded voting mandatory and strengthening the committee system. ❑

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Constituent Assembly and Framing of the Constitution

The Constitution of India was drafted by a Constituent Assembly (set up under the Cabinet Mission Plan of 1946) between the years 1946 and 1949. Dr. Rajendra Prasad served as the President of this body.

299 members (including 15 women) of the Assembly took less than three years (1946-1949) to draft the Constitution.

The Constituent Assembly members met over 11 sessions between December 1946 and November 1949.

On 29 August 1947, the Constituent Assembly set up a Drafting Committee under the chairmanship of Dr. B.R. Ambedkar to prepare a draft Constitution.

> *"India drafted an inclusive Constitution under the leadership of respected Baba Saheb Ambedkarji. This inclusive Constitution is the harbinger of a resolve to build New India. It has brought with it some responsibilities for us and also set a few boundaries on us."*
>
> **Narendra Modi**
> Prime Minister

> *"Constitution is not a mere lawyers document, it is a vehicle of life and its spirit is always the spirit of age."*
>
> **Dr. B. R. Ambedkar**

Portrait of Dr. B. R. Ambedkar

Members of the Central Cabinet, signing the Constitution of India. Rajkumari Amrit Kaur, Dr. John Mathai and Sardar Vallabhbhai Patel are seen in the picture.

The Constitution of India was adopted on 26 November 1949. It came into effect on 26 January 1950. On that day, the assembly ceased to exist transforming itself into the provisional Parliament of India until a new Parliament was constituted in 1952. While deliberating upon the draft Constitution, the Assembly moved, discussed and disposed off 2473 amendments out of a total of 7635 amendments tabled.

Out of the 299 members, 284 members actually signed the Constitution.

The Constituent Assembly appointed a total of 13 committees to deal with different tasks of constitution-making. Out of these, eight were major committees and the others were minor committees.

Names of 8 major committees of the Constituent Assembly

- Drafting Committee
- Union Power Committee
- Union Constitution Committee
- Provincial Constitution Committee
- Advisory Committee on Fundamental Rights, Minorities and Tribal and Excluded Areas
- Rules of Procedure Committee
- States Committee
- Steering Committee

Sardar Vallabhbhai Patel at the Constituent Assembly at its final Session held on 24 January 1950

Constituent Assembly & its Prominent Members

Members of the Constituent Assembly were chosen through indirect elections by the Provincial Legislative Assemblies, as per recommendation of the Cabinet Mission. The Assembly had 299 members, with 229 representing the provinces and 70 representing states.

Some of the eminent members of the Assembly included:

Dr. Rajendra Prasad
Sardar Vallabhbhai Patel
Jawaharlal Nehru
Dr. B.R. Ambedkar
Govind Ballabh Pant
Maulana Abul Kalam Azad
Sarojini Naidu
Rajkumari Amrit Kaur
J.B. Kripalani
C. Rajagopalachari
Sarat Chandra Bose
Asaf Ali
Syama Prasad Mookerjee
Hansa Mehta
Gopinath Bordoloi
Harendra Coomar Mookerjee
Binodanand Jha
Durgabai Deshmukh
Frank Anthony
Jaipal Singh Munda
Hargovind Pant
John Mathai
Begum Aizaz Rasul
K.M. Munshi
Sarvepalli Radhakrishnan
Ammu Swaminadhan
M. Ananthasayanam Ayyangar
Alladi Krishnaswami Ayyar
B. Pattabbi Sitaramayya
T. Prakasam
N. Sanjeeva Reddi
S. Nijalingappa
G.V. Mavalankar
Padampat Singhania
Prurshottamadas Tandon
Sucheta Kripalani
Hasrat Mohani
Rafi Ahmad Kidwai
Anugrahnarayan Sinha
Jagjivan Ram
Sachchidananda Sinha
Satyanarayan Sinha
Sri Krishna Sinha
Seth Govind Das
Hari Singh Gour
Panjabrao S. Deshmukh
Ravi Shankar Shukla
Harekrushna Mahatab
Annie Mascarene
Jivraj Narayan Mehta
Moturi Satyanarayana
Deep Narayan Singh
Sir Syed Muhammad Saadulla
K Kamaraj
P Subbarayan

Source: www.doj.gov.in

The Constituent Assembly adopted the National Flag on 22 July 1947 & the National Anthem and National Song on 24 January 1950

Sh. Nand Lal Bose, a pioneer of modern Indian Art, designed the borders of every page of the Constitution and adorned it with art pieces.

Sh. Prem Behari Narain Raizada, a master of calligraphic art, singlehandedly handwrote the Constitution. It took him 6 months to complete the task and charged no money for the job.

Fundamental Duties – Significance & Addition

"I learnt my duties on my mother's lap. She was an unlettered village woman... She knew my dharma. Thus if from my childhood we learn what our dharma is and try to follow it our rights look after themselves... The beauty of it is that the very performance of a duty secures us our right. Rights cannot be divorced from duties. This is how satyagraha was born, for I was always striving to decide what my duty was."

Mahatama Gandhi on the importance of Fundamental Duties at a prayer meeting in Delhi on 28th June 1947

The key idea behind incorporation of the 11 fundamental duties in our Constitution was to emphasize the obligation of citizens in exchange for the comprehensive rights enjoyed by them.

Fundamental duties focus on key values of Respect, Pride, Tolerance, Peace, Growth and Harmony.

Introduced into the Constitution in 1976 by the 42nd Constitution Amendment Act, Fundamental Duties prescribe the fundamental, moral, and obligatory duties of citizens to the nation.

A committee constituted while recommending insertion of Fundamental Duties opined that steps needed to be taken to ensure that citizens did not overlook their duties while exercising their Fundamental Rights.

The 11th Fundamental Duty regarding education opportunities for children was added to the Constitution by the 86th AmendmentAct, 2002.

Inspiration on Fundamental Duties was derived from the Constitutions of USSR, Japan and China.

Our Fundamental Duties are a codification of duties integral to promoting the Indian way of life. They promote a sense of discipline and commitment towards the society.

Fundamental duties are intended to serve as a constant reminder to every citizen that while the Constitution specifically conferred on them certain Fundamental Rights, it also requires citizens to observe certain basic norms of democratic conduct and democratic behaviour because rights and duties are co-relative.

"Democracy is not merely a form of Government... It is essentially an attitude of respect and reverence towards our fellow men."

Dr. B. R. Ambedkar

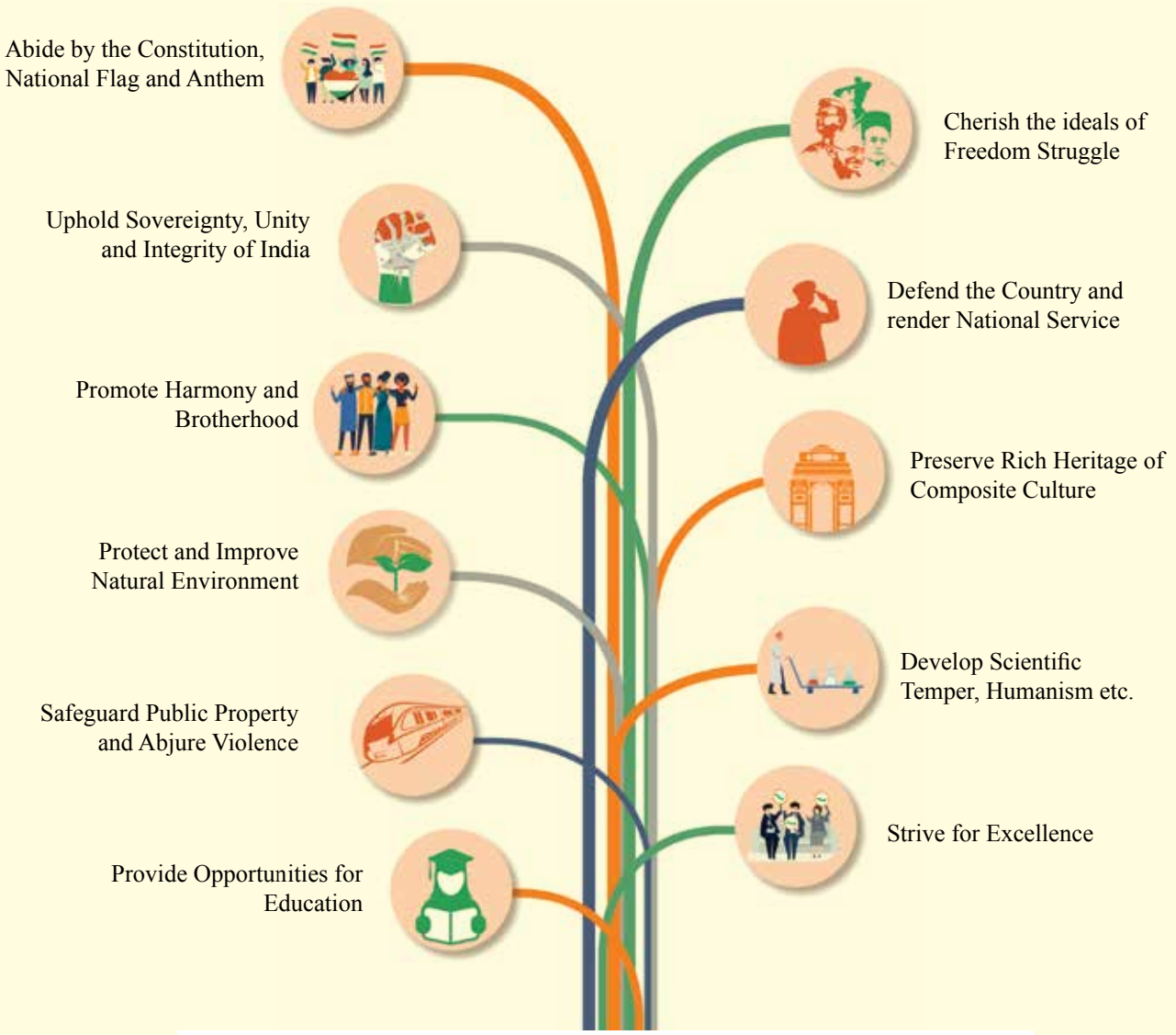
"Every Indian should now forget that he is a Rajput, a Sikh or a Jat. He must remember that he is an Indian and he has every right in his country but with certain duties."

Sardar Vallabhbhai Patel

Citizens' and Fundamental Duties can help realising our national goals only through active participation.

In October 1999, a committee headed by Justice Verma submitted a report on 'Suggestions to teach Fundamental Duties to the Citizens of the Country.'

The Eleven Duties enshrined in the Constitution [Part IV-A, Article 51A)



The addition of fundamental duties in our Constitution has aligned it with the Article 29(1) of the Universal Declaration of Human Rights.

> ***"The very right to live accrues to us only when we do the duty of citizenship of the world. From this one fundamental statement, perhaps it is easy enough to define the duties of man and woman, and correlate every right to some corresponding duty to be first performed. Every other right can be shown to be usurpation hardly worth fighting for..."***
>
> ***Mahatma Gandhi***

Fundamental Duties and Rights are two sides of the same coin.

Mahatma Gandhi has said that "the source of duty is right. If we discharge our duties, rights will not be far to seek".

Democracy cannot establish its deep roots in the society until and unless the citizens don't compliment their fundamental rights with their fundamental duties.

Every right carries with it a corresponding duty. Performance of one's citizen duty ensures the rights of others.

We are entitled to our rights when we perform our duties.

Source: www.doj.gov.in

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Panchayati Raj System

Dr M R Sreenivasa Murthy
Surabhi Singh

Gandhiji by virtue of his long and varied experience in the working of the State system in Europe, Africa and Asia, always argued for four-tier system of governance i.e., Center, State, District and Village level administration. His idea of Panchayat Raj was to raise village as an important unit of democracy. He wanted a bottom-up approach of governance, i.e., village to central level governance.

Constituent Assembly and Panchayati Raj

The Constituent Assembly preferred two-tier system of governance. In December 1946, when the resolution was presented on the aims and objectives of the India's Constitution before the Constituent Assembly, there was no specific reference to the villages and their governance.

Dr.B.R.Ambedkar, who had favoured the provincialism, expressed his opinion during a Constituent Assembly meeting. According to him, village republics in India are dominant by casteism and localism. Reforming Indian villages and bringing social development at the grassroots level requires a lot of time and effort. India's resources at the time of independence to be spent on developing global status of India and to solve the national problems such as providing food, shelter and clothing, health etc., of the public, rather than strengthening and reengineering the villages.

Pre-Constitution (73rd Amendment) Act, 1993

After independence and adoption of the Constitution of India, Community Development projects were inaugurated in 1952 in line with the experiments at Santiniketan, Vadodara and Nilokheri. In 1957, Balwant Rai Mehta Committee was constituted, which submitted the report stating that, 'Public participation in community works should be organised through statutory representative bodies, such as agencies at the village level which can represent the entire community, assume responsibility and provide leadership in the rural development programmes of the government.

National Development Council was established on the basis of the principle of democratic decentralisation, which spread the word 'Panchayati Raj' into the main frame of discussion about the rural development. First three-tier Panchayati Raj system was inaugurated on 2 October,

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1959 in Nagaur, Rajasthan.

The Jayaprakash Narayan Committee further strengthened the idea of Panchayati Raj and the Ministry of Community Development was brought under the Ministry of Food and Agriculture in 1971 and the word 'Community Development' was replaced with the 'Rural Development'.

The Ashok Mehta Committee, 1978 is the one which recommended for introducing the Panchayati Raj as a Constitutional institution through an amendment. In spirit of Mehta Committee, the States including West Bengal, Karnataka and Andhra Pradesh brought in new initiatives by reviewing their local bodies by entrusting more powers and finances. The West Bengal Panchayat Act, 1973 brought direct elections at regular intervals as a compulsory provision, and deleted the discretionary power of the State in postponing the elections. The Act further provided the financial powers to the third tier of the governance, such as tax collection, non-tax revenues etc.

64th Amendment Bill

The 64th Amendment Bill was introduced stating that, "Panchayat Raj is an important facet of democracy and its constitutional protection is must for their functioning as representative institutions of the people". Later, the 64th Amendment Bill was followed by 65th Amendment Bill that sought to endow urban local bodies in similar lines of Panchayat Raj. Though both the bills received the required constitutional majority, the bills failed to take the shape of amendment legislation.

The digitalisation process of Gram Panchayats brought in transparency and good governance principles into the Panchayati Raj system. Ombudsman, Social Audit, Model Accounting System, Panchayat Performance Assessment initiatives were introduced to develop discipline and progress within the institution.

Constitution (73rd Amendment) Act, 1993

Though India did not ignore the importance of the Panchayat Raj system and strengthening of the villages, the focus of the Indian government in the first fifty years was on national development. In the year 1992-93, 73rd and the 74th amendments were brought into the Indian Constitution which recognised local self-governance as the third stratum of government.

The statement of objects and reasons of the 73rd Amendment, 1992 the Parliament recognised the existence of Panchayat Raj Institution in India as a social institution and aimed to provide it the constitutional status by introducing relevant provisions into the Constitution. Article 40 of the Constitution which is part of Directive Principles of State Policy states that, 'State shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government.' Recognising that Panchayat Raj Institution in India should be granted certainty, continuity and strength for acquiring the national development, Part IX was introduced which consists of the provisions relating to Panchayats.

Objectives of 73rd Amendment Act, 1993

The 73rd Amendment Act introduced direct elections for Panchayats, reservation of seats for the SCs and STs in proportion to their population for membership of Panchayats and office of Chairpersons; reservation of not less than one-third of the seats for women; fixed tenure of five years for Panchayats and holding of elections within a period of six months on the eve of suppression of any Panchayats, disqualification of membership of Panchayat, devolution of the State Legislature's powers over Panchayats with respect of economic development and social justice, created financial powers for the Panchayats through grants-in-aid from the consolidated fund of State, assignment to Panchayats by State or appropriation of revenues by Panchayats of designated taxes, duties, tolls and fee, setting of finance commission etc.

Post 73rd Amendment

After 73rd Amendment, Nagaur district of Rajasthan followed by Andhra Pradesh conducted the first elections for Panchayat Raj.

The incorporation of Panchayat Raj system into the constitutional framework brought the disadvantages section of population into the mainstream social and political empowerment through 2.4 lakh Panchayats and 2.8 million elected representatives, among them over 30% were women, 19% were SC, 12% were ST and also OBCs in proportion to the population in the most States.

The digitalisation process of Gram Panchayats brought in transparency and good governance principles into the

Panchayati Raj

The statement of objects and reasons of the 73rd Amendment, 1992 the Parliament recognised the existence of Panchayat Raj Institution in India as a social institution and aimed to provide it the constitutional status by introducing relevant provisions into the Constitution.

Panchayati Raj system. Ombudsman, Social Audit, Model Accounting System, Panchayat Performance Assessment initiatives were introduced to develop discipline and progress within the institution.

Policies such as Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) were introduced which mandates Panchayats as the planning and implementing agency. Backward Region Grant Fund (BRGF) has been introduced as a financial backup for the Panchayats for promoting decentralisation, bridging critical gaps in the development and implementation of schemes and to build capacity of the Panchayats.

The 13th Central Finance Commission award has brought radical changes in the Panchayat Raj System by devolving a share of the divisible tax pool for panchayats, by granting them defacto recognition as third tier of governance.

Way forward

Despite the progress the Panchayati Raj system made in last 17 years, since 1993, there are many agendas, which are yet to be implemented for achieving full Swaraj as desired by Mahatma Gandhi:

- Providing sufficient staff, office space and infrastructure.
- Allocating funds sufficient for carrying out the objectives of the Panchayati Raj Institutions.
- Removing the word 'Discretion' [Article 243G] and 'creating mandatory obligation upon the States for devolution of 3Fs.
- Implementing the Provisions of the Panchayats (Extension to Scheduled Areas) Act (PESA) to address the demands of the tribal population living in rural areas.
- Urgent need of the effective functioning of the State Finance Commission with a priority of sustenance of PRIs.
- Special focus to be laid down on North Eastern States, 6th Schedule Areas.
- Focusing more on the effective functioning of Gram Sabhas. ❑

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Checks and Balances

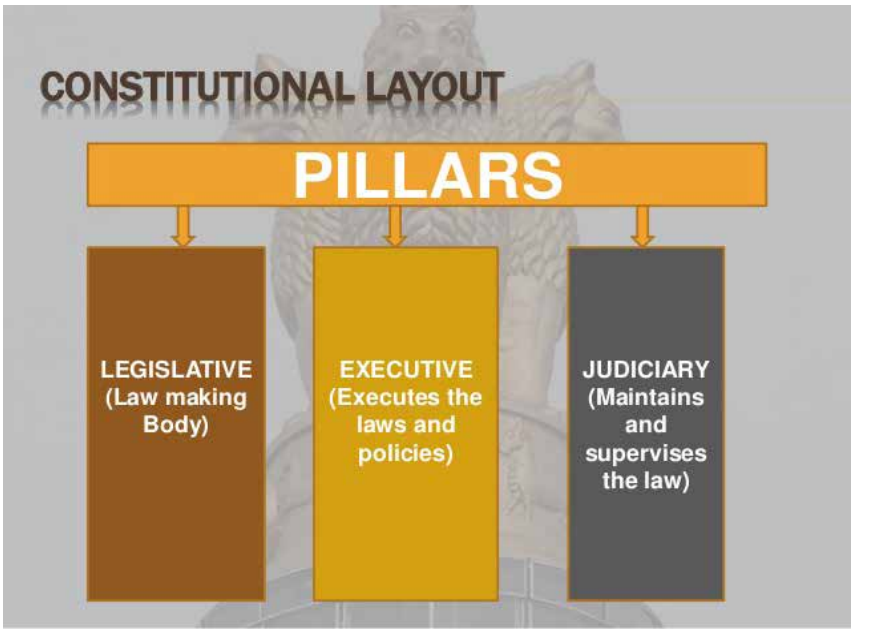
S N Tripathi
C Sheela Reddy

The Constitution's main purpose is not merely to confer powers on the various organs of the government, but also to restrain those powers. Constitutionalism envisages checks and balances and puts the powers of the legislature, executive and judiciary under restraint. The very essence of constitutionalism is that no organ of the state may arrogate powers to itself, beyond what is specified in the Constitution.

The Constitution of any democratic country seeks to establish the fundamental organs of the government with well-defined duties and specific powers, making them answerable to the people. Accountability is ensured through periodic elections and internal checks and balances. Checks and balances within governmental institutions are necessary to constrain the government from abusing its power. In the words of Lord Acton, "power corrupts and absolute power tends to corrupt absolutely". Aristotle strongly believed that a good government has to be a limited one. The doctrine of separation of powers propounded by the French thinker, Montesquieu, to maintain checks and balances, became the guiding principle of the constitutions of modern democratic states. The separation of powers may not mean equal balance of powers, but it definitely acts as a check on one another.

The Spirit of Constitutionalism

The areas of governance generally have been classified into the legislative (enactment of laws), the executive (enforcement of laws); and the judicial or the resolution of disputes relating to the enactment, enforcement, and application of laws. The Constitution's main purpose is not merely to confer powers on the various organs of the government, but also to restrain those powers. Constitutionalism envisages checks and balances and puts the powers of the legislature, executive and judiciary under restraint. The very essence of constitutionalism is that no organ of the state may arrogate powers to itself, beyond what is specified in the Constitution. As observed by K. G. Balakrishnan, former Chief Justice of India, "the Constitution lays down the structure and defines the limits and demarcates the role and functions of every organ of the State including the judiciary and establishes norms for their interrelationships, checks and balances."



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The Indian Constitution provides a third and distinct model of separation of powers. The other two commonly followed models include - the American Constitution with a rigid separation of powers among the three organs, giving judiciary a unique position and the Constitution of UK (Westminster model) with a loose separation based on the principle of supremacy of the Parliament. In India, the Constitution is the ultimate sovereign and if anything goes beyond the provisions of the Constitution, it will automatically be considered as null, void and unconstitutional. There is a consciousness among the organs of the government that their powers are not unconditional and permanent.

Functional Overlap: Legislature and Executive

India resorted to parliamentary form of government as opposed to presidential form of government. However, the Indian Parliament is not supreme as the British Parliament. In UK, Parliament is given immense power to amend, repeal or modify the Constitution but in India there is difference between statutory law and constitutional law. Special provisions are incorporated in the Constitution to make amendments as per Article 368. However, the Supreme Court in *Kesavananda Bharati v. The State of Kerala* (1973) held that any amendment tampering with the basic features of the Constitution will be struck down as unconstitutional. In India, Parliament derives its mandate from the Constitution and has no unfettered or arbitrary jurisdiction to override the Constitution.

The Indian Constitution does not strictly follow the principle of separation of powers. The executive is part of the legislature and is responsible to it. Functionally, the President's or the Governor's assent is required at the centre and states respectively for all legislations.

The President (Article 123) or the Governor (Article 213) has the power of making ordinances when both houses of the legislature are not in session, which has the same status as that of a law of the legislature. The instances where governance by ordinance has been resorted to by the executive as a means of bypassing the normal process of legislation cannot be ruled out.

Article 311 allows the executive to hold an enquiry into charges against any person holding a civil post under the Union or the State and to award punishment. The President or the Governor has the power to grant pardon or modify the punishment of a convicted person. The legislature performs judicial function as Parliament can punish members as well as outsiders for breach of its privileges or its contempt by reprimand, admonition or imprisonment (also suspension or expulsion in case of members). Executive is dependent on the legislature while it performs some legislative functions in the form of subordinate legislation. The legislature which controls the executive and can even remove it, also performs some executive functions such as those required for maintaining order in the House.

The Forty-second Amendment (1976) introduced Articles 323A and 323B which authorise Parliament and the state legislatures, respectively, to create tribunals to which the power of adjudication of disputes on various subjects can be transferred. The jurisdiction of the courts is excluded in respect of those subjects. The Articles also made it possible to totally exclude the powers of judicial review under Articles 32 and 226 and vest such powers in tribunals legislatively. The Parliament has the right to legislate on the constitution, organisation, jurisdiction and powers of the Supreme Court and High Courts. The power of impeachment of judges is reserved to Parliament although it ultimately depends on parliamentary majority to determine the outcome of the procedure. The functional overlap prevailing under the Indian Constitution also allows the executive to perform key legislative and judicial functions. Under the Constitution, it is supposedly left to the President to decide the number of judges to be appointed to High Courts as well as to decide finally who is to be appointed as a judge, whether of the Supreme Court or the High Court. Perhaps, the most unusual form of legislative powers granted under the Constitution to the executive are listed under emergency provisions (Articles 352, 356 and 360).

The Role of Judiciary

The judiciary with its power to judicial review takes a call on the acts of omission and commission of the legislature and executive, in the context of the constitutional provisions and the well-established principles of the rule of law, based on the concept of 'fairness'. This exclusive authority bestows judiciary with greater responsibility to be more careful and cautious while exercising

its power of judicial review. It has to honor and not breach the avowed principle of separation of powers.

The application of judicial review to determine constitutionality of the legislation and to review the executive decision sometimes creates conflict among the three pillars of democracy. However, the Constitution speaks through the Supreme Court which sits in judgment over the constitutional validity of laws enacted by the Parliament. The decision of the court further legitimises or stigmatises the law or any other decision of the legislature or the executive. Article 32 of the Constitution makes it the guardian of the inviolable fundamental rights guaranteed to citizens for the protection of which it can issue writs. Even High Courts enjoy this power under Article 226 for the protection of not only fundamental rights but also other legal rights. Article 141 provides that the law declared by the Supreme Court shall be binding on all courts of India. Under Article 142, it may pass such decree or make such order as is necessary for providing complete justice in any cause or matter pending before it, and Article 144 mandates that all authorities, civil and judicial, shall work in the aid of the Supreme Court. These three Articles make the Supreme Court, the most powerful institution of the country. This imposes restrictions on the constituent power of Parliament that the basic structure of the Constitution is not amendable. A nine-judge Constitution bench of the Apex Court, with a majority of six, ruled that presidential satisfaction for dismissing state governments is judicially reviewable. In 2006, the dissolution of the Bihar Assembly was declared as unconstitutional. The Supreme Court went to the extent of ruling that even the President's or the Governor's decision in cases of pardon of convicts sentenced to death would be subject to the judicial review.

Specific Cases and Interpretation

Though there is a broad agreement on principles of separation of powers, in practice, from time to time, a dispute arises whether one organ of the State has exceeded the boundaries assigned to it under the Constitution. This was the case in 1973 in *Kesavananda Bharati v. State of Kerala*, when the power of the legislature to amend the Constitution was considered by the Supreme Court. The Court confirmed that 'basic structure' of the Constitution was an unalterable feature of Indian Constitution which could not be amended even by an Act of Parliament. In 1975, however, this view was challenged by the then government before a special bench of the Supreme Court. It is pertinent to refer to the case of *Indira Gandhi v. Raj Narain*, which was a landmark judgment for many reasons. Former Prime Minister Indira Gandhi's election to the Lok Sabha had been held invalid by the Allahabad High Court on the ground that she had used corrupt practices as defined under Section 8A of the Representation of the People Act 1951. She had appealed to the Supreme Court which stayed the Allahabad High Court's decision subject to certain conditions. The Parliament passed the Constitution (Thirty-ninth Amendment) Act 1975, while the appeal was pending. This provided that no election of a person to either House of Parliament, who held the office of the Prime Minister, at the time of such election or was appointed Prime Minister after such election, shall be called in question, except before such an authority or body and in such manner as might be provided for, by or under any law made by Parliament. It was argued that the Parliament was supreme and represented the sovereign will of the people. As such, if the people's representatives in Parliament decided to change a particular law to curb individual freedom or limit the scope of judicial scrutiny, the judiciary had no right to question whether it was constitutional or not. However, the Supreme Court held that the provisions of the above amendment violated the 'basic structure' of the Constitution. The main ground was that the legislature could not decide a dispute in accordance with the legislative procedure and that such a function must be performed by a judicial body in a judicial manner. A constitutional amendment was a legislative instrument and any exercise of judicial power by it was *ultra vires* the legislative power. It was the first time in the history of independent India that a Prime Minister's election was set aside, a constitutional amendment was struck down by applying the doctrine of 'basic structure' and election laws were amended retrospectively to validate the nullified election of the Prime Minister. The persuasive legal argument of Mr. Palkhivala, the then Chief Justice of India upheld the 'basic structure' doctrine and it was re-affirmed as an inalienable feature of our Constitution.

In the words of Lord Acton, "power corrupts and absolute power tends to corrupt absolutely". Aristotle strongly believed that a good government has to be a limited one. The doctrine of separation of powers propounded by the French thinker, Montesquieu, to maintain checks and balances, became the guiding principle of the constitutions of modern democratic states. The separation of powers may not mean equal balance of powers, but it definitely acts as a check on one another.

The verdict of the Supreme Court on the 99th Constitution Amendment Act and the National Judicial Appointments Commission (NJAC), declaring them to be *ultra vires* the Constitution is another glaring example when any parliamentary Act is overturned as unconstitutional on the principle of judicial review. The recent judgment of the Supreme Court on the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act 1989 and the populist response of the Parliament in enacting Section 18A in the said Act virtually circumvented the diktat of the judgment passed by the Supreme Court. These are the challenges to judicial review and a concern for contemplation of constitutional experts.

Judicial Activism V Overreach

The gaps left by the legislature in matters of legislation or by the executive in the matter of executive governance are expected to be filled by the judiciary. Judiciary may get activated by the people (Public Interest Litigation) or by its own (*suo motu*). Judicial activism is a judicial response to a situation warranting immediate remedial measures. It is an affirmative concept that has to be marked by promptitude, diligence and consistency. In recent decades, the judiciary has been frequently charged with overstepping (judicial overreach) into the arenas of other wings by interpreting laws in a particular way. The matter came to such a pass that on 3 December, 2007, the Lok Sabha witnessed a stormy debate on the issue, under Rule 193 of the Rules of Procedure and Conduct of Business in Lok Sabha, where members across party lines were vociferous in their criticism of the judiciary for its alleged interference with the functioning of the legislature and the executive. The courts often try to frame laws not by interpreting the existing laws but by directing the State to formulate and implement policies which are required to be in conformity and in consonance with the views of the particular court or courts. Contrary to this, the judiciary also feels that the government tries to control it. The matter got aggravated when, on 23 August 2005, the Supreme Court, angered by suggestions to keep off emotive political matters like reservation in private professional institutions, handed a rare public rebuke to the government. The then Attorney General went to the extent of remarking that, 'Tell us, we will wind up the courts and then do whatever you want.'

However, in the name of upholding the rule of law and the independence of the judiciary, some judgments of the Apex Court clearly breach the boundary line usurping the role assigned to others. It is on this ground that the Apex Court gave directions which have the force of law. It laid down principles and norms to be followed in adoption of Indian children by foreigners and procedure to be followed for allowing passive euthanasia. The Supreme Court acknowledging legislative vacuum in *Vishakha vs State of Rajasthan* showed its concern for women safety and laid down guidelines for protection of women from sexual harassment at workplace.

Similarly, in *D. K. Basu V. State of West Bengal*, the Supreme Court gave detailed guidelines to be observed while making arrests, defined the arrestee's rights including the right against torture. Further, it ruled that if there is a legislative vacuum, the executive should fill it, and if it does not do, the judiciary should do so. However, it contradicts the principle enunciated in *D. C. Wadhwa v. State of Bihar* that, ordinances cannot replace legislations though the executive was filling a legislative vacuum. The Bihar legislature abdicated its role of law-making and the state was being ruled by ordinances which were re-promulgated regularly. The Court directed the Union government to create an All-India Judicial Service so as to bring about uniformity in the services of the subordinate judiciary throughout the country. The court is not competent to do this as it is in contravention of Article 312 under which Parliament alone has the power to create All-India Services by law.

Special Powers of the Supreme Court

The Constitution of India confers through Article 142 on Supreme Court, a special power to do complete justice. The Supreme Court in 2G Spectrum scam passed an order that no court shall impede the investigation being carried out by the Central Bureau of Investigation and Directorate of Enforcement. Despite the order, the writ petitions were filed

before Delhi High Court. The Supreme Court order held that public interest demanded a timely resolution of 2G Spectrum case and hence the order directing that only Supreme Court is competent to consider the petitions of the accused was held to be valid. A similar court monitored investigation was also undertaken in the Coal Blocks case. A direction was issued that any prayer for stay or impeding the progress in the investigation/ trial can be made only before the Supreme Court and no other court shall entertain the same. In fact, the entire environmental jurisprudence in India evolved through the invocation of Article 142 by the Supreme Court. The Apex Court not only saved the marbles of Taj Mahal from yellowing due to sulphur fumes from the surrounding industries but provided relief to the aggrieved and affected people in many cases. The Supreme Court interventions were appreciated when a five bench judge headed by Venkatachaliah, former Chief Justice of India awarded compensation in Bhopal gas leak tragedy, well beyond the limits created by the statutory provisions. The Apex Court armoured with the weapon of Article 142 has come out proactively to dispense justice to those who are deprived of it due to various social, educational and economic backgrounds. It has played a pivotal role in the evolution of judicial system in India by becoming the voice of the poor and voiceless.

Good governance necessitates balance among the three pillars of government - executive, legislature and judiciary with effective checks over one another. As stressed upon by Prime Minister, "They are members of the same family...We do not have to prove anyone right or wrong. We know our strengths, we know our weaknesses." The three wings need to brainstorm on how to move forward in the changed scenario to realise the agenda of *Sabka Saath, Sabka Vikas, Sabka Vishwas* (together with all, development for all, the trust of all) through the mantra of *Minimum Government and Maximum Governance*. This reinforces the spirit of inclusiveness as enunciated by Mahatma Gandhi, "I understand democracy as something that gives the weak the same chance as the strong." This would also realise the Constitutional vision of Dr. Ambedkar which upholds the principles of rule of law, equality of opportunity to ensure every citizen, the value and dignity he deserves.

Conclusion

The Indian Constitution has not indeed recognised the doctrine of separation of powers in its absolute rigidity but the functions of the different parts or branches of the government have been sufficiently differentiated. Every organ of the government is required to perform all the three types of functions namely, the legislative, executive and judicial. Further, each organ in some respects is dependent on the other organs which keep a check and balance it. This does not mean that the principle of separation of powers is together discarded. The principle that one organ should not perform functions; which essentially belong to the other, is followed except where the Constitution has vested power in a body, as for example, the ordinance making power vested in the President or the Governor.

Good governance necessitates balance among the three pillars of government - executive, legislature and judiciary with effective checks over one another. The judiciary with its power to judicial review takes a call on the acts of omission and commission of the legislature and executive, in the context of the constitutional provisions and the well-established principles of the rule of law, based on the concept of 'fairness'. This exclusive authority bestows judiciary with greater responsibility.

The judiciary, legislature and executive are the three pillars on which the effective functioning of the Government rests. A balance as opposed to conflicts is very necessary to achieve the ultimate public welfare and smooth functioning of the constitutional machinery. India maintains the supremacy of the Constitution, where the powers of the Parliament are circumscribed within the limits set by the Constitution. The question is not of parliamentary supremacy or judicial supremacy, rather the question is of striking the balance among various pillars without any encroachment on each other's area and providing effective governance to nurture and strengthen democratic set up, where the public interests are consciously upheld and considered paramount. ❑

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Foreign Relations and Indian Constitution

Manoj Kumar Sinha

The Constitution of India lays down clearly the bases on which foreign policy should be framed and respected. The basic thrust of Article 51 is to maintain international peace and security, international relations and international obligations, matters which, under the Indian Constitution, fall exclusively within the domain of the Union.

Globalisation has resulted in the widening and deepening of systemic interdependencies amongst nations and that's why today no country in the world can afford to ignore the basic tenets of international law.[1] Globalisation cannot be divorced from rapid advancements in the field of technology and communication which in turn has led to shrinking of the global space. However, the ideal of just world order will not be realised without adherence to international rule of law. This goal necessitates finding common approaches to counter problems of terrorism, human rights, environmental degradation, international trade and utilisation of natural resources beyond national jurisdictions. Thus, in the 21st century the importance of international law has increased manifolds. No State can shield itself from the rest of the world whether it be in the matter of foreign relations, trade, environment, communications, ecology or finance. The sovereign States are actively participating in international negotiations for framing of treaties at international, regional and sub-regional levels. Fortunately, India plays a pivotal role in the treaty-making process and ensuring that the concerns of poor and developing nations are protected. The western hegemony in development and codification of international law is gradually diminishing and such developments owed much to the active participation of the States from Asia, Africa and other continents. India has been an ardent supporter of the United Nations since the inception of this institution and places tremendous faith in it.

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Constitution and International Relations

The assertion of Euro centricity of international law by Western scholars has become commonplace in academic narratives. However, in reality the roots of international law can be traced far back in ancient India,[2] and also in other ancient civilizations. Respect for the dignity of an individual and striving for peace and harmony in society has been an abiding factor in Indian culture. The Indian culture has been the product of assimilation of diverse cultures and religions.[3] The spirit of unity and universality in our tradition extends to the whole world. It is said in the Rig Veda, "there is one race of human beings" and the validity of different traditions, religions, indeed of paths to Truth, has always been respected. Our guiding principle has been "*Sarva Dharma Samman*". In ancient India, there were elaborate provisions for social services such as education, public health, insurance against unemployment, old age, widowhood, orphanage and elimination of poverty. It was believed that it was necessary for the King representing the State and its resources to encourage learning, to care for the blind, the decrepit, the old and the widowed and to give employment to those who were unemployed.

The Indian Constitution provides certain rights for individuals in Part III of the Constitution, which are known as the 'fundamental rights'. The word 'fundamental' means that these rights are inherent in all the human beings and essential for the individual. These rights represent the basic value of a civilised society and the Constitution makers declared that they should be accorded high place in the Constitution. These rights are aimed at protecting the dignity of the individual and creating conditions in which every human being can develop his personality to the fullest possible extent. No law, ordinance, custom, usage or administrative order can abridge or take away one's fundamental rights. Such is the degree of entrenchment of fundamental rights in the Constitution of India. Moreover, it has now become a settled position in India that these fundamental rights conferred by the Constitution of India can't be waived by the individuals.[4] The Constitution of India lays down clearly the bases on which foreign policy should be framed and respected.[5] The basic thrust of Article 51 is to maintain international peace and security, international relations and international obligations, matters which, under the Indian Constitution, fall exclusively within the domain of the Union.[6] Under the Constitution, the constituent units of the Indian Union do not enjoy any international standing[7]. Although this article falls in the Part IV of the Constitution which is non-justiciable, nonetheless, it occupies an important position in the determination of foreign policy in India.[8] The members of the Constituent Assembly acknowledged that declaration of India's pledge to promote international peace and security was necessary. It was felt by the members that in absence of international peace and security, there could be no peace and economic and social progress in the country. This article requires India to maintain friendly relations with other nations. The roots of Article 51(d) which stipulates that the State shall endeavor to encouragement of international disputes by arbitration can be traced to the philosophy of non-violence which emphasises the use of non-violence approach for the solution of both national and international problems. In reality, Article 51(c) does not deal with the enforcement of treaties, it only obligates the State to foster respect for "international law and treaty obligations" in inter-state relations. It does not specify that international treaties or agreements entered into by India shall have the force of municipal law without

Respect for the dignity of an individual and striving for peace and harmony in society has been an abiding factor in Indian culture. The members of the Constituent Assembly acknowledged that declaration of India's pledge to promote international peace and security was necessary. It was felt by the members that in absence of international peace and security, there could be no peace and economic and social progress in the country.

appropriate legislation undertaken under Article 253 which declares,

"Notwithstanding anything in the foregoing provisions of this Chapter, Parliament has power to make any law for the whole or any part of the territory of India for implementing any treaty agreement or convention with any other country or countries or any decision made at any international conference, association or other body".

Article 253 could be regarded as articulating a "transformation doctrine" essentially a positivisist-dualist position.[9] This Article is in conformity with the objectives as declared by Article 51(c), i.e., treaty making, implementation of treaties.. The treaties are not self-executing in India and to make a treaty enforceable in the court, the Parliament has to adopt legislation under the Article 253 of the Constitution.[10] Article 246 effects a distribution of legislative power between the Union and the States. Article 246(1) states, "… Parliament has exclusive power to make laws with respect to any of the matters enumerated in List I in the Seventh Schedule (in the "Union List")[11]."

Indian Judiciary and International Law

Article 51(c) does not deviate from the well-established principle that every State is bound by the principles of international law. Technically speaking, obligations arising from treaties are not judicially enforceable in India unless backed by legislation. Nevertheless, a number of judgments have shown that there is no need to incorporate a treaty into law if its implementation is possible at the administrative level and without legislative endorsement. A close analysis of case laws from the Supreme Court seems to favour doctrine of incorporation.

Interestingly, the provisions of the international treaties were invoked in Courts for the purpose of interpreting the domestic law. The Supreme Court of India over the years has greatly liberalised the rigours of *locus standi* of individuals to institute legal proceedings. The Supreme Court of India and the High Courts ensured the effective implementation of human rights through a liberalised review of administrative action[12]. Such liberalisation had led to the spurt of public interest litigation and emergence of new forms of jurisdiction in such matters such as epistolary jurisdiction wherein the courts act even on the basis of postcards or telegrams received from individuals or of stories or reports published in magazines or newspapers, and the provision of compulsory legal aid to the needy. The Indian judiciary has also made an important contribution to the safeguarding of other major areas of human rights, including the right to life and personal liberty, freedom of expression and speech and the protection of minorities.[13]

The Supreme Court has time and again made it clear that the rules of international law must be incorporated into the national law, even without legislation, provided they do not conflict with acts of Parliament. When they did conflict, the sovereignty and integrity of the Republic and the supremacy of the constituted legislatures in making the laws could not be subjected to external rules.[14] The adoption by the Supreme Court of the doctrine of incorporation also covered states of the Union so that the Covenant could be implemented throughout the entire country provided there was no conflict with the domestic law. However, Parliament retained the ultimate jurisdiction over international law. In *Vishaka and others v. State of Rajasthan*[15], the Indian Supreme Court appeared to have moved from transformation doctrine to incorporation doctrine. The court was concerned in that case with the protection to be afforded to working women from sexual harassment at workplace so as to make their fundamental rights meaningful. Relying upon Articles 14,15,19(1)(g) of the Constitution, the court observed that "any international convention not inconsistent with the fundamental rights and in harmony with this spirit must be read into these provisions to enlarge the meaning and content thereof to promote the object of the constitutional guarantee"[16].

Human rights jurisprudence in India has reached a stage where one could easily say that the Indian Constitution recognises the fundamental right to human dignity. The fundamental right to human dignity directly flows from Article 21 of the Indian Constitution. Before *Maneka Gandhi v. Union of India*, a very narrow and contrite meaning to the fundamental right embodied in Article 21 was given. But the *Maneka Gandhi* decision gave a new direction to human rights jurisprudence. It laid down that not merely should there be procedure established by law, but the procedure itself must also be *reasonable*, *fair* and *just*, otherwise the law would be violative of Article 21. Through its various judgments, the Supreme Court rationalised the needed human rights into justiciable fundamental rights. The Court has enriched and enlarged the right of access to justice through public interest litigation, transformed the distant Supreme Court into a poor man's Court *via* innovations such as epistolary jurisdiction. Remarkable advances have been made in the field of human rights by the Supreme Court. The main emphasis has been on making basic civil and political rights meaningful for the large masses of people who are living a life of poverty and destitution to whom these basic human rights have so far no meaning or significance because of constant and continuous deprivation and exploitation.

Conclusion

The Indian constitutional system is based on a strong commitment to democratic values including human rights. Today, the judiciary is very active in promoting and protecting human rights. It is pertinent to highlight that these principles had evolved gradually during India's struggle for freedom, and in the articulation and elaboration of the foreign policy of India. Article 51 of the Constitution brought good name and respect for the country by the international community and also helped in strengthening to espouse the causes of developing nations before international organisations. ❑

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    a) Participation in international conferences, Associations and other bodies and implementing of decisions made threat.

    b) Entering into treaties and agreements with foreign countries and implementing of treaties, agreements and conventions with foreign countries.

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Rashtriya Kishor Swasthya Karyakram

Promoting health and prevention of disease and risk factors is an important aspect of the *Rashtriya Kishor Swasthya Karyakram* under the National Health Mission.

Various platforms being used to promote health and well-being of adolescents through Social and Behaviour Change Communication are as follows:

- Quarterly Adolescent Health Day
- Peer Educator Programme in the community and schools

Besides this, Health promotion messages are also propagated through mass media and mid- media in the form of TV and radio spots, posters, leaflets and other interpersonal communication material.

Social Media platforms Twitter and You Tube are used for creating awareness on various schemes of the Ministry including those for the adolescents.

Public health being a State subject, all the administrative and personnel matters, including the recruitment of counsellors in public health facilities lie with the respective State Governments. The shortage of health human resource in public health facilities varies from State to State depending upon their policies and context. However, under National Health Mission (NHM), financial and technical supports are provided to the State/UTs to strengthen their healthcare systems including support for recruitment of health human resource based on the requirements posed by them in their Programme Implementation Plans (PIPs) within their overall resource envelope.

Rashtriya Kishor Swasthya Karyakram has the following components:

- The Adolescent Friendly Health Clinics (AFHCs) are established across various levels of public health institutions in all the States.
- Weekly Iron Folic Acid Supplementation (WIFS) Programme is being implemented for school going adolescent boys and girls and out of school adolescent girls across the country.
- The Peer Educator Programme is being implemented in select 200 districts, based on Composite Health Index and identified as High Priority Districts (HPDs). Within, these districts, 50% of the blocks are beingcovered for implementation of Peer Educator Programme in entirety. Government plans to saturate all the blocks in the selected Peer Educator districts first and then expand in remaining districts gradually based on proposals received from States in their Programme Implementation Plans.
- Under the Menstrual Hygiene Scheme, funds are provided to the States/UTs for procurement of sanitary napkins for Adolescent Girls (aged 10-19 years) as per proposals received from them in their Annual Programme Implementation Plans.

The Minister of State (Health and Family Welfare), Shri Ashwini Kumar Choubey stated this in a written reply in the Rajya Sabha on March 17, 2020.

Source- PIB

Protect yourself and others!

Follow these Do's and Don'ts

Do's

- Practice frequent hand washing. Wash hands with soap and water or use alcohol based hand rub. Wash hands even if they are visibly clean
- Cover your nose and mouth with handkerchief/tissue while sneezing and coughing
- Throw used tissues into closed bins immediately after use
- See a doctor if you feel unwell (fever, difficult breathing and cough). While visiting doctor wear a mask/cloth to cover your mouth and nose
- If you have these signs/symptoms please call State helpline number or Ministry of Health & Family Welfare's 24X7 helpline at 011-23978046
- Avoid participating in large gatherings

Don'ts

- Have a close contact with anyone, if you're experiencing cough and fever
- Touch your eyes, nose and mouth
- Spit in public

Together we can fight Coronavirus

For further information :
Call at Ministry of Health,
Govt. of India's 24X7 control room
number +91-11-2397 8046
Email at ncov2019@gmail.com

New National Helpline Numbers for queries on Coronavirus
1075
and
1800-112-545
In addition to this, state helpline numbers continue to remain the same.

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Gender Rights: Reflection, Commitment and Action

Dr K Syamala

After over seven decades of Indian Constitution, it is fitting to reflect upon the commitment and action of the Government of India in achieving the goal of creating gender equality in the Indian society. India has ratified various international treaties and human rights conventions to secure gender equality.

The principles of the Constitution enshrined in the Preamble not only guarantees social equality, but also assures social justice and promotes the dignity of the women. Fundamental rights laid down in Part – III of the Constitution ensures protection against discrimination on the basis of gender through Article 14, 15(1) and 16(2). Article 39(a), 39(c) and 42 of the Directive Principles of State Policy provided in Part - IV guides that India's governance shall ensure gender equality in law and policy. Article 51A(e), imposes fundamental duty on the citizens of the country to renounce practices derogatory to the dignity of the women and to promote harmony and the spirit of common brotherhood amongst all the people of India. There are other provisions in Indian Constitution, which empowered State to make special provision for women [Article15(3), reservation of seats for women in Panchayats & Municipalities (Article 243). etc.]

After seven decades of Indian Constitution, it is fitting to reflect upon the commitment and action of the Government of India in achieving the goal of creating gender equality in the Indian society. India ratified various international treaties and human rights conventions to secure gender equality. Some important conventions to which India is committed are—Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) 1993, The Mexico Plan of Action 1975, the Nairobi Forward Looking Strategies 1985, the Beijing Declaration and Platform for Action 1995 and 2020. India also adopted UN Women, Peace and Security (WPS) agenda and committed to adopt WPS National Action Plan (NAP). India also committed to the implementation of the WPS resolution (S/RES/1325) of UN Security Council on women, peace and security.

Despite constitutional safeguards and international commitments, the India's commitments were criticised at the international platform for lack of sincere efforts, effective legal frameworks, delays in disposal of cases relating to atrocities on women, lack of security and protection mechanisms etc. The increasing statistics of crimes against women reminds the duty to reflect upon the degree of commitment and action India has shown over the years.

Constitutional Provisions Promoting Gender Equality

- Preamble: Socialism, equal distribution of opportunities and resources, social justice, assuring the dignity of the individual,
- Article 14: Equality before law and equal protection of laws,
- Article 15(1): Prohibition of discrimination on the grounds of sex,
- Article 15(3): Empowering State to make special provisions for women and children,
- Article 16(2): Equality of opportunity in matters of public employment; prohibition of discrimination on the grounds of sex,
- Article 38: State to secure a social order for the promotion of welfare of the people with social justice and equal opportunities,
- Article 39(a): Secure, men and women equally, the right to an adequate means of livelihood,
- Article 39A: Equal justice and free legal aid,
- Article 42: Just and humane conditions of work and maternity relief,

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- Article 51A(e): Promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women,
- Articles 243D (3) & (4) 243T (3) & (4): Reservation of seats for women candidates in Panchayats and Municipalities

Legislative Provisions Promoting Gender Equality

- Indian Penal Code: Section 376 – Rape; Section 363 to 373 – Kidnapping and abduction for different purposes; Section 302/304-B – Homicide for dowry, dowry deaths or their attempts; Section 498-A – Torture, both mental and physical; Section 354 – Molestation; Section 509 – Sexual harassment
- Special Laws (SLL)
  - The Employees State Insurance Act, 1948
  - The Plantation Labour Act, 1951
  - The Family Courts Act, 1954
  - The Hindu Marriage Act, 1955
  - The Hindu Succession Act, 1956
  - The Immoral Traffic (Prevention) Act, 1956
  - The Maternity Benefit Act, 1961
  - Dowry Prohibition Act, 1961
  - The Medical Termination of Pregnancy Act, 1971
  - The Contract Labour (Regulation & Abolition) Act, 1976
  - The Equal Remuneration Act, 1976
  - The Prohibition of Child Marriage Act, 2006

  - The Indecent Representation of Women (Prohibition) Act, 1986
  - Commission of Sati (Prevention) Act, 1987
  - The Protection of Women from Domestic Violence Act, 2005
  - The Protection of Children from Sexual Offences (POCSO) Act, 2012
  - The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013
  - Criminal Law (Amendment) Act, 2013
  - Criminal Law (Amendment) Act, 2018

Article 51A(e), imposes fundamental duty on the citizens of the country to renounce practices derogatory to the dignity of the women and to promote harmony and the spirit of common brotherhood amongst all the people of India. There are other provisions in Indian Constitution, which empowered State to make special provision for women [Article15(3) and reservation of seats for women in Panchayats & Municipalities (Article 243) etc.

There are other legislations also which directly or indirectly provide for gender equality.

Other Initiatives of Government of India

- Pan India - Emergency Response Support System (ERSS), single internationally recognized number – 112 for all emergencies with artificial intelligence to identify the location of distress,
- National Policy for the Empowerment of Women 2001,
- Technology based smart policing and safety management,
- Cyber-crime reporting portal specific to women and children to report obscene content,
- National Database of Sexual Offenders (launched on 20th September 2018) for facilitating the investigation and tracking the habitual sexual offenders,

- Launched 'Investigation Tracking System for Sexual Offences (ITSSO)' on 19th February 2019 to monitor and track time-bound investigation of sexual assault cases according to Criminal law (Amendment) Act, 2018,
- Over 700 Stop Centers were approved and 595 are fully functional pan India exclusively designed to provide medical aid, police assistance, legal and psycho-social counseling, court case management, temporary shelter for survivors of sexual offences.

Goals for Gender Equality in India

- Advancement, development and empowerment of women,
- Creative conducive and protective environment for women through political, social and economic policies,
- De jure and de facto guarantee of enjoyment of fundamental rights for women,
- Equal access to development, employment and empowerment for women,
- Strengthening legal and administrative systems to eliminate all forms of discrimination and crimes against women,
- Social re-engineering to do away with the discriminatory and derogatory practices prevalent in India,
- Elimination of discrimination and all forms of violence against women and the girl child and,
- Encouraging women to enter into all fields of employment and commerce.

India is committed to achieve the Sustainable Development Goals (SDGs), which offers opportunity for historical transformation of gender equality. The country's investment in economic empowerment of women and poverty eradication will bring radical change in the scenario of gender equality.

Commitment

India ratified the following international instruments related to gender equality:

- Universal Declaration of Human Rights, 1948
- International Covenant on Civil and Political Rights, 1966
- International Covenant on Economic, Social and Cultural Rights, 1966
- Beijing Principles of the independence of judiciary
- Convention on the Political Rights of Women, 1954
- The Declaration on Elimination of Violence against Women (DEVW) 1993
- Convention on Elimination of all forms of Discrimination against Women (CEDAW)
- The UN Committee on the Elimination of all forms of Discrimination against Women (CEDAW)
- UN Women
- UN Security Council Resolution on Women, Peace and Security
- Beijing Declaration and Platform for Action, 1995 and 2020 etc.

The government introduced special measures to combat human trafficking of women and girls, sexual harassment and domestic violence.

In January 2015, the Government of India introduced Beti Bachao, Beti Padhao initiative to create awareness about the importance of female in the society and save and empower them with education. Various schemes have been introduced to expose the women towards skill and employment programmes, special subsidies are given through micro finance services pan India, specifically targeting the rural women. The government further introduced National Youth Policy 2014 with well-defined objectives and eleven priority areas suggesting policy intervention at each stage.

Action

India is committed to achieve the Sustainable Development Goals (SDGs), which offers opportunity for historical transformation of gender equality. The country's investment in economic empowerment of women and poverty eradication will bring radical change in the scenario of gender equality. With largest youth population in the world, India has greatest share of women labour force. Overcoming the traditional social set-up of limiting the women within the four corners of the household, and bringing the women into mainstream of labour force will increase the percentage of skilled workforce. The empowering women will bring them into the mainstream decision-making, entrepreneurship, employment etc., which will contribute in the enhancement of the country's economy.

The increasing atrocities, discrimination and crime against women are hurdles for women to cross the domestic thresholds. The incidences of molestation, rape, sexual assault, sexual harassment at workplace, gender discrimination, domestic violence etc., are the areas of concern, which are impeding the women empowerment. ❑

Various schemes have been introduced to expose the women towards skill and employment programmes, special subsidies are given through micro finance services pan India, specifically targeting the rural women. The government further introduced National Youth Policy 2014 with well-defined objectives and eleven priority areas suggesting policy intervention at each stage.

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A Living Document

Mahima Singh

The implications of perusal and amendments of the Constitution of India, are reflective in our day-to-day lifestyle. A number of 104 amendments by our legislators testify the fact that the vision of its principal draftsman Dr B R Ambedkar was crystal clear when he said, "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. However bad a Constitution may be, it may turn out good if those who are called to work it, happen to be a good lot."

Sipping through a cup of aromatic black coffee, looking out of the life-size glass window of a world class corporate skyscraper, as a new age Indian questions the contribution of our forefathers, little does he consider to revisit the history lessons that anyway seemed pretty heavy then, hence chooses to continue living in denial.

Intrigued by the amount of freedom bestowed upon us which gives us the liberty to question even the incredible mentors of our nation whom this freedom is to be attributed today, another contemporary Indian, a thinker begins to put together a compilation of facts to acknowledge the vast historical background that our present state of freedom has.

It was after exhaustive brainwork driven by the wisdom and first-hand experiences of our forefathers, at various stages through half a century that a tangible document could be arrived at. Each word of this magical document called The Constitution of India, has been inked with the grind of Indian people's blood and flesh, that had seen discrimination, abuse, torment, misery, bondage like none other. Hence it goes beyond being a mere document and has stood the tests of time. The beautiful fact that it is a living document, has become even more pertinent in these times of socio-ideological conflicts as India transitions from a developing to being a developed nation, and so the ambit of this living constitution goes far deep beyond its conventional interpretation and the hidden charisma therein needs to be realised by each of us, citizens.

The soul of the Constitution lies in its subjects, its people. Having its spine firm, the constitution is as alive as can be over the decades having adapted to the altering needs of the fifth generation living by it at the moment. The implications of perusal and amendments are reflective in our day to day lifestyle. A number of 104 amendments by our legislators, testify the fact that the vision of its principal draftsman Dr. B.R. Ambedkar was crystal clear when he said, "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. However bad a Constitution may be, it may turn out good if those who are called to work it, happen to be a good lot."

It may be interesting to note for a lay reader that, the first ever document with a constitutional vision ever written, for India was The Constitution of India Bill 1895 popularly known as the Swaraj Bill having at its core Bal Gangadhar Tilak's "Swaraj is my birth right and I shall have it", written in a legal style, comprised of 110 articles that first endeavored to ensure various individual rights formally, per say right to free speech, right to property, equality before law etc. It even for the first time made a mention of nationalists' vision of separation of power so as to achieve efficient governance of a country as diverse and vast as India, interestingly quite similar to what later stood as different verticals of governance, as it purported- The Constitution of India shall be divided into 4 powers, viz. (a) The Sovereign power; (b) The Legislative power; (c) The Judicial power; (d) The Executive power, however contrastingly vested all the four powers within the Parliament of India, being Supreme. Also, held the judicial and executive powers as subordinate to the legislative. Where on one hand, "the bill resolved to require all

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citizens to bear arms" to defend the nation against the enemies within and without, it undertook to ensure judicious usage of those by upholding the virtue of law that would drive each act of the citizens.

Though the sovereign state by virtue of this bill still remained to be the Great Britain and Ireland, "citizenship of every Indian" still remained protected and intact and would only be lost if "(1) Those who become naturalised in a foreign country; (2) Those who without the licence of the Government of India accept any office, pension or honour, from any foreign Government; (3) Those sentenced to banishment". The political rights of an Indian citizen were set to be lost by (1) Physical or moral incapacity; (2) Sentence of imprisonment or of banishment during the continuance of its operation. Unfortunately, the bill was never formalised as an act and the crisis deepened further.

The ever-growing urge to have self-governance by the Nationalists strengthened by moderate nationalists, gave way to Morley Minto reforms, brought about with the name India Councils Act 1909, wherein denouncing the actions of extremist nationalists owing to the political situation that was termed as Indian Unrest, Lord Minto realised that it was imperative to engage with the moderates in order to at the least express concernto India for Self-Governance, actually enacted with a clear intention to divide, by providing for separate electorate for Muslims first time ever in the history of India.

However, all the churning was not in vein at least on the face, precisely a decade later, came the Government of India Act-1919, which was blatantly rejected by the Indian National Congress and held by Annie Besant to be unworthy of England to offer and India to accept, also referred to by Dr. B.R. Ambedkar as 'The British Constitution of India'.

Whereafter, considerable progress into India's freedom struggle was made as Lord Irwin's announcement of granting the status of dominion in future, called for severe criticism from all segments in England. Therefore, Irwin met with the nationalist leaders in 1929 to inform that the dominion status though, set to be granted must not be expected anytime soon. Hence, the instant demands for the dominion status were given up but only to resolve Purna Swaraj at its next meeting at Lahore on 19 December, 1929, in a short but crisp 750 word document which was made public on 26 January, 1930, that marked the commencement of a massive political movement setting up the path to renounce the colonial rule. The realisation had happened that freedom was our right, justice to one of the most ancient, culturally-rich civilisations and not any charity that we needed to beg for. It clearly reflected in the strongly-worded document that was publicised, as follows:

"The British government in India has not only deprived the Indian people of their freedom but has based itself on the exploitation of the masses, and has ruined India economically, politically, culturally, and spiritually."

This document truly reflective of the toil, turmoil and plight of the Indian brothers and sisters that categoric crystallisation of facts was done and circulated popularly enlightening one and all of, (i) how the British Rule had looted Indian people of their hard earned money by way of disproportionate taxing which fell heavily on the heads of the poor, (ii) had destroyed the village handicraft industry, (iii) manipulation of currency and exchange ratio, (iv) India's political talent had been frustrated by limiting their function only to small village offices and clerkships, the tallest of us had to bend before the British Authority, (v) Our very education system was cleverly hacked and metamorphosed to chain us not liberate us, (vi) a solid effort was being made to massively hypnotise us to disbelieve in our own spiritual and intellectual being, making us believe that we weren't good enough to protect ourselves even from a meek enemy.

It was peacefully declared hereby:,

"We hold it to be a crime against man and God to submit any longer to a rule that has caused this fourfold disaster to our country. We recognize, however, that the most effective way of gaining our freedom is not through violence. We will therefore prepare ourselves by withdrawing, so far as we can, all voluntary association

from the British Government, and will prepare for civil disobedience, including non-payment of taxes. We are convinced that if we can but withdraw our voluntary help and stop payment of taxes without doing violence, even under provocation, the end of this inhuman rule is assured."

Later, it was in commemoration of this Lahore session that this day was chosen to adopt our Constitution on which journey, several milestones like Karachi Resolution 1931, Poona Pact 1932, Government of India Act 1935, couple of significant drafts of the Constitution and other influential documents came about

After, much contemplation, consideration of the demands of the weaker sections and perusal of documents like Political Demands of Scheduled Castes (Scheduled Castes Federation, 1944), States and Minorities by Dr. B.R. Ambedkar and preliminary notes on fundamental rights 1946, it was to be undertaken to bring about a document that would look after the needs of those standing last in the row as it would be of the first standing in the line.

Shriman Narayan Agrawal in his Gandhian Constitution (Foreword by Gandhi), 1946 undertook exhaustive comparative study of various socio-political works by eminent thinkers and authors across the globe bringing face to face State with Totalitarian Man, giving due weightage to non-violence and separation of powers. It is in this document that the provision of Panchayati Raj, finds its source as the author writes, "But real democracy is impossible in a society that remains divided, to use Plato's terminology, into the 'cities of the rich' and 'the cities of the poor'", also highlighting its core ingredients of 'villagism', decentralisation, which the father of nation looked at as concrete solutions to totalitarian or capitalist regimen. It is pertinently held here that, "The all-powerful State reduces the individuals to mere ciphers. Moreover, such totalitarian states, whether Fascist or Socialist, are ultimately controlled by one or a few 'Supermen' who rule over the destinies of millions. But man, in order to survive must get rid of such Supermen, however noble and high-intentioned they may be." This uncelebrated well-researched compilation based upon Gandhian values peeps through the pages of history as it boldly holds "As soon as its very existence is jeopardised, Capitalism at once throws off the velvet glove that conceals the iron fist. The privileged classes continue to pay the pipers so long as they agree to call their tunes..."

Keeping in view quest and conquest of generations, who toiled for freedom, The Chairman of the drafting committee, Dr. B.R. Ambedkar brought about the Constitution of India that to this day stands guard to this vibrant yet sometimes ignorant population and gazes in the eye of all that challenges democracy, fierce and bold resounding the powerful words- We The People of India. ❑

Citizenship (Amendment) Act 2019

Citizenship (Amendment) Act 2019 has received the assent of the President on the 12th December, 2019, and published in a gazette notification.

In the Citizenship Act, 1955 (hereinafter referred to as the principal Act), in section 2, in sub-section (1), in clause (b), the following proviso shall be inserted, namely—"Provided that any person belonging to Hindu, Sikh, Buddhist, Jain, Parsi or Christian community from Afghanistan, Bangladesh or Pakistan, who entered into India on or before the 31st day of December, 2014 and who has been exempted by the Central Government by or under clause (c) of sub-section (2) of section 3 of the Passport (Entry into India) Act, 1920 or from the application of the provisions of the Foreigners Act, 1946 or any rule or order made there under, shall not be treated as illegal migrant for the purposes of this Act".

After section 6A of the principal Act, the following section shall be inserted, namely—'6B. (1) The Central Government or an authority specified by it in this behalf may, subject to such conditions, restrictions and manner as may be prescribed, on an application made in this behalf, grant a certificate of registration or certificate of naturalisation to a person referred to in the proviso to clause (b) of sub-section (1) of section 2. (2) Subject to fulfilment of the conditions specified in section 5 or the qualifications for naturalisation under the provisions of the Third Schedule, a person granted the certificate of registration or certificate of naturalisation under sub-section (1) shall be deemed to be a citizen of India from the date of his entry into India. (3) On and from the date of commencement of the Citizenship (Amendment) Act, 2019, any proceeding pending against a person under this section in respect of illegal migration or citizenship shall stand abated on conferment of citizenship to him: Provided that such person shall not be disqualified for making application for citizenship under this section on the ground that the proceeding is pending against him and the Central Government or authority specified by it in this behalf shall not reject his application on that ground if he is otherwise found qualified for grant of citizenship under this section: Provided further that the person who makes the application for citizenship under this section shall not be deprived of his rights and privileges to which he was entitled on the date of receipt of his application on the ground of making such application. (4) Nothing in this section shall apply to tribal area of Assam, Meghalaya, Mizoram or Tripura as included in the Sixth Schedule to the Constitution and the area covered under "The Inner Line" notified under the Bengal Eastern Frontier Regulation, 1873.'

In section 7D of the principal Act— (i) after clause (d), the following clause shall be inserted, namely—"(da) the Overseas Citizen of India Cardholder has violated any of the provisions of this Act or provisions of any other law for time being in force as may be specified by the Central Government in the notification published in the Official Gazette; or"; (ii) after clause (f), the following proviso shall be inserted, namely— "Provided that no order under this section shall be passed unless the Overseas Citizen of India Cardholder has been given a reasonable opportunity of being heard."

In section 18 of the principal Act, in sub-section (2), after clause (ee), the following clause shall be inserted, namely—"(eei) the conditions, restrictions and manner for granting certificate of registration or certificate of naturalisation under sub-section (1) of section 6B;". Amendment of section 2. Reg. 5 of 1873. 34 of 1920. 31 of 1946. Insertion of new section 6B. Special provisions as to citizenship of person covered by proviso to clause (b) of sub-section (1) of section 2. Amendment of section 7D. Amendment of section 18. 57 of 1955. THE GAZETTE OF INDIA EXTRAORDINARY [PART II—6]. In the Third Schedule to the principal Act, in clause (d) the following proviso shall be inserted, namely— 'Provided that for the person belonging to Hindu, Sikh, Buddhist, Jain, Parsi or Christian community in Afghanistan, Bangladesh or Pakistan, the aggregate period of residence or service of Government in India as required under this clause shall be read as "not less than five years" in place of "not less than eleven years". ❑

Source: The Gazette of India (http://egazette.nic.in/WriteReadData/2019/214646.pdf).

PM on the Constitution of India

"It is our Constitution that binds us all together."

"What is special about Indian Constitution is that it highlights both rights and duties of citizens."

"As proud citizens of India, let us think how our actions can make our nation even stronger."

Schemes and Policies for Minorities

The Government is implementing various schemes for the welfare and upliftment of every section of the society including minorities especially economically weaker and downtrodden sections all over the country with schemes like Pradhan Mantri Jan Arogya Yojana (PMJAY), Pradhan Mantri Mudra Yojana (PMMY), Pradhan Mantri Kisan Samman Nidhi (PM KISAN), Pradhan Mantri Ujjwala Yojana (PMUY), Pradhan Mantri Awas Yojana (PMAY), Beti Bachao Beti Padaao Yojana, etc. The Ministry in particular implements programmes/schemes for the six centrally notified minority communities namely, Buddhists, Christians, Jains, Muslims, Parsis and Sikhs as under:-

- Pre-Matric Scholarship Scheme, Post-Matric Scholarship Scheme, and Merit-cum-Means based Scholarship Scheme for educational empowerment of students.
- Maulana Azad National Fellowship Scheme- Provide fellowships in the form of financial assistance
- Naya Savera- Free Coaching and Allied Scheme - The Scheme aims to provide free coaching to students/ candidates belonging to minority communities for qualifying in entrance examinations of technical/ professional courses and competitive examinations.
- Padho Pardesh- Scheme of interest subsidy to students of minority communities on educational loans for overseas higher studies.
- Nai Udaan- Support for students clearing Prelims conducted by Union Public Service Commission, State Public Service Commission Staff Selection Commission etc.
- Nai Roshni- Leadership development of women belonging to minority communities.
- Seekho Aur Kamao- Skill development scheme for youth of 14-35 years age group and aiming at improving the employability of existing workers, school dropouts etc.
- Pradhan Mantri Jan Vikas Karyakram (PMJVK) restructured in May 2018 earlier known as MsDP-Implemented for the benefit of the people from all sections of the society in identified Minority Concentration Areas for creation of assets in education, skill and health sectors.
- Jiyo Parsi- Scheme for containing population decline of Parsis in India.
- USTTAD (Upgrading the Skills and Training in Traditional Arts/Crafts for Development) launched in May 2015.

In addition to the above, the Government also implements schemes for strengthening State Waqf Boards and coordinates arrangements for annual Haj pilgrimage.

The details of the target set and achieved wherever applicable, under the schemes mentioned above are available on the websites www.minorityaffairs.gov.in, www.maef.nic.in and www.nmdfc.org.

The Ministry of Minority Affairs implements PMJVK a centrally sponsored scheme, in identified Minority Concentration Areas of the country with the objective of developing socio-economic assets and basic amenities in these areas to bring them at par with other parts of the country. The thrust of the PMJVK programme is to allocate at least 80% of the resources for education, health and skill development and at least 33-40% of the resources for women-centric projects.

The proposals under PMJVK are formulated by the State Govts/UT Admins for creation of infrastructure in Minority Concentration Areas as per their felt need and infrastructure requirement and sent to the Ministry for consideration of the Empowered Committee. ❑

Source: Press Information Bureau

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