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The Constitution of India in 1950 and 2022: A Critical Analysis

Nainsi Bohare^a

^aPrestige Institute of Management and Research, Gwalior, India

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The constitution is the most respectful book for all citizens. Though it is only a book it had done a lot for its citizens. The constitution of India has gone through many changes in these changing years. It has seen a lot of amendments according to the needs of the people. We did not have a rigid constitution which means the constitution can be amended, our constitution is flexible in nature. In India Constitution was enforced on 26 November 1949 and came into force on 26 January 1950. This day is also known as REPUBLIC DAY. The constitution in 1950 contained a Preamble, 395 Articles, 8 Schedules, and 22 Parts. The constitution in 2022 contains a Preamble, 448 Articles, 12 Schedules, and 25 Parts. The constitution had gone through 105 amendments from 1950 to 2022. The constitution of India came a long way. In making the constitution, it took the effort of 389 members and 2 years and 11 months for the constituent assembly. The Constitution of India is the longest-written constitution in the world. It had borrowed some features from other countries. As according to the chairman of Drafting Committee B.R. Ambedkar-“As to the accusation that the Draft Constitution has reproduced a good part of the provisions of the Government of India Act, 1935, I make no apologies. There is nothing to be ashamed of in borrowing. It involves no plagiarism. Nobody holds any patent rights in the fundamental ideas of a Constitution....”Hence, the Indian Constitution is not a bag of borrowing. It came into existence with the effort of the members of the constituent assembly. The constitution was framed by the members according to the needs of the citizens, for their welfare and goodwill. In this article, we will analyze the difference between the constitution in 1950 and the constitution in 2022. In this long journey of the constitution what it had adopted, what had been removed from the constitution, all this we will discuss in this article.

Keywords: *constitution of India, drafting committee, articles, schedules, borrowed constitution.*

INTRODUCTION

The importance of the Indian Constitution is evident in the structure and ethical code to which the policies, procedures, powers, rights, and obligations of all people living in this country follow. This detailed document proclaims sovereignty, secularism, and democracy. It also explains how the law should be fair to all and bring justice in an equal sense. Here Dr. B.R. Ambedkar explained that no matter how good your constitution is, it depends on the person applying it. The implementation of the Constitution determines its meaning and value.

B.R. Ambedkar is known as the Father of the Indian Constitution. He is the one who wrote our constitution, and also brings the provision of equal rights among all citizens. The term 'bag of borrowing' is used to signify various features of the constitution which is borrowed from other countries. The Indian Constitution was not printed, it has been written. The one who wrote this Constitution was Prem Behari Narain Raizada. It was designed by the artists of Shantiniketan.

Hence, our Constitution is not only a book that gives rights to the citizens; instead, it is the faith and beliefs of the people who had patiently framed this constitution. Every minute detail and design was kept in mind during the process of making the constitution. But the constitution has gone through a lot of changes it is not the same constitution that came into force in 1950, it had changed a lot. It's been 73 years of the constitution.

WHAT IS CONSTITUTION?

A Constitution is the country's supreme law¹. It does not only define basic political framework but also defines what different government bodies should do and make them aware of their duties, functions, and powers. The constitution of India has various features:

¹ 'Constitution of India' (*India.gov.in*) <<https://www.india.gov.in/my-government/constitution-india>> accessed 22 December 2022

Longhiest Constitution: The Indian constitution is one of the longest-written constitutions. The Indian Constitution is detailed and very comprehensive in nature.

Directive Principles of State Policy: The DPSP² is provided under Part IV of the constitution. The DPSP is the duty of the state which a state must follow. It provides principles to be followed by the state. However, they are not enforceable in a court of law.

Fundamental Rights: Fundamental rights are the basic rights provided by the state to the citizens of India. These rights are enforceable in a court of law, the violation of which is not acceptable. An individual can directly approach the court in case of the violation of his/her Fundamental Right. There is a total of 6 fundamental rights. The fundamental rights are provided under Part III of the constitution.

Fundamental Duties: Fundamental Duties are provided in the constitution under Part IVA, Article 51A³. these are the duties of every citizen, which every citizen of India should follow. These duties are very basic duties like saving our heritage, respecting our National Anthem and National Flag, etc.

Various Sources: Various features of the Indian Constitution are borrowed from various countries. The Indian Constitution is also called a Bag of Borrow. Some of them are-

- The concurrent list, freedom of trade and commerce, a joint sitting of the two houses of parliament are borrowed from - Australia;
- Directive Principle of State Policy, Nomination of Members to Rajya Sabha, and Method of Election of President are borrowed from - Ireland;
- Fundamental duties and ideals of Justice are borrowed from- RUSSIA...etc.

² Directive Principles of State Policy

³ Constitution of India 1950, art. 51A

ANALYZING THE DIFFERENCE BETWEEN THE CONSTITUTION IN 1950 AND 2022

Preamble: The preamble of the Constitution is the soul of the constitution. It has 63 words. The current Preamble is not the same as that of 1950. The current Preamble has the words [Sovereign, Socialist, Secular, Democratic, and Republic]. The original Preamble does not have the words Secular and Socialist. These words were incorporated during the 1976 emergency through the 42nd Amendment Act, of 1976.

Article 16: Originally the constitution of 1950 has Article 16⁴ which deals with equal opportunity for every citizen in public employment. In 1997, Article 16 was amended through the 77th Constitutional Amendment Act, and 16(4A)⁵ and 16(4B)⁶ were introduced by the Parliament. The amendment of 16(4A), was brought to allow reservation in promotion. And 16(4B) was brought to allow the carry forward vacancies of the past years beyond the 50% reservation limit.

Article 21A: In 1950, Article 21A⁷ does not exist in the constitution of India. In 2002 it was incorporated into the constitution through the 86th Amendment Act, 2002. This Article deals with compulsory elementary education for children of 6 to 14 years of age and the state must provide education to the children.

Article 31: In the 1950 Constitution, Article 31⁸ deals with the Right to Property as a Fundamental Right. In the recent Constitution, this provision was removed through the 44th Amendment Act, of 1978 and later Article 31A⁹, 31B¹⁰, 31C¹¹, and Article 300A¹² was incorporated. The right to own property is now not the Fundamental Right. Currently, it is only a legal right provided under the constitution in Article 300A.

⁴ Constitution of India 1950, art. 16

⁵ Constitution of India 1950, art. 16(4A)

⁶ Constitution of India 1950, art. 16(4B)

⁷ Constitution of India 1950, art. 21

⁸ Constitution of India 1950, art. 31

⁹ Constitution of India 1950, art. 31A

¹⁰ Constitution of India 1950, art. 31B

¹¹ Constitution of India 1950, art. 31C

¹² Constitution of India 1950, art. 300A

Article 246A: The government in 1950 does not have the power to levy and collect goods and service tax. But in the 101st Amendment Act, of 2016 the central government gets the power to levy and collect goods and service tax i.e. GST by inserting Article 246A¹³.

Article 326: As we all know that our country is democratic hence, the government is elected by the people through voting. In the 1950 constitution, the age for voting was 20 years. But after the amendment in 1988 i.e. 61st Amendment Act, 1988 the age for voting is reduced to 18 years¹⁴. Hence, people after attaining the age of 18 years are eligible for voting.

Article 338: Article 338¹⁵ of the constitution deals with the commission which was provided for safeguarding the rights of the scheduled cast and scheduled tribes and also to assure their welfare in the society as they are regarded as backward, and so that they never face any discrimination regarding their casts. In the 1950 constitution, an officer was appointed to look after the rights of the scheduled casts and scheduled tribes. But after the 65th Amendment Act, of 1990, a National Commission is appointed to safeguard the rights of the schedule casts and schedule tribes.

Article 338A: In section 338, a commission was formed to assure the welfare of the Schedule castes and scheduled tribes in the society. But in section 338A¹⁶ the commission was divided into two branches by the 89th Amendment Act, 2003. According to the amendment, a National Commission was formed for Schedule Tribes. Hence, after the amendment, section 338 particularly deals with the National Commission for Schedule Castes and Section 338A particularly deals with the National Commission for Schedule Tribes. In the constitution of 1950, there was only one National Commission for both Schedule Castes and Schedule Tribes.

Article 338B: It was introduced through the 102 Amendment Act, of 2018. According to Article 338B¹⁷ a National, Commission was formed for the Backward Classes. In 2018, the National

¹³ Constitution of India 1950, art. 246A

¹⁴ Constitution of India 1950, art. 326

¹⁵ Constitution of India 1950, art. 338

¹⁶ Constitution of India 1950, art. 338A

¹⁷ Constitution of India 1950, art. 338B

Commission for Backward Classes was provided with a constitutional status under the Ministry of Social Justice and Empowerment.

Article 370: Article 370¹⁸ deals with the status of the state of Jammu and Kashmir for the purpose to form self-government. An order was passed by Jammu and Kashmir in 2019 to amend Article 367¹⁹ of the constitution which created a deadlock. Recently, Article 370 was abrogated in the constitution.

Part IVA: The original constitution had only 22 parts in 1950. Part IV A was added to the constitution which deals with the Fundamental Duties. This part was added through the 42nd Amendment Act, of 1976. Article 51A²⁰ is the only provision that was incorporated in Part IV A of the constitution of India. Fundamental Duties are the duties that every citizen should obey but these are not enforceable in a court of law.

Seventh Schedule: The seventh schedule of the constitution deals with the three legislative lists:

- Union List (List I)
- State List (List II)
- Concurrent List (III)

In 1950, the union list contained 97 items. The state list contained 66 items. Currently, the union list contains 100 items and in the state list, 5 entries were transferred from the state list to the concurrent list through the 42nd Amendment Act, of 1976.

Eighth Schedule: The eighth schedule of the constitution deals with the different languages of the country. In 1950, the eighth schedule contained 14 languages. But after the 21st Amendment Act, of 1967, Sindhi²¹ was added. Later in 1992, through the 71st Amendment Act, Konkani, Manipuri, and Nepali were added to the schedule. Through the 92nd Amendment

¹⁸ Constitution of India 1950, art. 370

¹⁹ Constitution of India 1950, art. 367

²⁰ Constitution of India 1950, art. 51A

²¹Added by the Constitution (Twenty-first Amendment) Act, 1967, s. 2 (w.e.f. 10-4-1967).

Act in 2003, Bodo, Dogri, Maithili, and Santali were added to the eighth schedule of the constitution.

Tenth Schedule: Initially, in 1950, there were only 8 schedules. Later in 1985 through the 52nd Amendment Act, the Tenth schedule was introduced in the constitution. The tenth schedule deals with the Anti-Defection law. The purpose of this schedule is to prevent politicians to change their parties. Thus, this schedule was introduced in the constitution to make sure the politicians do not change their parties just for their interests.

AUTHOR'S ANALYSIS

Our constitution is the world's lengthiest written constitution. The Constitution of India was written in 1950 by the Constituent Assembly whose chairman was DR. B.R. AMBEDKAR. Originally the constitution contained 395 Articles, 8 schedules, and a Preamble. But with the passage of time, and with changing needs of the people the constitution also evolved. It has gone through 104 amendments, according to the requirements of the people. The constitution is for the welfare of the people, it is made for the people, and people are not made for it. It provides rights to every citizen but also confers a duty on them.

Although we have rights still many people cannot even enforce their rights. The reason why they cannot able to enforce their rights are - poverty, illiteracy, ignorance, etc. According to national survey reports, the literacy rate of Indians in 2022 is 77.7% whereas 22.3% are still illiterate. Poverty is one of the major reasons, people are not able to enforce their rights but if their rights get violated, they usually ignore them because of fear of expenses. Overall we have a constitution but people need to understand the real meaning of the constitution. It's not just a book, it's an effort of many people to make India and its citizen bright and to establish a society where all people live happily and peacefully with equality and dignity.

In my opinion, every person needs to understand the constitution, every citizen should be aware of their rights and also their responsibilities. The constitution in 1950 was based on the issues which were in discussion in that era. There were many amendments made in the constitution according to the issues discussed in this era. The difference between generations

had also changed the constitution. The different types of crimes had changed the constitution. The constitution of 2022 is better than the constitution of 1950 as it is improved in every possible way.

CONCLUSION

The constitution of India is the largest hence, it has various articles, parts, and schedules. Every article is important in its way. Though the constitution has gone through many amendments its basic structure always remains the same. The main objective of the Constitution is to give rules and regulations that every person should follow and also changes according to the needs of the people because the constitution is for the welfare of the people.

The constitution had been there for more than 7 decades, but in these decades the constitution of India had undergone tremendous changes. The amendments have modified the constitution in many ways. These changes are neither always positive nor negative. The changes are meant to reform things. Hence the changes in our Constitution over 7 decades had reformed the Constitution not fully but partially. No matter what changes or is modified, the basic structure of the constitution always remains the same. Hence, the main motive of the constitution is the welfare of the society, to prevent disputes among their citizens and to spread peace, and also to remove discrimination and provide equality to all the citizens of India. No matter how many amendments are done to the constitution, the motive and objective of the constitution always remain the same.