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HISTORICAL BACKGROUND OF INDIAN CONSTITUTION

DR. SARAFARAJBHAI SAIDBHAI KHALIFA

ABSTRACT

In the years leading up to their independence in 1947, Indians lived in two distinct halves of society: the British India (composed of 11 Provinces) and the Princely kingdoms administered by Indian princes under the Subsidiary Alliance System. Many of the laws and customs established by British India are still in effect even though the two regions eventually combined to become the Indian Union. Many rules and Acts established before India's Independence might be seen as precursors of the Constitution of India. The Constitution of India is the biggest written constitution in the world, and its creation was the culmination of a long chain of events. India has always had a wide range of variety in terms of both its people and its landscape. It was no easy undertaking for the framers of the Constitution to create an overarching set of laws that could be used to efficiently manage such a diverse and prosperous society. The numerous Acts, Regulations, and Declarations that contributed to the development of the Indian Constitution are discussed here.

KEY WORDS: Establishment, Constitution, Laws, Multifaceted History, Ancient Writings.

INTRODUCTION

A tapestry of centuries of struggle, variety, and development constitute the foundation of the Indian Constitution. India's constitutional development reflects the country's multifaceted history and its unwavering commitment to freedom and fairness. The Rigveda and the Manusmriti, two ancient Indian writings, are notable for their articulation of ethical and legal guidelines for government. Each dynasty and empire that dominated a portion of the Indian subcontinent throughout the centuries—from the Mauryans to the Guptas to the Mughals - left its mark on the country's institutional structure and legal framework. The arrival of British colonial control in the 18th century, however, was the catalyst for significant changes in India's political system. The British imposed a centralised administrative structure and legal framework on India, which was both restrictive and liberating in its exposure to concepts like freedom, democracy, and personal autonomy. Leaders like Mahatma Gandhi, Jawaharlal Nehru, and B.R. Ambedkar rallied the country throughout the fight for independence, which ultimately led to the creation of the Indian Constitution.

In 1946, the newly independent Indian government gathered the Constituent Assembly to write a constitution to guide its operations. Chief architect Dr. B.R. Ambedkar played a crucial role in making sure the Indian Constitution reflected India's dedication to democracy, secularism, and social justice. On January 26, 1950, the Constitution of the Republic of India was ratified, thereby establishing the nation. The ideas of justice, liberty, equality, and fraternity as well as the Magna Carta and the American Constitution serve as inspiration for the Indian Constitution. All of the rights it protects as well as the federal structure and parliamentary form of government it establishes have withstood the test of time. In sum, India's Constitution's origin story is one of perseverance, cultural variety, and dogged desire to achieve independence. It is a living text that continues to lead India on its journey towards growth and inclusion, and it is a tribute to India's capacity to synthesise its ancient wisdom with contemporary principles of democracy and fairness.

POLITICS AND PAST EVENTS

The modern nation of India is made up of a confederation of seven different federations and 28 individual states. The Westminster system of parliamentary government is used to administer the country. At the beginning of the 18th century, when the British East India Company controlled India, it was the first time that Indians had any kind of engagement with people from the west. Around the middle of the nineteenth century, it was officially annexed by the United Kingdom. The colonial administration in British India (also known as the British Raj) was headed by a Viceroy who also cumulated the title of Governor General until 1947, when independence from the British Colonial Empire was achieved through a struggle for independence marked by a widespread nonviolent resistance movement. This struggle for independence was achieved through a struggle for independence marked by a widespread nonviolent resistance movement.

EVOLUTION OF CONSTITUTIONAL LAW

The formation of constitutional law in India has been a long and winding process that intricately reflects the historical, social, and political changes that have taken place in the nation. The history of India's constitution may be broken down into numerous significant stages, including the following:

1. Colonial Legacy (Pre-1947):

Until 1947, India was a colony of the United Kingdom. During this time, the country was ruled by a patchwork of legislative acts and charters issued by the British Crown rather than a single, overarching constitution. India's administrative and legal structures were based on these laws.

2. Constituent Assembly and Independence (1947-1950):

Following India's declaration of independence, the Constituent Assembly was convened to write the country's constitution. A major influence on the final draught was Dr. B.R. Ambedkar's work. On January 26, 1950, the Republic of India was officially established with the implementation of the Constitution of India.

3. Amendments and Growth (1950s-1970s):

The Constitution underwent a number of revisions in the first few decades following independence to account for changing circumstances and political and social climate. During this time, landmark cases like *Golaknath* and *Kesavananda Bharati* elucidated the Constitution's core framework and the limits of parliamentary authority.

4. Emergency Era (1970s):

During the years of the Emergency (1975–1977), when civil freedoms were restricted, India went through a difficult time. Judicial independence and its role in protecting constitutional ideals became more important during this time period. The Constitution's pre-eminence and Parliament's limited authority to modify it were both confirmed in the Kesavananda Bharati case.

5. Recent Developments (1980s-Present):

Significant changes to constitutional law have occurred during the 1980s. The judiciary has been crucial in upholding the rule of law, advancing social justice, and safeguarding basic rights through interpreting the Constitution. The Ayodhya conflict and the Mandal Commission were two pivotal events that influenced the country's social and political climate.

6. Amendments and Challenges:

The Constitution has been changed several times to reflect shifting demographics and political climates. The Goods and Services Tax (GST) Act established a uniform taxation structure, and the 73rd and 74th Amendments decentralised authority to local self-governing organisations. India's constitution is constantly changing to accommodate the country's various demographics and socioeconomic conditions. In the twenty-first century, the Constitution still relies heavily on the judicial branch to preserve its values and ensure its continued viability. India's constitutional law will evolve to suit the needs of a rapidly changing society while upholding the Constitution's commitment to a democratic and diverse society.

ACT OF 1919 RELATING TO THE GOVERNMENT OF INDIA

This legislation was primarily passed as a gesture of appreciation for India's contribution to the First World War; nevertheless, its principal objective was to increase local involvement in the government. The Act brought about a number of important changes, the most important of which was the introduction of a dual system of government with restricted powers for the larger provinces. The imperial legislative council was split into two chambers to provide a more representative legislature for all of India. In the end, the Act created a post for a High Commissioner to Represent India in the United Kingdom. This individual would have their primary home in London.

ACT OF 1935 RELATING TO THE GOVERNMENT OF INDIA

The Government of India Act of 1935 was a watershed moment in India's constitutional development, marking a watershed moment in the country's march towards self-governance and ultimately independence. The British Parliament passed a sweeping bill to reform and modernise the administration of British India. The Act of 1935 introduced a federal structure of government, which was a break from past colonial laws. Separated from the Indian States, which maintained varied degrees of autonomy under princely rulers, was British India, which was made up of provinces directly ruled by the British. The goal of this partition was to moderate federal control over the states. One of the most significant aspects of this legislation was the establishment of provincial autonomy. It gave Indians who were elected to provincial positions a lot of power over things like education, health care, and public works. However, significant centralised authority over military, diplomatic, and fiscal concerns was maintained. There were both benefits and drawbacks to the Government of India Act of 1935, which established the legal framework for India's constitutional growth. But it was essential in changing the political environment, paving the way for India to

become an independent nation in 1947. This law was enacted at a pivotal time in India's history, and it continues to be an important historical document because it shows the complex relationship between colonial forces and Indian hopes for independence.

CONSTITUENT ASSEMBLY OF 1948 AND THE 1950 CONSTITUTION

The Constituent Assembly of 1948 was a pivotal political body in India's history, tasked with drafting and adopting the nation's first Constitution. Comprising 299 members representing diverse regions, religions, and social backgrounds, the Assembly held its first meeting on December 9, 1946. Dr. Rajendra Prasad served as its president, while Dr. B.R. Ambedkar played a prominent role as the Chairman of the Drafting Committee. Over two years of intense deliberations, the Constituent Assembly debated and formulated the guiding principles of India's governance. They addressed key issues like the fundamental rights of citizens, the distribution of powers between the central and state governments, and the role of the judiciary. The Assembly also grappled with sensitive matters such as caste-based discrimination and reservation policies, ensuring the Constitution reflected India's socio-cultural diversity. On January 26, 1950, India's new Constitution came into effect, marking the birth of the Republic of India. The Constitution, influenced by democratic ideals, enshrined fundamental rights and liberties, established a parliamentary system of government, and promoted social justice. It remains a testament to the Assembly's visionary leadership, commitment to inclusivity, and determination to provide India with a robust framework for governance. The Constituent Assembly's efforts continue to shape India's democracy and inspire nations worldwide.

KEY TIMELINES IN THE 1948 CONSTITUTIONAL PROCESS

The beginning of the constitutional process in India in 1948 was a watershed year in the annals of the country's history. This process ultimately led to the approval of the Indian Constitution on January 26, 1950. The following is a chronology of important events that occurred during that crucial period:

1. August 15, 1947:

Following India's victory against British colonial control, a Constituent Assembly was established to write a new constitution for the country.

2. December 9, 1946:

The inaugural meeting of the Constituent Assembly takes place, and Dr. Rajendra Prasad is elected to serve as the assembly's president.

3. August 29, 1947:

The Assembly organises itself into a number of committees, one of which is a drafting committee that is entrusted with developing a draught constitution and is directed by Dr. B.R. Ambedkar.

4. June 21, 1948:

The Assembly is presented with the first draught of the Constitution, which was drafted by the drafting committee.

5. October 17, 1949:

The final version of the Constitution is approved by the Constituent Assembly after it has been through significant discussions and modifications.

6. November 26, 1949:

It is the day when the Constitution is signed and officially goes into force, which is also celebrated as Constitution Day.

7. January 24, 1950:

On January 26, 1950, the Indian National Congress (INC) announced that this day would commemorate the beginning of Constitutional implementation and would be celebrated as the first Republic Day.

8. January 26, 1950:

In India, the Indian Constitution is finally put into effect, and Dr. Rajendra Prasad is sworn in as the nation's first President.

These timelines show the rigorous and inclusive process of constitution-making in India, expressing the ideals of a country that had just achieved its independence and creating the basis for its democratic framework, which continues to exist to this day.

CONCLUSION

The primary function of a nation's founding document, the Constitution, is descriptive rather than prescriptive in character. It does not attempt to instruct individuals on what they ought to do, but it does detail how their government ought to function. Because India is such a diverse country in terms of its culture, its people, and its territory, it took the drafting committee a long time to finish the Constitution of India; as a result, the Constitution of India can be traced back to a number of statutes (some of which are mentioned in this article) that existed before the country gained its independence. The Constitution of India can be read as a synthesis of these statutes. The Indian Constitution is the written version of the longest Constitution in the world. The United States Constitution was drafted from scratch over the duration of two years, eleven months, and eighteen days at a cost of six and a half million dollars. The constitutions of a number of other nations served as a source of inspiration for it. The Constitution of India has always been regarded as the country's highest legal authority by India's judicial system.

REFERENCE

1. https://en.wikipedia.org/wiki/Constitution_of_India
2. <https://constitutionnet.org/country/india>
3. <https://www.legalserviceindia.com/legal/article-8097-history-and-development-of-the-constitution-of-india.html>
4. <https://www.insightsonindia.com/polity/indian-constitution/historical-underpinnings-and-evolution/>
5. <https://edurev.in/p/84223/Historical-Background--Constitution>
6. <https://www.india.gov.in/my-government/constitution-india>
7. <https://www.ssdas.in/historical-background-of-indian-constitution/>