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**A HISTORICAL ANALYSIS OF THE INDIAN CONSTITUTION'S DRAFTING:  
FROM COLONIAL LEGACY TO CONSTITUTIONAL SOVEREIGNTY**

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**ABSTRACT**

*The drafting of the Indian Constitution marked a crucial phase in India's transition from colonial rule to an independent democratic republic. Rooted in a legal framework shaped by British laws from the 1600 East India Company Charter to the Government of India Act, 1935 it combined historical influences with thoughtful innovations and modifications. The Constituent Assembly, formed in 1946 under the Cabinet Mission Plan with 389 members (later reduced to 299 after Partition), reflected diverse ideologies and regions. Led by Dr. B.R. Ambedkar, the Drafting Committee studied over 60 global constitutions to craft a document suited to India's unique social and cultural fabric. Key milestones included the Objective Resolution, which later became the Preamble of the Indian Constitution, and the inclusion of fundamental rights, federalism, and judicial review. Adopted on November 26, 1949, and enforced on January 26, 1950, the Constitution enshrined justice, liberty, equality, and fraternity. This longest written Constitution stands as a testament to India's commitment to democracy and inclusive governance. In this article, we are going to discuss about the historical analysis of the drafting of Indian Constitution.*

**KEYWORDS:** *Constituent Assembly, Constitution, East India Company, Timeline, Government of India Act, 1935.*

## 1. INTRODUCTION

A little bit of history is necessary to know how our Indian legal system is structured. The primary reason behind the structurization of our legal system is none other than the British. Initially, they came to India for trading purposes in the name of East India Company got the royal charter from Queen Elizabeth 1 in 1600. After knowing the potential of our natural resources, they became administrative body acting on behalf of the British crown. Later this company was abolished by the government of India act, 1858 due to the first war of independence, famously known as Indian rebellion of 1857, after we were ruled by the British crown directly.

## 2. HISTORICAL BACKGROUND

Landmark Statutes enacted by the British that contributed to the comprehensive structurization of our legal system. They are,

1. **Charter of 1600**- issued by Queen Elizabeth I - established the East India Company [EIC]- first British involvement in India- granted exclusive trading rights to the EIC.
2. **Charter of 1726**- issued by King George I - established the Mayor's Court- Bombay, Calcutta and Madras.
3. **The Regulating Act of 1773**- establishment of government at Calcutta and supreme court at fort Williams at Calcutta by the British parliament-civil, criminal, admiralty and ecclesiastical jurisdictions to the supreme court. Posting of Governor-General of Bengal was introduced and Warren Hasting was appointed as the first governor-general of Bengal and Elijah Impay appointed as the first

Chief Justice of Supreme Court at Calcutta.

4. **The Settlement Act of 1781**- resolved the conflicts between government of Calcutta and the supreme court- demarcated the jurisdictions for supreme court- not to interfere in revenue matters.
5. **The Pitts India Act,1784**- idea propounded by the then youngest prime minister of Great Britain William Pitt the Young in the age of 24- introduced dual system of governance by both East India Company and British government.
6. **The Charter Act of 1813**- EIC's exclusive trading rights were taken away from- only tea trade and China are with the EIC- transitional phase started from EIC rule to British Raj.
7. **The Charter Act of 1833**-also known as saint Helena Act- complete end of EIC's trading rights- EIC, no longer a commercial body, it is now an administrative body acting for the crown. Posting of Governor-General of India introduced which replaced the post of governor-general of Bengal and Lord William Bentick was appointed as the first Governor-General of India.
8. **All India Charter of 1834**- landmark legislation that structured our Indian legal system for the first by the establishment of first law commission headed by Lord Thomas Babington Macaulay- British established totally four law commissions in the year of 1834,1853,1861 and 1879.
9. **The Government of India Act, 1858**- abolished the EIC rule-

British Raj started-laid the foundation for 89 years of direct British colonial rule until 1947. Posting of Viceroy of India was introduced and Lord Canning was appointed as the first Viceroy of India.

10. **The Indian Council Act,1861-** Indian representation in governance for the first time.

11. **The Government of India Act,1909-**also known as Minto-Morley reforms- increased participation of Indians in governance and expansion of legislative council and provided separate electorate for Muslims. Satyendra Nath was the first Indian who was appointed in the Viceroy's Executive Council as a Law Member.

12. **The Government of India Act,1919-** also known as Montague-Chelmsford reforms- dual system or dyarchy-bicameral legislature at centre and province.

13. **The Government of India Act,1935-** failure of All India Federation – provincial autonomy-establishment of federal court-original, appellate and advisory. This act has 321 sections, 10 schedules and 11 parts (Federal, Provincial and Concurrent List).

14. **Indian Independence Act,1947-** 1945 British parliament election – labour party formed- prime minister Clement Attlee announced they will leave India on June 1948- India got independence on August 15,1947.

As, we look at our past history the contribution of the British by laying down the foundation for structured legal system

in India is evident. Especially, the work of Lord Macaulay in codifying a criminal legal framework for India is commendable. While, he is also considered as the Father of Indian Penal Code (IPC),1860 and Criminal Procedure Code (CRPC),1973.

### **3. CONSTITUTION**

A constitution is the primary legal document of a country that tells us about the structure of its government and its different kinds of organs. And also clarified, where it derives its authority (especially, our Indian constitution derives its authority from the people, ultimately people are the authority providers), how it functions and what are the powers and duties they have and also announce us the basic ideals that a country will follow. It also encompasses rights and responsibilities of its citizens and provides remedy if there is any breach of the fundamental rights of its citizens. Generally, we have three kinds of government organs, the first one is legislative, its primary function is to enact or modify or nullify any law. Following, the executive is the second organ that implements the laws enacted by the legislature. The last one is judiciary; it will scrutinize the laws enacted by the legislature and interpret it according to the principles of the constitution. The constitution has the authority to establish a new organ if it thinks so.

### **4. CONSTITUENT ASSEMBLY**

A Constituent Assembly is an organization that consists of representatives from different ideologies with intention to draft or to adopt a constitution for the country. They also envisaged to amend the constitution. It has the power to establish a country's basic political and legal structure and operates as a sovereign body.

## 5. FORMATION OF CONSTITUENT ASSEMBLY FOR INDIA

When it comes to our Indian constitution, the Government of India Act, 1935 is the model act, that we adopted its major salient features and it is considered as the major foundational document of our constitution. Manabendra Nath Roy was the first person who advocated for creating a constituent assembly for India in 1934. Based on the promise given by the British, the cabinet mission plan 1946 established a constituent assembly for India. A delegation led by Sir Stafford Cripps visited India and presented the British government's draft plan to create an independent constitution for India following World War II. The Muslim League opposed the Cripps' plan and called for India to be split into two independent states with two distinct constituent assembly in order to create a separate country for them. The Cabinet Mission later rejected this proposal. A constituent assembly for a unified India was established by the Cabinet Mission Plan of 1946. The members were elected from the both the places under the control of British and princely states. The process of electing members of the constituent assembly was done based on nomination and election. The constituent assembly had 389 members in total (296 from British India and 93 from princely kingdoms). Congress has a majority of 208 seats. This number was lowered from 389 to 299 after Partition. On August 11, Jinnah was elected as Pakistan's first president by the Constituent Assembly.

## 6. TIMELINE OF THE CONSTITUENT ASSEMBLY

### 6.1 CARDINAL DATES AND EVENTS TO REMEMBER

- **9<sup>th</sup> December 1946** – The Constituent Assembly met for the first time on December 9, 1946, and

211 members were presented on that day. Dr. Sachidanand Sinha, the most senior member of the constituent assembly, was named interim president. The first person who spoke in our Constituent Assembly was J.B. Kripalani.

- **11<sup>th</sup> December 1946-** The constituent assembly elected Sir Benegal Narsing Rau as its constitutional legal adviser, Harendra Coomar Mookerjee as its vice-president, and Rajendra Prasad as its permanent president.
- **13<sup>th</sup> December, 1946-** Jawarlal Nehru passed an objective resolution that eventually became the Indian constitution's preamble.
- **22<sup>nd</sup> January, 1947** – The objective resolution was approved by a unanimous vote.
- **22<sup>nd</sup> July 1947-** The Constituent Assembly approved the national flag, which Pingali Venkayya designed.
- **29<sup>th</sup> August, 1947-** Constitution of Drafting Committee and the very next day (August 30), Dr. B.R. Ambedkar was selected as the chairman of the draft committee, which included seven members, including Dr. Ambedkar.
- **February 1948-** After the publication of the first draft constitution, the Indian public was given eight months to offer recommendations. Of the 7,635 modifications received, only 2,473 were addressed in the constituent assembly.

- **16<sup>th</sup> July,1948-** T.T. Krishnamachari was chosen to serve as the constituent assembly's second vice president, with Harendra Coomar Mookerjee.
- **November,1948-** Discussions took place between November 15 and October 17, 1948, when the second draft constitution was put forward to the assembly.
- **3<sup>rd</sup> November, 1949-** The assembly has been furnished with the final draft of the constitution.
- **26<sup>th</sup> November, 1949-** Constitution of India was passed and adopted by the assembly. National Constitution Day (Samvidhan Diwas) was celebrated on this Day.
- **24<sup>th</sup> Jan, 1950 –** Last meeting of the constituent assembly. 284 members were signed the COI (Veerabahu Pillai, the only person who signed the original constitution in Tamizh). National anthem (JANA-GANA-MANA was written by Rabindranath Tagore-52 Seconds Duration) and National song (Vande Mattaram was written by Bankim Chandra Chatterjee).
- **26<sup>th</sup> January,1950 –** Constitution of India came into force, National emblem adopted (Satyameva Jayate – Truth Alone Triumphs).
- **DR. Bhimrao Ramji Ambedkar** (Father of Indian Constitution) conducted research in almost sixty different countries constitution. The entire cost for drafting the constitution was 64 lakhs, and it took two years, eleven months, and eighteen days.

- **Prem Behari Narain Raizada and Vasant Krishan Vaidya** are calligraphers of the original English and Hindi versions of the Indian constitution, respectively. Decorated by artists from **Shanti Niketan-** Nand Lal Bose and Beohar ram Manohar Sinha.

## 7. CONCLUSION

One of the most important turning points in the history of contemporary India was the creation of the Indian Constitution. Numerous legal innovations occurred throughout the lengthy transition from colonial oppression to sovereign nationhood. The British were the primary force behind these advances, laying the groundwork for India's legal system in the 1600s until 1947 with a number of legislations, charters, and reforms. These laws established judicial processes, administrative procedures, and organized government, which served as the cornerstones for the subsequent construction of independent India's own constitutional structure.

A decisive step towards self-rule was taken in 1946 with the creation of the Constituent Assembly under the Cabinet Mission Plan. The assembly had 389 members in all (it was subsequently whittled down to 299 during Partition), and its members included academicians, independence fighters, jurists, and visionary leaders. It served as a symbol of India's democratic ambitions in addition to being a representative body. With the help of several other notable individuals and under the direction of Dr. B.R. Ambedkar, who is frequently referred to as the Father of the Indian Constitution, the Constitution of India was meticulously and deeply envisioned.

The sequence of events that culminated in the Constitution's ratification demonstrates the commitment and thorough consideration required to draft a constitution that would preserve equality, justice, liberty, and fraternity. India's democratic spirit and cultural cohesion are reflected in historic events like the Objective Resolution's passing, the adoption of the country's emblems, and the Assembly members' signature of the final document. The complexity, inclusiveness, and extensive study that went into the formulation of the Indian Constitution are what set it apart. It was a deliberately modified and indigenous charter that was suited to the nation's varied socio-political environment, drawing inspiration from more than sixty international constitutions. After more than two years, eleven months, and eighteen days of intense discussions, public input, and scholarly involvement, the final draft became the world's longest written constitution. When the Constitution went into effect on January 26, 1950, India proclaimed itself a Sovereign, Democratic Republic, granting the people ultimate power and establishing the framework for government founded on equality, the rule of law, and fundamental rights. All things considered, the history of the Indian Constitution's drafting is a profound account of India's dedication to justice, democratic principles, and national cohesion rather than merely a story of political or legal development. It is a living constitution that still serves as the framework for the biggest democracy in the world, adjusting to the shifting demands of its citizens while upholding its core values.

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