

TNPSC GROUP I / II - PRELIMINARY INDIAN POLITY - WORKSHEET

MAKING OF THE CONSTITUTION

It was in 1934 that the idea of a Constituent Assembly for India was put forward for the first time by M.N.Roy a pioneer of communist movement in India and an advocate of radical democratism. In 1935, the Indian National Congress (INC), for the first time, officially demanded a Constituent Assembly to frame the Constitution of India. In 1938 Jawaharlal Nehru, on behalf the INC declared that 'the Constitution of free India must be framed, without outside interference, by a Constituent Assembly elected on the basis of adult franchise. The demand was finally accepted in principle by the British Government in what is known as the 'August Offer' of 1940.

In 1942, Sir Stafford Cripps, a member of the cabinet, came to India with a draft proposal of the British Government on the framing of an independent Constitution to be adopted after the World War II. The Cripps Proposals were rejected by the Muslim League which wanted India to be divided into two autonomous states with two separate Constituent Assemblies. Finally, a Cabinet Mission was sent to India. While it rejected the idea of two Constituent Assemblies, it put forth a scheme for the Constituent Assembly which more or less satisfied the Muslim League.

Composition of The Constituent Assembly

The Constituent Assembly was constituted in November 1946 under the scheme formulated by the Cabinet Mission Plan. The features of the scheme were:

1. The total strength of the Constituent Assembly was to be 389. Of these, 296 seats were to be allotted to British India and 93 seats to the Princely States. Out of 296 seats allotted to the British India, 292 members were to be drawn from the eleven governors' provinces and four from the four chief commissioners' provinces, one from each.
2. Each province and princely state were to be allotted seats in proportion to their respective population. Roughly, one seat was to be allotted for every million population.
3. Seats allocated to each British province were to be decided among the three principal communities – Muslims, Sikhs and general (all except Muslims and Sikhs), in proportion to their population.
4. The representatives of each community were to be elected by members of that community in the provincial legislative assembly and voting was to be by the method of proportional representation by means of single transferable vote.
5. The representatives of princely states were to be nominated by the heads of the princely states.

It is thus clear that the Constituent Assembly was to be a partly elected and partly nominated body. Moreover, the members were to be indirectly elected by the members of the provincial assemblies, who themselves were elected on a limited franchise. The elections to the Constituent Assembly were held in July-August 1946. The Indian National Congress won 208 seats, the Muslim League 73 seats, and the small groups and independents got the remaining 15 seats. However, the 93 seats allotted to the princely states were not filled as they decided to stay away from the Constituent Assembly.

The Assembly included all important personalities of India at that time, with the exception of Mahatma Gandhi and MA Jinnah.

Working of the Constituent Assembly

The Constituent Assembly held its first meeting on December 9, 1946. The Muslim League boycotted the meeting and insisted on a separate

state of Pakistan. The meeting was thus attended by only 211 members. Dr. Sachchidanand Sinha, the oldest member, was elected as the temporary President of the Assembly, following the French practice. Later, Dr. Rajendra Prasad was elected as the President of the Assembly. Similarly, both H.C. Mukherjee and V.T. Krishnamachari were elected as the Vice-Presidents of the Assembly. In other words, the Assembly had two Vice-Presidents.

Objectives Resolution

On December 13, 1946, Jawaharlal Nehru moved the historic 'Objectives Resolution' in the Assembly. It laid down the fundamentals and philosophy of the constitutional structure. This Resolution was unanimously adopted by the Assembly on January 22, 1947.

Changes by the Independence Act

The representatives of the princely states, who had stayed away from the Constituent Assembly, gradually joined it. The Indian Independence Act of 1947 made the following three changes in the position of the Assembly:

1. The Assembly was made a fully sovereign body, which could frame any Constitution it pleased.
2. The Assembly also became a legislative body. Thus, the Assembly became the first Parliament of free India. Whenever the Assembly met as the Constituent body it was chaired by Dr. Rajendra Prasad and when it met as the legislative body, it was chaired by G V Mavlankar. These two functions continued till November 26, 1949, when the task of making the Constitution was over.
3. The Muslim League members withdrew from the Constituent Assembly for India. Consequently, the total strength of the Assembly came down to 299 as against 389 originally fixed in 1946 under the Cabinet Mission Plan. The strength of the Indian provinces (formerly British Provinces) was reduced from 296 to 229 and those of the princely states from 93 to 70.

Other Functions Performed

In addition to the making of the Constitution and enacting of ordinary laws, the Constituent Assembly also performed the following functions:

- a. It ratified India's membership of Commonwealth in May 1949.
- b. It adopted the national flag on July 22, 1947.
- c. It adopted the national anthem on January 24, 1950.
- d. It adopted the national song on January 24, 1950.
- e. It elected Dr Rajendra Prasad as the first President of India on January 24, 1950.

In all, the Constituent Assembly had 11 sessions over two years, 11 months and 18 days. On January 24, 1950, the Constituent Assembly held its final session. It, however, did not end, and continued as the provisional parliament of India from January 26, 1950 till the formation of new Parliament after the first general elections in 1951-52.

Committees of the Constituent Assembly

Major Committees

1. Union Powers Committee - Jawaharlal Nehru
2. Union Constitution Committee - Jawaharlal Nehru
3. Provincial Constitution Committee - Sardar Patel
4. Drafting Committee - Dr. B.R. Ambedkar
5. Advisory Committee on Fundamental Rights, Minorities and Tribal and Excluded Areas -Sardar Patel. This committee had the following sub-committees:
 - (a) Fundamental Rights Sub-Committee - J.B. Kripalani
 - (b) Minorities Sub-Committee - H.C. Mukherjee
 - (c) North-East Frontier Tribal Areas and Assam Excluded & Partially Excluded Areas Sub-Committee - GopinathBardoloi

- (d) Excluded and Partially Excluded Areas (Other than those in Assam) Sub-Committee - A.V. Thakkar
6. Rules of Procedure Committee - Dr. Rajendra Prasad
 7. States Committee (Committee for Negotiating with States) - Jawaharlal Nehru
 8. Steering Committee - Dr. Rajendra Prasad

Minor Committees

1. Finance and Staff Committee - Dr. Rajendra Prasad
2. Credentials Committee - Alladi Krishnaswami Ayyar
3. House Committee - B. Pattabhi Sitaramayya
4. Order of Business Committee - Dr. K.M. Munshi
5. Ad-hoc Committee on the National Flag - Dr. Rajendra Prasad
6. Committee on the Functions of the Constituent Assembly - G.V. Mavalankar
7. Ad-hoc Committee on the Supreme Court - S. Varadachari (Not an Assembly Member)
8. Committee on Chief Commissioners' Provinces - B. Pattabhi Sitaramayya
9. Expert Committee on the Financial Provisions of the Union Constitution - Nalini Ranjan Sarkar (Not an Assembly Member)
10. Linguistic Provinces Commission - S.K. Dar (Not an Assembly Member)
11. Special Committee to Examine the Draft Constitution - Jawaharlal Nehru
12. Press Gallery Committee - Usha Nath Sen
13. Ad-hoc Committee on Citizenship - S. Varadachari

Drafting Committee

Among all the committees of the Constituent Assembly, the most important committee was the Drafting Committee set up on August 29, 1947. It was this committee that was entrusted with the task of preparing a draft of the new Constitution. It consisted of seven members.

1. Dr B R Ambedkar (Chairman)

2. N Gopaldaswamy Ayyangar
3. AlladiKrishnaswamyAyyar
4. Dr K M Munshi
5. Syed Mohammad Saadullah
6. N Madhava Rau (He replaced B L Mitter who resigned due to ill-health)
7. T T Krishnamachari (He replaced D P Khaitan who died in 1948)

The first draft of the Constitution of India was published in February 1948. In the light of the public comments, criticisms and suggestions, the Drafting Committee prepared a second draft, which was published in October 1948.

The Drafting Committee took less than six months to prepare its draft. In all it sat only for 141 days.

Enactment of the Constitution

Dr B R Ambedkar introduced the final draft of the Constitution in the Assembly on November 4, 1948 (first reading). The second reading (clause by clause consideration) started on November 15, 1948 and ended on October 17, 1949. The third reading of the draft started on November 14, 1949. Dr B R Ambedkar moved a motion—'the Constitution as settled by the Assembly be passed'. The motion on Draft Constitution was declared as passed on November 26, 1949, and received the signatures of the members and the president. Out of a total 299 members of the Assembly, only 284 were actually present on that day and signed the Constitution. This is also the date mentioned in the Preamble as the date on which the people of India in the Constituent Assembly adopted, enacted and gave to themselves this Constitution.

The Constitution as adopted on November 26, 1949, contained a Preamble, 395 Articles and 8 Schedules. The Preamble was enacted after the entire Constitution was already enacted. Dr B R Ambedkar, the then Law Minister, is recognised as the 'Father of the Constitution of India'. This brilliant writer, constitutional expert, undisputed leader of the scheduled castes and the 'chief architect of the Constitution of India' is also known as a 'Modern Manu'.

ENFORCEMENT OF THE CONSTITUTION

Some provisions of the Constitution pertaining to citizenship, elections, provisional parliament, temporary and transitional provisions, and short title contained in Articles 5, 6, 7, 8, 9, 60, 324, 366, 367, 379, 380, 388, 391, 392 and 393 came into force on November 26, 1949 itself.

The remaining provisions (the major part) of the Constitution came into force on January 26, 1950. This day is referred to in the Constitution as the 'date of its commencement', and celebrated as the Republic Day. January 26 was specifically chosen as the 'date of commencement' of the Constitution because of its historical importance. It was on this day in 1930 that Purna Swaraj day was celebrated, following the resolution of the Lahore Session (December 1929) of the INC.

With the commencement of the Constitution, the Indian Independence Act of 1947 and the Government of India Act of 1935, with all enactments unending or supplementing the latter Act, were re-pealed. The Abolition of Privy Council Jurisdiction Act (1949) was however continued.

IMPORTANT FACTS :

- ❖ Elephant was adopted as the symbol (seal) of the Constituent Assembly.
- ❖ Sir B.N. Rau was appointed as the constitutional advisor (Legal advisor) to the Constituent Assembly.
- ❖ H.V.R. Iyengar was the Secretary to the Constituent Assembly.
- ❖ S.N. Mukerjee was the chief draftsman of the constitution in the Constituent Assembly.
- ❖ Prem Behari Narain Raizada was the calligrapher of the Indian Constitution. The original constitution was handwritten by him in a flowing italic style.
- ❖ The original version was beautified and decorated by artists from Shantiniketan including Nand Lal Bose and Beohar Rammanohar Sinha.
- ❖ Beohar Rammanohar Sinha illuminated, beautified and ornamented the original Preamble calligrapher by Prem Behari Narain Raizada.

- ❖ The calligraphy of the Hindi version of the original constitution was done by Vasant Krishan Vaidya and elegantly decorated and illuminated by Nand Lal Bose.

CRITICISM OF THE CONSTITUENT ASSEMBLY

The critics have criticised the Constituent Assembly on various grounds.

These are as follows:

1. Not a Representative Body: The critics have argued that the Constituent Assembly was not a representative body as its members were not directly elected by the people of India on the basis of universal adult franchise.
2. Not a Sovereign Body: The critics maintained that the Constituent Assembly was not a sovereign body as it was created by the proposals of the British Government. Further, they said that the Assembly held its sessions with the permission of the British Government.
3. Time Consuming: According to the critics, the Constituent Assembly took unduly long time to make the Constitution. They stated that the framers of the American Constitution took only four months to complete their work. In this context, Naziruddin Ahmed, a member of the Constituent Assembly, coined a new name for the Drafting Committee to show his contempt for it. He called it a "Drifting Committee".
4. Dominated by Congress: The critics charged that the Constituent Assembly was dominated by the Congress party. Granville Austin, a British Constitutional expert, remarked: 'The Constituent Assembly was a one-party body in an essentially one-party country. The Assembly was the Congress and the Congress was India'.
5. Lawyer-Politician Domination: It is also maintained by the critics that the Constituent Assembly was dominated by lawyers and politicians. They pointed out that other sections of the society were not sufficiently represented. This, to them, is the main reason for the bulkiness and complicated language of the Constitution.
6. Dominated by Hindus: According to some critics, the Constituent Assembly was a Hindu dominated body. Lord Viscount Simon called it 'a body of Hindus'. Similarly, Winston Churchill commented that the Constituent Assembly represented 'only one major community in India'.