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Historical Base of the Indian Constitution

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Abstract:

The Indian Constitution is a marvellous text that has withstood the test of time. It remained relevant even after seven decades. It is a living document that has evolved with the changing times. It is a testament to the wisdom of the founding fathers who crafted it with great care and foresight. It is a shining example of how a diverse nation can come together and thrive under a democratic system. This is largely due to the Indian Constitution, which has laid down a robust framework for governance that has stood the test of time. This is a matter of pride for all Indians. However, some critics try to attribute the Constitution's success to Western values and principles, neglecting the fact that while many provisions were borrowed, they were modified to fit India's unique framework. This framework is based on India's great legacy, including ancient values and principles, the ideal principles of native religions, the impact of medieval and modern invaders, and the accumulation of various cultures. A unique political and social culture has emerged in this region, and the Indian Constitution reflects this legacy. Ultimately, it is the framework, not just the provisions, that makes the Indian Constitution a unique masterpiece.

Keywords: Indian Constitution, Borrowed Constitution, Unique Constitution, Patchwork

Introduction:

The formation of the constitution and the resulting social upheaval were India's biggest post-independence milestones. It promoted social, economic, and political change. It was perceived in many aspects as a kind of social revolution. Liberty, equality, justice, and fraternity served as its guiding principles. This constitution helped to maintain unity in diversity and weaved elements of diverse society into a single thread. While forming the constitution, notable intellectuals, scholars, and leaders contributed significantly. In this, Dr. Babasaheb Ambedkar, Dr. Rajendra Prasad, Sardar Patel, and Pandit Nehru were in the lead. These leaders had the goal of building a glorious and prosperous union of states. The core objective was to set a political stage for the country, which had

experienced slavery for a long period of time. To achieve this, while constructing an ideal constitution, many factors have contributed directly and indirectly. It is true that the Indian Constitution was made after observing many constitutions around the world. Hence, some critics call it a “bag of borrowing”, “a patchwork” (Ayub, 2015) and others criticized it as the ‘slavish imitation of the west’ (Basu, 2015). This is not entirely true. There are many other native factors that helped in shaping this marvellous text, which we cannot neglect. This paperintended to review all such factorswhich were important in framing the Constitution. Evaluative and descriptive methods of research have been applied in this paper.

Framing of the Indian Constitution:

As per the recommendations of the British Cabinet Mission of 1945, the Constitution Committee was established in 1946 to frame a constitution for India (Pandey, 1979). The Constitution Committee started its work on December 9, 1946, and completed it on November 26, 1949. This constitution came into effect on January 26, 1950. While framing the constitution, more than 60 constitutions around the world were studied by Dr. Babasaheb Ambedkar who were the chairman of the Drafting Committee (Saini, 2019). Ideal provisions of other constitutions around the world were adopted with reasonable amendments. Before accepting those provisions, they were tasted from the Indian perspective. Many of them were modified to suit native environment of this land. The popular provisions like preamble, federal structure, parliamentary form of government, fundamental rights and duties, directive principles, amendment process, emergency and the other provisions regarding legislature, executive and judiciary have been adopted from various part of the world (Basu, 2015). By seeing the large presence of those provisions in the constitution one might misunderstand that the Indian Constitution is nothing but a bag of borrowing. But it will appear to be monotonous when seen from a microscopic point of view. Indian constitution is not a constitution of only these provisions. It is not the provisions of any constitution that make it big, but the framework that accommodates the various provisions is the real identity of that constitution. The framework in which these provisions are adopted clearly dictates the uniqueness of the Indian Constitution. This framework is founded on the base of the great historical legacy of this country. A large part of the Constitution is directly based on the glorious legacy of the country. The social, cultural and political nature of this country had a long historical context. Framers of the Indian Constitution were aware of this fact. They framed the constitution in accordance with this historical background. All These principles, from various sources, were adopted by studying aspects such as Indian society and its history (Thiruvengadam, 2017).

The historical background includesthe ancient Indian society, the impact of foreign invaders and the changes and reforms, whether political or non-political, brought about by the European, especially British, rulers in the modern era staged a broad political background in the country. The

following are the major features of the Indian Constitution that set it apart from other constitutions around the world, as well as its historical context.

Influence of Ancient Indian Society on the Constitution:

The values of ancient India are still seemed to be the guiding principles of modern India. India's glorious history dates back to ancient times and has a significant impact on the country's global image. Social, cultural and political values of ancient India provide a solid foundation for modern India. The noble philosophy that shaped the Indian Constitution has its roots in ancient Indian history. The philosophies reflected in the Preamble of the Indian Constitution, the Fundamental Rights, and the guiding principles of state policy are revealed in the noble social life of ancient India. The principles of justice, liberty, equality, and fraternity are associated with the Indian way of life in the period before AD. "Vasudhaiva Kutumbakam" is a Sanskrit term for the teaching of brotherhood found in Hindu texts such as the 'Maha Upanishad', which means "the whole world is one family" (Singh, 2019). Article 51 of the Indian Constitution provides for peace and mutual cooperation with the international community. Along with this, the five principles of Buddhism also teach universal humanism, world peace, and harmony (Dr. Vivek Sharma, 2021). The coexistence of various religions on Indian soil is reflected in the principle of secularism in the Constitution. The concept of religion was prevalent in ancient Indian society from 3000 BC to 1000 AD, i.e., the pre-Vedic period. Then "Dharma" was placed above all. No one was above or superior to "Dharma." (Dalal, 2017) "Dharma" was considered the best principle of the state. The concept of "Dharma" prevalent at that time was not like the caste-religion of modern times. The concept of "Dharma" in ancient Indian society resembles with modern-day democracy, representative government, rule of law, and the constitution (Mukherjee, 2010). Democracy and limited government were both guiding principles. Also, the 'Sabhas' and 'Samitis' mentioned in the ancient Rigveda and Atharva Veda were like modern-day bicameral legislatures (Elder, 2023). The Aitareya Brahmana, Panini's Ashtadhyaya, Kautilya's Arthashastra, Shanti Parva (Mahabharata), Ashoka pillar inscriptions, Manusmriti, Jain, and Buddhist literature all describe an ideal republic (Satpathy).

The framers of the Indian Constitution were aware of India's glorious heritage. This is clearly evident from a perusal of the first copy of the Constitution adopted by the Constituent Assembly. In the original twenty-two chapters of the Constitution, at their beginning, the first page was illustrated with various works of art. Which provide a very interesting insight. These images briefly describe various eras of Indian history (Kalra, 2020). The Constitution of India classifies the history of India into distinct periods, including the Mohenjo-daro period, the Vedic period, the epic period, the Mahajanapada and Nanda periods, the Mauryan period, the Gupta period, the mediaeval period, the Muslim period, the British period, the Indian independence movement, the revolutionary movement for independence, etc. The illustrations included in the body of the Constitution were not chosen

arbitrarily, nor were they included merely to embellish the pages of the Constitution. On the contrary, they are included to give a glimpse of India's ancient way of life and values (Kalra, 2020). Which is also a strong basis for this constitution. The framers of the Constitution were aware that the country's Hindu heritage was linked to the spirit of the Constitution, and the images chosen to represent the Muslim era also tell a similar story. A scene of Akbar's court is depicted with various provisions of the Union and States (About the Illustrative Images on the Constitution of India, 2023). The images of Chhatrapati Shivaji Maharaj and Guru Gobind Singh highlight the struggle against injustice and tyranny, tyranny and brutality, and show the importance of a society based on freedom, equality, and justice (Choudhary, n.d.). The painting of The Lord Rama and concept of 'Ram Rajya' highlights the spirit of human values (Tejasvi Surya, 2021). The ideals and ethos of various religions do not dictate religious fanaticism but are civilizational values whose recognition underlines a deep humanism and commitment to a religious way of life. They are noble values, propagating the ancient and glorious Indian way of life, whose relevance to the future of modern India's democratic polity is considered relevant. Ancient Indian society and its values undoubtedly provide a solid foundation for the modern-day constitution. Along with this, some other provisions of the Indian Constitution can be traced back to British rule. While looking at the historical background of the Indian Constitution, it is important to refer to the ancient Indian society as well as the modern British era. In fact, in modern India, the British have made a huge contribution to creating a system by fitting the entire territory into a single political framework.

Influence of British Rule on Indian Constitution:

The Indian Constitution, which was drafted after independence, was largely based on the political reforms brought about by the British in India. The British created a political culture in India through the Regulating Act of 1773, Charters of 1833 and 1853, the Government of British India Act of 1858, Council Acts from 1861 to 1909, the Government of British India Acts of 1919 and 1935, and various British officials and their commissions tried to develop (Basu, 2015). Some of these reforms were accepted by Indian society, while others forced the British to retreat. Similar provisions were included in the Indian Constitution that were compatible with the local society and way of life. Many political reforms were introduced and adopted during British rule. This made Indian citizens familiar with western political values and ideals. Out of these, the values and ideals accepted and digested by the local society are found to be included in the constitution. Some of the provisions of the Indian Constitution that trace their origins to British rule are as follows: The parliamentary system of government is one of the major features of the Indian system of government, The Constitution of India chose the parliamentary form of government for the country from among the presidential and parliamentary forms of government (Basu, 2015). This decision was based on the historical background of the country. While deciding whether a presidential or parliamentary system

would be suitable for India, the Constitution framers preferred the parliamentary system. Although the structure of the country was federal like that of the US and Canada, the system of government was based on the British parliamentary system. After independence, the nation experienced a parliamentary system instead of a presidential system. During British rule, the rulers adopted the system of governance in the country along the lines of U.K. With the Regulating Act of 1773, the British started to develop a political system in India, and in the later period, political reforms were carried out step by step. This is why the parliamentary system was preferred and introduced in the country after independence. This parliamentary system of government, which was adopted after independence, was based on the experience of about 150 to 200 years of British rule. It was not new or unfamiliar to Indians, nor was it experimental. It came from the historical legacy of British rule continued to develop and strengthen in the country. Today, India is recognised as the largest parliamentary system in the world.

A parliamentary system of government based on interrelationship and interdependence between the legislature and the executive was introduced in India by the Regulating Act of 1773 (Basu, 2015). The Act established a four-member Governor General's Council to assist the Governor General of Bengal. The Governor General of Bengal became the Governor General of India under the Charter Act of 1833 (Basu, 2015). Further, the legislative and executive functions of this Governor General's Council were separated. The Charter Act of 1853 increased the number of members of the Legislative Council, and henceforth the powers of the Legislative Council expanded along with its membership (Basu, 2015). The Legislative Council was transformed into the Legislative Council. The British parliamentary system was slowly introduced to India through the functioning of this legislature. This allowed Indian citizens to experience the parliamentary system of governance. On this basis, after independence, the framers of the constitution could have felt it logical to adopt this model. Another distinctive feature of the Indian Constitution worth mentioning is federalism with unitary governance.

Unitary and federal states are diametrically opposed systems. Unitary government emphasises the centralization of power, while the federal system of government emphasises the decentralisation of power. While framing the Constitution, a question was raised while making choice between federal and unitary government. Considering the ethnic, religious, linguistic, cultural, and regional differences of the country, federalism seemed to be a viable option. But India's constitution was not even confined to a tight federal mould like the US Constitution. As a result, depending on the situation and time, both unitary and federal aspects were considered too (Austin, 2016). The influence of the British India Government Act of 1935 can be seen as well. During British rule, the country experienced a unified system of governance. Also, the Act of 1935 divided the power into two tiers, namely, the provinces and the centre (Basu, 2015). Later, after

independence, framers of the constitution preferred to continue with these federal features. The Panchayat Raj can be referred here as a good example of democratic decentralisation in India. Authority such as "Gramani" found in ancient Indian society and local level systems are thought to be a microcosm of modern India's local self-government bodies (Nagaraj, 2020).

In ancient society there existed local-level institutions like the Panchayat Raj of today. The British are credited with implementing these institutions in an organised and developed form. Lord Lytton's policies and decisions in the 1870s gave rise to the Panchayat Raj movement in India (Basu, 2015). From the ideals and teachings of Mahatma Gandhi, the concept of Panchayat Raj could take shape in a more developed form. Along with this, much of the Indian Constitution is inspired by the British India Government Act of 1935. But instead of taking it as it is, it has been modified according to local needs. The major provisions that were adopted in this act included provisions like the federal concept, the post of governor, the single judiciary, the public service commission, the provision of emergency, the division of powers between the centre and constituent states, etc.

Conclusion:

The Indian Constitution is a testament to the spirit of the Indian people. It is a marvellous text that reflects their aspirations, their hopes, and their dreams. It is a truly remarkable document, covering everything from the definition of citizenship to the rights and duties of citizens. It is a testament to India's unique civil culture and has been instrumental in shaping the country's political landscape. The Constitution embodies the ideals of equality, justice, and brotherhood, which are crucial for a thriving democracy. It has brought about a social revolution that has transformed India into a more just and equitable society. The Constitution has enabled people from all walks of life to come together and work towards a common goal of progress and prosperity. Contrary to popular belief, the Indian Constitution is not a mere patchwork of borrowed provisions. Rather, it is a unique framework that has been constructed based on India's ancient and noble values. The Constitution reflects the country's rich cultural heritage, which includes diverse religious and philosophical traditions. A historical analysis of the Constitution's provisions will reveal the depth and uniqueness of the Indian Constitution.

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