

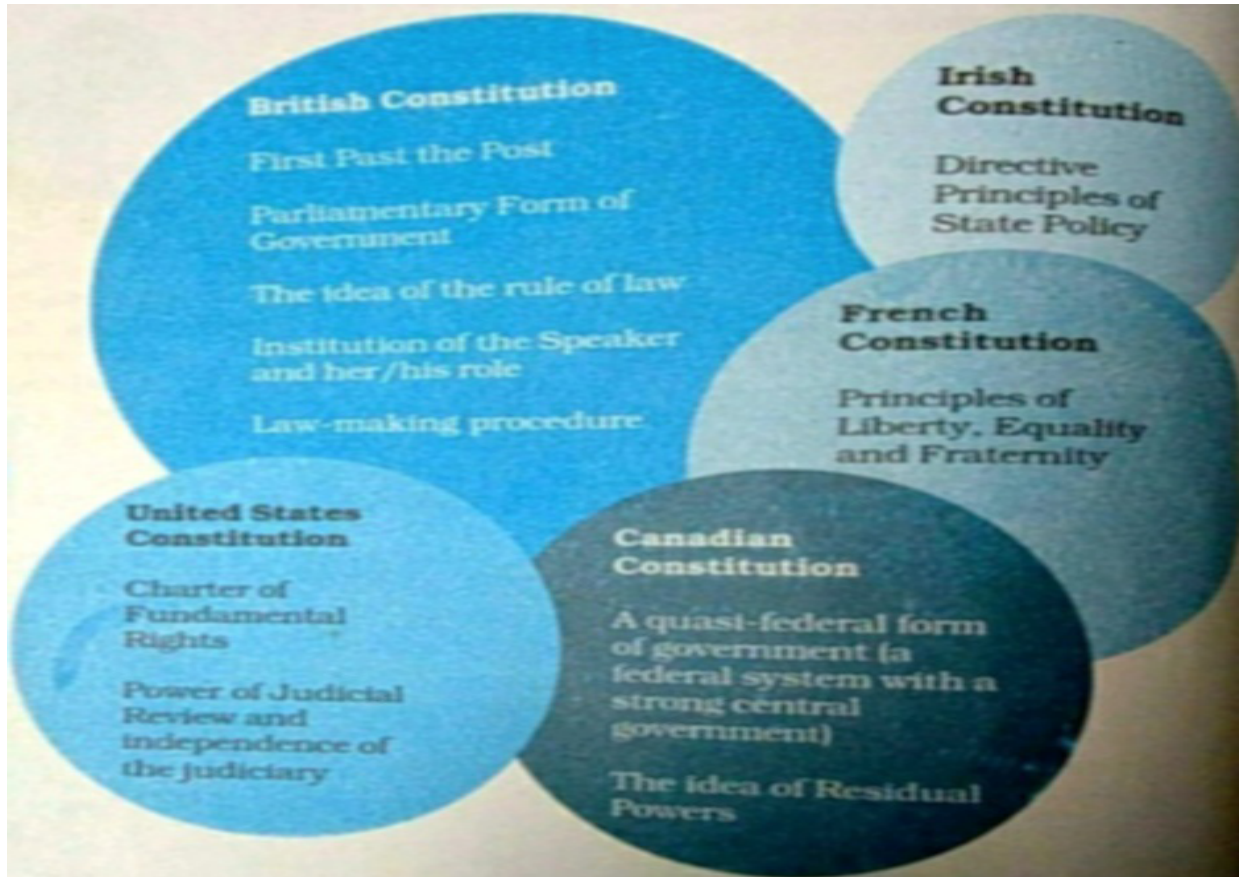


CHAPTER: PHILOSOPHY AND MAKING OF THE INDIAN CONSTITUTION

The Making of the Indian Constitution

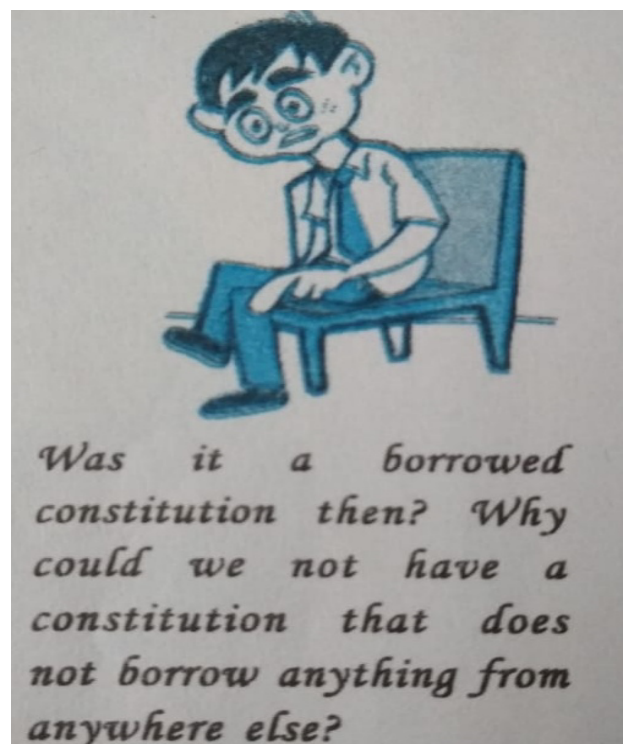
- A body, known as the Constituent Assembly, made the Constitution of India. In our country, the Constituent Assembly was not elected by the people because there was no agreement among the people of India at that time. The Constituent Assembly was formed in the year 1946. At that time India was not free. The first meeting of this body took place on 9th December 1946. In 1947 the Partition took place. It met again as Constituent Assembly for free India on 14th August 1947. In fact, it played the role of the legislature for India till it was constituted through elections in 1952.
- The Constituent Assembly was composed roughly along the lines suggested by the plan proposed by the committee of the British cabinet, known as the Cabinet Mission.
- At the time of British Rule, India was made up of Princely States and the British Indian Provinces. The British Indian Provinces were directly under the control of the British. There were 292 representatives from the Provinces. 93 members represented the Princely States. Altogether, the total number of members was 389. (4 members were from the chief commissioner provinces)
- Seats from each province were distributed among the three main communities – Muslims, Sikhs and General Category. Each community got seats in the legislature in proportion to their population. They elected members on the basis of proportional representation with single transferable vote. The principle of universal adult franchise was not followed. In those days. Constituencies were drawn on lines of religion. So, Muslims voted for Muslim candidates, Sikhs voted for Sikh candidates and so on. 28 seats were reserved for the Scheduled Castes. The Indian National Congress had the maximum representatives in the Constituent Assembly, almost 82% of the seats.
- The size of the Constituent Assembly reduced after Partition took place. There were only 299 members left.
- The Constituent Assembly held discussions from 1946-1949. The work of this body was distributed among eight major committees on different subjects. Dr Rajendra Prasad was the President of the Constituent Assembly. Dr B.R. Ambedkar was the Chairman of the Drafting Committee. They discussed each provision of the Constitution before they adopted it. For this, they studied constitutions all over the world. They argued about whether the feature of a constitution that they borrowed from another country would suit the conditions that existed in India. Only one provision of the Constitution was accepted by all the members of the body without any debate. It related to the introduction of universal adult franchise. When there was disagreement on an issue, members tried to reach a consensus or an agreement. Some provisions were also subjected to the vote. Though, the work of making the Constitution came to an end on 26th November 1949, the Constitution was finally inaugurated on 26th January, 1950.

These are some features that India adopted from countries all over the world.



Many observers have criticized our constitution as a bag of borrowings. However, borrowing these ideas was not a slavish imitation. Rather, each provision of our constitution had to be defended on grounds that it was suited to Indian problems and aspirations. For example, the provision of the First Past the Post system borrowed from the British constitution was not followed blindly in our country. In the Constituent Assembly, many members expressed a fear that this electoral arrangement will not serve our purposes. Therefore, it was decided to adopt the system of reserved constituencies to overcome the disadvantages of the FPTP system for minority communities!

Thus, one can safely argue that India was extremely lucky to have a Constituent Assembly whose members took the best that was available in different constitutions of the world and make it their own!



Philosophy of the Indian constitution

Some people believe that a constitution merely consists of laws and that laws are one thing, values and morality, quite another. However, many laws are closely connected to our deeply held values. For example, a law might prohibit discrimination of persons on grounds of language or religion. But such a law is connected to the idea of equality. Therefore, it is possible to have not only a legalistic but also a political philosophy approach to the constitution.

WHAT IS THE POLITICAL PHILOSOPHY OF OUR CONSTITUTION?

The Preamble to the Indian Constitution best describes the philosophy of our constitution. The values that comprise our constitution's philosophy can be summed up as follows :

1. **Individual freedom:**

Freedom of expression is an integral part of the Indian constitution. So is the freedom from arbitrary arrest. After all, the infamous Rowlatt Acts sought to deny this basic freedom. These and other individual freedoms such as freedom of conscience are part of the liberal ideology. On this basis we can say that the Indian Constitution has a pretty strong liberal character.

2. **Social justice:**

Unlike classical liberalism, Indian liberalism is linked with the ideal of social justice. The best example of this is the provision for reservations for Scheduled Castes and Scheduled Tribes in the constitution.

3. **Respect for minority rights:**

India is a land of multiple cultural communities. It was therefore important to ensure that no one community systematically dominates others.. This made our constitution makers to recognize community based rights like the Cultural and Educational Right enshrined in our constitution.

4. **Secularism:**

Indian secularism is based on the model of Principled Distance. This means that the state can interfere or abstain from interfering in the religious affairs of the people. This is unlike western model of secularism which is based on the idea of mutual exclusion between state and religion.

5. **Universal franchise:**

From very early on, universal franchise was considered as the most important and legitimate instrument by which the will of the nation was to be properly expressed. The Motilal Nehru Report reaffirmed this conception of citizenship, reiterating that every person who has attained the age of twenty one is entitled to vote for the Parliament.

It's certainly a matter of pride that the principle of 'one man one vote' was accepted almost uncontested. Isn't it true that women had to struggle for their right to vote in many other countries?



6. Federalism:

Federalism refers to the idea of separation of powers between central and state governments. In India, we have followed the idea of asymmetric federalism, where central government is more powerful than the state governments. Besides, some states enjoy constitutionally embedded prerogatives within the same federation. For example, Article 371A accords special status to the North- Eastern state of Nagaland.

In the next segment, we shall explore how the Indian Constitution has been a living document through the various amendments that have made our constitution a dynamic and a robust document!

Please refer to the link below:

https://m.youtube.com/watch?v=RDSr68ewVP4&list=PLVOgwa_DiGzoFR3j1mSGn5Z_OQLxgodQi&index=21&t=0s

QUESTIONS

1. In your opinion, is it possible to have a political philosophy approach to the constitution of any country? Explain with reference to the Indian Constitution.
2. Summarize the journey of constitution making in India.

“The only person you are destined to become is the person you decide to be.”

– Ralph Waldo Emerson

Good day! Stay safe.