

# CIVICS



## Constitutional Designs

### South Africa – From Apartheid to the Formulation of the Constitution

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The Constitution can be defined as the set of rules and laws which the citizens and the Government have to follow. It is the supreme law of the country. It lays down the rights and the freedoms of the citizens and the power and the responsibilities of the Government.

One of the recent countries which has designed and formulated its Constitution is South Africa.

#### The Policy of Apartheid

- Apartheid refers to the racial discrimination on the basis of the colour of skin. Many Europeans had settled in South Africa during the seventeenth and the eighteenth centuries.
- These white Europeans began to rule the country. They followed the policy of apartheid in which the natives called 'blacks' and the coloured (people of mixed races and Indians) were treated as inferiors.
- The blacks and the coloured people could not live in the areas inhabited by the whites. They could work in these areas only if they had the permit to work in the white areas.
- Swimming pools, libraries, cinema halls, beaches and colleges were all separate for the whites and the blacks. The coloured and the blacks could not even enter into churches which were reserved for the whites. Non-whites also did not have the right to vote.
- The blacks and the Indians began to raise their voice against the oppressive apartheid policy. The African National Congress led the struggle against the apartheid policy. Many whites who opposed the policy of apartheid also joined this organisation and protested against the policies of the white Government. Nelson Mandela led the struggle of the non-whites against the South African Government.
- The South African Government detained, tortured and killed many protestors and continued to rule. Nelson Mandela was detained and sent to prison for a period of 28 years by the Government.
- By 1994, the Government realised that it will not be possible to rule South Africa, and thus, the white Government changed its policies. All discriminatory laws were repealed and freedom of speech and expression was granted to the people. Nelson Mandela was liberated from prison and he became the President of South Africa.



Nelson Mandela

#### South Africa – Drawing of the Constitution

The whites, blacks and coloured population of the country together formulated the Constitution of the country. They decided that every section of society should be part of the Constitution and should get equal rights. Some negotiations among the South Africans which became the basis of the South African Constitution are

- The whites agreed to the principle of majority rule and the concept of one person having one vote.

- The blacks agreed that the majority rule would not be absolute, and the rights of the minority will not be taken away.
- The Constitution further defined the way the Government was to be elected and its functions.
- The rights and the freedoms of the citizens were laid down.

## Necessity of the Constitution

A Constitution is necessary because of the following reasons:

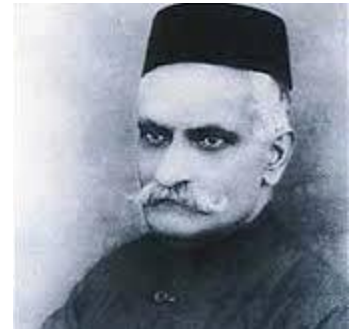
- It is an important law of the land. It determines the relationship of the citizens with the governments.
- It lays down principles and guidelines which are required for people belonging to different ethnic and religious groups to live in harmony.
- It specifies on how the Government would be elected and who will have the power and the responsibility to take important decisions.
- It outlines the limits on the power of the Government and tells us about the rights of the citizens.
- It expresses the aspirations of the people about creating a good society.

## Making of the Constitution of India

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It was not easy for the framers of our Constitution to draw a Constitution because of the following reasons:

- India was a large country which was inhabited by various diversified communities.
- India had just become independent from the colonial rule and Indians had experienced the pain and trauma which was related to the partition of the country.
- The British had drafted the instrument of accession according to which the princely states were free to decide if they wanted to remain as a part of India, or join Pakistan or to remain independent. This was a threat to the unity of our country.
- The framers of the Constitution also had anxieties about the present and the future of the country.



Motilal Nehru

Our Constitution informally had begun to take shape during the later years of the British rule. In 1928, Motilal Nehru and eight other Congress leaders had drafted a Constitution for the people of India. In 1931, in the Karachi session of the Indian National Congress (INC), discussions took place on the Constitution which should be framed for the country. All leaders agreed on the universal adult franchise, protection of the rights of the minorities and right to equality to be granted to the citizens.

The holding of elections in 1937 in all parts of British India and the passing of various Acts of the Government of India helped the Indians to gain experience in the working of legislative assemblies and drafting of the Constitution. The leaders of the country also drew inspiration from the American Revolution, French Revolution and the practice of the parliamentary democracy in Great Britain. They had also read constitutions of other countries and were inspired by features of these constitutions. This helped our leaders to frame the Constitution of the country.



Dr. B.R. Ambedkar

## The Constituent Assembly

- The Constituent Assembly was a body of elected representatives which drafted and framed the Constitution of our country. The elections to the Constituent Assembly were held in July 1946, and the first meeting was held in December 1946.
- The Constituent Assembly adopted the Constitution on 26 November 1949, but it came into effect on 26 January 1950. Thus, we celebrate 26 January as Republic Day every year.

## Why should we accept a Constitution framed fifty years ago?

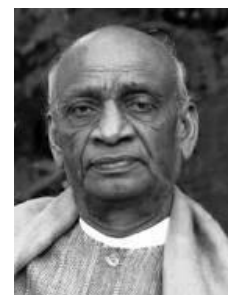
- Our Constitution has granted basic rights and freedoms to all citizens. Any kinds of discriminations are illegal, and minority communities are given protection from any kind of discrimination. This is the reason why until now, no group or political party has questioned the legitimacy of the Constitution.
- The Constituent Assembly which drafted the Constitution had representatives of the people of India. Although no elections were held at that time, the members of the Constituent Assembly were elected by the members of Provincial Legislatures. The assembly represented people from various regions and linguistic and religious communities.
- The Constituent Assembly worked in a systematic, open and consensual manner while drafting the Constitution of the country. Discussions took place on each clause of the Constitution. Every document was debated. The Constituent Assembly took three years to prepare the Constitution of the country. These are called the 'Constituent Assembly Debates'.

## Some Members of the Constituent Assembly

- Vallabhbhai Patel: He was the first Home Minister of India and played a prominent role in Bardoli Satyagraha.
- Abul Kalam Azad: He was the first Education Minister of India and opposed Muslim separatist politics.
- T. T. Krishnamachari: He was the Finance Minister and an entrepreneur.
- Rajendra Prasad: He was the first President of India and a lawyer by profession.
- Jaipal Singh: He was a sportsman and an educationist. He was the captain of the Indian hockey team. He was also the founder of Adivasi Mahasabha.
- H. C. Mookherjee: He was the Vice Chairman of the Constituent Assembly and later became the Governor of Bengal.
- G. Durgabai Deshmukh: She was the founder of Andhra Mahila Sabha and advocated women emancipation.
- Baldev Singh: He was an entrepreneur and was the Defence Minister in the union cabinet.
- B. R. Ambedkar: He was the Chairman of the drafting assembly. He denounced the caste system and was the first Law Minister of independent India.



Sarojini Naidu



Sardar Patel

Some other members were Sarojini Naidu, S. P. Mukherjee, Jawaharlal Nehru, Somnath Lahiri and K. M. Munshi.

## Preamble and Features of the Constitution of India

Our Constitution begins from "We the people of India" which means that the Constitution derives its authority from the people of India. The Preamble is the guiding line of the Constitution.

The Preamble declares India to be a sovereign, secular, socialist, democratic republic. It also secures the principles of justice, liberty, equality and fraternity to all citizens.

**Sovereign:** It means that our country has the right to make decisions on external or internal matters of the country. No external or internal authority can pressurise the Government to take any decisions.

**Socialist:** It means that wealth should be divided among all sections of society. The Government should work for the upliftment of the downtrodden sections of society.

**Secular:** The people of India are free to follow any religion. India has no official religion and neither it encourages or discourages any religion in India.

**Democratic:** The Government is elected by the people. The Government is run according to some basic rules, and people enjoy basic rights and freedoms.

**Republic:** The head of the state is elected for a fixed period of time and the position is not hereditary.

**Justice:** Citizens cannot be discriminated on the grounds of caste, religion and gender.

**Liberty:** Citizens are free to think and express their thoughts.

**Equality:** All citizens are equal before the law irrespective of their caste, class or gender.

**Fraternity:** All citizens of India are equal and no one is inferior to another.

### PREAMBLE

**WE, THE PEOPLE OF INDIA** having solemnly resolved to constitute India into a **SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC** and to secure to all its citizen

**JUSTICE**, social, economic and political  
**LIBERTY** of thought, expression, belief, faith and worship  
**EQUALITY** of status and of opportunity and to promote among them all.  
**FRATERNITY** assuring the dignity of individual and the unity and integrity of the nation.

Preamble of our Constitution