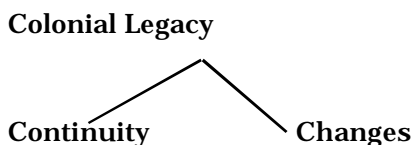


## CHAPTER - 2

# MAKING OF THE INDIAN CONSTITUTION



### Context of the Topic:

India represents a classical case of post colonial state. British colonialism has impacted Indian Constitution, Indian Political Systems, Indian Economy, Society, foreign Policy.

The colonial legacy of British rule must be understood in following context:

- (1) Continuity of legacy
- (2) Attempt by Indians to break the legacy
- (3) Our report card (current scenario) with respect to the aims we outlined for ourselves during freedom struggle.

Colonial legacy of Britishers can be analysed under



### Continuity

- Strong centre — Representative form of Govt.
- Governor — Superiority of Lower House
- Judicial System
- Parliament form of Govt.
- Rule of Law
- Bureaucracy

### Colonial Legacy in Political Science

There is a visible legacy of British Colonialism on Indian Political systems many provision of present Indian Constitution emerged from Government of India 1935. India has adopted Parliament form of Government despite adopting federal constitution.

Ideally Presidential form of Government is

suitable for federalisms. It was the impact of Britishers & their institutions on the minds of Indian modernists that they found Parliament form of government preferable over the Presidential form.

We inherited the tradition of

- Rule of Law
  - Supremacy of Lower House over Upper House
- From British Political Systems.

This is again deviation of India from ideal type of federal systems in countries where federal systems exist. We find tradition of strong Upper house e.g. USA.

In field of Administration India primarily inherited the Colonial systems. Britishers considered the Bureaucracy as the “Steel Frame of British Raj.”

Even post independent leaders like Patel gave significance to the Bureaucracy. However, India made an attempt to modify the colonial model of administration by incorporating the concept of “Development Administration”.

Development Administration as an administration model was propounded by scholars like Edward Weidner Riggs as more suitable for III World Countries. In III world societies, bureaucracy was given the responsibility for bringing Political modernization.

Thus, Bureaucracy remains a central institution in the Indian Context. Therefore, In India also, we can apply model of HAMZA ALAWI “over developed states” where bureaucracy holds a very strong position & he holds its origin to colonial legacy.

With respect to Military, India has maintained the Colonial legacy. The colonial masters made systematic efforts to keep military away from Political development. The military in Independent India continued this tradition.

Britishers introduced Representative form of Govt. in India. However, they granted franchise to very limited Indians.

India post independent tried to give the right to franchise on universal basis. Thus, we started the systems of "Universal Adult Franchise".

British tried to introduction the integrated Judiciary in Indian context. Here too, we have not adopted the systems of two-set of courts as found in Federal countries eg. USA.

Britishers give separate communal electorate. After independent instead of continuing with that policy, we introduce concept of Reservation for SC / STs & also for member of Anglo Indian Community.

Thus we see that the British Colonial legacy has shaped the major Political Institutions and their style of functioning. India did make an attempt to introduce modifications according to its needs or needs of socio-political system. We continued with the progressive features of the Political systems introduced by Britishers.

### Colonial Legacy in Economic Sphere

The colonial state in India completely subordinated the Indian Economic according to needs of British Capitalists Class.

The impact of British of India Economy are:

1. Integration of Indian Economy with the World's Capitalist systems.

India has transfer into a classical colony. It was the supplier of raw material & food stuffs. It was market for their manufactured goods. This was the result of unequal exchange.

The similar type of pattern of External Trade continued for a long time. This wasn't unique for India but common for other III world countries also.

This has led to the demand of the New Economic order by India & other countries India also attempted to adopt other economic strategies like Import promotion export substitution to break this cycle of uneven exchange. As a result of New Economic Policy adopted by India in 1990s, India was able to overcome certain aspects of pattern of trade in significance manner.

India has made advancement in sector of IT & has become exporter in this context.

2. Impact on Indian Agriculture & Handicraft Industry

The rate of Capital form in India during british time was negligible for Large proportion of National Income was appropriated by Colonial State. In this context, scholars like Nauroji have developed the

"Drain of Wealth" theory. British introduced new land settlement policies, leading to rise of new class "Zamindars or Money Lenders". It has led to the impoverishment of Indian peasantry. Over the years they became landless labourers.

British systematically destroyed Indian handicraft industry. They nothing for advancement of agriculture or industries of country. Such policies result into the overcrowding of Agriculture, that lead to Rural Poverty & indebtedness.

The Colonial policies are still impacting the country. After independent, we have taken measures for promotion of Economic Growth. The systems of Centralised Planning was used to achieve balance regarding development & development in different sector of economic in most rational manner.

India undertook measures like land reforms & Green Revolution to break the colonial legacy.

Pandit Nehru laid down the foundation of basic industries in India. The DPSP contained principles, it tried to introduced systems of ownership which is based on equitable criteria aimed at ending concentration of wealth in the hands of few.

Thus the British economic policies have impacted India's development strategy & foreign economic policy.

### "Social Legacy"

Positive and negative impact of British on Indian social structure.

#### Positive Impact

We can include various reform measures adopted by Colonial state

- Abolition of sati
- Raising of Marriagable Age

British introduced modern education in India, however the education policy of British was designed according to needs of the colonial state. Aimed at recruitment of Clerks to assist them in the administration task.

#### Negative Impact

British made no attempt to promote mass education. No attempt to develop critical faculties in students. Lack of concern for development of scientific education.

Number of Engineering & Medical Colleges or Agricultural Institutions was reduced.

The neglect of mass education result into large population of Illiterates.

No attempt to promote education of girls.

Similarly the health sector was very poor. India lacked basic infrastructure in this regard.

Britishers introduced the policy of Divide & Rule. They attacked the multi-cultural & pluralist foundations of Indian culture. Many national scholars trace origin of Communalism to British times. After independence, we are tried to come out of legacy in various ways:

1. Indian Constitution has adopted ideals of secularism. It has granted special rights to Minorities. Systematic attempt made to promote Mass Education & building basic infrastructure.

Thus it can be said that the many politics of independent India are rooted in the colonial legacy. We have tried to incorporate the features & we made attempt to overcome the negative ones. At the time of independence Indian leaders faced enormous task for establishment sound economic political & social foundations.

Pandit Nehru, himself advocate that we are trying to make TRYST with Destiny.

Considering situations of partition & social economic constitutions of India during that time, we can say, that we have travelled a long distance. In this path there are still many areas that do regarding attention but today India has tried to make a significance break from the past from the status of poor country to it's now recognise as an "Emerging Power" in the community of Nations.

### "Foreign Policy"

According to C. Rajamohan, we can see similarities between Nehru & Lord Curzon.

Since the time of Lord Curzon the rulers of India always wanted to see as Centre of Gravity in international Poltics.

India always had a desire to emerge as a major power. Even Pt. Nehru contributed with this policy His policy of NAM was attemp to carve out a space for India in IP, aimed to bring III world countries to India & establish India as leader of III World.

In contemporary times the realistic postures of India's Foreign Policy (Operation Shakti) are treated as extensions of Curzon's approach.

The Colonial legacy has also impacted in various other areas of foreing policy like:

- membership of Commonwealth

- Foreign policy aimed to end racialism, fight against colonialism... etc.

### Making of Indian Constitution

#### Different Social & Political Perspective:

Indian constitution differs from that of France & USA or from Britain in the sense that constitution of Fance & USA where the product of political revolution. The Biritish Constitution represent gradual evolution for many centuries. Indian Constitution is not a product of political revolution but result of deep deliberation of a representative body. The constituent Assembly had to achieve an uphill task of not only enacting the constitution of free India but also device model of development and nature state which India should be. So this is not an easy task considering the different ideological shades existing in Assembly. Different socio-political perspective which influence framers of our constitutions can be understood in terms of debates Gandhians & Modernists & Debate between Liberal, socialists & Reactionaries.

Granville Austin Indian Constitution: The conrnerstone of a nation: three revolution were happened mainly Political, Economic, & Social revolution.

The political revolution would end with independence the social revolution meant to get the country out of Medievalism & construct modern structures of society & transform primitive rural economy into scientific & planned industrial society.

According to Austin, there was a broad agreement on the goals but there was a widespread opposition on the means. There were different schools of thoughts propounding different Roots.

#### 1. Gandhians

Gandhi advocated decentralization of country's economy village to be the unit of social organisation.

Gandhi suggest introductions of Panchayati Raj. His model was propounded by his follower - S.N. Aggarwal. He drafted Indian Constitution, wherein the Political primary unit was to be Village Panchayats.

The members of Panchayat would be elected by the adults of the village and will superwise Cooperative farming, irrigation, Khadi & Village industries. Panchayats will keep record of Tax revenues. After Village Panchayats, hierarchy of

indirect elected bodies till national level will be elected.

Gandhian constitution was not supported by the modernized sections of Constituent Assembly (CA). Leaders like Nehru & Patel favour adoption of Representative form of Govt.

Nehru & K.M. Munshi supported parliamentary form of Govt. The ultimate decision showed a type of compromise or accommodation. The Gandhian principle of Panchayati Raj found place in DPSP.

Reasons for adopting Parliamentary form?

According to Nehru, India has long experience in the function of Parliamentary form of Government. Sapru Report, Nehru report - advocate adoption of Parliamentary form.

Nehru & Sapru believe villages represent ignorance. Ambedkar consider Panchayati systems will make the dominant castes more entrenched. Therefore according to Granville Austin, Gandhian Constitution seems not to have Principles been a movement of thought of that time.

II. Basis of Debate between Liberal Vs. Socialists

In Indian context both liberal & socialist lobby was very strong. Their was widespread agreement with respect to socialist goals.

According to Austin, there were different branches of socialism in Constituent Assembly. The models ranged from Marxian to Gandhian Model.

However the dominant model was Fabian Model.

Most member of CA were Laskians. In Indian context the goal of socialism was important but issue of Civil liberty was equally important. Hence, a compromise was adopted.

Socialism was not to be embodied in the constitution but socialist bias was to remain in it. India adopted the Nehruvian Model, Pt. Nehru was influenced by Fabians. Thus in Indian context, Socialism was to be Gradual & guided by ideals of Democratic & Economic betterment of masses. Social goals were to be adopted through the Liberal instrumentalities.

III basis of Debate

- Issue of whether a Strong Centre or Strong State?

Persons like T.T. Krishnamchaari, H.N. Kunzru, H.P. Pataskar, L.G. Ranga were not in favour of a strong Centre. while Ambedkar, R.

Prasad, Nehru, Patel favour a strong Centre to contain, restrict separatist tendencies & development.

Ultimately the Indian Federal structure reflect a constitutional design which establish a strong centre.

Other Debate

1. Presidential Vs. Parliamentary form of Govt.

Alladi Krishnaswamy Iyer, favour a strong President, however, K.M. Pannkar, K.T. Shah favour the Parliament form of Government where Prez should be a constitutional head only. Nehru also support Parliament form.

In Indian context, the situation was different from British. India has adopted Republican form of Govt. Republican form of Govt. establishment the elected head of state.

Hence the position of Indian President & his powers different from British Monarch.

In this context, the Constituent Assembly has left the issue to be settled by time. It has left the grey areas in this context & was thought that healthy competition will emerge with respect to the President powers in Indian Context.

2. Parliamentary Supremacy vs. Judicial Supremacy.

In federal form of govt. constitution is treated as supreme.

The supremacy of constitution results into the Supremacy of Judiciary.

Judiciary is the final interpreter of constitution.

India has also adopted Parliamentary form of Govt. It works on concept of Parliament Supremacy. The two principles came into conflict ultimately compromise emerged in Indian context & concept of an Independent Judiciary came into existence.

3. Separate Electorate vs. Reservation

Ambedkar favour separate electorates for Dalits. Nehru, Patel, were against granting the same. Ultimately compromise emerged and a systems of "Reservation of Seats" was adopted.

(1909 - Morly Minto - introduction communal elec. for Muslims).

4. Fundamental Rights Vs. DPSP

Large number of people favour that DPSP should be justiciable. According to them, If not

made, they would be not made justiciable then they would be nothing more than pious declarations.

Kazi Karimuddin, H.N. Kunzru, H.D. Kamat, Somnath Lahri favour DPSP to be made justiciable.

There were issues & debates with respect to the problem emerging out of diversity of India e.g. Whether Hindi should be adopted as official or National Language.

- Lot of debate on nature of secularism.
- Thus the formation of Indian constitution was a result of Open Deliberation.

Process reflect existing of different ideology shades. CA adopted resolutions by Consensus. As such present Constitution of India, reflects the views of Nehru, Azad, Patel & Prasad.



**Download FREE UPSC E-BOOKS**

FREE!

[CLICK HERE](#)