Chapter X

EVALUATION OF THE WORK OF THE CONSTITUENT ASSEMBLY

Behind the scene: Before evaluating the work of the Constituent Assembly of India it will not be out of place to look into the activities of the Makers of the Constitution behind the scene. Ever since Sir B. N. Rau had been appointed the Constitutional Adviser, he had been working hard to set the Constituent Assembly in motion. He prepared the Constitutional Precedents in three series for the facility of the members of the Constituent Assembly. In the two series he analyzed the Constitutions of the World relevant for framing the Indian Constitution. In the third series he prepared the rules and regulations of the working of the Constituent Assemblies of the various countries in the world.

The first meeting of the Constituent Assembly was held on 9th December 1946 and on 13th December Jawaharlal Nehru moved the Objectives Resolution. After it was adopted unanimously, Sir B. N. Rau issued a Questionnaire on the Model Provincial Constitution and the Model Union Constitution.\(^1\) Dr. Kallamath Nath Katju, Sri Rohini Kumar Chandhury, Rajkumari Amrit Kaur and a few others suggested for the Model Provincial Constitution.\(^2\) Sri Phulan Prasad Verma submitted a Memorandum to the President containing Twelve Points for the framing of the Provincial Constitution.\(^3\) At the request of Jawaharlal Nehru, Prof. K. T. Shah also submitted a 'General Directives' and a list of "Fundamental Rights" to the President.\(^4\) Sri N. Gopalaswami Ayyangar and Sir Alladi Krishnaswami Ayyar submitted a joint Memorandum on the Principles of Model Union Constitution.\(^5\) Dr. Shyama Prasad Mukherjee and Dr. K. M. Pannikar also submitted their replies to the Questionnaire on Model Union Constitution issued to them.\(^6\) With the materials thus provided the Constitutional Adviser prepared a Model Provincial Constitution.

\(^1\) Vide Papers In The President's Secretariat
\(^2\) Ibid
\(^3\) Ibid
\(^4\) Ibid
\(^5\) Ibid
\(^6\) Ibid
and a Model Union Constitution. The ground thus being prepared the Provincial Constitution Committee and the Union Constitution Committee submitted their own recommendations. They were adopted by the Constituent Assembly with amendments. The Constituent Assembly also considered the recommendations of various other committees and appointed a Drafting Committee to frame the Constitution of India on the principles settled by it. It was appointed on 29th August 1947 and it started its work since 30th August. Sir B. N. Rau first prepared the Draft Constitution of India on 22nd September 1947 which was revised and reprinted (not for public use) on 7th October 1947 containing 243 articles and 13 schedules. The Draft Constitution of India prepared by the Drafting Committee was published on 26th February 1948 containing 313 articles and 8 schedules. Copies were sent to each member of the Constituent Assembly with the request that he should send in any suggestions or criticisms on or before the 22nd March 1948, without prejudice to his right to propose any further amendments at a later stage. Copies were also sent to the Chief Justice of India and the Chief Justices of the various High Courts and the Ministries of the Central Government inviting their criticisms and suggestions.

A number of criticisms and suggestions were received and they were printed as "List of Amendments to the Draft Constitution of India, List I" (not for public use). Sir B. N. Rau examined each of the amendments and submitted his notes on them. The Drafting Committee considered them again on the 23rd, 24th and 27th March 1948, the members present being Dr. B. R. Ambedkar, Sri N. Madhava Rao, Sri K. M. Munshi (on 23rd March) and Saiyid Mohammad Saadulla (on 24th and 27th March). The Committee recommended that certain amendments be made in the original draft.

The original draft together with the amendments recommended by the Drafting Committee and with certain other amendments received thereafter were considered on the 10th and 11th April by a Special Committee consisting for the most part of certain

1. Ibid
2. Ibid
3. Vide Papers In The President's Secretariat
4. Ibid
5. Ibid
6. Ibid
7. Ibid
members of the Union Constitution Committee, the Union Powers Committee and the Provincial Constitution Committee. The total of such amendments were 609, out of which 59 were accepted, 246 were not accepted, 101 involved matters of policy and were referred to the Constituent Assembly, and 203 were recommended to the Drafting Committee for reconsideration.

The Draft Constitution was also considered by the Provincial Assemblies of Bombay, C. P., West Bengal, Bihar, Madras and East Punjab. Some of the Assemblies took serious objection to the financial provisions of the Draft Constitution and submitted their recommendations. Besides, various suggestions came from the public, important among them were from Sri Jaya Prakash Narayan, Sri Atul Chandra Gupta, Advocate Calcutta High Court, and from the Editor, Indian Law Review, Calcutta. The Constitutional Adviser paid special attention to them and suggested certain modifications in the Draft Constitution of India. The Chapter on Citizenship attracted the attention of many Indians living abroad and a large number of representations were received by the Ministry of External Affairs. They were all scrutinised carefully and altogether new clauses on citizenship were recommended.

Since the Draft Constitution contained provisions of the Constitutions of USA, Canada, Ireland and United Kingdom, therefore Sir B. N. Rau was sent to those countries to study the actual working of those parts of the Constitution. He received valuable suggestions from President Truman, Premier De Valera and from a host of leading constitutionalists and members of the judiciary and therefore recommended a few alterations in the Draft Constitution.

Thus the ground was prepared for the Constituent Assembly to consider the Draft Constitution in the light of various criticisms and suggestions.

Framing problems: But framing the Constitution of India was a tremendous task and there were baffling problems ahead. The Constituent Assembly had to face a vast country with a

1. Ibid
2. Ibid
3. Ibid
4. Ibid
vast population consisting of various communities with different languages and other kind of differences dividing the people in the different parts from one another. There were not only areas which were advanced educationally and economically but also backward people and backward areas like the Tribal areas. The minority problem and the separate electorate were great hindrances. Another problem of great magnitude was the problem of the Indian States. There were six hundred states covering more than one-third of the territory of India and one-fourth of the population of the country. When the British decided to leave the country, they transferred power to British India; but at the same time they also declared that all the treaties and engagements they had with the Princes had lapsed. Thus the paramountcy which they had so long exercised and by which they could keep the Princes in order also lapsed. Thus there was the problem of tackling these States which had different traditions of rule, some of them having some form of popular representation in Assemblies and some having no semblence of anything like that, and governing completely autocratically. The Constituent Assembly therefore had at the very beginning of its labours, to enter into negotiations with them to bring their representatives into the Assembly so that a Constitution might be framed in consultation with them. It must be said to the credit of the Princes and the people of States no less than to the credit of the States Ministry under the wise and far-sighted guidance of Sardar Vallabhbhai Patel that by the time the Constituent Assembly was able to pass the Constitution, the States were more or less in the same position as the provinces and it was possible to describe all of them including the Indian States and the Provinces as States in the Constitution. The London Times observed: "The operations by which Bismarck unified the German Reich were on a much smaller scale than those by which the Government of India in a short time has transformed the patchwork of State jurisdictions that made the political map of India a crazy quilt. The transformation has been profound but peaceful."\(^1\)

Thus looking at the tremendous odd before the Constituent Assembly and its ultimate achievements, critics are not fair in saying that the Constituent Assembly

1. 7th February 1949.
wasted much of public money and time in its prolonged deliberations. There were personal insinuations against Sir B. N. Rao and he had therefore requested the President to relieve him of his duty. However, there is nothing to be sorry for the time consumed by the Constituent Assembly. It was possible only because the Constitution was not passed in a hurry that separate electorates were abolished and even reservation of seats were given up by the communities concerned. Thus the Constitution does not provide for reservation of seats on communal basis, but for reservation only in favour of two classes of people in our population, namely, the depressed classes who are Hindus and the tribal people, on account of their backwardness in education and in other respects. Therefore there is no reason to be apologetic about the delay.

It is true that the Constituent Assembly met for two years eleven months and seventeen days. But the actual time devoted for constitution making was far less. It had altogether eleven sessions. Six sessions were spent in Objectives Resolution and consideration of the Reports of Committees. Five sessions were devoted for the
395 articles. While the American has just seven articles, the first four of which are divided into sections which total up to 21, the Canadian has 147 articles and South African 153 sections. The second thing to be remembered is that the makers of the Constitutions of America, Canada and South Africa did not have to face the problem of amendments. They were passed as moved. On the other hand the Constituent Assembly had to deal with as many as 2473 amendments. Having regard to these facts the charge of dilatoriness seems to be quite unfounded. The President of the Constituent Assembly was ever vigilant that no time was wasted and he did not spare even the highest officer of the Constituent Assembly, on whom members lavished high praises, for wasting some time.  

Not in a hurry: But it is not to be supposed either that the Constitution was prepared in a hurry. The Ministry of Home had an idea that the Constitution would be passed within six months. Therefore they could not appreciate the idea of a separate secretariat for the Constituent Assembly. But very soon they had to concede. Altogether 7635 amendments were tabled in the Constituent Assembly. 2473 amendments were actually moved. The Draft Constitution consisted of 313 articles. The Constitution as finally passed contains 395 articles. Thus 82 new articles were inserted. Then there were nearly 220 old articles which were simply scrapped off and in the case of nearly 120 articles the phraseology was materially changed. Thus the Constitution was the result of heated discussion and long debates carried over thousands of amendments moved by the members of the Constituent Assembly. In fact there was not a single word in the Constitution which did not receive the notice of some Member or the other. Even punctuations, viz., comma, semicolon and full stops received due notice from the vigilant member Mr. Naziruddin Ahmad. The President of the Constituent Assembly gave fullest opportunity for considering every article and every aspect of the Constitutional question. He did not permit legalism to defeat the work of Constitution-making and actually allowed a 'second' second reading of the Draft Constitution.

1. Ibid
2. CAB-XXI, p. 630 Remark of Mr. Naziruddin Ahmad
3. CAB XI, p. 630 Remark of Mr. Naziruddin Ahmad.
Dr. K. V. Rao, however, finds reason to lament that there was no Napoleon in the Constituent Assembly to warn the makers of the Constitution "not to quibble about words." He further finds fault with Nehru who might have played that role but did not.\(^1\)

However, the learned Professor overlooked that both Sardar Vallabhbhai Patel and Jawaharlal Nehru had tried to play the role of a Napoleon. While the Constituent Assembly was discussing clause 3 of the Interim Report on Fundamental Rights, he had warned the members not to raise legal controversy and had said that "by commenting on every word in this you will never come to an end."\(^2\) But it was the President of the House who commented on the words of clause 3 and thus curbed a future Napoleon.\(^3\)

Again while the House was discussing clause 4 of the Report on the Union Constitution Jawaharlal Nehru repeatedly urged the President to rule a certain amendment out of order.\(^4\) But the President did not rule it out.\(^5\) Thus the President afforded ample opportunity to all schools of thought to express their minds freely and thereby he endeavoured to make the Constitution the work of the whole people.

Work of the People: The Constitution is really the work of the whole people. No doubt the Constituent Assembly was dominated by the Congress, but they were large hearted to have non-Congress members in the Constituent Assembly. Thus Dr. M. R. Jayakar, Dr. B. R. Ambedkar and a few others were elected on Congress ticket. In the Drafting Committee of seven only one Congress member was taken in and Dr. B. R. Ambedkar who had all along been in opposition to the Congress was appointed its Chairman. In the words of Dr. Ambedkar: "The task of the Drafting Committee would have been a very difficult one if this Constituent Assembly has been merely a crowd, a tasseled pavement without cement, a black stone here and a white stone there in which each member or each group was a law unto itself. There would have been nothing but chaos. This probability of chaos was reduced to nil by the existence of the Congress Party inside the Assembly which brought to its proceedings a sense of order and discipline." It is because of the discipline of the Congress Party that the Drafting Committee was able to pilot the

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1. Dr. K. V. Rao, op cit
2. CAD III, p. 407
3. Ibid, pp. 408 - 409
4. CAD IV, p. 857
Constitution in the Assembly with the sure knowledge as to the fate of each article and each amendment. The Congress Party is therefore entitled to all the credit for the smooth sailing of the Draft Constitution in the Assembly.

"The proceedings of the Constituent Assembly would have been very dull if all members had yielded to the rule of party discipline. Party discipline, in all its rigidity, would have converted this Assembly into a gathering of 'yes' men. Fortunately there were rebels. They were Mr. Kamath, Dr. P. S. Deshmukh, Mr. Sidhwa, Prof. Saxena and Pandit Thaluradas Bhargava. Among with them I must mention Prof. K. T. Shah and Pandit Kirtiyakar Bhaurao. The points they raised were mostly ideological. That I was not prepared to accept their suggestions does not diminish the value of their suggestions nor lessen the service they have rendered to the Assembly in enlivening its proceedings. I am grateful to them. But for them, I would not have had the opportunity which I got for expounding the principles underlying the Constitution which was more important than the mere mechanical work of passing the Constitution."¹ Seldom a party-ship was imposed on the members of the Constituent Assembly. It was to their advantage that the members of the Drafting Committee, except one, were not in the forefront of the battle for liberty, because they could look into the things dispassionately and could produce the one that was necessary. Mr. K. M. Munshi always tried to bring about a compromise formula. Almost all the important controversial questions were postponed many times for fuller consideration and the achievement of unanimity, if possible. Really speaking the Constitution was the result of many happy compromises effected as a consequence of the spirit of 'give and take' so liberally manifested by the Members of the Constituent Assembly. The Drafting Committee did not come out with a rigid mind. It is said that Dr. Ambedkar adopted a teacher like attitude in the Constituent Assembly and refused to answer the criticisms raised by members. He would simply stand up and say 'I oppose the amendment' and the amendment would at once be negatived by the House."² But on a careful study of the Constituent Assembly Debates one does not

1. CIC XXI, p. 974
2. Dr. V. V. Rao, op cit. p. 17
find a single criticism which was not fully met with. There were occasions when Dr. Ambedkar did not himself reply, but they were all adequately answered by some member of the Drafting Committee or of the House and it was redundant for Dr. Ambedkar to reply and repeat the arguments. In fact the Drafting Committee has not been so much criticised for being rigid as for being always changing. Dr. B. R. Ambedkar, therefore, made the following observations: "Mr. Naziruddin Ahmed has coined a new name for the Drafting Committee evidently to show his contempt for it. He calls it a Drifting Committee. Mr. Naziruddin must no doubt be pleased with his hit. But he evidently does not know that there is a difference between drift without mastery and drift with mastery. If the Drafting Committee was drifting, it was never without mastery over the situation. It was not merely angling with the off chance of catching a fish. It was searching in known waters to find the fish it was after. To be in search of something better is not the same as drifting. Although Mr. Naziruddin Ahmed did not mean it as a compliment to the Drafting Committee, I take it as a compliment to the Drafting Committee. The Drafting Committee would have been guilty of gross dereliction of duty and of a false sense of dignity if it had not shown the honesty and the courage to withdraw the amendments which it thought faulty and substitute what it thought was better. If it is a mistake, I am glad the Drafting Committee did not fight shy of admitting such mistakes and coming forward to correct them." Judged in these lights it would be a mistake to agree with Prof. Shibban Lal Saksena that "Under the procedure adopted, the Drafting Committee could not get the advantage of the free opinion of the whole House and decisions of the Congress Party alone became binding upon it. I personally feel that the Constitution has very much suffered on this account. Out of about 10,000 amendments which appeared on the order paper from time to time during the course of the last one year, I think this House had opportunity for discussing hardly a few hundreds. The rest were all guillotined inside the Congress Party and were not moved in this House because the Party did not accept them. Congress

1. Debates on Draft Articles 29, 42, 63, 64, 65, 66, 85, 275, etc. proves the point.
2. CAB II, p. 975.
Party meetings became meetings of the real Constituent Assembly, and this real Assembly became the mock Assembly where decisions arrived at the Congress Party meetings were registered. As a matter of fact the Draft Constitution was placed before the whole country and everyone had a chance either to criticize or to send suggestions. All the criticisms and suggestions were duly considered and some of them were actually accepted. Even when the Socialist Party of India came out with a "Draft Constitution of the Indian Republic" of their own, it did not differ with the Draft Constitution prepared by the Drafting Committee in its major fundamentals. Moreover, those who criticize the Constitution on the score that it has been framed by one party should study those provisions, particularly those relating to the amendability of the Constitution and they will find that if they want to change it, and if they can carry the public with them, through the representatives of the public to the extent of two-thirds, then they can unmake the whole Constitution, if they so desire. In the words of Dr. B. R. Ambedkar, "The Assembly has not only refrained from putting a seal of finality and infallibility upon this Constitution by denying the people the right to amend the Constitution as in Canada or by making the amendment of the Constitution subject to the fulfillment of extraordinary terms and conditions as in America or Australia, but has provided a most facile procedure for amending the Constitution. I challenge any of the critics of the Constitution to prove that any Constituent Assembly anywhere in the world has, in the circumstances in which the country finds itself, provided such a facile procedure for the amendment of the Constitution. If those who are dissatisfied with the Constitution have only to obtain a 2/3 majority and if they cannot obtain even a two-thirds majority in the parliament elected on adult franchise in their favour, their dissatisfaction with the Constitution cannot be deemed to be shared by the general public." Viewed in this perspective one may wonder at the criticism of the Constitution by Dr. B. R. Ambedkar in Parliament in the autumn of 1953. He called for a complete repudiation

1. GAD XI, p. 705
2. Published by Suresh Deol, Secretary, Socialist Party, Bombay, 1938, with a foreword by Sri Jaya Prakash Narayan.
3. GAD XI, p. 976.
of the Constitution. When reminded of his role, he said, "I was a hack. What I was asked to do, I did such against my will." By this he meant that decisions were first taken in the Congress Party Caucus and then translated into Constitutional language by the Drafting Committee. But going through the pages of the Constituent Assembly it is hard to believe that Dr. Ambedkar played the role of a hack. All along his life he had been a fighter, firm and independent in his approach. Even in the Constituent Assembly he showed his independent attitude and bitterly criticised the ancient village republics of India and pooh-poohed all ideas of government based on village panchayat — an ideal which was the dream of Gandhi and a very strong desire of Dr. Rajendra Prasad. He also took liberty to state boldly on the so-called Congress dominated floor of the Constituent Assembly, while presenting the Draft Constitution for consideration of the House, that democracy in India was only a top-dressing on an Indian soil which is essentially undemocratic. With such freedom of speech and his ideas and political philosophy remaining unaffected though being Chairman of the Drafting Committee, he seems to be more accurate and Ambedkar-like when he observed in the same session of the Constituent Assembly that: "The Constituent Assembly in making a Constitution has no axe to grind. In considering the Articles of the Constitution it has no eye on getting through a particular measure. The future Parliament if it met as a Constituent Assembly, its members will be acting as partisans seeking to carry amendments to the Constitution to facilitate the passing of party measures which they have to get through Parliament by reason of some Articles of the Constitution which has acted as an obstacle in their way. Parliament will have an axe to grind while the Constituent Assembly has none. That is the difference between the Constituent Assembly and the future Parliament. That explains why the Constituent Assembly though elected on limited franchise can be trusted to pass the Constitution by simple majority and why the Parliament though elected on adult suffrage cannot be trusted with the same power to amend it." A student of history, therefore, should not fail to differentiate the merit of the two statements. A frustrated politician is like a disappointed lover and in this

3. Vide Papers In the President's Secretariat.
4. CAD VII, p. 38
5. Ibid, pp. 43 - 44.
respect the accusation of King Lake to Napoleon XII of France is a good reminder.

**Scissor and Paste Affair:** It is much criticized that there is nothing new in the Constitution of India and the Makers of the Indian Constitution borrowed lavishly from the Constitutions of the world. Therefore Sri Sampuranand went to the extent of saying in the Convocation Address to the Agra University in 1949 that the Indian Constitution was a scissor and paste affair. It is also said that the Constitution is a blind imitation of the Government of India Act 1935 and is just the same "old wine and old bottles." Therefore it is pointed out that the Constitution has become unnecessarily voluminous and many administrative details have been uselessly incorporated which should have found its place in the future legislation of the country. The voluminous constitution did attract the attention of a foreign writer who took pains to count the words of the Constitution and found that there were about 90,000 words in the Indian Constitution.

But one may wonder if there can be anything new in a Constitution framed in the fourth decade of the 20th century. What the scope of a Constitution should be has long been settled. The only new things in the Constitution framed so late in the day are the variations made to remove the faults and accommodate it to the needs of the country. The Indian Constitution is not a slavish copying of the Constitution of the world. Rather it is like a bunch of flowers brought from different places and arranged in a cautious and skillful manner to suit the environment and the choice of the people. Emerson has rightly said: "Genius is the most indebted person."

It is true that the Constitution has produced a good part of the provisions of the Government of India Act, 1935. They relate mostly to the details of administration and it was desirable that administrative details should have no place in the Constitution. But the form of administration has a close connection with the form of the Constitution. The form of administration must be appropriate to and in the same sense as the form of

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1. A. P. Sain, CAD XI, p. 805
3. Dr. Ambedkar wanted to burn the Constitution not because it was bad but because "of the most violent kind of rape on the Constitution" by the party in power.
   - Parliamentary Debates: Council of States IV, p. 2252.
the Constitution. And it is perfectly possible to pervert the Constitution without changing its form by merely changing the form of administration and to make it inconsistent and opposed to the spirit of the Constitution.

The Constitution, therefore, no doubt is bulky. But one should remember that the Constituent Assembly reflected a great variety of provinces, princely states, communities, religions, interests and views, which all had to find their expression in the building of a highly heterogeneous federation. Therefore C. H. Alexandrovich has rightly observed that the Indian Constitution was written in a 'joint family' manner. Moreover, apart from English law, Constitutional practice in the United States, Canada and Australia influence Constitution making in its various aspects and it was thought unsafe to leave anything to doctrines and implications which had been developed after prolonged controversies in the above three federations. The judiciary was not conceived as an additional constitution-maker but as a body to apply express law. A Constitution should give the average man an idea as to what it really means. He should not be left in such a position as to make him dependent on judicial decisions and the advice of expert lawyers to expound it to him. Therefore the Constitution has escaped being a lawyer's paradise.

Negation of Gandhism and Indian Culture: - Another criticism against the Constitution is that no part of it represents the ancient polity of India. One exclaims that the Constitution seems to have been framed not at Delhi but at London. He suspects whether the representatives of the people of India framed this Constitution or whether the British of the White House in London were pleased to frame it. It is said that the new Constitution should have been drafted on the ancient Hindu model of a State and that instead of incorporating Western Theories the new constitution should have been raised and built upon village panchayats and District Panchayats. That is said to be the ideal of Gandhi and as such there is apparent negation of Gandhian ideology in the Indian Constitution. But it is very hard to work out the Gandhian ideology in the Constitution.

1. C. H. Alexandrovich, Constitutional Developments in India, p. 231.
2. Ramaswamy Singh, GAD XII, p. 639.
No one in the Constituent Assembly was prepared to carry it out to its logical conclusions by dispensing, for instance, with armed forces; by doing away with legislative bodies, whose work Gandhiji considered a waste of time; by scrapping the judicial system and substituting for it some simple and informal methods of administering justice; by insisting that no government servant or public worker should receive a salary exceeding Rs 500 per month or whatever was the limit finally fixed. However, the Gandhian principles have not been sacrificed. The Constitution embodied provisions for removal of untouchability, for national language, for communal harmony and for good will and guarantees to minorities, encouragement of Gram Panchayats and village industries and for protection of milch cattle. These are the planks on which Gandhism flourished. Thus the Constitution is a harmonious blending of the political and Constitutional experience of other countries and the Gandhian ideals and the best Indian traditions. Taking into account of the ancient civilization, culture and tradition a suitable name was adopted for the country, namely, Bharat. In conformity with past traditions India has been declared to be a secular state. Though in the past Indian Society was largely dominated by religion, the Indian State remained largely secular in the sense that the State was recognized by the Vedas to be composed of persons of "different faiths and languages"; and neither religious nor linguistic uniformity was ever insisted upon. Harmony and not uniformity has been our social ideal. Even Gandhi, essentially a man of religion, insisted on secular character of the State. Moreover the Directive Principles of State policy is a happy reflection of the Arthasastra which mentions an injunction to the King in these terms: "The King shall provide the orphan, the dying, the infirm, the afflicted, the helpless with maintenance. He shall also provide subsistence to the helpless and the expectant mothers and to the children they give birth to." Thus the Indian Constitution is no sudden miracle performed by Indian jugglers, but a very skilful structure of materials from the past. The document bears the marks of experienced craftsmen in Government, men of wide acquaintance with political history and practice.

1. Atharv-Veda: Prithvi Sukta
'Plus ça change plus c'est la même': Thus the makers of the Indian Constitution established a Sovereign Democratic Republic. There is a President at the head of the State who functions with the aid and advice of a Council of Ministers. The Council of Ministers is responsible to the Parliament which is elected by the people. The Central Government is powerful but the Provincial governments have been allowed requisite independence to work out their respective local needs. Fundamental Rights have been provided to the citizens of India which confirm the principle that Democracy does not give the majority to rule but also maintains the sanctity of the rights of the minority and thus puts a check on the 'tyranny of the majority.' The Directive Principles of State Policy provides a vision and a broadening of the mind without which the life and vitality of a nation is at stake. Thus the Constitution promises to secure to all its citizens, social economic, and political justice; liberty of thought, expression, belief, faith and worship; equality of status and of opportunity and promotes among them all fraternity, assuring the dignity of the individual and the unity of the nation. Thus it reminds one of some of the political ideas and theories that were evolved and obtained currency at various periods of ancient history. To summarize, "they point to a continued tradition of a strong central government where the King was a real factor to be counted with and not a rod fai ne sant. His authority after constant consultation with a ministry and through heads of departments whose jurisdiction was extensive and who, under wise Kings, were always encouraged to speak their minds. Kingship was mainly hereditary but often elective. The pulse of the public was felt not only through the espionage system of those days but also by means of assemblies which, especially in the South India, flourished in great abundance and with much vigour. Provincial or rather local autonomy was, however, the main feature of Hindu India and the essence of government lay in the formation and functioning of village groups, taxing themselves, expending their revenues on works of public utility and governing themselves. Political speculation was active and the theory of a compact with the King, the idea that taxation is the return for good administration and protection, the formulation of the need for a Cabinet system of
government with Dharma or vrat populi as the ultimate sanction -- these were some of the conspicuous features of Indian polity.¹ Thus the makers of the Indian Constitution secured the full benefit of the new Western Culture and never disdained the past traditions and history. They built up on the foundations of our own accumulated love and inherited stock of capacities and temperament, a stately and enduring structure with the full aid of Western learning and thus fully provided to develop our own soul. The bane has not been eliminated and one realizes with a shock the cyclic character of life and of ideas. The French proverb 'plus ca change plus c'est la meme' i.e. 'the more it changes, the more essentially the same it remains' is not a mere piece of false cynicism.

Limitations; - However, one must not overlook the limitations of the Constitution. The Preamble of the Indian Constitution is conspicuous by the absence of a homage to the martyrs who sacrificed their lives for the independence of the country. One may ignore it as the duty of the people. But while drafting the Preamble the makers of the Indian Constitution dreamt of creating a Kingdom of Heaven on earth falsely hoping that men were angels. On the other hand, in the Chapter on Fundamental Rights they betrayed the narrowest outlook that men were not even men but were mere brutes. In the Directive Principles of State Policy they realised their error and tried to amend it that men were neither brute nor angels but men of this earth and soil. They also acted in a half-hearted manner. While declaring India to be a secular State they felt shy to make a provision that political parties are not to be based on religious platform, nor religious institutions are to be utilized for political purposes. What is needed is not a complete ban on religion but a complete separation of religion and politics. Religion should have been allowed its place in the uplifting of moral conduct of the people. No doubt church is separate from the State in secular West. But church has a vital and free role in the shaping of a man's character and personality. Similarly Dharma should not have been completely segregated and declared as an outlaw² without realizing that Dharma

¹. Sir C. P. Ramaswami Ayyar, Indian Political Theories, Journal of the Madras University, Vol. XX, No. 2.
². Jawaharlal Nehru was always sensitive in the Constituent Assembly on this issue.
is different from religion and its equivalent English term is not to be found. Really speaking the concept of Dharma incorporates all that is good and noble in Parliamentarianism and rejects the evils that have crept into it. Dharma is in consonance with the fundamental principles of Democracy. The essence of Democracy is the representation of the real will of the people as opposed to and distinct from the actual will. The actual will is surcharged with passion and prejudice. It contains within itself all that is mean, stupid and foolish in human life. It can never be the basis of government. The real will on the other hand is in consonance with the teachings of Dharma. It is in consonance with morality.

Thus Dharma is a vital requisite for the making of a Parliamentary Democracy. The makers of the Constitution were fully conscious of it but felt shy to come up with a provision in the Constitution. Dr. Rajendra Prasad in his concluding speech pointed out: "If the people who are elected are capable and men of character and integrity, they would be able to make the best even of a defective constitution. If they are lacking in these, the Constitution cannot help the country. After all, a constitution like a machine is a lifeless thing. It requires life because of the men who control it and operate it and India needs today nothing more than a set of honest men who will have the interest of the country before them.... It requires men of strong character, men of vision, men who will not sacrifice the interests of the country at large for the sake of smaller groups and creeds and who will rise above the prejudices which are born of these differences."¹ No Constitutional government can produce men of such lofty ideals. It can be shaped only by a government based on Dharma. Freedom of worship and freedom of religion is one thing but secularization of state is the negation of Dharma and hence the negation of life and vitality to a nation. Thus what the American Jurist, Joseph Story, has said of the United States is true to India as well and we may conclude with his words: "The structure has been erected by architects of consummate skill and fidelity; its foundations are solid; its compartments are beautiful,

¹. "AD XI, p. 998."
as well as useful; its arrangements are full of wisdom and order; and its defences
are impregnable from without. It has been reared for immortality, if the work of man
may justly aspire to such a title. It may, nevertheless, perish in an hour by the folly,
or corruption, or negligence of its only keepers, THE PEOPLE. Republics are created by
the virtue, public spirit, and intelligence of the citizens. They fall, when the
wise are banished from the public councils, because they dare to be honest, and the
profligate are rewarded, because they flatter the people, in order to betray them.¹

It reminds one of the words of the Father of the Nation: "The politician in me
has never dominated a single decision of mine, and if I take part in politics, it is
only because politics encircle us today like the coil of a snake, from which one cannot
going out, no matter how much one tries. In order to wrestle with this snake, I have been
experimenting with myself and my friends in politics by introducing religion into poli-
tics."² Thus politics without religion is a body without a soul. And one may be tempted,
borrowing the phraseology of Mazzini, to say that "though India is born, but she has lost
her soul."

¹. Joseph Story, Commentaries on The Constitution of the United States, Vol. II,
   pp. 657 - 658.
². Mahatma Gandhi, Your India, India, May 12, 1920.