

CHAPTER - 1

Framing of Indian Constitution

Indian Polity

Indian Constitution was adopted by the Constituent Assembly on 26 November 1949. It came into full operation with effect from 26 January 1950. The Constitution originally had 22 Parts, 395 Articles and 8 Schedules.

Framing of the Constitution:

- (a) The Constitution of India was framed by a Constituent Assembly which was set up under the Cabinet mission plan (1946).
- (b) The Constituent Assembly took almost 3 years (2 years, 11 months, & 18 days) to complete its historic task of drafting the Constitution for an Independent India.
- (c) During this period it held 11 sessions covering a total of 165 days. Of these, 114 days were spent on the consideration of & discussion on the Draft Constitution.
- (d) As for the composition of the Assembly, members were chosen by indirect election by the members of the Provincial Legislative Assemblies, following the scheme recommended by the Cabinet Mission. The total membership of the assembly thus was to be 389.
- (e) However, as a result of the partition, a separate Constituent Assembly was set up for Pakistan & representatives of some provinces ceased to be members of the Assembly. As a result, the membership of the Assembly was reduced to 299.

The Cabinet Mission

World War II in Europe came to an end on May 9, 1945. Three British cabinet ministers were sent to find a solution to the question of India's independence. This team of ministers (Lord Pethick Lawrence, Stafford Cripps, A V Alexander) was called the Cabinet Mission. The Mission was in India from March 1946 to May 1946. The Cabinet Mission discussed the framework of the constitution & laid down in some detail the procedure to be followed by the constitution drafting body. The Assembly began work on 9 December 1946.

First Interim National Government

The Government was constituted on 2 September, 1946. It was led by Pandit Nehru. All the members of the interim Government were members of Viceroy's Executive Council. The Viceroy continued to be the head of the Council. Pandit Jawahar Lal Nehru was designated as the Vice-President of the Council.

The Constituent Assembly

- (a) The people of India elected members of the provincial assemblies, who in turn elected the constituent assembly.
- (b) Frank Anthony represented the Anglo-Indian community.
- (c) Dr. Sachidanand Sinha was the first president of the Constituent Assembly. Later, Dr. Rajendra Prasad was elected president of the Constituent Assembly while B.R. Ambedkar was appointed the Chairman of the Drafting Committee.

Sources of our Constitution

The Indian Constitution is borrowed from almost all the major countries of the world but has its own unique features too. Major sources are:

1. **Government of India Act of 1935** - Federal Scheme, Office of Governor, Judiciary, Public Service Commission, Emergency provisions & administrative details.
2. **British Constitution** - Parliamentary System, Rule of law, Legislative Procedure, Single Citizenship, Cabinet System, Prerogative Writs, Parliamentary Privileges & Bicameralism.
3. **US Constitution** - Fundamental rights, Independence of Judiciary, Judicial review, Impeachment of president, removal of Supreme Court & High Court judges & Post of Vice President.
4. **Irish Constitution** - Directive Principles of State Policy, Nomination of members of Rajya Sabha & method of election of President.
5. **Canadian Constitution** - Federation with a strong centre, vesting of residuary power in the centre, appointment of State Governor by the centre & advisory jurisdiction of Supreme Court.
6. **Australian Constitution** - Concurrent list, Joint Sitting of two houses of Parliament, Freedom of trade & commerce & intercourse.
7. **Constitution of Germany** - Suspension of fundamental rights during emergency.
8. **French Constitution** - Republic & ideals of liberty, equality & fraternity in the Preamble.
9. **South African Constitution** - Procedure for amendment of the constitution & election of members of Rajya Sabha.
10. **Japanese Constitution** - Procedure established by Law.
11. **Constitution of former USSR** - Fundamental duties, ideals of justice (social, economic & political) in Preamble.