



The Working of the Indian Constitution

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Demonstrators attend a protest against a new citizenship law in Shaheen Bagh, New Delhi. 19 January 2020.

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EDITORIAL

The choice of theme for the *IIC Quarterly* is always contemporary, and over the past few years we have covered issues ranging from urbanisation and the growth of cities, education at a crossroads, social media in a networked world, the crisis of climate change, to Indian cinema today and tomorrow.

For some time now, the Indian Constitution has come up more than once as a potential theme. However, it seemed too ambitious and a trifle intimidating—how does one begin to break down the longest written national Constitution for an informed but lay audience?

It is the times in which we live that finally decided our focus. At the forefront today are debates on some contentious issues like individual freedom (of expression, of association, freedom to lead lives of dignity, etc.), liberty (free from oppression), the right to life, right to equality, justice, among several others. The cover photograph reflects just these concerns. It is from the archives of the brilliant photographer, Danish Siddiqui, also known as the ‘people’s photographer’, who died in Afghanistan while covering a clash between Afghan Special Forces and the Taliban.

The Constitution has been regarded as a rather dense tome to be unravelled by judges, lawyers, and students of law and political science. But that is changing and there is greater curiosity among people from all walks of life about our laws and their interpretation. The first and last sentences of the Preamble—‘We, the people of India.... hereby... adopt, enact and give to ourselves this Constitution’—clearly vests power in the hands of the people’. As one of the contributors to this volume has said, ‘Constitutions do not succeed on their own—they are made successful by people who take its spirit to heart and let it inform their activities.’ Bandeep Singh’s photographs have captured this perfectly: They are ‘We, the People’ as individual and collective identities.

In this scenario, we felt it was time to reflect on the Constitution again. Not a re-reading of its contents, but an attempt

to demystify it for a broader audience. Hence, the emphasis on ‘The *Working* of the Indian Constitution’. Taking off from the five fundamental precepts of the Preamble that promise to ‘constitute India into a Sovereign Socialist Secular Democratic Republic...’, this volume addresses whether or not, and to what extent, the Constitution delivers on its promises.

As Arghya Sengupta writes in his Introduction, ‘the Constitution anywhere in the world is a work in progress’. The Indian Constitution is not a static document and has seen several amendments and interpretations. It is not perfect, but it has held the country together for 75 years now. This volume is a small effort towards demonstrating how it has worked, its strengths and weaknesses, and where we go from here.



OMITA GOYAL

FOREWORD

India's freedom in 1947 was indeed a watershed in world history, because it marked the end of the colonial era that had dominated world affairs for centuries prior to that event. If one date must be chosen to mark the end of the colonial era and the beginning of the post-colonial era, it will necessarily be 15 August 1947. But the freedom of India was significant not only as a major historical event marking the end of one era and the beginning of another, but because India chose democracy. This was the logical outcome of the unique nature of our freedom movement from its origins, under the leadership of Mahatma Gandhi and his great lieutenants Jawaharlal Nehru, Vallabhbhai Patel, Rajendra Prasad, C. Rajagopalachari and others.

Early in 1992, the Board of Trustees of the India International Centre decided that the Centre should, as a public service, take up a project to study in-depth the working of the Indian Constitution over the previous four decades and the changes that may be deemed necessary in light of the experience gained. A Committee was set up under my Chairmanship with Dr. Subhash Kashyap as Convenor and a number of distinguished persons as Members. We worked hard for two years, recorded evidences from a few MPs and scholars, and finally came out with the report which was published in 1993, in a landmark book titled *Perspectives on the Constitution*, which was republished multiple times over the next decade.

It was felt that even though this period had been turbulent and difficult for India, it was indeed most creditable that despite doomsday predictions we were able to work a fully democratic system in such a large and populous country, consisting of varied and diverse groups of people, for so long without any major breakdown. Nonetheless, it was also clear that our democratic polity was under tremendous pressure. Several distortions had crept into it, including those in the structure and functioning of

legislative bodies, the growing role of money and muscle power in elections, increasing religious and caste conflicts, imbalance in the federal structure, inadequate attention to local self-governance and panchayats, inability to stem the population explosion, and failure to provide universal primary education. Taken together, the list added up to a serious challenge to the very basis of democracy in India.

In fact, the basic assumptions, the pillars of Indian polity—democracy, socialism, secularism and federalism—were then all under tremendous pressure and in various stages of collapse. What we felt was sorely needed was a reformulation and reinterpretation of the basic concepts behind our Constitution. In view of the changing circumstances, we needed the intellectual honesty to question some of the cherished beliefs and pet theses with which we were brought up, and face boldly the challenges ahead.

Three decades have since elapsed, but the problems we faced at that time continue to challenge us, perhaps even more sharply than before. The Editorial Board, therefore, decided that we should bring out a special thematic issue on the Working of the Indian Constitution. Our Editor Omita Goyal and Guest Editor Arghya Sengupta have brought together a fascinating collection of 25 essays addressing the problem from many angles. We are sure that this issue will be of real significance, not only for Members of the IIC, but also for the general public interested in our democracy and the working of our unique Constitution, the Drafting Committee of which, let us recall, was headed by Dr. B. R. Ambedkar.

Before I close, let me end on a personal note. In 1975, a Committee was set up under the Chairmanship of Sardar Swaran Singh, of which I was a Member, to draft a new Chapter on Fundamental Duties. Fundamental Rights, of course, are embedded in the Constitution, but there is no mention of Fundamental Duties without which the whole system cannot really function at its best. Nine Fundamental Duties were finally incorporated in Part IVA of the Constitution and, significantly, this was the only amendment that was not reversed by the post-Emergency government.

In fact, the government set up a Committee to Operationalise the Fundamental Duties under the Chairmanship of Justice J. S. Varma, including myself and Dr. Subhash Kashyap as Members. We worked on this for over a year and submitted a detailed report to the then government which, unfortunately, sank like a stone. I still

believe that those Fundamental Duties should be put up in every classroom of India from the primary to the postgraduate level so as to give young people a roadmap for their future guidance.

With these words, I commend this issue of the *IIC Quarterly* to IIC Members and to the broader scholarly community around the country.

KARAN SINGH

