

Un-Indian, copied: 70 years on, Constitution is still attacked because we have failed it

Visva-Bharati University V-C Bidyut Chakrabarty's comments add to the list of fictitious claims against Constitution that Ambedkar had busted during its drafting.

[ANURAG BHASKAR](#) 10 February, 2020



Chandrashekhar Azad holds up a copy of the Constitution during a road show in Varanasi | ANI Photo

Addressing the students on the Republic Day, Visva-Bharati University Vice-Chancellor Bidyut Chakrabarty said that the Preamble to the Indian Constitution is changeable. Chakrabarty made the comment while criticising the act of reading of the Preamble by those opposing the Citizenship Amendment Act. He also claimed that the Constitution was drafted by “minority” votes.

Vice-Chancellor Chakrabarty’s observations are historically and legally false. The Constitution was adopted unanimously, and signed by all the members of the Constituent Assembly, except for one. The Supreme Court of India has declared

the Preamble to be a part of the basic structure of the Constitution, which means that it cannot be amended.

Chakrabarty's comments add to the list of fictitious claims made against the Constitution, prominent among which is the assertion that India's Constitution is merely a copy-paste document imported from the West.

Why Constitution is targeted

There are two aspects to these claims that have continuously been made since the Constitution was adopted in 1949. First, these claims are made by people with caste biases and prejudices against Babasaheb B.R. Ambedkar, the Chairman of the Committee that was entrusted with the task of drafting the Constitution. In popular perception, Ambedkar is solely credited with the Constitution's framing. The fact that a Dalit is popularly regarded as "the father of the Indian Constitution" or appreciated for drafting the supreme law of the land is difficult for many caste Hindus to digest.

And so they consistently make these remarks either to denigrate the originality and credentials of the Constitution or to take away the credit from Ambedkar. For instance, Gujarat assembly speaker Rajendra Trivedi, at a public event in Ahmedabad last month, claimed that the draft of the Indian Constitution was prepared by a Brahmin. In a display of caste supremacy where he called every learned person a Brahmin, Trivedi had earlier said he has "no hesitation" in calling Ambedkar "a Brahmin".

Second, the demands to change the Constitution or its Preamble is made among political and social circles and by individuals who have always considered it as a threat to the unequal social order and hierarchy. The Constitution is systematically targeted because it is the only boundary between socio-political tyranny and the citizens. The ideas of "liberty", "equality", "fraternity" and "justice" enshrined in the Constitution do not fit in the agenda of those, including someone like Union Minister Anantkumar Hegde who consider Manusmriti as their supreme law and publicly assert that "we (the ruling BJP) are here to change the Constitution".

Shallow criticisms

The claim that the Constitution is an alien document was rejected even during its framing.

In his book *A People's Constitution: The Everyday Life of Law in the Indian Republic*, lawyer and historian Rohit De has noted that the claim against the Constitution that it is not “authentically Indian or organic to India” is just “illusory”. When Ambedkar had first tabled the draft before the Constituent Assembly, member Damodar Swarup Seth had raised concerns that it had been drafted in “slavish imitation” of Western constitutions. Later, another member, K. Hanumanthaiya, lamented that the members of the Drafting Committee brought their own outlook and knowledge of things into drafting the Constitution. “We wanted the music of the Veena or the Sitar, but here we have the music of an English band,” he had said.

However, most of the members came in the draft Constitution's defence. Independence activist Bhogaraju Pattabhi Sitaramayya called these criticisms as “half-truths”. Entrepreneur and later India's finance minister, T.T. Krishnamachari emphasised on the need to contradict these criticisms by observing, “... it is likely that the public and those for whose purpose this Constitution has been framed are likely to get an erroneous view of the provisions of this Constitution if certain criticisms voiced by certain Members of this House which in my view arise out of certain misconceptions, about or out of an imperfect understanding of the provisions of the Constitution are not controverted”.

Another member, freedom activist and journalist Bal Krishna Sharma ‘Naveen’, remarked, “... all I can say is that it is to the credit of the Drafting Committee and Dr. Ambedkar and all those who have been associated with him, that they were not inspired by any spirit of narrowness. Here, after all, we are framing a Constitution and the modern tendencies, the modern difficulties, the modern problems that are facing us are there and we have to provide for them all in our Constitution, and if we have leaned on the Government of India Act for that matter, then I do not think that we have at all committed any sin”. He also said that because Indians have framed a Constitution that lays down a certain line of conduct for the governance of the country, it is not “un-Indian”.

Majority's 'minority concern'

Ambedkar himself stood up on several occasions to point out the loopholes and shallowness in the criticisms against the draft Constitution. Replying to the accusation that “the Draft Constitution has produced a good part of the provisions of the Government of India Act, 1935”, he said that “the provisions taken from the [1935 Act] relate mostly to the details of administration”, which were incorporated because the people of India at that time lacked “constitutional morality” — a sense of paramount reverence to the spirit of the Constitution, which includes liberty, equality, and fraternity.

Another criticism against the draft Constitution was that it did not represent the “ancient polity of India” and that it should have been “drafted on the ancient Hindu model of a State... instead of incorporating Western theories”. Ambedkar aptly responded that doing this would have promoted “a sink of localism, a den of ignorance, narrow-mindedness and communalism”.

The draft Constitution was also criticised on the ground that it provides special safeguards for the minorities. Ambedkar responded, “Speaking for myself, I have no doubt that the Constituent Assembly has done wisely in providing such safeguards for minorities as it has done”. In what seems to be prophetic, Ambedkar remarked, “To diehards who have developed a kind of fanaticism against minority protection I would like to say ... that the minorities in India have agreed to place their existence in the hands of the majority... They have loyally accepted the rule of the majority which is basically a communal majority and not a political majority. It is for the majority to realize its duty not to discriminate against minorities.”

Collective failure

Years after the adoption of the Constitution, noted constitutional historian Granville Austin also busted the myth that the Constitution was “un-Indian”. In his celebrated book *The Indian Constitution: Cornerstone of a Nation*, he wrote: “At independence, India inherited a well-established system of constitutional law... the inclusion of such detail from the 1935 Act and from other constitutions would mean that the existing case law concerning the interpretation of these provisions would be available to aid in interpreting the Constitution. Time has supported all these assumptions”.

The Constitution is targeted with claims and criticisms that had originated — and busted — at the time it was being drafted about seven decades ago. The fact that these claims continue to be made seven decades later only shows the collective failure of Indian society to defend its Constitution in popular discourse.

The Constitution of India carries a transformative vision and is often relied upon by courts in foreign jurisdictions to adjudicate constitutional disputes. But in India, the same Constitution is under regular attack, including from those in the ruling class who have been sworn into their offices after taking the oath to protect the lawbook in letter and spirit.

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