

They should therefore seek to effectively include the view of all people

- Granville Austin

The Constitution is ours. "We, the people of India" it begins. The members of the Constituent Assembly - led by Jawaharlal Nehru, Sardar Patel, Maulana Azad - had drafted a document to assure liberty, equality, national unity and to foster a social-economic revolution to improve the life of all citizens.

The Constitution is ours to use, ours to protect, ours to change - if we believe that necessary. It is ours to use because, by itself, it only gives us power to govern ourselves. It does not "work" by itself. We govern ourselves within its framework, through its provisions, to bring ourselves closer to the full democracy and social economic reform promised us by the Constitution.

The government of India this past January established The National Commission to Review the Working of the Constitution since its inauguration in January 1950. Many citizens have been expressing their views to the Commission's members. Some persons have said that the Constitution needs changing because it had not "worked" well, it has not fulfilled its promise to us.

Others, like President K.R. Narayanan, have said that the Constitution has not failed us. We have failed the Constitution. We have failed to implement it: to use its provisions to bring democracy and social-economic improvement for all citizens. Yet others think that the Constitution does need a few comparatively minor changes, leaving nearly all of it untouched.

Whichever of these views be yours it is clear that we should participate in the "Review" of the Constitution's working because the Constitution is ours. As citizens, we have the right and the duty to express our views about how our political leaders have governed us and we have governed ourselves using the Constitution. We have the opportunity to tell the members of the Review Commission what we think.

Of course, any findings the Commission produces or recommendations it makes would have to go to Parliament. For any recommendation to result in a change of the Constitution, Parliament would have to debate it and vote on it. That is a long way off yet.

Through the vote we have been participating in our own governance under the Constitution for fifty years. The Constitution, itself, was written by the 312 members of the Constituent Assembly. In recent years, more and more citizens have been claiming their equal right to participate in governance through forming groups to assert their interests: dalit and minority groups, women's groups, environmental groups, grass roots communities struggling for survival, consumer groups and others are making their voices heard in Parliament, in state legislatures, in panchayats and directly to political leaders. So we know a good deal about trying to make government listen to us.

Yet we can learn from others, for example from several African countries that are writing their constitutions or that have recently written them.

The experiences with public consultation and participation in South Africa, Uganda and Eritrea are described in this booklet. Let us look especially at South Africa. South Africa's Constituent Assembly elected in 1994 had a mandate to write the country's Constitution. Yet its members decided that they could extend and strengthen its legitimacy - and the credibility of the constitution they would produce - by including citizens as widely as possible in the drafting process. Public participation meant trying to develop a dialogue and consultation with millions of individuals.

Like India, South Africa is a very diverse society. There are many religious groups with their own history, language and identity; both countries have diverse social and economic classes. Unlike India, in addition, South Africa has to accommodate a population of white European individuals who were

the country's masters and then had to be treated fairly as minority citizens of the rainbow nation. So the members of the South African Constituent Assembly decided that they should encourage individuals and groups to contribute their experience, opinions and their wisdom, to constitution-making. The views of women were especially sought after.

The Chairman of our Indian Review Commission, Justice M.N. Venkatachaliah, has made it clear that he wishes the Commission to conduct its work in a very open way. He wants members of the public to contribute their views. He wishes the proceedings among Commission members to be available to the public. He intends the Commission's processes to be open, not closed or secret.

Here the example of Uganda's constitution-making process is useful. Poor and illiterate citizens were given assistance to understand this process so that they could get their views before the Constitutional Commission. Women leaders in the 167 districts were trained to solicit women's views of the constitution and as a result one third of the submissions were from women. In all 25,000 submissions were received by the constitution-makers. These have been published in three volumes by the Constitutional Commission.

In South Africa the newspapers, television and radio actively reported news about the Commission's working. The Commission produced a summary of its working draft of the Constitution and translated it into the country's languages. The South African Commission received 250,000 submissions in one phase alone of the constitution-making process. At the conclusion of its work, this Commission distributed seven million copies of the new constitution in eleven languages. So great was the people's interest by this time that the first four million copies were picked up from the post offices within 24 hours.

Our Review Commission may adopt any or several of the methods used in South Africa and Uganda. Yet the principles described above and more fully in this booklet must guide our Review Commission's work:

- 1) complete openness of its deliberations;
- 2) many citizen contributions to it;
- 3) a clear accounting to citizens of its decisions and
- 4) the reasoning behind each of these decisions

Our Commission has already taken a major step in these directions. It has appointed ten panels to consider how the Constitution has been working on various subjects. It has also commissioned consultation papers. These will form the basis of debate and public response in specific constitutional areas.

The themes of the panels, their Chairpersons and the Commission's Member-in-charge are given below:

Panel	Subject	Chairperson	Member-in-charge
I	Strengthening of the institutions of parliamentary democracy; (working of the Legislature, Executive and Judiciary; their accountability; problems of administrative, social and economic cost of political instability; exploring the possibilities of stability within the discipline of parliamentary democracy).	Justice H.R. Khanna	Justice B.P. Jeevan Reddy
II	Electoral reforms; standards in political life	R.K. Trivedi	Dr. Subhash C. Kashyap
III	Pace of socio-economic change and development under the Constitution	Justice Dr. K. Ramaswamy	Justice K. Punnayya
IV	Promoting literacy; generating employment; ensuring social security; alleviation of poverty	Mrs. V. Mohini Giri	K. Parasaran

V	Union-State relations	Justice R.S. Sarkaria	Justice R.S. Sarkaria
VI	Decentralisation and devolution; empowerment and strengthening of Panchayati Raj institutions	L.C. Jain	P.A. Sangma
VII	Enlargement of Fundamental Rights	Justice V.R. Krishna Iyer	Soli J. Sorabjee
VIII	Effectuation of Fundamental Duties	K.B. Lall	C.R. Irani
IX	Effectuation of Directive Principles and achievement of the Preambular objectives of the Constitution	Justice O. Chinnappa Reddy	Mrs. Sumitra Kulkarni
X	Legal control of fiscal and monetary policies; public audit mechanisms; standards in public life	M. Narasimham	Dr. Abid Hussain

The Constitution is ours. No one is better informed about life under the Constitution or better qualified to advise the Commission than are we. We have enjoyed democracy under the Constitution, but we have far to go to achieve its promises: equality among all individuals and sections of society where each of us is treated fairly. Participation in the review is especially important for those who so far have benefitted the least from the Constitution. Panels III, IV, VII and IX set up by the Commission are assigned to do this. They are to address themselves to the ideals of the Constitution: those in the Preamble, in the fundamental rights and in the directive principles' provisions for the alleviation of poverty.

We must protect our Constitution. Justice M.N. Venkatachaliah has made it clear that the basic structure of the Constitution will not be tampered with but rather that rights will be expanded and social justice be made more possible. We may change it only for the better so as to ensure the realisation of the rights of the disadvantaged and the vulnerable promised under the Constitution. This review of the working of the Constitution is an opportunity to make ourselves heard. Participating in its efforts will help us progress toward greater democracy and social-economic reform.

This 'review' of the working of the Constitution is what we make of it. The Review Commission's report will not be believed, owned or valued unless it has sought and gained the views of the people. How the Commission has done its work will be as important as what its report says.

WE THE PEOPLE have a right to tell the Commission how the Constitution has worked for us and how we want it to direct our future.

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