

Genesis of the Review Commission

Ever since the Indian Constitution came into force in 1950, the ruling party of the day has sought to amend the document - out of political or administrative necessity - after obtaining Parliamentary approval. The original text has been amended about 80 times. While most changes have occurred in piece-meal fashion, some amendments such as the **Forty-second** and the **Forty-fourth** have been more comprehensive in their impact. Talk of engineering a complete overhaul of the Constitution raged during the general elections, in 1971, in the face of a power struggle between a Parliament - impatient to bring about a socio-economic revolution - and an ever watchful judiciary applying the brakes by upholding the spirit of the Constitution.

The idea of adopting a **Presidential form** of government was also hotly debated during the 1970s and the early 1980s. Influential elements in politics, academia and the media, canvassed for the creation of a strong executive authority, independent of day to day Parliamentary control (a form modelled along the lines of the Presidential system in the USA) quoting this as the panacea for all ills of governance in India. The debate over any comprehensive review of the Constitution abated during the mid-eighties through the 1990s, until 1999 when it resurfaced as an election issue for different reasons altogether.

The inability of any party to muster a simple majority in the Lok Sabha (House of the People or the Lower House in Parliament), after 1995, resulted in a series of attempts by different political combinations to form a stable government. Between 1995 and 1998, the numbers game that ensued after each general election and the incompatibility of the Olympian egos of political leaders resulted in the fall of the Deve Gowda and I.K. Gujral governments in quick succession. The unwillingness of the major national parties to ally with the right wing, nationalist, Bharatiya Janata Party (BJP) in its attempts to cobble up a majority and form the government, necessitated the dissolution of the Lok Sabha well in advance of its stipulated term of five years.

Similarly the BJP led government that came to power after the general elections, in 1998, fell due to the inherent contradictions of coalition politics and the game of one-upmanship played by the opposition parties.

Finally in 1999, the National Democratic Alliance (NDA) - a coalition of 24 political parties led by the BJP (with the support of three independently elected Members of the Lok Sabha) was formed after the general elections. The NDA's pre-occupation with assuring a stable government at the centre has lain behind the urge to review the working of the Constitution. The BJP did not contest the elections with a separate manifesto. Instead it issued a National Agenda which contained the minimum common points agreed upon by its allies. Its pet themes - contentious in the eyes of its allies - such as, the construction of a temple at Ayodhya (in Uttar Pradesh), institution of a uniform civil code for the country, scrapping of Article 370 (which grants special status to the state of Jammu and Kashmir) did not find mention in the NDA's manifesto.

However the manifesto did contain a pledge to form a Commission to review the Constitution of India in the light of the developments since independence.

The NDA government included the issue of reviewing the performance of the Constitution in the President's address to the inaugural joint session of Parliament, on October 26, 1999.

The President's address makes it clear that the NDA government was intent on finding a long term solution to the problems presented by coalition politics, by making constitutional amendments of deep and lasting significance. The address stated- "A Commission comprising noted constitutional experts and public figures shall be appointed to study a half-century's experience of the Constitution and make suitable recommendations to meet the challenges of the next century. *Government will also examine replacing the present system of no-confidence motion by a system of "Constructive Vote of confidence" and a fixed term to the Lok Sabha and the Vidhan Sabhas (Legislative Assemblies in the States), in order to prevent political instability both at the Centre and in the States*" (item # 38, p. 11) [emphasis added].

Despite the public expression of misgivings by the President of India at a later date, the NDA government went ahead and set up **the National Commission to Review the Working of the Constitution (NCRWC or the Review Commission** hereafter).

The NDA government sang a different tune justifying the setting up of the Commission within 24 hours of issuing the formal notification (February 22, 2000) The government reasoned that a hiatus existed between the actual achievements of the Republic and the original goals of the Constitution even after five decades of independence. It had become necessary to bridge this gap. **The President's annual address to both houses of Parliament on the eve of the budget session** (February 23, 2000) **encapsulated this reasoning but made no mention of the instability factor that was highlighted earlier.** The relevant section of the President's address reads: "The Constitution, which India adopted fifty years ago has served us well. It has been a reliable guarantor of parliamentary democracy, secularism and fundamental rights which all of us cherish. It has also inspired the spread of democratic consciousness in our society, empowering dalits, adivasis, backward classes and women and making our system of governance more participatory and progressive. *While keeping the **basic structure** and salient features of the Constitution inviolate, it has, however become necessary to examine the experience of the past fifty years to better achieve the ideals enshrined in the Constitution.* The government has therefore, set up a broad-based Constitution Review Commission. The recommendations of this Commission will be presented before Parliament, which is the supreme decision-making body in Indian democracy." [emphasis added] (visit <http://alfa.nic.in> for the complete text). An intense debate over the need for a review of the Constitution took place on the floor of Parliament during the budget session. Similarly political parties made known their respective positions vis-à-vis the review in various public fora.

It must be noted that the NDA government did not choose to move a resolution in Parliament for setting up the Constitution Review Commission. Instead the NCRWC was set up by an executive order issued by the NDA government.

Setting up the Review Commission

The NCRWC was set up by an executive resolution issued by the Secretary, Department of Legal Affairs, Ministry of Law, Justice and Company Affairs on February 22, 2000. The resolution states that the government decided to set up the Review Commission in order to fulfil its pledge contained in the President's address to the inaugural joint session of Parliament after the constitution of the 13th Lok Sabha in October 1999.

The resolution laid down the composition, terms of reference, salaries and allowances and the time limit allotted for the completion of the Review Commission's work.(visit <http://ncrwc.nic.in> for the complete text of the resolution)

Composition of the Review Commission

The Commission has a Chairman and ten members apart from a Secretary and an administrative and research staff.

Chairman of the Review Commission

Justice M.N. Venkatachaliah - retired Chief Justice of the Supreme Court of India and a former Chairman of the National Human Rights Commission.

Profile of the Members of the Review Commission

1. **Justice B.P. Jeevan Reddy** - former judge of the Supreme Court of India and currently the Chairman of the Law Commission of India.
2. **Dr. Subhash C. Kashyap** - former Secretary General of the Lok Sabha and the author of several books on constitutional and electoral reforms.

3. **Justice K. Punnayya** - former High Court Judge.
4. **K. Parasaran** - former Attorney General of India.
5. **Justice R.S. Sarkaria** - former judge of the Supreme Court and the Chairman of the Sarkaria Commission on Union-State Relations.
6. **P.A. Sangma** - former speaker of the Lok Sabha and a former chief minister of Meghalaya. He is now a member of the thirteenth Lok Sabha from the Nationalist Congress Party.
7. **Soli J. Sorabjee** - currently Attorney-General of India.
8. **C.R. Irani** - Managing Director and Editor in chief of the newspaper- The Statesman.
9. **Ms. Sumitra G. Kulkarni** - former Member of Parliament.
10. **Dr. Abid Hussain** - retired diplomat and a former ambassador to the United States of America, presently UN special rapporteur on the freedom of expression.

Secretarial staff of the Review Commission

The Secretary to the Commission is Dr. Raghbir Singh, a former Secretary to the Government of India, Ministry of Law, Justice and Company Affairs. (for a detailed list of the research and administrative staff visit- <http://ncrwc.nic>.)

Terms of Reference of the Review Commission

The resolution issued by the Department of Legal Affairs, Ministry of Law, Justice and Company Affairs states the following terms of reference to the Commission:

"The Commission shall examine in the light of the experience of the past fifty years, as to how best the Constitution can respond to the changing needs of efficient, smooth and effective system of governance and socio-economic development of modern India within the framework of Parliamentary democracy and to recommend changes if any, that are required in the provisions of the constitution without interfering with its basic structure or features."

The resolution does not lay down any more specific terms of reference. However in view of the suspicion and criticism surrounding the setting up of the Commission and the confusion existing in the minds of the public about its work, the NCRWC has explicitly said that its function is advisory in nature. According to the Review Commission, its function is *to review the working of the Constitution* and not to rewrite the Constitution (see Press note of the Commission dated March 23, 2000).

The Review Commission further clarified its perspective and stated that there was a need to maintain and strengthen the constitutional provisions for raising the living conditions of the poor and the deprived and ensure them an adequate means of livelihood.

The Commission noted that the constitutional rights of the Scheduled Castes and Scheduled Tribes and Other Backward Classes and the minorities must be effectively protected and improved upon.

The Commission has stated that it will examine the working of the present provisions in the Constitution as well as the applicable laws and practice and consider how better these objectives may be achieved. (see Press Note of the Commission dated March 23, 2000)

Members of the NCRWC and the areas identified for review- A Glance			
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	Legal control of fiscal and monetary policies; public audit mechanisms; standards in public life	M. Narasimham	Dr. Abid Hussain
X	Legal control of fiscal and monetary policies; public audit mechanisms; standards in public life	M. Narasimham	Dr. Abid Hussain

Timeline set for the completion of the Review Commission's work

The government resolution states that the Review Commission will complete its work and make its recommendations to the government within a period of one year by March 2001.

The Review Commission's *modus operandi*:

- a) The Review Commission has identified ten areas of contemporary concern to review the performance of the Constitution.
- b) Ten Advisory Panels - each with a Chairperson under the general charge of a member of the Commission.
- c) Consultation papers and questionnaires pertaining to the areas under review will be prepared by resource institutions identified by the Review Commission.
- d) The Advisory Panels will scrutinise the consultation papers and questionnaires and modify them if necessary and pass them on to a Committee of the Review Commission.
- e) The Committee will review the consultation papers in order to secure qualitative uniformity. The Committee will also ensure that the papers will present a holistic view of all the issues dealt with.
- f) These papers will be released to the public for debate and responses.
- g) The Advisory Panels will discuss the responses and suggestions made by the public and present their views to the Review Commission.
- h) The Review Commission will prepare a draft of the recommendations received from the Advisory Panels and release them to the public again for debate.
- i) After collecting the views of the public on the draft recommendations the Review Commission will prepare a final report and submit it to the government.

The detailed programme of work of the Review Commission is given below:			
Sl. No.	Programme	Time Frame	Remarks
1.	Commencement of the work	23-03-2000	-
2.	Preliminary meetings; identifying areas of review; setting up of expert panels; nomination of Chairpersons and Members of Panels	23-04-2000	-
3.	Identifying Resource Institutions/Persons for preparation of Consultation Papers and Questionnaires; setting the outlines of work and terms of remuneration/fees etc.	23-04-2000 to 10-05-2000	-
4.	Consultation Papers and Questionnaires to be ready	31-05-2000	-
5.	Scrutiny and approval of the Consultation Papers and Questionnaires	31-05-2000 to 15-06-2000	-
6.	Convening the expert panels for consideration of the Consultation Papers and Questionnaires	15-06-2000 to 15-07-2000	-
7.	Consultation Papers and Questionnaires to be distributed and to the public and their responses obtained	15-07-2000 to 15-09-2000	Addressees
8.	Last date of receipt of responses concurrently, the NCRWC may consider examining/interviewing eminent public men, leading figures in public life. senior politicians, statesmen to take evidence. · concurrently debates to be arranged in the Press and electronic media; seminars to be organised in Universities (with NGOs and public participation) in five centres namely, South, West, North, East and North-East	15-09-2000 15-07-2000 to 15-09-2000 , 15-06-2000 to 15-09-2000	A list of such persons to be prepared for the purpose. A nodal agency to arrange these events.
9.	Responses received to the Consultation Papers and Questionnaires to be ledgerised, tabulated, collated and placed before the Experts Panel and their views solicited.	15-09-2000 to 30-10-2000	-
10.	NCRWC to evaluate the responses, suggestions and views of Expert Panels and Recommendations drafted.	01-11-2000 to 31-01-2001	-
11.	Draft recommendations to be released for debate and discussion in the Press and electronic media.	February 2001	-
12.	Final Report	23-03-2001	-

*Remarks for No. 7: These are to be sent all MPs, MLAs, Political Parties, Univesities, All India Service Officers' Associations, Trade Unions, Industrial and Commerce Associations and Groups like FICCI, ASSOCHAM etc. Students' Organisations, Bar Associations, leading Lawyers, important NGOs, Chairpersons and Members of all National Commissions, Judges of the Supreme Court and the High Courts, Speaker and former Speakers of the Lok Sabha, Deputy Chairperson of the Rajya Sabha Speakers and former Speakers of the State Assemblies, Chief Ministers and former Chief Ministers, Governors and former Governors, former Prime Ministers, Chief Editors of major newspapers, prominent journalists, educationists and academicians etc.

Areas Identified for Review

The following areas have been identified by the Review Commission for reviewing the performance of the Constitution. The contact addresses of experts on the Advisory Panels is also given below:

Panel No. I

Subject: Strengthening of the Institutions of Parliamentary Democracy; (Working of the Legislature, Executive and Judiciary; their accountability; problems of administrative, social and economic costs of political instability; Exploring the possibilities of stability within the discipline of Parliamentary Democracy).

Focus: Strengthening institutions of Parliamentary democracy and their accountability; the grave and persisting menace of unprincipled defections (see Press Note dated March 23, 2000)

Status	Name	Address	Tel/Fax/E-mail
Commission Member-in-Charge	Justice B.P. Jeevan Reddy	1, Janpath, New Delhi	Office: 011-3384475 Res: 011-3019465
Chairperson	Justice H.R. Khanna	S-368, Panchsheel Park, New Delhi	Office: 011- 6012726
Member	K. Parasaran	R-20, Greater Kailash I, New Delhi-110 048	Office: 011-6224319/6224765 Fax: 011-6478228 Chennai: 044-8524264/044-8524417 Fax: 044-8550961
Member	Dr. Jayaprakash Narayan	Campaign Coordinator, Lok Satta, 401 & 408, Nirmal Towers, Dwarakapuri Colony, Punjagutta, Hyderabad-500 082	Office: 040-3350778/3350790 Fax: 040-3350783 E-mail: fonderf@hd1.vsnl.net.in
Member	Dr. V. A. Pai Panandikar	President Centre for Policy Research, Dharma Marg, Chanakyapuri, New Delhi	Office: 011-6115273/6114797 Fax: 011-0827246

Panel No.2**Subject:** Electoral Reforms; Standards in political life.

Status	Name	Address	Tel/Fax/E-mail
Commission Member-in-Charge	Dr. Subhash C. Kashyap	Centre for Policy Research, Dharma Marg, Chanakyapuri, New Delhi	Office: 011-6115273 Res: 011-6962517/ 6560972 Cell: 9810065862
Chairperson	R.K. Trivedi	Former Chief Election Commissioner, B-7, Nirala Nagar, Lucknow, Uttar Pradesh	Office: 0522-370515
Member	P.A. Sangma	34, Aurangzeb Road, New Delhi.	Office: 011-3359215 Res: 011-3010123/ 3017785 (res)
Member	Mohan Dharia	President, VANARAI Aditya Residency, 498, Parvati, Mitramandal Chowk, Pune-411 009	Office: 020-4440351/ 4449351 Fax: 020-4445299 email: vanarai@ip.eth.net
Member	S.K. Mendiratta	17/30, Tilak Nagar, New Delhi-110 018	Office: 011-3716712 Res: 011-5469872
Member	N.N. Vohra	Director, India International Centre 40, Max Mueller Marg New Delhi- 110 003	Office: 011-4619431
Member	Dr. Vir Chopra	A-18, Pushpanjali Farms, Bijwasan New Delhi-110 061	Res: 011-5064614 Cell phone: 9810057353
Member	Mrs. Nalini Singh	2, Hailey Road New Delhi	Office: 011-3356655 Res: 011-3356667
Member	Prof. R.B. Jain	Flat No. 102, DDA Mukherjee Apts, Mukherjee Nagar (East) New Delhi-110 009	Office: 011-7652403

Panel No. III**Subject:** Pace of Socio-economic change and development under the Constitution

Status	Name	Address	Tel/Fax/E-mail
Commission Member-in-Charge	Justice K. Punneyya	c/o Honorable Speaker Quarter No.3, Kundanbag Begumpet, Hyderabad, Andhra Pradesh , A-6/4, Erramanzil Colony, Government Quarters, Hyderabad	Office: 040-3327973/3412233
Chairperson	Justice Dr. K. Ramaswamy	Member, National Human Rights Commission, Sardar Patel Bhavan, New Delhi 110 001	Office: 011-3734986 Res: 011-3018814
Member	P.A. Sangma	34, Aurangzeb Road, New Delhi	Office: 011-3359215 Res: 011-3010123/ 3017785
Member	P.S. Krishnan	Flat No. 1513-B, Beverly Park- II, DLF City Phase- II, Mehrauli Road, Gurgaon-122002, Haryana	Office: 011-91-6388760
Member	Dr. Sukumar Azhikode	Kottekkad Road Viyyur P.O. Trissur District, Kerala-680010	Office: 0487-334261
Member	Dr. D. R. Swaminathan	Block No. 6, 2nd Floor, Gruhakalp Complex, M.J. Road Nampally, Hyderabad-500 001	Office: 011-3382271/ 3387301 Res: 011-6498651/6491567 Fax: 011-6494145

Panel No. IV**Subject:** Promoting literacy; generating employment; ensuring social security; alleviation of poverty.

Status	Name	Address	Tel/Fax/E-mail
Commission Member-in-Charge	K. Parasaran	R-20, Greater Kailash-I, New Delhi- 110008	Delhi: 011-6224319/ 011-6224765 Fax: 011-6478228 Chennai: 44-8524264/ 044-8524417 Fax: 044-8550961
Chairperson	Mrs. V. Mohini Giri	Chairperson and Vice-President Guild of Service (Delhi Branch), "Shubham", C-25, South of IIT, Behind Qutab Hotel, Institutional Area, New Delhi-110 016	Office: 011- 6854529/ 6562780 Res: 914-513393 Fax: 011-6854529 Email: gos@bol.net.in
Member	Dr. Abid Hussain	8, Golf Apartments, Maharshi Ramana Marg, New Delhi- 110003	Office: 011-4642933 Res: 914-513502
Member	Dr. N.C. Saxena IAS	Secretary Planning Commission, Yojana Bhavan, New Delhi-110 001	Tel: 011-3717539 Fax: 011-3719082
Member	Dr. E.A.S. Sarma	Secretary Dept. of Economic Affairs, Ministry of Finance, North Block, New Delhi-110 011	Office: 011-3012653/ 3011111 Res: 011-3382283

Panel No. V

Subject: Union-State Relations

Focus: Working of Article 356; appointment and removal of Governors (see Press note dated March 23, 2000)

Status	Name	Address	Tel/Fax/E-mail
Commission Member-in-Charge and Chairperson	Justice R.S. Sarkaria	B-53, Madhuban, Vikas Marg, New Delhi	Office: 011-2427591
Member	Justice R.S. Sarkaria	B-53, Madhuban, Vikas Marg, New Delhi	Office: 011-2427591
Member	Dr. M.G. Rao	Director, Institute for Social and Economic Change, Nagarbhavi P.O. Bangalore-560 072	Office: 080-3217010 Res: 080-3217016
Member	G.V. Ramakrishna	No. 2, 6th Cross Street CIT Colony, Mylapur, Chennai-4	Office: 044-8553412 Res: 4990374

Panel No. VI**Subject:** Decentralisation and Devolution; Empowerment and Strengthening of Panchayati Raj Institutions

Status	Name	Address	Tel/Fax/E-mail
Commission Member-in-Charge	P.A. Sangma	34, Aurangzeb Road, New Delhi	Office: 011-3359215 Res: 011-3010123
Chairperson	L.C. Jain	"Tharangavana",D-5, 12th Floor, Raj Mahal Vilas Extension, Bangalore- 560 080	Office: 080-3344113/ 3461763 Fax: 080-3312395 Email: lcjain@bgl.vsnl.net.in
Member	Dr. Abid Hussain	8, Golf Apartments, Maharshi Ramana Marg New Delhi- 110 003	Office: 011-4642933 Res: 914-513502
Member	K.C. Sivaramakrishnan	Centre for Policy Research, Dharma Marg, Chanakypuri, New Delhi	Office: 011-6115273 Fax: 011-6872550 Res: 011-6872550 (res) Fax: 011-6118800
Member	M.C. Gupta	Director, Indian Institute of Public Administration I.P. Estate, Ring Road, New Delhi	Office: 011-3319291 Res: 011-3326916 Fax: 011-3319954
Member	Sanjay Hazarika	B-14, Press Enclave New Delhi-110 017	Office: 011-6115273 Res: 011-6864120

Panel No. VII

Subject: Enlargement of Fundamental Rights

Focus: Enlargement of Fundamental Rights in Part III of the Constitution by specific incorporation of the Freedom of the Media, Right to Compulsory Elementary Education, Right to Privacy and Right to Information (see Press note dated March 23, 2000)

Status	Name	Address	Tel/Fax/E-mail
Commission Member-in-Charge	Soli J. Sorabjee	A- 128, Neeti Bagh, New Delhi-110049	Office: 011-4634403/3383254 Res: 011-6855323/011-3010525 Fax: 011-4634014
Chairperson	Justice V.R. Krishna Iyer	'Satgamaya', M.G. Road, Ernakulam, Kochi Kerala	Office: :0484-370088 Email: krishna@md3.vsnl.net.in
Member	C.R. Irani	Editor in Chief-cum- Managing Director The Statesman, Statesman House, Barakhamba Road, New Delhi	Office: 011-3318171
Member	Prof. Amrik Singh	2/26, Sarvapriya Vihar, New Delhi-110 017	Office: 011-6510738
Member	Prof. Andre Beteille	Dept. of Sociology Delhi School of Economics University of Delhi Delhi-110 007	Office: 011-7257858/7257725 extn: 252 & 254
Member	Prof. Mushirul Hassan	38, Dakshinapuram, Jawaharlal Nehru University, New Delhi- 110 067	Office: 011-6107045

Panel No. VIII

Subject: Effectuation of Fundamental Duties

Status	Name	Address	Tel/Fax/E-mail
Commission Member-in-Charge	C.R. Irani	Editor in Chief cum Managing Director, The Statesman, Statesman House, Barakhamba Road, New Delhi	Office: 011-3318171
Chairperson	K.B. Lall	B-25, Chirag Enclave, New Delhi-110 048	Office: 011-6462331
Member	R. Venkataramani	Senior Advocate#1, Savita Vihar, Master Somnath Marg, Delhi- 110 092	Res: 011-2160132
Member	Dr. Vasudha Dhagamwar	Executive Director M.A.R.G., 125, Shahpurjat, New Delhi- 110 017	Office: 011-6497483/ 011-6485371 Fax: 011-6495371 E-mail: marg@del2.vsnl.net.in
Member	Dr. Syeda Hameed	Saiyadain Manzil Jamia Nagar, New Delhi	Res: 011-6821053

Panel No. IX:

Subject: Effectuation of Directive Principles and Achievement of the Preambular Objectives of the Constitution

Focus: Effective enforcement of the directive principles of state policy in Part IV of the Constitution in order to achieve the goals enshrined in the Preamble and for good governance (see Press note dated March 23, 2000)

Status	Name	Address	Tel/Fax/E-mail
Commission Member-in-Charge	Mrs. Sumitra Kulkarni	A-303, Ansal Bhavan, 18, Bannerghatta Road, Bangalore- 560076	Office: 080-6588307
Chairperson	Justice O. Chinnappa Reddy	Plot No. 209, Road No. 14, Jubilee Hills, Coop. Housing society, Jubilee Hills, Hyderabad	Office: 040-3608285/3548142
Member	K. Parasaran	R-20, Greater Kailash- I New Delhi- 110008	Delhi: 011-6224319/6224765 Fax: 011-6478228 Chennai: 044-8524264/8524417 Fax: 044-8550961
Member	Raju Ramachandran	Senior Advocate Supreme Court Of India 97, Lawyers Chambers, New Delhi	Office: 011-3383265 Res: 914-521845 (res) Fax: 011-3782595 E-mail: rrsr99@ndf.vsnl.net.in
Member	R. Venkataramani	Senior Advocate No.1, Savita Vihar, Master Somnath Marg, Delhi- 110092	Office: 011-2160132
Member	Vinod Bobde	Arvind Niwas, B-1, Sector-14, NOIDA- 201 301 Uttar Pradesh	Office: 011-914-512-538/914-512684
Member	Gopal Subramaniam	B-5/7, Safdarjung Enclavem, New Delhi-110 029	Office: 011-6186051/6187029
Member	Mrs. S.K. Verma	Director, Indian Law Institute, Bhagwan Das Road, New Delhi	Office: 011-3386321/3387873 Res: 5572494 Fax: 011-3782140 E-mail: iji@nde.vsnl.net.in

Panel No. X

Subject: Legal control of fiscal and monetary policies: Public Audit mechanisms; standards in public life.

Focus: Size of government and of government expenditure; efficacy of public audit mechanisms (see Press note dated March 23, 2000)

Status	Name	Address	Tel/Fax/E-mail
Commission Member-in-Charge	Dr. Abid Hussain	8, Golf Apartments, Maharshi Ramana Marg, New Delhi-110003	Office: 011-4642933 Res: 914-513502
Chairperson	M. Narasimham	Chairman, Administrative Staff College of India, Bellavista, Hyderabad-500 082	Office: 040-3310994/ 3310952 Res: 040-3396511 Fax: 040-3310994/ 3312954 E-mail: chairman@ascihyd.org
Member	Dr. Y.V. Reddy	Deputy Governor, Reserve Bank Of India, 18th Floor, Mumbai-400 001	Office: 022-2634739/ 2663155
Member	Harish Salve	Solicitor General of India, Supreme Court of India, New Delhi- 110 001	Office: 011-3381636
Member	Dr. Mrs. Isher Ahluwalia	Director, Indian Council for Research on International Economic Relations (ICRIER), 4th Floor, 6-A, Core, India Habitat Centre, Lodhi Road, New Delhi- 110 003	Office: 011-4627447 Res: 011-385685
Member	Dr. Ashok Lahiri	Director, National Institute of Public Finance and Policy, 18/2, Satsang Vihar Marg, Special Institutional Area, New Delhi	Office: 011-6857274 Res: 011-6857275/ 6969536 Fax: 011-6512703/ 6852548 E-mail: nipfp@nipfp.ernet.in
Member	B.P. Mathur	Director, National Institute of Financial Management, Sector 48, Pali Road Faridabad, Haryana- 121 001	Office: 011-915-418870 Res: 011-915-418871 Fax: 011-915-418867
Member	S.S. Tarapore	24, Basant, 101, Cuff Parade, Colaba Mumbai-400 005	Office: 022-2673338 Res: 022-2184841 Fax: 022-2673331
Member	B.P.R. Vitthal	House No. 8-2-701/1, Banjara Hills Hyderabad-500 024, Andhra Pradesh	

Issues in Debate is a review of the Constitution at all necessary?

- **To provide for a stable government and avoid frequent elections- The NDA's reasoning:**

The BJP led NDA government maintained that there was an urgent need to find some constitutional means to provide stable governance for the country. Chastened by its experience in the recent past when it had lost its majority within 13 days of coming to power, it proceeded on the generalized assumption that all coalition governments fell like a house of cards whenever one political party or the other pulled out of the alliance. The BJP argued in Parliament (October 1999) that a Motion of No Confidence could only bring down a government but not throw up an alternative, at present. The party favored adopting a mechanism based on the German system of a constructive Vote of Confidence where any member who commands majority support in the Lower House could form the government irrespective of party affiliations. More importantly they canvassed the idea that there must be a fixed tenure for the Lok Sabha so that political parties would feel compelled to form new alliances rather than go back to the electorate for a fresh mandate. The NDA alliance contended that a review of the Constitution was necessary in order to bring about these changes.

- **The Opposition's viewpoint:**

The opposition parties criticised the idea of Constitution review saying that there was no exigency warranting such a measure. **They held that the comprehensive review of the Constitution was designed to subsume the BJP's strategy to selectively tamper with the Constitution and ensure that they continued to remain in power if the NDA coalition broke up in the future.** The Communist parties (CPI and CPI-M) opposed the move of doing away with the system of No-Confidence Motions as it formed an effective means of ensuring the day to day accountability of the executive to Parliament. They pointed out that the system of No-confidence was not a procedure laid down by the Constitution. It was a mechanism developed as a part of the rules and procedures for conducting business in Parliament and any change can be accomplished with a simple legislative resolution. There was no need to review the Constitution in order to achieve this limited purpose.

The Congress (I) and the left parties also rejected the idea of having a fixed term for the Lok Sabha on the ground that it would render the elected representatives unaccountable to citizens for the entire period of five years. Nevertheless they were willing to discuss any amendments that would strengthen the system of No-Confidence Motions in order to ensure that a government stay in power unless voted out by a two-thirds majority or more.

- **The President's views:**

A spanner in the works of the NDA government's agenda for constitutional reform was thrown by none other than the President of India himself. On the occasion of the 50th anniversary of the enforcement of the Constitution (January 27, 2000) President K.R. Narayanan questioned- "...whether it is the Constitution that has failed us or whether it is we who have failed the Constitution.". He urged the nation to remember the words of Dr. Rajendra Prasad -- the President of the Constituent Assembly and later the first President of India -- who pointed out- "If the people who are elected are capable men of character and integrity, they should be able to make the best of a defective constitution. If they are lacking in these, the Constitution cannot help the country." The President asserted that 'political instability' was not a sufficient reason to discard the parliamentary form of government in favour of the presidential system. Reiterating the advantages of the parliamentary system he pointed out that the possibility and the facility of a change in government was itself a factor in the stability of the political system in the long run. The parliamentary system provided a vent for the people to express their discontent and frustrations. Concluding his remarks the President said that it was necessary to ensure that the basic philosophy behind the Constitution and the fundamental socio-economic soul of the Constitution remain sacrosanct. (for a complete text of the President's speech visit <http://alfa.nic.in/rbwelcome.htm>)

The President's speech was at variance with his address to the joint sessions of Parliament made in 1999 and 2000 (budget session). While the earlier addresses were formal statements of government

policy prepared by the Cabinet and read out by the President in accordance with established conventions they did not, reflect his personal misgivings. Instead, the President used a solemn public function celebrating the golden jubilee of the Republic in order to make his doubts known to the nation.

- **To encourage faster development and removal of socio-economic and regional imbalances- the NDA's justification:**

On the same occasion Prime Minister A.B. Vajpayee also clarified his government's stand vis-à-vis the review. He accepted the truth that the Constitution had stood the test of time and served the needs of India's unity and diversity. He agreed that in the end a constitution was only as good as the ones who work the institutions set up by it. However, there was widespread apprehension among the people that these institutions were not working as the Constitution intended. He stressed that India was faced with a new situation- apart from the need for stability the people were impatient for faster economic development. The country faced a pressing challenge to remove regional and social imbalances by reorienting the development process to benefit the poorest and weakest. Therefore his government proposed to set up the Review Commission. He gave assurances that the basic structure and the core ideals of the Constitution would not be violated.

Justification for the Constitution review exercise, along similar lines, was provided by speakers from the treasury benches of the Lok Sabha and the Rajya Sabha, during the budget session (April 2000).

- **Parliament not taken into confidence - the opposition's charge:**

The Review Commission was set up by an executive resolution of the government issued on the day before the commencement of the budget session of Parliament in February 2000. The composition, criterion for membership, and areas covered by the review were decided upon arbitrarily without taking Parliament into confidence.

The Opposition were vexed at the manner in which the government hurriedly notified the formation of the Review Commission. They assailed the attempt of the NDA government to bypass the highest law making body on such an important issue. The Congress (I) charged the NDA of attempting to discredit the Constitution by starting a debate that it had neither cherished the ethos of the freedom movement nor responded to the needs of the majority community (namely the Hindus). (Margaret Alva, M.P. speaking in the Lok Sabha, April 18, 2000).

The Left parties criticised the government for not identifying those parts of the Constitution it wanted reviewed or changed. This had led to confusion in the minds of the public about the true intentions of the government. The Left parties stated that they were not against amending the constitution to incorporate more fundamental rights like the right to employment and the right to work. But any such move must pass muster in Parliament after a comprehensive debate. The left parties criticised the setting up of the Review Commission without taking Parliament into confidence (Somnath Chatterjee, M.P. speaking in the Lok Sabha, April 18, 2000).

- **Review Commission to recommend changes not actually amend the constitution- the NDA's clarification:**

The NDA and its allies maintained that the Review Commission's work is merely academic and advisory in nature. Any change in the document will be made through the constitutionally prescribed amendment process as in the past.

NOTE: Constitutional amendments can be enacted only by a special majority vote in Parliament. Amendment bills may be tabled in either house of Parliament. They must be passed by a majority of the total membership of each house with a minimum of two thirds of the members present, voting in its favour.

However certain constitutional amendments must be ratified by at least half of the State legislatures before they can come into force. Matters such as the election of the President of the republic, the executive and legislative powers of the Union and the States, the High Courts in the States and Union Territories, representation of States in Parliament and the Constitution amending provisions themselves- contained in **Article 368**, must be amended by following this procedure.

As the NDA alliance lacks even a simple majority in the Rajya Sabha it cannot hope to amend the Constitution without the co-operation of the opposition parties.

- **Erosion of the rights of dalits and minorities- the Opposition's counter charge:**

The Congress (I) and other opposition parties raised a hue and cry in public and on the floor of Parliament that the move to review the Constitution was a ploy to take away the constitutionally guaranteed rights of the Scheduled Castes and Tribes (SCs and STs), the Other Backwards Classes (OBCs) and minority groups in the country. Given the well known anti-reservation stance of the Sangh Parivar (comprising the BJP and nationalist- fundamentalist organisations like the Rashtriya Swayamsevak Sangh, the Vishwa Hindu Parishad, Akhil Bharatiya Vidyarthi Parishad and others) All states ruled by Congress (I) led governments have opposed the review.

The legislative assembly of the Union Territory of Delhi has passed a resolution opposing the move to review the Constitution. The Congress (I) organised huge rallies and meetings on April 14, 2000 which it designated as 'Save the Constitution Day'. Interestingly the day marks the birth anniversary of Dr. Babasaheb Ambedkar a champion of the rights of Scheduled Castes (SCs) and Scheduled Tribes (STs) and the Chairman of the Drafting Committee of the erstwhile Constituent Assembly. The Samajwadi Party and the Republican Party of India rejected any move to tamper with the Constitution -saying that it was an insult to Dr. Ambedkar.

NOTE: The Hindu caste system comprises of vertical and horizontal social strata whose membership is governed by notions of purity and pollution and rules of descent and occupation. The highest castes namely the *Brahmins* have traditionally performed priestly functions while the kings and warriors called *Kshatriyas* belonged to the next highest caste. The traders and landowners called *Vaishyas* rank third. The lowermost rung of the caste system is occupied by the *Shudras* who performed menial tasks. The Scheduled Castes comprising 15% of the population belong to the last category and have been discriminated against in every walk of life for more than 2,500 years. The Scheduled Tribes comprising 7-8% of the population are ethnic groups that have traditionally remained beyond the pale of mainstream Hindu society as they occupy marginal areas within the country. A system of affirmative action has been put in place for their socio-economic upliftment. A certain percentage of seats (proportionate with the size of their respective populations) have been reserved for them in Parliament and the state legislatures, civil, police and other public services, and educational institutions. Dr. Ambedkar belonged to one such Scheduled Caste and was a champion of the rights of these downtrodden sections of the population throughout his career.]

- Noted jurist Fali S. Nariman, expressed grave misgivings about initiating a debate on minority rights at the current juncture of history when minorities were becoming targets of fundamentalist repression. Quoting judicial pronouncements on minority rights he urged that the constitutional provisions guarding the rights of the minorities and weaker sections of society remain untouched (F.S. Nariman, *Does our Constitution Require to be Reviewed ?* , M.N. Roy Memorial Lecture-2000, Indian Renaissance Institute and The Indian Radical Humanist Association, Delhi pp.35ff).
- **The NDA's response:**

In a move calculated to blunt the edge of the opposition to the review exercise, the NDA has made it clear in its public stances and on the floor of the house, that it was against the withdrawal of the constitutionally guaranteed rights of the SCs and STs. Correspondingly, the Review Commission `has stated that it would look into the issue of strengthening of constitutional provisions relating to the SCs, the STs, the OBCs and the minorities. It invited suggestions from the public in this regard (see Press note dated June 16, 2000).