

## Handout 4

### Criticism of Indian Constitution:

- Lengthiest constitution
- At present we have 12 schedules, 25 parts, and around 475 Articles.
- All those activities of the government which are part of day-to-day administration, have been included in the constitution.
- Our constitutional forefathers have included them as they did not want any ambiguity for future generations in terms of governance.
- **Copy of the Government of India Act, of 1935:**
- Indian Constitution is also criticized as nothing but an extension of the Government of India Act, of 1935, all the major features of our constitution are derived from it including parliamentary democracy, federal form of government, Bicameralism, judiciary, central bank, and so on.
- But to say that our constitution is an extension of the Government of India Act, of 1935 is not right because:
- The Government of India Act, of 1935 was legislation passed by the British Parliament for its colony, whereas our constitution reflects the soul of the country.
- The essence of our constitution lies in fundamental rights(FRs) whereas the Gol Act, of 1935 had no provision for FRs at all.
- Gol Act, of 1935 had provisions for the federal form of government but it was a weak federation with the central government having control over the only defense, currency, etc even this also did not come into effect because of the strong opposition by the Princely states.
- On the other hand, our constitution has strong unitary features.
- India is described as an indestructible Union consisting of Destructible States.
- Gol Act, of 1935 had also provisions for parliamentary democracy but the parliament did not have any real powers because any decision of the parliament could be vetoed by the governor General, whereas in our constitution the President is only a nominal executive with the parliament having sovereignty over its functioning.
- Gol Act, of 1935 established a federal court(Supreme Cort) but the judiciary was neither independent nor impartial whereas our constitution has made the judiciary both independent and impartial.

- In the GoI Act, of 1935 the British crown was sovereign with people being treated as subjects to be ruled, whereas in our constitution it is the sovereignty of the Citizens.
- **Lawyer's Paradise and A common man's Nightmare:**
- This criticism is valid because the maximum number of members in the Constituent assembly had come from the legal profession.
- The language used is too complicated for ordinary citizens to understand the content of the constitution.
- **On Fundamental Rights:**
- They were criticized as "Fundamental restrictions on rights".
- None of the FRs are absolute in nature, on the other hand, too many restrictions are imposed on fundamental rights leading to the criticism that they at best can be described as "Fundamental restrictions on rights".
- **A bag of Borrowed Materials:**
- Many features of our constitution are borrowed from different sources:
  - FRs from American Constitution.
  - DPSPs from the Irish constitution.
  - Emergency Provisions from the German Constitution.
  - Fundamental Duties from the USSR constitution, and so on.
- But this criticism is not valid because as pointed out by Dr. Ambedkar, they wanted to give the people of the country, the best constitution, and this is the reason why they had borrowed from various sources.
- **An Un-Indian Constitution:**
- Many critics argued that the Soul of our country is missing in our constitution.
- It reflects mostly only western liberal democratic values than Gandhian ideals.
- This criticism is also fair because most of the makers of the constitution had western education which is reflected in our constitution.
- Towards the end, Gandhian ideology was included as part of DPSPs.

Class test of previous topic and answer writing session