
INDIAN CONSTITUTION

BAG OF BORROWINGS VS THE 'SUI GENERIS' STATE

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INTRODUCTION

The Indian Constitution is one of the longest written and longest serving constitutions in the world. The Constitution of India is well detailed and well deliberated to suit Indian society, but a common criticism frequently arises in academic and public discussions - that it is merely a "Borrowed document", lacking originality and rooted largely in foreign sources. This perception, though is partially truth, is misleading and fails to capture the depth, vision, and contextual adaptation that went into the making of the Indian constitution. As we look closely, we found that the elements which are borrowed from the other countries were carefully examined, modified, and adapted to suit the India's unique socio-political realities. Rather than being a weakness it turned out to be a strengthening move for the constitution makers which help them to opt those ideas which were already tested in foreign countries and which suited best to the Indian diversity. It reflects intellectual openness and pragmatic wisdom of the members of Constituent assembly. The Indian constitution, therefore, is not a patchwork of copied ideas but a carefully crafted document that blends global best practices with indigenous needs and aspirations. It also embodies the spirit of Constituent Assembly of India, whose debates discussed

ORIGIN OF 'BORROWED CONSTITUTION' ARGUMENT

The idea the Indian constitution is borrowed stems from the fact that several of its provisions have clear parallels with other countries. For example:

- Parliamentary system from Britain
- Fundamental Rights from the United States
- Directive Principles of State Policy from Ireland.

At first glance, such similarities may give the impression that the Constitution lacks originality. However, this perspective ignores a critical aspect-the context in which these features adopted and how they were reshaped to suit India's conditions. During the time of Indian independence in 1947, the country was a deeply diverse and complex society, marked by linguistic, cultural, religious, and economic differences. Also, the country is divided into 565 princely States and suffering from the partition, at this critical time, the farmers of the Indian constitution had the enormous responsibility to uniting this diversity under a single democratic framework. In such a situation, drawing from

successful models around the world wasn't an imitation but intelligent adaptation which helps to unite the diverse population and create a democratic nation.

ROLE OF CONSTITUENT ASSEMBLY: THOUGHTFUL DELIBERATION, NOT BLINDLY COPYING.

The Indian constitution wasn't drafted overnight nor imposed by a single authority. It was the result of extensive debates, discussions, and deliberations in the Constituent assembly over nearly three years and took 11 sessions (1946-1949). Leaders such as Dr. B.R. Ambedkar, Jawaharlal Nehru, Sardar Patel, Dr. Rajendra prasad played a crucial role in shaping the document.

DR. Ambedkar, the chairman of the Drafting Committee, clearly addressed this criticism in the Constituent Assembly. He stated that there was "Nothing to be ashamed of in borrowing" if it helped in building a better constitution.

According to him, the framers didn't blindly copy but carefully studied various systems and adopted only those features that were suitable for India. The constituent assembly debated and deliberated on each provision thoroughly. Over 7000 amendments proposed, and nearly 2500 were discussed. This level of scrutiny highlights that the Constitution was a product of collective wisdom rather than borrowed convenience.

SELECTIVE ADAPTATION TO INDIAN NEEDS

The uniqueness of Indian constitution is not what it borrowed, but how it transformed those borrowings that the concepts are still successful and working smoothly in a country full of diversities.

1. PARLIAMENTARY SYSTEM (FROM BRITAIN)



India adopted the parliamentary system from Britain, but with significant modifications. Unlike Britain, where the Constitution is unwritten, India codified its system in a detailed written document. Additionally, the Indian President is not merely ceremonial but plays a constitutional role, especially during emergencies.

2. FUNDAMENTAL RIGHTS (INSPIRED BY THE USA)

The concept of Fundamental Rights ensures the protection of individual freedoms. However, unlike the American system, these rights in India are not absolute. Reasonable restrictions can be imposed in the interest of public order, morality, and national security. This shows the balance between liberty and social stability.

3. DIRECTIVE PRINCIPLES OF STATE POLICY (FROM IRELAND)

The Directive Principles of State Policy are unique feature aimed at achieving social and economic justice. In India, DPSP has much broader scope than Ireland as they reflect the vision of transforming India into a welfare state, addressing issues like poverty.

4. FEDERAL STRUCTURE (INFLUENCED BY CANADA)

India follows the "quasi-federal" as it combines both federal and unitary features. As per the condition of India during independence and its large diversity, the constitution provided a strong central government which is much different from Canada and adapted according to Indian society.

INDIAN CONTEXT: THE CORE OF CONSTITUTIONAL DESIGN

The main reason which distinguishes the Indian Constitution from the rest of the World is its deep connection with Indian society.

At the time of Independence, India faced several challenges:

The main reason which distinguishes the Indian Constitution from the rest of the World is its deep connection with Indian society.

- Widespread poverty and illiteracy
- Social inequalities like caste discrimination
- Communal tensions
- Partition and refugee crises

So, the Indian constitution is not designed only as legal document consisting laws and rules but also focus on social transformation.

- **Social justice and Equality**

The Constitution abolished untouchability under article 17 and introduced affirmative action (reservations) for SC and ST. These provisions weren't borrowed but were uniquely crafted to address India's historical injustices.

- **Universal Adult Franchise**

India adopted universal adult suffrage from the very beginning, granting voting rights to all citizens regardless of education, gender or wealth.

- **Secularism**

Indian model of secularism is much different from the western countries.

Indian secularism doesn't mean complete separation of religion and state but rather equal respect for all religions unlike the Western world.

VISION OF B.R. AMBEDKAR

Dr. Ambedkar emphasized that the Indian Constitution is not just about political democracy but also about social and economic democracy as in Indian society there were many social evils like untouchability were prevalent and the poor class was dominated by the rich.

He famously stated that the Indian constitution is only as good as the Indian people who implement it. This highlights the dynamic nature of the document - it depends on society's value and participation and also addresses the problems and gives solutions to tackle them.

He also argued that the framers used the global knowledge as a foundation but built something uniquely suited to India.

ANALYSIS; BORROWED FEATURES WORKED BETTER IN INDIA

Although the Indian Constitution borrowed several features from foreign systems but in many cases, India has refined and implemented these ideas more effectively than their countries of origin.

For example:

- India transformed the British parliamentary model into a structured and inclusive system capable of governing the world's largest and most diverse electorate.
- India went beyond the American model of judicial review by ensuring that even constitutional amendments cannot destroy its basic structure.

Constitution as a Living Document:

The strongest argument against the myth that the Indian constitution is 'borrowed' is the idea that the "Constitution is a living document".

Since its adoption in 1950, the constitution has undergone more than 100 amendments. These amendments reflect changing social, political, and economic conditions. Example:

42nd amendment (1976): Added words like "Socialist" and "Secular" to the preamble.

44th amendment (1978): Restored democratic balance after the emergency period.

86th amendment: The Right to education makes education a fundamental right. These changes demonstrate that the Constitution is not rigid but adaptable according to the needs of the country ensuring the relevance over time.

JUDICIARY AND INTERPRETATION

The role of the judiciary, especially the Supreme court, has been crucial in shaping the Constitution. Through landmark judgements, the court has explained the meaning of various provisions. For instance:

The concept of the "Basic Structure Doctrine" ensures that certain core principles of the Constitution cannot be altered. Fundamental Rights have been interpreted broadly to include rights like privacy and dignity. This dynamic interpretation further reinforces the idea that the Constitution is not static but continuously evolving.

CONCLUSION

The Indian Constitution is the best example of intellectual synthesis and practical wisdom. While it draws inspiration from various sources around the world, it is deeply rooted to the India's historical, social and political context. To label it as merely "borrowed" is to ignore the immense efforts, vision, and foresight of its

framers. The members of the Constituent Assembly didn't just copy the ideas blindly; they carefully crafted a document that could guide a diverse nation towards unity, democracy, and justice. More prominently, the Constitution's ability to evolve with time proves that it is not a static or borrowed text, but a living document which continues to adapt to the changing needs of the Indian society. In essence, the strength of the Indian Constitution lies not in its originality alone, but in its ability to combine the best of the world with the realities of India.

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