



Indian Constitution and Sardar Patel

Dr. Vasant Patel

Assistant Professor, P.G. Department of History,

Sardar Patel University, Vallabh Vidyanagar-388120, Mo: 9624556654

The first meeting of Indian constituent assembly took place in New Delhi on December 9, 1946 (the day declared by Sardar Patel) at 11 o'clock in the morning. 209 elected representatives (of 10 different provinces of India), including 9 women were present. Along with Sardar Patel, his daughter Ms. Maniben was also present but since she was not a member of the constituent assembly, she sat on a separate chair in the Constitution Hall.¹ The Muslim League refused to take part in this assembly. Acharya Kriplani requested Sachchidananda Sinha to hold a position as a temporary Chairman of the assembly. Sardar Patel, too approved this. The appointment of Sinha was provisional. He was to unoccupy the Chair, after electing the permanent president. Hence, on December 11, he declared Dr. Rajendra Prasad as the President of the assembly. Sardar Patel approved this decision also. The contribution made by intellectuals like Dr. B.R. Ambedkar as well as the experts like Anantshayanam Ayyangar, John Mathai, Maulana Abul Kalam Azad, Ganesh Vasudev Mavalankar, Kanaiyalal Munshi, Alladi Krishnaswami Ayyar, Shyama Prasad Mookherjee, Naliniranjana Ghosh, Baldev Singh, Sarojini Naidu, Hansa Mehta, Durgabai Deshmukh, C. Rajagopalachari, Minu Masani, Mahavir Tyagi, S.A. Lahiri, Prof. K. T. Shah, was never less. In this way, world's lengthiest constitution (with 395 articles and 8 schedules at the time of commencement) of the largest democracy was completed under the Presidency of Dr. Rajendra Prasad and proficiency of Sardar Patel with the following words:

“We, the people of India, having solemnly resolved to constitute India into a Sovereign socialist secular democratic republic and to secure to all its citizens: justice, social, economic and political; Liberty of thought, expression belief, faith and worship; Equality of status and of opportunity; and to promote among them all Fraternity assuring the dignity of the individual and the unity and integrity of the Nation; in our Constitutional Assembly on this 26th day of November, 1949, to hereby adopt, enact and give to ourselves this Constitution.”²

The Constitution remained the symbol of complete decisive position of the Indian National Congress Party. However, as mentioned above, the representatives of other political parties and states/provinces as well as other great members also contributed their best to it. Sardar Patel played a leading role in the Constituent Assembly. He laid a distinctive impact on the Constitution. Patel, after debating on the relevant issues through his broad thinking, secularism, democracy and justice; determination and sensible ideas, led the Constitution to a significant position and brought pride to be decisive in its real sense. Having unified the states of India, he became the great architect of the nation. Patel, in the Constituent Assembly,

having shown keen interest and concern for every field of the nation, remained the guiding spirit in making of modern and future India which would strengthen the way of prosperity, justice and democracy. In the Constituent Assembly, he remained the chairman of three important sub-committees: Fundamental Rights Sub-committee, Provincial Constitution Committee and Minorities Subcommittee. He played a foremost and fundamental role as the chairman of all three important sub-committees. Here, the point to be considered deeply is that all the sub-committees were answerable to the Advisory Committee of the Constitution. Patel played an important role in ascertaining good national governance; in dispensing with the separate electorates as well as the election of the President of the nation; in unification and integration of the princely states of the nation; in response to the advancement of the Articles: related to the responsibilities taken by the British Government and the services extended by the national government; with reference to the advancement of the present Article 370 related to the special status for Jammu and Kashmir as well as in drafting language policies.

Let's get introduced by his contribution to the Constituent Assembly:

Minorities Sub-Committee

Sardar Patel believed that if the central government is strong, the good governance can be set up in the country. On the other hand, the numerous dividing factors would put such proposals due to which the centre government would go weak. As a part of such proposals, India's minority groups demanded for separate voting-right and for their representation in legislatures but Sardar Patel remained firm against such proposals. The minority sub-committee, following the old practice, suggested providing them separate electorates as well as reservations at legislatures and in different jobs.³ In the constitution assembly Christians, Parsis, Shikhs, Anglo-Indians, Muslims, Harijans and tribes were included in the minority society. As soon as the minority committee was formed, the proposal to abolish the separate electorate was put forward and it was fully endorsed by the representatives of the minorities in the committee. And the concept of separate electorate for the minorities was easily abolished, but the representatives of the minorities were not willing to leave reservation quota kept for them in legislature. Sardar Patel extended such an attitude towards the minorities, "Every minority group shall get the reservation seats only if they ask for it collectively. But, they shall not get honour or affection from the majority groups."⁴ After expressing his view, Sardar met the representatives of different groups and discussed this matter with them in detail. Initially on December 22, 1946 V. K. John, the leading man of the Christian community, proposed Sardar Patel that like Harijans, Christians should also be benefitted with the reservation provision. In response to this, Sardar Patel on December 28, 1946, wrote a letter to John, mentioning, "Compared to Harijans, Indian Christians are far better of due to the efforts made by missionaries. They unlike Harijans, do not have to suffer from untouchability. Hence, the Government gains more sympathy for the people of the lowest strata in the social structure. Therefore, this matter must be considered in this manner and so, as per my understanding, there is no intention of discrimination."⁵ The Christians must not have demands. Then Sardar also counselled Homi Modi, the leader of Parsis. This is how Christians and Parsis confessed that their representatives would be elected even without reservations.

The population of Anglo-Indians in different parts of India was almost one lakh. They had an apprehension that their members would not be elected so they demanded for

reservation in legislatures, but Sardar Patel refused to do so. In order to solve this problem Sardar just suggested that when the President and the Governors of the states would find it appropriate, they would appoint the representatives of Anglo-Indians. Frank Anthony, the leading man of the Anglo-Indian group showed agreement to Sardar's suggestion and thanked him. The Constitution Articles 331 and 333 are used in the present administration and it reflects that Sardar was a true friend of minorities.

Some leaders from Shikh community revealed their desire to have special rights for them. On September 5, 1949, the king of Patiala wrote a letter to Sardar Patel, mentioning that making such provisions in the Constitution was necessary to generate trust in Shikh community so that they would be sure for getting appropriate position in Indian administration. Muslims asked for independent- sovereign state, they got Pakistan. Hindus also got sovereign country where they are in majority. Only Shikhs are such who are deprived of any benefits.⁶

In context to the demand for reservation, Sardar Patel also persuaded Baldevsinh and Ujjavalsinh, the leading men of Shikh community. On December 29, 1948 Sardar Baldevsinh, having thanked Sardar Patel wrote to him, "The Shikhs have deep faith that you are their best friend. You have confirmed this on many occasions. On the basis of sectarian prop up, I neither want representation nor support to the demand of separate electorate."⁷

The problem of Muslim community was more important. Hence, Sardar kept it last. Muslim community had the benefit of separate electorates during the British rule since 1909. Therefore, the Muslim leaders were firm in demanding to continue with the same benefit even after independence. But, Sardar Patel advised the leading men of the Muslim community in privacy, to give up the demand for reserved seats. Sardar clearly told them that they should not stay away from the political course. He would definitely not tolerate anything against national unity. Finally, the then active leader of Muslim League, Begum Aizaz Rasul was persuaded by Sardar Patel and she declared that Muslims did not want any reservations.⁸ As a result of this, Muslims also gave up the idea of separate electorate and reservations. A question of minorities was still there. There was a demand that the minorities would also get reserved seats as ministers in the cabinet. Moreover, it was insisted to include this in the Constitution as a constitutional provision. But, Sardar Patel strictly denied. He added that the inclusion of the minorities in the ministerial would be considered in the best possible manner. But, they would certainly not get any reserved seats in the cabinet. Hence, the vast majority of the minority communities, themselves, dropped the contumacy.

On May 11, 1949, as per the resolution passed in the advisory committee, no minorities other than Harijans and tribes would get reservations. But, Sardar Patel had genuine sympathy for both Harijans and tribes. He was positive about their getting reservations. Harijans wanted to have Harijan ministerial in the cabinet.⁹ Sardar was aware that for many years the people of this community had not got any opportunity to grow socially, politically and economically. Hence, Sardar Patel recommended that the scheduled tribes (for ten years) and scheduled caste should get the benefit of reservation. This was accepted by the constituent assembly.

When in the constituent assembly, for the minorities, the matter of separate electorates on the basis of religions was cancelled; Sardar Patel, in the conclusion of a

detailed speech, mentioned: “This House will feel pride that we could remove the old stigma unanimously. With the grace and blessings of the Omnipotent God, we could lay foundation of true, secular, democratic states, in which every citizen is entitled to have equal opportunity. May God grace us with good-sense and courage!” Forecasting future scenario Sardar Patel said, “In the long run, it would be in the interest of all to forget that there is anything like majority or minority in this country. It is in the interest of all to lay foundations of a secular state and in India there is only one community.” On 26 May, 1949 presenting the constituent report in context to minorities, Sardar Patel said – when for the first time I was appointed as a chairman of the advisory committee, I was really shaking, and I accepted that job with a heavy heart because I had felt that the task seemed extremely difficult due to the history of the British rule for last many years. And the people of all classes had a sense of disbelief; majority of them hardly had any faith. Still, I shall claim that the moment there was reinstatement, the gradual transformation started and that encouraged me a lot. I started experiencing the sense of consecutive growth of trust and faith in each other.”¹⁰

When the separate representation of the minorities was declared, it was just a puppet-show by the British Government, which was not approved by the people. "We all have borne its fruits". He told the members to change the chapter of the history of this country for the first time and perform the duties collectively. "In order to change the course of the history, I seek for your consent and that of the minorities too. You are proud and privileged to do this job. Today whatever duty you perform, the future generation will carve that in golden letters. And I hope and trust that the step we are taking today, will change the face, form and history of our country. If any community thinks that their interests are different than that of the country they live in, it is their big mistake. Suppose if we accept the proposal of reservation today, I will consider myself the biggest enemy of the Muslim community."¹¹

Fundamental Rights:

In the Constituent Assembly, Sardar Vallabhbhai Patel was the chairman of the Subcommittee of Fundamental Rights. He had to debate hard on several issues with the people of different mindsets: people like Rajarshi Purshotamdas Tandon, K. M. Munshi, C. Rajgopalachari, S. A. Lahiri, Mahavir Tyagi, P. S. Deshmukh, Hari Vishnu Kamath, R. R. Diwakar, Anantshayanam Ayyangar, V. Das, Ray Bahadur Chaudhury, Surajmal, Sardar Prithvisinh Azad, Minu Masani, Prof. K. T. Shah etc. Sardar showed similar dexterousness among the Marxists, the members influenced by orthodox thinking and the ones advocating the benevolent anarchism. With his sense of humour, showing to have included everyone's opinions, he, based on his own principles set the rights related to press, individual freedom, education and culture. He also insisted on people's protection with reference to the Fundamental Rights for the nation's stability and integrity. Hence, while submitting report to the President of the Constituent Assembly on April 23, 1947, he proposed, “Let us give most importance to the action of making these rights justifiable in the Constitution in the similar way in which the United States of America and New Republic Constitutions reflect citizens' rights with special remedies.”¹²

As a result of this, all fundamental rights were completely made justifiable and were included in the constitution. And this is how the fundamental rights of the citizens could be protected. The question of the citizenship was complex in the Constituent Assembly. Who is a citizen of India? Who would receive Indian citizenship? Would a person of Indian parents but

born abroad be considered Indian citizen? Sardar was of the opinion that many countries of the world were giving such rights to the people. He had said that what if some parents, having thought that they would get Indian citizenship directly, would come to India at the time of the delivery of a baby! Should we allow the sense of racism to enter the constitution just because of such few people? How would it appear? It is important to remember that the provision about citizenship will be scrutinised all over the world. They are watching what we are doing. Having put aside the key matter, if we focus on the trivial ones, we would keep on ambushing ourselves. We would not reach to any conclusion if we go on spinning each word of the report. This is a simple problem. We must always have a few foreigners coming here. If by the accident of birth, someone comes and stays here, subject to the proviso which we have enacted, we can control double citizenship by our legislation. The clause made by Patel was adopted as it was.¹³

The Article in which Sardar Patel had to contribute more actively and enthusiastically was related to 'Protection of Right to Property'. Having been born in a farmer's family, Sardar had a particular stance with reference to this Right. According to him, protection of this right was more important for the nation because in future there was a possibility to strengthen economic hold – both internal and external. The protection of this Right could not match with the promise and policy made by Congress on uprooting landlordism. Because of this, Sardar had to face more difficulties. A group of Congress with Marxist ideology had wanted that legislative assemblies, for the nationwide benefit, must have a full right to acquire land and to fix the compensation as well as there had to be some provision under which the right could not be challenged in the court. Sardar personally felt that the attainment of someone else's land without proper reward was an act of dishonesty was an indication to chaos. He was firm about the thought that it was the responsibility of the states to protect the right to their land and actually when its acquirement was needed for the public benefit; it must be attained only when compensated properly. However, if the landlord found the reward improper/insufficient, he/she could challenge the matter in the court. This was how a serious issue was emerged. Here, it ought to be mentioned that the then Finance Minister Shri John Mathai firmly endorsed Sardar and expressed desire to resign from his post in case of the rejection of Sardar's opinion.

In the end, the Assembly made the Right to Property reserved by the Constitution and offered an option of appealing in the court for compensation. A prerequisite made by a middle class that the Act related to uprooting landlordism must be kept separate from the Fundamental right to property. Hence, it was included in a particular Section of the constitution.

States Sub-Committee:

As the Chairperson of the States Sub-Committee, Sardar contributed decisively in founding a powerful nation, in clarifying the status of a Governor, in making judiciary consolidated, in planning justified election, in setting up separate election commission etc. Apart from this, through the medium of the committee, he also played an important role in defining both the national governance as well as the position of the President of the Nation.

For the first time Sardar Patel made arrangements wherein the power of the States was required to be controlled as history had witnessed that whenever the central authority got

weakened, the national integrity was not able to survive. It was determined that the central authority ought to be as powerful as expected and the states were not to be given more autonomy. Because of this, an arrangement was made under which it was decided that where the maintenance of law and order was not satisfactory, the President ascendancy should be imposed and the state should be under the administration of the union president or the workforce below (in case of the failure of the constitutional system).

It was decided by the committee of the State Assembly and Sardar Patel that each state governor within the structure of his/her constitution, could work as a linkage between the state and the union cabinets. He discussed this in detail with Shri Hari Vishnu Kamath, Shri M. H. Mohini, Pandit Hridaynath Kunjru, Shri R. K. Sidhdhivala, Shri K. Santhanam and Pandit Govindvallabh because influencing leaders wanted to have more provincial autonomy. Pandit Govindvallabh Pant also proposed to have a post of Deputy Governor in the absence of Governor:- each state shall have a deputy governor. He shall be elected on the basis of his representation by the State administrative unanimously. The deputy governor shall fulfil the unexpected absentia of the governor and shall also work in his absence.

Firstly, the creation of the post was needless because if the post of the governor is suddenly vacant, the President can immediately make arrangement of filling it. Meanwhile, the chief justice of the state high court can do that job. Secondly, the election of deputy governor recommended by Pandit Pant was inappropriate because in that case he shall be a representative of the election assembly which selected him. The job of a governor was to bridge the gap between the State and the Union. Hence, the position of the deputy governor shall be inclined to the legislative body. This was why this proposal was disapproved and the purpose of establishing the consolidated nation in the form of a nation's representative remained only till the proviso of the post of the governor. With reference to that, the state constituent sub-committee made a provision of completely separating the Judiciary system from the Administrative one. And it was arranged in such a manner that the judges of the state high courts were to be appointed by the President in consultation with the chief justice of the Supreme Court.

For bringing stability, integrity and morality in the states, Sardar, having emphasised on the necessity of spotless and unbiased election, extended following suggestions to the constituent assembly.

In this context I think that the assembly should have consensus, under which an election commission shall be appointed by the President of the nation with the hope of having certainly unbiased election. Finally, it happened and it is also noteworthy that it happened in the joint assembly of central constituent committee and provincial constituent committee headed by Sardar Patel. The provincial constituent committee made the country authority vital. Announcing this to the constituent assembly on July 15, 1947 Sardar said – both the committees have agreed to accept the proposal made by the provincial constituent committee that there would be single parliamentary system or cabinet.

There arose some misunderstanding between Sardar Patel, president of states constitution committee and Pandit Jawaharlal Nehru, president of union constitution committee. Pandit Nehru had wanted and also proposed that the election of the nation's President must be done by the parliament. If this was to be followed, the Leader would be of

the choice of the Prime Minister. Hence, it was not approved by the states constitution committee of Sardar Patel. He, defining the post of the country's President, raised a point that the President is the protector of both central and state administration. Therefore he must be elected by all the members of both the committees. In fact, the dispute moved towards the position of the President. Whether he would be just a benevolent to the Prime Minister or be a symbol of the people and the unity of the entire nation? The question of this debate was sent to the joint assembly. Here it is worthy to be noted that Sardar Patel had always a tendency of discussing every important matter with the fellow experts and of taking their advice before implementing it. He had appointed an advisory board for the present topic as well.

The board included eminent jurists like K. M. Munshi, Gopaldaswami Ayyangar who was a veteran in human field and administration and Sir Krishnaswami Aiyer who was proficient in constitution matters. With the help of such advisors, the joint assembly, after discussing about the election of the President, unanimously granted Sardar Patel's point of view. And this is how the President instead of being a puppet in hands of the parliament, became the icon of unity of the nation and all the citizens. His election could be possible by the members elected by general public, by the parliament and by the members elected by the states assembly.

Indigenous States and Sardar's Viewpoint

Though we got freedom from the British rule, they left the fortune of India lingered with the critical problem of indigenous states. Sardar Vallabhbhai Patel, with display of diplomacy, solved this problem of unification of the princely states. The kings and emperors of the princely states, instead of making their own separate constitution, got ready to accept the different explanations in the Indian constitution. Pandit Jawaharlal Nehru and some of his colleagues started getting reluctant to accept the privileges given to the kings as a part of the understanding amongst them. The problem of majority of the princely states was resolved. The debate over it was also almost done. But the new dispute which arose was put before the Congress Party and the constituent assembly. During those days Sardar Patel was on rest due to ill health. He, having been neutral, firmly consoled the kings and the emperors that he would neither fall back from his understanding nor break it. The provision of special rights for the kings forever would be made in the Constitution. On one hand such consolation of his released the kings from the dispute and on the other hand on, the ground of his emotional insistence, Nehru and other cabinets abandoned all the doubts and wariness. Moreover, the constituent assembly, without any resistance but with loud applause, accepted the proposal made by Sardar saheb. In this way, the serious issues of the princely states got removed.¹⁴ And through the medium of the constituent assembly, with the special provisions in the republican constitution, the annihilation of the ever memorable states was accomplished by Sardar magic, that too without shedding any drop of blood.

With Reference to the Services:-

As far as the services are concerned, he has primarily extended worth-mentioning contribution to two of them: 1. The members in the cabinet of the former prime minister, who were in service after power acquisition. Every officer of this hierarchy was consoled for the protection of their service rights and 2. The two services emerged after the power acquisition – Indian administrative services and Indian police services were formed with the support and

consent of the state governments, in the form of All India Services. Along with this, the consolidated provisions were also made for the state public commission. For the above mentioned services, Sardar was looking at the impairment by the constituent provisions, with the vision of generating trust and of bringing stability. In order to make this viewpoint successful though he had to face challenges, he could win, just as in case of other difficulties.

In context with Jammu-Kashmir

Indian Constitution Article 370, with reference to Jammu & Kashmir, is a result of Sardar's significant role. Indian constitution Article 370 defines the relations of states of Jammu and Kashmir with India. Under the guidance and advice of Pandit Nehru and Sheikh Abdulla, Shri Gopalaswamy Ayyangar made provision of this Article (earlier known as 206 (a), later 370). From theoretical point of view, Congress Party was of the opinion that, "Kashmir, too must accept the Constitution on the same ground of the fundamental rights and conditions, on which the other states have done it." Particularly, the Party was against the matter why the clauses-articles related to fundamental rights would not be applicable to Kashmir, too! During this opposition time Pandit Nehru was on his foreign trip and Shri Gopalaswamy Ayyangar could not gratify the Party. Having got frustrated Ayyangar asked Sardar Patel to intervene the matter. In absence of Nehru, Sardar Patel took charge of gratifying Congress Party. It would be surprising to know that after Sardar took it over, the party neither opposed this provision nor discussed it in the constituent assembly. This simply helps us predict the influence of Sardar Patel on the Party and his role in the constituent assembly.

Like this only when, in case of the dispute related to language, Rajarshi Purshottamdas Tandon, in the constituent assembly, supported Hindi as National Language and as a result the controversial situation arose; Sardar Patel played an important role in honouring Hindi as the National Language in the Constitution. It is also a fact that whenever there were serious disputes in the constituent assembly, it was only Sardar who would play the critical role as well as his consolidated and sensible speech would inspire all for dedication. M. V. Kamath, on Sardar's role in framing the Constitution, said, "It was difficult to get the Constitution passed without Sardar. Sardar would speak less in the constituent assembly. But the aura of his persona was immense."

In this way, Sardar Patel defined the constituent provisions with many important implementations. In the constituent assembly, having done logical arguments mingled with his decisive, democratic, consolidated, trustworthy and broad vision, he contributed largely in the making of the Constitution.

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