

IDEAS OF INDIA

In Governance is realised all the forms of renunciation; in Governance is united all the sacraments; in Governance is combined all knowledge; in Governance is centred all the Worlds.

The Mahabharata

Constitutional morality is not a natural sentiment. It has to be cultivated. We must realize that our people have yet to learn it. Democracy in India is only a top-dressing on an Indian soil, which is essentially undemocratic.

B. R. AMBEDKAR

I

WITH 395 ARTICLES AND 12 schedules the constitution of India is probably the longest in the world. Coming into effect in January 1950, it was framed over a period of three years, between December 1946 and December 1949. During this time its drafts were discussed clause by clause in the Constituent Assembly of India. In all, the Assembly held eleven sessions, whose sittings consumed 165 days. In between the sessions the work of revising and refining the drafts was carried out by various committees and sub-committees.

The proceedings of the Constituent Assembly of India were printed in eleven bulky volumes. These volumes – some of which exceed 1,000 pages – are testimony to the loquaciousness of Indians, but also to their insight, intelligence, passion and sense of humour. These volumes are a little-known treasure-trove, invaluable to the historian, but also a potential source of enlightenment to the interested citizen. In them we find many competing ideas of the nation, of what language it should speak, what political and economic systems it should follow, what moral values it should uphold or disavow.

II

From the early 1930s the Congress had insisted that Indians would frame their own constitution. In 1946 Lord Wavell finally gave in to the demand. The members of the Assembly were chosen on the basis of that year's provincial elections. However, the Muslim League chose to boycott the early sittings, making it effectively a one-party forum.

The first meeting of the Constituent Assembly was held on 9 December 1946. A sense of anticipation was in the air. The leading Congress members, such as Nehru and Patel, sat on the front benches. But to demonstrate that it was not merely a Congress Party show, known opponents such as Sarat Bose of Bengal were given seats alongside them. A nationalist newspaper noted that 'nine women members were present, adding colour' to a scene dominated by Gandhi caps and Nehru

jackets.¹

Apart from the members sent by the provinces of British India, the Constituent Assembly also had representatives of the princely states, sent as these states joined the Union one by one. Eighty-two per cent of Assembly members were also members of the Congress. However, since the party was itself a broad church they held a wide range of views. Some were atheists and secularists, others ‘technically members of the Congress but spiritually members of the RSS and the Hindu Mahasabha’.² Some were socialists in their economic philosophy, others defenders of the rights of landlords. Aside from the diversity within it, the Congress also nominated independent members of different caste and religious groups and ensured the representation of women. It particularly sought out experts in the law. In the event ‘there was hardly any shade of public opinion not represented in the Assembly’³

This expansion of the social base of the Assembly was in part an answer to British criticism. Winston Churchill in particular had poured scorn on the idea of a Constituent Assembly dominated by ‘one major community in India’, the caste Hindus. In his view the Congress was not a truly representative party, but rather a mouth piece of ‘actively organised and engineered minorities who, having seized upon power by force, or fraud or chicanery, go forward and use that power in the name of vast masses with whom they have long since lost all effective connection’.⁴

The process was made more participatory by asking for submissions from the public at large. There were hundreds of responses, a sampling of which gives a clue to the interests the law-makers had to take account of. Thus the All-India Varnashrama Swarajya Sangh (based in Calcutta) asked that the constitution ‘be based on the principles laid down in ancient Hindu works’. The prohibition of cow-slaughter and the closing down of abattoirs was particularly recommended. Low-caste groups demanded an end to their ‘ill treatment by upper-caste people’ and ‘reservation of separate seats on the basis of their population in legislature, government departments, and local bodies, etc.’. Linguistic minorities asked for ‘freedom of speech in [the] mother tongue’ and the ‘redistribution of provinces on linguistic basis’. Religious minorities asked for special safeguards. And bodies as varied as the District Teachers Guild of Vizianagaram and the Central Jewish Board of Bombay requested ‘adequate representation . . . on all public bodies including legislatures etc.’⁵

These submissions testify to the baffling heterogeneity of India, but also to the precocious existence of a rights culture among Indians. They were many; they were divided; above all, they were vocal. The Constitution of India had to adjudicate among thousands of competing claims and demands. The task was made no easier by the turmoil of the times. The Assembly met between 1946 and 1949, against a backdrop of food scarcity, religious riots, refugee resettlement, class war and feudal intransigence. As one historian of the process has put it, ‘Fundamental Rights were to be framed amidst the carnage of Fundamental Wrongs’.⁶

III

The Constituent Assembly had more than 300 members. In his magisterial history of the Indian Constitution, Granville Austin identifies twenty as being the most influential. Of these, as many as twelve had law degrees, including the Congress stalwarts Jawaharlal Nehru, Vallabhbhai Patel and Rajendra Prasad.

Nehru’s first major speech in the Assembly was on 13 December 1946, when he moved the Objectives Resolution. This proclaimed India as an ‘independent sovereign republic’, guaranteeing its citizens ‘justice, social, economic and political; equality of status; of opportunity, and before the

law; freedom of thought, expression, belief, faith, worship, vocation, association and action, subject to law and public morality' – all this while assuring that 'adequate safeguards shall be provided for minorities, backward and tribal areas, and depressed and other backward classes . . .' In moving the resolution, Nehru invoked the spirit of Gandhi and the 'great past of India, as well as modern precedents such as the French, American and Russian revolutions'.⁷

Nine months later Nehru spoke again in that columned hall, at the midnight hour, when he asked Indians to redeem their trust with destiny. In between, on 22 July 1947, he had moved a resolution proposing that the national flag of India be a 'horizontal tricolour of saffron, white and dark green in equal proportion, with a wheel in navy blue at the centre. On this occasion Nehru led a chorus of competitive patriotism, with each subsequent speaker seeking to see in the colours of the flag something special about his own community's contribution to India'.⁸

The speeches of symbolic importance were naturally made by Nehru. Just as naturally, the bulk of the back-room work was done by Vallabhbhai Patel. A consummate committeeman, he played a key role in the drafting of the various reports. It was Patel, rather than the less patient Nehru, who worked at mediating between warring groups, taking recalcitrant members with him on his morning walks and making them see the larger point of view. It was also Patel who moved one of the more contentious resolutions: that pertaining to minority rights.⁹

The third Congress member of importance was the president of the Assembly, Rajendra Prasad. He was nominated to the office on the day after the Assembly was inaugurated and held it with dignity until the end of its term. His was an unenviable task, for Indians are better speakers than listeners, and Indian politicians especially so. Prasad had to keep the peace between quarrelsome members and (just as difficult) keep to the clock men who sometimes had little sense of what was trifling and what significant.

Outside this Congress trinity the most crucial member of the Assembly was the brilliant low-caste lawyer B. R. Ambedkar. Ambedkar was law minister in the Union government; and also chairman of the Drafting Committee of the Indian Constitution. Serving with him were two other formidable minds: K. M. Munshi, a Gujarati polymath who was a novelist and lawyer as well as freedom fighter, and Alladi Krishnaswami Aiyar, a Tamil who for fifteen years had served as advocate general to the Madras presidency.

To these six men one must add a seventh who was not a member of the Assembly at all. This was B. N. Rau, who served as constitutional adviser to the government of India. In a long career in the Indian Civil Service Rau had a series of legal appointments. Using his learning and experience, and following a fresh study-tour of Western democracies, Rau prepared a series of notes for Ambedkar and his team to chew upon. Rau, in turn, was assisted by the chief draughtsman, S. N. Mukherjee, whose 'ability to put the most intricate proposals in the simplest and clearest legal form can rarely be equalled'.¹⁰

IV

Moral vision, political skill, legal acumen: these were all brought together in the framing of the Indian Constitution. This was a coming together of what Granville Austin has called the 'national' and 'social' revolutions respectively.¹¹ The national revolution focused on democracy and liberty – which the experience of colonial rule had denied to all Indians – whereas the social revolution focused on emancipation and equality, which tradition and scripture had withheld from women and low castes.

Could these twin revolutions be brought about by indigenous methods? Some advocated a 'Gandhian constitution', based on a revived *panchayati raj* system of village councils, with the village as the basic unit of politics and governance. This was sharply attacked by B. R. Ambedkar, who held that 'these village republics have been the ruination of India'. Ambedkar was 'surprised that those who condemn Provincialism and communalism should come forward as champions of the village. What is the village but a sink of localism, a den of ignorance, narrow-mindedness and communalism?'¹²

These remarks provoked outrage in some quarters. The socialist H. V. Kamath dismissed Ambedkar's attitude as 'typical of the urban highbrow'. The peasant leader N. G. Ranga said that Ambedkar's comments only showed his ignorance of Indian history. 'All the democratic traditions of our country has [*sic*] been lost on him. If he had only known the achievements of the village panchayats in Southern India over a period of a millennium, he would not have said those things.'¹³

However, the feisty female member from the United Provinces, Begum Aizaz Rasul, 'entirely agreed' with Dr Ambedkar. As she saw it, the 'modern tendency is towards the rights of the citizen as against any corporate body and village *panchayats* can be very autocratic'¹⁴

Ultimately it was the individual, rather than the village, that was chosen as the unit. In other respects, too, the constitution was to look towards Euro-American rather than Indian precedents. The American presidential system was considered and rejected, as was the Swiss method of directly electing Cabinet ministers. Several members argued for proportional representation, but this was never taken very seriously. Another former British colony, Ireland, had adopted PR, but when the constitutional adviser, B. N. Rau, visited Dublin, Eamon de Valera himself told him that he wished the Irish had adopted the British 'first-past-the-post' system of elections and the British cabinet system. This, he felt, made for a strong government. In India, where the number of competing interest groups was immeasurably larger, it made even more sense to follow the British model.¹⁵ The lower house of Parliament, as well as the lower houses of the provinces, were to be chosen on the basis of universal adult franchise. After much discussion Parliament, as well as most provinces, decided also to have a second chamber to act as a check on the excesses of democratic zeal. Its members were chosen through indirect election, in the case of the Upper House of Parliament by the state legislatures.

While the Cabinet was headed by a prime minister, the head of state was a president elected by a college comprising the national and provincial legislatures. The president would be the commander-in-chief of the armed forces, and had the power to refer bills back to Parliament. This was a position of 'great authority and dignity', but, like those of the British monarchy, one with 'no real power'.¹⁶ (In the provinces a governor nominated by the 'centre' (as central government was coming to be known) played a role comparable to the president's.) The constitution provided for an independent election commission, and an independent comptroller general of accounts. To protect the judiciary from party politics, judges were to be appointed by the president in consultation with the chief justice, while their salaries were not decided by Parliament but charged directly to the Treasury. The Supreme Court in Delhi was seen both as the guardian of the social revolution and as the guarantor of civil and minority rights. It was endowed with broad appellate jurisdiction – any civil or criminal case could be referred to it so long as it involved an interpretation of the constitution.

The constitution mandated for a complex system of fiscal federalism. In the case of some taxes (for instance customs duties and company taxes) the centre retained all the proceeds; in other cases (such as income taxes and excise duties) it shared them with the states; in still other cases (e.g. estate

duties) it assigned them wholly to the states. The states, meanwhile, could levy and collect certain taxes on their own: these included land and property taxes, sales tax, and the hugely profitable tax on bottled liquor.

These financial provisions borrowed heavily from the Government of India Act of 1935. The ‘conscience of the constitution’,¹⁷ meanwhile, was contained in Parts III and IV, which outlined a series of fundamental rights and directive principles. The fundamental rights, which were enforceable in a court of law, derived from the obligations of the state not to encroach upon or stifle personal liberty, and to protect individuals and groups from arbitrary state action. The rights defined included freedom and equality before the law, the cultural rights of minorities, and the prohibition of such practices as untouchability and forced labour.¹⁸ The directive principles, which were not justiciable, derived from the positive obligations of the state to provide for a more fulfilling life for the citizen. They were a curious amalgam of contending pulls. Some principles were a concession to the socialist wing of the Congress, others (such as the ban on cow-slaughter) to the party’s conservative faction.¹⁹

To the unprejudiced eye the constitution was an adaptation of Western principles to Indian ends. Some patriots did not see it that way. They claimed that it was Indians who had invented adult suffrage. T. Prakasam spoke about an inscription on a 1,000-year-old Conjeevaram temple which talked of an election held with leaves as ballot papers and pots as ballot boxes.²⁰ This kind of chauvinism was not the preserve of the south alone. The Hindi scholar Raghu Vira claimed that ancient India was ‘the originator of the Republican system of government’, and ‘spread this system to the other parts of the world’.²¹

Those who had looked closely at the provisions of the constitution could not thus console themselves. Mahavir Tyagi was ‘very much disappointed [to] see nothing Gandhian in this Constitution’.²² And K. Hanumanthaiya complained that while freedom fighters like himself had wanted ‘the music of *Veena* or *Sitar*’, what they had got instead was ‘the music of an English band’.²³

V

The Constitution of India sought both to promote national unity and to facilitate progressive social change. There was a fundamental right to propagate religion, but the state reserved to itself the right to impose legislation oriented towards social reform (such as a uniform civil code). The centre had the powers, through national planning, to redistribute resources away from richer provinces to poorer ones. The right of due process was not allowed in property legislation, another instance in which the social good as defined by the state took precedence over individual rights. Land-reform laws were on the anvil in many provinces, and the government wanted to close the door to litigation by disaffected moneylenders and landlords.

Fundamental rights were qualified and limited by needs of social reform, and also by considerations of security and public order. There were provisions for rights to be suspended in times of ‘national emergency’. And there was a clause allowing for ‘preventive detention’ without trial. A veteran freedom fighter called this ‘the darkest blot on this constitution’. Having spent ten years of his own life in ‘dungeons and condemned cells in the days of our slavery under the British’, he knew ‘the tortures which detention without trial means and I can never reconcile myself to it’.²⁴

The constitution showed a certain bias towards the rights of the Union of India over those of its constituent states. There was already a unitary system in place, imposed by the colonial power. The violence of the times gave a further push to centralization, now seen as necessary both to forestall

chaos and to plan for the country's economic development.

The constitution provided for three areas of responsibility: union, state and concurrent. The subjects in the first list were the preserve of the central government while those in the second list were vested with the states. As for the third list, here centre and state shared responsibility. However, many more items were placed under exclusive central control than in other federations, and more placed on the concurrent list too than desired by the provinces. The centre also had control of minerals and key industries. And Article 356 gave it the power to take over a state administration on the recommendation of the governor.²⁵

Provincial politicians fought hard for the rights of states, for fewer items to be put on the concurrent and union lists. They asked for a greater share of tax revenues and they mounted an ideological attack on the principle itself. A member from Orissa said that the constitution had 'so centralised power, that I am afraid, due to its very weight, the Centre is likely to break'. A member from Mysore thought that what was proposed was a 'unitary' rather than 'federal' constitution. Under its provisions 'democracy is centred in Delhi and it is not allowed to work in the same sense and spirit in the rest of the country'.²⁶

Perhaps the most eloquent defence of states' rights came from K. Santhanam of Madras. He thought that the fiscal provisions would make provinces 'beggars at the door of the Centre'. In the United States, both centre and state could levy 'all kinds of tax', but here, crucial sources of revenue, such as the income tax, had been denied the provinces. Besides, the Drafting Committee had tried 'to burden the Centre with all kinds of powers which it ought not to have. These included 'vagrancy', which had been taken away from the states list and put on the concurrent list. 'Do you want all India to be bothered about vagrants?' asked Santhanam sarcastically. As he put it, rather than place an excessive load on the Union government, 'the initial responsibility for the well-being of the people of the provinces should rest with the Provincial Governments'.²⁷

The next day a member from the United Provinces answered these charges. Hearing Santhanam, he wondered whether it was not 'India's age-old historical tendency of disintegrating that was speaking through these stalwarts'. A strong centre was an absolute imperative in these 'times of stress and strain'. Only a strong centre would 'be in a position to think and plan for the well-being of the country as a whole'.²⁸

Members of the Drafting Committee vigorously defended the unitary bias of the constitution. In an early session B. R. Ambedkar told the House that he wanted 'a strong united centre (*hear, hear*) much stronger than the centre we had created under the Government of India Act of 1935'.²⁹ And K. M. Munshi argued for the construction of 'a federation with a centre as strong as we can make it'.³⁰ In some matters Munshi was close to being a Hindu chauvinist; but here he found himself on the same side as the Muslims. For the horrific communal violence of 1946 and 1947 bore witness to the need for a strong centre. In the words of Kazi Syed Karimuddin, 'everybody is not Pandit Jawaharlal Nehru' (in respect of his commitment to inter-religious harmony). There were 'weak and vacillating executives in all the Provinces', said the kazi. Thus 'what we want today is a stable Government. What we want today is a patriotic Government. What we want today is a strong Government, an impartial and unbending executive, that does not bow before popular whims'.³¹

VI

Much attention was paid by the Assembly to the rights of the minorities. The first extended discussion

of the subject took place a bare ten days after Partition. Here, a Muslim from Madras made a vigorous plea for the retention of separate electorates. 'As matters stand at present in this country', said B. Pocker Bahadur, it was 'very difficult' for non-Muslims 'to realise the needs and requirements of the Muslim community'. If separate electorates were abolished, then important groups would be left feeling 'that they have not got an adequate voice in the governance of the country'.³²

The home minister, Sardar Patel, was deeply unsympathetic to this demand. Separate electorates had in the past led to the division of the country. 'Those who want that kind of thing have a place in Pakistan, not here,' thundered Patel to a burst of applause. 'Here, we are building a nation and we are laying the foundations of One Nation, and those who choose to divide again and sow the seeds of disruption will have no place, no quarter, here, and I must say that plainly enough.'³³

There were, however, some Muslims who from the start were opposed to separate electorates. These included Begum Aizaz Rasul. It was 'absolutely meaningless' now to have reservation on the basis of religion, said the begum. Separate electorates were 'a self-destructive weapon which separates the minorities from the majority for all time'. For the interests of the Muslims in a secular democracy were 'absolutely identical' with those of other citizens.³⁴

By 1949 Muslim members who had at first demanded separate electorates came round to the begum's point of view. They sensed that reservation for Muslims 'would be really harmful to the Muslims themselves'. Instead, the Muslims should reconstitute themselves as voting blocs, so that in constituencies where they were numerous, no candidate could afford to ignore them. They could even come to 'have a decisive voice in the elections'; for 'it may be that an apparently huge majority may at the end . . . find itself defeated by a single vote'. Therefore, 'the safety of the Muslims lies in intelligently playing their part and mixing themselves with the Hindus in public affairs'.³⁵

A vulnerable minority even more numerous than the Muslims were the women of India. The female members of the Assembly had come through the national movement and were infected early with the spirit of unity. Thus Hansa Mehta of Bombay rejected reserved seats, quotas or separate electorates. 'We have never asked for privileges', she remarked. 'What we have asked for is social justice, economic justice, and political justice. We have asked for that equality which alone can be the basis of mutual respect and understanding and without which real co-operation is not possible between man and woman.'³⁶ Renuka Roy of Bengal agreed: unlike the 'narrow suffragist movement[s]' of 'many so-called enlightened nations', the women of India strove for 'equality of status, for justice and for fair play and most of all to be able to take their part in responsible work in the service of their country'. For 'ever since the start of the Women's Movement in this country, women have been fundamentally opposed to special privileges and reservations'.³⁷

The only voice in favour of reservation for women was a man's. This was strange; stranger still was the logic of his argument. From his own 'experience as a parliamentarian and a man of the world',) said R. K. Chaudhuri,

I think it would be wise to provide for a women's constituency. When a woman asks for something, as we know, it is easy to get it and give it to her; but when she does not ask for anything in particular it becomes very difficult to find out what she wants. If you give them a special constituency they can have their scramble and fight there among themselves without coming into the general constituency. Otherwise we may at times feel weak and yield in their favour and give them seats which they are not entitled to.³⁸

VII

There would be no reservation for Muslims and women. But the constitution did recommend reservation for Untouchables. This was in acknowledgement of the horrific discrimination they had suffered, and also a bow towards Mahatma Gandhi, who had long held that true freedom, or *swaraj*, would come only when Hindu society had rid itself of this evil. It was also Gandhi who had made popular a new term for ‘Untouchables’, which was ‘Harijans’, or children of God.

The constitution set aside seats in legislatures as well as jobs in government offices for the lowest castes. It also threw open Hindu temples to all castes, and asked for the abolition of untouchability in society at large. These provisions were very widely welcomed. Muniswamy Pillai of Madras remarked that ‘the fair name of India was a slur and a blot by having untouchability . . . [G]reat saints tried their level best to abolish untouchability but it is given to this august Assembly and the new Constitution to say in loud terms that no more untouchability shall stay in our country.’³⁹

As H. J. Khandekar of the Central Provinces pointed out, Untouchables were conspicuously under-represented in the upper echelons of the administration. In the provinces, where they might constitute up to 25 per cent of the population, there was often only one Harijan minister, whereas Brahmins who made up only 2 per cent of the population might command two-thirds of the seats in the Cabinet. Khandekar suggested that despite the public commitment of the Congress, ‘except for Mahatma Gandhi and ten or twenty other [upper-caste] persons there is none to think of the uplift of the Harijans in the true sense’.

This member eloquently defended the extension of reservation to jobs in government. He alluded to the recent recruitment to the Indian Administrative Service, the successor to the ICS. Many Harijans were interviewed but all were found unsuitable on the grounds that their grades were not good enough. Addressing his upper-caste colleagues, Khandekar insisted that

You are responsible for our being unfit today. We were suppressed for thousands of years. You engaged in your service to serve your own ends and suppressed us to such an extent that neither our minds nor our bodies and nor even our hearts work, nor are we able to march forward. This is the position. You have reduced us to such a position and then you say that we are not fit and that we have not secured the requisite marks. How can we secure them?⁴⁰

The argument was hard, if not impossible, to refute. But some members warned against the possible abuse of the provisions. One thought that ‘those persons who are clamouring for these seats, for reservation, for consideration, represent a handful of persons, constituting the cream of Harijan society’. These were the ‘politically powerful among these groups.’⁴¹ For the left-wing congress politician Mahavir Tyagi, reservation did not lead to real representation. For ‘no caste ever gets any benefit from this reservation. It is the individual or family which gets benefits’. Instead of caste, perhaps there might be reservation by class, such that ‘cobblers, fishermen and other such classes send their representatives through reservation because they are the ones who do not really get any representation’⁴²

VIII

The first report on minority rights, made public in late August 1947, provided for reservation for Untouchables only. Muslims were denied the right, which in the circumstances was to be expected. However, one member of the Assembly regretted that ‘the most needy, the most deserving group of adibasis [tribals] has been completely left out of the picture’.⁴³

The member was Jaipal Singh, himself an adivasi, albeit of a rather special kind. Jaipal was a Munda from Chotanagpur, the forested plateau of South Bihar peopled by numerous tribes all more-or-less distinct from caste Hindu society. Sent by missionaries to study in Oxford, he made a name there as a superb hockey player. He obtained a Blue, and went on to captain the Indian team that won the gold medal in the 1928 Olympic Games.

On his return to India Jaipal did not, as his sponsors no doubt hoped, preach the Gospel, but came to invent a kind of gospel of his own. This held that the tribals were the ‘original inhabitants’ of the subcontinent – hence the term ‘adibasi’ or ‘adivasi’, which means precisely that. Jaipal formed an Adibasi Mahasabha in 1938 which asked for a separate state of ‘Jharkhand’, to be carved out of Bihar. To the tribals of Chotanagpur he was their *marang gomke*, or ‘great leader’. In the Constituent Assembly he came to represent the tribals not just of his native plateau, but of all India.⁴⁴

Jaipal was a gifted speaker, whose interventions both enlivened and entertained the House. (In this respect, the Church’s loss was unquestionably politics’ gain.) His first speech was made on 19 December 1946 when, in welcoming the Objectives Resolution, he provided a masterly summation of the adivasi case. ‘As ajungli, as an adibasi’, said Jaipal,

I am not expected to understand the legal intricacies of the Resolution. But my common sense tells me that every one of us should march in that road to freedom and fight together. Sir, if there is any group of Indian people that has been shabbily treated it is my people. They have been disgracefully treated, neglected for the last 6,000 years. The history of the Indus Valley civilization, a child of which I am, shows quite clearly that it is the newcomers – most of you here are intruders as far as I am concerned – it is the newcomers who have driven away my people from the Indus Valley to the jungle fastness . . . The whole history of my people is one of continuous exploitation and dispossession by the non-aboriginals of India punctuated by rebellions and disorder, and yet I take Pandit Jawahar Lal Nehru at his word. I take you all at your word that now we are going to start a new chapter, a new chapter of independent India where there is equality of opportunity, where no one would be neglected.⁴⁵

Three years later, in the discussion on the draft constitution, Jaipal made a speech that was spirited in all senses of the word. Bowing to pressure by Gandhians, the prohibition of alcohol had been made a directive principle. This, said the adivasi leader, was an interference ‘with the religious rights of the most ancient people in the country’. For alcohol was part of their festivals, their rituals, indeed their daily life itself. In West Bengal ‘it would be impossible for paddy to be transplanted if the Santhal does not get his rice beer. These ill-clad men . . . have to work knee-deep in water throughout the day, in drenching rain and in mud. What is it in the rice beer that keeps them alive? I wish the medical authorities in this country would carry out research in their laboratories to find out what it is that the rice beer contains, of which the Adibasis need so much and which keeps them [protected] against all manner of diseases.’⁴⁶

The Constituent Assembly had convened a sub-committee on tribal rights headed by the veteran social worker A. V. Thakkar. Its findings, and the words of Jaipal and company, sensitized the House to the tribal predicament. As a member from Bihar observed, ‘the tribal people have been made a

pawn on the chessboard of provincial politics'. There had been 'exploitation on a mass scale; we must hang down our heads in shame'.⁴⁷ The 'we' referred to Hindu society as a whole. It had sinned against adivasis by either ignoring them or exploiting them. It had done little to bring them modern facilities of education and health; it had colonized their land and forests; and it had brought them under a regime of usury and debt. And so, to make partial amends, tribals would also have seats in the legislature and jobs in government 'reserved' for them.

IX

The most controversial subject in the Assembly was language: the language to be spoken in the House, the language in which the constitution would be written, the language that would be given that singular designation, 'national'. On 10 of December 1946, while the procedures of the House were still being discussed, R. V. Dhulekar of the United Provinces moved an amendment. When he began speaking in Hindustani, the chairman reminded him that many members did not know the language. This was Dhulekar's reply:

People who do not know Hindustani have no right to stay in India. People who are present in this House to fashion a constitution for India and do not know Hindustani are not worthy to be members of this Assembly. They had better leave.

The remarks created a commotion in the House. 'Order, order!' yelled the chairman, but Dhulekar continued:

I move that the Procedure Committee should frame rules in Hindustani and not in English. As an Indian I appeal that we, who are out to win freedom for our country and are fighting for it, should think and speak in our own language. We have all along been talking of America, Japan, Germany, Switzerland and House of Commons. It has given me a headache. I wonder why Indians do not speak in their own language. As an Indian I feel that the proceedings of the House should be conducted in Hindustani. We are not concerned with the history of the world. We have the history of our own country of millions of past years.

The printed proceedings continue:

The Chairman: Order, order!

Shri R. V. Dhulekar (speaking still in Hindustani): I request you to allow me to move my amendment.

The Chairman: Order, order! I do not permit you to proceed further. The House is with me that you are out of order.⁴⁸

At this point Jawaharlal Nehru went up to the rostrum and persuaded Dhulekar to return to his seat. Afterwards Nehru told the errant member of the need to maintain discipline in the House. He told him

that ‘this is not a public meeting in Jhansi that you should address “Bhaio aur Behno” [brothers and sisters] and start lecturing at the top of your voice’.⁴⁹

But the issue would not go away. In one session members urged the House to order the Delhi government to rule that all car number plates should be in Hindi script.⁵⁰ More substantively, they demanded that the official version of the Constitution be in Hindi, with an unofficial version in English. This the Drafting Committee did not accept, on the grounds that English was better placed to incorporate the technical and legal terms of the document. When a draft constitution was placed before the House for discussion, members nevertheless asked for a discussion of each clause written in Hindi. To adopt a document written in English, they said, would be ‘insulting’.⁵¹

It is necessary, at this point, to introduce a distinction between ‘Hindustani’ and ‘Hindi’. Hindi, written in the Devanagari script, drew heavily on Sanskrit. Urdu, written in a modified Arabic script, drew on Persian and Arabic. Hindustani, the *lingua franca* of much of northern India, was a unique amalgam of the two. From the nineteenth century, as Hindu-Muslim tension grew in northern India, the two languages began to move further and further apart. On the one side there arose a movement to root Hindi more firmly in Sanskrit; on the other, to root Urdu more firmly in the classical languages from which it drew. Especially in the literary world, a purified Hindi and a purified Urdu began to circulate.⁵²

Through all this, the language of popular exchange remained Hindustani. This was intelligible to Hindi and Urdu speakers, but also to the speakers of most of the major dialects of the Indo-Gangetic plain: Awadhi, Bhojpuri, Maithili, Marwari and so on. However, Hindustani, as well as Hindi and Urdu, were virtually unknown in eastern and southern India. The languages spoken here were Assamese, Bengali, Kannada, Malayalam, Oriya, Tamil and Telugu, each with a script and sophisticated literary tradition of its own.

Under British rule, English had emerged as the language of higher education and administration. Would it remain in this position after the British left? The politicians of the north thought that it should be replaced by Hindi. The politicians and people of the south preferred that English continue as the vehicle of inter-provincial communication.

Jawaharlal Nehru himself was exercised early by the question. In a long essay written in 1937 he expressed his admiration for the major provincial languages. Without ‘infringing in the least on their domain’ there must, he thought, still be an all-India language of communication. English was too far removed from the masses, so he opted instead for Hindustani, which he defined as a ‘golden mean’ between Hindi and Urdu. At this time, with Partition not even a possibility, Nehru thought that both scripts could be used. Hindustani had a simple grammar and was relatively easy to learn, but to make it easier still, linguists could evolve a Basic Hindustani after the fashion of Basic English, to be promoted by the state in southern India.⁵³

Like Nehru, Gandhi thought that Hindustani could unite north with south, and Hindu with Muslim. It, rather than English, should be made the *rashtrabhasha*, or national language. As he put it, ‘Urdu diction is used by Muslims in writing. Hindi diction is used by Sanskrit pundits. Hindustani is the sweetmingling of the two.’⁵⁴ In 1945 he engaged in a lively exchange with Purushottamdas Tandon, a man who fought hard, not to say heroically, to rid Hindi of its foreign elements. Tandon was vice-president of the All-India Hindi Literature Conference, which argued that Hindi with the Devanagari script alone should be the national language. Gandhi, who had long been a member of the Conference, was dismayed by its chauvinist drift. Since he believed that both the Nagari and Urdu scripts should be used, perhaps it was time to resign his membership. Tandon tried to dissuade him, but, as Gandhi put it, ‘How can I ride two horses? Who will understand me when I say that

rashtrabhasha = Hindi and *rashtrabhasha* = Hindi + Urdu = Hindustani?'⁵⁵

Partition more or less killed the case for Hindustani. The move to further Sanskritize Hindi gathered pace. One saw this at work in the Constituent Assembly, where early references were to Hindustani, but later references all to Hindi. After the division of the country the promoters of Hindi became even more fanatical. As Granville Austin observes, 'The Hindi-wallahs were ready to risk splitting the Assembly and the country in their unreasoning pursuit of uniformity.'⁵⁶ Their crusade provoked some of the most furious debates in the House. Hindustani was not acceptable to south Indians; Hindi even less so. Whenever a member spoke in Hindi, another member would ask for a translation into English.⁵⁷ When the case was made for Hindi to be the sole national language, it was bitterly opposed. Representative are these remarks of T. T. Krishnamachari of Madras:

We disliked the English language in the past. I disliked it because I was forced to learn Shakespeare and Milton, for which I had no taste at all . . . [I]f we are going to be compelled to learn Hindi . . . I would perhaps not be able to do it because of my age, and perhaps I would not be willing to do it because of the amount of constraint you put on me . . . This kind of intolerance makes us fear that the strong Centre which we need, a strong Centre which is necessary will also mean the enslavement of people who do not speak the language of the Centre. I would, Sir, convey a warning on behalf of people of the South for the reason that there are already elements in South India who want separation . . ., and my honourable friends in U.P. do not help us in anyway by flogging their idea [of] 'Hindi Imperialism' to the maximum extent possible. Sir, it is up to my friends in U.P. to have a whole-India; it is up to them to have a Hindi-India. The choice is theirs . . .⁵⁸

The Assembly finally arrived at a compromise; that 'the official language of the Union shall be Hindi in the Devanagari script'; but for 'fifteen years from the commencement of the Constitution, the English language shall continue to be used for all the official purposes of the Union for which it was being used immediately before such commencement'.⁵⁹ Till 1965, at any rate, the notes and proceedings of the courts, the services, and the all-India bureaucracy would be conducted in English.

X

Mahatma Gandhi had once expressed his desire to see an Untouchable woman installed as the first president of India. That did not happen, but some compensation was at hand when an Untouchable man, Dr B. R. Ambedkar, was asked to serve as the chairman of the Drafting Committee of the Constituent Assembly.

On 25 November 1949, the day before the Assembly wound up its proceedings, Ambedkar made a moving speech summing up their work.⁶⁰ He thanked his fellow members of the Drafting Committee, thanked their support staff, and thanked a party of which he had been a lifelong opponent. Without the quietwork in and out of the House by the Congress bosses, he would not have been able to render order out of chaos. 'It is because of the discipline of the Congress Party that the Drafting Committee was able to pilot the Constitution in the Assembly with the sure knowledge as to the fate of each article and each amendment.'

In a concession to patriotic nostalgia, Ambedkar then allowed that some form of democracy was

not unknown in ancient India. ‘There was a time when India was studded with republics’. Characteristically he invoked the Buddhists, who had furthered the democratic ideal in their Bhikshu Sanghas, which applied rules akin to those of Parliamentary Procedure – votes, motions, resolutions, censures and whips.

Ambedkar also assured the House that the federalism of the constitution in no way denied states’ rights. It was mistaken, he said, to think that there was ‘too much centralization and that the States have been reduced to Municipalities’. The constitution had partitioned legislative and executive authority, but the Centre could not on its own alter the boundary of this partition. In his words, ‘the Centre and the States are co-equal in this matter’.

Ambedkar ended his speech with three warnings about the future. The first concerned the place of popular protest in a democracy. There was no place for bloody revolution, of course, but in his view there was no room for Gandhian methods either. ‘We must abandon the method of civil disobedience, non-cooperation and *satyagraha* [popular protest]’. Under an autocratic regime, there might be some justification for them, but not now, when constitutional methods of redress were available. *Satyagraha* and the like, said Ambedkar, were ‘nothing but the grammar of anarchy and the sooner they are abandoned, the better for us’.

The second warning concerned the unthinking submission to charismatic authority. Ambedkar quoted John Stuart Mill, who cautioned citizens not ‘to lay their liberties at the feet of even a greatman, or to trust him with powers which enable him to subvert their institutions’. This warning was even more pertinent here than in England, for

in India, Bhakti or what may be called the path of devotion or hero-worship, plays apart in its politics unequalled in magnitude by the part it plays in the politics of any other country in the world. Bhakti in religion may be the road to the salvation of a soul. But in politics, Bhakti or hero-worship is a sure road to degradation and to eventual dictatorship.

Ambedkar’s final warning was to urge Indians not to be content with what he called ‘mere political democracy’. India had got rid of alien rule, but it was still riven by inequality and hierarchy. Thus, once the country formally became a republic on 26 January 1950, it was

going to enter a life of contradictions. In politics we will have equality and in social and economic life we will have inequality. In politics we will be recognizing the principle of one man one vote and one vote one value. In our social and economic life, we shall, by reason of our social and economic structure, continue to deny the principle of one man one value. How long shall we continue to live this life of contradictions? How long shall we continue to deny equality in our social and economic life? If we continue to deny it for long, we will do so only by putting our political democracy in peril.

XI

Eight months before the Constituent Assembly of India was convened a new constitution had been presented for approval to the Japanese Parliament, the Diet. However, this document had been almost wholly written by a group of foreigners. In early February 1946 twenty-four individuals – all

Americans, and sixteen of them military officials – met in a converted ballroom in Tokyo. Here they sat for a week before coming up with a constitution they thought the Japanese should adopt. This was then presented as a *fait accompli* to the local political leadership, who were allowed to ‘Japanize’ the draft by translating it into the local tongue. The draft was also discussed in Parliament, but every amendment, even the most cosmetic, had to be approved beforehand by the American authorities.

The historian of this curious exercise writes that ‘no modern nation ever has rested on amore alien constitution’.⁶¹ The contrast with the Indian case could not be more striking. One constitution was written in the utmost secrecy; the other drafted and discussed in the full glare of the press. One was finalized at breakneck speed and written by foreigners. The other was written wholly by natives and emerged from several years of reflection and debate. In fairness, though, one should admit that, despite their different provenances, both constitutions were, in essence, liberal humanist credos. One could equally say of the Indian document what the American supervisor said of the Japanese draft, namely, that ‘it constitutes a sharp swing from the extreme right in political thinking – yet yields nothing to the radical concept of the extreme left’.⁶²

Granville Austin has claimed that the framing of the Indian Constitution was ‘perhaps the greatest political venture since that originated in Philadelphia in 1787’. The outlining of a set of national ideals, and of an institutional mechanism to work towards them, was ‘a gigantic step for a people previously committed largely to irrational means of achieving other-worldly goals’. For this, as the title of the last section of Austin’s book proclaims, ‘the credit goes to the Indians’.⁶³