

BOOK REVIEW

THE COLONIAL CONSTITUTION- AN ORIGIN STORY (2018)

by Arghya Sengupta, Juggernaut Books C-I-128, First Floor, Sangam Vihar, New Holi Chowk, New Delhi 110080, India pp.5 +282, Price ₹599

India, is on its 77th year of independence and celebrates its republic day every year pompously on 26th day of January. This day also marks the fact when the world's lengthiest constitution came into force. It is to be taken into consideration that the countries which got independence post the second world from the anglo-french colonial clutches barely stood as a one political unit. Some got disintegrated, many broke up and a few countries have turned into perennial war zones. India stood the test of time. Indian Constitution, the foremost political document states the social and political philosophy other than outlining the administrative intricacies. There is ongoing consternation among academics, lawyers, judges and people in general about various facets of Indian Constitution, its efficacy and applicability and whether it is revered or despised. The author provides a fresh perspective as to the making of Indian Constitution. In providing his case he also takes a dig at contemporary Indian legal thinkers when he calls the other perspectives on Indian Constitution to be mere hagiographic account. Though he staunchly dismisses Indian Constitution to be either being termed as 'founding moment' or 'transformative', he also finds some inference of the same in the Constitution itself. The author asserts the fact that essentially Indian Constitution has all the features of the Colonial rulers not only because it heavily borrows from the Government of India Act 1935, but he argues fresh reason for it. He states that founding fathers of Indian Constitution saw a country getting partition on religious line, the political experience of the framers also acquainted them with the secessionist tendencies then prevailing in the country and hence a strong Union Government. It is also the reason he sites for justifying sedition laws. The author also categorically states that Indian Constitution though borrowed heavily from the leading democratic Constitution around the world that was partly because it imbibed the leading modern philosophies of the time, the other being paucity of time. The framers of Indian Constitution were running

against time and hence there was less scope for experimentation and also for the fact that legal luminaries flooded the composition of the Constituent Assembly.

Interestingly other than the prologue the book is segregated into six chapters into two parts captioned as 'Decisions' and 'Alternatives'. The first part delves into the practical realities of what went in framing of Indian Constitution and the second part outlines various political movement and their people and how they could have influence the framing of the social and political philosophy of Indian Constitution, but instead chose otherwise and went for consensus. A striking and enchanting characteristic of the political leaders at the time of independence and coming of Indian Constitution was their ability to reconcile though one was a political adversary of other having a different and opposite political views and opinion. The times of India's pre independence though saw plethora of civil movements and dissidents but attaining Independence was never through a bloody revolution. Rather it was much the failing British Empire unable to bear the financial burden further catapulted by the two world wars and other attending circumstances. Remarkably the story of the origin of Indian Constitution and its journey as presented by the writer is of evolution and the constitutional history he presents is outcome of various attending circumstances. The entire book is written in lucid English never heavy on the readers though dealing with a complex issue in hand and in between also have a touch of humour in regard to the issues dealt therein. The book as mentioned before, in the first part discerns very meticulously about the decisions the framers of Indian Constitution took as to political and social philosophy it adopted and formation of Government mechanism and what challenges compromises and contradiction went in the preparation of independent India's founding document. The most interesting part of the book is the second part where the writers presented the alternative to the founding philosophies of the Indian Constitution. He discussed in detail as to why the Gandhian philosophy was not adopted and as to why some of its principle found place in the Indian Constitution but without the force of enforceability. He also mentions about the Constitution prepared by the people of the far left and far right of the ideology and why none got place in the Constitutional landscape of India. One of the most noteworthy features is the similarities in certain basic founding principles which we find in Indian Constitution and also in the alternative constitution of other political affiliations.

The book also provides some personal account of leading political figures of that time be it Ambedkar, Gandhi or Savarkar and how their personal experiences shaped their political outlooks and belief and also furthered in shaping the Indian Constitutional values. The stories deep dive into the colonial India's tumultuous social and political life making the book illuminating and gripping for readers. The book is a very true account of events unfolded in making of Indian Constitution and is the classic study on the same.

To conclude the writer ends the book with a pertinent question for the readers to comprehend as to whether the country needs to renew its 'own constitutional course' breaking from the shackles of a colonial constitution, which is the term he (the author) uses to coin for the Indian Constitution. That said and done the book shies away from answering a very important question and that is, in the wake of majoritarianism and when the Country (India) is witnessing constitutional institution becoming ineffective and feckless, can a meaningful conversation as to a new constitutional values are possible. This is perhaps the biggest drawback of the book. It throws open a question without any inkling for a supposed answer in this polarized times. To do away with a Constitutional system that according to the author is sequestered from local ethos and morals and is a replica of past colonial regime, which also fails to meet the aspiration of millions, is fine but with what and to which extent? Can that extend to do away with the basic structure of the Indian Constitution itself? What if the present times only accommodate the view of the majority, its views and opinions? There is demographic difference as well as cultural and social dichotomy between various parts of India. What should be the criteria and what are boundaries of formulating new constitutional values and who decides on it. The author stayed away from commenting on a fact that as to what happens to the social contract if the founding fabric of this country (India) is altered. Nevertheless, the book is a wonderful read. The book offers genuinely original insights into the making and coming of Indian Constitution, which is perhaps one of the most important document of the twentieth century.

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