

FORMATION OF THE CONSTITUENT ASSEMBLY OF INDIA

When the Constituent Assembly met for the first time on 9 December, 1946 it was fulfilling an aspiration of a nation that had demanded the formation of such an assembly since 1924. On 8 February 1924, Motilal Nehru had introduced the 'National Demand' in the Central Legislative Assembly insisting that a representative Round table conference be summoned to facilitate a scheme of constitution for India. Though this resolution was passed with a large majority in the Central Legislative Assembly, it received a contemptuous reaction from the Secretary of State, Lord Birkenhead who dared the Indians if they could produce such a constitution at all. Notwithstanding the demand by Indians to formulate their own Constitution, the colonial government appointed the Indian Statutory Commission or the Simon Commission on 8 November 1927 to ascertain if India was prepared for further constitutional changes. The Commission caused great agitation in the country due to its exclusive white composition and met with boycotts wherever it went on its arrival in India. It was in response to this twin challenge posed by Lord Birkenhead's provocation and the appointment of the Simon Commission that the famous Motilal Nehru Committee was constituted by the All Party Conference in May 1928 'to determine the principles of the Constitution of India (Chandra, 2000).' The Nehru Report which submitted a draft Constitution for India on 10 August 1928 laid down several provisions which were later incorporated into the Constitution. The bone of contention in the Report was, however, the proposed dominion status for India which was unacceptable to the radical younger group led by Jawaharlal Nehru, Subhash Chandra Bose and Satyamurthi, who demanded 'Complete Independence'. Moreover, the Muslim League was

also unhappy with the Nehru report because “it rejected the principle of separate communal electorates on which previous constitutional reforms had been based. Seats would be reserved for Muslims at the centre and in provinces in which they were in a minority, but not in those where they had a numerical majority (Chandra 2001).” While the Muslim League withdrew support to the report, the objections put forth by the younger radicals forced Gandhi to propose a compromise solution in the Calcutta Session of the Congress in December 1928, adopting the Nehru Report on the conditionality that if the government did not accept it by 1929 the Congress would launch a noncooperation movement demanding complete independence. As the government failed to make any progress on the demands being made, the Congress in the Lahore session of 1929 declared ‘Purna Swaraj’ as its goal and launched the Civil Disobedience Movement in April 1930. While it was becoming clear that nothing short of self determination would be accepted in India, the idea of a Constituent Assembly was first mooted by Jawaharlal Nehru in 1933 and after 1943 it became the official stand of the Congress to accept nothing short of a Constituent Assembly to chart out the future of the country. The Congress Working Committee, while refusing to accept the Proposals for Indian Constitutional Reform of 1933, stated in 1934 that, “The only satisfactory alternative to the White paper is a Constitution drawn up by a Constituent Assembly elected on the basis of adult franchise or as near it as possible (Austin, 1999). At the Congress sessions of Wardha (1936), Faizpur (1937), Haripura (1938) and Tripuri (1939) this position was re-asserted. Even in the Central Legislative Assembly, a resolution was introduced on 17 September 1937

by S. Satyamurthi who recommended that the Government of India Act 1935 be replaced with a constitution framed by a Constituent Assembly. Increasingly, there was a growing consensus in Britain as well that India as an independent nation should be let free to frame its own Constitution. "In a meeting with Nehru in 1938 in London, Sir Stafford Cripps and Clement Attlee had agreed on the idea of an Indian Constituent Assembly elected on the basis of universal adult franchise, drafting its own constitution (Bandopadhyay, 2004)."

However, as the war approached "British policy towards India was caught between two polarity: Churchillian negativism and Crippsian constructiveness." The elections of May 1940 had brought a coalition government to power in Britain which was to be steered by Winston Churchill as the Prime Minister. On the eve of the World War II, when the strategic location of India in the face of the Nazi advance struck fear in to the hearts of the colonial rulers, an offer was extended by Viceroy Linlithgow in 1940 which came to be called as the 'August Offer'. It accepted that the framing of a new Constitution for India should primarily be, and therefore not solely, the responsibility of the Indians. Moreover, it did not spell out the ways in which the proposed body was to be formed. Having failed to earn the good will of the Congress as well as the Muslim league, the August Offer was turned down and the phase of individual Civil Disobedience began. Meanwhile, the Japanese progress in Southeast Asia demanded Indian cooperation toward the colonial government. Keeping in mind their vested interest, Churchill dispatched the Cripps Mission in March 1942 to negotiate with the Indian Political Parties. While Cripps made it clear that Indians would have the sole responsibility of writing their own Constitution, it failed to provide any assurance on immediate self government and was therefore

rejected by Congress leaders. Gandhi even criticized the Mission by saying that its offer of Dominion Status within the Commonwealth was a 'post dated cheque drawn on a crashing bank.' The mission was also rejected by the Muslim League because it did not recognize the Muslims' right to self-determination and therefore, rejected the idea of partition. With the failure of the Cripps Mission, the struggle for independence led by the Congress entered the next phase where the demand to 'Quit India' was accompanied with the resolution that a Constituent Assembly would be evolved from the Provisional Government of Free India which would lay down the constitutional provisions for the country.