

# The Constitution and General Will of people

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**Prakash Iyer**

**Ira:** After our last conversation, I have been thinking about quite a few things regarding the Constitution and how we relate to it. I am still not able to wrap my head around one thing. As many as 300 people from different parts of the country came together and drafted a constitution that would constitute India as a democratic republic. How was it decided that we would be a democracy and not something else? How did these 300 people conclude that the rest of India wanted to be a democracy, when most of the population did not even know what it meant? Most importantly, they also decided on universal adult franchise!

**Anubhuti:** The process of drafting the Constitution itself was democratic and it was based on how the Indian society is and what it ought to be. During the debate within the Constituent Assembly, most of the members who held positions in the government were aware of the happenings in the nation. We also need to remember that the Constitution was being drafted in the midst of post-partition violence and displacement, and the concomitant effect on the way people think. They were receiving numerous letters and communication from people about the happenings in society and what ought to be done. The Constituent Assembly considered all these letters as the Will of the people. People wanted a society where such things would not happen. This required the Constituent Assembly to hypothesize the kind of nation required and have strong justifications for the same.

**Ira:** This almost sounds like a referendum, when the entire country's opinion is taken into account. But I am sure many people thought otherwise. You said even within the Constituent Assembly there were disagreements, and those disagreements were voted out.

**Anubhuti:** Yes, Ira. Some opinions were voted out. I am sure many individual assembly members were not very happy. For instance, Maharani Amrit Kaur was not pleased with the way the right to freedom of religion was treated[i]. Some people even thought that the definition of untouchability should be limited to a religion, rather than across religions.

My point is there were disagreements on both relevant and not-so-good issues. The Assembly still had to ensure that at least a minimum number of rights and duties were enforced and that the Constitution was coherent. You could not have conflicts within the Constitution.

This reminds me of the concept of the General Will proposed by Rousseau in his book *The Social Contract*.

**Ira:** General Will? How is that different from the personal wills of individuals?

**Anubhuti:** Rousseau said humans were basically free and had their own wills, wants, and desires. Everyone would want to live their life on their own terms. But humans also live together in large groups, and their lives do depend on others in the society. Therefore, they could not claim to live a life that would be detrimental to the larger society or do something that others in the society would not care for or benefit from. Rousseau said that individuals would see the benefits they were getting from living in a society, and so they would cherish others in the society and would not want to go against the common ways of living. He called the will of the society the General Will, which, in a way, is the product of numerous particular wills of individuals. While they are both different, he said that they cannot be in contradiction to each other.

When the Constituent Assembly was hypothesizing what individuals in our society would want, they were actually pondering over the General Will. So, any particular suggestion made either by members of the Assembly or by citizens through their letters, would be judged against the General Will.

When a person complains about something to the government (or Constituent Assembly, which we are discussing) about something, they are saying this is how our society is organized, and we want the society to be organized differently. They are not saying we do not want these other people who we are in conflict with to live here. Rather, they are saying, find some way of organizing the society, so that problems do not crop up.

**Ira:** You mean to say that when people were posing societal problems in their letters to the government, they were actually pointing out how law and society should be? And this was considered as additional inputs from the society?

**Anubhuti:** Yes. They may not have used the terms 'General Will' or 'Social Contract', but the Constituent Assembly identified these general issues with the rights that need to be defined, the duties of citizens, and the way the government was structured and what in the structure needed to be changed. But the change should be such that it did not value the interests of some people over those of others, and yet did not allow injustice to happen. So, for instance, even if some people said there was nothing wrong with caste discrimination, the Constituent Assembly disagreed. They valued the General Will and imagined the way India ought to be more than what some particular people thought.

It was real hard work and application of logic.

**Ira:** But I am still confused. How did so many people at that time know that the Constitution was democratic, and it is a better way of organizing society than any other? I mean, finally a small percentage of people made these decisions.

**Anubhuti:** Yes, of course, every citizen did not know democracy or could not even read the Constitution. Like Madhav Khosla famously said in his book<sup>[ij]</sup>, the Constitution was not only a means to dictate or prohibit actions but was also conceptualized as a pedagogical tool in order to build a new civic culture.

Over time, reconstituting India in this manner educated people in the democratic processes and the idea of how democratic societies functioned; in short, the Constitution educated us people into being democratic.

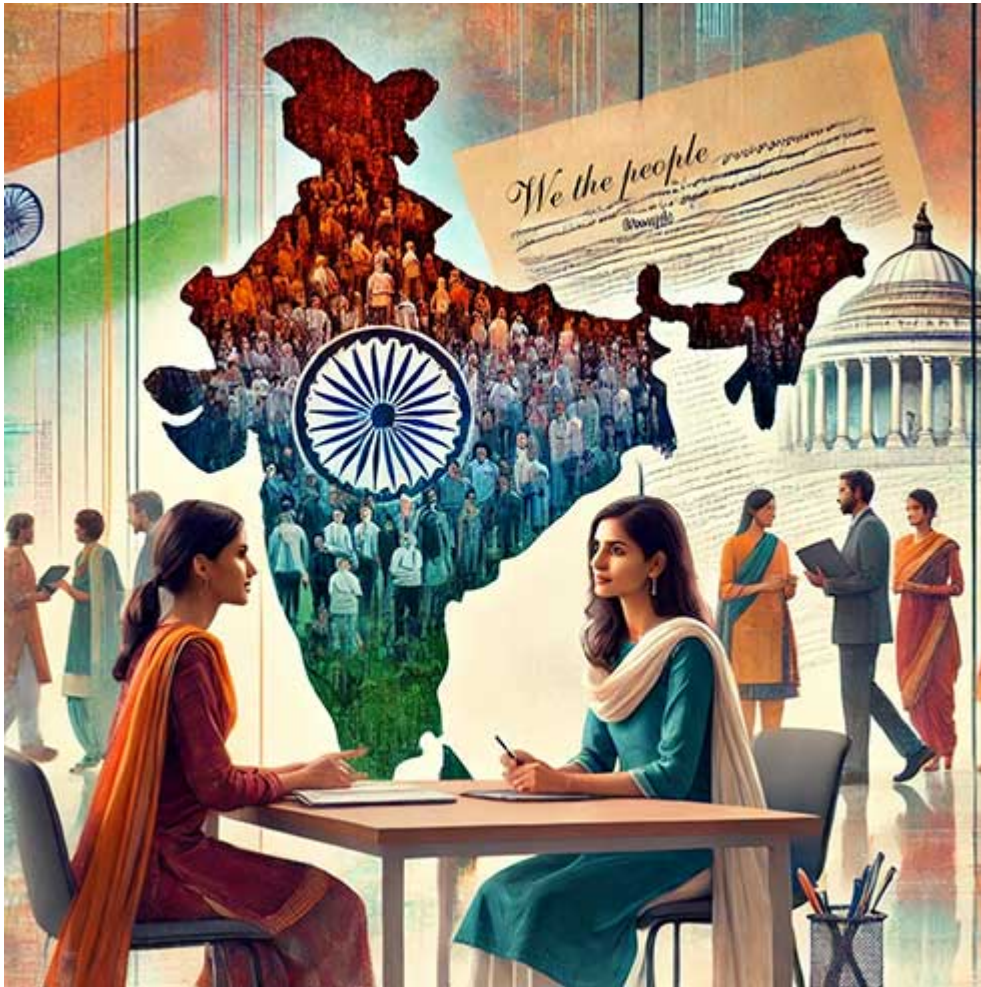


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**Ira:** The first step would have been to educate people to vote for the right representatives and ensure they are doing the right things.

**Anubhuti:** Not exactly. Voting, of course, was and continues to be the most significant aspect of democracy. That is primarily because we chose the model of representative democracy. But, it is interesting that Rousseau disagreed with the idea of representation.

“One cannot transfer one’s will to another, to do with as he or she sees fit, as one does in representative democracies. Rather, the General Will depends on the coming together periodically of the entire democratic body, each and every citizen, to decide collectively, and with at least near unanimity, how to live together, i.e., what laws to enact.”<sup>[iii]</sup>

He advocated direct democracy or republicanism as it is called. Every decision is made collectively by all people, like in a referendum. Whenever a decision has to be taken, each person would have to vote and proffer their opinion on why they voted for one decision over another.

**Ira:** How come we call India a republic when most citizens are active only in terms of voting?

**Anubhuti:** That is not true. Active citizenship is demonstrated by us in various ways. Every time a significant policy is made, public acceptance is asked for. Remember a draft of the new education policy was up for review for over a month, during which an online form collected responses from all of us and changes were made to the policy before it was finalized? Similarly, for other decisions, public consultations are organized. I attended one such consultation when a decision had to be taken on whether genetically modified Brinjal seeds should be bought by the nation or not. Farmers, activists, companies, and scientists participated in this debate. And the government decided not to introduce BT-Brinjal, as it was called. Another form of active citizenship is protests. Protests are a common form of expressing our dissent against some policy or law, and the government has to reconsider policies or laws, taking into account the general will of the nation. For instance, the farm laws meant to liberalize the agricultural sector were repealed after large scale protests from farmers. All protests by groups of people may not result in policy changes, but the point of protests is active citizenship and to give voice to the General Will of the people.

In all these situations, the government has to consider the General Will of the people, and not the opinions of particular groups.

**Ira:** You are saying India is constituted as a democratic republic, and as of today most people have been educated into democracy by the Constitution?

**Anubhuti:** Of course, we all are. I would add that this knowledge and understanding is not limited to educated and literate people like us, who can read the Constitution. Most of the citizenry are aware of their rights and duties and actively demonstrate that.

I am reminded of the last civics class when a student asked me what being *constituted as a democracy* meant. It was tough answering that question. I found the meaning of the word in a dictionary, which says, “*The structure, composition, physical makeup, or nature of something*” very useful.

When we use this definition in relation to the body and mind, we are referring to our overall health. When we use this for a society, we mean the nature of the society. India was a British colony until 1947 and we transformed into a democratic republic in 1950.

You are right in that it seems like a gamble to form a democratic state that demands so much from citizens most of who were not *literate or educated* in 1950. But the Constituent Assembly was right in accepting that the Constitution would serve as a pedagogical tool to educate us into a democratic culture. Our parents and grandparents seem to have done a good job, don't you think?

[i]Episode 5 of Samvidhan TV series. <https://www.youtube.com/watch?v=0U9KDQnIsNk&t=33s>

[ij]Introduction of “India’s Founding Moment: The Constitution of a Most Surprising Democracy” by Madhav Khosla

[iii]Entry on “Social Contract Theory” in the Internet Encyclopedia of Philosophy.  
<https://iep.utm.edu/soc-cont/>

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