

SARDAR PATEL CONSTITUENT ASSEMBLY AND FRAMING OF THE CONSTITUTION

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Sardar Vallabhbhai Patel was one of the greatest Indians who ever strode this earth. His was a multi-faceted and multi-splendoured personality. His contributions to building and enriching the nation were varied and in many diverse fields. Beginning his political career with the membership of the Ahmedabad city board, Vallabhbhai gave expression to his vision of independent India when he said that “no one would die of starvation in independent India”, its leaders would not “use a foreign language”, “military expenditure would not be heavy”, “army would not subjugate its own people or other lands”, “its best-paid officials would not earn a great deal more than its lowest paid servants” and “finding justice in it would be neither costly nor difficult”. As years and decades roll by and we are faced with newer and newer problems, Sardar Patel’s vision and message become more and more relevant.

The child whom a loving father, Jhaverbhai named after the great scholar-saint Vallabhacharya, the Bardoli satyagrahi whose able leadership won him the title of ‘Sardar’, has been showered with many epithets during his life time and after. He has been described as an indomitable captain of freedom fighters, India’s Bismarck, modern Ashoka, Iron Man of India, Lenin of Bardoli, consolidator and builder of new India, the greatest statesman, the most remarkable son of India and much else. Dozens of scholarly volumes have been written on his life and work. His contribution to the freedom struggle, his role as an outstanding statesman, his unforgettable contribution as a unifier of the nation and integrator of States, have been ably documented. But, Sardar Patel’s unique contribution as one of the most prominent founding fathers of our Constitution and as one who, alongwith Jawaharlal Nehru, played the most leading role in determining the nature of our polity, has neither been adequately explored nor properly evaluated.

While it was naturally the job of the draftsmen and the drafting committee consisting of professional lawyers to give shape and form to provisions of

the Constitution, the spirit of our Constitution bears the imprint of Patel's vision (no less than Nehru's) and its structure is a living embodiment of his work as a nation-builder. An objective study of the Constituent Assembly by a dedicated American scholar, Granville Austin had found that the four most prominent founding fathers of the Constitution were Sardar Patel, Jawaharlal Nehru, Maulana Abul Kalam Azad and Dr. Rajendra Prasad. It is obvious that of these four also, the first two stand out as having mattered most. They really controlled the Assembly and determined the emerging edifice of the Constitution of independent India. Between them, Nehru and Patel agreed as much as they disagreed. Patel was a real son of the Indian soil. He did not have to make a Discovery of India. He knew his India and was every bit an Indian. He came from and knew the realities at the grassroots. He led peasants' movements and stood for zamindari abolition but he was not a Fabian socialist. While Nehru's approach to constitution-making was more idealistic and theoretical, Patel was pragmatic, down to earth, practical. While Nehru was a visionary and a dreamer, more anxious to incorporate socialistic ideals in the text of the Constitution, Patel's priority was for a Constitution that would give to the country an effective government or what in today's terminology would be called 'Good Governance'. He was a man of action and his vision was of a strong, stable, united and prosperous India.

Constitution of the Constituent Assembly

Patel was not only the Deputy Prime Minister and the Home Minister but the most influential leader in the Congress Party organisation. His hold on the organisation was unshakable. He was the most outstanding member of the AICC Elections Committee concerned with the selection of candidates for the Constituent Assembly. While seats for the Sikhs and Muslims were guaranteed, it was largely Sardar Patel's initiative that ensured fair representation to others like the Parsis, Anglo-Indians, Christians, Women, Sindhis, Scheduled Castes and Scheduled Tribes within the general category. A number of non-Congressmen were also included for their special talents and stature in law, administration and public life.

As he puts it:

In the Constituent Assembly we want men who can make a good contribution in the complicated task of constitution-making or drafting and we certainly want men of ability and experience.

A perusal of the ten heavy volumes of Patel's correspondence so ably compiled and edited by Durga Das brings out, among other things, Patel's early concern to get the best men and women in the Constituent Assembly. He was corresponding with the princes of the Indian States, premiers of provinces, Congress leaders and others all over the country-inviting suggestions,

commenting on names and finally securing the election of those selected. It is recorded how Gandhi felt pained at the Congressmen scrambling for Constituent Assembly membership as if like “thieves and robbers” they wanted to enjoy the booty after a jail term.

Building the Union

Next to the constitution of the Constituent Assembly, or rather interlinked, was the question of integration of the princely States with the proposed Union of India. If the 500 and odd princely States spread all over the country remained outside, there could hardly be any meaningful Union of India. The question of securing the accession of princely States was therefore of prime importance to the exercise of Constitution making. In the words of Sardar Patel himself, the States’ issue was the most crucial for no Constitution for the nation could be drafted while India remained divided into over 500-according to some legally and potentially independent-units.

Principles of the Constitution-beginning with the vesting of sovereignty, questions of democracy and elected representatives of the people - were all dependent on the resolution of States’ issues and the nature of integration. Speaking on 26 May 1950, Patel said:

The first requirement of any progressive country is internal and external security. Therefore I started planning on the integration of the country... It is impossible to make progress unless you first restore order in the country.

Fortunately for India, thanks to Patel, the vast majority of the princely States had joined the Constituent Assembly by 15th August 1947. On 12th October 1949 Patel announced in the Assembly completion of the process of integration of the princely States with the rest of the country. He said that unlike the scheme of the 1935 Act, the new Constitution was “not an alliance between democracies and dynasties, but a real Union of the Indian people, built on the basic concept of the sovereignty of the people”. What Patel had achieved was nothing short of “a bloodless revolution” which within a remarkably short period had transformed the internal and external set up of the States. Once, he said his watch-word was “unity and more unity”. Patel added:

The fact that the new Constitution specifies only nine States in Part III of Schedule I is an index to the phenomenal progress made by the policy of integration pursued by the Government of India. By integrating 500 odd States into sizable units and by the complete elimination of centuries-old autocracies, the Indian democracy has won a great victory of which the Princes and the people of India alike should be proud. This is an achievement which should redound to the credit of any nation or people at any phase of history”.

On 26th November 1949 when the Constitution of India was finally adopted by the Constituent Assembly, Patel was able to declare that the Constitution had been accepted by the ten States in Part B including Hyderabad.

Patel ensured that his promise to the princes in the matter of their privy purses etc.-amounting to a total liability not exceeding a paltry sum of Rupees four crores a year-was duly embedded in the Constitution. He said:

The Privy Purse settlements are in the nature of consideration for the surrender by the rulers of all their ruling powers... Need we cavil at the small-I purposely use the word small - price we have paid for the bloodless revolution which has affected the destinies of millions of our people.

It is another matter that when Patel was not on the scene, the princes were most unceremoniously divested of their privy purses and privileges in a populist move and for political party gains.

Work in Committees

The floor of the Constituent Assembly was a forum for debates and speeches-some of them most inspiring and educative and of the highest quality. But, a man of few words and more concerned with concrete action, Patel sometimes felt disconcerted with what happened on the floor of the Assembly. Once he wrote to Nehru:

I try to follow the Constituent Assembly debates through the papers as much as I can, but frankly speaking, most of it seems to me to be irrelevant and beside the point. Only if we could control some of those persistent speakers, our pace would be quicker.

It is important to remember that in the matter of laying down the fundamental principles of the Constitution and the basic structure of the polity, the most substantial work was done away from the public view. behind closeddoors, in committees, sub-committees or informal group meetings of senior leaders. In these fora, Sardar Patel's contribution was often the most crucial and his voice decisive. After long arguments and failure to arrive at any agreement, it would be left to the Sardar to clinch the issue with a final statement resolving the conflictual situation in such a manner that everybody would be satisfied or at least rendered speechless.

In one of the informal meetings of the top few of the Constituent Assembly held on the Raisina Hill (at what is now the Rashtrapati Bhavan) to resolve differences in regard to having second chambers, strong views were expressed both for and against. No agreement could be arrived at. At the end of it all, the man of few words, Sardar Patel is reported to have stood up and said: "An unemployed politician is a social menace. Gentlemen, we shall have the upper houses." All agreed. Subsequently, as a compromise, two chambers were

provided for the Union Parliament but for the States, it was left to the Assembly of the State concerned to suggest the abolition or creation of the other House.

Often Patel sat in the Constituent Assembly silently presumably because he knew he had done his work well outside the Assembly and remained confident that when it came to taking decisions, the Assembly would not go against his perceptions of national interest.

Some of the most important committees of the Constituent Assembly were under the close guidance and leadership of either Patel or Nehru. Nehru was a member of three and Patel was on four committees. As Chairman, Patel headed the Provincial Constitution Committee and the most crucial Advisory Committee on Fundamental Rights, Minorities etc. He was also a member of the States Committee and the Steering Committee chaired by Nehru and Prasad respectively. Also, Patel was invariably a member of all informal groups that met to solve intractable problems or to settle basic issues.

Minorities and Reservations in Legislatures

The dexterity, astuteness and precision with which Patel handled the work of the Advisory Committee was most remarkable. A reading of the proceedings is a treat and an education in strategies of meeting management. After allowing free discussion, Patel would utter his few decisive words of conclusion which everybody would find most acceptable. Suave and soft yet firm like a rock in his convictions, selflessness and patriotism, Patel succeeded in allaying the apprehensions and fears of minorities. As a general rule he was for all legitimate minority demands of representation but not for reservation. As early as on 2nd June 1946, he had written:

I can trust nobody who wants more representation for his community at the cost of the other community. All nationalists must accept the principle of representation on a population basis. No device to turn a majority into a minority can be accepted under any circumstances.

When the Advisory Committee on Fundamental Rights, Minorities etc. met for its first sitting under his Chairmanship, Patel said: “Nobody can be more interested than us in India in the protection of our minorities. Our mission is to satisfy every one of them”.

In the Advisory Committee and in the behind-the-scene deliberations, Patel rejected all suggestions for the continuation of communal quotas of reserved seats in legislatures. He had to work hard in favour of abolition of the communal electorates and quotas of seats. Parsi leader Homi Modi, Christian leader Dr. H.C. Mookerjee, the Sikhs and almost all Muslims including the nationalist Muslims wanted reservations in the legislatures and in public services. Muslim members were the last to agree to give up separate electorate and reservation

of seats for them. It was distressing, though not surprising for Patel to see the Muslims left in India after partition still clinging to the sinister two-nation theory and pressing for separate electorates which had led to the partition. Sometimes quietly and privately, he had to put personal pressure on the minorities to give up reservation like privileges.

The Committee resolved to have “no reservations except for the Scheduled Castes and the Scheduled Tribes”. In view of the special position of the Anglo-Indians, the provision enabling the President and the Governors to nominate members of this community was retained. Most tactfully, the Sardar had the main resolution moved by a minority leader -H.C. Mukherjea - who was a prominent Christian member. The Advisory Committee recorded:

“The first question we tackled was that of separate electorates; we considered this as being of crucial importance both to the minorities themselves and to the political life of the country as a whole. By an overwhelming majority we came to the conclusion that the system of separate electorates must be abolished in the new Constitution. In our judgement, this system has in the past sharpened communal differences to a dangerous extent and has proved one of the main stumbling blocks to the development of a healthy national life. It seems specially necessary to avoid these dangers in the new political conditions that have developed in the country and from this point of view the arguments against separate electorates seem to us absolutely decisive. We recommend accordingly that all elections to the Central and Provincial Legislatures should be held on the basis of joint electorates”.

Introducing a motion for joint electorates in the Constituent Assembly on 27th August 1947, Patel said that there was unanimity of opinion “on the point that there should be no more separate electorates and we should have joint electorates hereafter.” There was a strong demand from some Muslim members for continuing separate electorates. Patel iterated his uncompromising opposition to the principle of separate electorates. The introduction of the system of communal electorates was, he said, a poison which had entered into the body politic of the country. Patel attributed the partition of the country, with its attendant upheavals, directly to the issue of communal electorates. Speaking with certain emotion, Sardar Patel said:

“But today, after agreeing to the separation of the country as a result of this communal electorate, I never thought that proposition was going to be moved seriously, and even if it was moved seriously, that it would be taken seriously. Well, when Pakistan was conceded, at least it was assumed that there would be one nation in the rest of India-the 80 per cent India-and there would be no attempt to talk of two nations here also. It is no use saying that we ask for separate electorates, because it is good for us. We

have heard it long enough. We have heard it for years, and as a result of this agitation we are now a separate nation. The agitation was that “we are a separate nation, we cannot have either separate electorates or weightage or any other concessions or consideration sufficient for our protection. Therefore, give us a separate State”. We said, “All right, take your separate State”. But in the rest of India, in the 80 per cent of India, do you agree that there shall be one nation? Or do you still want the two-nations talk to be brought here also? I am against separate electorates. Can you show me one free country where there are separate electorates? If so, I shall be prepared to accept it. But in this unfortunate country if this separate electorate is going to be persisted in, even after the division of the country, woe betide the country; it is not worth living in”.

Patel was transparent and forthright. He believed that all those who adhered to the two-nation theory had no place in India and should move to Pakistan. Replying to the debate on his report on Minority Rights on 28th August 1947, Sardar Patel had this to say:

If the process that was adopted, which resulted in the separation of the country, is to be repeated, then I say: those who want that kind of thing have a place in Pakistan, not here (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 (Hear, Hear)... Therefore, my friends, you must change your attitude, adapt yourself to the changed conditions... Let us face the realities. Ask yourself whether you really want to stand here and cooperate with us or you want again to play disruptive tactics.. Forget what has happened. You have got what you wanted. You have got a separate state and remember, you are the people who were responsible for it, and not those who remain in Pakistan. You led the agitation. You got it. What is it that you want now? I do not understand. In the majority Hindu provinces, you, the minorities, you led the agitation. You got the partition and now again you tell me and ask me to say for the purpose of securing the affection of the younger brother that I must agree to the same thing again, to divide the country again in the divided part. For God’s sake, understand that we have also got some sense... There will be no injustice done to you. There will be generosity towards you, but there must be reciprocity. If it is absent, then you take it from me that no soft words can conceal what is behind your words. Therefore, I plainly once more appeal to you strongly that let us forget and let us be one nation.

The amendment proposing separate electorates for Muslims, on being put to vote, was negatived. Later, explaining the decision to the Assembly, Patel said that the vast majority of the minority communities had themselves realised

after great reflection the evil effects in the past of such reservation on the minorities themselves. The voting for the abolition of communal reservations was practically unanimous in the Advisory Committee with only one member voting against. Speaking in the Constituent Assembly on 25th May 1949 on the final report of the Advisory Committee on Minorities etc. Sardar Patel said that in the interest of laying down “real and genuine foundations of a secular state in the country” nothing was better for the minorities than to trust the good sense and sense of fairness of the majority, and to place confidence in them. Likewise the majority must think of what minorities felt. Patel expressed the fervent hope that 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, and that in India there is only one community”. Again speaking in the Constituent Assembly the next day, Patel was even more clear and categorical. He said:

Those who claim that in this country there are two nations and that there is nothing common between the two, and “that we must have our homeland where we can breathe freely”, let them do so. I do not blame them. But those who still have that idea that they have worked for it, that they have got it and therefore they should follow the same path here, to them I respectfully appeal to go and enjoy the fruits of that freedom and to leave us in peace. There is no place here for those who claim separate representation....

.... For a community to think that its interests are different from that of the country in which it lives, is a great mistake. Assuming that we agreed today to the reservation of seats, I would consider myself to be the greatest enemy of the Muslim community, because of the consequences of that step in a secular and democratic state”

In October 1949 replying to the demand of Muslims for reservation in services he appealed to them to drop such claims and to “fight over issues beneficial to the whole country” in order to create an atmosphere different from “distrust and discord”. Speaking towards the end of a very heated and communally charged debate on a draft clause which sought to bar any conversion from one religion to another “by coercion or undue influence” or of “a minor under the age of 18”, Sardar Patel said that it was a hard fact that in India, there were mass conversions, conversions by force, conversions by coercion and undue influence and that children and orphans were also being converted.

Another matter of interest was also mentioned by Patel. The Constituent Assembly had always recognised that the Scheduled Castes were a backward section of the Hindu community who were handicapped by the practice of untouchability. This evil practice of untouchability was not recognised by any other religion and the question of any Scheduled Castes belonging to a religion other than Hinduism did not therefore arise. But, the Sikhs had made a demand

that some of their backward sections—the Mazhabis, Ramdasias, Kabirpanthis and Sikligars - should be included in the list of Scheduled Castes. This was accepted by the Advisory Committee. Patel recognised that this was a political decision; but for the sake of securing their goodwill, he urged the Assembly to agree to this concession. Summing up, he said:

In the long run it would be in the interests of all to forget that there is anything like a majority or a minority in this country and that in India there is only one community.

A lengthy discussion took place on these proposals of the Advisory Committee. The majority of the speakers—and these included members from all communities—Muslims, Christians, Anglo-Indians, Scheduled Castes, as well as Hindus—offered full support to the proposal to abolish reservations on communal grounds.

Three Muslim members of the Assembly expressed their opposition to Patel's motion. Mohammad Saadulla from Assam, a member of the Drafting Committee, wanted the continuance of reservations for a period of ten years. He also made the interesting statement that only four members of the Muslim community were present at the meeting of the Advisory Committee on 11th May and that only one of them supported the proposal for the abolition of reservations, thereby challenging Patel's claim of unanimity. Saadulla mentioned in particular that Abul Kalam Azad was neutral on this issue. Muhammad Ismail from Madras wanted a reversion to the previous position of separate electorates. Z.H. Lari urged the removal of reservations for all communities and suggested instead the introduction of a system of proportional representation and cumulative voting through multi-member constituencies.

These amendments were opposed by Patel in a forthright speech in which he gave a resume of what had happened at the Advisory Committee meeting. He said:

..it was Mr. Tajamul Husain from Bihar who stood up and moved an amendment that reservations must go. He was challenged in the committee whether he had consulted the other members of the Muslim community, and he quoted chapter and verse from the representatives of the Provinces whom he had consulted. Yet he did not want a snap vote. I said that I would advise the Advisory Committee to hold over the question and ask all members of the minority communities to consult their constituencies and find out what they really wanted. Nearly four months after that we met and unfortunately Mr. Saadulla was not present or he did not appear and so the opinions that he had gathered remained with him. He did not even communicate them to us. He said that there was only an attendance of four there of whom (I do not know whether he has consulted Maulana

Azad or not) he says that Maulana Azad remained neutral. He claims to know Maulana Azad's mind more than I can do. But I can tell him that Maulana Azad is not a cipher; he has a conscience. If he felt that it was against the interests of his community he would have immediately said so and protested.

The proposal of the Advisory Committee was adopted by the Assembly with an amendment that no reservation would be operative for more than ten years.

Language Problem

On the intractable language issues, the Advisory Committee was not able to arrive at any consensus and its consideration was postponed. All references to national/official language were omitted from the Fundamental Rights provisions at the suggestion of Chairman Patel. That was on 21st April 1947. When the Provincial Constitution Committee's Report came up first for consideration, Patel suggested that the provision relating to the language to be used in the Provincial Legislatures and the Union Parliament should be considered together. Patel himself mentioned that this was a controversial matter, with the likelihood of its creating some confusion. At Patel's suggestion, therefore, the discussion was again postponed. Finally, Patel wrote to K.M. Munshi on 19th August 1949 that (1) Hindi in Devanagari script should be the official/national language, (2) Government should make special efforts to promote Hindi as the official language and (3) meanwhile for 10 years English may continue. This precisely was the formula finally adopted as the Munshi-Ayyangar formula in September 1949 by the Assembly with the only change being that the period of 10 years was changed to 15 years.

Fundamental Rights and Directive Principles

As between Nehru and Patel, Nehru was an advocate of unrestrained fundamental rights of the individual except in the case of property rights. Patel, on the other hand, wanted individual's rights of speech and action to be balanced by society's rights of maintenance of order and security. Patel took the initiative to arm the executive with the authority to resort to preventive detention where necessary. He noted that there was a danger of certain old type of judge misinterpreting the new process of law.

The Motilal Nehru Committee Report (1928) and the Karachi Resolution of the Congress (1931) both had spoken of 'liberty' and 'property' together. The drafts on fundamental rights presented to the Sub-committee on Fundamental Rights by Ambedkar and Munshi also spoke of right to 'life, liberty and property' in one piece as fundamental rights. It was Sardar Patel who insisted upon right to property being separated from the right to liberty.

There was heated debate in the Advisory Committee on the question of “just compensation” for property acquired by the state. Patel felt that if the word ‘just’ was retained, every case would go to the courts. It was, therefore, better to drop the word.

Patel was for abolition of zamindari but he was against acquisition of land without adequate compensation being paid. He said acquisition without compensation was ‘theft’ and ‘dacoity’. The incorporation of the right to property in articles 19 and 31 was largely Patel’s handiwork. Many drafts and reports of the property clause were attempted. Patel was closely involved. Finally, the clause reserving all property legislation for Presidential assent was at Patel’s insistence. So long as he lived, Patel could bloc any move that seemed to him to be unjust and violative of the citizen’s right to property. It is different that after his death, successive Constitution Amendment Acts went on diluting the right to property further and further till finally it was abolished from the fundamental rights Part of the Constitution.

In his letter to the President while submitting the Advisory Committee report, Patel wrote (29th April 1947): “We attach great importance to the Constitution making these (fundamental) rights justiciable”. Patel also made the point that the protection of the rights of the citizen had to be an essential feature of any democratic modern constitution.

While moving the non-discrimination clause in the Assembly, Patel rejected the suggestion to prohibit discrimination on grounds of political creed. He said, it is an “absurd idea” to provide for non-discrimination as regards political creed. Patel was against tribals being kept apart as museum pieces and said that it was not in the interests of the tribals to “remain permanently in their present state”.

About the Directive Principles of State Policy, Sardar Patel had said that though not enforceable in any court of law, these should be regarded as fundamental in the governance of the country. These very precise words formed the content of article 37 of the Constitution. In the entire Constitution the word “governance” has been used only at one place and that is in this article. It is interesting to note that principles of governance or good governance have become the subject matter of intellectual discourse in the Political Science academia only during the last two to three decades i.e. much after the time of Sardar Patel and the framing of our Constitution. It shows Patel’s farsightedness that he talked of principles of governance as early as in the first half of the last century.

It was a tribute to Patel that the report of the Advisory Committee was received most favourably and its recommendations were very largely accepted by the Constituent Assembly. What we have today in the most important parts of the Constitution under the heads ‘Fundamental Rights’ and ‘Directive

Principles of State Policy' is almost entirely the result of the work of the Advisory Committee headed by Sardar Patel.

Union-State Relations

The Provincial Constitution Committee headed by Patel submitted its Report on 21st July 1947. It contributed most substantially to the provisions of the Constitution relating to position of the Governors, relations between the Union and the States and distribution of powers between them. On the powers of the Governor, Patel was very clear that generally he was bound to act on the advice of the Council of Ministers. In the matter of grave threat to peace, the Governor was proposed to be armed only with the authority to make a report to the President. Patel explained:

The committee in settling this question intended to convey that the Governor shall have only the authority to report to the Union President about the grave situation arising in the Province which would involve a grave menace to the peace of the Province. It was not their intention that this power or authority (to declare emergency in the State) is to be exercised by the Governor which may perhaps bring a conflict between the Ministry and the Governor. The Governor having no control over the services, the authority of the administration entirely vests in the Ministry and therefore, although there was considerable difference of opinion on this question on account of the prevailing conditions in the country - some thought that it would be advisable under the present peculiar unsettled conditions in the country to give some limited powers to the Governor - eventually the committee came to the conclusion that it would not be workable, that it would create deadlocks, and therefore, the proper course would be to limit his powers to the extent of authorising him to report to the President of the Union.

The final shape in which article 356 emerged followed this position although in between other alternatives were debated forcefully including the one to empower the Governor to declare an emergency on his own. The influence of Sardar Patel was visible in the post-partition move towards a stronger central authority. Personally, he had always been for a strong central authority necessary for preserving the unity and stability of the nation. Articles 354 and 356 most particularly had his imprint.

Jawaharlal Nehru was for the President being elected by the Members of the two Houses of Parliament. But here also the Sardar put his foot down and ultimately at the joint meeting of the Union Constitution and the Provincial Constitution Committees organised on his initiative, the impasse was resolved with a decision to have the President elected by an electoral college consisting of all the elected members of the two Houses of Parliament and the Legislative Assemblies of the States.

Protection to Services

Even before the Constituent Assembly met, Sardar Patel was almost single handedly responsible for getting through the Conference of Chief Ministers (then called Prime Ministers or Premiers) of the provinces a proposal for the creation of two All India Services - the IAS and the IPS. He looked upon them as a unifying force. Again, it was Patel's intervention that ensured the protection of terms and privileges of the Indian Civil Service Officers through the incorporation of certain provisions in articles 311 and 314 of the Constitution even though the latter was repealed in 1972 as being no more needed. Unlike Nehru who began with a strong suspicion of the Civil Services, Patel had great faith in the loyalty and patriotism of the civil services, He believed that one could not get the best out of unwilling hands. Patel endeared himself to the civil services and generated reverence as an ideal Minister who gave trust and listened patiently even where he did not agree. He earned the nickname of the 'patron saint' of the civil services. The result was that alongwith the Congress Party organisation, Patel also controlled the permanent services and through them the entire administration. His management of the party and the bureaucracy was superb the years 1946-1950.

When the Draft Constitution as settled by the Drafting Committee was circulated, comments of substance were received from the Ministry of Home Affairs. The Home Ministry was very emphatic that provision in specific terms should be included in the Constitution for the setting up of the Indian Administrative Service and the Indian Police Service as all-India services. The case for such a provision was framed in the following words by Deputy Prime Minister Vallabhbhai Patel:

In consultation with and with the unanimous support of, Provincial Governments, we have evolved two new services to take the place of the Indian Civil Service and the Indian Police *viz.*, the Indian Administrative Service and the Indian Police Service. An efficient, disciplined and contented service assured of its prospects as a result of diligent and honest work, is a sine qua non of sound administration under a democratic regime even more than under an authoritarian rule. The service must be above party and we should ensure that political considerations, either in its recruitment or in its discipline and control, reduced to the minimum, if not eliminated altogether... In an all-India service, it is obvious, recruitment, discipline and control, etc. have to be tackled on a basis of uniformity and under the direction of the Central Government which is the recruiting agency... all these matters have been settled at a conference of Prime Ministers convened in 1946 and the details have been settled by correspondence with Provincial Governments. No criticism, therefore, can be made that either in the formation of these services or in the preparation of necessary rules and regulations provincial susceptibilities and views find no place. Indeed,

there was a remarkable unanimity between the views of the Provincial Governments and those of the Central Government throughout on these questions. Any pricking of the conscience on the score of provincial autonomy or on the need for sustaining the prestige and powers of Provincial Ministers is therefore out of place. I am also convinced... that it would be a grave mistake to leave these matters to be regulated either by central or provincial legislation. Constitutional guarantees and safeguards are the best medium of providing for these services and are likely to prove more lasting.

Any failure on the part of the Constituent Assembly to insert a provision to this effect was bound to be regarded as reflecting unwillingness to endorse these commitments solemnly given to the officers.

It will thereby create doubts and apprehensions which, it is essential in the public interest, should not be created. On the other hand, the making of a specific provision would foster stability and an independent outlook which are essential for the efficiency and effectiveness of the service.

We are bound in honour to carry out the undertaking and the only way that undertaking can be fully and satisfactorily discharged is by making provision in the Constitution.

The provision for the protection of All-India Service officers evoked considerable controversy. There was much criticism of the safeguards proposed and there was also bitter comment on the privileged position of these officers. Patel who defended the article vigorously was severe on the critics. He gave a resume of the history of the safeguards provided for the Secretary of State's officers, and explained that on behalf of the new Government, these guarantees had been pledged and included in the Indian Independence Act:

When the Indian Independence Act was to be passed in Parliament the draft was sent here. The leaders of the nation were called for; the Cabinet was there, the Congress President was there, your President was there and your Leader today was there, Mahatma Gandhi was also present. Every section was scrutinised and the draft was approved. After (that) it was passed in the Parliament. Now, these guarantees were circulated before that to the Provinces. All Provinces agreed. It was also agreed to incorporate these into the Constituent Assembly's new Constitution. This (is) one part of the guarantee. Have you read that history? Or, you do not care for the recent history after you began to make history. If you do that, then I tell you we have a dark future. Learn to stand upon your pledged word, and, also, as a man of experience I tell you, do not quarrel with the instruments with which you want to work. It is a bad workman who quarrels with his instruments. Take work from them. Every man wants some sort of encouragement. Nobody wants to put in work when every day he is criticised and ridiculed

in public. Nobody will give you work like that. So, once and for all decide whether you want this service or not. If you have done with it and decide not to have this service at all, even in spite of my pledged word, I will take the Services with me and go.

Patel took the opportunity for a word of appreciation for the civil servant. He said:

Today, my Secretary can write a note opposed to my views. I have given that freedom to all my Secretaries. I have told them, "If you do not give your honest opinion for fear that it will displease your Minister, please then you had better go. I will bring another Secretary". I will never be displeased over a frank expression of opinion. Many of them with whom I have worked, I have no hesitation in saying that they are as patriotic, as loyal and as sincere as myself. These people are the instruments. Remove them and I see nothing but a picture of chaos all over the country.

All the amendments were thereafter negated and the article adopted.

Judiciary

Patel greatly influenced the structure of judiciary provisions of the Constitution. He laid stress on fair appointments to the judiciary. Introducing the Report of the Provincial Constitution Committee, he said that the judges should be above all suspicion and should be appointed by the President. Later, when it was found difficult to resolve the question of judges' salaries in the cabinet, Patel suggested that in order to attract first rate stuff to the higher judiciary, salaries of the judges should be laid down in the Constitution itself. In another note to the cabinet, Patel sought to resolve the difficulty in regard to higher salary to pre-Constitution judges. Patel pleaded for keeping the "pledged word".

Largely thanks to Patel's foresight, unlike the United States, we do not have separate courts for handling Union and State laws. There is one unified judiciary and a single judicial hierarchy of courts. The High Courts in the States are linked to the Supreme Court and completely freed-from State Government influences thereby ensuring greater independence to the Judiciary and also cementing national unity. The unified judiciary alongwith All India Services and a single Election Commission for elections to the Union and State Legislatures would, Sardar Patel expected, turn out to be important nation building, unifying and integrative forces.

Summing Up

To sum up Patel's role in Constitution making, it may be said that in view of Patel's position, no crucial step in the Constituent Assembly could be taken without his concurrence. When Patel and Nehru could not agree on a provision, as happened, for example, in the case of the property clause, Nehru depended

on Patel and not the other way round. In fact, Patel held under some check the 'impetuous, Laski-ite socialist theoretician' in Nehru.

When during the last quarter of 1949 Nehru was on a foreign tour, Patel handled the executive work of the office of the Prime Minister as also the work of the Constituent Assembly (in session at that time). He kept Nehru fully informed through very comprehensive letters. We find Patel telling Nehru that on the issue of services some "bad" and "silly" speeches were made in the Constituent Assembly and he had to intervene. Provisions regarding the States were passed without much difficulty. So were the provisions regarding the Judiciary, position of J&K, Financial Emergency etc.

Sardar Patel influenced or moulded in a myriad ways the provisions of the Constitution in almost every area - Fundamental Rights, Directive Principles, Election of the President, Union-State Relations, Position and powers of the Governor, Council of Ministers, Elections to Parliament and State Legislatures, Reservation of seats for S.C. and S.T. in legislatures, All India Services, reservation of jobs in public services, minority rights, emergency provisions, integration of princely states, language clauses, independence of judiciary, appointment and salary of judges, citizenship and so on.

Sardar Patel stood for equal political rights for all citizens irrespective of religion, race, caste, gender or place of birth. While conceding various linguistic, religious or other minority rights, he was opposed to any political rights - like seats in legislatures - being sought on grounds of one's religion or on grounds of belonging to a minority or majority. Political rights could be claimed only as citizens of India. Every citizen-Hindu, Muslim or other - was entitled to the same rights.

Patel felt proud to lay the foundations of a true secular democratic state where everybody had an equal chance. The whole nation remembers with deep gratitude how Sardar Patel rid us of the scourge of separate communal electorates and religion-based reservations and quotas. It is particularly relevant in the national scenario when renewed demands for reservations are being made on the ground of minorities not having representation in the legislatures and services proportionate to their population.

That the Sardar is relevant today is proved also by the fact of his being remembered every time when the nation is faced with a constitutional or political crisis. His name immediately comes to mind as one who could have rid us of the problems before us. The political parties compete with each other in owning him as their icon. Important leaders both at the Union and State levels, try to emulate his style and build their profile closest to their perception of his image. Nothing can please them more than to be somehow compared to the Sardar. The legend and the legacy continues to grow and with every passing year it glows brighter and brighter.