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## Freedom Team of India

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### Come on, liberals: Let's change India!

#### **Wanted a Constitution that Delivers Life and Liberty**

Sanjeev Sabhlok

India's Constitution is in many ways a product of British and American liberalism. We can almost hear the voices of John Locke and Thomas Jefferson in its passages. Nevertheless, the ravages of Nehruvian socialism and confused thinking of 60 years have taken a huge toll on our social contract. The Constitution is now totally irrelevant to the defence of our life and liberty.

The only way out is to re-write it from scratch. The suggestions I have made in my 2008 book *Breaking Free of Nehru* (BFN: <http://bfnsabhlokcity.com/>) are summarised below.

##### ***Too long***

When we buy an air ticket we read the contractual conditions. But we don't care to read our social contract, the Constitution, which is a far more important document. That's probably because it is too long. Its extraordinary length comes from the inordinate trivial detail which it delves into, in areas best left to routine law-making. It is almost as if members of the Constituent Assembly didn't think that future generations could think for themselves (maybe they were right?).

##### ***Prescriptive***

This also means the Constitution is too prescriptive, blocking innovation. Thus, our colonial (and totally unaccountable) bureaucracy is fully sheltered by our Constitution. Why should a bureaucracy – a mere agency of our representatives – even find mention in a Constitution?

After it is thus re-written for simplicity and clarity of outcomes sought, it should not exceed 10 pages. That would also help our children understand it and grow up into citizens who can defend their life and liberty. Not like the confused 'educated' citizens of today who have no understanding of citizenship.

##### ***Overflowing with jargon***

Our Constitution makes use of abstruse jargon that confounds. For instance, why is 'freedom' a 'fundamental right'? Such language (of 'rights') should be strictly avoided anyway, being highly misleading. All 'rights' originate from the process of justice which is applicable to actions of free peoples. So we can talk about one's freedom to own justly acquired property. Such simple language is enough. Indeed, nothing needs to be mentioned but two things: life and liberty (subject to accountability).

##### ***Too many objectives***

Our Constitution lists too many objectives that are often irrelevant, redundant, or mutually contradictory. The concept of 'fraternity' comes from the French, but why do we need to add this meaningless word into the Constitution? Whether I fraternise with anyone is purely my personal choice. A social contract can't tell me to do so. And why only restrict ourselves to fraternity? Why not add 1000 things like: Joviality, punctuality, hygiene, perseverance, etc. There is clearly no need to litter the Constitution with idle exhortations. Similarly, 'equality of status and opportunity' are mere corollaries of equal liberty. Give us equal liberty and these follow.

The Preamble talks about 'social justice'. Could anyone tell us what this means, for justice can *never* be social; it is always individual. Finally, even Karl Marx gets a voice in our Constitution. Indira Gandhi's 42<sup>nd</sup> Amendment introduced the words *socialism* and *secularism*. Socialism, as we all know, is an extremely dangerous anti-liberty political philosophy that has killed millions of people across the world. Why should we be socialists?

And the word 'secularism' is totally confusing. A Constitution can be secular by not referring to 'religion' anywhere in the document. Indeed, this grab-bag of objectives has merely empowered our governments to interfere in our lives. We only need life and liberty. Period.

### ***Unwanted Lecturing***

The Directive Principles of State Policy constitute a gratuitous lecture on policy. This gratuitous advice must be rejected outright. We can think for ourselves. Worse, feeble minds get confused by this lecture. For instance, Nehru thought that 'It is up to Parliament to ... make the Fundamental Rights subserve the Directive Principles of State Policy'. Had he succeeded even remotely in this crazy interpretation, India would have been dismembered by now. Let policies be proposed by political parties and let voters decide what they want. Not the Constitution.

### ***Steep Decline in Liberties***

The first Constitutional Amendment (of 1951) started the ceaseless destruction of our freedoms that has been the pattern across all amendments. It destroyed our freedom of occupation. Today not only can a government enter into any business it chooses to, it can entirely exclude citizens from that business.

Similarly, freedom to own property has by now disappeared. Nehru said that socialism would require 'the ending of private property, except in a restricted sense'. Therefore he enacted land ceiling acts (called, very perversely, 'land reforms'), sheltering these from judicial review under the Ninth Schedule of the Constitution. The 25<sup>th</sup> amendment then removed the concept of compensation when a government acquires land. Finally, in 1978, the Janata Party abolished Constitutional property rights altogether.

Today, property is an ordinary legal right that can be truncated, even destroyed by ordinary majority in ordinary legislatures. No wonder huge amounts of capital have flowed out of India. No one trusts Indian governments.

### ***Unequal Treatment of Citizens***

Our Constitution speaks about equal status but immediately divides citizens into tribes, castes, religions, and gender. Sociologists and anthropologists can use these fuzzy terms and write tomes on them. But the state is a legal entity and must only recognise *one* category of citizen, namely, *Indian*. It is crucial that all discriminatory distinctions among people (like reservations) are banished from the social contract as soon as possible. Let social evils be fixed by social reformers, not by the state.

It is true that the state may choose to (as I argue for) provide equal opportunity through high quality school education for all children and the elimination of poverty. (This is a policy matter, not to be included in the social contract!) But the state can't give different 'types' of Indians different privileges. By creating reservations, our Constitution has perpetrated *grave injustice* on innocent people who have been punished for no crime of theirs. Affirmative action has increased, not decreased, caste-based consciousness. And divided the entire nation.

### ***Mixing the state with religion***

The Constitution declares India to be 'secular' but then soaks itself in religion! It not only recognises religions like Hinduism, Sikhism, Jainism and Buddhism, and religious 'minorities', castes and 'backward' groups; but talks about prohibition of cow slaughter and Hindu religious institutions. The government is also empowered to operate religious institutions.

(And why does it not recognise 'Sabhlokism' – my religion! – I object to my religion not being included in the Constitution!)

## **How to Get Ourselves a Decent Social Contract**

In *BFN* I have outlined a systematic process to get ourselves a better constitution. I have also proposed a bare-bones new Constitution (for whatever my suggestions are worth). I suggest that this new Constitution be approved by a referendum. And that knowledge of the social contract be made a pre-requisite for registering voters.

### ***Freedom Team of India***

*Ultimately, no piece of paper will protect our freedoms if we are not passionate about our freedoms and do not remain vigilant. That is why the Freedom Team of India (FTI) exists: to advance freedom in India. A detailed report on FTI's first conference in Mumbai is available at <http://freedomteam.in/>. Please read it in the FTI magazine. I look forward to your support of FTI's work. Become a Freedom Partner.*

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