



Demands And Concerns Brought by Members Representing Princely States in the Constituent Assembly

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ARTICLE DETAILS	ABSTRACT
Research Paper	
Keywords :	
Constituent Assembly, Constituent Assembly Debates, Indian National Congress, Princely States	<i>This paper examines the position of princely states in the constitution making process, focusing on what were the demands and constraints they brought to the Constituent Assembly. Although Nehru and Congress were staunch republicans, and were committed to the abolition of monarchy and privileges, but the existence of princely states and the provision of privy purses in the constitution was result of bargain between Congress and the Princely states. Despite Congress's strong influence in the constituent assembly, princely states enjoyed direct representation in the constituent assembly, as their members were nominated and not elected. This ensured that their concerns were voiced in the Assembly and could not be set aside by the congress even if it wanted to. The paper will locate these demands through the CAD. It will be divided into three segments: first, the concerns of princely states on distribution of finances and taxes between Union and states; second, their fear that the constitution has centralising tendencies against federalism; and third, the issue of division of power between Union and states with reference to the Seventh Schedule.</i>

Introduction

It is well known fact that Jawahar Lal Nehru and Congress, both were staunch republicans when it comes to the form of government they were proposing for independent India. This can be inferred from the fact that Congress in its Karachi Resolution 1931, clearly mentioned that “state shall confer no titles”. Which meant, any title based on birth should not be there in independent India. Nehru and other Congress leaders



in their several speeches, has made mentions of abolition of princely states, which were the symbol of monarchy and were against the spirit of republican government which congress was proposing. It is well known fact that congress had immense influence over the constituent assembly and overall constitution making process. But still Nehru in his speech on the floor of constituent assembly, said that India will carry with Princely states and they would be granted funds through privy purses.

One might argue that if Nehru and Congress were against the idea of monarchy and had tremendous influence over the constitution making process, then why did not get away with the concept of princely states. Only logical answer to this question might be that, apart from Congress being the major player in the constitution making process, there were other powerful players also, one of them being princely states. It is notable that princely states also enjoyed significant influence in the constituent assembly and they exercised their influence through the members in the Constituent assembly. Which were nominated by Princes, contrary to which, members of British India were elected.

The provision for privy purses and the status of Kings and Princes was kept intact even after independence was the result of a bargain between princely states and Congress, to make the states join the Union. The fact that princely states were given protection after independence highlights the demands and constraints, that they brought to the constituent assembly. Princely states asserted their demand and representation through their members in the assembly. In order to understand the Demands and constraints, it is important to look at engagement and discussions in which members of princely states took part. In this research paper I will try to locate the demands and views presented by members of princely states in the constituent assembly, to which I will refer to the CAD.

This Paper will broadly be divided in three segments, each of which represent the different kind of argument presented by members of Princely states. The first section will contain the concerns regarding, distribution of finances and taxes between states and the Union. The second section will talk about the fear of members that constitution has centralising tendencies, which is antithetical to the idea of federalism. And the last section will talk about the concern regarding division of power between Union and states, focusing on lists of seventh schedule.

Concerns Regarding Finances and Taxation

One of the major point of contentions between princely states and the Union was the division of revenue, finances and taxation between the two. Princely states were of the feeling that merger into the Union will lead to the loss of revenue for them, ultimately leading them to suffer in daily administration. This issue

was sharply brought to the discussion and raised in assembly, by members representing princely states. It is to be noted that, the concerns regarding distribution of income between Union and states were mainly brought by rich and developed princely states. Majorly states from south India, such as Travancore, Cochin and Mysore.

Mr. R. Sankar¹, who was representing the state of Travancore, argued that after independence, majority of state's income would go into the hands of Union². He pointed out that in the draft constitution, income tax is given under Union list. And majority of his state's income comes from this source only. Based on this argument he demanded more autonomy for the states in the matter related to financial independence. He said that, the idea of equal treatment of all the states and provinces is welcoming, but there are inherent differences between provinces and states. All the units of the federation are not at equal footings. There are states which are highly industrialised and large portion of their population is educated. These states have used their resources in such a way to improve public welfare, health and education. After independence if the financial resources, by which the states were maintaining such a high level of development taken away from them. Then, how states will be able to manage their finances and insure good standard of living for their people.

Another member from the state of Travancore, Mr. P.T. Chacko³, raised the matter of taxing of properties and income of states by the Union⁴. He argued that the properties and income of states should not be taxed by the Union, and he gave many reasons to support his argument. Firstly, as states cannot levy tax on properties and income of the Union, Union also should not tax states. He argued that the concept of reciprocal taxation like US and Australia should not be there in India, as it will hamper development of the states. Secondly, the fear of taxation from Union will discourage states from engaging into any kind of income generating industries. Industries which are essential for public utility and requires high investment will get hamper, because private sector will not invest in such industries and states will refrain from investing because of taxation. Ultimately leading to low industrialisation and loss to nation. Thirdly, the industries run by state also run social programme and by taxing them Union is discouraging states.

¹ R. Shankar, The Constitution Framers, Constituent Assembly of India (Archives), <https://www.constitutionofindia.net/members/r-sankar/>

² 09 Nov 1948 Constituent Assembly Debates (Archives) - Constitution of India. <https://www.constitutionofindia.net/debates/09-nov-1948/#101502>

³ P.T. Chacko, The Constitution Framers, Constituent Assembly of India (Archives), <https://www.constitutionofindia.net/members/p-t-chacko/>

⁴ 09 Sep 1948 Constituent Assembly Debates (Archives) - Constitution of India. <https://www.constitutionofindia.net/debates/09-sep-1949/#132838>

Finally, he says states like Travancore, which are densely populated, industrialisation is the only way to feed its people, and for which the state has already invested heavy amount in industrialisation, and policy like this will discourage the state from investing in industries.

Another Member, P.S. Nataraja Pillai⁵, representing the same state as Mr. Chacko, argued on the same lines. He questioned the method for distribution of revenue between Union and the states. Mr. Pillai highlighted the importance of provisions distributing revenue between Union and the states and term them as the corner stone of federalism. Mr. Pillai moved a resolution to amend draft Article 226⁶, which imposed tax upon trade and business carried out by the states⁷. He argued that, industries started by states before coming into force of this constitution should not be liable to taxation by the Union. He discussed that southern states have heavily invested in industrialisation and earn good revenue from these industries, which is used in improvement of lives of its people. If the policy of Union taxing states industries is implemented, states like Travancore which are already losing 40% of their revenue because of loss of revenue arising from income tax, this provision will further aggravate the situation and reduce the finance at the disposal of states. Mr. Pillai further says “Unless this question of division of finances is equitably settled and justice done, we cannot expect the peaceful progress of our people.”⁸ He also says, that administration of the state was developed in the past based in these sources of revenue and if the sources are taken away from the states, then the entire administrative structure of the state will fall. There is need for transitional period in which states must get opportunity to develop other sources of revenue, before taking away the older sources. Provisions must be made in the constitution for financial assistance of these states, which can be in form of grant or concession.

⁵ P.S. Nataraja Pillai, The Constitution Framers, Constituent Assembly of India (Archives), <https://www.constitutionofindia.net/members/p-s-nataraja-pillai/>

⁶ Article 266. Subject as hereinafter provided, the Government of a State shall not be liable to Union taxation in respect of lands or buildings situate within the territory of India, or income accruing, arising or received within such territory: Provided that-

(a) Where a trade or business of any kind is carried on by or on behalf of the Government of a State, nothing in this article shall exempt that Government from any Union tax or the levy of a sum in lieu of such tax in respect of that trade or business or any operations connected therewith, or any income arising in connection therewith, or any property occupied for the purposes thereof;

(b) Nothing in this article shall exempt the Ruler of any State for the time being specified in Part III of the First Schedule from any Union tax in respect of lands, buildings or income being his personal property or personal income.

⁷ 09 Aug 1949, Constituent Assembly Debates, (Archives) - Constitution of India. <https://www.constitutionofindia.net/debates/09-aug-1949/#111004>

⁸ 09 Aug 1948 Constituent Assembly Debates (Archives) - Constitution of India. <https://www.constitutionofindia.net/debates/09-aug-1949/#111001>



In my opinion, this concern was felt by all most all the developed and advanced states. They, believed that, after independence they have to share their part of revenue with Union. Which was ultimately shared among all the provinces and states at their cost. This fear of loosing the part of revenue, which will lead to fall in quality of administration and life of people, was prevalent among all developed states.

On the point of taxation of properties and income of the state by Union, this issue was also raised by rich and developed states. It was because only rich and developed states had the resources or kind of income which could be taxed. The taxation policy would mean, loss of their revenue in the hands of poor and under developed states and provinces. The arguments made by Mr. Chacko seems that, he is not very concerned with financial health of the states as a whole. Rather more concerned with the state, he was representing, because Travancore had income generating industries, forming backbone of their economy.

In my opinion the amendment to exempt industries started prior to independence, was also pushed because of the entrenched interest of few princely states. If the venture of the states is taxed, which was build prior to the establishment of the India, the revenue will be shared with poor states. It is true that if the provision is implemented as it is, it will paralyse the economy of the state. But there could be personal interests also working behind this strategy.

Concerns Regarding Centralising Tendencies of The Constitution.

Almost all the members representing states raised the concern regarding the centralising tendency of the draft constitution. They might differ at the point of content of the provision they feel is centralising, but all were in consonance on the broader framework of centralising nature. But major points were, choice of Delhi as capital, finance and revenue sharing arrangement between Union and states, and centralising tendencies of emergency provisions. In all, states were of the fear that, this constitution will ultimately make India a unitary state.

Mr. Kengal Hanumanthaiah⁹, who was resenting the princely state of Mysore, objected on several points, mainly Delhi as capital and centralised nature of draft constitution¹⁰. He said that people of states are feeling that they would not have sufficient autonomy to govern their affairs if this draft constitution came into being. He points out to the fact that, in order to make centre strong, too much legislative power has been given to the centre. This will lead to treatment of states and provinces as mere district of the centre

⁹ Kengal Hanumanthaiah, The Constitution Framers, Constituent Assembly of India (Archives), <https://www.constitutionofindia.net/members/kengal-hanumanthaiah/>

¹⁰ 08 Nov 1948 Constituent Assembly Debates (Archives) - Constitution of India. <https://www.constitutionofindia.net/debates/08-nov-1948/#101945>

and not independent federative units. He warns the assembly about negative consequence of accumulating excessive power at the Union.

On the point of Delhi as the capital of country, there was differed opinion across the county. Members from north wholeheartedly supported the proposal and members representing southern states opposed this idea. Many people of the opinion that because of India's vast geography, it will be very difficult for the people of remote and southern states to approach a single capital located and Delhi, therefore there should be more than one capital. Mr. Hanumanthaiah was of opinion that, because Delhi is very north of the country and it will be difficult for people from South and East to reach capital. The capital must be located somewhere in central part of the country, most probably Central Province¹¹.

On the point of Centralising nature of emergency provisions, he said that centralisation of power will work against the idea of unity. While making reservations, he said, "Not that I am in favour of the view of making the Centre weak, but people who have fought for democracy, people who are framing a democratic constitution, forget that if the provincial governments misbehave there are provincial legislatures to set them right." He was of the opinion that there was no such need to give so much power to the Union in the name of emergency provisions, because in case of failure of state machinery, there are people and legislatures to set the things right. He saw, emergency provisions a weapon in the hands of Union to subvert the autonomy and independence of states.

It can also be looked from the view, that princely states were suspicious of intentions of congress after independence. Emergency provisions were giving unfettered power to the Union parliament, where congress had substantial majority. If the emergency provisions were incorporated as it is with their centralising tendencies, there is no doubt that congress will use them to coerce princely states and ultimately compromising their autonomy.

Another point of contention was raised by Mr. Sarangadhar Das¹². He was representing the eastern princely states. He objected upon the inclusion of Article 306B of the draft constitution¹³. The article

¹¹ *Ibid.*

¹² Sarangadhar Das, The Constitution Framers, Constituent Assembly of India (Archives), <https://www.constitutionofindia.net/members/sarangadhar-das/>

¹³ Article 306B, Draft Constitution 1948 (Article 371, Constitution of India 1950): Notwithstanding anything in this Constitution, during a period of ten years from the commencement thereof, or during such longer or shorter period as Parliament may by law provide in respect of any State, the Government of every State specified in Part B of the First Schedule shall be under the general control of, and comply with such particular directions, if any, as may from time to time be given by, the President:

Provided that the President may by order direct that the provisions of this article shall not apply to any State specified in the order.

was giving power to the Union to legislate for princely states without legislatures for the period of 10 years, and was putting princely states under the general control of the Union. Mr. Das, argued that the provision is against the principle of democracy and symbolises bureaucratic form of governance. He said that this provision will put the states under direct control of the centre, and will completely abolish the representative government in the states. He discussed the instances where the officials who were sent by provincial governments, have acted like rajas of that place. Officials who are trained to work in a system of democracy, when put in the system where there is no democracy, then they act as autocrats. He further said that as British taught us democracy by putting us under a bureaucratic rule, now our own government is doing the same with us. Leaders are acting step-motherly with states in comparison to provinces.

Mr. Jai Narayan Vyas¹⁴, representing Jodhpur raised similar concerns. He said, if the present structure of the draft article 306B is followed, then Union will have excessive control over the princely states without legislatures¹⁵. He strongly argued against the common notion prevalent in the constituent assembly that people of princely states are politically backward and should not be given voting power immediately. He said that people in princely states are not backward in any sense as compared to people in provinces. Rather in some cases, people in states are forward than people in provinces, like in case of Cochin, Travancore and Mysore. Where people are more advance than people from provinces, both educationally and economically. He argues that machinery of princely states has never let their people die of starvation, as opposed to what happened in Bengal, a province.

I think this argument can be understood in the way that, it expresses concerns of princely states without legislatures, of being taken under direct bureaucratic control. Which will be like, living under the same colonial regime even after independence. This much concentration of power in the hands of Union would not feel like democracy for the people of princely states.

The idea of not giving people of princely states the legislature and putting them under central supervision, clearly resembles the idea of John Stuart Mill. When Mill says that people of native colonies are not yet developed for the representative form of government¹⁶. And proposes that because the people of native colonies had no experience of democracy, there is no point of giving them yet. These people lack the

¹⁴ Jai Narayan Vyas, *The Constitution Framers, Constituent Assembly of India* (Archives), <https://www.constitutionofindia.net/members/jai-narain-vyas/>

¹⁵ 13 Oct 1949, *Constituent Assembly Debates (Archives) - Constitution of India*. <https://www.constitutionofindia.net/debates/13-oct-1949/#124653>

¹⁶ John Stuart Mill, 'Of the Government of Dependencies by a Free State' in *Considerations on Representative Government* (1861), Cambridge University Press; 2010:320-347

political awareness needed to run a functional democracy. That is why, Mill proposes the idea of putting these people under the rule of a foreign despot, who will teach them the skills required for democracy.

Concerns Regarding Division of Power Between Union and States

Apart from issue of finance and centralisation, members of princely states were also concerned about division of power between Union and States vis a vis lists. The major contention was the schedule distributing items between state and Union.

Mr. A.T Pillai¹⁷, who was representing the princely state of Travancore, raised the issue of who will have control over the resources occurring from sea. As per the draft constitution, Union had control over the land, mineral and other things of value under the sea. He said that, states are already losing central subjects in the hands of Union, and if sea resources are also given to the Union, it will impact the financial health of the states¹⁸. Mr. Pillai, took the example of state he was representing, which use to sell sea shells and earn financial gain from that. He acknowledged the fact that, Union needs resources to manage its affairs, but he disagreed that it should come at cost of states. He suggested that, some revenue arising from sea resources should be left to states and everything should not go into the hands of the Union.

In my opinion this concern only related to states which were sharing boundary with sea. Most of them were southern states, developed in comparison to rest of the India. This can be seen as an attempt by southern states to protect their financial resources they were enjoying for centuries. Because they were aware of the fact that, if Union took control of all sea resources, the revenue be most likely to be distributed between poor northern states and southern states will not get their due share.

Mr. Pillai, also argued for continuation of progressive laws of states, that existed before independence¹⁹. He says that presently the law-making power of Union does not extend to princely states and laws are made by local legislatures. Because of the same, there is so much difference in laws of princely states. He takes the example of Travancore, which has abolished death penalty. He says that states cannot be asked to move backward and take regressive measures. He proposes that if any state has progressive laws, which are not in accordance with the laws of central legislature, then the progressive law should be implemented across India, rather asking the state to change their laws.

¹⁷ A.T. Pillai, The Constitution Framers, Constituent Assembly of India (Archives), <https://www.constitutionofindia.net/members/a-t-pillai/>

¹⁸ 15 Jun 1949 Constituent Assembly Debates (Archives) - Constitution of India. <https://www.constitutionofindia.net/debates/15-jun-1949/#103058>

¹⁹ 13 Jun 1949 Constituent Assembly Debates (Archives) - Constitution of India. <https://www.constitutionofindia.net/debates/13-jun-1949/#103573>

In my opinion the demand to keep the existing laws in the princely states was made, because they knew that their autonomy is protected to a very large extent in the colonial era. And they were not sure about the laws which will come after the independence and their impact.

This can also be looked from different perspective. Laws which were progressive during the British era were brought after a long struggle and deliberations and those laws were mostly against the dominant sections of society. In this case one might argue that if repealed, will the Union enact those laws again after independent. This fear of states got reflected in their demand to protect the exiting laws of the states.

Another member, Bhagwant Roy²⁰, who was representing princely states of Patiala and East Punjab, demanded for larger say for states in industrial development²¹. He said that more items should be given to the states than Union. Mr. Roy outrightly opposed the idea of giving more say to Union in the management and regulation of Industries. He said that, Industrial development requires local level engagement and states have better opportunity and knowledge about the local conditions. Which will eventually help in Industrial development of the country. He further said that giving states the responsibility for industrial development and not giving them required power to do so, is of no use. It will make states power less, even if they wanted to establish industries and bring industrial development, they would require sanction form the Union, which is not very easy to get.

Conclusion

Princely states brought constraints and demand to the assembly, cannot be denied. They had concerns regarding their political and financial autonomy after independence. It is notable that members representing princely states did not take very active parts in the deliberations, apart from issues which concerned their interests. Majorly they were concerned about distribution of finances and taxes, power distribution between Union and states, and centralising tendencies of the Union. Apart from these there were other concerns also such as imposition of Hindi and unequal treatment of members representing princely states, which was raised by Mr. Sankar²² and Mr. Hiralal Shastri²³ respectively. Mr. Shankar argued against the enthusiasm of members of north in imposing Hindi as national language. And

²⁰ Bhagwant Roy, The Constitution Framers, Constituent Assembly of India (Archives), <https://www.constitutionofindia.net/members/bhagwant-roy/>

²¹ 31 Aug 1949 Constituent Assembly Debates (Archives) - Constitution of India. <https://www.constitutionofindia.net/debates/31-aug-1949/#115136>

²² *Supra* note 1.

²³ Hiralal Shastri, The Constitution Framers, Constituent Assembly of India (Archives), <https://www.constitutionofindia.net/members/hiralal-shastri/>



demanded time for people of non-Hindi speaking states to accommodate Hindi, and advocated for gradual transformation. Mr. Shastri, raised the concern of members of princely states are not being treated as equal with the members of provinces²⁴. He strongly condemns this unequal treatment and said, members of states are representing equal people and should be treated at par with the members of provinces.

One might argue that all the demands and concerns raised by members of princely states were not entertained by the assembly. And assembly was still had the influence and overwhelming majority of congress and members representing provinces. But no one can deny the fact that members of princely states contributed significantly to protect the interest of their states and also to protect federal structure of the country to some extent. Presence of princely states, acted as a check on the unifying tendencies of constitution, and reserved sources of finance for the states. Ultimately, they worked their best to defend their interest, even after being too small in numbers in comparison to others.

Acknowledgement

This research work is based on the materials preserved in the *Constitution of India Archives*. The Constituent Assembly Debates and the profiles of its members provided in the archives have been the primary sources for locating the demands, arguments and views of the princely states in the constitution making process. Reference has also been made to John Stuart Mill's *Considerations on Representative Government* for understanding the theoretical framework relating to representative democracy. The contribution of archivists and institutions in maintaining and providing access to these documents has made this study possible.

References

1. Constituent Assembly of India. (1947, August 29). *Constituent Assembly Debates*. Constitution of India (Archives). <https://www.constitutionofindia.net/debates/29-aug-1947/#90399>
2. Constituent Assembly of India. (1948, November 8). *Constituent Assembly Debates*. Constitution of India (Archives). <https://www.constitutionofindia.net/debates/08-nov-1948/#101945>
3. Constituent Assembly of India. (1948, November 9). *Constituent Assembly Debates*. Constitution of India (Archives). <https://www.constitutionofindia.net/debates/09-nov-1948/#101502>

²⁴ 29 Aug 1949 Constituent Assembly Debates (Archives) - Constitution of India.
<https://www.constitutionofindia.net/debates/29-aug-1947/#90399>



4. Constituent Assembly of India. (1949, June 13). *Constituent Assembly Debates*. Constitution of India (Archives). <https://www.constitutionofindia.net/debates/13-jun-1949/#103573>
5. Constituent Assembly of India. (1949, June 15). *Constituent Assembly Debates*. Constitution of India (Archives). <https://www.constitutionofindia.net/debates/15-jun-1949/#103058>
6. Constituent Assembly of India. (1949, August 9). *Constituent Assembly Debates*. Constitution of India (Archives). <https://www.constitutionofindia.net/debates/09-aug-1949/#111001>
7. Constituent Assembly of India. (1949, August 9). *Constituent Assembly Debates*. Constitution of India (Archives). <https://www.constitutionofindia.net/debates/09-aug-1949/#111004>
8. Constituent Assembly of India. (1949, August 31). *Constituent Assembly Debates*. Constitution of India (Archives). <https://www.constitutionofindia.net/debates/31-aug-1949/#115136>
9. Constituent Assembly of India. (1949, September 9). *Constituent Assembly Debates*. Constitution of India (Archives). <https://www.constitutionofindia.net/debates/09-sep-1949/#132838>
10. Constituent Assembly of India. (1949, October 13). *Constituent Assembly Debates*. Constitution of India (Archives). <https://www.constitutionofindia.net/debates/13-oct-1949/#124653>
11. Mill, J. S. (2010). *Of the government of dependencies by a free state*. In *Considerations on representative government* (pp. 320–347). Cambridge University Press. (Original work published 1861)
12. Pillai, A. T. (n.d.). *The Constitution Framers*. Constitution of India (Archives). <https://www.constitutionofindia.net/members/a-t-pillai/>
13. Chacko, P. T. (n.d.). *The Constitution Framers*. Constitution of India (Archives). <https://www.constitutionofindia.net/members/p-t-chacko/>
14. Das, S. (n.d.). *The Constitution Framers*. Constitution of India (Archives). <https://www.constitutionofindia.net/members/sarangadhar-das/>
15. Hanumanthaiah, K. (n.d.). *The Constitution Framers*. Constitution of India (Archives). <https://www.constitutionofindia.net/members/kengal-hanumanthaiah/>
16. Nataraja Pillai, P. S. (n.d.). *The Constitution Framers*. Constitution of India (Archives). <https://www.constitutionofindia.net/members/p-s-nataraja-pillai/>
17. Roy, B. (n.d.). *The Constitution Framers*. Constitution of India (Archives). <https://www.constitutionofindia.net/members/bhagwant-roy/>



18. Shankar, R. (n.d.). *The Constitution Framers*. Constitution of India (Archives).
<https://www.constitutionofindia.net/members/r-sankar/>
19. Shastri, H. (n.d.). *The Constitution Framers*. Constitution of India (Archives).
<https://www.constitutionofindia.net/members/hiralal-shastri/>
20. Vyas, J. N. (n.d.). *The Constitution Framers*. Constitution of India (Archives).
<https://www.constitutionofindia.net/members/jai-narain-vyas/>