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## Book Review: Sixteen Stormy Days: The Story of the First Amendment to the Constitution of India

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### INTRODUCTION

‘A hundred years scarce serve to form a state; an hour may lay it in the dust.’<sup>1</sup>

- Byron

On 26 January 1950, when we became a sovereign democratic republic, no one other than the first prime minister, Jawaharlal Nehru, promulgated that the constitution of India was the most elaborate declaration of human rights yet framed by any state. The euphoria that existed on the day that India became a republic was second, perhaps only, to the heady feeling of becoming an independent nation at the midnight hour of 15 August 1947.<sup>2</sup> In the poet's words, William Ernest Henley, India finally was the master of its fate and the captain of its soul. Tripurdaman Singh's book *Sixteen Stormy Days* examines the contended history of India's First Constitutional

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<sup>1</sup> Lord Byron and George Gordon Byron, *Manfred : a dramatic poem 1817 [Hardcover]* (first published 1817, Facsimile Publisher 2017)

<sup>2</sup> Tripurdaman Singh, *Sixteen Stormy Days: The Story of the Fi* (Vintage Books 2020)

Amendment, enacted in 1951, just sixteen months after the country's constitution came into force. The first constitutional amendment marked a significant change in Indian legal and constitutional history; it had the overarching effect that redefined freedom of speech and property rights and changed the 'very soul of the constitution and the very heart of it', the story of the first amendment is very well encapsulated by author in his book. In essence, this was the first battle of Indian liberalism, but it was lost on the grounds of political expediency. No other than the same people who fought for independent India, who drafted the constitution, want to amend the constitution, leaving just a few gallants like SP Mookerji, Mr. Jayakar, Jai Prakash Narain, Acharya Kripalani, HV Kamath, MC Chagla, and other people who stood for this. Despite these efforts, the amendment was passed and became an act. The author, in his book, tries to find the history of those pivotal sixteen days when the amendment was introduced and finally passed.<sup>3</sup> Bloomsbury Publications published the book and it came out on February 1, 2020.

### **THE SUMMARY OF THE BOOK**

The book starts with depicting a scene of the first Prime Minister Jawaharlal Nehru's celebration "Somehow, we have found that this magnificent constitution that we had framed was later kidnapped and purloined by lawyers, thundered Prime Minister Jawaharlal Nehru as he moved the Constitution First Amendment Bill to be referred to a standing committee in Parliament on 16 May 1951.<sup>4</sup> The frustration with the obstacle arising from people using their constitutional rights to approach the court to challenge government policy and the resultant and repeated judicial intervention hamper the government legislations, Nehru's long-standing promise of land reforms, abolition of zamindari system, nationalisation of industry and reservations get affected due to the judicial decisions.<sup>5</sup> The author highlights that Nehru justified the first constitutional amendments by labelling them 'relics of a static age'. The amendment aimed to replace the remnants of the nineteenth century with bigger and better ideas of the twentieth century, enshrined in the directive principle of state policy. Jawaharlal Nehru, who wanted to

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<sup>3</sup> *Ibid*

<sup>4</sup> Tripurdaman Singh, *Sixteen Stormy Days* (Bloomsbury Publications 2020)

<sup>5</sup> Ratika Gaur, 'Book review: Tripurdaman Singh, *Sixteen Stormy Days: The Story of the First Amendment to the Constitution of India*' (2020) 40(3) *South Asia Research* <<http://dx.doi.org/10.1177/0262728020944768>> accessed 16 November 2024

uphold the constitution as a 'Charter of Freedom', undertaken since the very first meeting of the Constituent Assembly Debates, began to dwindle rapidly, owing to his government's growing displeasure with losing convenient methods of crushing dissent. Further, the authors strengthen his argument on this narrative, how Nehru's jitteriness with fundamental rights provision had grown rapidly due to his self-consciousness and the judicial onslaught on his government's executive powers under provisions guaranteeing freedom of speech and expression. But the most important factor upsetting the Nehru government was initiatives undertaken by his congress party even before independence, like land reform, abolition of the zamindari system, nationalisation, and social emancipation, that were getting delayed due to judicial decisions. This deepening wedge between the government and the judiciary resulted in the consolidation of power by one man over both the government and the Congress party. Following this event, Nehru became more powerful and ordered the delay of the first general election due to the embarrassment of not fulfilling the promises. By October 1950, the cabinet meeting government officially directed the law minister to prepare a draft to the amendment of the constitution for smoothly accommodating its objectives of land reform, nationalisation, regulations of the press, incendiary speech, and sedition. It increased the authoritarian instincts of the Nehruvian government, as planned to introduce a provision to sabotage civil liberties and bypass judicial scrutiny by making amendments. According to the author, inadequate state legislation made by various state governments that does not per the constitutional guidelines causes delays in social reforms, neither people who challenge civil liberties nor judicial interpretation by the court. The intense political uproar across the professional sector comes with a lot of rumours about the provision that was not even introduced in parliament, a lot of articles written in newspapers to criticise the government's Move and repeated protests and requests made even by Congress party and president Dr. Rajendra Prasad himself, even that on 12 May 1951, the bill was introduced by the government in the parliament, what authors have rightly called 'the first battle of Indian liberalism'. These proposed amendments made intense debate and discussion in the parliament, this challenge raised varied proposals, ranging from the removal of the words 'reasonable' before restrictions, the effective reinstatement of the colonial law of sedition through terminologies of 'public order', 'incitement to the offense' and 'in the interest of the security of the state', limiting the phrase 'socially and educationally backward classes' by

removing all references to 'economically', and legitimising the Ninth Schedule, among others. This objection is quite vague and constitutes an inadequate response by Nehru in parliament.<sup>6</sup> After the loss of criticism from opposition figures like Sp Mookerj, Jai Prakash Narain, Acharya Kripalani, Mc Chagal, and others, First Amendment bills were passed by parliament and became an act in Jun 1951. Despite the President's clear identification of a significant loophole, the Caretaker government amendment is the very heart of the Constitution. The original constitution that bestowed upon the citizens their first republic day underwent a transformative change after a Supreme Court decision to uphold the First Amendment act, permitting sweeping change under Nehru and his congress regime. The unlimited power in parliament due to the presence of the overwhelming majority leads to the amendment of the constitution.<sup>7</sup>

### THE FIRST AMENDMENT: CHANGES AND KEY PROVISIONS

In May 1951, the government introduced the first constitutional amendment bill 1951 in the parliament, and it became an act in June 1951<sup>8</sup> The Constitution First Amendment Act of 1951 changed three articles of part III of the Indian constitution, which is referred to as fundamental rights. Article 15<sup>9</sup> of the Indian constitution is as follows: it prohibits the state from making any discrimination against citizens on the grounds of religion, race, caste, sex, and place of birth, but after the first amendment, the fourth clause added in article 15<sup>10</sup> that gives the power to state to make special provisions for the advancement of any socially and educationally marginal community and it also added article 29(2)<sup>11</sup>. It also makes changes in Articles 19(2)<sup>12</sup> and 19(6),<sup>13</sup> enforcing more grounds for restrictions on free speech and freedom of trade and profession on the grounds of public order, the relation with a foreign state, and the name of the state, this change gives greater power and restrict the freedom speech.<sup>14</sup> The amendment added two new

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<sup>6</sup> *Ibid*

<sup>7</sup> *Ibid*

<sup>8</sup> K. Abdul Jawad, 'A Critical Comment On The Book Sixteen Stormy Days' (*Live Law*, 20 July 2020) <<https://www.livelaw.in/book-reviews/a-critical-comment-on-the-book-sixteen-stormy-days-160185>> accessed 16 November 2024

<sup>9</sup> Constitution of India 1950, art 15

<sup>10</sup> Jawad (n 8)

<sup>11</sup> Constitution of India 1950, art 29(2)

<sup>12</sup> Constitution of India 1950, art 19(2)

<sup>13</sup> Constitution of India 1950, art 19(6)

<sup>14</sup> Jawad (n 8)

articles, 31(A)<sup>15</sup> and 31(B)<sup>16</sup> in the constitution. The first article gives the government power to acquire private property. In contrast, the second article gives the birth of the ninth schedule that protects the government from judicial scrutiny. Due to this change, the First Amendment was subjected to much criticism. An abundance of literature has been written on the topic. A considerable amount of discussion was held on the positive and negative side of the amendment.<sup>17</sup> Following this change aimed to address government policies, this amendment remains a contentious issue in political and legal history.

### **ANALYSIS OF THE BOOK**

Sixteen Stormy Days is an alluring and enthralling book. The book offers a rare glimpse of the first constitutional amendment of the Indian constitution. This book explains every important part in minute detail and covers every aspect of historical matters. This book is divided into 7 chapters, which are broken down into smaller parts, and it is well organised. The strongest part of the book is that the author has presented it in a very straightforward manner. He explains the negative side aspect more than the positive side. The most important part is the way the author explains every process through the book of the first constitutional amendment of the Indian constitution, which is unfamiliar to the general public. After reading this book, you find it very informative and interesting for anyone who wishes to understand the complexities of the First Amendment of the Indian constitution. However, some parts of the book may be controversial. Like when you read the book, anybody can find that it emphasises criticising Prime Minister Jawaharlal Nehru's decision, potentially undermining the contributions and perspectives though he tries to prove Nehru's role in curbing civil liberties and the author also tries to present the first prime minister of India Jawaharlal Nehru in a bad way.<sup>18</sup> It shows that the author seems to have shifted focus from the main theme to its political fallout. It is also evident that his family background is related to some political party. At last, the author's main theme of the book was the legal aspect of the subject, not the intention or motive of the amendment. The book, quite the contrary, claims to unravel disingenuous motives. The book contains plenty of events that

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<sup>15</sup> Constitution of India 1950, art 31(A)

<sup>16</sup> Constitution of India 1950, art 31(B)

<sup>17</sup> Jawad (n 8)

<sup>18</sup> *Ibid*

may not be known to the general public. But at the same time, the contents of the book seem inclined toward one person. However, anybody who wants to gain more knowledge about the First Amendment may refer to this book.

## **CONCLUSION**

The book *Sixteen Stormy Days* is an intriguing and magnificent book that provides significant insights into the first constitutional amendment of the Indian constitution. It offers valuable insights from the perspective of the author, how the First Amendment reshaped the nation's legal and political framework, focusing on the balance between fundamental rights and state authority and issues related to freedom of speech, property rights, and social reform. At the same time, the writing style of the author can be forthright, furnishing a no-frills account of the events and issues discussed in the book. However, it may be found that the book is too vast because it leaves the main theme diverted in some parts of the book. Nonetheless, the book offers an abundance of knowledge about the legal and political history of the First Constitutional Amendment. Despite a few limitations, the book *Sixteen Stormy Days* leaves illuminating for anybody who is fascinated by learning the legal and political history of the first constitutional amendment of India. The author keeps the reader engaged by presenting various incidents and facts and explaining important issues such as restriction on freedom of speech, sedation, and overpassing the judicial decision, which makes the book very absorbing to read. In general, *Six Stormy Days* offers an enthralling look into the world of Indian law and its history, making it a must-read book for anybody who wants to understand this subject.