



INDIAN POLITY

FIRST STEP

NCERT Based Course for CSE
after class 11





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INDIAN POLITY

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INDIAN POLITY



Making of the Indian Constitution

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However good a Constitution may be, if those who are implementing it are not good, it will prove to be bad. However bad a Constitution may be, if those implementing it are good, it will prove to be good.

B. R. Ambedkar



The Constitution also specifies the basic allocation of power in a society. It decides who gets to decide what the laws will be.

In principle, this question, who gets to decide, can be answered in many ways: in a monarchical constitution, a monarch decides; in some constitutions like the old Soviet Union, one single party was given the power to decide. But in democratic constitutions, broadly speaking, the people get to decide.

Functions of Constitution

1. It projects the form of government in the country.
2. It ensures the fundamental rights to its citizens.
3. It directs the states in making legislation.
4. It lays out the procedures for several functions, Administrations, Legislation, Execution of the government machinery.
5. It provides for the separation of Powers.
6. It provides for the independence of each organ, i.e. legislative, executive and judiciary.
7. It upholds the sovereignty of the nation.
8. It acts as a check in maladministration and misuse of powers.
9. It provides for accountability of government to the people of the country.
10. It provides for judicial review in case of laws violating the Supreme procedure established by law (i.e. Constitution)

1.1 Introduction

The Constitution is a body of fundamental principles according to which a state is constituted or governed. India's Constitution is the supreme law of India. It defines the Government's fundamental political values, policies, processes, powers, rights, and duties.

It conveys constitutional supremacy & not parliamentary supremacy because it is not established by the Parliament but by a constituent assembly and adopted by its citizens, with a declaration in its preamble.

So the basic function of a constitution is to provide a set of basic rules that allow for minimal coordination amongst members of a society.



Enabling provisions of the Constitution:

Constitutions are not only rules and regulations to control the powers of the government, they also give powers to the government for pursuing the collective good of the society.

- Constitution of South Africa assigns many responsibilities to the government, it wants the government to take measures to promote conservation of nature, make efforts to protect persons or groups subjected to unfair discrimination, and provides that the government must progressively ensure adequate housing to all, health care, etc
- In the case of Indonesia also, the government is enjoined to establish and conduct a national education system. The Indonesian Constitution ensures that the poor and destitute children will be looked after by the government.



Constitution puts limitations on the powers of government

The Constitution limits the power of government in many ways. The most common way of limiting the power of government is to specify certain fundamental rights that all of us possess as citizens and which no government can ever be allowed to violate.

The exact content and interpretation of these rights varies from Constitution to Constitution. But most Constitutions will protect a basic cluster of rights.

Citizens will be protected from being arrested arbitrarily and for no reason. This is one basic limitation upon the power of government. Citizens will normally have the right to some basic liberties: freedom of speech, freedom of conscience, freedom of association, freedom to conduct a trade or business etc. and practice.

These rights can be limited during times of national emergency and the constitution specifies the circumstances under which these rights may be withdrawn.

Constitution as a Fundamental identity

The Constitution expresses the fundamental identity of a people. Its function of a constitution to enable the government to fulfil the aspirations of a society and create conditions for a just society.

This means the people as a collective entity come into being only through the basic constitution. It is by agreeing to a basic set of norms about how one should be governed, and who should be governed that one forms a collective identity.

One has many sets of identities that exist prior to a constitution. But by agreeing to certain basic norms and principles one constitutes one's basic political identity.

Constitutional norms are the overarching framework within which one pursues individual aspirations, goals and freedoms. It defines the fundamental values that we may not trespass. So the constitution also gives one a moral identity.

Most nations are an amalgamation of a complex set of historical traditions; they weave together the diverse groups that reside within the nation in different ways. For example, German identity was constituted by being ethnically German. The constitution gave expression to this identity. The Indian Constitution, on the other hand, does not make ethnic identity a criterion for citizenship.



➤ Prem Behari Narain Raizada
(Wrote India's Constitution)

1.2 The authority of a Constitution

In most countries, the Constitution is a compact document that comprises a number of articles about the state, specifying how the state is to be constituted and what norms it should follow.

When we ask for the constitution of a country we are usually referring to this document. But some countries, the United Kingdom for instance, do not have one single document that can be called the Constitution. Rather they have a series of documents and decisions that, taken collectively, are referred to the constitution.

So, we can say that the constitution is the document or set of documents that seeks to perform the functions that we mentioned above.

Mode of promulgation

- The most successful constitutions, like India, South Africa and the United States, are constitutions which were created in the aftermath of popular national movements. Although India's Constitution was formally created by a Constituent Assembly between December 1946 and November 1949, it drew upon a long history of the nationalist movement that had a remarkable ability to take different sections of Indian society together.
- The Constitution drew enormous legitimacy from the fact that it was drawn up by people who enjoyed immense public credibility, who had the capacity to negotiate and command the respect of a wide cross-section of society, and who were able to convince the people that the constitution was not an instrument for the aggrandisement of their personal power.
- The final document reflected the broad national consensus at the time. Some countries have subjected their constitution to a full-fledged referendum, where all the people vote on the desirability of a constitution.
- The Indian Constitution was never subject to such a referendum, but nevertheless carried

enormous public authority, because it had the consensus and backing of leaders who were themselves popular.

- Although the Constitution itself was not subjected to a referendum, the people adopted it as their own by abiding by its provisions. Therefore, the authority of people who enact the constitution helps determine in part its prospects for success.

1.3 The substantive provisions of a Constitution

It is the hallmark of a successful Constitution that it gives everyone in society some reason to go along with its provisions.

A Constitution that, for instance, allowed permanent majorities to oppress minority groups with society would give minorities no reason to go along with the provision of the Constitution.

- If any group feels their identity is being stifled, they will have no reason to abide by the constitution. No constitution by itself achieves perfect justice. But it has to convince people that it provides the framework for pursuing basic justice.

The more a constitution preserves the freedom and equality of all its members, the more likely it is to succeed.



Balanced institutional design of the Constitution

- Constitutions are often subverted, not by the people, but by small groups, who wish to enhance their own power. Well crafted constitutions fragment power in society intelligently so that no single group can subvert the constitution. This is often done by fragmenting power across different institutions.
- The Indian Constitution, for example, horizontally fragments power across different institutions like the Legislature, Executive and the Judiciary and even independent statutory bodies like the Election Commission.
- Another important aspect of intelligent institutional design is that a constitution must strike the right balance between certain values, norms and procedures as authoritative, and at the same time allow enough flexibility in its operations to adapt to changing needs and circumstances.



The Indian Constitution is described as 'a living' document. By striking a balance between the possibility to change the provisions and the limits on such changes, the Constitution has ensured that it will survive as a document respected by people. This arrangement also ensures that no section or group can, on its own, subvert the Constitution.

1.4 Making of the Indian Constitution

As far back as in 1928, Motilal Nehru and eight other Congress leaders drafted a Constitution for India.

In 1931, the resolution at the Karachi session of the Indian National Congress dwelt on how independent India's Constitution should look like.

Both these documents were committed to the inclusion of Universal adult franchise, Right to

Freedom and Equality and to Protecting the rights of minorities in the constitution of independent India.

The drafting of the document called the Constitution was done by an assembly of elected representatives called the Constituent Assembly.

Elections to the Constituent Assembly were held in July 1946. It held its first sitting on 9 December 1946 and re-assembled as Constituent Assembly for divided India on 14 August 1947. Its

members were elected by indirect election by the members of the Provisional Legislative Assemblies that had been established in 1935.



Ambedkar handing over the final draft of the constitution to President Rajendra Prasad on November 26, 1949.

The Constituent Assembly was composed roughly along the lines suggested by the plan proposed by the committee of the British cabinet, known as the Cabinet Mission.

Do you Know?

The Indian Constitution adopted many institutional details and procedures from colonial laws like the Government of India Act 1935.

Years of thinking and deliberation on the framework of the Constitution had another benefit. Our leaders gained confidence to learn from other countries, but on our own terms.

Many of our leaders were inspired by the ideals of the French Revolution, the practice of parliamentary democracy in Britain and the Bill of rights in the US. The socialist revolution in Russia had inspired many Indians to think of shaping a system based on social and economic equality.

Sources of the Constitution at a Glance

Sources	Features borrowed
Government of India Act of 1935	Federal Scheme of Government, Office of Governor, Public Service Commissions, Emergency provisions and administrative details.
British Constitution	Parliamentary government, Rule of Law, First Past the Post, Institution of Speaker and his role, Legislative procedure, single citizenship, cabinet system, prerogative writs, parliamentary privileges and bicameralism
US Constitution	Fundamental Rights, Independence of Judiciary, Judicial review, impeachment of the President, Removal of Supreme Court and High Court Judges and post of Vice-President.
Canadian Constitution	Federation with a strong Centre, vesting of residuary powers in the Centre, appointment of state governors by the Centre, and advisory jurisdiction of the Supreme Court.
Irish Constitution	Directive Principles of State Policy, nomination of members to Rajya Sabha and method of election of President.
Soviet Constitution (USSR, now Russia)	Fundamental duties and the ideal of justice (social, economic and political) in the Preamble.
Australian Constitution	Concurrent List, freedom of trade, commerce and intercourse, and joint sitting of the two Houses of Parliament.
Weimar Constitution of Germany	Suspension of Fundamental Rights during Emergency.
French Constitution	Republic and the ideals of liberty, equality and fraternity in the Pre-amble.
South African Constitution	Procedure for amendment of the Constitution and election of members of Rajya Sabha.
Japanese Constitution	Procedure established by law.

1.5 Framing of the Constitution of India

- The Constituent Assembly was set up in November 1946 as per the Cabinet Mission Plan of 1946.
- The members were elected indirectly by the Provincial Assemblies in the ratio of one member per million population.
- There were a total of 389 members in the Constituent Assembly, of which 296 were elected by the members of the Provincial Assemblies and the rest were nominated by the Princely States.
- Its first meeting was held on 9th December, 1946 with Sachidanand Sinha as the Interim President. He was the oldest member of the assembly and was elected as Interim President following the French practice. Later, on December 11, 1946 Rajendra Prasad and H.C. Mukherjee were elected as the President and Vice-President of the Assembly respectively. Sir B.N. Rau was appointed as the Constitutional advisor to the Assembly.

- Jawaharlal Nehru moved the objectives resolution in the Assembly on December 13, 1946. It was adopted by the Assembly on January 22, 1947.
- The Constituent Assembly formed committees for framing the Constitution.

1.6 Drafting Committee

On 29th August, 1947 the Constituent Assembly adopted the resolution for forming a Drafting Committee of seven members with Dr. B. R. Ambedkar as chairman. The mandate of the committee was to prepare the draft of the Constitution of the Independent India.

Enactment and Enforcement of Constitution

The Constitution of India was adopted on 26 November, 1949 and the honorable members appended their signatures to it on 24 January, 1950.

In all, 284 members actually signed the Constitution. The Constitution of India came into force on 26 January, 1950. On that day, the Assembly ceased to exist, transforming itself into the Provisional Parliament of India until a new Parliament was constituted in 1952.

Criticism of Constituent Assembly

Though Constituent Assembly was immediate manifestation of our grand independence movement, it was not free from criticism. It was criticized on various grounds. Some of the grounds are as follows:

- It was alleged to be comprised of an elite group which comprised of Western educated elites like Lawyers.
- It was criticized on being dominated by members of Indian National Congress
- Right wing thinkers criticize it as being shadow of Western constitutional system.
- Limited franchise raises a question mark on the representative character of constituent assembly.
- It was not considered as the true reflection of the diversity of India
- It was criticized as working under control of British Government
- It was said to be dominated by majority mainly upper caste Hindus.



Drafting Committee consisted total 7 members including chairman.

1. B.R. Ambedkar (Chairman)
2. N. Gopalswami Ayyangar
3. Alladi Krishna Swami Ayyar
4. K.M. Munshi
5. Syed Mohammed Saadullah
6. B.L. Mittar (replaced by N. Madhav Rao due to ill health)
7. D.P. Khaitan (died in 1948 and was replaced by T.T. Krishnamachari)



Members of Drafting Committee



Main points of the Objectives Resolution:

- India is an independent, sovereign, republic.
- India shall be a Union of erstwhile British Indian territories, Indian States, and other parts outside British India and Indian States as are willing to be a part of the Union.
- Territories forming the Union shall be autonomous units and exercise all powers and functions of the Government and administration, except those assigned to or vested in the Union.
- All powers and authority of sovereign and independent India and its Constitution shall flow from the people.
- All people of India shall be guaranteed and secured social, economic and political justice; equality of status and opportunities and equality before law; and fundamental freedoms - of speech, expression, belief, faith, worship, vocation, association and action - subject to law and public morality.
- The minorities, backward and tribal areas, depressed and other backward classes shall be provided adequate safeguards.
- The territorial integrity of the Republic and its sovereign rights on land, sea and air shall be maintained according to justice and law of civilized nations.
- The land would make full and willing contribution to the promotion of world peace and welfare of mankind.



Major Committees of Constituent Assembly

1. Drafting Committee – B. R. Ambedkar
2. Union Power Committee – Jawaharlal Nehru
3. Union Constitution Committee – Jawaharlal Nehru
4. Provincial Constitution Committee – Vallabhbhai Patel
5. Advisory Committee on Fundamental Rights, Minorities and Tribal and Excluded Areas – Vallabhbhai Patel. This committee had the following subcommittees:
 - Fundamental Rights Sub-Committee – J. B. Kripalani
 - Minorities Sub-Committee – Harendra Coomar Mookerjee,
 - North-East Frontier Tribal Areas and Assam Excluded & Partially Excluded Areas Sub-Committee – Gopinath Bordoloi
 - Excluded and Partially Excluded Areas (Other than those in Assam) Sub-Committee – A V Thakkar
6. Rules of Procedure Committee – Rajendra Prasad
7. States Committee (Committee for negotiating with states) - Jawaharlal Nehru
8. Steering Committee – Rajendra Prasad
9. Committee for the function of the Constitution Assembly - G V Mavlankar





Indian Polity

PRACTICE QUESTIONS

1. Consider the following statements:
1. There is no provision in the Constitution of India to encourage equal pay for equal work for both men and women.
 2. The Constitution of India does not define backward classes.

Which of the statements given above is/are correct?

- (a) 1 only (b) 2 only
(c) Both 1 and 2 (d) Neither 1 nor 2

2. In India, the Judges of the High Court of a State are appointed by the
- (a) President
 - (b) Vice-President
 - (c) Chief Justice of India
 - (d) Governor

3. With reference to the Indian Parliament, consider the following statements :
1. All legislation requires the consent of both Houses of Parliament.
 2. All financial legislation must be recommended by the President.
 3. Both the Houses of Parliament have the power to vote the demands for grants presented by the government.

Which of these statements is/are correct?

- (a) 1 only (b) 2 and 3
(c) 1 and 2 (d) 1, 2 and 3

4. Consider the following statements:
1. The Rajya Sabha alone has the power to declare that it would be in national interest for the Parliament to legislate with respect to a matter in the State List.
 2. Resolutions approving the Proclamation of Emergency are passed only by the Lok Sabha.

Which of the statements given above is/are correct?

- (a) 1 only (b) 2 only
(c) Both 1 and 2 (d) Neither 1 nor 2

5. Consider the following statements:

1. A person who has held office as a permanent Judge of a High Court cannot plead or act in any court or before any authority in India except the Supreme Court.
2. A person is not qualified for appointment as a Judge of a High Court in India unless he has for at least five years held a judicial office in the territory of India.

Which of the statements given above is/are correct?

- (a) 1 only (b) 2 only
(c) Both 1 and 2 (d) Neither 1 nor 2

6. Consider the following statements in respect of financial emergency under Article 360 of the Constitution of India:

1. A Proclamation of financial emergency issued shall cease to operate at the expiration of two months, unless before the expiration of that period it has been approved by the resolutions of both Houses of Parliament.
2. If any Proclamation of financial emergency is in operation, it is competent for the President of India to issue directions for the reduction of salaries and allowances of all or any class of persons serving in connection with the affairs of the Union but excluding the Judges of the Supreme Court and the High Courts.

Which of the statements given above is/are correct?

- (a) 1 only (b) 2 only
(c) Both 1 and 2 (d) Neither 1 nor 2

7. In the Union Government, the Council of Ministers is collectively responsible to the
(a) President (b) Prime Minister
(c) Lok Sabha (d) Parliament
8. By which Constitutional Amendment the powers of the President were curtailed and he was bound to accept the advice given by the Council of Ministers?
(a) 24th (b) 25th
(c) 41st (d) 42nd
9. Consider the following statements:
1. The mode of removal of a Judge of a High Court in India is same as that of removal of a Judge of the Supreme Court.
2. After retirement from the office, a permanent Judge of a High Court cannot plead or act in any court or before any authority in India.
Which of the statements given above is/are correct ?
(a) 1 only (b) 2 only
(c) Both 1 and 2 (d) Neither 1 nor 2
10. Which of the following is/are included in the Directive Principles of State Policy?
1. Prohibition of traffic in human beings and forced labour.
2. Prohibition of consumption except for medicinal purposes of intoxicating drinks and of other drugs which are injurious to health.
Select the correct answer using the code given below:
(a) 1 only (b) 2 only
(c) Both 1 and 2 (d) Neither 1 nor 2
11. The term of member of the Rajya Sabha is
(a) five years
(b) six years
(c) the same as that of the Lok Sabha
(d) two years
12. With reference to Union Government, consider the following statements:
1. The Constitution of India provides that all Cabinet Ministers shall be compulsorily the sitting members of Lok Sabha only.
2. The Union Cabinet Secretariat operates under the direction of the Ministry of Parliamentary Affairs.
Which of the statements given above is/are correct?
(a) 1 only (b) 2 only
(c) Both 1 and 2 (d) Neither 1 nor 2
13. The Supreme court of India dispenses justice putting its reliance on the principles of
(a) rule of law
(b) due process of law
(c) procedural due process
(d) procedure established by law
14. Which one of the following sets of Bills is presented to the Parliament along with the budget?
(a) Direct taxes Bill and Indirect taxes Bill
(b) Contingency Bill and Appropriation Bill
(c) Finance Bill and Contingency Bill
(d) Finance Bill and Appropriation Bill
15. Centre-State financial distribution takes place following the recommendations made by the
(a) Inter-State Council
(b) Finance Commission
(c) Planning Commission
(d) Parliament
16. When the annual Union Budget is not passed by the Lok Sabha,
(a) The Budget is modified and presented again
(b) The Budget is referred to the Rajya Sabha for suggestions
(c) The Union Finance Minister is asked to resign
(d) The Prime Minister submits the resignation of Council of Ministers
17. In India the power of judicial review is restricted because
(a) the Executive is supreme
(b) the Legislature is supreme
(c) the Constitution is supreme
(d) the Judges are transferable