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Sanjiv

Refresher

Political Science

Class-XI

**Indian Constitution at Work
and
Political Theory**

For English Medium Students



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POLITICAL SCIENCE—CLASS-XI (PART-I)

INDIAN CONSTITUTION AT WORK

1. CONSTITUTION : WHY AND HOW?

Chapter Summary

(A) Why Do We Need A Constitution?

Constitution allows Coordination and Assurance—Each group of society has its own characteristics, there are many differences in its members such as religious, cultural, linguistic differences. But in spite of their differences, its members live together and they are interdependent in many ways. Such a group has to agree on some basic rules to live together peacefully. Therefore, any group have to agree on some basic rules that are publicly recognized. Such a group has to agree on some basic rules to live together peacefully. Therefore, any group will need some basic rules that are publicly promulgated and known to all members of that group to achieve a minimal degree of coordination. When these rules are enforced by the court, then all the people follow these rules. The Constitution fulfill this requirement. Following are the main functions of the Constitution—

(1) The first function of a Constitution is to provide a set of basic rules that allow for minimal coordination amongst members of a society.

(2) Specification of Decision-making Powers— A constitution is a body of fundamental principles according to which a state is constituted or governed. It explains the basic distribution of power in the society and decides who will make the law. The authority which has the right to make laws get this right from constitution. Therefore constitution is an authority that constitutes government in the first place.

In other words, **the second function of a Constitution is to specify who has the power to make decisions in a society. It decides how the government will be constituted.**

(3) Limitations on the Powers of Government—The third function of the constitution is to impose certain limits on the laws that the government can implement to its citizens. These limits are fundamental in the sense that government may never trespass them. The simplest way to limit the powers of the government is to make the fundamental rights of the citizens clear and no government can ever violate them. In practice, these rights can be limited in the case of national emergency and the constitution also specifies the circumstances in which these rights can be withdrawn or limited.

(4) Aspirations and Goals of a Society—The fourth function of a constitution is to enable the government to fulfil the aspirations of a society and create conditions for a just society. For example, the Constitution of India gives the government the ability to take some positive public welfare measures and which can also be implemented with the help of law. The Directive Principles of State Policy require the government to fulfill certain aspirations of the people.

(5) Fundamental Identity of a People—Constitution expresses the fundamental identity of a people. **Firstly**, it is only through this that a society is identified as a collective entity. Under this, a society forms its basic **political identity** by agreeing on some basic rules and principles. **Secondly**, constitutional norms are the overarching framework within which one pursues individual aspirations, goals and freedoms. So the constitution gives us a **moral identity**. **Thirdly**, many basic political and moral rules have been accepted in all types of constitutions of the world. Most of the constitutions protect some fundamental rights. **Fourthly**, different nations have different concepts about the relationship between the central government of the country and the different regions. This relationship creates the **national identity** of that country.

(B) The Authority of A Constitution—The following questions arise regarding the power of the constitution—

(1) What is a Constitution? Constitution is a written or unwritten document or a set of documents, in which the provisions related to the state specify that how the state is to be constituted and what norms it should follow.

(2) Mode of Promulgation—How did a constitution come into existence, who made the constitution and how much power did they have to make it?

If constitutions are made by military rulers or such unpopular leaders who do not have the ability to take people with them, then those constitutions are ineffective.

If the constitution is made by popular leaders after successful national movement, then it has the ability to take all the sections of the society together, such a constitution is effective.

The most successful constitutions of the world are those of India, South Africa and America, which were made after a successful national movement. Therefore, the influence of the makers of the constitution also ensures the possibility of success of the constitution to an extent.

(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. Any constitution doesn't set an ideal format of justice itself. Rather it has to convince the people that it provides the framework for achieving basic justice.

The more a constitution protects the freedom and equality of all its citizens, the more its chances of success increase.

(C) Balanced Institutional Design—An effective method of drafting the constitution is to ensure that no single institution acquires monopoly of power. To do this, the power is distributed among many institutions. For example, the Indian Constitution divides the power on a common ground among institutions like the legislature, executive and judiciary and independent constitutional bodies such as the Election Commission etc. This ensures that if one institution wants to destroy the constitution, then other institutions will control its encroachment. Skillful use of restraint and balance has ensured the success of the Indian Constitution.

In designing the institutions, care is also taken that it should balance the flexibility in its functioning with binding values, rules and procedures so that it can adapt itself to the changing needs and circumstances. A successful constitution can protect the core values and adapt itself to the new conditions. Successful constitutions strike a balance between protecting core values and adapting themselves to new conditions.

(D) How was the Indian Constitution made?—Formally a Constituent Assembly framed the constitution which was elected in India according to the plan proposed by 'Cabinet Mission' of undivided India. Its first meeting was held on December 9, 1946 and then on August 14, 1947, it

met again as the Constituent Assembly of the divided India. After partition, the actual number of members of the Constituent Assembly reduced to 299. Of these, on November 26, 1949, a total of 284 members were present. These members finally passed the constitution and signed it. Thus the constitution was finally passed and signed. In this way, the Constituent Assembly started the work of making the constitution from December 9, 1946, which was completed on November 26, 1949.

(1) Composition of the Constituent Assembly—The members of the Constituent Assembly of India were elected indirectly by the members of the provincial legislatures established in 1935, according to the Cabinet Mission Plan, 292 members were to be allotted from the British provinces and 93 from the princely states. The seats in each province were divided among the three major communities—Muslims, Sikhs and generals in proportion to their population. Although, the members of the Assembly were not elected by universal suffrage, there was a serious attempt to make the Assembly a representative body. Members of all religions and scheduled classes were given place in it. Though the Congress dominated the Assembly occupying eighty-two per cent of the seats in the Assembly but the Congress itself was a diverse party.

(2) The Principle of Deliberation—The members of the Constituent Assembly deliberated keeping in mind the interest of the whole country. There were legitimate differences of principle between the members. In the Constituent Assembly, there was intense discussion on almost all the subjects which are the foundation of the modern state. Only one provision in the Constituent Assembly, the provision of the right to universal suffrage, was passed without any debate.

(3) Procedures—The importance of public reason was emphasised in the mundane procedures of the Assembly. The Constituent Assembly had eight major Committees on different subjects. Usually, Jawaharlal Nehru, Rajendra Prasad, Sardar Patel and B.R. Ambedkar chaired these Committees. These were not men who agreed with each other on many things. Then too they all worked together.

Each Committee usually drafted particular provisions of the Constitution which were then subjected to debate by the entire Assembly. Usually an attempt was made to reach a consensus with the belief that provisions agreed to by all, but some provisions were decided on the basis of voting also.

(4) Inheritance of the Nationalist Movement—The Constituent Assembly was only giving concrete shape and form to the principles it had inherited from the nationalist movement. The summary of the principles that the nationalist movement brought to the Constituent Assembly is the Objectives Resolution moved by Nehru in 1946. Based on this resolution, our Constitution gave institutional expression to fundamental commitments such as equality, liberty, democracy, sovereignty and a cosmopolitan identity.

(5) Institutional Arrangements—The third factor ensuring effectiveness of a constitution is a balanced arrangement of the institutions of government. The basic principle is that government must be democratic and committed to the welfare of the people. The Constituent Assembly spent a lot of time on evolving the right balance among three institutions. The Constituent Assembly accepted the parliamentary system of government and the federal system.

While evolving the most balanced governmental arrangements, the makers of our Constitution did not hesitate to learn from experiments and experiences of other countries. So they borrowed a number of provisions from different countries, adopted constitutional traditions and adapted them according to the problems and circumstances of India and made it their own.

Intext Questions/Activity

Page No. 1**Q. 1. What a constitution means? Or What is constitution?**

Ans. Constitution is a written or unwritten document or a set of documents, in which the provisions related to the state specify that how the state is to be constituted and what norms it should follow.

Q. 2. What a constitution does to the society?

Ans. The constitution creates balance in the society, lays down the limitations of the government and tells the aspirations and goals of the society. As—

(1) Constitution allows Coordination and Assurance in Society—The constitution creates balance in the society, it lays down the basic rules in the society and enforces them so that the minimal co-ordination and assurance is maintained among the members of the society.

(2) It specify the Distribution of Powers—It explains the basic distribution of power in the society and it makes it clear who will have the decision making power in the society and how the government will be formed.

(3) Limitations on the Powers of the Government—The constitution sets limits on the laws that the government can implement to its citizens. In this context, it provides fundamental rights to the citizens.

(4) Aspirations and Goals of a Society— The constitution empower the government so that it can fulfill the aspirations of the society and can create the right conditions for the establishment of a just society.

Q. 3. How constitutions govern the allocation of power in society?

Ans. The constitution clarifies the basic distribution of power in the society. The constitution decides who will make the law. For example, in the Indian Constitution, it has been made clear that most of the laws will be made by the Parliament and the State Legislature. The Constitution provides the right to make laws to the Parliament and State Legislatures. Similarly, the constitution also empowers other institutions of the government such as the executive to enact laws and the judiciary to enforce laws.

Q. 4. What was the way in which the Constitution of India was made?

Ans. The Constitution of India was passed by the Constituent Assembly on November 26, 1949 after meeting for 166 days in a period of 2 years 11 months 18 days. The process of making the constitution of the Constituent Assembly was as follows—

(1) Public Interest—The members of the Constituent Assembly took the decision after deliberating keeping in mind the interest of the whole country.

(2) Public Discretionary Procedure—The Constituent Assembly had eight major Committees on different subjects. Each Committee usually drafted particular provisions of the Constitution which were then subjected to debate by the entire Assembly. Usually an attempt was made to reach a consensus with the belief that provisions agreed to by all, but some provisions were decided on the basis of voting.

(3) To Embody the Inheritance of the Nationalist Movement—The Constituent Assembly gave concrete shape and form to the principles it had inherited from the nationalist movement. The summary of these principles can be seen in the 'Objectives Resolution' presented by Nehru in 1946. On the basis of this proposal, equality, liberty, democracy and sovereignty were institutionalized in the constitution.

(4) Institutional Arrangements—The Constituent Assembly spent a lot of time on evolving the right balance among the various institutions like the executive, the legislature and the judiciary. This led to the adoption of the parliamentary form and the federal arrangement.

(5) Provisions adapted from Constitutions of Different Countries—In order to establish a balanced system of government institutions, the Constituent Assembly adopted the provisions and constitutional traditions of the constitutions of different countries and made them their own by adapting them according to Indian problems and circumstances.

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Q. 5. Here are some provisions of the Indian and other constitutions. For each of these write the function that this provision performs.

- (a) The government cannot order any citizen to follow or not to follow any religion.
- (b) The government must try to reduce inequalities in income and wealth.
- (c) The President has the power to appoint the Prime Minister.
- (d) The Constitution is the supreme law that everyone has to obey.
- (e) Indian citizenship is not limited to people of any race, caste or religion.

Ans. (a) Limitations on the power of government (b) Aspirations and goals of a society (c) Specification of decision making powers (d) Constitution allows coordination (e) Fundamental identity of a people .

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Q. 6. (b) How effective is a constitution?

Ans. How effective is a Constitution?— This is determined by how a constitution came into existence. Who made the constitution and how much power did they have to make it?

If constitutions are made by military rulers or such unpopular leaders who do not have the ability to take people with them, then those constitutions are ineffective.

If the constitution is made by popular leaders after successful national movement, then it has the ability to take all the sections of the society together, such a constitution is effective.

It is thus clear that the popularity of the members of the Constituent Assembly, their sense of public interest and the ability to take all sections of the society together will help in the effectiveness of the constitution.

The most successful constitutions of the world are those of India, South India and America, which were made after a successful national movement.

(c) Is a constitution just?

Ans. A just constitution always give some reason to respect the provisions of the constitution. A just constitution is one which can assure the people that it provides a suitable framework for achieving basic justice.

Q. 7. What do people do if they find out that their constitution is not just?

Ans. When people come to know that their constitution is not just, then they do not respect the provisions of the constitution. Such a constitution lose faith from the people.

Q. 8. What happens to people when a constitution exists only on paper?

Ans. The infrastructure to get basic justice is not available to such people.

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Q. 9. What would have happened if the Constituent Assembly was elected by all the people of India? Could it be very different from what it was?