
Constitutional Design

Q.1) Explain the following terms:-

- a) Preamble: It is an introductory statement in a constitution which states the reasons and guiding values of the constitution.
- b) Clause: Clause is a distinct section of a document.
- c) Draft: A draft is a preliminary version of a legal document. It is a rough sketch of the constitution.
- d) Constitutional Amendment: It is a change in the constitution made by the supreme legislative body in a country.
- e) Sovereign: Sovereign means that people have the supreme right to make decisions on internal as well as external matters. No external power can dictate the government of that country .
- f) Socialist: Socialist means that the wealth is generated socially and should be shared equally by the society . Government should regulate the ownership of land and industry to reduce socio-economic inequalities.
- g) Secular: Secular means that citizens have complete freedom to follow any religion. There is no official religion. Government treats all religious beliefs and practices with equal respect.
- h) Democratic: Democracy is a form of government where people enjoy equal political rights, elect their rulers and hold regular elections. The government is run with the help of some basic rules.
- i) Republic: Republic means that the head of the state is an elected person and not a hereditary position.
- j) Fraternity: Fraternity means that all of us should behave as if we are members of the same family. No one should treat his/her fellow citizen as inferior.
- k) Justice: Justice means that citizens can't be discriminated on the basis of caste, religion and gender. Social inequalities have to be reduced. Government should work for the welfare of all especially citizens of disadvantaged groups.
- l) Equality: Equality means that all are equal before law. The traditional social inequalities have to be ended. The government should ensure equal opportunities for all.
- m) Liberty: Liberty says that there are no unreasonable restrictions on the citizens in what they think, how they wish to express their thoughts and the way they wish to follow up their thoughts in actions.

Q.2) What is a Constitution?

Ans.2. A constitution of a country is a set of written rules that are accepted by all the people living in a country. Constitution is the supreme law that determines the relationship between and among the people living in a territory and also the relationship between the citizens and the government.

Q.3) Why do we need a Constitution?

Ans.3 We need a constitution because:-

- First, it generates a degree of trust and coordination that is necessary for different kind of people to live together.
- Second, it specifies how the government will be constituted, who will have power to take which decisions.
- Third, it lays down limits on the powers of the government and tells us what the rights of the citizens are; and
- Fourth, it expresses the aspirations of the people about creating a good society.

Q.4) What is Apartheid?

Ans.4. It was the official policy of racial separation and ill treatment of blacks followed by the government of South Africa between 1948 and 1989.

Q.5) How was the apartheid oppressive for blacks?

Ans.5. The apartheid system was particularly oppressive for the blacks.

- They were forbidden from living in white areas.
- They could work in white areas only if they had a permit.
- Trains, buses, taxis, hotels, hospitals, schools and colleges, libraries, cinema halls, theatres, beaches, swimming pools, public toilets, were all separate for the whites and blacks. This was called segregation.
- They could not even visit the churches where the whites worshipped.
- Blacks could not form associations or protest against the terrible treatment.

Q.6) Why should we accept the constitution made by the constituent assembly?

Ans.6. We should accept the constitution made by the constituent assembly more than 50 years ago because:-

- The Constitution does not reflect the views of its members alone. It expresses a broad consensus of its time.
- Over the last half a century, several groups have questioned some provisions of the Constitution. But no large social group or political party has ever questioned the legitimacy of the Constitution itself. This is an unusual achievement for any constitution.
- The Constituent Assembly represented the people of India. There was no universal adult franchise at that time so the Constituent Assembly could not have been chosen directly by all the people of India.

- It was elected mainly by the members of the existing Provincial Legislatures that we mentioned above.

(i) This ensured a fair geographical share of members from all the regions of the country.

(ii) Though the Assembly was dominated by the Indian National Congress, the party that led India's freedom struggle. But the Congress itself included a variety of political groups and opinions. The Assembly had many members who did not agree with the Congress. In social terms too, the Assembly represented members from different language groups, castes, classes, religions and occupations.

- Constituent Assembly worked in a systematic, open and consensual manner. First some basic principles were decided and agreed upon, and then several rounds of thorough discussion took place on the Draft Constitution, clause by clause.
- The opinion of general public was taken through media.

Q.7) What is the basic institutional design of the Indian constitution?

Ans.7. The constitution of India is mainly about embodying the values into the constitutional arrangements. It describes them in a very legal language:-

- Like any Constitution, the Indian Constitution lays down a procedure for choosing persons to govern the country.
- It defines who will have how much power to take which decisions.
- It puts limits to what the government can do by providing some rights to the citizen that cannot be violated.
- It has a provision to incorporate changes and get updated from time to time. These changes are called constitutional amendments.

Q.8) What were the main guiding principles for the formation of constitution of South Africa?

Ans.8. The main guiding principles of the formation of constitution of South Africa were:

- To build a new South Africa based on equality of all races and men and women, on democratic values, social justice and human rights.
- The party that ruled through oppressions and brutal killings and the party that led the freedom struggle sat together to draw upon a common constitution.
- This gave its citizens the most extensive rights available in any country.
- Together they decided that in search for a solution to the problems nobody should be excluded and no one should be treated as a demon.
- They agreed that everybody should become a part of this solution whatever they might have done in the past.

Q.9) What is the basic philosophy of the Indian constitution?

Ans.9. Values that inspired and guided the freedom struggle and were in turn nurtured by it formed the foundation for India's democracy.

- These values are embedded in the preamble of the constitution.
- It contains the philosophy on which the entire constitution was built.
- It says that the constitution has been formed by the people of India.

- They have decided to make a sovereign, socialist, secular, democratic and a republic nation and to give its citizens justice, liberty, equality and fraternity. All this is written in the preamble of the Indian constitution which is its soul in a way.

Q.10) Discuss the various stages that led to the formation of the Indian constitution.

Ans.10

- 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.
- Thus some basic values were accepted by all leaders much before the Constituent Assembly met to deliberate on the Constitution.
- The British rule had given voting rights to only a few. So they had introduced a very weak legislature.
- Elections were held in 1937 to Provincial Legislatures and Ministries all over British India. These were not fully democratic governments. But the experience gained by Indians in the working of the legislative institutions proved to be very useful for the country in setting up its own institutions.
- Our leaders gained confidence to learn from other countries, but on our own terms. Many leaders were inspired by the ideals of the French revolution, the bill of rights in the US, parliamentary democracy in Britain, socialist revolution of Russia.
- Elections to the Constituent Assembly were held in July 1946. Its first meeting was held in December 1946.
- Soon after the country was divided into India and Pakistan. The Constituent Assembly was also divided into the Constituent Assembly of India and that of Pakistan.
- The Constituent Assembly that wrote the Indian constitution had 299 members.
- It included the variety of political groups and opinions. The assembly had members from different language groups, castes, classes, religions and occupations all disagreeing with each.
- The Assembly adopted the Constitution on 26 November 1949 but it came into effect on January 26, 1950.
- The constituent assembly worked in a systematic, open and consensual manner to make the Indian constitution
- First some basic principles were decided and agreed upon.
- Then a drafting committee chaired by Dr. B. R. Ambedkar prepared a draft constitution of the Indian constitution for the discussion.

- Several rounds of thorough discussion took place on the draft constitution clause by clause.
- The discussions were reported in the newspapers for the common people.
- The people expressed their views and opinions about each and every clause after which it was decided to include or not the particular clause.
- More than 2000 amendments were considered.
- The members deliberated for 114 days spread over three years.
- Every document presented and each word spoken in the assembly has been recorded and preserved and these are known as ‘constituent assembly debates ‘.

Q.11) What were the guiding values of the Constitution?

Ans.11. The guiding values of the of the constitution were:-

- To make an India where the poor are not ignored.
- There is no high class or low class.
- All communities live with harmony.
- Ban on untouchability and intoxicating drinks and drugs.
- Women enjoy the same rights as men.
- All types of inequalities to be removed.
- To have the principal of one man one vote one value.
- To make a country where equality, justice, liberty and fraternity are followed.