

NEW HORIZON SCHOOL  
SUPPORT MATERIAL  
CLASS XI  
POLITICAL SCIENCE

## CHAPTER-1 CONSTITUTION WHY AND HOW

### Features of a Constitution

- A constitution is a set of basic rules that allows for minimal coordination amongst members of a society and expresses the fundamental identity of people.
- It is a body of fundamental principles according to which a state is constituted or governed.
- A constitution specifies the power of people to make decisions in a society.
- It decides on how the government would be constituted.
- Constitution also sets some fundamental limits on what a government can impose on its citizens and which cannot be trespassed.
- A constitution enables the government to fulfil the aspirations of a society and create conditions for a just society

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

- This means that 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.
- Constitutional norms are the overarching framework within which one pursues individual aspirations, goals and freedoms.
- it also may be the case that many basic political and moral values are shared across different constitutional traditions.
- Most modern constitutions create a form of government that is democratic in some respects, most claim to protect certain basic rights.
- Factors Leading to an Effective Constitution
- Mode of Promulgation—The authority of people who enact the constitution help determine in part its prospects for success.
- The Substantive Provisions of Constitution—A successful constitution has provisions for all members of the society and carries every section along with it.
- Balanced Institutional Design—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.
- ∴ Making of the Indian Constitution
- The Indian Constitution was made by the Constituent Assembly which had been elected for undivided India.
- It held its first sitting on 9th December, 1946 and re-assembled as Constituent Assembly for divided India on 14th August, 1957.
- Its members were indirectly elected by the members of the Provisional Legislative Assemblies that had been established in 1935.
- 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.

### ∴ Constituent Assembly—Composition

- As a consequence of the partition under the plan of 3s June 1947 those members who were elected from territories which fell under Pakistan ceased to be members of the Constituent Assembly.

- The numbers in the Assembly were reduced to 299 of which 284 were actually present on 26th November 1949 and appended their signature to the Constitution as finally passed.
- In terms of political parties, the Congress dominated the Assembly occupying as many as eighty-two per cent of the seats in the assembly after the Partition.

#### ❖ The Principle of Deliberation

- The Constituent Assembly adopted to frame the Constitution and the values its members brought to their deliberations.
- While in any assembly that claims to be representative, it is desirable that diverse sections of society participate, it is equally important that they participate not only as representatives of their own identity or community.
- The Constitution drew its authority from the fact that members of the Constituent Assembly engaged in public reason.
- The members of the Assembly placed a great emphasis on discussion and reasoned arguments.

#### ❖ 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.
- Each committee usually drafted particular provisions of the Constitution which were then subjected to debate by the entire Assembly.
- The Assembly met for one hundred and sixty six days, spread over two years and eleven months.
- Its sessions were open to the press and the public.

#### e• Inheritance of the Nationalist Movement

- The Constituent Assembly gave a concrete shape and form to the principles it had inherited from the nationalist movement.
- The Objectives Resolution that was passed in 1946 defined the aims of the Constituent Assembly.
- The Indian Constitution gave institutional expression to fundamental commitments of equality, liberty, democracy, sovereignty and a cosmopolitan identity.

#### 1. Institutional Arrangements

- The basic principle of a democratic government that should be committed to the welfare of the people led to the adoption of parliamentary form and federal arrangement, which would distribute governmental powers between the legislature and executive on hand and between the States and central government on the other hand.
- The Constitution also sought to evolve a right balance between the executive, the legislature and the judiciary. Many provisions of the Constitution were borrowed from the constitutions of other countries on the ground that they suited the conditions prevailing



## CHAPTER-2 Rights in Indian Constitution

As we have learnt in our previous chapter, that constitution is a document that sees how the State is formed and on what principles or norms the State should run. Therefore, constitution sets limits on the powers of government and ensures democratic system in which all citizens enjoy certain rights.

These rights help in providing dignity to an individual and liberty to do what he wants to do in his life. If a person has no rights, then he might not be able to fully utilise his capabilities and talents to the maximum extent.

There is a danger to his rights from the government, other individual or private organisation. Government may limit his rights by passing unnecessary laws which says that individuals should not be allowed freedom to speak and not be allowed to move freely in the country. This will limit his capacity and individual will not be able to work according to his capacity.

An individual also has dangers from other persons because others might try to harm him/her by killing or looting his wealth. Such activity also violate his rights to live freely in the country and will prove dangerous to his life.

An individual's rights are also in danger by an private organisation like an industry or factory. An industry/ factory might be releasing waste elements which might be polluting the environment of the individuals in which they are living. So the polluted environment will harm the individuals fundamental right to live.

Therefore, government, other individuals and private organisation can limit the rights of an individual.

### Questions and Answers

#### What are the dangers to the fundamental rights of an individual? (less important)

Ans. Danger to the fundamental rights of an individual is from the government, other individual or private organisation. Government may limit his rights by passing unnecessary laws which says that individuals should not be allowed freedom to speak and not be allowed to move freely in the country. This will limit his capacity and individual will not be able to work according to his capacity. Therefore, there is a danger to his fundamental rights.

An individual also has dangers from other persons because others might try to harm him/her by killing or looting his wealth. Such activity also violate his rights to live freely in the country and will prove dangerous to his life.

An individual's rights are also in danger by an private organisation like an industry or factory. An industry/ factory might be releasing waste elements which might be polluting the environment of the individuals in which they are living. So the polluted environment will harm the individuals fundamental right to live.

Therefore, government, other individuals and private organisation can limit the rights of an individual.

### Bill of Rights

A democracy ensures that individuals have certain rights and the government recognises these rights in its constitution. **Therefore, there is a list of rights provided and protected by our constitution called 'Bill of Rights'.** A bill of rights gives the list of fundamental and very important rights which are important for the life and liberty of an individual. But why fundamental rights are important only to life and liberty?

Fundamental rights are important to Life because if an individual has no life then there is no point in having a government and doing work to protect his welfare.

And if an individual has no liberty, then whatever the government does for the welfare, the individual will not be able to use it because he does not have freedom to have his goals and aspirations in life. By having freedom; then only individual can move around, talk, build opportunities for himself.

### Questions and answers

#### What is Bill of Rights?(imp)

Ans1. A democracy ensures that individuals have certain rights and the government recognises these rights in its constitution. Therefore, there is a list of rights provided and protected by our constitution called 'Bill of Rights'.

## **Fundamental Rights in the Constitution**

During our freedom struggle, our leaders have realised the importance of Rights. Because, during colonial period, rights of Indians were limited. They were not allowed to speak freely. And if British government sees any article or book published against them, they would censure it or ban it and the author of the book would have to face imprisonment. Indians were not allowed to assemble peacefully because the Britishers thought that any gathering would result in protest or strikes and their British empire would be in danger. There were many other limits to our Rights before independence.

Therefore, in 1928, Motilal Nehru committee demanded bill of rights which could guarantee Rights to Indian citizen to develop and prosper and save them from exploitation. But Britishers did not implement it.

So it was obvious that when India will become independent, our constitution will guarantee fundamental rights to every citizen. So the constitution listed the rights that would be specially protected and called them fundamental rights. The word fundamental means that these rights are so important that constitution listed them separately and made special provisions for their protection. They are so important that constitution has ensured that they are not violated by government itself.

### **Questions and answers**

#### **What are fundamental rights?**

Ans. Rights which are important for preserving the life and liberty of an individual is called fundamental rights. Our constitution has listed them separately and made special provisions for its protection. They are so important that even the government cannot violate it.

#### **Difference between Fundamental Rights and other Rights**

Ordinary rights are protected and enforced by ordinary law. Legislature makes laws by ordinary process where the bill is passed by simple majority. And to amend (change any provisions) it, it requires a simple majority again. For example: senior citizens will get pension of rupees 5,000 every month. This is not fundamental right. And can be changed accordingly and by simple majority. An individual has to approach lower courts before approaching supreme court. Executive and legislative actions can be criticised if the judiciary does not like it but cannot be declared illegal.

But fundamental rights are very important rights. They are protected and guaranteed by the constitution. Our constitution lists six Fundamental Rights. And they can be amended only when constitution is amended. Amendment of constitution is a highly complicated procedure. It requires a special majority. Judiciary has the responsibility to protect fundamental rights from violations. Supreme court has been granted this special power of protecting fundamental right. So an individual whose fundamental right has been violated can directly approach Supreme Court. Executive and legislative actions can be declared illegal by judiciary if these violate the fundamental rights.

(special majority explanation is beyond the scope of this book but for further clarification). Special majority means when the bill is passed in each house by a majority (i.e. more than 50%) of total membership of that house and by a majority of not less than two-thirds of members of that house present and voting.)

### **Question and answers**

#### **What is the difference between ordinary rights and fundamental rights? (less important)**

Ans. **Ordinary Rights** are protected and enforced by ordinary law. It requires a simple majority for amending the right. There are various ordinary rights and changes accordingly with time. Executive and legislative actions cannot be declared illegal.

But **Fundamental Rights** are very important rights. They are protected and guaranteed by the constitution. Our constitution lists six Fundamental Rights. And they can be amended only when constitution is amended. Judiciary has the responsibility to protect fundamental rights from violations. Executive and legislative actions can be declared illegal by judiciary if these violate the fundamental rights.

## **Fundamental Rights of our Constitution**

Our constitution lists down six fundamental rights in Part 3 of Indian constitution:

Right to equality

Right to particular freedoms

Right against exploitation  
Right to freedom of religion  
Cultural and educational rights  
Right to constitutional remedies

### **Question and answer**

#### **Ques 1. List down fundamental rights in our indian constitution?**

Right to equality  
Right to particular freedoms  
Right against exploitation  
Right to freedom of religion  
Cultural and educational rights  
Right to constitutional remedies

#### **Right to Equality**

This is the first fundamental right. Our constitution has granted right to equality. It means that there will be no discrimination on the basis of caste, class, gender or religion. Everybody is equal in the eyes of law. There will be no discrimination on any basis. Our constitution has also abolished untouchability. Everybody has equal access to places like shops, places of worships. There will be no discrimination in public employment. This right is important because it did not practice equality in past. There was discrimination on the basis of caste where the lower caste were treated with lower dignity and untouchables( people who should not be touched).

This right makes India true democracy. Our preamble mentions about equality of status which I have explained above. And equality of opportunity which means that all sections whether it is women, children or lower caste or belonging to any other religion, they all enjoy equal opportunities. But in our society there exists various inequalities for example: lower wages to women, no education and nutrition for women. Lower castes should be barred from education and accessing temples or places of worship. For eliminating these inequalities, constitution has special schemes and measures for improving conditions. Our constitution guarantees reservation as a policy to have an equal society. Article 16(4) clearly states that State can make provisions for reservation of appointments or posts in favor of backward community.

### **Question and answer**

#### **Ques1. What is the meaning of right to equality in our constitution? (imp)**

**Ans.** Right to Equality means that there will be no discrimination on the basis of caste, class, gender or religion. Everybody is equal in the eyes of law. There will be equality of opportunity and equality of status.

#### **Right to Freedom**

This is the second fundamental right. Equality and freedom are important in a democracy and one cannot do without the other. Our constitution protects certain rights like freedom to speech, freedom to move in any part of the territory and freedom to form associations etc. But there is a limit on these freedoms. For example: right to freedom of speech and expression does not mean that anyone can abuse the other. It also includes right to life and liberty and right of the accused. Right to life and liberty and right of accused have been discussed elaborately below.

### **Question and answer**

#### **Ques1. What is right to freedom? (imp)**

**Ans1.** Our constitution has granted right to freedom. This is a very important right to ensure democracy in the country. This is not absolute. Our constitution has put limits on it so that it does not lead to law and order problem.

#### **Right to life and personal liberty**

This is a very important right under Right to freedom. No citizen can be denied his/ her life except under procedure established by law. Procedure established by law means unless the state has not sentenced him for death. Under this right, no one can be arrested without being told the reason. If a person is arrested he has a right to approach the lawyer. And it is also necessary that the police take the person to nearest magistrate within 24 hours. The magistrate who is not the part of police will decide whether the arrest is justified or not. But in some cases, a person can be arrested out of fear that he/ she can engage in unlawful activity and be danger to the law and order of the country. The preventive detention can extend for three months and after that

case has to be brought before an advisory committee. Although preventive detention looks like an effective tool, but it has been misused by the police.

Supreme court has expanded right to life. They have included right to live with human dignity, right to be free from exploitation. Supreme court has also included right to shelter because without this no person can live without the means of livelihood.

### **Question and answers**

**Ques 1.** What is right to life and personal liberty ?

**Ans 1.** Right to life and personal liberty is a very important right under right to freedom. No citizen can be denied his/ her life except under procedure established by law. Under this right, no one can be arrested without being told the reason. If a person is arrested he has a right to approach the lawyer. And it is also necessary that the police take the person to nearest magistrate within 24 hours. The magistrate who is not the part of police will decide whether the arrest is justified or not. Now, Supreme court has expanded right to life and has included right to livelihood, right to life of human dignity.

**Ques 2.** Why only Supreme Court has expanded Right to Life? Why not High Court or any Lower Court?

**Ans 2.** Supreme court has got the exclusive power to deal with fundamental rights. High court cannot deal with fundamental rights.

**Ques 3.** What is Preventive Detention?

**Ans 3.** A person can be arrested out of fear that he/ she can engage in unlawful activity and be danger to the law and order of the country. It can be extended for three months only.

### **Rights of accused**

This is included in right to freedom. Our constitution guarantees rights to accused as well. It does not mean that if a person has been held guilty of a crime he will be not be given any rights. A person can be debarred from rights only through procedure established by law. Rights of the accused are also included in right to freedom.

The Rights of the accused have been given three rights:

No person would be punished for the same offence more than once

No law shall declare any action as illegal from backdate. Meaning if a law has been made today then it cannot be applied to past activities as well.

No person shall be asked to give evidence against himself. It means that the accused cannot be a witness that he has committed crime. Because the statement can be forced by police also.

### **Question and answer**

**Ques 1.** What are the Rights of the accused? (less imp)

**Ans 1.** The Rights of the accused have been given three rights:

No person would be punished for the same offence more than once

No law shall declare any action as illegal from backdate.

No person shall be asked to give evidence against himself. It means that the accused cannot be a witness that he has committed crime.

### **Right against exploitation**

Right against exploitation is the third fundamental right. This is very important to save weak and underprivileged from exploitation. Weak may be subjected to exploitation by their fellow human beings. Constitution has held forced labor and employment of children below age of 14 years in factories as exploitation. In the past, money lenders used to employ labors who were forced to work with little or no wages as slaves. Children have also been employed in factories like cracker factory. Our constitution has termed it illegal and punishable under law. Children have also been given right to education as a fundamental right.

### **Question and Answer**

**What is right against exploitation?**

**Ans.** Right against exploitation includes prohibition of forced labor and trafficking of human labor. and employment of children in factories or industries etc. this right protects the weak and underprivileged from exploitation at the hands of powerful. Therefore to give equality and liberty to all individuals irrespective of class and caste, our constitution has protective provisions for the weak.

**trafficking** : transportation of humans to another country for working as slaves.

### **Right to Freedom of Religion**

**This is the fourth fundamental right.** And it includes freedom of visiting any place of worship or practicing any religion and right to propagate any one's religion. Our constitution guarantees equality to all religions. India does not have any official religion. It is a secular country. For example: Iran is an Islamic country which favors Islam religion but India does not favor any religion. This freedom is important for democracy as this right shows that our constitution does not discriminate between any religion. Why was this right of religion important? It was important because historically, people following different religion than their rulers were either killed or forced to convert to a particular religion. Freedom of religion also includes freedom of conscience. That means the person has the freedom to follow any religion or not to follow any religion. But again, this right is not absolute. It has certain restrictions to maintain law and order and security of the country. State can also interfere in religious matters to remove social evils like practice of sati or human sacrifice. Our constitution has also guaranteed right to propagate one's religion. It means that a person can give information about his/ her religion but cannot force other person to convert to his/ her religion. Therefore, there is equality of religions in our constitution because we do not have to be of any one religion to be prime minister / president.

In summary right to religion includes:

Freedom of conscience( to follow or not to follow any religion)

Freedom to practice , profess or follow any religion

Equality of religions.

### **Questions and answers**

#### **What is right to freedom of religion? (imp)**

Ans. Our Indian constitution has guaranteed Right to freedom of religion. It means that there exists freedom of faith and worship. Everyone is free to choose his/ her religion. It includes freedom of conscience which means a person is even free to follow or not to follow any religion. It further includes right to propagate, profess and follow any religion. Under this any person can give information about his/ her religion or follow or convert to any religion. But government prohibits any forced conversion. There is also equality of all religions meaning that no person will be discriminated on basis of their religion.

#### **Why is right to freedom of religion important? (imp)**

Ans. Right to freedom is important for the democracy of the country. This right does not discriminate between any religions and gives equal treatment to every individual. We have to consider the religious riots which occurred in India during pre independence times and also post independence of India. Therefore, this right becomes important to save the rights of every religious group.

### **Cultural and Educational Rights**

This is the fifth fundamental right. This right is also important for the survival of democracy. This right protects the minorities in our country. India is a vast country rich in diversity in terms of culture, religion and language. This right protects **the religious, cultural and linguistic minorities**. Minorities are groups that have common language or religion and in a part of the country or in the entire country, they are outnumbered by other social group.

These minorities can set up their educational institutes to preserve and develop their own culture. The government will not discriminate, on the basis of that it is a minority, while granting aid to educational institutions.

### **Questions and answers**

#### **Ques a. What is Cultural and Educational Rights? (imp)**

**Ans a.** Cultural and Educational rights are the fundamental rights guaranteed by our constitution to protect the rights of religious, cultural and linguistic minorities. This right also includes setting up of educational institutions for preserving and developing their own culture. This right is important for the sustenance of democracy.

#### **Right to Constitutional Remedies**

Although our constitution contains impressive fundamental rights. But then they have to be enforced through rule of law. So this right helps in giving remedies to if anybody's fundamental right have been violated. Dr. Ambedkar considered right to constitutional remedies as 'heart and soul of the constitution'.

The Supreme Court and High Court can issue various special orders and give directives to the government for enforcement of rights known as writs. Various writs are:



**Habeas corpus** : the court orders that arrested person should be presented before the court. It can also order to set free an arrested person if the arrest is unlawful.

**Mandamus**: it orders when a particular office is not doing legal duty and is violating the right of an individual.

**Prohibition**: this writ is issued by a higher court (high court or supreme court) when a lower court has considered that the case is going beyond its jurisdiction.

**Quo warrant**o : if the court finds that a person holding office is not entitled to hold office , it issues quo warrant and restricts that person from holding or acting in that office.

**Certiorari**: under this writ, the court orders lower court or another authority to transfer a matter pending before it to a higher authority or court. It is different from prohibition in the sense that prohibition writ is passed at an earlier stage while certiorari is passed at a later stage.

Apart from judiciary, there are other mechanisms for the protection of rights. National commission on minorities , the national commission on women, the national commission on scheduled castes. They protect the right of women, Dalits and minorities. There is also National Human Rights Commission to protect fundamental and other rights.

### **Questions and answers**

#### **Ques A. What is right to constitutional remedies? (imp)**

Ans A. This Right helps in giving remedies if anybody's fundamental right have been violated. It issues various writs to protect fundamental rights like mandamus, prohibition, Certiorari, quo warrant etc. there are also agencies national human rights commission, national commission of minorities to protect the rights of weak and underprivileged.

#### **Ques b. what is Habeas corpus? (imp)**

Ans b. It is a writ where court orders that arrested person should be presented before the court. It can also order to set free an arrested person if the arrest is unlawful.

#### **Ques c. what is Mandamus? (imp)**

Ans c. Mandamus is a writ where it orders when a particular office is not doing legal duty and is violating the right of an individual.

#### **Ques d. what is Prohibition? (imp)**

Ans d. This writ is issued by a higher court (high court or supreme court) when a lower court has considered that the case is going beyond its jurisdiction.

#### **Ques e. what is Quo warrant? (imp)**

Ans e. it is a writ when the court finds that a person holding office is not entitled to hold office , it issues quo warrant and restricts that person from holding or acting in that office.

#### **Ques f. what is Certiorari? (imp)**

Ans f. Under this writ, the court orders lower court or another authority to transfer a matter pending before it to a higher authority or court. It is different from prohibition in the sense that prohibition writ is passed at an earlier stage while certiorari is passed at a later stage.

#### **Ques g. are there any other mechanisms for addressing our constitutional remedies?**

Ans g. Apart from judiciary, there are other mechanisms for the protection of rights. National commission on minorities , the national commission on women, the national commission on scheduled castes. They protect the right of women, Dalits and minorities. There is also National Human Rights Commission to protect fundamental and other rights.

### **Human Rights Commission**

Government established national human rights commission in 2000 to protect the rights of te poor, illiterate and deprived sections of society. Independent oragnsiations like people's union for civilliberties (PUCL) and People's Union for Democratic Rights (PUDR) have veen watchdogs of government.

They carry out inquiries by their own initiative or when a petition is presented by a victim. They undertake research in the field of human rights. They receive complaints in thousands varying from custodial death, custodial rape, disappearances, police excesses, failure in taking action, indignity to women. Its significant intervention has been on disappeared youth in punjab and investigation into gujarat riot cases. But the biggest problem is that it does not have power to punish. It can merely make recommendations.

### **Questions and Answers**

#### **Ques a. what is the role of human rights commission? (imp)**

Ans a. Government established national human rights commission in 2000 to protect the rights of te poor, illiterate and deprived sections of society.

**Its role are:**

They carry out inquiries by their own initiative or when a petition is presented by a victim. They receive complaints in thousands varying from custodial death, custodial rape, disappearances, police excesses, failure in taking action, indignity to women. It investigated on disappeared youth in punjab and investigation into gujarat riot cases.

But the biggest problem is that it does not have power to punish. It can merely make recommendations.

**Directive Principles of State Policy**

Post independence, the challenge before the country was to bring equality and well being of all citizens. But at the same time, we did not have enough resources to put everything under fundamental rights category. Also, our constitution makers did not want to burden the policy makers where every citizen will be going to court for asking their rights. So they came out with guidelines, that is, directive principles of state policy. These are non-justiciable. It means that if the government does not bring these principles into action, the citizen cannot go to court for asking its implementation.

These directive principles contain:

The goals and objectives that society should adopt.

Certain rights that individuals should enjoy apart from fundamental rights.

Certain policies that government should adopt to build a welfare and equitable society

**Implementation of directive principles**

To realise directive principles, several measures have been taken like abolition of zaminadri system, nationalising banks, having minimum wage for laborers, cottage and small industries were promoted. It also included right to education, spreading of Panchayati Raj System and launching mid day meal scheme.

**Questions and Answers****Ques 1. What are directive principles?**

**Ans 1.** Directive principles are the policy directions given by constitution for building an equitable and just society.

**Ques 2. What is the purpose of directive principles?**

**Ans 2.** These directive principles are adopted for the purpose of :

The goals and objectives that society should adopt.

Certain rights that individuals should enjoy apart from fundamental rights.

Certain policies that government should adopt to build a welfare and equitable society

**Ques 3. Have directive principles been ever brought into effect?**

**Ans 3.** To realise directive principles, several measures have been taken like abolition of zaminadri system, nationalising banks, having minimum wage for laborers, cottage and small industries were promoted. It also included right to education, spreading of Panchayati Raj System, launching mid day meal scheme and having mahatma gandhi national rural employment guarantee scheme.

**Ques 4. Why was directive principles made non- justiciable?**

**Ans 4.** At the time of independence, we did not have enough resources to put everything under Fundamental Rights category. Also, our constitution makers did not want to burden the policy makers where every citizen will be going to court for asking their rights. So they came out with policy directions for our government for building an equitable and just society.

**Fundamental duties of citizens (less imp)**

In 1976, 42<sup>nd</sup> amendment to the constitution was passed. This amendment included 10 fundamental duties in the constitution. They are not enforceable on the citizen. As citizens we must abide by the constitution, defend our country when in need, and promote harmony amongst all citizens and protect our environment. But here, a citizen cannot be punished if she/he is not following the fundamental duties.

**For students who are not serious**

Constitution is a document or a set of documents that sees how the State is formed and on what principles or norms the State should run.

**a. What is a constitution? (V.Imp)**

**Ans.** Constitution is a document or a set of documents that sees how the State is formed and on what principles or norms the State should run.

There are certain ideas, beliefs and principles on which the country is built for example: that of democracy, liberty, equality and justice. So keeping these ideas in mind, rules and laws for governing the country are formulated. For example: right to freedom of speech and expression article 19(A) guarantees liberty to all Indian citizens. Right to equality under Article 14 guarantees equality to all citizens without any discrimination on the basis of caste, religion, class and sex.

#### **WHY DO WE NEED A CONSTITUTION?**

**The first function of the constitution is that it gives idea of how the policy, laws and rules have to be formulated.**

Constitution is a set of documents that gives the principles and idea on which the country has to be governed. So while formulating rules and laws, the country decides whether the laws should be equal for everybody. Or it should be partial towards certain section of community. For example in Germany before World War 2, Jews were massacred because they did not belong to the community of Germans. Such German policy is illiberal, unequal and unjust.

**Second function is that it allows for basic rules that allow for coordination and assurance amongst the members of society.** India is a diverse country. It has multiple religions, regions, caste structure and class also. So obviously difference of opinion will arise which will affect the law and order problem. Also any powerful group or section of society will try to seize and assert its right over the weaker sections of people. For example: rich might want to build and spread malls in the country. For this they want to destroy and raze all public parks. So there will be all disputes between nature loving people and rich people.

To prevent these types of conflicts and clashes in society, there needs to be basic rules which will allow coordination and cooperation among different groups so that there are no conflicts in society. **So constitution helps in providing certain rules that helps in the coordination and cooperation of different groups.**

But this constitution will not be important unless and until it is not legally enforceable. It means that rules in the constitution should be sincerely and religiously followed by the general public. The people need an assurance that the rules will followed by everyone. And anybody violating the rules will be punished so that it is not replicated by anybody.

**The third function of the constitution is to specify who has the power to make decisions in a society. It decides how the government will be constituted.** To remind you, Constitution is a document that lays basic principles and ideas for formulating rules and laws. So now the question arises, who decides how the society should be governed? Should it be one person as in monarchical countries where a monarch decides? Should it be one party as in china? Or should it be people as in India?

Also if people decide in India, should all people decide? Or a group of people? Or the representatives of people?

So all these rules are written in constitution of how the society should be governed. Our constitution provides for parliamentary form of government where parliament composed of representatives of people decides what laws should be made. Although our parliament gives supremacy to parliament but it (constitution) also provides for separation of powers among legislature, executive and judiciary which helps in keeping a check on each of the organs. **So the fourth function of constitution is to limit the powers of parliament or the government in rule so that it does not frame arbitrary laws and laws which are not in the interest of general public. These limits are fundamental in the sense that no government can ignore it or trespass it.**

**The fifth function of constitution that it sets the aspirations and goals of the society.** It empowers and enables the government to take positive measures to remove any injustice or inequality in society. It sets targets for the government which will help in achieving development and progress among citizens and country as a whole.

For example: directive principles of our constitution says that just and humane conditions at work place should be provided (Article 42) , our environment and natural resources should be protected (Article 48A).

**And finally, constitution helps in expression of fundamental identity of people.** When all the citizens of the country agree to a set of rules and regulations they form a collective identity. One has many identities before the existence of constitution like that of religion being a hindu,

muslim, Christian or that of region belonging to Andhra or Kashmir or any part. But after the formation of constitution, citizens are recognised on the basis of political identity. Moral identity is also formed because the constitution sets limits on the government and also on individual of what to do and what not to do.

#### **Question and Answers**

##### **a. Why do we need a constitution? (V.Imp)**

Ans. Constitution is a document or a set of documents that sees how the State is formed and on what principles or norms the State should run.

We require constitution for the following purpose:

- a. The constitution gives us idea of how the policy, laws and rules have to be formulated.
- b. It allows for basic rules that allow for coordination and assurance amongst the members of society. To prevent these types of conflicts and clashes in society, there needs to be basic rules which will allow coordination and cooperation among different groups so that there are no conflicts in society.
- c. The constitution specifies who has the power to make decisions in a society. It decides how the government will be constituted. The rules are written in the constitution of how the society should be governed. Our constitution provides for parliamentary form of government where parliament composed of representatives of people decides what laws should be made.
- d. The constitution limits the powers of parliament or the government in rule so that it does not frame arbitrary laws and laws which are not in the interest of general public. These limits are fundamental in the sense that no government can ignore it or trespass it. It provides for separation of powers among legislature, executive and legislature; fundamental rights and directive principles.
- e. The constitution sets the aspirations and goals of the society. It empowers and enables the government to take positive measures to remove any injustice or inequality in society. It sets targets for the government which will help in achieving development and progress among citizens and country as a whole.
- f. Constitution helps in expression of fundamental identity of people. When all the citizens of the country agree to a set of rules and regulations they form a collective identity. One has many identities before the existence of constitution like that of religion being a Hindu, Muslim, Christian or that of region belonging to Andhra or Kashmir or any part. But after the formation of constitution, citizens are recognised on the basis of a unified political identity. Moral identity is also formed because the constitution sets limits on the government and also on individual of what to do and what not to do.

##### **b. How does the constitution allows for coordination and assurance in society? (imp)**

Ans. **Constitution allows for coordination:**

In a society, there exists different demands and opinions. There are situations when people from different groups clash with each other therefore creating disorder and conflict in society. To prevent these types of conflicts and clashes in society, there needs to be basic rules which will allow for coordination and cooperation among different groups so that there are no conflicts in society. So constitution helps in providing certain rules that helps in the coordination and cooperation of different groups.

**Constitution allows for assurance:**

But this constitution will not be important unless and until it is not legally enforceable. It means that rules in the constitution should be sincerely and religiously followed by the general public. The people need an assurance that the rules will followed by everyone. And anybody violating the rules will be punished. Therefore, constitution gives an assurance to the society.

##### **c. How does the constitution limit the powers of government?**

Ans. Our Constitution of India provides for limits to the powers of government. It provides for separation of powers among legislature, executive and legislature; fundamental rights and directive principles which keep a check on the excesses of government.

(Excesses mean arbitrary/improper use of power.)

Separation of powers among executive, legislature and judiciary keeps a check on the government's activities. Legislature keeps a check on executive by formulating rules and laws and demanding answers from the ministers if any policy has been wrongly implemented.

Judiciary act as the third pillar by interpreting the rules and laws and keeping in accordance with the spirit of constitution.

Fundamental Rights keep the government in check in the way that fundamental rights are those rights which cannot be ignored or transgressed by the government. they include freedom to speech and expression, freedom to move, freedom to practice any profession etc. They are enforceable in the court of law.

Directive principles also act as a check on the powers of government. It sets principles for the government to take positive welfare measures for the well being and interest of public.

## **NON SERIOUS**

### **chapter 2**

#### **Bill of Rights**

A democracy ensures that individuals have certain rights and the government recognises these rights in its constitution. **Therefore, there is a list of rights provided and protected by our constitution called 'Bill of Rights'.** A bill of rights gives the list of fundamental and very important rights which are important for the life and liberty of an individual. But why fundamental rights are important only to life and liberty?

Fundamental rights are important to Life because if an individual has no life then there is no point in having a government and doing work to protect his welfare.

And if an individual has no liberty, then whatever the government does for the welfare, the individual will not be able to use it because he does not have freedom to have his goals and aspirations in life. By having freedom; then only individual can move around, talk, build opportunities for himself.

#### **Questions and answers**

##### **1. What is Bill of Rights?(Imp)**

Ans1. A democracy ensures that individuals have certain rights and the government recognises these rights in its constitution. Therefore, there is a list of rights provided and protected by our constitution called 'Bill of Rights'.

##### **2. What are fundamental rights?**

Ans. Rights which are important for preserving the life and liberty of an individual is called fundamental rights. Our constitution has listed them separately and made special provisions for its protection. They are so important that even the government cannot violate it.

##### **Ques1. What is right to freedom? (imp)**

**Ans1.** Our constitution has granted right to freedom. Under these, there are six freedoms that is free speech, free assembly, free movement in any part of the country. This is a very important right to ensure democracy in the country. This is not absolute. Our constitution has put limits on it so that it does not lead to law and order problem.

##### **Right to life and personal liberty**

This is a very important right under Right to freedom. No citizen can be denied his/ her life except under procedure established by law. Procedure established by law means unless the state has not sentenced him for death. Under this right, no one can be arrested without being told the reason. If a person is arrested he has a right to approach the lawyer. And it is also necessary that the police take the person to nearest magistrate within 24 hours. The magistrate who is not the part of police will decide whether the arrest is justified or not.

Supreme court has expanded right to life. They have included right to live with human dignity, right to be free from exploitation. Supreme court has also included right to shelter because without this no person can live without the means of livelihood. Why only supreme court? Why not high court?

#### **Question and answers**

##### **Ques1. What is right to life and personal liberty ?**

Ans 1. Right to life and personal liberty is a very important right under right to freedom. No citizen can be denied his/ her life except under procedure established by law. Under this right, no one can be arrested without being told the reason. If a person is arrested he has a right to approach the lawyer. And it is also necessary that the police take the person to nearest magistrate within 24 hours. The magistrate who is not the part of police will decide whether the arrest is justified or

not. Now, Supreme court has expanded right to life and has included right to livelihood, right to life of human dignity.

**Ques 2. Why only Supreme Court has expanded Right to Life? Why not High Court or any Lower Court?(less imp)**

**Ans 2.** Supreme court has got the exclusive power to deal with fundamental rights. High court cannot deal with fundamental rights.

**Ques 3. What is Preventive Detention? (imp)**

**Ans 3.** A person can be arrested out of fear that he/ she can engage in unlawful activity and be danger to the law and order of the country. It can be extended for three months only.

### **1. Right against exploitation**

Right against exploitation is the third fundamental right. This is very important to save weak and underprivileged from exploitation. Weak may be subjected to exploitation by their fellow human beings. Constitution has held forced labor and employment of children below age of 14 years in factories as exploitation. In the past, money lenders used to employ labors who were forced to work with little or no wages as slaves. Children have also been employed in factories like cracker factory. Our constitution has termed it illegal and punishable under law. Children have also been given right to education as a fundamental right.

#### **Question and Answer**

##### **1. What is right against exploitation?**

**Ans.** Right against exploitation includes prohibition of forced labor and employment of children in factories or industries etc. this right protects the weak and underprivileged from exploitation at the hands of powerful. Therefore to give equality and liberty to all individuals irrespective of class and caste, our constitution has protective provisions for the weak.

#### **Right to Freedom of Religion**

This is the fourth fundamental right. Right to religion includes:

- a. Freedom of conscience( to follow or not to follow any religion)
- b. Freedom to practice, profess or follow any religion ( a person can give information about his/ her religion but cannot force other to follow his religion. there cannot be forced conversion)
- c. Equality of religions. (india does not have official religions like iran or paksitan have islam as their official religion)

##### **1. What is right to freedom of religion? (imp)**

**Ans.** Our indian constitution has guaranteed Right to freedom of religion. It means that there exists freedom of faith and worship. Everyone is free to choose his/ her religion. It includes freedom of conscience which means a person is even free to follow or not to follow any religion. It further includes right to propagate, profess and follow any religion. Under this any person can give information about his/ her religion or follow or convert to any religion. But government prohibits any forced conversion. There is also equality of all religions meaning that no person will be discriminated on basis of their religion.

##### **2. Why is right to freedom of religion important? (imp)**

**Ans.** Right to freedom is important for the democracy of the country. This right does not discriminate between any religions and gives equal treatment to every individual. We have to consider the religious riots which occurred in India during pre independence times and also post independence of India. Therefore, this right becomes important to save the rights of every religious group.

#### **Right to Constitutional Remedies**

Although our constitution contains impressive fundamental rights. But then they have to be enforced through rule of law. So this right helps in giving remedies to if anybody's fundamental right have been violated. Dr. ambedkar considered right to constitutional remedies as 'heart and soul of the constitution'.

The Supreme Court and High Court can issue various special orders and give directives to the government for enforcement of rights known as writs.

Apart from judiciary, there are other mechanisms for the protection of rights. National commission on minorities, the national commission on women, the national commission on scheduled castes. They protect the right of women, Dalits and minorities. There is also National Human Rights Commission to protect fundamental and other rights.

### **Questions and answers**

#### **Ques A. What is right to constitutional remedies? (imp)**

Ans A. This Right helps in giving remedies if anybody's fundamental right have been violated. It issues various writs to protect fundamental rights like mandamus, prohibition, Certiorari, quo warranto etc. there are also agencies national human rights commission, national commission of minorities to protect the rights of weak and underprivileged.

#### **Directive Principles of State Policy**

Post independence, the challenge before the country was to bring equality and well being of all citizens. But at the same time, we did not have enough resources to put everything under fundamental rights category. Also, our constitution makers did not want to burden the policy makers where every citizen will be going to court for asking their rights. So they came out with guidelines, that is, directive principles of state policy. These are non-justiciable. It means that if the government does not bring these principles into action, the citizen cannot go to court for asking its implementation.

These directive principles contain:

The goals and objectives that society should adopt.

Certain rights that individuals should enjoy apart from fundamental rights.

Certain policies that government should adopt to build a welfare and equitable society

#### **Implementation of directive principles**

To realise directive principles, several measures have been taken like abolition of zaminadri system, nationalising banks, having minimum wage for laborers, cottage and small industries were promoted. It also included right to education, spreading of Panchayati Raj System and launching mid day meal scheme.

### **Questions and Answers**

#### **Ques 1. What are directive principles?**

Ans 1. Directive principles are the policy directions given by constitution for building an equitable and just society.

#### **Ques 2. What is the purpose of directive principles?**

Ans 2. These directive principles are adopted for the purpose of :

The goals and objectives that society should adopt.

Certain rights that individuals should enjoy apart from fundamental rights.

Certain policies that government should adopt to build a welfare and equitable society

#### **Ques 3. Have directive principles been ever brought into effect?**

Ans 3. To realise directive principles, several measures have been taken like abolition of zaminadri system, nationalising banks, having minimum wage for laborers, cottage and small industries were promoted. It also included right to education, spreading of Panchayati Raj System, launching mid day meal scheme and having mahatma gandhi national rural employment guarantee scheme.

#### **Ques 4. Why was directive principles made non- justiciable?**

Ans 4. At the time of independence, we did not have enough resources to put everything under Fundamental Rights category. Also, our constitution makers did not want to burden the policy makers where every citizen will be going to court for asking their rights. So they came out with policy directions for our government for building an equitable and just society.

### **dictionary**

a. **untouchability** : higher caste ill treating lower caste

b. **trafficking** : transportation of humans to another country for working as slaves.

#### **1. which part constitutes fundamental right in indian constitution?**

a. part 1

b. part 2

- c. part 3
- d. part 4

Ans. Part 3

ans. C part 3

**2. which is a violation of fundamental rights?**

- a. allowing free speech
- b. paying less than minimum wages
- c. allowing to worship their religion.
- d. moving anywhere in the country.

**3. which one cannot prove to be a danger to fundamental rights of an individual?**

- a. government
- b. private organisation
- c. other individuals
- d. he himself

ans D

**4. what are bill of rights?**

- a. list of rights
- b. bill in the parliament for introduction
- c. electricity bill
- d. any rights

ans A

**5. when was the bill of rights first presented?**

- a. 1947
- b. 1950
- c. 1928
- d. 1929

ans. C

**6. which committee first presented the demands for Bill of Rights?**

- a. jawaharlal nehru committee
- b. moti lal nehru committee
- c. mahatma gandhi committee
- d. ambedkar committee

ans B

**7. which is not a fundamental right?**

- a. Right to equality
- b. Right to particular freedoms
- c. Right against exploitation
- d. right to property

ans D

**8. which article in our constitution guarantees reservation as a policy to improve backward lot?**

- a. article 16(1)
- b. article 16(2)
- c. article 16(3)
- d. article 16(4)

ans. D

**9. how many rights does right to freedom have?**

- a. 5
- b. 6
- c. 7
- d. 8

Ans B

**10. which court can deal with fundamental rights?**

- a. high court
- b. trial court
- c. supreme court
- d. lower court



**ans C**

**11. right against exploitation does not includes?**

- a. prohibition of forced labor
- b. prohibition of human trafficking
- c. prohibition of employment in children
- d. prohibition of employment of women in factories.

Ans D

**12. what is the religion of india?**

- a. hindu
- b. muslim
- c. christian
- d. secular

**ans D.** we are secular country. It means that we give equality to all religions and does favor or discriminate any one religion.

**13. which one of these is not a writ?**

- a. quo warranto
- b. certiorari
- c. permission
- d. prohibition

Ans. C

**14. when was national human rights commission formed?**

- a. 2000
- b. 2001
- c. 2002
- d. 2003

**ans. A**

**15. which amendment included fundamental duties ?**

- a. 40<sup>th</sup>
- b. 42<sup>nd</sup>
- c. 43<sup>rd</sup>
- d. 44<sup>th</sup>

Ans B

**16. When was the 42<sup>nd</sup> amendment passed?**

- a. 1972
- b. 1974
- c. 1975
- d. 1976

Ans. D