

Constitution means fundamental principles by which a form of the State is determined. These principles provide for three different bodies namely – Legislature, Executive and Judiciary. The relationship between these three bodies, their functions and power, and how to use it collectively is called constitution.

In short Constitution means fundamental law of the State.

The Constitution of India came into force from 26th January, 1950. 26th November, 1949 was the day on which the Constitution of India was born. But its seeds were sown during British time. Hence, here we shall discuss the story of the development of the Constitution of India because except its introduction study of Constitution of India would be incomplete.

In 1928 the Motilal Nehru Committee articulated the future aspirations and competence by giving report like blew print of future India on constitutional framing. In reference to Lahore Convention of 'Poorna Swrajya' 1920, Dandi March Movement 1930, Round Table Conferences were held for future constitutional amendments of Hind during 1930-1932 in which attempts to disrupt the unity of the people of India were also made by communal Judgments.

Period from 1935-1940 : Following provisions were made by India Act, 1935 :

- (1) Provisions relating to Federalism were main, in which British Provinces and Princely States were two types.
- (2) The central executive came to comprise Governor General, an advisory committee and the Council of Ministers. It had wide legislative powers. Provision was also made for central Council of Ministers. The Governor General was given the status of the constitutional head.
- (3) The central Legislature was bicameral : (a) Lower House or Federal Assembly (b) Upper House Rajya Sabha. Both had equal powers.
- (4) There was a partial acceptance of provincial autonomy in accordance with provisions related to provinces.
- (5) The central judiciary consisted of a chief justice and six other judges.
- (6) Besides, there were also provisions for railway board, attorney general and financial advisor.

In 1939 the Second World War broke out. India, without the consent of elected representatives was made of party to it. The Congress ministers in the provinces resigned. To win the heart of India an august offer was given and for the first time framing of Constitution was voiced.

Period between 1942-1950

Cripps Proposals (1942) : The British prime Minister Churchill announced Cripps proposal on 11th March 1942 when the Britain was retreating in Second World War. These proposals essentially included creation of a constituent assembly for framing the constitution, liberty to frame a new constitution for the Union and Provinces, liberty to form a separate Union etc. Giving authorities to the members of Council of Ministers for matters other then defence were the principle matters. However, Congress and Muslim league refused to accept this. The strong reaction of people was seen in 1942 'Quit India' movement.

Cabinet Mission (1946) : The Second World War came to an end in 1945 and Britain became victorious from it. Elections were held. Churchill was defeated and Mr. Atlee of the Labour party became the Prime Minister. His attitude was to give independence to India. The plan he presented became to be known as the Cabinet Mission. Which had two major aspects – future constitutional form and an interim plan.

(1) To form Union of British Hind and Princely States and to allocate them important portfolios
(2) To create three groups in Provinces. (3) Members of the constituent assembly were to be elected by the elected provincial legislatures which is to be known as Constituent Assembly. (4) To form interim Government by way of interim arrangement before independence, a Council of Ministers under the leadership of Nehru was framed on 2nd September, 1946.

Framing of Constituent Assembly

The Process of framing Constitution : The process of creating a constituent assembly got underway as per the Cabinet Mission Plan. But the country could not afford to waste time by ordering fresh elections on the basis of adult franchise. It was therefore decided that the elected members of the Provincial Legislatures of July 1946 election should elect the members of the constituent assembly. This is how the constituent assembly which was in charge of framing India's constitution came to be indirectly elected. In all, there were 389 members out of which 292 were from the British provinces, 4 belonged to the provinces under the British high commission and 13 were representative of Princely States.

Working of the Constituent Assembly : The process of framing the Constitution began on 9th December, 1946, in the constituent assembly. In all 207 members were present. Muslim league boycotted it. Dr. Rajendra Prasad, as the senior most member was elected as the Chairman of the constituent assembly. On 13th December Pandit Jawaharlal Nehru presented a resolution expressing high constitutional ideals and aspirations of people which K. M. Munshi called "Principal key of Democracy". The Constitution had been drafted in accordance with the principles only.

On 29th August, 1947, Draft Committee consisting of 7 members with Dr. Ambedkar as its Chairman was constituted. This committee studied various constitutions in the world and pulled out the best elements and prepared a draft consistent with India's social, cultural and political conditions.

Various committees : There were other sub-committee apart from the Draft committee mentioned above under the chairmanship of leading personalities. These included (1) Special Committee, (2) Process Committee (3) Management Committee (4) Advisory Committee (5) Committee for Central Power (6) Union Constitutional Committee (7) Committee for Fundamental Rights (8) Committee for Minority Rights (9) Committee for Supreme Court, and (10) Committee for Financial Relation between Centre and States etc.

Since Jawaharlal Nehru, Sardar Vallabhbhai Patel and Dr. Rajendra Prasad were the important members and chairpersons of most of the committees, their influence was predominant. The major contributors to the process of constitution making were Dr. Ambedkar, Shri Krishnaswamy Iyer, Shri N. Gopalswamy Ayenger, Shri K.M.Munshi, Shri T.T. Krishnamachari, Sir B.N.Rao, Shri K.T. Shah, Shri Mahavir Tyagi, Shri H.N. Kunjru, Shri Jaipal Singh and Smt. Durgabai, a women representative.

The working of the Constituent Assembly was spread over a period of 165 days and 12 sittings and the actual process of drafting Constitution took 114 days.

The working of the Constituent Assembly was characterized by democratic ambience and there was no taboo on length, discussion, deliberations and criticism. Total expenditure was about sixty four lakh rupees. The whole process consumed 2 years, 11 months and 18 days for this process.

The constituent assembly adopted the constitution by passing through three readings on 26th November, 1949. On 24th January, 1950, Dr. Rajendra Prasad became the first acting President and he signed that Bill. With this one of the lengthiest and most detailed Constitution of the world came into existence with 395 Articles and 8 Schedules. The Constitution was officially promulgated on 26th

January, 1950. This day is known as the 'Republic Day' all over India. Dr. Rajendra Prasad's words are significant in their context, "There is no king and there are no people in India, now all are king and all are people."

The important features of the Indian Constitution

(1) **A written and documented Constitution** : Barring Britain and partly Israel, all other democratic countries in the world have a written constitution. As India has adopted a democratic system, the constituent Assembly took maximum care in framing it. The members of the constituent Assembly were greatly influenced by the concept of western liberalism. In spite of the fact of our association with Britain and the influence that it has had on us, the framers of the constitution took into consideration our peculiar social set-up, history, diversities and such other factors while preparing the constitution and thought it fit to make it a written document.

(2) **A very lengthy Constitution** : The Constitution of India is the lengthiest and exhaustively written constitution in the world. The original Constitution of India was divided into 22 Parts with 395 clauses of Articles and 8 Schedules. The issues which could not be included into constitution are included into Schedules. At present there are 12 Schedules. During last 65 years, new Articles have been added to the Constitution of India while a few have been deleted but the sequence of the Articles has remained unchanged. In our constitution many things have been included, that is why Constitution of India has become lengthy.

(3) **Sovereign, Democratic, Republic, Secular, Socialist** : The Constitution of India declares India as sovereign, democratic, republic, secular and socialist in nature. The words 'socialist' and 'secular' were not incorporated into the original Constitution. These words were subsequently added during the emergency in the year 1976 by 42nd Constitutional Amendment. India is free from any external or internal controls. The main characteristic of a sovereign country is its absolute power to run the Government. In that respect, India is completely free now and does not have to depend upon any other external power.

(4) **Parliamentary Democracy** : Articles 79 to 122 and Articles 153 to 167 of the Constitution of India specify that at the Centre as well as in the States, respectively, parliamentary form of Governments would be constituted. In this regard, India has adopted the British model. This was so because we already had a direct experience of having a democratic form of Government. That is responsible to the Legislature. The main characteristic of a parliamentary form of Government is that the real power of governance vests in the council of ministers who are representatives of the people. The members of the Council of Ministers are drawn from the Members of Parliament or that of the State Legislature and such a Council of Ministers is responsible to the Parliament or to the State Legislature which is elected by the people. It remains in power only so long as it enjoys the confidence of the Lower House – Lok Sabha. A parliamentary Government functions on the principle of collective responsibility. So it is called a 'Responsible Government'.

(5) **Fundamental Rights** : Part III of the Constitution of India includes the Fundamental Rights. Six Fundamental Rights are guaranteed to the people of India being the citizens of independent nation to live life with dignity. These rights are necessary for all-round development of the individual's personality. It is a unique and essential feature of a democratic State. There is a constitutional provision for the protection of Fundamental Rights.

(6) **Directive principles of State Policy** : Directive Principles of State Policy are enshrined in our constitution which is an innovative step. Such principles are also seen in the Constitution of Ireland. Such principles being ethical in nature, their implementation is not obligatory for Government. But it is desired that all government should implement these principles. All Governments irrespective of their political parties are bound ethically to follow these principles. The principles incorporate the ideology of Socialism and Gandhism.

(7) **A Federalism with strong Centre** : A very important lesson that the country has learned its history that whenever the central polity of the country was weak, it invited aggression from an outside power resulting in the enslavement of the country. The only alternative to avoid or prevent such an eventuality was to make the centre strong and powerful. At the same time it was also necessary to protect and preserve the diversities

emanating from existence of different languages, cultures, religions etc. with this realization in their mind, the framers of our constitution have evolved a special type of federalism for modern India in which the centre has been allotted such powers as would make it a strong political force. In addition, a uniform pattern of administration for the entire country has been adopted. Not only that but special provisions have also been made in the Constitution by virtue of which the centre can assume extraordinary powers in the times of emergency when the very existence of the country and the constitution is at stake. In view of this, many thinkers have described our political system as a 'quasi federal polity'. It can be easily converted from a federal State into a unitary one.

(8) Bicameral Legislature : The Constitution of India has accepted the system of bicameral Legislature at the Centre. The Lok Sabha is the Lower House of the Parliament of India which comprises the elected representatives of the people. The Upper House is called the Rajya Sabha comprises such members as are elected by the Legislative Assemblies of the States and represent their respective States. As compared with the power of the Lok Sabha, the upper house of the parliament i.e. the Rajya Sabha enjoys limited powers. So much so that it enjoys no power as far as financial matters are concerned. The powers of the Lok Sabha are superior to those of the Rajya Sabha.

As far as the state legislature are concern, it has been left to the sweet will be of the State concerned either to have a unicameral Legislature or a bicameral Legislature. Most State have preferred a unicameral system of Legislature in which there exists a single house called the Legislative Assembly. But a few states have preferred bicameral Legislature, the Lower House is called the Legislative Assembly while the Upper House is called the Legislative Council.

(9) Secularism : It is the most notable characteristic of the Constitution of India.

- (i) India is a secular state. This has been discussed in the preamble of the constitution.
- (ii) The secular characteristic is reflected in the various Articles of the Constitution of India.
- (iii) The State shall not discriminate against a citizen on grounds of religion.
- (iv) Religions minorities have been given special rights and privileges by the Constitution.
- (v) Being a secular State the State will not follow any particular religion or principle based on religious belief.

(10) Constitution begins with the Preamble : The Preamble with which the Constitution of India begin can also be called the preface or foreword of the document. The Preamble briefly states some of the main characteristic of Constitution of India.

(11) Provisions for amending the Constitution : A written Constitution necessitates special provisions for introducing amendments in the context of the changing times and requirements of the country. If a Constitution can be amended by a simple majority in the Parliament, it is a flexible Constitution. If amendments can be introduced and passed with a special majority or with concurrence of the states or through a referendum, such a Constitution is considered rigid in nature. Flexibility and rigidity have both been combined in the Constitution of India.

(12) The provision of judicial review : It is one of the salient features of the Constitution of India. The Indian judiciary has been empowered to review the validity or otherwise of the laws passed by the Parliament of India , the laws passed by the Legislatures of the States, the ordinance and executive orders issued by the central and State Governments, the judgments delivered by the Supreme Court of India as well as delivered by the High Courts of the States, and the amendments made in the Constitution of the country. All these are subject to judicial review. This means that if the judiciary comes to the conclusion that the law passed by the Legislatures, orders and ordinance issued by the executive authorities and amendments to the Constitution of the country are inconsistent with the basic structure of the constitutional law, the reviewing judicial body can declare any of them ultra-vires of the Constitution of the country and therefore null and void.

(13) Unified, Integrated and Independent Judiciary : The Constitution of India provides a pyramid type, unified / integrated judiciary / Judicial structure. At the top of the pyramid is the Supreme Court, in the middle are the High Courts of the States, lower than that are the District Courts and down below are the Trial Courts. In the United States of America, where the federal polity exists, the Central and the States, have a unique and parallel judicial system.

In India the Judiciary is completely separate and independent of the Executive and the Legislature. Special provisions have been incorporated in the Constitution to ensure the independence of the Judiciary from the other two wings. An independent Judiciary is a special feature of a democratic form of Government.

(14) Special provisions for Backward Classes : Our Constitution has incorporated special provisions for backward classes, scheduled caste and scheduled tribe. Such special provisions include reservation of seats in the Parliament and Legislatures, reservation of quotas in the Government jobs for candidates belonging to them, reservation of seats in admission in educational institutions, special provision for scholarship, facilities like freeship etc. to students belonging to these castes and tribes.

(15) Universal Adult Suffrage : The Constitution of India provides the right to vote to all those citizens who have attained the age of 18. The provision of universal adult franchise under Article 326 of the Constitution is indeed a very bold step. It is a progressive step in the context of the fact that a large number of the population of the country suffers from poverty and illiteracy and yet a uniform criteria of age ensures equality between them by giving them the right to vote without any discrimination. The total numerical strength of voters in India is far greater than what it is in other democratic countries of the world— not only in terms of the ever increasing number of the voters but also in term of the democratic experiment that is being made in India.

Process for Amending the Constitution

Transformation of society is a continuous process and the State is a social institution. The Constitution which gives status of State accepts the necessity of modification according to the changing needs of the society. The Constitution of India is written and documented then also it is flexible. It has been rightly observed by M.V. Payee that Constitution of India is more flexible than rigid.

Method for introducing amendment in the Constitution : For amendment in the Constitution under Article 368 of the Constitution of India Parliament can follow three methods. These amendments can be made by passing the bill in any house. Any such amendment can be made by three readings and if required, can be send to the Select Committee. But for any amendment, it is not required to get public opinion. Methods for amending the Constitution are as follows :

(a) By simple majority : Under which the Constitution can be easily amended by the simple majority of the members of the Parliament present and voting the amendment related to issues like eligibility for citizenship, formation of Upper House in state and dismissal, salary of Chief Justice of India and other judges, creation of new States and change in the boundaries of the State etc. can be made by this method.

(b) By two third majority : In the case of few other amendments it is the members of the both the houses of parliament present and participating, provided the said amendment is carried by 2/3rd majority of those present and voting.

(c) By Special majority and Consent of States : Similarly in the case of some other amendments, it requires a majority vote of the total members of both the houses of the parliament, provided the said amendment is carried by 2/3rd majority of those present and voting and in addition the said amendment in approved by more than 50% legislative assemblies of the state of the Union e.g. Presidential election, distribution of power between centre and state, representation of state in parliament, etc.

After passing the bill from parliament it goes the President for his assent. After that the amendment is introduced.

As per Article 356 of Indian constitution, on recommendation of Governor from State or any other method the President feels that Government of a State cannot or does not function in accordance with the constitutional provisions, than he can declare emergency in the State. After declaration of emergency, entire or partial power of legislative and executive assembly are placed under the President. The President has power to suspend or dissolve the assembly. During such a period Parliament has power to form new law for state and also prepare the budget. The President has power to income expenditure from State treasury. Such rules are known as 'Presidential Rule' and the governor works under the President as his representative.

The President has to get the approval of Parliament on Bill within two months.

EXERCISE

1. Answer the following question in detail :

- (1) Write in detail the process for formation of constitution of India.
- (2) Explain the working of the Constituent Assembly.
- (3) Write the special features of Indian Constitution.

2. Write short notes on following :

- (1) Cripps proposal
- (2) Cabinet Mission
- (3) Various committees of Constituent Assembly

3. Answer the followings in one-two sentences :

- (1) On which day Indian constitutions was promulgated ?
- (2) Who is the founder of constitution ?
- (3) Who was appointed as chairman of Constituent Assembly and when ?
- (4) When the process of drafting of the constitution began by constituent Assembly ?

4. Write correct option in the given box :

(1) Which is the lower house.

- (a) Parliament (b) Rajya Sabha
(c) Vidhan Sabha (d) Vidhan Parishad

(2) When was the Quit India movement started ?

- (a) 1930 (b) 1942 (c) 1947 (d) 1950

(3) When did the world was II ended ?

- (a) 1969 (b) 1930 (c) 1945 (d) 1950

(4) How many members were there in Constituent Assembly ?

- (a) 389 (b) 395 (c) 391 (d) 292

(5) How much time was taken in drafting of India's constitution ?

- (a) 114 days (b) 124 days (c) 224 days (d) 165 days

(6) When the Indian constitution was promulgated ?

- (a) 1947 (b) 1950 (c) 1949 (d) 1930

Activities

- A lecture can be organized on the role of Dr. Babasaheb Ambedkar's contribution in drafting of Indian constitution.
- Collect information related to role of Sardar Patel in formulation of Indian constitution.
- Arrange to celebrate 'Constitution day' on 26th November.