

POLITICAL SCIENCE



12

The Making of the Indian Constitution

In the previous class, we learnt about the fundamental principles and values of democracy and how the concept of democracy was born and developed. When India fought the British government in the freedom movement, we adopted democratic values as the basis of our struggle. We gained independence in 1947 and began preparing the blueprint of a free nation on the foundation of these same democratic principles. This process was called the framing of the Indian constitution.

Every country has its constitution, which is a document that contains all the basic rules and principles according to which it should be ruled. Every country frames its constitution according to its needs and circumstances. But the constitution is not merely a collection of rules. It is a document that outlines the country's goals and priorities. It defines the mechanism - along with the rules and limits to be observed - a government can use to resolve the problems of its people.

Recall what you learnt about the Indian constitution in Class 8 and fill in the blanks in the following sentences:

1. **The Indian constitution was framed by the
..... (Parliament/Vidhan Sabha/Constituent Assembly)**
2. **The Indian constitution came into effect on (August 15, 1947/January 26, 1950/January 30, 1948)**
3. **According to our constitution, India is a (democratic country/monarchy/military-ruled country)**

12.1 Why do we need a constitution?

In a limited sense, a constitution is a set of basic rules and procedures to create a state and the government system to run the state. In a democratic system, the people get together to create the state according to their needs and interests. They give the state some powers to manage life in society so that everything runs smoothly. They also define a set of rules that the state should observe in carrying out its functions to ensure that it works for their interests and protects their rights. This set of principles, procedures and rules is called the constitution.

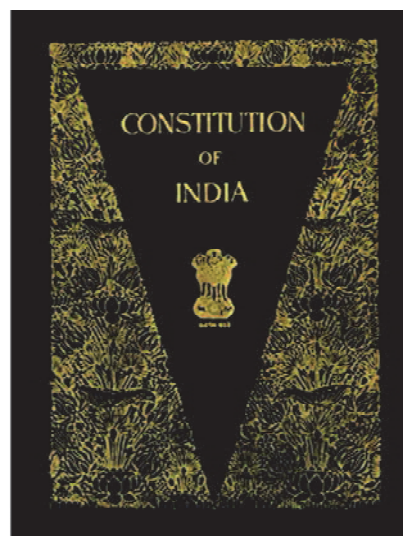


Figure 12.1: The cover page of the Constitution of India

State

Do you know how a state is defined in political science?

A unit that has a defined land area, population, government and sovereignty (freedom) is called a state, such as India and the United States of America.

Are Chhattisgarh and Madhya Pradesh states? Give reasons for your answer.

The constitution helps us to decide who should be given the power to take decisions in our society, how the government should be formed and what the nature of the government should be. It defines the boundaries within which the government can enact and implement laws. These boundaries – such as the fundamental rights of the people – cannot be violated. But a constitution is also flexible and can be amended to address the evolving needs of the people over the years. But it lays down the procedure to be followed to make these changes. It also puts a limit on the extent of change that can be made.

A constitution gives the state the power to create the conditions to build a just society to fulfil the aspirations of the people.

In its wider sense, a constitution defines a nation's basic values and ideals. It tells us how and why people want to live together as a society and what they would like to do collectively. Take the example of India. The preamble of our constitution states that the goal of the people of India is to ensure equality, justice and liberty for all citizens and promote fraternity among them. To achieve this goal, the people resolved to constitute the state as a sovereign republic that is socialist, secular and democratic and makes its own decisions without depending on – or being influenced by – any external power.

The new constitution that Japan adopted – after its two cities were devastated by nuclear bombs at the end of the Second World War – states that the country would strive for world peace and try to eliminate slavery, oppression, intolerance, fear, want, etc from the world.

Similarly, when Nepal established a democracy in May 2008 to replace the monarchy, it began the task of preparing a new constitution, forming constitutional assemblies for the purpose. The people wanted to end the authoritarian rule of the feudal monarchy, which had oppressed them and ignored their aspirations. They initiated a process of consultations and discussions between different political parties, regional groups and communities before finalising a constitution in 2015.

During Nepal's constitution drafting process, many minority communities were worried whether their rights and interests would be protected or not. So special attention was paid in the new constitution to protect all kinds of diversity, promote harmony and tolerance, eliminate discrimination and oppression, and establish decentralised self-rule in place of a centralised state.

If you had to make a constitution for your school, what procedure would you adopt? What objectives for the school would you include?

12.2 The history of the Indian constitution

The drafting of the Indian constitution has a long history. Its basic spirit is law-based governance, which means it is built on a foundation of rules and laws and not according to anybody's whims or fancies. The first such law for India was passed by the British Parliament called the 'Regulating Act' in 1772-73. By then the English East India Company had established control over large parts of India. This law laid down how it was to administer India and how it should be answerable to the British Parliament.

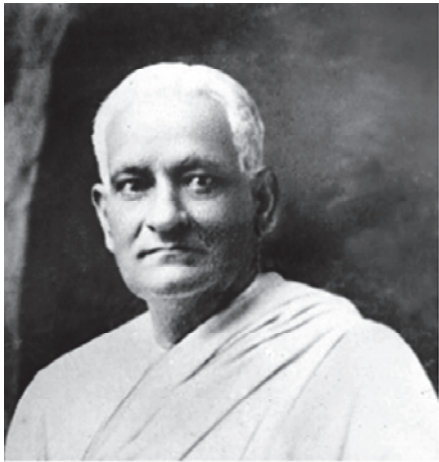


Figure 12.2: Motilal Nehru

The discussions about the constitution began in pre-independence India. At that time, the main focus was on how the East India Company should rule an India that was seeking greater autonomy and freedom and how it should be made answerable to the British parliament. At the end of the 19th century, Indians were given a limited political role by being allowed to contest elections to municipalities and other local bodies.

After 1885, the freedom fighters demanded a bigger political role in the government. A large number of Indians were already employed in the administration of the country at the time and their number was large and growing. A small segment of the population had also been given the right to elect their own

representatives in government. But power still lay in the hands of the British, with the final authority being the viceroy and the governors of the provinces. The situation changed towards the end of the First World War, when a democratic wave swept through most countries across the globe. India, too, began demanding a government elected on the basis of universal suffrage that was answerable to the people.

In 1928, India's political parties jointly constituted a committee under the chairmanship of Motilal Nehru to draft a constitution for India. The committee submitted its report on August 10, 1928. The main provisions of the draft were:

- 1) An autonomous government (with dominion status under the British) elected by all adult men and women,
- 2) Protection of minorities,
- 3) Citizens' rights such as freedom of expression, religious freedom, freedom of peaceful assembly, right to form associations and unions, secularism, and
- 4) Reorganisation of states on a linguistic basis.

After 1928, the freedom struggle picked up momentum. Seeing the growing threat the movement posed to British rule, the British parliament passed the Government of India Act (1935), which granted greater autonomy to the provinces and had limited provisions for Indians to form provincial governments with elected houses and a council of ministers that was answerable to the provincial assemblies. Many provisions of this act were later incorporated into the constitution of independent India, including, for example, the division of authority between the federal (central) and provincial governments, formation of a council of ministers by the majority party, answerability of the government to the legislative houses, reservation of seats for the depressed classes, etc.

But the 1935 act also differed in some important aspects from the constitution that independent India later adopted. For one, it limited the right to vote to a very small section of the people – just 10 percent of the country's population, whereas the constitution gave every citizen aged above 21 years the right to vote. The act also reserved some seats on a religious basis, where only those belonging to that religious denomination – Muslim, Sikh, Christian – could cast their vote. Most important, the elected government had only limited autonomy because the British viceroy and governors retained the power

to dissolve the elected assembly and dismiss the governments or veto any law enacted by the assembly. Hence, the elected government was not fully independent of British control.

The Congress party gained a majority in most of the provincial assemblies following the elections held in 1937 under the 1935 act and formed the government in those provinces. But this system of dual government did not last for long. By 1942, the Quit India movement had gained momentum and the sustained hostility of the people to British rule soon left Britain with no other option but to grant independence and quit the country.

What were the differences between the 1935 act and the constitution of independent India? What was the reason for these differences?

The constituent assembly and its functioning

In 1946, the British government sent a Cabinet Mission to India under the chairmanship of Lord Pethick-Lawrence to suggest the government system an independent India would set up and the process it would follow to adopt a new constitution. One suggestion at the time was for all adult citizens to elect a constituent assembly to draft the constitution, but many people felt that such a process would be too time consuming.

After much discussion, the Cabinet Mission suggested a way to compress the process. It proposed that the provincial assemblies elected under the 1935 act should act as the electoral college to choose the representatives of the constituent assembly. Thus, instead of direct election by the people, the elected provincial assemblies would elect the representatives.

Do you think an assembly house that was not elected by universal franchise can represent the aspirations and needs of India's diverse population?

What should such an assembly have done to get to know the opinion and aspirations of India's diverse population?



Figure 12.3: A meeting of the constituent assembly on February 3, 1947. How many women do you see?

The indirect election process was adopted and by July 1946, the provincial assemblies had elected 292 representatives from 11 provinces. That was one representative of the constituent assembly for every 10 lakh people in the population. The princely states nominated another 93 representatives while Delhi, Ajmer-Marwar and the Baluchistan province had one each to give a total of 389 representatives in the constituent assembly.

During this time, tensions were rising as discussions began to divide the country along religious lines. Communal riots broke out in many regions. When the constituent assembly met for the first time on December 9, 1946, it wasn't clear whether India would remain one country or be bifurcated. It was also not clear whether the princely states would accede to India or form independent states. It was in this environment that the meeting was held, with Dr Rajendra Prasad being elected as the permanent chairman of the assembly on December 11, 1946.

Do you know ...

After the bifurcation, the Indian constituent assembly was left with 324 members, of whom 235 were representatives of the states and 89 of the princely states.

After August 15, 1947, the constituent assembly became the sovereign body, serving as the first legislature of independent India. Its members, thus, became responsible for framing the constitution, enacting legislation, formulating policy and administering the country.

By February 1947, it was clear that the country would be divided into India and Pakistan. The rulers of the princely states began sending their representatives to the constituent assembly from April 1947. Following the partition, a special session of the assembly was held from August 14 to August 30, 1947 in which it declared itself as the sovereign law-making body of independent India. It immediately began its work by setting up a constitution drafting committee under the chairmanship of Dr Bhimrao Ambedkar on August 29, 1947.

Meanwhile, the process of merging the princely states into the Indian union was under way simultaneously. At the same time, Pakistan launched a war to acquire Kashmir even as the India-Pakistan border was being demarcated after the partition. Communal riots continued to rage across the country during this unsettled period.

The work of drafting the constitution, however, continued despite these upheavals, with committees being set up for specific tasks. They included: 1) union constitution committee, 2) states committee, 3) fundamental rights and minorities committee, 4) national flag committee, etc.

On March 17, 1947, the sub-committees sent questionnaires to all the members of the provincial assemblies and legislative bodies as well as the federal



Figure 12.4: A committee at work under the chairmanship of Dr B.R Ambedkar

legislative body, inviting their opinion on the main features of the proposed constitution. The minorities and fundamental rights sub-committees published their questionnaires in the newspapers to initiate an open and transparent discussion in public forums. People communicated their views to the sub-committees by writing letters. In this way, the work of the constituent assembly remained in the public eye as people's participation in drafting the constitution increased.

Every article of the proposed constitution invited controversy and was widely discussed, but without the debate degenerating into personal confrontations. All suggestions were seriously considered, with people giving written statements of the ideological basis of their views. The depth and seriousness of the drafting procedure can be seen in the extract from the constitutional debates given in the box.

The drafting committee also studied the constitutions of 60 countries, inviting the views of constitutional experts from these countries and sharing their conclusions with the legislative assemblies and the public. A draft constitution was prepared after this intensive process and presented on February 25, 1948. It was published to invite comments, suggestions and criticisms, with a special committee looking into the feedback to finalise the report, which was also published.

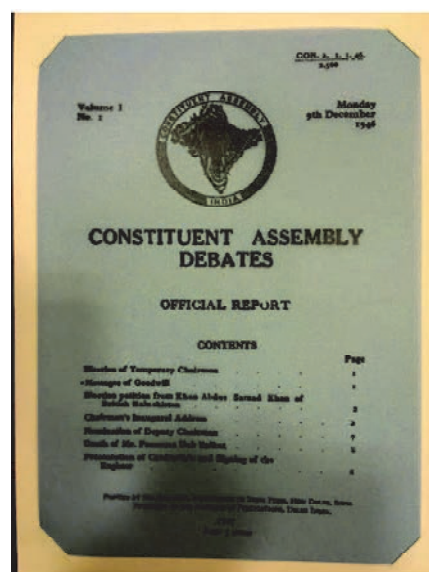


Figure 12.5: A report of the constituent assembly debates

Constituent assembly debates

Discussion of the proposals of the fundamental rights sub-committee

Tuesday, April 29, 1947

The meeting of the constituent assembly was held at half past eight in the constitution hall in New Delhi. President Dr Rajendra Prasad chaired the meeting. Vallabh Bhai Patel opened the discussion by presenting the interim report of the fundamental rights advisory committee.

Vallabh Bhai Patel: "There are two points of view ... One side feels that, to the extent possible, all rights that are directly enforceable by the court should be included. Any citizen can then approach the court directly without any difficulty to claim any of these rights.

The other point of view is that fundamental rights should be limited to only those essential things that can be considered basic. There was much discussion on both viewpoints and, eventually, a middle path was worked out between the two.

Both sides studied the fundamental rights of almost every country in the world, not just any one country. They came to the conclusion that, as far as possible, the report should include those rights that are considered reasonable and justified. There could be differences

about this in this house, which has the right to consider every article in an analytical manner, suggest alternatives, and modify or discard any suggestion.

Ranjan Singh Thakur: The point I wish to make is linked to Clause 6, which relates to untouchability. I don't think you can eradicate untouchability without putting an end to the caste system. Untouchability is nothing more than a symbol of the caste system. Till the time we do not completely abolish the caste system, it is truly pointless to try and stop the practice of untouchability in any real sense.

S.C. Banerjee: We need to first clarify what exactly untouchability means. We are familiar with this word for the past 25 years but there is still confusion about its meaning. Sometimes it means merely taking a glass of water, sometimes it is used in the sense of admission of harijans in temples. Sometimes it is about inter-caste dinners and sometimes about inter-caste marriages. So when we use the word untouchability, we should be clear in our mind what it really means. What is the exact implication of this word?

In my opinion, we should make no distinction between untouchability and caste distinctions because, as Shri Thakur has said, untouchability is just a symptom. The root cause is caste division and until this root cause is removed, untouchability will remain in some form or other. When our country gains freedom, we should expect everyone to enjoy equal social conditions.

Rohini Kumar Choudhari: In order to define untouchability, it can be clearly stated that untouchability means any act that discriminates on grounds of religion, caste or any vocation that is legally recognised.

K.M. Munshi: I oppose this amendment. The definition is worded in a way that – if it is accepted – any discrimination can become untouchability, even on the ground of place of birth or caste or even gender.

Dhirendra Nath Datta: I feel that some definition or other is necessary. It is being said here that untouchability in any form is a crime. A magistrate or judge dealing with these offences will need a definition of untouchability. Otherwise, one magistrate could consider something as untouchability while another magistrate could consider some other thing. As a result, there would be no uniformity among magistrates in dealing with such offences. It will be difficult for a judge to decide cases. Moreover, untouchability means different things in different places. It could mean one thing in Bengal and something else in the provinces.

Vallabh Bhai Patel: I would like to draw the attention of the house to Clause 24, which says the union legislature will make laws to give effect to those provisions that require legislation. So I believe the legislature will define untouchability to enable the courts to award exemplary justice.

(In this way, the task of defining untouchability was left to future legislatures.)

On September 17, 1948, a proposal was passed to translate the draft constitution in Hindi and other regional languages. On October 6, 1948, the chairman of the constituent assembly again distributed the draft to all the members. The main articles and clauses and the suggestions for amendments were printed on the first page. This draft contained 243 articles and 13 schedules. Between October 6 and 17, 1948, the number of articles discussed and finalised rose to 315. Dr Ambedkar



Figure 12.6 Dr. BR Ambedkar submitting the draft of the Constitution to Dr. Rajendra Prasad the President of the Constituent Assembly

presented this new draft on November 4, 1948. He explained why a major part of the 1935 act had been incorporated and what kind of government system India needed.

The constituent assembly then held sessions continuously for 11 months from November 15, 1948 to discuss the draft section by section and clause by clause. A total of 69 articles were finalised by January 8, 1949 and 2,500 proposals for amendments were examined by October 17, 1949. This was called the first reading.

Similarly, by November 16, 1949, consensus was built up on 386 articles. This was the second reading. The third reading of the constituent assembly began on November 17, 1948. The final draft contained 395 articles and 22 schedules, which had been discussed over 114 days, so it was approved on November 26, 1948. Two copies, one Hindi and the other English, along with a printed copy in English, were placed in the legislative assembly on January 24, 1950. All members of the house signed the three copies at the request of the chairman Dr Rajendra Prasad. The constituent assembly session came to a close with the singing of the national anthem and Vande Mataram.

The making of the Indian constitution had taken two years, 11 months and 18 days. The majority of the population welcomed and accepted the constitution even though the people had not elected the constituent assembly. So, what was the actual extent of people's participation in drafting the constitution? The constituent assembly debates were published and widely disseminated through newspapers and magazines and discussed in public forums. People



Figure 12.7 The original copy of the Preamble of the Constitution of India

also regularly presented memorandums to the assembly. But in those days, literacy rate for males was only 27 percent and a very low 9 percent for females. So it is an open question as to how and to what extent the opinions of the illiterate men and women reached the makers of the constitution.

12.3 Values and Ideals in the preamble

Our constitution begins with a preamble, which, although brief, is very important. It was Jawaharlal Nehru who introduced an 'objectives resolution' that shaped the preamble at the third session of the constituent assembly on October 13, 1946. This resolution was discussed and passed on November 26, 1949. Two decades later, the preamble was amended on January 3, 1977 to add some important concepts.

Preamble to the constitution

We, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a

SOVEREIGN, SOCIALIST, SECULAR, DEMOCRATIC REPUBLIC

and to secure to all its citizens:

JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity;

and to promote among them all

FRATERNITY assuring the dignity of the individual

and the unity and integrity of the Nation;

IN OUR CONSTITUENT ASSEMBLY this sixth day of November 1948,

**do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS
CONSTITUTION.**

(Note: The words in blue were added in 1977.)

Highlighting the importance of the preamble, Jawaharlal Nehru said: *"It is a Resolution and yet, it is something much more than a resolution. It is a Declaration. It is a firm resolve. It is a pledge and an undertaking and it is for all of us I hope a dedication."* (Constituent Assembly, 13 December 1946)

It reflects the dreams and objectives of the freedom movement, the goals that the people of the country are striving to achieve, where they want to go, and what kind of nation and state they hope to establish.

Values and ideals: The text of the preamble is a synopsis of the values, ideals, aspirations and feelings of the freedom fighters and the people of India, expressed during the freedom struggle through the

Indian renaissance, *swadeshi*, non-cooperation, civil disobedience, 'Quit India', jungle satyagraha, eradication of the caste system, women's rights, workers' and peasants' struggle, Azad Hind army and other social and political movements. It took inspiration from the revolutions in Russia (economic equality and justice), France (liberty, equality and fraternity) and America (political justice, freedom, individual freedom, human dignity).

Let us try and understand these values and ideals:

We the people of India ... do hereby adopt, enact and give to ourselves this constitution: This phrase means that the people of India have joined hands to write the constitution for all the free citizens of the country and it was not given to them by any king, government or foreign power. Hence, the people are the source of all authority.

The phrase clarifies three points:

1. That the people of India established democracy with the constitution.
2. That the creators of the constitution are the people, hence the constitution represents the will of the people. It is the outcome of the wishes of the people.
3. That the ultimate sovereign power in a democracy and constitution lies with the people.

In the words of Dr Ambedkar: "The preamble makes it clear that the source of the constitution is the people. Its inherent authority and sovereignty comes from the people. It is the people who enact, adopt and give to themselves the constitution."

The constituent assembly was not elected by universal franchise. Its representatives were elected by legislators who were elected by 10 percent of the people. So do you think it was proper to use the phrase 'We the people'?

What methods did the constituent assembly use to ensure that all the Indian people participated in drafting the constitution?

Sovereign: Independent and supreme, which means that power and authority do not come from an outside source, such as a foreign country. Within the country, the decisions of the sovereign state are supreme because the people back these decisions and accept them. Whether it is foreign policy or internal policy, the people's rule is independent and self-determined. No other power can influence or intervene because India is a sovereign state. This is an important word because it signifies India being freed from British rule.

Which of the following are sovereign? Explain with reasons.

Parliament, Supreme Court, prime minister, president, the people of India, Chhattisgarh's Vidhan Sabha, chief minister.

Socialist: This concept was added in 1977. It means that India will strive to eliminate social and economic inequality between its citizens and that all resources will be used for the public good, not for any individual interest.

Among the following, which are close to the idea of 'socialist' and which are not:

Indian railways, Kallulal & Champalal mining company, MNREGA, government hospital, Golgappa International school, cooperative committee for silk production, equal wages for men and women.

Secular: The Indian state will not be governed by any religion or sect, nor will it favour any religion or sect, nor will it discriminate against anyone on the basis of religion. The Indian people believe in different religions and sects and there are also many people who do not believe in any religion or are atheists. The state will treat all equally, with people being free to believe – or not believe – any religion. The state will also not, normally, interfere in the internal affairs of any religion except in cases where public peace, morals or health are affected. For example, the state can enact laws to curb the practice of sati, human sacrifice, child marriage etc.

In the context of Indian society, secular also means that citizens of a multi-religious and multi-sect country should respect and tolerate all religions and sects. They should respect other religions and not show hatred for them while propagating their own religion or exploring any other religion.

Which among the following would you say is not secular?

- **Organising religious rituals in a government office,**
- **Enacting laws to eliminate the practice of sati and untouchability,**
- **Enacting a law to ensure that the president belongs to a particular religion,**
- **Prohibiting religious processions in the city,**
- **Providing equal opportunity for all in government employment,**
- **Organising all-religion prayers in government offices,**
- **Studying all religions,**
- **Refusing to rent accommodation to people of any particular religion,**
- **Considering one's own religion as superior to other religions,**
- **Faithfully observing one's religion,**
- **Being friendly with people of all religions.**

Democratic: It is a government system in which all power comes from the people. They elect their representatives at fixed intervals through universal adult franchise and these representatives are answerable to the people under the law. A multi-party system, law-based government, independent and unbiased judiciary, and neutral forums to create public opinion, such as independent newspapers and TV channels, are important components of democracy. Hence, democracy is a system with people's participation in every facet of government administration.

Republic: In a republic, the head of government, such as the president, is not a hereditary position but is chosen through an electoral process. The president of India and Pakistan are elected whereas in Britain, Japan and many other countries, the head of government is the hereditary head of the royal family (dynasty). Such countries have a constitution and democracy but are not republics. They are constitutional monarchies. In a republic, the people's representatives, the first citizen and the common citizen are treated equally in the eyes of the law, whereas in a monarchy, the king holds a special position.

For many years in Burma, the army chief automatically became the president. Was this democratic? Was Burma a republic?

Our constitution declares the kind of state it wishes to establish – which is independent (**sovereign**), in which all the resources are used for the general good and there is no inequality (**socialist**), which is not based on any religion (**secular**), where the government functions according to the will of the people (**democratic**), and where the head of government is not dynastic/hereditary (**republic**). It then goes on to explain why we created this state – to deliver justice, freedom and equality to all citizens and promote harmony and cooperation between all.

Social, economic and political justice: Justice means everyone gets the rights they are entitled to and any individual or government who violates these rights will be punished by the law. If anyone is denied their rights on the ground of their poverty, political views, caste, religion or gender, it is the responsibility of the republic to deliver these rights and to create the conditions to prevent any violation of rights.

Justice is linked to the concept of equality and equal opportunity. It means more than just the legal justice obtained in the courts. It is a philosophical concept that is difficult to define. There can be many views about what a right is, what rights a person should have and who should determine these rights. New thinking on the concept of rights continues to emerge with the changing times. That is why a republic is expected to re-examine the concept of justice from time to time when formulating its policies.

Munna is an *adivasi* boy who wants to become a pilot. But there are no facilities in the place where he lives to get the education to qualify as a pilot so he has to go to a distant city to obtain such education. But Munna does not have the required finances. Is this a just situation?

Pramila and her husband both work in senior positions in the same computer company. When Pramila gave birth to a child, the family members pressurised her to quit her job to take care of the child. Is this a just situation?

Hanif believes that people should not use foreign products but should buy only *swadeshi* products. He writes articles and gives speeches to propagate his ideas. But whenever he applies for a job, he is told that he holds extreme views and his application is rejected. Is this a just situation?

Freedom of thought, expression, belief, religion and worship: Freedom means making your own decisions and living your life on your own terms, without being bound by what others say or do.

All Indian citizens enjoy the freedom to think, formulate their own views, live according to their own thinking and propagate their thoughts. They have the right to accept or reject any belief, religion or method of worship. There is no prohibition on how and in which form they express their views or how they act on their thoughts. The only condition is that they do not violate the rights of other citizens or compel them in any way.

Like justice, freedom is also a philosophical concept that cannot be fully defined in legal terms. Freedom also means that all individuals are capable and competent to make their own decisions, without

being unduly influenced and pressurised by their family, society, elders, husband/wife, or government. Only when they think freely can people express and develop their individuality. But can such freedom be limited in any way? If yes, then in what way – and how? There can be many views on this. Also, our understanding of the concept of freedom evolves with time.

In Chhattisgarh, 40 percent of women are illiterate. How does this influence their freedom?

Members of the Lok Raksha Party want to organise a public assembly in the city at night and want to have loudspeakers fitted on all the roads. The inspector-in-charge of the city police station does not give them permission. Is this a violation of their freedom of expression?

Equality of status and opportunity: Here we must note that the constitution talks of two kinds of equality – status and opportunity. In the Indian context, equality of status is, in many ways, a very important issue. From time immemorial, patriarchy, casteism and feudalism have created gross inequality in status and prestige in our society – even to the extent that some people are considered untouchable, which deprives them of many rights. At the same time, some classes in our society have been given special privileges and rights. In addition, many people who were loyal to the British government were awarded special status. The constitution seeks to eliminate these inequalities so that everyone can live the life they want and do the work they want. It took two initiatives to achieve this.

First, everyone was given equal status before the law, whether they were kings or beggars, elite or outcast, female or male.

Second, discrimination in public life on the basis of gender, caste, religion, language, etc was banned so that any citizen can aspire for any post and also use all public facilities.

The constitution talks of equal opportunity for everyone. This means everyone will not only have equal rights to aspire for any position but will also be provided equal opportunity to acquire the required qualifications. For example, if the qualifications for the post of judge are a law degree and experience in legal practice, anyone who has these qualifications can apply for the post. Also, no one can be prohibited from obtaining a law degree or practising law in court on the basis of gender, caste, religion or language.

Like justice and freedom, equality, too, is a philosophical concept. Every human being, whether woman or man, rich or poor, physically handicapped or not, young or elderly, of any religion, caste or region, gets equal respect and status as an individual. What needs to be appreciated is that the constitution does not talk about parity in everything (most noticeably economic equality). It talks only of equality of status and opportunity.

Are the following two cases against constitutional values? Think about it.

Mina was the most educated woman in her village and hence she enjoyed high status in the village. But the villagers decided to make Maheshji the chairman of the village school education committee because he belonged to a gauntiya family.

Sania is blind but she put in a lot of effort and obtained a B.Ed degree. But no school was prepared to offer her a teacher's job because she had impaired vision.

Dignity of the individual and unity and integrity of the nation: The concepts that were discussed earlier, for example freedom and equality, relate to individuals. The constitution now talks of unity, which is a collective concept. Unity means that free and equal individuals do not confront each other but live together in harmony and mutual cooperation. We do not wish to create a society in which people make individualism their ideal and think only of their own concerns. We want them to have fraternal relationships and support each other to build a united nation. But, at the same time, it will not be a nation where the individual and individualism has no place or where only the nation is considered to be supreme. It will be a nation in which the dignity of the individual is respected and upheld.

The preamble inscribes our constitutional values, which are the basis on which the government functions and which every citizen must live up to and protect.

EXERCISES

1. What are the main themes that have been included in the constitution?
2. Why is it important for the constitution to specify who has the right to make laws for the country and the process to make these laws?
3. What are the similarities and differences between the constitution drafting process in India and Nepal?
4. To what extent do you think the way in which the constituent assembly was convened was democratic?
5. What steps did the constituent assembly take to strengthen people's participation?
6. What is the importance of the preamble to the constitution in our lives?
7. Which of the basic principles listed in the constitution do you feel is the most important? Explain with reasons.