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# PGT

# POLITICAL SCIENCE

## Constitution: Why and How



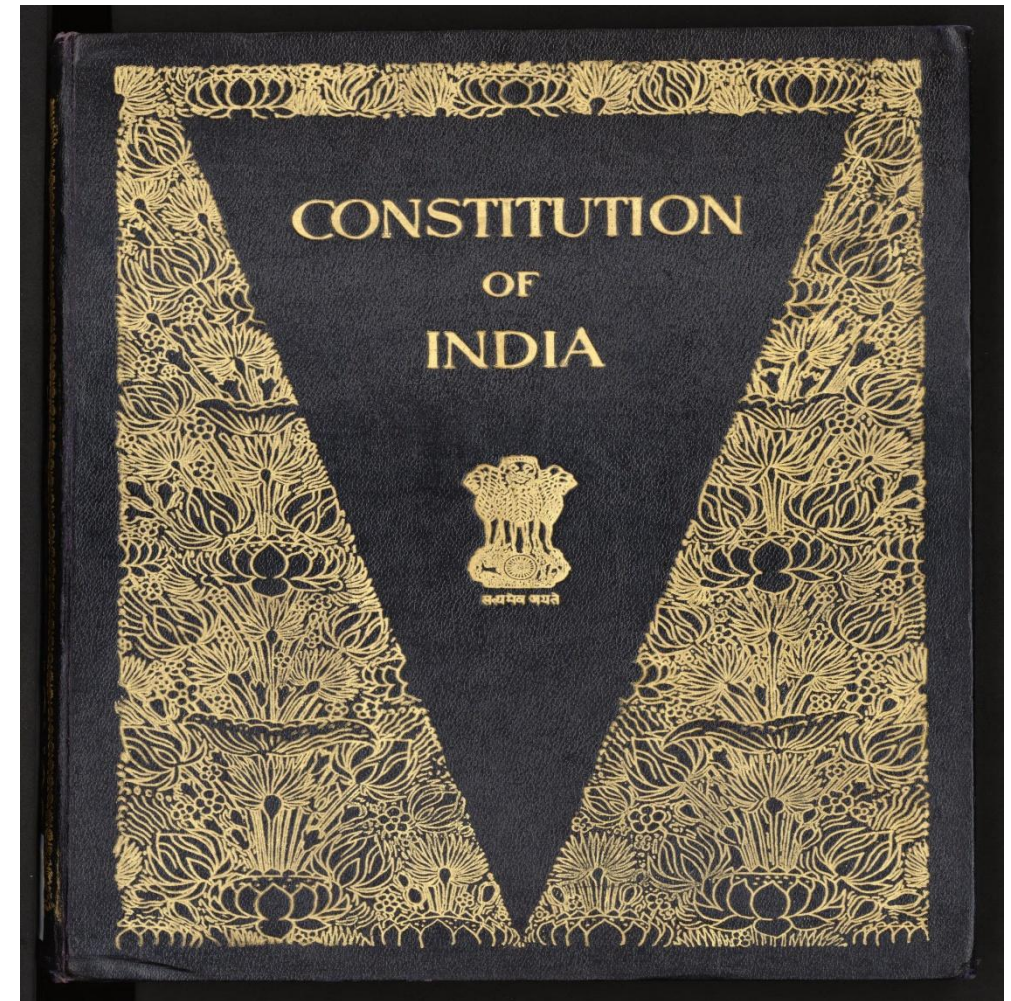
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## What is the constitution?

Constitution is the collection of rules and laws related to the governance of any country. Through this, the government of that country has sovereignty (depending on itself or on the constitution) and whatever rules and laws it makes, the people automatically follow them.



## **Types of constitution in the world :-**

There are mainly two types of constitutions in the world.

Written Constitution & Unwritten Constitution

### **Written Constitution :-**

A written constitution is that constitution, which is definitely made by a constituent assembly, it is called a written constitution.

Example:- India, America, Japan.

### **Unwritten constitution :-**

Unwritten constitution is that constitution which is not made by any Constituent Assembly but there is evidence of traditions and laws passed from time to time, judges etc.

Example:- Britain, New Zealand, Israel.

## **Functions of the Constitution :-**

- The constitution establishes the three major organs of government (legislature, executive and judiciary) of a state.
- The constitution explains the powers of the three organs of the government and also sets the limits of their duties.
- The constitution regulates the mutual relations between the three organs of government and their relations with the people.
- The constitution works to fulfill the specific social, political and economic nature, beliefs and aspirations of the people, and prevents anarchy

## Requirement of Constitution :-

- Man is a social animal. Society is made up of different types of communities. Constitution is necessary to bring harmony among these communities.
- The constitution provides a set of basic rules for creating mutual trust among the people.
- Who will have the power to take the final decision? The Constitution decides this.
- The constitution sets the rules and bye-laws of government formation and its powers and limits.
- Constitution is also necessary for the establishment of a just society.

## **Constituent Assembly in the world :-**

- The person who gave the first idea of the Constituent Assembly in the world was British / British citizen Sir Henry Maine.
- The first Constituent Assembly in the world was formed in the US state of Philadelphia in 1786. At that time there used to be 13 states in America which together made up the Constitution of America.
- After this, the Constituent Assembly was formed in France in 1789.
- The first constitution in France was written in 1793.

## **Cripps Mission :-**

- Sent to India in March 1942 by British Prime Minister Churchill under the leadership of British Member of Parliament and Labor leader Sir Stafford Cripps, whose purpose was to remove India's political deadlock.
- However, the real purpose of this mission was to entice Indians to cooperate in the war. Sir Cripps was also a member of the British War Cabinet and actively supported the Indian National Movement.
- On behalf of the Congress, Jawaharlal Nehru and Maulana Abul Kalam Azad were authorized for examination and discussion in the context of Cripps Mission.

## Indian Constituent Assembly

- The person who gave the idea of Constituent Assembly in India was MN Rai.
- 1895: - As far as India is concerned, the first vision of the Constituent Assembly in India is seen in the Swaraj Bill in 1895, which was prepared under the direction of Bal Gangadhar Tilak.
- 1922 :- In 1922, Mahatma Gandhi was the first person who gave the speech of the Constituent Assembly.
- 1924: - The first person to demand a Constituent Assembly in 1924 (in 1924 AD) was P. Motilal Nehru (his father's name was Dada Gangadhar Naharu who was the Kotwal of Lalkla, Delhi during the revolution of 1857.)



## Indian Constituent Assembly

- 1924 and 1934 :- In 1924 and 1934, Swaraj Dal was the first political party in which the demand for Constituent Assembly was made twice in 1924 and 1934.
- **Note :- The credit of taking the ideas of the constitution to the public goes to Jawahar Naharu who has mentioned in many of his speeches and made it known to the public.**
- 1936 :- 1936 Congress was established on 1885 December 28. For the first time in 1936, the Congress spoke about the importance of the meaning of the Lucknow session of the Constituent Assembly, this session was presided over by Jawaharlal Nehru (the initial workers of the Congress were 72 at that time).

## Indian Constituent Assembly

➤ 1940 :- In August 1940, the British Prime Minister Churchill was the first person who said that the people of India will prepare the constitution of India themselves.

## Formation process of the Constituent Assembly of India :-

➤ 1942: - The proposal of the Constituent Assembly on the principle of Britain was placed before the Indian in 1942 through the plan of the Cripps Mission. But the Krim's proposal was rejected by all political parties. That is why the Constituent Assembly could not be formed here.

➤ **Note: - Radical Democratic Party was the only political party that accepted the Cripps proposal, this party was formed by MN Rai.**

☐ 1945: - In July 1945, when the new Labor Party government came to power in England, the way for the formation of the Indian Constituent Assembly was opened. Vice Roy Lord Wavell confirmed this.

☐ 1946: - The practical form of the Cripps proposal was given in the name of the 1946 Cabinet Mission plan and on the basis of this, elections to the Constituent Assembly were held in July 1946.

➤ According to the cabinet mission plan – constitution making – the number of members of the body – 389 was fixed. Out of which 292 representatives were to be taken from the eleven provinces under the Governors of British India, 04 representatives were to be taken from the four provinces of the Chief Commissioners (Delhi, Ajmer-Marwar, Coorg and British Balochistan) and 93 representatives were to be taken from the Indian princely states.

➤ **Note: - Out of these, Hyderabad was the only princely state whose representatives did not come to the assembly.**

➤ Each province of the British Province was given seats in the Constituent Assembly in proportion to their population. (one place per 10 million people)

➤ The seats in each province were divided into three major communities - Muslims, Sikhs and generals in proportion to their population.

➤ June 3, 1947, according to the Mountbatten plan, the India-Pakistan partition was decided, as a result the members of Pakistan ceased to be members of the Constituent Assembly and the actual number of members of the Constituent Assembly of India was reduced to 299.

## **Nature of Constituent Assembly :-**

➤ Constituent Assembly duly inaugurated - day - Monday, 09 December 1946 at eleven o'clock in the morning.

## **Sessions of the Constituent Assembly :-**

### **➤ First Session :-**

➤ The first session of the Constituent Assembly was held on 9 December 1946. 209 members attended this meeting

➤ On 9 December 1946, Dr. Sachchidanand Sinha was appointed as the Provisional President.

### **➤ Second Session :-**

➤ The second session of the Constituent Assembly was held on 11 December 1946.

➤ During this session, on 11 December 1946, Dr. Rajendra Prasad was elected as the Permanent President of the Constituent Assembly and the Chairman of the Constitution Drafting Committee, Dr. Bhimrao Ambedkar was elected.

### **➤ Third Session :-**

➤ On 13 December 1946, Pandit Jawaharlal Nehru presented the objective of the constitution. In this the outline of the future sovereign democratic republic of India was presented. Which was accepted by the Constituent Assembly on 22 January 1947.

**Note: - The Objective Resolution was a model of the process and ideals of the Constitution, according to which the Indian Constitution was to be framed.**

#### **Fourth Session : -**

- The fourth session of the Constituent Assembly of India lasted from 14 July 1947 to 31 July 1947. During this session, the national flag tricolor was adopted on 22 July 1947.
- The Constitution of India, adopted on 26 November 1949, had 395 articles, 22 parts and 8 schedules, 3 appendices. At present the schedules have increased from 8 to 12.
- As of 25 July 2017 there were 465 articles. and became 465 on 31st December 2017.
- The Constitution of India, adopted on 26 November 1949, was duly implemented on 26 January 1950.
- There were 299/300 members in the Constituent Assembly of India, out of which on 26 November 1949, a total of 284 members were present, these 284 members signed the finally passed constitution.
- Every motion introduced in the assembly, every word and everything done there has been recorded and published in 12 rough volumes in the name of Constituents/Assemblies/Debates.

### **Total time total sittings in the making of Indian constitution :-**

➤ It took 2 years 11 months and 18 days to make the constitution and a total of 166 meetings were held and about 64 lakh rupees were spent in making the constitution.

### **Present Schedules in the Indian Constitution :-**

➤ There are twelve (12) schedules.

### **Women members in the Constituent Assembly :-**

➤ A total of 9 women members in the Constituent Assembly, out of which three were very important, were in many committees. Sarojini Naidu, Hansa Mehta, Durgabai Deshmukha and other princesses were Amrita Kaur, Begum Ejaz Rasool, Vijayalakshmi.

### **Drafting Committee of the Constituent Assembly :-**

➤ On 29 August 1947, Dr. Constitution of seven member committee under the chairmanship of Bhimrao Ambedkar. This committee presented the draft of the Constitution to the President of the Constituent Assembly on 21 February 1948.

## **Formation process of the Constituent Assembly of India :-**

- First meeting on 9 December 1946, Provisional President Dr. Satchidananda.
- Cabinet Mission Proposal.
- 11 December 1946 Dr. Appointment of Rajendra Prasad as permanent chairman.
- Member No. 389 , (292 + 4 + 93 ) .
- 14 August 1947, Partitioned India Constituent Assembly meeting, total meetings – 166.

## **Four shortcomings in the formation of the Constituent Assembly of India :-**

- Lack of sovereignty.
- Improper classification of provinces.
- The princely states were not compelled to follow the constitution.
- The members of the Constituent Assembly were elected in an undemocratic manner.



## Preface :-

➤ The purpose of the constitution maker is the essence of the ideas, the preamble is also called the preamble or preamble, its basis is considered to be the objective proposal.

**Note: - The definition of the Preamble has been taken from the Constitution of Australia and its practical form has been taken from America. The constitution is the mirror of the nation and the system of governance and the preamble is the mirror of the constitution.**

➤ **In the Preamble 3 types of justice have been used.**

➤ Social justice

➤ Economic justice

➤ Political justice

➤ **social justice** - the right to social justice has been ranked in the original places, especially equity.

- **economic justice** - economic justice has been ranked in the policy director elements.
- **political justice** - has the right to vote for political justice and election rights.

**Note :- Preamble is considered as part of the constitution.**

- The Preamble is the mirror of the Constitution.
- The preamble is also called the key to the republic and the essence and purpose of the constitution, philosophy.
- This was said by KM Munshi.
- By the 42nd Constitutional Amendment Act 1976, 3 new words were added to the Preamble.
  - Socialism (ii) Secularism (iii) Integrity (Unity and Integrity)

**Note :- On 22 July 1947, the Constituent Assembly adopted the national tricolor.**

- On 26 January 1950, the Government of India gave the status of a national emblem to the Ashoka Pillar.
- 24 January 1950 Constituent Assembly Jan - Gan - mind was given the status of the national anthem and national song were also the Vande Mataram.
- On 14 September 1949, the Constituent Assembly gave the status of official language to Hindi and script Devanagari.
- In the year 2000, a National Commission was set up by the Vajpayee government under the chairmanship of Justice MN Venkatacharya to investigate the working of the Constitution. 22 feb 2020
- law rule in India is moving from the constitution the name of our country in the Constitution is the 2-way "India That India" India "That India"
- The world's smallest constitution is that of America, which has only 7 articles and it came into force on 4/3/1789.

## **Sources of Indian Constitution :-**

- About 75 percent of the constitution was taken from the Government of India Act 1935.
- 10 Fundamental Human Rights were included from the Motilal Nehru Committee Report appointed in 1928.
- Some things from the constitutional system of other countries were also included in the Constitution of India such as :-

## **British Constitution :-**

- The decision to win the election on the basis of the highest number of votes.
- Parliamentary form of government.
- The idea of rule of law.
- The office of the Speaker in the legislature and his method of law making.

## **Sources of Indian Constitution :-**

### **Constitution of America :-**

- List of Fundamental Rights.
- Power of judicial review and independence of judiciary.

### **Constitution of Ireland :-**

- Directive Principles of State Policy.

### **Constitution of France :-**

- The principle of liberty, equality and fraternity.

### **Constitution of Canada :-**

- Form of a quasi-federal government (federal system with a strong central government).
- Theory of residuary powers.

## **Features of the Constitution :-**

- A complete constitution written by the representatives of the people.
- It constitutes a fully sovereign, democratic, socialist, secular republic.
- Reminds citizens of Fundamental Rights along with Fundamental Duties.
- There is an independent judiciary.
- Parliamentary government system.
- Directive Principles of State Policy etc.

## **Indian constitution rigid :-**

- Constitution is rigid – According to Article 368, amendment in some subjects requires the support of at least half of the state legislatures in addition to a two-thirds majority of the members of the Parliament. (special majority)

## **Indian Constitution Flexibility :-**

- The Indian Constitution is flexible because many amendment provisions in it are amended by passing the simple majority of the Parliament.

**Expansion of words mentioned in the Preamble of the Indian Constitution :-**Justice, (b) Liberty, (c) Equality, (d) Fraternity, (e) Secularism, (f) Socialist

- Justice: - To provide social, economic and political justice.
- Freedom:- Freedom of expression, thought, belief, religion, deed and worship, devotion.
- Equality:- The end of all forms of discrimination or freedom from discrimination.
- Fraternity:- To create a feeling of mutual love / affection among every citizen of the country.
- Secularism:- Freedom to practice religion to citizens of all religious views.
- Socialist: The aim of the government should be maximum public welfare, social welfare work, public welfare work. Society is supreme

**Constitution making controversy in Nepal :-**

- Since 1948, five constitutions have been made in Nepal - 1948, 1951, 1959, 1962, 1990 and 2006. At present the Madhesi movement is protesting against this. Most of the people want amendment in the constitution.

## **Fundamental provisions of a successful constitution :-**

- Every person must have a reason to respect the provisions of the Constitution.
- Ensuring social security of minorities from the majority, providing equal facilities.
- Strengthening the power of small social groups.
- To protect the freedom of all in the society.

## **When was the constitution of South Africa made?**

- The Constitution of South Africa was made in December 1996.

## **Global problems included in the constitution of South Africa :-**

- Environmental protection, class discrimination, housing problem, health problem, global poverty.