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Introduction to Constitution

In this chapter, we begin with the concept of constitutive rules using the example of football, a game played with the feet where handling the ball with hands (except by the goalkeeper) is a foul. Similarly, other games like hockey and cricket have their own rules that define them. These fundamental rules are called constitutive rules. Societies also have constitutive rules that define their nature and differentiate them from other societies. In large societies with diverse communities, these rules are formulated through consensus and are usually written down in a document called a Constitution.

Most countries today have a Constitution. While democratic countries generally have one, not all countries with a Constitution are democratic. The Constitution lays out ideals that define the nature of the society and the type of government. It serves as a set of rules and principles agreed upon by all citizens to govern the country.

What is a Constitution?

A Constitution is a written document that contains the fundamental rules and principles that govern a country. It defines the nature of the society, the political system, and the rights and duties of citizens.

Exam Question: What is the purpose of a Constitution in a country?

Answer: A Constitution lays down the fundamental rules and principles that govern a country, defines the nature of its society and political system, and protects the rights and duties of its citizens.

Constitution and Democracy

The Indian Constitution was drafted by the Constituent Assembly between 1946 and 1949 after India gained independence from British rule. The Constitution reflects the ideals of democracy, unity in diversity, and socio-economic reforms. It was created through consensus among members representing different communities, languages, and religions.

Democracy means that people choose their leaders who exercise power responsibly on their behalf. The Constitution provides safeguards against misuse of power by leaders, such as the Fundamental Rights that guarantee equality and prohibit discrimination.

Why do we need a Constitution in a democracy?

The Constitution ensures that power is exercised responsibly, protects citizens' rights, prevents misuse of authority, and maintains social harmony by protecting minorities from domination by the majority.

Exam Question: How does the Constitution protect citizens in a democracy?

Answer: The Constitution protects citizens by laying down rules that prevent misuse of power by leaders, guaranteeing Fundamental Rights like equality and freedom, and ensuring minorities are not dominated by the majority.

People's Struggles for Democracy in Nepal

Nepal was a monarchy until recently. A people's movement in 1990 established democracy, which lasted until 2002. The King took over government powers in 2005, but a people's movement in 2006 restored democracy. Nepal adopted a new Constitution in 2015 to reflect democratic ideals and replace the earlier Constitution that vested power in the King.

This shows how constitutive rules change when a country moves from monarchy to democracy, requiring a new Constitution to establish a new social and political order.

Why did Nepal need a new Constitution?

Nepal needed a new Constitution because the earlier one reflected monarchy rule, and the people wanted a democratic system that represented their ideals and aspirations.

Exam Question: Explain why a country moving from monarchy to democracy needs a new Constitution.

Answer: Because the old Constitution reflects the monarchy's power structure, a new Constitution is needed to establish democratic rules and principles that represent the people's will and protect their rights.

Importance of Constitution in Democratic Societies

The Constitution defines the political system, lays down ideals, and provides safeguards against misuse of power. It prevents tyranny by the majority and protects minorities. It

also guards citizens from making decisions that could harm the larger interests of society.

For example, the Constitution guarantees Fundamental Rights such as equality, freedom of speech, and protection against exploitation. It also contains Directive Principles of State Policy to guide social and economic reforms.

How does the Constitution prevent misuse of power?

By defining the separation of powers among legislature, executive, and judiciary, and by guaranteeing Fundamental Rights, the Constitution limits the authority of leaders and protects citizens.

Exam Question: What are Fundamental Rights and why are they important?

Answer: Fundamental Rights are basic rights guaranteed by the Constitution to all citizens, such as equality, freedom, and protection from exploitation. They are important because they protect individuals from discrimination and misuse of power.

Key Features of the Indian Constitution

The Indian Constitution has several important features that balance diversity, unity, and democratic governance:

- **Federalism:** India has multiple levels of government – central, state, and local (Panchayati Raj) – each with specific powers and responsibilities.
- **Parliamentary Form of Government:** Representatives are elected by the people through universal adult suffrage. These representatives are accountable to the people.
- **Separation of Powers:** The Constitution divides government powers among the legislature, executive, and judiciary to prevent misuse of power.
- **Fundamental Rights:** Rights such as equality, freedom, protection against exploitation, freedom of religion, cultural and educational rights, and constitutional

remedies.

- **Secularism:** The state does not promote any one religion as the official religion.

What is Federalism?

Federalism is a system where power is divided between different levels of government, each having autonomy in certain areas but working together on national issues.

Exam Question: Explain the concept of federalism in India.

Answer: Federalism in India means that there are multiple levels of government – central, state, and local – each with its own powers and responsibilities as defined by the Constitution.

What is the Parliamentary Form of Government?

It is a system where the government is elected by the people through representatives, and the government is accountable to the legislature and the people.

Exam Question: How does the Parliamentary system ensure accountability?

Answer: The government is elected by the people and is accountable to the legislature, which represents the people. If the government loses the confidence of the legislature, it must resign.

What is Separation of Powers?

The Constitution divides government functions among three organs: legislature (makes laws), executive (implements laws), and judiciary (interprets laws). This prevents concentration of power and ensures checks and balances.

Exam Question: Why is separation of powers important?

Answer: It prevents misuse of power by ensuring that no single branch of government has absolute authority and each branch can check the others.

What are Fundamental Rights?

Fundamental Rights are basic rights guaranteed to all citizens, including equality before law, freedom of speech, protection against exploitation, freedom of religion, cultural and educational rights, and the right to constitutional remedies.

Exam Question: Name any three Fundamental Rights guaranteed by the Indian Constitution.

Answer: Right to Equality, Right to Freedom, Right against Exploitation.

What is Secularism?

Secularism means the state does not have an official religion and treats all religions equally.

Exam Question: What does secularism mean in the context of the Indian Constitution?

Answer: It means the state does not promote any religion as official and ensures equal treatment of all religions.

Constitution Making Process in India

The Indian Constitution was drafted by the Constituent Assembly, which met from 1946 to 1949. The Assembly consisted of around 300 members representing diverse communities. They worked with great unity and consensus to draft a Constitution that balanced diversity, unity, and democratic ideals.

Dr. B.R. Ambedkar, known as the Father of the Indian Constitution, played a key role in ensuring safeguards for Scheduled Castes and other marginalized groups.

Who were the members of the Constituent Assembly?

The Constituent Assembly was made up of representatives from different communities, religions, and regions of India, tasked with drafting the Constitution.

Exam Question: What was the role of the Constituent Assembly in India?

Answer: The Constituent Assembly drafted the Indian Constitution by discussing and agreeing on the rules and principles that would govern independent India.

Fundamental Duties

The Constitution also lists Fundamental Duties for citizens, which include respecting the Constitution, the national flag, and the national anthem, promoting harmony, protecting the environment, and safeguarding public property.

Exam Question: Why are Fundamental Duties important in a democracy?

Answer: Fundamental Duties remind citizens of their responsibilities towards the nation and help maintain democratic values and social harmony.

Solved Examples

Example 1: Explain why the Constitution is called a set of constitutive rules.

Solution: Constitutive rules are fundamental rules that define a system. The Constitution lays down the fundamental principles and rules that define how a country is governed, making it a set of constitutive rules.

Example 2: How does the Constitution protect minorities from majority domination?

Solution: The Constitution includes provisions that guarantee rights to minorities and prevent the majority from making decisions that exclude or discriminate against minorities.

Practice Set

Easy

- What is a Constitution?
- Name two Fundamental Rights guaranteed by the Indian Constitution.
- What does federalism mean?

Moderate

- Explain the importance of separation of powers in a democracy.
- Why did Nepal adopt a new Constitution in 2015?
- What is the role of the Constituent Assembly?

Challenging

- Discuss how the Indian Constitution balances diversity and unity.

- Explain the safeguards the Constitution provides against misuse of power by political leaders.
- Describe the significance of Fundamental Duties in maintaining democratic values.

Answer Key

- **What is a Constitution?** – A written document containing fundamental rules and principles that govern a country.
- **Name two Fundamental Rights.** – Right to Equality, Right to Freedom.
- **What does federalism mean?** – Division of power between central and state governments.
- **Importance of separation of powers:** – Prevents misuse of power by dividing government functions.
- **Why Nepal adopted new Constitution:** – To establish democracy replacing monarchy.
- **Role of Constituent Assembly:** – Drafted the Indian Constitution.
- **Balancing diversity and unity:** – Through federalism, fundamental rights, and inclusive provisions.
- **Safeguards against misuse of power:** – Fundamental Rights, separation of powers, checks and balances.
- **Significance of Fundamental Duties:** – Remind citizens of responsibilities to uphold democracy.

Quick Reference

- **Constitution:** Fundamental rules governing a country.
- **Federalism:** Multiple levels of government with defined powers.
- **Parliamentary Government:** Elected representatives accountable to people.
- **Separation of Powers:** Division of government into legislature, executive, judiciary.
- **Fundamental Rights:** Basic rights guaranteed to all citizens.
- **Secularism:** Equal treatment of all religions by the state.
- **Constituent Assembly:** Body that drafted the Indian Constitution.
- **Fundamental Duties:** Responsibilities of citizens towards the nation.

Glossary

- **Arbitrary:** Decisions made without fixed rules or reason.
- **Ideal:** A perfect or excellent principle or goal.
- **Indian National Movement:** The struggle for India's independence from British rule.
- **Polity:** An organized political society or government.
- **Sovereign:** Independent and self-governing.
- **Human Trafficking:** Illegal trade of humans, especially women and children.
- **Tyranny:** Cruel and unjust use of power.

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