

## **1. CONSTITUTION : WHY AND HOW?**

Constitution is a compact document that comprises a number of articles about the state, specifying how the state is to be constituted and what norms it should follow.

### **FUNCTIONS OF THE CONSTITUTION**

#### **1. CONSTITUTION ALLOWS COORDINATION AND ASSURANCE**

The first function of a constitution is to provide a set of basic rules that allow minimal coordination and assurance amongst members of a society. Constitution helps to overcome the problem of diversity and enable the people to live peacefully. Constitution enforces same rules for all the members.

#### **2. SPECIFICATION OF DECISION MAKING**

The second function of a constitution is to specify who has the power to make decisions in a society. A constitution is a fundamental body of principles according to which a state is constituted or governed. Constitution Specifies the basic allocation of power in a society. Powers of different organs of the government are clearly defined in the constitution

#### **3. LIMITATIONS ON THE POWERS OF THE GOVERNMENT**

The Third function of the constitution is to to set some limits on what a government can impose on its citizens. Constitution restrict the powers of the government to protect the basic rights of individual.

#### **4. ASPIRATIONS AND GOALS OF A SOCIETY**

The fourth function of the constitution is to enable the government to fulfil the aspirations of a society and create conditions for just society. Modern constitutions contains a number of positive measures to overcome forms of inequality and to ensure the welfare of the society.

## 5. FUNDAMENTAL IDENTITY OF PEOPLE

Constitution expresses the fundamental identity of a people. Constitution is helpful to sideline regional, linguistic and communal identities and to create a national identity. The Constitution also helps in inculcating political and social values among the citizens.

## CONSTITUENT ASSEMBLY OF INDIA

Idea of a separate constitution for India was first raised by M N Roy. Later Indian National Congress and Jawaharlal Nehru also raised the same demand. Cabinet Mission recommended and British government accepted the formation of a constituent assembly for India. The Constituent Assembly had 389 members. 296 members were elected from the British Indian provinces and 93 members were nominated by the princely states. Members were assigned to each area in proportion to the population. The seats were allotted roughly in the ratio of 1:10,00,000. Seats in each province were distributed among the three main communities Muslims, general and Sikhs. Members of the Constituent Assembly represented different communities in India. 26 members were from Scheduled Castes.

The first meeting of Constituent Assembly was presided by **Dr. Sachchidananda Sinha** as he was the eldest member. **Dr. Rajendra Prasad** was the President of the Constituent Assembly. **Dr. B R Ambedkar** is known as the Father of the Constitution of India and the Chief Architect of the Constitution. Dr. B R Ambedkar was the Chairman of the Drafting Committee. Following the decision to partition British India, the membership of the Constituent Assembly was reduced to 299. The first session of the Constituent Assembly convened on December 9, 1946. The drafting of the Constitution was completed on November 26, 1949. However, the Constitution came into force on January 26, which

was celebrated as **Purna Swaraj Day**. India became a republic on January 26, 1950.

## The Authority of a Constitution (Authenticity of the Constitution of India)

Three factors play an important role in determining the authenticity of the Constitution.

### 1. Mode of Promulgation

Makers of the constitutions is a very important factor in deciding the authenticity of a constitution. Constitutions prepared by the people's representatives are more acceptable. The constitutions of countries like India, South Africa and the United States are examples of this. It is easy to create the impression among the people that constitutions written by representatives of the people are for the welfare of the people. In some countries, referendums are held to verify the validity of the constitution.

*The Constitution of India is recognized as authoritative as it is written by the people's representatives. The authenticity of the Constitution is also strengthened by the fact that decisions are taken after careful discussions in the Constituent Assembly. Most members of Indian Constituent Assembly were indirectly elected. Different communities were given due importance in the Constituent Assembly*

### 2. Provisions of the Constitution

It is more acceptable to have constitutions that contain provisions that are acceptable to all sections of society. The Constitution should include provisions favourable to the minorities in the society. Constitutions that protect the rights of only a particular group of people will not be acceptable to other sections of the population.

*The Constitution of India contains provisions that satisfy all sections of the people in the society. Giving special rights to*

*backward classes and minorities makes the Constitution of India more authoritative.*

### **3. Balanced Institutional Design**

The best constitutions are those in which the powers are precisely divided into different organs of the government. Such constitutions can precisely check dictatorial tendencies. True constitutions are those that accurately reflect the values that exist in society. The inclusion of provisions for constitutional amendments is another hallmark of a better constitution.

*The Constitution of India clearly divide the powers to the Legislature, the Executive and the Judiciary. Accurate division of power makes the Constitution of India more authoritative.*

### **Objective Resolution by Nehru**

On December 13 1946, Jawaharlal Nehru introduced the Objective Resolution in the Constituent Assembly. The resolution, adopted by the Constituent Assembly, became the basis of the Indian political system and guided the constitution-making process. Below are the main ideas put forward in the objective resolution.

- India is an independent and sovereign republic.
- India shall be a union of states.
- All the power of independent India flow from the people.
- Social, economic and political justice will be guaranteed to all the people of India.
- The minorities, backward classes, tribal people and other disadvantaged people shall be provided adequate safeguards.
- The territorial integrity of the republic and its sovereign rights on land, sea and air shall be maintained in accordance to justice and law of the civilized nations.

- The land would make full and willing contribution to the promotion of world peace.

## Provisions Borrowed from Other Constitutions

### British Constitution

Parliamentary system, FPTP system, Rule of law, Institution and powers of speaker, Law making procedure

### American Constitution

Fundamental rights, Judicial review, Independence of the judiciary

Irish Constitution - Directive Principles of State Policy

### French Constitution

Principles of Liberty, Equality and Fraternity

### Canadian Constitution

Semi-federal system, Residual powers

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