

Materials for SNC students

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National Commission to Review of Working of Constitution –

This commission was set up to examine how the Constitution can best respond to the changing needs of modern India's efficient, smooth, and effective system of governance and socio-economic development within the framework of Parliamentary democracy. The commission was set up in the year 2000 under the chairmanship of Justice Venkatachalliah.

Make recommendations for changes, if any, to the Constitution's provisions without interfering with its basic structure or features. The aim of the commission was to examine as to how the constitution can best respond to the changing needs of efficient, smooth system of governance and to recommend changes if required without interfering with the basic structure of the constitution. The commission clarified that its job was to study the Constitution's operation rather than modify it, and that its role was exclusively consultative and recommendatory. The Parliament was hence given the option of accepting or rejecting any of the recommendations.

List of the commission's major recommendations:

➤ Fundamental Rights:

- Article 19's freedom of speech and expression should be expanded to expressly include "the freedom of the press and other media, etc."
- Article 21-A, the right to education, should be expanded.
- The following should be added as new fundamental rights: (a) right against torture, cruelty, inhuman treatment or punishment. (b) right to compensation if a person is illegally deprived of his right to liberty. (c) right to leave and return to India (d) right to privacy (e) right to rural wage employment for a minimum of 80 days in a year (f)

right to speedy trial (g) right to free legal aid (h) right to safe drinking water, prevention of pollution etc.

In terms of preventive detention two adjustments should be made:

- The maximum length should be six months; and
- The advisory board should be composed of a chairman and two other members who should be serving judges of any high court.
- Sikhism, Jainism, and Buddhism should be considered as independent religions from Hinduism, and the clauses combining them under Article 25 should be removed.
- During the operation of a national emergency, the enforcement of the Fundamental Rights under Articles 17, 23, 24, 25, and 32, as well as those under Articles 20 and 21, should not be suspended.

➤ On Directive Principles:

- Part IV of the Constitution's heading should be changed to 'Directive Principles of State Policy and Action.'
- A new Directive Principle on Population Control should be added to the list.
- Every five years, an independent National Education Commission should be established.
- To promote inter-religious harmony and social solidarity, an Inter-Faith Commission should be constituted.

➤ On Fundamental Duties:

- The ways and mechanisms by which Fundamental Duties could be publicized and made effective should be considered.
- Article 51-A should add the following new essential responsibilities:
- The responsibility to vote in elections, participate actively in the democratic process of governance and pay taxes.

- To promote a sense of family values and responsible parenting in matters of children's education, physical, and moral well-being.
- On executive and administration:
- In case of a hung parliament, the Lok Sabha may elect the leader of the house.
 - A motion of no confidence should be accompanied by a proposal of an alternative leader simultaneously.
 - For a motion of no-confidence against the government at least 20 percent of the total number of members of the house should give notice.
- On Anti-Defection Law and election process:
- All individuals who defect (individually or in groups) from the party or alliance of parties on whose ticket they were elected must renounce their parliamentary or assembly seats and run in new elections.
 - The defectors should be forbidden from holding any public office, including ministerial positions, or any other remunerative political position, for at least the remainder of the current legislature's term or until the next elections, whichever comes first.
 - A vote cast by a defector to overthrow a government should be considered void.
 - The Election Commission, rather than the Speaker or Chairman of the House concerned, should have the authority to determine on questions of defection disqualification.
 - Any person charged with an offence punishable to five years or more cannot be chosen as a candidate for MP and MLA.
 - Any person committing a grave crime such as murder, rape, dacoity should be permanently debarred from contesting for an office.
 - An independent candidate who has lost three times consecutively should be debarred from contesting elections again.

➤ Political Parties

- Political parties should not have any discrimination while granting membership to candidates.
- Make it compulsory for parties to maintain funds and expenditure in a systematic way
- No political party should provide ticket to those candidates if they are convicted of any criminal offence or if there are any criminal charges against them.
- There should be transparency in funding of political parties

➤ On Center-State Relations:

The National Commission to Review the Working of the Constitution made recommendations, many of which were similar to those made by the Sarkaria Commission.

- According to Article 307, a legislative organization named the Inter-State Trade and Commerce Commission should be constituted.
- A committee consisting of the Prime Minister, Home Minister, Speaker of the Lok Sabha, and the Chief Minister of the state in question shall nominate the Governor.
- The Concurrent List of the Seventh Schedule should cover disaster and emergency management.
- In the event of a political breakdown in a state, the state should be given an opportunity to explain its position and correct the situation before invoking Article 356, to the extent possible.

➤ Judiciary

- A national judicial commission under the constitution should be established to recommend the appointment of the judges of the Supreme Court. A committee in this commission should examine complaints of the behaviour of the judges of the Supreme Court and the high court.

- The retirement age of the high courts and the Supreme Court judges should be increased to 65 and 68 respectively.
- In the Supreme Courts and the High Court's judgements should be delivered within 90 days of the conclusion of a case.