

Indian Constitution- Definitions, basic structure and sources – Lec-2

- **Historical Background**
- **Definition of constitution**
- **role of a constitution**
- **need for a constitution**
- **Sources of our constitution**

Historical Background

- India has a colonial legacy and became independent in 1947.
- The process of framing the constitution making had started way back in 1934.
- MN Roy was the first person to recognize the need for constituent assembly in 1935.
- In 1938 INC officially demanded a CA for framing Indian constitution and Nehru declared, the constitution of free India will be framed without any external interference.
- CA will be elected on the basis of Adult franchise

- The demand for CA was accepted by Britishers in “**August offer**” 1940.
- The constituent Assembly was **constituted** in 1946 under the **cabinet Mission plan**.
- Under this plan the membership of CA was 389 (296 seats were to be allotted to British India and 93 seats to the princely states).
- The first meeting of CA was held on 9th December 1946.
- Muslim League boycotted this meeting as they were demanding setting up of 2 constituent assemblies (one for a separate nation Pakistan) .
- The meeting was only elected by 211 members and Dr. Sachinanda Sinha was the temporary president of the assembly.

- The CA was succeeded by Rajendra Prasad as the president of the assembly and HC Mukherjee and Krishanmurari as vice presidents.

- The word 'Constitution' is developed from the word 'Constitute', which means 'to frame or to establish or to compose'.
- It defines the relationship between the rulers and the ruled and how rulers are created in the country.
- It upholds the principle that all citizens are equal before the law.
- Any law which is not in accordance with the Constitution becomes invalid

ROLE OF THE CONSTITUTION

- Constitution is an important instrument which confers powers, rights, functions, principles, restrictions and obligations on the part of individuals, states and everybody who are the citizens of India.
- The purpose of the Constitution is to maintain harmonious relations between the individuals and the states on the one hand and between the different organs of the government on the other.
- The Constitution reflects the will and wish of the people.

- **Basic Structure of the Constitution**

- 1. Federal Structure: That it is to say there exists both State and Central forms of Governments.
- 2. Supremacy of the Constitution: All the authorities derive their powers, rights, duties and obligations from the Constitution.
- 3. Distribution of Powers: The distribution of power for running the country effectively has been done on the Principle of 'Doctrine of Separation of Power'.

- **The Indian Constitution Framers**

- The work started with the presentation of the 'Objective Resolution' moved on 13th December, 1946 by Pandit Jawaharlal Nehru and was adopted on 22nd January, 1947.
- Dr. Sachchidananda Sinha was the first president (temporary) of the Constituent Assembly when it met on December 9, 1946.
- Later, Dr. Rajendra Prasad became the President of the Constituent Assembly and Dr. Bhimrao Ambedkar became the Chairman of its drafting committee on December 11, 1946

- Dr BR Ambedkar was appointed the head of the drafting committee with one objective - draft a permanent and organised constitution for India.

Members were: Alladi Krishnaswami Ayyar, N. Gopalaswami Ayyangar, Dr. K. M. Munshi, Syed Md. Saadulla, B. L. Mitter (was replaced by N. Madhava Rao) and D. P. Khaitan (was replaced by T. T. Krishnamachari)

- **Indian Constitution with many sources**
- **British Constitution** • Parliamentary form of Government • The Idea of Single Citizenship • The Idea of the Rule of Law • Institution of Speaker and his/her Role • Law-making procedure
- **United States Constitution** • Charter of Fundamental Rights, which is similar to US's Bill of Rights • Federal Structure of Government • Organization and Powers of Supreme Court • Power of Judicial Review and Independence of the Judiciary • The post of Vice President
- **Irish Constitution** • Constitutional Enunciation of the Directive Principles of State Policy
- **French Constitution** • Republic • Ideals of Liberty, Equality and Fraternity

- **Germany Constitution** • Proclamation of Emergency
- **Japanese and Chinese Constitution** • The Idea of the Fundamental Duties
- **Canadian Constitution** • A Quasi-federal form of Government (a Federal system with a strong Central Government) • The Idea of Residual Powers
- **Australian Constitution** • The Idea of the Concurrent List • Freedom of Trade and Commerce within the Country and between the States
- **South African Constitution** • Constitutional Amendments
- **Soviet Constitution** • The Planning Commission and Five-year Plans

- Reference:

- M.Raja Ram (2009)- Indian Constitution