

## CHAPTER 3

# CONSTITUTIONAL DESIGN

Q2. Who was Nelson Mandela?

Ans. Nelson Mandela was a South African anti-apartheid revolutionary, political leader and philanthropist who served as President of South Africa from 1994 to 1999.

Q1. When did South Africa become independent?

Ans. May 31, 1961

## OVERVIEW

We noted in the previous chapter that in a democracy the rulers are not free to do what they like. There are certain basic rules that the citizens and the government have to follow. All such rules together are called constitution. As the supreme law of the country, the constitution determines the rights of citizens, the powers of the government and how the government should function.

In this chapter we ask some basic questions about the constitutional design of a democracy. Why do we need a constitution? How are the constitutions drawn up? Who designs them and in what way? What are the values that shape the constitutions in democratic states? Once a constitution is accepted, can we make changes later as required by the changing conditions?

One recent instance of designing a constitution for a democratic state is that of the South Africa. We begin this chapter by looking at what happened there and how the South Africans went about this task of designing their constitution. Then we turn to how the Indian Constitution was made, what its foundational values are, and how it provides a good framework for the conduct of citizens' life and that of the government.

Q3 What was Apartheid?  
Q4 Explain the system of Apartheid.



Nelson Mandela

1  
A signboard emblematic of the tense relations of the apartheid era, 1953.



Ans 3

2

Sign on Durban beach in English, Afrikaans and Zulu

In English it reads:  
**'CITY OF DURBAN'** Under section 37 of the Durban beach by-laws, this bathing area is reserved for the sole use of members of the white race group.

### Struggle against apartheid

Apartheid was the name of a system of racial discrimination unique to South Africa. The white Europeans imposed this system on South Africa. During the seventeenth and eighteenth centuries, the trading companies from Europe occupied it with arms and force. In the way they occupied India. But unlike India, a large number of 'whites' had settled in South Africa and became the local rulers. The system of

### CONSTITUTIONAL DESIGN

Q5 Explain the concept of Segregation followed by white South African government.

apartheid divided the people and labelled them on the basis of their skin colour. The native people of South Africa are black in colour. They made up about three-fourth of the population and were called 'blacks'. Besides these two groups, there were people of mixed races who were called 'coloured' and people who migrated from India. The white rulers treated all non-whites as inferiors. The non-whites did not have voting rights.

The apartheid system was particularly oppressive for the blacks. They were forbidden from living in white areas. They could work in white areas only if they had a permit. Trains, buses, taxis, hotels, hospitals, schools and colleges, libraries, cinema halls, theatres, beaches, swimming pools,



John Mullen, Wikipedia, GNU Free Documentation License

## Q6 How did the people of South Africa revolted against Apartheid system?

public toilets, were all separate for the whites and blacks. This was called segregation. They could not even visit the churches where the whites worshipped. Blacks could not form associations or protest against the terrible treatment.

Ans 6(1) Since 1950, the blacks, coloured and Indians fought against the apartheid system. They launched protest marches and strikes. The African National Congress (ANC) was the umbrella organisation that led the struggle against the policies of segregation. This included many workers' unions and the Communist Party. Many sensitive whites also joined the ANC to oppose apartheid and played a leading role in this struggle. Several countries denounced apartheid as unjust and racist. But the white racist government continued to rule by detaining, torturing and killing thousands of black and coloured people.

national flag of the Republic of South Africa was unfurled marking the newly born democracy in the world. The apartheid government came to an end, paving way for the formation of a multi-racial government.

How did this come about? Let us hear Mandela, the first president of this new South Africa, on this extraordinary transition:

"Historical enemies succeeded in negotiating a peaceful transition from apartheid to democracy exactly because we were prepared to accept the inherent capacity for goodness in the other. My wish is that South Africans never give up on the belief in goodness, that they cherish that faith in human beings is the cornerstone of our democracy." Ans 8(1)

After the emergence of the new democratic South Africa, black leaders appealed to fellow blacks to forgive the whites for the atrocities they had committed while in power. They said let us build a new South Africa based on equality of all races and men and women, on democratic values, social justice and human rights. The party that ruled through oppression and brutal killings and the party that led the freedom struggle sat together to draw up a common constitution.

After two years of discussion and debate they came out with one of the finest constitutions the world has ever had. This constitution gave to its citizens the most extensive rights available in any country. Together, they decided that in the search for a solution to the problems, nobody should be excluded, no one should be treated as a demon. They agreed that everybody should become part of the solution, whatever they might have done or represented in the past. The preamble to the South African Constitution (see page 50) sums up this spirit.



What would have happened in South Africa if the black majority had decided to take revenge on the whites for all their oppression and exploitation?

Q9 Why is the constitution of South Africa regarded as one of the finest in the world?

## A C T I V I T Y

- Make a poster on the life and struggle of Nelson Mandela.
- If available, read some portions of his autobiography, *The Long Walk to Freedom*, in the classroom.

Ans 9(1)

## Towards a new constitution

(4) As protests and struggles against apartheid had increased, the government realised that they could no longer keep the blacks under their rule through repression. The white regime changed its policies. Discriminatory laws were repealed. Ban on political parties and restrictions on the media were lifted. After 28 years of imprisonment, Nelson Mandela walked out of the jail as a free man. Finally, at the midnight of 26 April 1994, the new

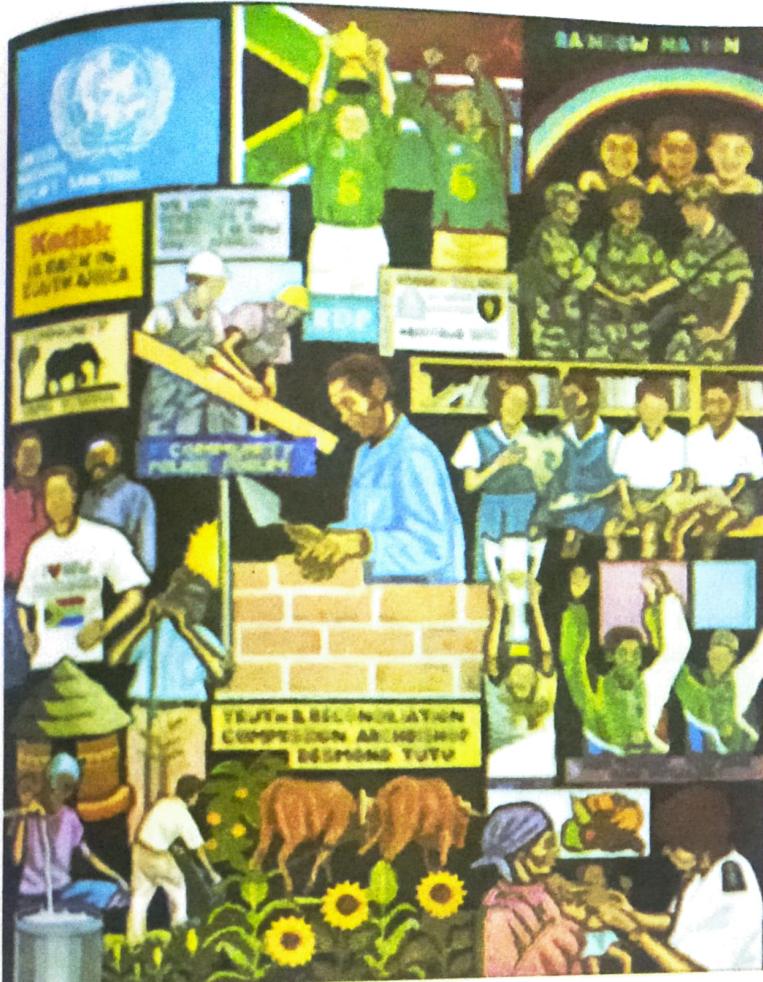
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## DEMOCRATIC POLITICS

Q7 When did South Africa became a democratic country?

Q8 What was the attitude of the black leaders towards the white after South Africa became a democratic country?

Q10 Which country is known as Rainbow Nation? Why



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[Ans 10 (1)] The South African constitution inspires democrats all over the world. [A (2)] A state denounced by the entire world till recently as the most undemocratic one is now seen as a model of democracy. [What made this change possible was (3)] the determination of the people of South Africa to work together, to transform bitter experiences into the binding glue of a rainbow nation. Speaking on the South African Constitution, Mandela said:

*"The Constitution of South Africa speaks of both the past and the future. On the one hand, it is a solemn pact in which we, as South Africans, declare to one another that we shall never permit a repetition of our racist, brutal and repressive past. But it is more than that. It is also a charter for the transformation of our country into one which is truly shared by all its people — a country which in the fullest sense belongs to all of us, black and white, women and men."*

This image captures the spirit of South Africa today. South Africans call themselves a 'rainbow nation'. Can you guess why?

Does the story of South African struggle for freedom remind you of the Indian national movement? Make a list of similarities and dissimilarities between the two on the following points:

- Nature of colonialism
- Relationship between different communities
- Leadership: Gandhi/ Mandela
- Party that led the struggle: African National Congress/ Indian National Congress
- Method of struggle

Q11. Why was it not easy for the whites and Blacks to live together as equals?

The South African example is a good way to understand why we need a constitution and what do constitutions do. The oppressor and the oppressed in this new democracy were planning to live together as equals. [It was not going to be easy for them to trust each other. They had

(12) their fears.] They wanted to safeguard their interests. The black majority was keen to ensure that the democratic principle of majority rule was not compromised. [They wanted substantial social and economic rights.] The white minority was keen to protect its privileges and property.

Q12. What compromises were reached between the blacks and

Whites of South Africa?

Ans 12(1) After long negotiations both parties agreed to a compromise. The whites agreed to the principle of majority rule and that of one person one vote. They also agreed to accept some basic rights for the poor and the workers.

(3) The blacks agreed that majority rule would not be absolute. They agreed that the majority would not take away the property of the white minority. This compromise was not easy. How was this compromise going to be implemented? Even if they managed to trust each other, what was the guarantee that this trust will not be broken in future?

The only way to build and maintain trust in such a situation is to write down some rules of the game that everyone would abide by. These rules lay down how the rulers are to be chosen in future. These rules also determine what the elected governments are empowered to do and what they cannot do. Finally these rules decide the rights of the citizen. These rules will work only if the winner cannot change them very easily. This is what the South Africans did. They agreed on some basic rules. They also agreed that these rules will be supreme, that no government will be able to ignore these. This set of basic rules is called a constitution.

Constitution making is not unique to South Africa. Every country has diverse groups of people. Their relationship may not have been as bad as that between the whites and the blacks in South Africa. But all over the world people have differences of opinion and interests. Whether democratic or not, most countries in the world need to have these basic rules. This applies not just to governments. Any association needs to have its constitution. It could be a club in your area, a cooperative

society or a political party, they all need a constitution.



## A C T I V I T Y

Approach a club or cooperative society or union or political party in your locality. Get a copy of their rule book (it is often called Rules of Association) and read it. Are these rules in accordance with principles of democracy? Do they give membership to any person without discrimination?

Ans 13 Thus, the constitution of a country is a set of written rules that are accepted by all people living together in a country. Constitution is the supreme law that determines the relationship among people living in a territory (called citizens) and also the relationship between the people and government. A constitution does many things:

- ✓ First, it generates a degree of trust and coordination that is necessary for different kind of people to live together;
- ✓ Second, it specifies how the government will be constituted, who will have power to take which decisions;
- ✓ Third, it lays down limits on the powers of the government and tells us what the rights of the citizens are; and
- ✓ Fourth, it expresses the aspirations of the people about creating a good society.

All countries that have constitutions are not necessarily democratic. But all countries that are democratic will have constitutions. After the War of Independence against Great Britain, the Americans gave themselves a constitution. After the Revolution, the French people approved a democratic constitution. Since then it has become a practice in all democracies to have a written constitution.



This is not fair!  
What was the point  
in having a  
Constituent  
Assembly in India?  
all the basics were  
already decided?

Q13 What is constitution? Why is it needed?

Q14 Write a note on the drafting of the Indian Constitution for the first time.



Ans 15

Vallabhbhai  
Jhaverbhai Patel

(1875-1950) born: Gujarat.  
Minister of Home,

Information and  
Broadcasting in the Interim

Government. Lawyer and

leader of Bardoli peasant

satyagraha. Played a

decisive role in the

integration of the Indian

princely states. Later:

Deputy Prime Minister.

All sketches by Rajeev Kumar



Abul Kalam Azad

(1888-1958)

born: Saudi Arabia.

Educationist, author and

theologian; scholar of

Arabic. Congress leader,

active in the national

movement. Opposed

Muslim separatist politics.

Later Education Minister in

the first union cabinet.



T.T. Krishnamachari

(1899-1974)

born: Tamil Nadu.

Member, Drafting

Committee. Entrepreneur

and Congress leader. Later:

Finance Minister in the

Union Cabinet.

### 3.3 MAKING OF THE INDIAN CONSTITUTION

Like South Africa, India's Constitution was also drawn up under very difficult circumstances. The making of the constitution for a huge and diverse country like India was not an easy affair. At that time the people of India were emerging from the status of subjects to that of citizens. The country was born through a partition on the basis of religious differences. This was a traumatic experience for the people of India and Pakistan.

Atleast ten lakh people were killed on both sides of the border in partition related violence. There was another problem. The British had left it to the rulers of the princely states to decide whether they wanted to merge with India or with Pakistan or remain independent. The merger of these princely states was a difficult and uncertain task. When the constitution was being written, the future of the country did not look as secure as it does today. The makers of the constitution had anxieties about the present and the future of the country.

like. Much of this consensus had evolved during the freedom struggle. Our national movement was not merely a struggle against a foreign rule. It was also a struggle to rejuvenate our country and to transform our society and politics. There were sharp differences of opinion within the freedom struggle about the path India should take after Independence. Such differences exist even today. Yet some basic ideas had come to be accepted by almost everyone.

As far back as in 1928, Motilal Nehru and eight other Congress leaders drafted a constitution for India. In 1931, the resolution at the Karachi session of the Indian National Congress dwelt on how independent India's constitution should look like. Both these documents were committed to the inclusion of universal adult franchise, right to freedom and equality and to protecting the rights of minorities in the constitution of independent India. Thus some basic values were accepted by all leaders much before the Constituent Assembly met to deliberate on the Constitution.

The familiarity with political institutions of colonial rule also helped develop an agreement over the institutional design. The British rule had given voting rights only to a few. On that basis the British had introduced very weak legislatures. Elections were held in 1937 to Provincial Legislatures and Ministries all over British India. These were not fully democratic governments. But the experience gained by Indians in the working of the legislative institutions proved to be very useful for the country in setting up its own institutions and

MCQ

#### A C T I V I T Y



Speak to your grandparents or some other elders in your locality. Ask them if they have any memory of partition or independence or the making of the constitution. What were their fears and hopes about the country at that time? Discuss these in the classroom.

#### The path to Constitution

Despite all these difficulties, there was one big advantage for the makers of the Indian Constitution. Unlike South Africa, they did not have to create a consensus about what a democratic India should look

#### CONSTITUTIONAL DESIGN

Q15 What were the difficult circumstances under which India's Constitution was drawn?

Q16 What were the various sources which inspired the Indian Constitution makers?

working in them. That is why the Indian constitution adopted many institutional details and procedures from colonial laws like the Government of India Act, 1935.

Years of thinking and deliberation on the framework of the constitution had another benefit. Our leaders gained confidence to learn from other countries but on our own terms. [Ans 16] Many of our leaders were inspired by the ideals of French Revolution, the practice of parliamentary democracy in Britain and the Bill of Rights in the US. The socialist revolution in Russia had inspired many Indians to think of shaping a system based on social and economic equality. Yet they were not simply imitating what others had done. At each step they were questioning whether these things suited our country. All these factors contributed to the making of our Constitution.

### The Constituent Assembly

Who, then, were the makers of the Indian Constitution? You will find here very brief sketch of some of the leaders who played an important role in making the Constitution.



### A C T I V I T Y

Find out more about any member of the Constituent Assembly from your state or region who is not mentioned here. Collect a photograph or make a sketch of that leader. Write a short note on him or her, following the same style as used here: Name (year of birth-year of death), place of birth (by current political boundaries), brief description of political activities; role played after the Constituent Assembly.

[Ans 17(1)]

[The drafting of the document called the constitution was done by an assembly of elected representatives

called the Constituent Assembly. Elections to the Constituent Assembly were held in July 1946. Its first meeting was held in December 1946. [Q 17] Soon after, the country was divided into India and Pakistan. The Constituent Assembly was also divided into the Constituent Assembly of India and that of Pakistan.] [The Constituent Assembly that wrote the Indian constitution had 299 members.] [The Assembly adopted the Constitution on 26 November 1949 but it came into effect on 26 January 1950. To mark this day we celebrate January 26 as Republic Day every year.]

Why should we accept the Constitution made by this Assembly more than fifty years ago? We have already noted one reason above. [The Constitution does not reflect the views of its members alone. It expresses a broad consensus of its time.] Many countries of the world have had to rewrite their Constitution afresh because the basic rules were not accepted to all major social groups or political parties. In some other countries, the Constitution exists as a mere piece of paper. No one actually follows it. The experience of our Constitution is different. Over the last half a century, several groups have questioned some provisions of the Constitution. But no large social group or political party has ever questioned the legitimacy of the Constitution itself. This is an unusual achievement for any constitution.

[Q 18] The second reason for accepting the Constitution is that the Constituent Assembly represented the people of India. There was no universal adult franchise at that time.] So the Constituent Assembly could not have been chosen directly by all the people of India. It was



Rajendra Prasad  
(1884-1963) Ans 16  
President of the Constituent Assembly Lawyer known for his role in the Champaran satyagraha. Twice the president of Congress. Later the first President of India.



Ans 18  
(1) Jaipal Singh  
(1903-1970)  
born: Jharkhand  
A sportsman and educationist Captain of the first national Hockey team  
Founder President of Adivasi Maha Sabha. Later founder of Jharkhand Party



H. C. Mookherjee  
(1887-1956)  
born: Bengal  
Vice-Chairman of the Constituent Assembly  
Reputed author and educationist. Congress leader. Member of All India Christian Council and Bengal Legislative Assembly. Later Governor of West Bengal

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Q17 Write note on Constituent Assembly of India.  
Q18 Why was the constitution drafted by the Constituent Assembly acceptable till now?

DEMOCRATIC POLITICS

Q19 What were Constituent Assembly debates? OR How is the meaning of Constitution interpreted?



G. Durgabai Deshmukh  
(1909-1981)  
born: Andhra Pradesh.  
Advocate and public activist  
for women's emancipation.  
Founder of Andhra Mahila  
Sabha. Congress leader.  
Later: Founder Chairperson  
of Central Social Welfare  
Board.

elected mainly by the members of the existing Provincial Legislatures that we mentioned above. This ensured a fair geographical share of members from all the regions of the country. The Assembly was dominated by the Indian National Congress, the party that led India's freedom struggle. But the Congress itself included a variety of political groups and opinions. The Assembly had many members who did not agree with the Congress. In social terms too, the Assembly represented members from different language groups, castes, classes, religions and occupations. Even if the Constituent Assembly was elected by universal adult franchise, its composition would not have been very different.

(3) Finally, the manner in which the Constituent Assembly worked gives sanctity to the Constitution. [The (4)

Constituent Assembly worked in a systematic, open and consensual manner. First some basic principles were decided and agreed upon. Then a Drafting Committee chaired by Dr. B.R. Ambedkar prepared a draft constitution for discussion. Several rounds of thorough discussion took place on the Draft Constitution, clause by clause. More than two thousand amendments were considered. The <sup>Ans</sup> members deliberated for 114 days spread over three years. Every document presented and every word spoken in the Constituent Assembly has been recorded and preserved. These are called 'Constituent Assembly Debates'. When printed, these debates are 12 bulky volumes! These debates provide the rationale behind every provision of the Constitution. These are used to interpret the meaning of the Constitution.

### CHECK YOUR PROGRESS



Baldev Singh  
(1901-1961)  
born: Haryana.  
A successful entrepreneur  
and leader of the Panthic  
Akali Party in the Punjab  
Assembly. A nominee of  
the Congress in the  
Constituent Assembly.  
Later: Defence Minister in  
the Union Cabinet.

## 3.4 GUIDING VALUES OF THE INDIAN CONSTITUTION

In this book we shall study the exact provisions of the Constitution on different subjects. At this stage let us begin by understanding the overall philosophy of what our Constitution is all about. We can do this in two ways. We can understand it by reading the views of some of our major leaders on our Constitution. But it is equally important to read what the Constitution says about its own philosophy. This is what the preamble to the Constitution does.

Let us turn to these, one by one.

### The Dream and the Promise

Some of you may have noticed a name missing from the sketches of the makers of the constitution: Mahatma Gandhi. He was not a member of the Constituent Assembly. Yet there were many members who followed his vision. <sup>Ans 28</sup> Years ago, writing in his magazine *Young India* in 1931, he had spelt out what he wanted the Constitution to do.

### CONSTITUTIONAL DESIGN

Q20 Which magazine of Mahatma Gandhi contains his vision of how Indian Constitution should look like?

## Refer to Notes

I shall strive for a constitution which will release India from all thralldom and patronage ... I shall work for an India in which the poorest shall feel that it is their country in whose making they have an effective voice; an India in which there shall be no high class and low class of people; an India in which all communities shall live in perfect harmony. There can be no room in such an India for the curse of untouchability or the curse of the intoxicating drinks and drugs. Women will enjoy the same rights as men ... I shall be satisfied with nothing else.



**Kanhaiyalal Maniklal Munshi**

(1887-1971) born Gujarat Advocate, historian and linguist. Congress leader and Gandhian. Later Minister in the Union Cabinet. Founder of the Swatantra Party



**Bhimrao Ramji Ambedkar**

(1891-1956) born Madhya Pradesh Chairman of the Drafting Committee. Social revolutionary thinker and agitator against caste divisions and caste based inequalities. Later Law minister in the first cabinet of post-independence India. Founder of Republican Party of India.



**Shyama Prasad Mukherjee**

(1901-1953) born West Bengal. Minister for Industry and Supply in the Interim Government. Educationist and lawyer. Active in Hindu Mahasabha. Later Founder President of Bharatiya Jansangh.

This dream of an India that has eliminated inequality was shared by Dr. Ambedkar, who played a key role in the making of the Constitution but he had a different understanding of

how inequalities could be removed. He often bitterly criticised Mahatma Gandhi and his vision. In his concluding speech to the Constituent Assembly he stated his anxiety very clearly:

On the 26<sup>th</sup> of January 1950 we are going to enter a life of contradictions. In politics we will have equality and in social and economic life we will have inequality. In politics we will be recognising the principle of one man one vote and one vote one value. In our social and economic life, we shall, by reason of our social and economic structure, continue to deny the principle of one man one value. How long shall we continue to live this life of contradictions? How long shall we continue to deny equality in our social and economic life? If we continue to deny it for long, we will do so only by putting our political democracy in peril.

Finally let us turn to Jawaharlal Nehru giving his famous speech to the

Constituent Assembly at the stroke of midnight on August 15, 1947:

## Refer to Notes



**Jawaharlal Nehru**  
(1889-1964) born: Uttar Pradesh. Prime Minister of the interim government. Lawyer and Congress leader. Advocate of socialism, democracy and anti-imperialism. Later: First Prime Minister of India.



**Sarojini Naidu**  
(1879-1949)  
born: Andhra Pradesh. Poet, writer and political activist. Among the foremost women leaders in the Congress. Later: Governor of Uttar Pradesh.



**Somnath Lahiri**  
(1901-1984) born: West Bengal. Writer and editor. Leader of the Communist Party of India. Later: Member of West Bengal Legislative Assembly.

Long years ago we made a **tryst with destiny**, and now the time comes when we shall redeem our pledge, not wholly or in full measure, but very substantially. At the stroke of the midnight hour, when the world sleeps, India will awake to life and freedom. A moment comes, which comes but rarely in history, when we step out from the old to the new, when an age ends, and when the soul of a nation, long suppressed, finds utterance. It is fitting that at this solemn moment we take the pledge of dedication to the service of India and her people and to the still larger cause of humanity ...

Freedom and power bring responsibility. The responsibility rests upon this Assembly, a sovereign body representing the sovereign people of India. Before the birth of freedom we have endured all the pains of labour and our hearts are heavy with the memory of this sorrow. Some of those pains continue even now. Nevertheless, the past is over and it is the future that beckons to us now.

That future is not one of ease or resting but of incessant striving so that we may fulfil the pledges we have so often taken and the one we shall take today. The service of India means the service of the millions who suffer. It means the ending of poverty and ignorance and disease and inequality of opportunity. The ambition of the greatest man of our generation has been to wipe every tear from every eye. That may be beyond us, but as long as there are tears and suffering, so long our work will not be over.



### CHECK YOUR PROGRESS

Read the three quotations above carefully.

- Can you identify one idea that is common to all these three?
- What are the differences in their ways of expressing that common idea?

## Philosophy of the Constitution

Values that inspired and guided the freedom struggle and were in turn nurtured by it, formed the foundation for India's democracy. These values are embedded in the Preamble of the Indian Constitution. They guide all the

articles of the Indian Constitution. The Constitution begins with a short statement of its basic values. This is called the Preamble to the constitution. Taking inspiration from American model, most countries in the contemporary world have chosen to begin their constitutions with a preamble.

## We the People of the United States,

in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

We, the people of South Africa,

Recognise the injustices of our past;

Honour those who suffered for justice and freedom in our land;

Respect those who have worked to build and develop our country; and

Believe that South Africa belongs to all who live in it, united in our diversity.

We therefore, through our freely elected representatives, adopt this Constitution as the supreme law of the Republic so as to —

Heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights;

Lay the foundations for a democratic and open society in which government is based on the will of the people and every citizen is equally protected by law;

Improve the quality of life of all citizens and free the potential of each person; and

Build a united and democratic South Africa able to take its rightful place as a sovereign state in the family of nations.

May God protect our people.

Nkosi Sikelel' iAfrika. Morena boloka setjhaba sa heso.

God seen Suid-Afrika. God bless South Africa.

Mudzimu shatutshedza Afurika. Hosi katekisa Afrika.

## WE, THE PEOPLE OF INDIA

The constitution has been drawn up and enacted by the people through their representatives, and not handed down to them by a king or any outside powers.

### ✓ SOVEREIGN

[People have supreme right to make decisions on internal as well as external matters.] No external power can dictate the government of India.

### ✓ SOCIALIST

[Wealth is generated socially and should be shared equally by society.] Government should regulate the ownership of land and industry to reduce socio-economic inequalities.

### ✓ SECULAR

[Citizens have complete freedom to follow any religion. But there is no official religion.] Government treats all religious beliefs and practices with equal respect.

### ✓ DEMOCRATIC

[A form of government where people enjoy equal political rights, elect their rulers and hold them accountable.] The government is run according to some basic rules.

Let us read the Preamble of our Constitution very carefully and understand the meaning of each of its key words.

The Preamble of the Constitution reads like a poem on democracy. It contains the philosophy on which the entire Constitution has been built. It provides a standard to examine and evaluate any law and action of government, to find out whether it is good or bad. It is the soul of the Indian Constitution.

### REPUBLIC ✓

[The head of the state is an elected person and not a hereditary position.]

### JUSTICE ✓

[Citizens cannot be discriminated on the grounds of caste, religion and gender.] Social inequalities have to be reduced. Government should work for the welfare of all, especially of the disadvantaged groups.

### LIBERTY ✓

[There are no unreasonable restrictions on the citizens in what they think, how they wish to express their thoughts and the way they wish to follow up their thoughts in action.]

### EQUALITY ✓

[All are equal before the law. The traditional social inequalities have to be ended.] The government should ensure equal opportunity for all.

### FRATERNITY ✓

[All of us should behave as if we are members of the same family.] No one should treat a fellow citizen as inferior.

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a **SOVEREIGN, SOCIALIST, SECULAR, DEMOCRATIC REPUBLIC** and to secure to all its citizens:

**JUSTICE, social, economic and political;**  
**LIBERTY of thought, expression, belief, faith and worship;**

**EQUALITY of status and of opportunity;**  
and to promote among them all  
**FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation;**

IN OUR CONSTITUENT ASSEMBLY  
this twenty-sixth day of November, 1949, do  
HEREBY ADOPT, ENACT AND GIVE TO  
OURSELVES THIS CONSTITUTION.

## Q21 Explain Constitutional amendments in detail.

Compare the Preambles to the constitutions of the United States of America, India and South Africa.

- Make a list of ideas that are common to all these three.
- Note down at least one of the major differences among these.
- Which of the three makes a reference to the past?
- Which of these does not invoke God?



### CHECK YOUR PROGRESS

Ans 22(1)

#### Institutional design

A constitution is not merely a statement of values and philosophy. As we noted above, a constitution is mainly about embodying these values into institutional arrangements. Much of the document called Constitution of India is about these arrangements. It is a very long and detailed document. Therefore it needs to be amended quite regularly to keep it updated. Those who crafted the Indian Constitution felt that it has to be in accordance with people's aspirations and changes in society.

- (3) They did not see it as a sacred, static and unalterable law. So, they made provisions to incorporate changes from time to time. These changes are called constitutional amendments.

The Constitution describes the institutional arrangements in a very legal language. If you read the Constitution for the first time, it can

be quite difficult to understand. Yet the basic institutional design is not very difficult to understand. Like any Constitution, the Indian Constitution lays down a procedure for choosing persons to govern the country. It defines who will have how much power to take which decisions. And it puts limits to what the government can do by providing some rights to the citizen that cannot be violated. The remaining three chapters in this book are about these three aspects of the working of Indian constitution. We shall look at some key constitutional provisions in each chapter and understand how they work in democratic politics. But this textbook will not cover all the salient features of the institutional design in the Indian Constitution. Some other aspects will be covered in your textbook next year.

## Q22 The Indian constitution is both flexible and Rigid. Explain

**Apartheid:** The official policy of racial separation and ill treatment of blacks followed by the government of South Africa between 1948 and 1989.

**Clause:** A distinct section of a document.

**Constituent Assembly:** An assembly of people's representatives that writes a constitution for a country.

**Constitution:** Supreme law of a country, containing fundamental rules governing the politics and society in a country.

**Constitutional amendment:** A change in the constitution made by the supreme legislative body in a country.

**Draft:** A preliminary version of a legal document.

**Philosophy:** The most fundamental principles underlying one's thoughts and actions.

**Preamble:** An introductory statement in a constitution which states the reasons and guiding values of the constitution.

**Treason:** The offence of attempting to overthrow the government of the state to which the offender owes allegiance.

**Tryst:** A meeting or meeting place that has been agreed upon.



## Q23

## Q24

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- (3) Some laws of the Indian constitution can be amended very easily but on the other hand there are such laws which are very difficult to amend.

Pandit Jawaharlal Nehru, in his famous speech to the Constituent assembly at the stroke of midnight on August 15, 1947 mentioned some important points. He said that as the clock ticks at midnight, India would be an independent country. He referred to the constituent assembly as a sovereign body representing the sovereign people of India. He implied that there will be ending to poverty, ignorance, disease and inequality of opportunity. He praised Gandhiji by addressing as the greatest man of the generation. He also said that until there are tears and suffering our work will not be over.

Gandhiji envisioned independent India as one where there will be no difference such as high class or low class people. An India where all communities would co-exist peacefully. There will be no social evil such as untouchability. Women will enjoy equal rights as men. A country free from intoxicating drinks and drugs.

Dr. B.R. Ambedkar in his concluding speech to the constituent Assembly expressed his views which were different than Mahatma Gandhi's views. He stated that India will have equality in political sphere only not in economic or social sphere. In politics there will be principle of one person one vote. But the same would not be possible socially or economically due to our social and economic structure. If India continues to function like this, it would put our democracy in danger.