

1. Define constitution? Write down the Prime Features of 1972's constitution? classification of constitution?

### # Constitution:

✓ According to CF Strong, A constitution may be said to be a collection of principles according to which the powers of the government, the rights of the governed, and the relations between the two are adjusted."

[Ref: Modern Political Constitutions, Page-10]

✓ According to Raymond Giddell, The fundamental principles that determine the form of a state are called its constitution.

[Ref: Political Science, Page-245]

### # Classification:

Based on the opinions of different writers constitutions may be classified as -

#### ① Evolved and enacted constitution

✓ An evolved constitution is the result of the historical development or evolutionary changes, and it is not framed at a particular time. Such a constitution is not made, it grows with its roots in the primitive past. The British Constitution, which has neither been enacted by any special constituent assembly at any particular time nor has the monarch given it to the people.

- ① ✓ The enacted constitution, on the other hand, is the result of the deliberate efforts of the people. It may have been promulgated by the command of the sovereign authority, king or parliament.

## ② Written and unwritten constitution

- ✓ A written constitution is one in which most of the fundamental principles of governmental organisation are contained in a single document or a series of documents, deliberately created.

- ✓ An unwritten constitution, on the other hand, is one in which most of the fundamental principles of governmental organization are not reduced to definite written form or embodied in formal documents.

According to Raymond Gattel, "Unwritten constitution is not created by any constitution making body, but resulted from the gradual growth of the state" [Page-245]



## ② flexible and rigid constitution

✓ When a constitution can be easily amended by the ordinary law-making body and procedure, it may be classified as flexible. UK con.

✓ if a constitution requires a special organ or more difficult procedure for amendment than that required for the creation of ordinary law, it may be classified as rigid. USA con, BD con.

## # features :

- ✓ The constitution of BD was passed by the constituent Assembly on 4 November, 1972
- ✓ came into effect from 16 December, 1972
- ✓ It has amended in 17 times.

① Written constitution → First prominent feature is written on documentary.

- ✓ One Preamble,
- ✓ 153 articles
- ✓ 11 chapters
- ✓ Seven schedules (originally four schedules)

② Rigid constitution → Consent of two third members of Parliament needed for amendment. Art-142

- ✓ the preamble, all articles of part-1, Part-II, Part-III, basic structures are not amendable by way of insertion, modification, substitution, repeal or by any other means, Art-7B

✓ Bangladesh vs Assaduzzaman Siddiqui 2019: 71 DLR 52  
"The basic structures of the constitution are not amendable."

(13) Preamble :

✓ The preamble contains the basic philosophy of the constitution.

✓ five paragraphs -

- ① Establishment of the independent sovereign People's Republic of BD.
- ② fundamental principles of the Constitution
- ③ Ultimate goal of the state
- ④ Supremacy of the constitution
- ⑤ Adoption of the Constitution by the people of BD.

\* Anwar Hossain Chowdhury vs Bangladesh : 1989 BLD (sp.1) 1 (SC)

"Preamble is a part of the constitution of BD. and it can not be amended without a referendum."

\* Bangladesh vs Assaduzzaman Siddiqui : 71 DLR (AD) 52 (2019)

"Preamble declares in clear terms that all powers in the Republic belong to the people."

④ Supremacy of the constitution :

- ✓ is considered as the supreme or fundamental law of the land. Art-7
- ✓ Supremacy is asserted in art-7A, 7B

⑤ Unitary Government system :

✓ Bangladesh is a unitary, independent, sovereign Republic to be known as the People's Republic of Bangladesh." Art-1



⑥ Unicameral legislature :

- ✓ According to ~~the~~ article-65(1), legislative assembly is unicameral.
- ✓ Only one parliament house name "House of the nation" commonly known as Jatiya Sangshad.

⑦ Fundamental Principles of state Policy :

- ✓ Part-II, Articles 8 to 25 provides the fundamental state policies.

⑧ Fundamental Rights :

- ✓ 18 fundamental Rights are incorporated in part-III and Article 27 to 44.

⑨ Independence of the judiciary :

- ✓ Separation of judiciary from the executive organs of the state. Art-22
- ✓ Chapter-VI contains about judiciary
- ✓ Establishment of S.C - Art-94

⑩ Parliamentary form of Government :

- ✓ President as the constitutional head. Art-48
- ✓ Cabinet under the leadership of PM- 55

⑪ Ombudsman :

- ✓ Part V, Article-73 provides for an ombudsman system.

## ⑫ Rule of law :

- ✓ All citizens are equal before law and are entitled to equal protection of law. Art - 27
- ✓ Art - 28, 29 also ensure no discrimination on grounds of religion, race, caste, sex or place of birth.

## ⑬ Establishment of local Government Institutions :

- ✓ Art - 59, 60 contain the establishment of local government and its powers and functions.