

Chapter 1 - Constitution: Why And How

Question 1:

Which of these is **not** a function of the constitution?

- a. It gives a guarantee of the rights of the citizen.
- b. It marks out different spheres of power for different branches of government.
- c. It ensures that good people come to power.
- d. It gives expression to some shared values.

Answer:

c. It ensures that good people come to power. The Constitution is responsible for the framework of distribution of power and not for the personal integrity of the people who occupy the positions of power.

Question 2:

Which of the following is a good reason to conclude that the authority of the constitution is higher than that of the parliament?

- a. The constitution was framed before the parliament came into being.
- b. The constitution makers were more eminent leaders than the members of the parliament.
- c. The constitution specifies how parliament is to be formed and what are its powers.
- d. The constitution cannot be amended by the parliament.

Answer:

c. The constitution specifies how parliament is to be formed and what are its powers. Thus, it is the source of authority for the parliament.

Question 3:

State whether the following statements about a constitution are True or False.

- a. Constitutions are written documents about formation and power of the government.
- b. Constitutions exist and are required only in democratic countries.
- c. Constitution is a legal document that does not deal with ideals and values.
- d. A constitution gives its citizens a new identity.

Answer:

- a. True
- b. False
- c. False
- d. True

Question 4:

State whether the following inferences about the making of the Indian Constitution are Correct or Incorrect. Give reasons to support your answer.

- a. The Constituent Assembly did not represent the Indian people since it was not elected by all citizens.
- b. Constitution making did not involve any major decision since there was a general consensus among the leaders at that time about its basic framework.
- c. There was little originality in the Constitution, for much of it was borrowed from other countries.

Answer:

- a. The statement is incorrect because the Constituent Assembly was elected by the members of the Provisional Legislative Assemblies. Members from every province and religious group were given representation in the assembly.
- b. Incorrect. There were arguments and queries on most of the provisions. Each clause of the Constitution was subjected to scrutiny and debate. Leaders like Dr. Ambedkar, Pt. Nehru, Rajendra Prasad, Maulana Azad and Sardar Patel did not agree to many things.
- c. Correct. It is a combination of French, Irish, British, Canadian and United States Constitution in a new form.

Question 5:

Give two examples each to support the following conclusions about the Indian Constitution:

- a. The Constitution was made by credible leaders who commanded peoples' respect.
- b. The Constitution has distributed power in such a way as to make it difficult to subvert it.
- c. The Constitution is the locus of people's hopes and aspirations.

Answer:

- a.
 - The members of the Constituent Assembly represented all religions as well as sections of the society. There were 26 members from the Scheduled classes as well as members from Hindu, Sikh

and Muslim communities. Representatives were elected by the members of each community in the Provincial Legislative Assembly through proportional representation.

- The Provinces and Princely States were allotted seats in proportion to their population, approximately in the ratio of 1:10,00,000. Members of the Constituent Assembly like Nehru, Patel, Rajendra Prasad and Ambedkar were also a part of the national movement and enjoyed credibility among masses.

b.

- The Constitution has horizontally distributed power among different institutions of judiciary, legislature and executive and statutory bodies like the election commission. If one institution tries to exploit it, other institutions check it.
- The Constitution strikes a balance between the possibility of change and the limits placed upon the nature of changes that can be made. Thus, it is neither too rigid nor too flexible and survives as a living document that has the respect of the people.

c.

- Indian Constitution is formed on the basis of common goals of Indian people that were expressed during the nationalist movement. It was reflected in the Objectives Resolution that defined the aims of the assembly.
- The Constitution provides institutional expression to ideas of equality, liberty, sovereignty, democracy and cosmopolitan identity.

Question 6:

Why is it necessary for a country to have a clear demarcation of powers and responsibilities in the constitution? What would happen in the absence of such a demarcation?

Answer:

It is necessary for a country to have a clear demarcation of powers and responsibilities in the constitution because demarcation allows the institutions to work efficiently without any interference or overlapping of power and responsibilities. Absence of such demarcation would lead to a clash between the various institutions that derive their power from the constitution and ultimately subvert it.

Question 7:

Why is it necessary for a constitution to place limitations on the rulers? Can there be a constitution that gives no power at all to the citizens?

Answer:

It is necessary for a constitution to place limitations on the rulers because absence of limitations would lead to authoritarian form of government that threatens human rights. There cannot be any constitution that gives no power at all to the citizens as they make up the fabric of the state. The institutions of the state that are meant to serve the citizens would end up denying them their rights in such a scenario.

Question 8:

The Japanese Constitution was made when the US occupation army was still in control of Japan after its defeat in the Second World War. The Japanese constitution could not have had any provision that the US government did not like. Do you see any problem in this way of making the constitution? In which way was the Indian experience different from this?

Answer:

- The problem with making a constitution that is influenced by external factors or occupants is that it does not represent the will, goals and aspirations of the citizens of the country. Citizens have little participation in the type of government and institutions that are imposed upon them.
- It also compromises on the sovereignty of the country. Thus, in many ways, it is an enforced constitution.
- The Indian experience of constitution-making was different as it was based upon ideologies that were influenced by nationalist movement. The Constituent Assembly of India itself had many leaders who participated in the national movement and thus, were representative of the voice of the nation.
- Sovereignty and freedom were the main goals of the Indian nationalist movement that also gave way to ideals of equality, fraternity, and secularism. This is the reason behind the democratic, secular and sovereign character of the Indian Constitution.

Question 9:

Rajat asked his teacher this question: "The constitution is a fifty year old and therefore outdated book. No one took my consent for implementing it. It is written in such tough language that I cannot understand it. Tell me why should I obey this document?" If you were the teacher, how would you answer Rajat?

Answer:

- The Constitution is not an outdated book as it represents universal values, ideals and rights that are relevant to the society in every age. The ideals of secularism, equality and fraternity are necessary for the creation of a just society. The democratic form of government provides representation to the collective will of the people.
- The Constitution is also a source of the rights and privileges that are enjoyed by all citizens of the state. It provides immunity against arbitrary action by the state and makes it accountable for its decisions. It provides a stake for the citizens in the election and running of the government and development of the country.
- The Constitution has the provision of amendments to ensure that it keeps up with requirements of the changing times, without compromising on its basic structure.

- Thus, the constitution is a necessary requirement for the smooth and orderly working of institutions and maintenance of stability and continuity along with changes in the society. It creates conditions in which the ordinary citizens can live their life according to their individual choice. It upholds the rules of law, places limits on power and prevents anarchy.

Question 10:

In a discussion on the experience of the working of our Constitution, three speakers took three different positions:

- a. Harbans: The Indian Constitution has succeeded in giving us a framework of democratic government.
- b. Neha: The Constitution made solemn promises of ensuring liberty, equality and fraternity. Since this has not happened, the Constitution has failed.
- c. Nazima: The Constitution has not failed us. We have failed the Constitution.

Do you agree with any of these positions? If yes, why? If not, what is your own position?

Answer:

Any answer supported with argument or explanation would solve the purpose. It is strongly recommended that you prepare the solution on your own. However, one sample solution has been provided for your reference:

a.

The position of Harbans is correct. The constitution has succeeded in creating a framework of democratic government within which people exercise their choice while electing the government. Elections are conducted regularly at all levels of government and institutional arrangements have been largely successful in preventing the subversion of Constitution.

b.

The position of Neha is not correct. While it is true that the country is yet to entirely achieve the stated goals of liberty, equality and fraternity, it must be also remembered that these goals are not a static but dynamic process since society is always evolving. The inability to achieve these goals cannot be attributed to the constitution but rather to the individual shortcomings and weaknesses of the people who are in position of power and the nature of politics in recent years.

c.

The position of Nazima is correct. The Constitution has adequate principles for proper governance of the country. The people who are responsible for executing and implementing the principles of the constitution have failed to do so because of their self-interest and dishonesty. The tendency to subvert democratic processes in pursuit of power has led to the state of affairs where elections are rigged, money and muscle power becomes important and political parties are run as family institutions without inner-party democracy. All this is responsible for the rampant rise in corruption as people who gain positions of power through money want to recover their expenditure.