

POLITICAL SCIENCE

CHAPTER – 5

OUR CONSTITUTION



We learn about the following in this chapter,

- The formation of Constituent Assembly.
- The Drafting Committee of the Constitution.
- The Preamble.
- The salient features of the Constitution.
- The Fundamental Rights, Duties and Directive Principles of State policy.

India had to face many problems soon after independence. Rehabilitating the refugees who migrated from Pakistan, merger of the princely states, maintainance of law and order were the challenges after independence. Sardar Patel successfully achieved the merger of princely states and provinces with the Union of India. Even the challenge of framing a Constitution in order to enable us to govern the country was also fulfilled. Now let us know about the structure of our Constitution, its characteristics, the Fundamental Rights and Duties mentioned therein.

The Indian Constituent Assembly : Constitution is a set of rules and regulations guiding the administration of a State. The recommendations of the Motilal Nehru Committee and the decisions taken by the meeting of the National Congress at Karachi emphasised the need for the formation of a Constituent Assembly.

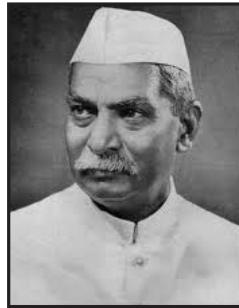
Do you know this ? Cabinet Committee :

Lord Patrick Lawrence – Indian Secretary for Parliamentary Affairs,
Sir Stafford Cripps – President of the Commerce Association,
A.V.Alexander – Captain of the Indian Navy



Dr.B.R.Ambedkar

The first meeting of the new Constituent Assembly was held on 9th December, 1946. The next meeting on 11th December 1946 under the Chairmanship of Dr. Rajendra Prasad. Eminent persons like Jawaharlal Nehru, Sardar Vallabhbhai Patel, Dr.B.R.Ambedkar, B.N. Rau, C.N.Mukherjee, Maulana Abul Kalam Azad, C.Rajagopalachari, K.M. Munshi, T.T.Krishnamachari, Smt. Sarojini Naidu, Smt. Sucheta Kripalani attended the meeting. Prominent people from Karnataka, S.Nijalingappa, K.C.Reddy, Kengal Hanumanthaiah, Tekur Subramanyam and others were also present.



Dr.Rajendra Prasad

Drafting Committee : The Constituent Assembly formed 22 committees and 05 sub committees to examine in detail all the issues related to the country. Dr.B.R.Ambedkar was the Chairman of one of the most important committees, i.e., the Drafting Committee. Based on his contribution to the framing of the constitution, he is called as the '**Chief Architect of Indian Constitution**'. The other members of this committee were N.Gopalaswamy Iyengar, Alladi Krishnaswamy Aiyar, K.M.Munshi, T.T.Krishnamachari and some other eminent statesmen.

Framing of the Constitution: The Constituent Assembly was formed on 11th December 1946, held 145 meetings and framed a draft constitution. During these discussions, various laws enacted by the British Government in 1909, 1919 and 1935, the British Parliamentary system, the American Bill of Rights, the Social Directive Policies of Ireland were studied and some elements of those were incorporated. Finally, the Indian Constitution was approved on 26 November, 1949 and came into force on 26 January, 1950. This day (January 26) is celebrated as Republic Day.

Do you know this?

- The demand for 'Poorna Swaraj' (Total Freedom) for India was adopted at the Lahore Session on January 26, 1930.
- Bengal Narasingha Rau, from Karnataka, laid down the structure and frame of the Constitution and prepared the initial draft, as Advisor to Constituent Assembly. He was The Prime Minister of Jammu & Kashmir princely state, The Judge of International Court of Justice at The Hague.



B.N. Rau

Preamble to the constitution

The Indian Constitution has combined in itself the best features of different constitutions of the world and has its own Preamble. The Preamble contains the fundamental policies and ideals of the constitution. It is the sum of the structure, values, principles and goals of the constitution. It is based on the aspirations and ideals of the people of India.

The Preamble is a part of the ‘Objective Resolution’ put forward by Jawaharlal Nehru on December 13, 1946 and approved by the Constituent Assembly on January 22, 1947. India was still undivided then. After India was divided and achieved Independence in August 1947, the objective resolution was slightly altered and approved. This resolution upholds India’s sovereign, democratic, republic. Social, economic and political justice for all people.

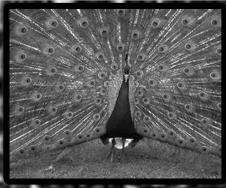
The Preamble to our Constitution is meaningful. It describes our political system and is a key to understand our Constitution. It was described as the ‘Jewel of the Constitution’. K.M.Munshi referred to it as a ‘Political Horoscope’.

WE, The People of India : The Indian Constitution has been framed by Indians ourselves. We, the people of India, worked hard at framing rules that would enable the realization of the aspirations of all Indians.

Sovereign : India is a sovereign country. We have our own foreign policy, non-alignment policy by implementing which the country has achieved internal and external autonomy.

Socialist : The goal of our constitution is to create social equality and promote welfare of all the people in our country. To enable this, Directive Principles of State Policy have been incorporated in the Constitution through the 42nd amendment.

Secular : The word ‘Secular’ has been incorporated in the Constitution through the 42nd Amendment in 1976. No religion has acquired the status of a National Religion, So India is a secular country. Citizens have the liberty to practise any religion they desire. That is the reason we can see religious harmony in India.



PREAMBLE TO THE CONSTITUTION

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;

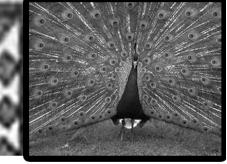
LIBERTY of thought, expression, belief,
faith and worship;

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.

(The words SOCIALIST and SECULAR were
added by the 42nd Constitution Amendment
Act, 1976)



Democratic Republic : Securing the welfare of everyone is the responsibility of a government in a democracy. Problems are resolved through discussions. Elections are held for every five years through universal adult franchise. The fact that our Head of State is the President of India who is elected for a period of five years which proves that our country is a Republic.

SALIENT FEATURES OF OUR CONSTITUTION :

Written and Lengthy Constitution : Our Constitution is in written form. The powers and functions of the organs of the government like the Legislature, Executive and Judiciary have been delineated in the constitution. Fundamental Rights, Duties, Directive Principles of State Policy etc. are all in the written form. Originally, our constitution consisted of 22 chapters, 8 schedules and 395 Articles. Later, with many amendments, it has become a lengthy constitution with 25 chapters, 12 schedules and 450 Articles.

Flexible and Rigid Constitution : The constitution which can be easily amended is called flexible or simple constitution. Constitutions that have special procedures for amendment are called rigid or complicated constitutions. Our constitution is neither too flexible nor too rigid.

Parliamentary Form of Government : Our Constitution provides for a Parliamentary form of Government. The sovereign power of the nation is vested in the elected Parliament. The Executive is responsible to the Legislature at the Central and State levels. The Cabinet shall be in power as long as it enjoys the confidence of the legislature. As soon as it loses the confidence of the Legislature, it has to resign.

Republican System : The Constitution has declared India a republic. Therefore, no one can come to power through hereditary principle.

(This practice is prevalent in England). Though it is democratic, it is not a republic. In India, the President is the Constitutional Head of State and he is elected.

Federal System : Our Constitution provides for a Federal System of Government because our country consists of different languages, castes, races and geographical regions. Administrative powers are shared by the Central and the State Governments (The Central list

has 100 subjects, the State list has 61 subjects and the Concurrent list has 52 subjects). The Supreme Court possesses powers to solve all disputes rising between the centre and the state with respect to any subject.

Fundamental Rights : The rights that the constitution has given to the people are called Fundamental Rights. No law of any government Central or state, or any organisation can deny these rights. If the Fundamental Rights are taken away or endangered, the citizen can directly appeal to the High Court or the Supreme Court. These Rights are listed in the 3rd part of the constitution. Six Fundamental Rights, are Right to Liberty, Right to Equality, Right against Exploitation, Right to Religion, Right to Education and Culture, and Right to Constitutional Remedy. The Supreme Court has the powers to protect these Rights. Hence, the Supreme Court is referred to as 'The Protector of Fundamental Rights'.

Fundamental Duties : Duties are our responsibilities towards our country. 11 Fundamental Duties have been delineated in the 'A' part of the 4th Chapter under clause 51 'A' of our Constitution. Through the 86th Amendment to the Constitution in 2002, it has been made a duty of parents to provide compulsory education to their children aged between 6 to 14 years. This is the 11th duty mentioned in the Constitution.

Directive Principles of State Policy : Directive principles of State policy have been incorporated in the 4th schedule of our Constitution. These principles have been adopted from the Irish Constitution. They are the basis for the establishment of social and economic equality. They are the basic principles required for the administration of the country. Yet, the government cannot be questioned by a court of justice if it is not implemented. When the government frames new laws, it should pay attention to these principles.

Independent and Centralized Judiciary System : Our judiciary is independent and centralized. The courts have the authority to give bold judgments in order to protect the rights of people. Neither the legislature nor the executive has any right to interfere with the working of the judiciary. The Supreme Court is the highest court in the land, and all high courts and subordinate courts function under it.

Single Citizenship : The Constitution makes provision for a single citizenship in order to curb narrow-minded regionalism, and promote nationalism. The citizens of this country have the equal rights, irrespective of their place of birth or residence. The legislature possesses the power to frame rules in this matter.

Adult Franchise : The Constitution provides for adult franchise. All citizens above 18 years of age may exercise their right to vote. It symbolizes the Sovereignty absolute power of the people.

Bicameral Legislature : The central Legislature is called Parliament. The Parliament consists of two Houses – the Lower House (Lok Sabha) and the Upper House (Rajya Sabha).

Party System : Political parties are the pillars of a democracy. There is a multi-party system in India. The party which wins the majority of votes in the general election becomes the ruling party whereas the rest will be the opposition parties.

Fundamental Rights and Duties :

Fundamental Rights provide the social and political atmosphere necessary for the development of the personality of citizens. They are required for a person to lead a civilised life in society. They are also essential for the success of a democracy. There were 7 Fundamental Rights mentioned in the 3rd part of our Constitution. However, after the 44th Amendment, the right to property has been abolished. There are 6 Fundamental Rights at present :

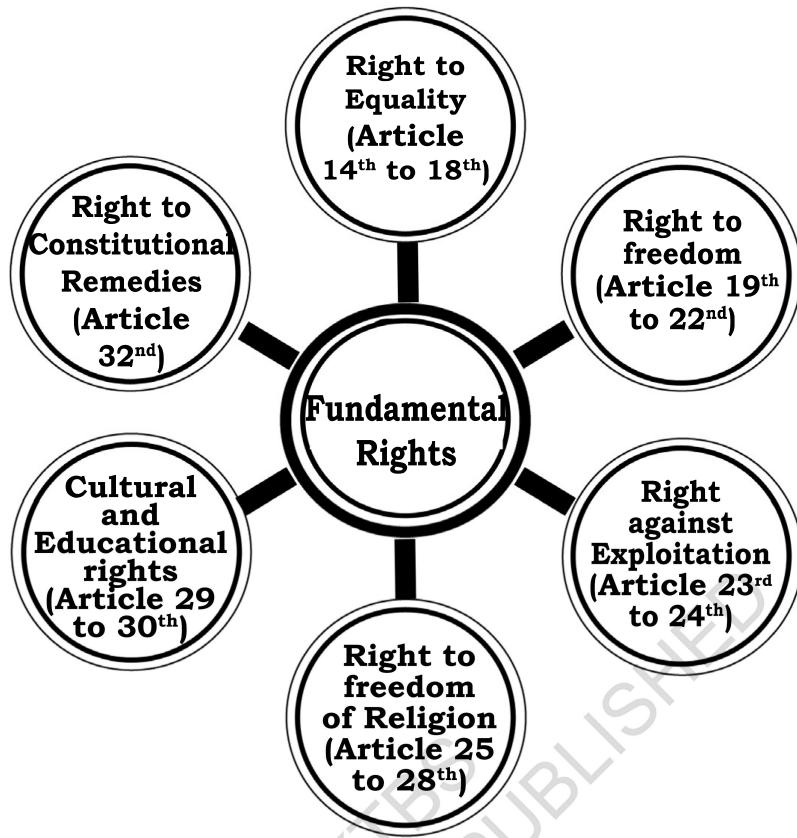
Do you know this ?

In 1895, The National Congress urged the implementation of rights of citizens

In 1895, Bal Gangadhar Tilak had demanded rights for people in his 'Swarajya Bill'.

In 1925, Dr. Annie Besant declared in 'Common wealth of India Bill' that Individual freedom, Freedom of Conscience, Freedom of Speech and Equality before Law are very important.

The Cabinet Mission of 1946 supported Fundamental Rights.



Right to Equality : This right is very essential for the success of democracy. Under this, all citizens are equal socially and economically before the law. All are equal before the Law and nobody is above the Law. All should get equal protection of the Law, and none should be discriminated against on the basis of their caste, religion, gender or place of birth. No citizen should be subjected to any restrictions with regard to access to shops, public restaurants, hotels, places of public entertainment or public places of worship. Under this Right, untouchability is an offence. This Right has enabled every citizen to get an equal opportunity to join government service.

Right to freedom : It is one of the important Fundamental Rights. Under this right one who express his own openion, to conduct meetings without arms, to establish organisations, to live any where in India and to follow any profession and move around the country. It is a defensive right also and no one can be arrested without proper reason. No state law can snatch the life and freedom of a citizen. All citizens are accorded constitutional protection against any kind of exploitation.

Right against exploitation : All citizens are accorded constitutional protection against any kind of exploitation. The aim of this Right is to prevent exploitation of women, children, the poor and the weak. Employment of children under 14 years of age in mining, industries and other dangerous occupations is punishable under law.

Do you know this ?

The Central Government has implemented many laws prohibiting exploitation.

Minimum Wages Act – 1948	Immoral Activities Act – 1956
Dowry Prohibition Act – 1961	Removal of Bonded Labour Act – 1976
Sati Prevention Act -1987	Protection of Human Rights Act – 1993,
Domestic Violence Act – 2005 etc	

Right to freedom of religion: Since India is a secular country, no religion has been given the status of a national religion. Citizens can accept any religion that their conscience dictates, practise it and propagate it. No one can be forced to pay taxes for the management of religious institutions. Use of religious places for political and other activities has been prohibited in the country.

Cultural and educational rights : All citizens of the country have their own language, script and culture. It is the duty of the State to protect them. This Right protects the interests of religious and linguistic minorities. No one can be denied admission in a government-aided institution or institutions run by minorities.

Do you know this ?

Through the 86th Amendment to the Constitution in 2002, education has been made a right under Article 21 'A'. Under this Right, the State should provide compulsory and free education for all children aged between 6 to 14 years . The Karnataka Government has brought into force the Right to Education Act (RTE) in 2009.

Right to Constitutional remedies: The Constitution has not only given Fundamental Rights to the citizens of India but also guaranteed them under Article 32. Whenever the Rights are violated either by a person or State Government or the Central Government, the citizens may appeal directly to the Supreme court for their protection. Dr.B.R.Ambedkar has called this Right 'the heart and soul' of the Constitution. The Supreme Court is empowered to enforce the

Fundamental Rights. Hence it is called 'The Protector of Fundamental Rights'. This court can accept the following writ petitions for the protection of citizens' rights :

- a. **Habeas Corpus** : When a person is been arrested without a reason, he or anyone else can file this petition on his behalf, asking for his release. The arrested person has to be produced before the court within 24 hours. (This writ petition does not apply to criminal cases.)
- b. **Mandamus** : When an official refuses to exercise his power or discharge his social duties, or when a subordinate court refuses to discharge its duty, the Supreme Court or the High Court can issue a Direction to the concerned asking them to carry out their responsibilities.
- c. **Prohibition** : This is a prohibitory order issued in a written form by the Supreme Court preventing a subordinate court from trying a case or issuing a judgment in cases beyond the limits of its authority.
- d. **Certiorari** : This is an order issued by the Supreme Court to the lower courts asking them to transfer their cases to the higher courts when ever they try the cases beyond their limits of authority. The Supreme Court also annuls the judgment given by those courts in such cases.
- e. **Co-warrant** : A co-warrant is issued in order to interrogate in court the person who has occupied a government post without possessing the required qualification for it.

Public interest litigations have been filed in courts in order to protect the social rights denied to citizens and to protect public interest. Public interest litigations can be filed for the purpose of protecting legal rights, rights are essential to protect life and to protect

Activity :

Collect the information about the Human rights commission in the state. Collect the information about the action taken by H.R.C in case of violation of Human Rights.

environment from being polluted. These public interest litigations can be filed by individuals and social institutions. In recent years we see that courts on their own are filing such public interest litigations when situations arise.

Fundamental Duties

Rights and Duties are the two faces of the same coin. Rights without duties have no value or significance. 10 Fundamental Duties were included in 4th Chapter 'A' part, Article 51 'A' with the 42nd Amendment to the Constitution, with the 86th Amendment in 2002, there are now 11 Fundamental duties. They are :

1. To respect the Constitution, National Flag and National Anthem.
2. To follow the noble ideals that inspired our National Struggle for Freedom.
3. To protect the integrity of India.
4. To defend the motherland when called upon to do so.
5. To promote the spirit of common brotherhood amongst all the people of India.
6. To preserve our rich heritage.
7. To protect and improve the natural environment.
8. To develop the scientific temper and the spirit of enquiry.
9. To safeguard public property and to abstain from violence.
10. To strive towards excellence in all spheres of individual and collective activities.
11. The Parents or the guardians should provide an opportunity for education to their children between 6 and 14 years.

Unlike fundamental rights, there is no protection from a court of law with regard to duties. However, there will be punishment under law for those who violate their duties.

Directive Principles of State Policy : With an aim to establish a Welfare State, certain directive principles of state policy have been

incorporated in the Constitution. These principles serve as guidelines to the State. The framers of our constitution were inspired by the Irish constitution to include such directive principles. These directive principles are in the form of directions to the Central and State governments. Through these, the government intends to provide economic, social and political justice to its citizens. But these principles are based on ethics. So, if the governments, Central or State, do not implement them, they cannot be questioned in a court of law. These principles are socialist and liberal and have been based on Gandhian ideals. The Directive Principles are :

Discuss :

As a citizen of India, enjoy fundamental rights. but not to forget duties.

1. To provide adequate means of livelihood to all citizens.
2. To prevent the community wealth and resources from becoming the private property of a few people.
3. To provide equal pay for equal work to both men and women and to protect labour welfare.
4. To provide public assistance to those who are old, sick and weak or helpless.
5. To implement a Uniform Civil Code throughout the country.
6. To provide opportunities for the development of health and pre-school education to all children below 6 years.
7. To protect historical monuments and maintain places of historical interest.
8. To separate the Executive from the Judiciary.
9. To protect international peace and to respect international law.
10. To establish Gram Panchayats.
11. To encourage rural and cottage industries.
12. To organise and develop agriculture and animal husbandry on modern lines.

13. To ensure prohibition of liquor.
14. To ensure development of farming based on scientific methods.

The Directive Principles of State Policy are important. They aim to achieve social welfare. While Fundamental Rights relate to an individual, the Directive Principles of State Policy relate to the whole community. The Central and the State Governments are making attempts to implement all the principles. These principles aim at holistic development of India.

EXERCISES

I. Fill in the blanks with suitable words.

1. The Law which governs the States is _____.
2. The meeting of new Constituent Assembly was held on _____.
3. The Chairman of the Drafting Committee of the Constitution was _____.
4. Our Constitution provides for a _____ system of Government.
5. The State where the people enjoy sovereign power is called _____.
6. Our Constitution provides for _____ citizenship to its citizens.
7. The Right for Constitutional Remedies has been incorporated in Article _____.
8. The Directive Principles of State Policy are borrowed from _____ Constitution.

II. Answer the following questions.

1. Who was the President of the Constituent Assembly?
2. When did the Constitution come into force?
3. What does the Preamble to the Constitution contain?
4. What do you mean by ‘Secularism’?

5. Explain the salient features of our Constitution.
6. Which are the Fundamental Rights incorporated in our Constitution?
7. Make a list of the Fundamental Duties.
8. Which are the Directive Principles of State Policy?

III. Activities.

1. Collect information with figures about the prominent leaders who were members of the Constituent Assembly.
2. List out the Fundamental Rights we enjoy.
3. List out the Fundamental duties.
4. Discuss the hurdles to implement uniform laws in our country.

IV. Project.

Write an essay on Fundamental Rights and Duties with the help of your teacher, and discuss them.

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