

## LECTURE NOTES – POLITY SESSION 1

**What is a Constitution?** Broadly speaking, it is a set of rules, written and unwritten, that seeks to establish the duties, powers and functions of the various institutions of government, regulate the relationships between them and define the relationships between the state and the individual.

### **Salient Features of the Constitution of India**

#### **(i) A written and lengthy constitution**

The Constitution of India is a single, written document (unlike the British constitution which is not a single, written document, but is drawn from legislation, treaties, judicial precedents, convention, and numerous other sources). It was framed by a Constituent Assembly which was established for the purpose in 1946. As originally adopted, it had 22 Parts, 395 Articles and 8 Schedules. A number of amendments, passed since its enforcement in 1950, have also become a part of the Constitution.

The Constitution of India is **the longest constitution in the world** as no other constitution contains as many articles. The constitution of USA has 7 Articles, of China 138, Japan 103, and Canada 107 Articles.

#### **(ii) Single Constitution**

Unlike the US which is considered as role model of federalism, India has a single Constitution, that is, the Indian states do not have separate Constitutions.

#### **(iii) Sovereign, socialist, secular, democratic, republic**

The Constitution declares India to be a Sovereign, Socialist, Secular, Democratic, Republic. The words, 'Socialist' and 'secular' were added in the Preamble of the Constitution by 42nd amendment which was passed in 1976.

**Sovereign** means absolutely independent; it is not under the control of any other state.

**Socialist** - Word 'Socialist' was added in the Preamble by 42nd Amendment of the Constitution which was passed in 1976. This implies a system which will endeavour to avoid concentration of wealth in a few hands and will assure its equitable distribution.

**Secular** - The word 'Secular', like Socialist, was also added in the Preamble by 42nd Amendment of the Constitution. There is no state religion in India. Every citizen is free to follow and practise the religion of his/her own choice. The state cannot discriminate among its citizens on the basis of religion.

**Democratic** – It means that the power of the government is vested in the hands of the people. People exercise this power through their elected representatives who, in turn, are responsible to them. All the citizens enjoy equal political rights.

**Republic** – It means that the head of the State is not a hereditary monarch but a President who is indirectly elected by the people for a definite period.

#### **(iv) Unique blend of rigidity and flexibility**

Whether a constitution is rigid or flexible depends on the process of amendment. If the constitutional laws and ordinary laws are amended separate ways, it is a rigid constitution. On the contrary, in a flexible constitution, constitutional laws and ordinary laws are amended in the same way.

Some provisions of the Constitution of India can be amended by the Indian Parliament with simple majority. The amendment of most provisions of the constitution requires a special majority in both houses of the parliament. There are some other provisions of constitution which cannot be amended by the parliament alone. In case of such provision the amending bill has first to be approved by both houses of parliament by a special majority (with the support of two-thirds of the members of each house present and voting). Then it has to be ratified by the legislatures of at least half of the states of India.

So, there is a balance between rigidity and flexibility in our constitution. Some amount of flexibility was introduced into our constitution in order to encourage its growth.

#### **(v) Patchwork, but a beautiful patchwork**

The Indian Constitution is often referred to as a patchwork. It has been inspired and derived from various sources. The best features of various constitutions have been incorporated in our constitution.

#### **(vi) Parliamentary form of democracy**

Indian Constitution provides for a parliamentary form of government. President is the nominal head of the state. In actual practice, the government is run by the Prime Minister and other members of the Council of Minister. The Council of Ministers is collectively responsible to the Parliament.

#### **(vii) Fundamental rights and duties**

The Constitution of India guarantees six fundamental rights to every citizen. These are:

- i. Right to Equality.
- ii. Right to Freedom.
- iii. Right against Exploitation.
- iv. Right to Freedom of Religion.
- v. Cultural and Educational Rights.
- vi. Right to Constitutional Remedies.

The Constitution initially did not provide for Fundamental Duties. By 42nd Amendment of the Constitution, ten Fundamental Duties of citizens have also been added. Currently there are 11 Fundamental Duties.

#### **(viii) Directive principles of state policy**

The Directive Principles of State Policy are listed in Part Four of the Constitution. The framers of our constitution took the idea of having such principles from the Irish Constitution. These principles are instructions given by the Constitution to government.

All the governments-Central, State and Local-are expected to frame their policies in accordance with these principles. The aim of these principles is to establish a welfare state in India. They, however, are not binding on the government-they are mere guidelines.

**(ix) Single citizenship**

In federation, normally we have double citizenship. In U.S.A. every citizen besides being a citizen of United States of America is the citizen of the state in which he or she resides. But the Constitution of India provides for single citizenship - every Indian, irrespective of his place of birth or residence, is a citizen of India.

**(x) Universal adult franchise**

The constitution provides for Universal Adult Franchise (article 326). It means that every citizen who is 18 years of age or more is entitled to cast his/her vote irrespective of his caste, creed, sex, religion or place of birth.

**(xi) Affirmative action**

The Constitution provides for affirmative action by the State to improve the conditions of the weaker sections of society by providing reservations in the legislatures and government jobs (articles 15 & 16).

**(xii) Independent judiciary**

The Indian Constitution provides for an independent judiciary. The judiciary has been made independent of the Executive as well as the Legislature. The judges give impartial justice.

**(xiii) Independent agencies**

The Constitution provides for some Independent Agencies to perform functions allotted to them. The important agencies are

- i. Election Commission (article 324)
- ii. Comptroller and Auditor General (article 148)
- iii. Union and State Public Service Commissions (article 315)
- (iv) Finance Commission (article 280)

**(xiv) Emergency provisions**

The framers of our constitution had realised that there could be certain dangerous situations when government could not be run as in ordinary time. Hence our constitution contains certain emergency provisions. During emergency the fundamental rights of the citizens can be suspended and our government becomes a unitary one.

The Constitution makes provisions for the proclamation of National Emergency under Article 352, State Emergency under Article 356 and Financial Emergency under Article 360.

### Sources of certain features of Indian Constitution

<b>USA</b>	<ul style="list-style-type: none"> <li>• Fundamental rights</li> <li>• Independent judiciary</li> <li>• Judicial review</li> <li>• Impeachment of President(only partially – it is much tougher to impeach the President in the US, than in India)</li> <li>• Removal of supreme court judges</li> <li>• Vice presidential post</li> </ul>
<b>Ireland</b>	<ul style="list-style-type: none"> <li>• Directive Principles of State Policy</li> <li>• Nomination of members to Rajya Sabha</li> <li>• Electoral office and method of election of the President</li> </ul>
<b>Germany</b>	Emergency Provisions
<b>Canada</b>	Distribution of legislative powers between the center and states (strong center)
<b>UK</b>	<ul style="list-style-type: none"> <li>• Parliamentary form of govt</li> <li>• Rule of law</li> <li>• Legislation</li> <li>• Single citizenship</li> <li>• Bicameralism</li> </ul>
<b>Russian Revolution</b>	Ideal of Justice, social, education, economic and political
<b>French Revolution</b>	Ideal of Liberty, Equality and fraternity
<b>Govt of India Act 1935</b>	<ul style="list-style-type: none"> <li>• Federal scheme</li> <li>• Office of Governor</li> <li>• Judiciary</li> <li>• Public service commission</li> <li>• Emergency</li> <li>• Administrative details</li> </ul>
<b>South Africa</b>	Amendment to the Constitution
<b>Australia</b>	Concurrent List