

CIVICS

Chapter 1: The Indian Constitution



The Indian Constitution

Our Constitution

We follow rules in almost everything we do. There are certain rules in a family as to when people wake up, Have their meals and sleep. There are rules in a school. There are rules that people follow in gyms, while playing games and while driving. Rules are made (and followed) so that people can live and work together in a smooth and systematic way. Without rules, life would disintegrate into chaos.

A 'nation' or 'State' is governed by rules laid down by its constitution. Before we discuss what, a constitution is and why it is necessary, let us understand what we mean by the term State. In the context of a country, the word 'state' can mean one of the many parts it is divided into, such as the states of India or the USA. 'State' (written with a capital 'S'), on the other hand, refers to a nation as a political entity (unit). Though 'State' and 'government' are often used interchangeably, there is a difference between the two terms. The government of a country may change periodically, but the State continues to exist. For example, there have been several changes in government since the State of India was formed in 1947.



In 2011, Libya plunged into a civil war, with the people protesting against the dictatorship of Muammar Gaddafi.

The UN and some European countries got involved in the armed struggle to establish a democratic government

WHAT IS A CONSTITUTION

The rules and principles (ideals) on the basis of which a country is governed is called its constitution. Almost every country has a constitution for the following reasons.

- A constitution defines the type of government or political system a country has. Different

countries have different systems. There are monarchies, in which the king is the Centre of power. There are democracies, in which the people are the source of power. There are dictatorships, in which a leader (for example, the head of the military) is the most powerful.



In 2006, widespread protests forced king Gyanendra of Nepal to step down and concede to the people's demand for a democratic government.

Q. Surf the Net to find out how far the people of Nepal have succeeded in bringing back peace and setting up a democratic government.

- A constitution describes the principles along which a country is to be governed. The laws that are made in a country must abide by these principles or follow the spirit of its constitution. This serves as an important protection against the danger of a group of people rising to power and making laws to change the basic structure of the State.
- A constitution lays down the powers of the different organs of the government and provides measures so that these powers may not be misused.
- It sets out the rights that the people enjoy and provides measures for safeguarding (protecting) these rights. That means it spells out the steps that an individual or a group may take if their rights are taken away by others, including the State.

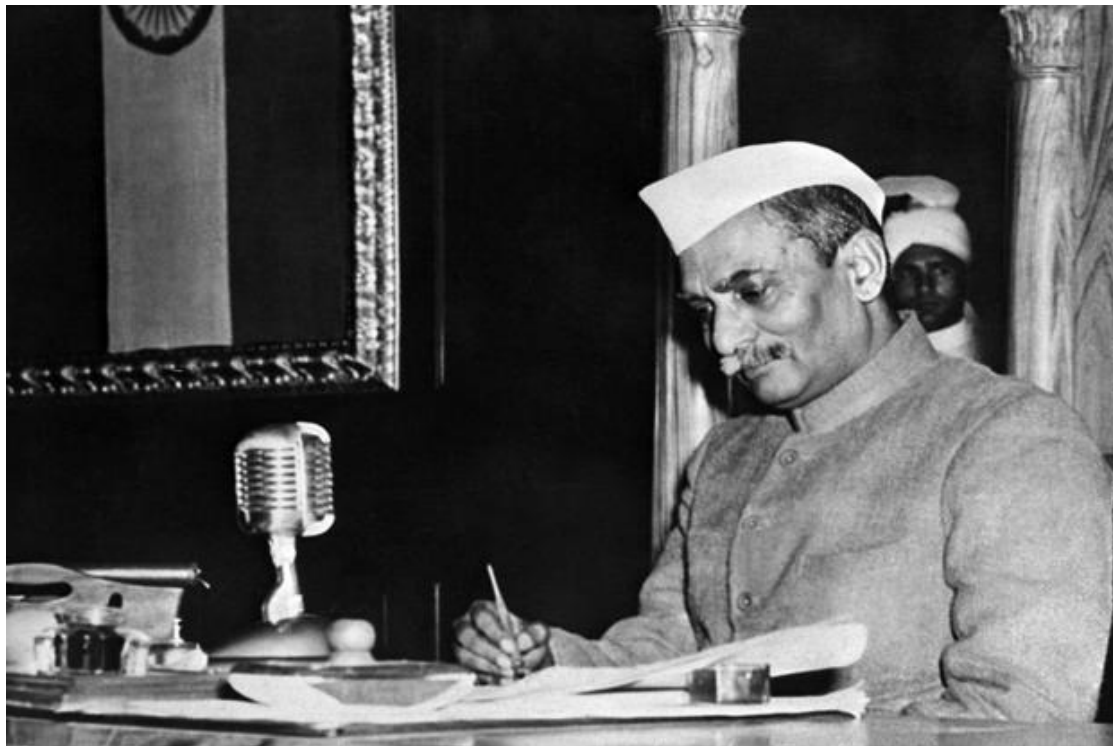
THE MAKING OF OUR CONSTITUTION

The Indian Constitution was drafted by a body of 299 people known as the Constituent Assembly. These learned men and women from different political parties and walks of life were elected by the people, who entrusted them with the task of framing a constitution that would take care of the interests of all sections of the country. Despite the differences in their backgrounds, the members of the Constituent Assembly were all nationalists. They had learnt from India's long struggle for independence against the British that if a country had to progress, the people had to be involved in its governance. So they all felt that India should have a democratic government. They borrowed ideas from the constitutions of other democratic countries, keeping in mind the special needs of the Indian people. As Jawaharlal Nehru said while addressing the Constituent Assembly, the aim was to

build a nation:



The Constituent Assembly



- in which all power and authority would be derived from the people,
- that would secure justice, equality, and freedom for all its citizens irrespective of religion,

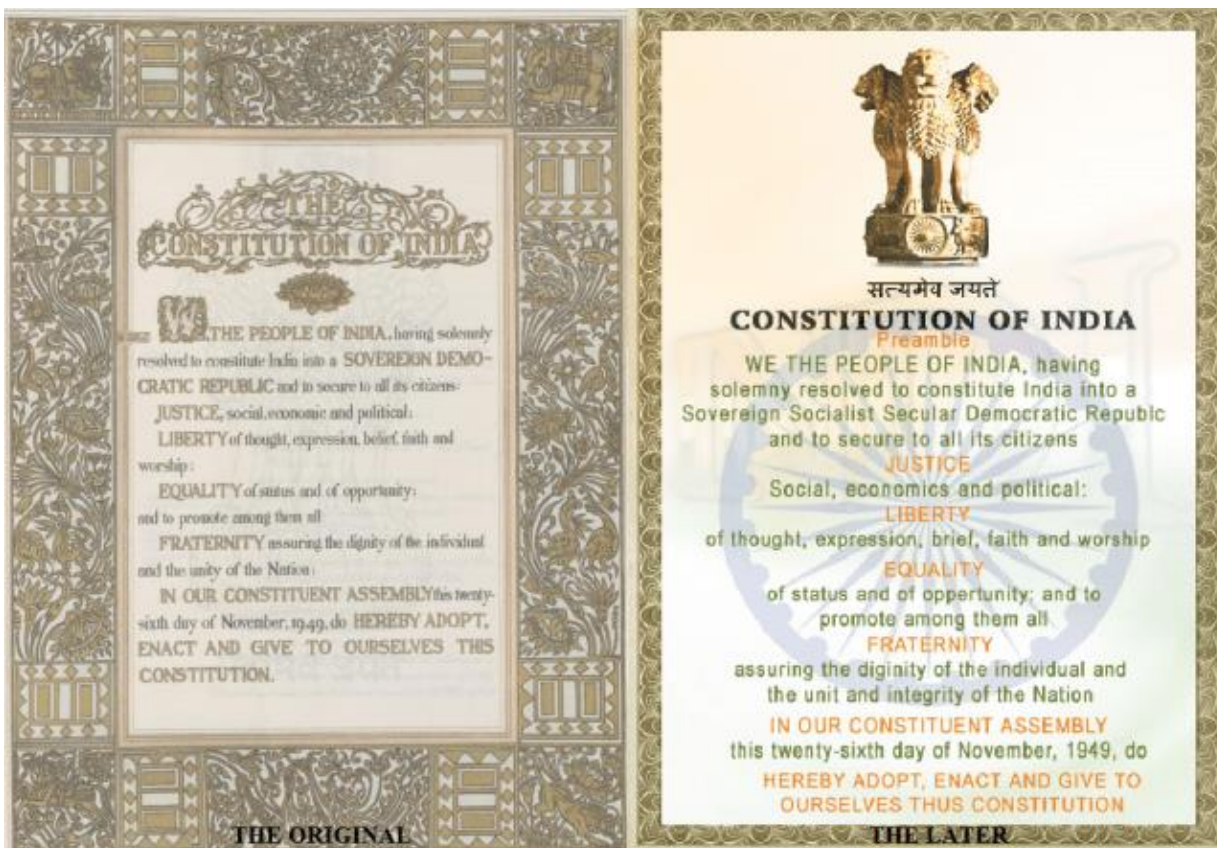
caste, sex, etc.,

- in which the rights of the minorities and backward classes would be safeguarded,
- that would strive to improve the condition of the masses, who were living in utter poverty, and
- That would contribute to the promotion of world peace and the welfare of mankind.

It took the Constituent Assembly 165 sessions, spread over almost three years, to shape the lengthiest constitution in the world. The members displayed an extraordinary sense of unity and took care to include the points of view of every section of society. Finally, they signed the Constitution on 26th November 1949. As you already know, the Constitution came into effect on 26th January 1950.

Know a Little More

The Indian Constitution is the longest written constitution of any sovereign country. All constitutions, however, do not comprise a single written document. For example, the Constitution of the UK is the sum of all the laws and customs that have evolved over time. Some of these are written, while others are unwritten.



THE PREAMBLE

The Preamble is the introductory part of the Constitution. It sets out the ideals that the makers of the Constitution (as representatives of the people) wished the country to follow. It is the guiding spirit behind all the laws in the country.

The People: The Preamble says, "We the people of India? Adopt, enact and give to ourselves this Constitution." This means the people are all- important. They are the ultimate source of power, in keeping with the spirit of democracy.

Sovereign: 'Sovereign' in this context means independent.

Socialist: 'Socialism' refers to certain political principles that have been interpreted differently in different countries. Indian socialism lays stress on striving towards a 'more equal' society by 'helping' the weaker sections. We will discuss this in greater detail under social justice.

Know a Little More

In a strictly socialist State, the means of production (farms, factories, etc.) are owned by the people. There is no, or very little, private ownership of wealth. This was the case in the former Soviet Union. In India, the State does own or run the railways, the postal system, some banks, and industrial units, but there is private ownership as well.

The term 'socialist' was added to the Preamble by an amendment to the Constitution in 1976. 'Amendment' means change. Our Constitution can be amended to suit the changing needs of the people. However, amendments can be made only in accordance with the procedure laid down by the Constitution. This is a protective measure so that people cannot change the Constitution in such a way as to harm the country

Secular: India is a secular State. This means the State keeps away from religious matters. The word 'secular', too, was added to the Constitution in 1976 by an amendment, as was the phrase 'unity and integrity of the nation'.

Democratic: In a democracy, it is the people who govern the country through their elected representatives. These representatives govern as long as the people have faith in them and may be changed during elections, which are held at regular intervals.

Republic: In a republic, the State is headed by an elected representative and not a hereditary ruler (king). The head of the State of India is an elected representative.

Justice: To be 'just' means to be fair, impartial, and morally correct. When we speak of justice in the context of law, we mean that laws apply equally to everyone, irrespective of religion, caste, sex, social status, etc.

Social and economic justice: This means trying to reduce the inequalities in the wealth and social status of the people. Our Constitution provides reservation of a certain percentage of seats (or posts) in educational institutions, government jobs, etc. for members of the



The picture shows protests held in 2006 against the

Government's decision to reserve 27% of seats in prestigious academic institutions for OBCs. The protesters felt that the decision was discriminatory (unfair) since it would reduce the number of seats available for students from the non-reserved category.

Scheduled Castes (SCs), Scheduled Tribes (STs) and Other Backward Classes (OBCs). The idea is to give these people, who had been deprived of opportunities earlier, a fairer chance to catch up with the rest of the society. \

Q. Do you feel that reservation for the OBCs is in the spirit of the Constitution?

Liberty, equality, and fraternity: These three words have come to represent the spirit of democracy. We will discuss liberty (freedom) and equality later under the Fundamental Rights enjoyed by every citizen of India. 'Fraternity' means brotherhood. The Constitution seeks to promote brotherhood by establishing a secular State, making everyone equal before the law and prohibiting any discrimination on grounds of caste, language, wealth, sex, religion, etc.



Liberté • Égalité • Fraternité

RÉPUBLIQUE FRANÇAISE

The words liberte (liberty), egalite (equality) and fraternite (brotherhood) in the logo of the French Republic have their origin in the French Revolution (1789), when the people overthrew the monarchy.

KEY FEATURES OF THE CONSTITUTION

We will discuss the basic features of our Constitution and try to understand how they reflect the aspirations of the people and suit their needs.

Federal system

Under the federal system, a country is formed of the 'union' of several states, which have a certain degree of independence in conducting their own affairs. However, the overall responsibility of governing the country lies with the central government or union government. How much independence the states have, varies from country to country.

The makers of the Constitution thought that this system would suit our country because our country has so many communities, each with its own aspirations and needs. Thus, we have a Central government which looks after matters of national importance (for example defense and relations with other countries and state governments which take care of the needs of the states. The Constitution lists the areas in which only the union government can make laws (Union List), the areas in which the state governments can make laws (State List), and the areas in which both the union and state governments can make laws (Concurrent List). It also mentions the sources (through taxes, for example) from which the Centre and the states can get money to carry out their responsibilities.

Know a Little More

The 50 stars in the US flag represent the 50 states that form the United States of America. Each of the American states has its own laws (constitution) and Supreme Court. This is not the case in India.



Separation of Powers

The Indian State has three organs-the legislatures, the executive and the judiciary. The legislature (Parliament) frames laws, the executive (ministers) implements laws and the judiciary (courts) interprets laws. The executive is answerable to the legislature, which consists of elected representatives. The judiciary is independent of the executive and the legislature and can question their actions, including the passing of laws by Parliament. The powers of the State are thus divided in such a way among the three organs as to provide a system of checks and balances to prevent the misuse of power by any organ.

Parliamentary form of government

In the parliamentary form of democracy, the executive and the legislature are linked together, the executive being answerable to the legislature. Also, the executive is not elected by the people. This is not so in the presidential form of democracy (followed in the USA, for example), in which the people elect the executive (President) separately from the legislature and the two organs function independently.

Parliamentary democracy can be of many types. In India, the legislature has two houses and the elected representatives are chosen by universal adult suffrage. This means every adult citizen has the right to vote, irrespective of religion, sex, education, wealth, etc. Also, each citizen's vote has the same weightage irrespective of his/her status in society. In our form of parliamentary democracy, the head of the State (President) is different from the head of the government (Prime Minister).

Fundamental Rights

The Constitution guarantees the following rights, called the Fundamental Rights, to all citizens. These rights cannot be taken away by anyone (including the State), except by the 'due process of law', or according to the law. For example, the right to personal liberty can be taken away if a person is convicted of a crime and the relevant court awards a sentence (punishment) of imprisonment.

Know a Little More

After the Second World War, there was a worldwide movement to declare certain rights 'universal', that is, belonging to all mankind. It led to the adoption of the Universal Declaration of Human Rights (UDHR) by the United Nations. It was an effort to prevent States from taking away the basic rights of their citizens. The National Human Rights Commission investigates cases of human rights violation in the country.

Right to equality: Under our Constitution, even "Indian is equal in matters of rights, opportunities and protection under the law. Any kind of discrimination on grounds of religion, caste, wealth, sex, language, etc., is prohibited. For example, no one can be prevented from holding a job, entering a public place or studying in an institution on these grounds. The practice of untouchability (see Chapter 7) is banned. The use of titles (like Rai Bahadur) is banned. Even titles such as Bharat Ratna that are awarded by the State, for service to the nation, cannot be used before one's name.

The right to equality does not mean that the State cannot make special concessions for the weaker sections of society. The State has made special provisions for women, the disabled and the elderly, for example, women pay less tax than men.

Right to freedom: Other than the right to life and personal liberty, the Constitution gives us the following freedoms:

- Freedom of speech and expression
- Freedom to assemble peacefully and without arms
- Freedom to form associations and unions
- Freedom to move freely throughout the country
- Freedom to reside and settle in any part of the country
- Freedom to practice any profession or to carry on any occupation, trade or business

However, there are certain conditions attached to these freedoms. For example, freedom of speech and expression does not mean that we can say (in public) or write (publish) things that are harmful to others or a threat to the integrity of the nation.

Right to freedom of religion: Every citizen has the right to practice, preach and profess a religion of his or her choice. We will discuss this in greater detail in the chapter on secularism.

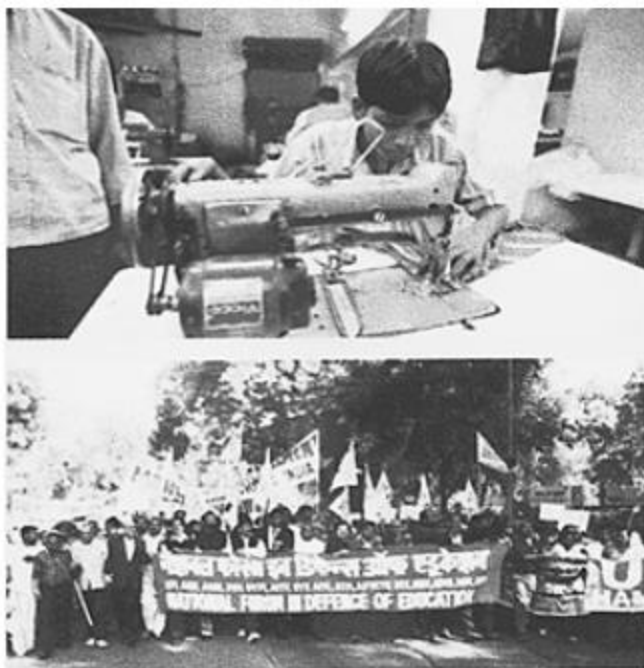
Cultural and educational rights: Every cultural group is at liberty to take measures to preserve and promote its traditions (language, literature, folk art, etc.). Minority groups have the right to set up educational institutions.

Right against exploitation: To exploit' means to take advantage of. The right against exploitation seeks to protect women, children and the weaker sections of society from being exploited by others. For example, it is illegal to employ children under 14 in any job and to make people work without wages to repay loans. The latter is known as bonded labor or begari.

Right to constitutional remedies: Every citizen has the right to appeal to a court if he or she is deprived of his or her Fundamental Rights by anyone, including the State.

Right to primary education: Children in the age group of 6 to 14 have the right to receive free primary education. This law was passed in 2009.

To which rights are these pictures related?



Directive Principles of State Policy

Everything that a new nation aspires to cannot be achieved at once, primarily because of the lack of resources. This was the case with India too, so the framers of the Constitution laid down some guidelines or goals for the future. These are called the Directive Principles of State Policy. Many of these principles have been converted into laws over the years. For example, laws have been passed on the right to primary education, on the protection of the environment and on the protection of monuments. Once a Directive Principle becomes a law, it can be enforced by a court of law.

Fundamental Duties

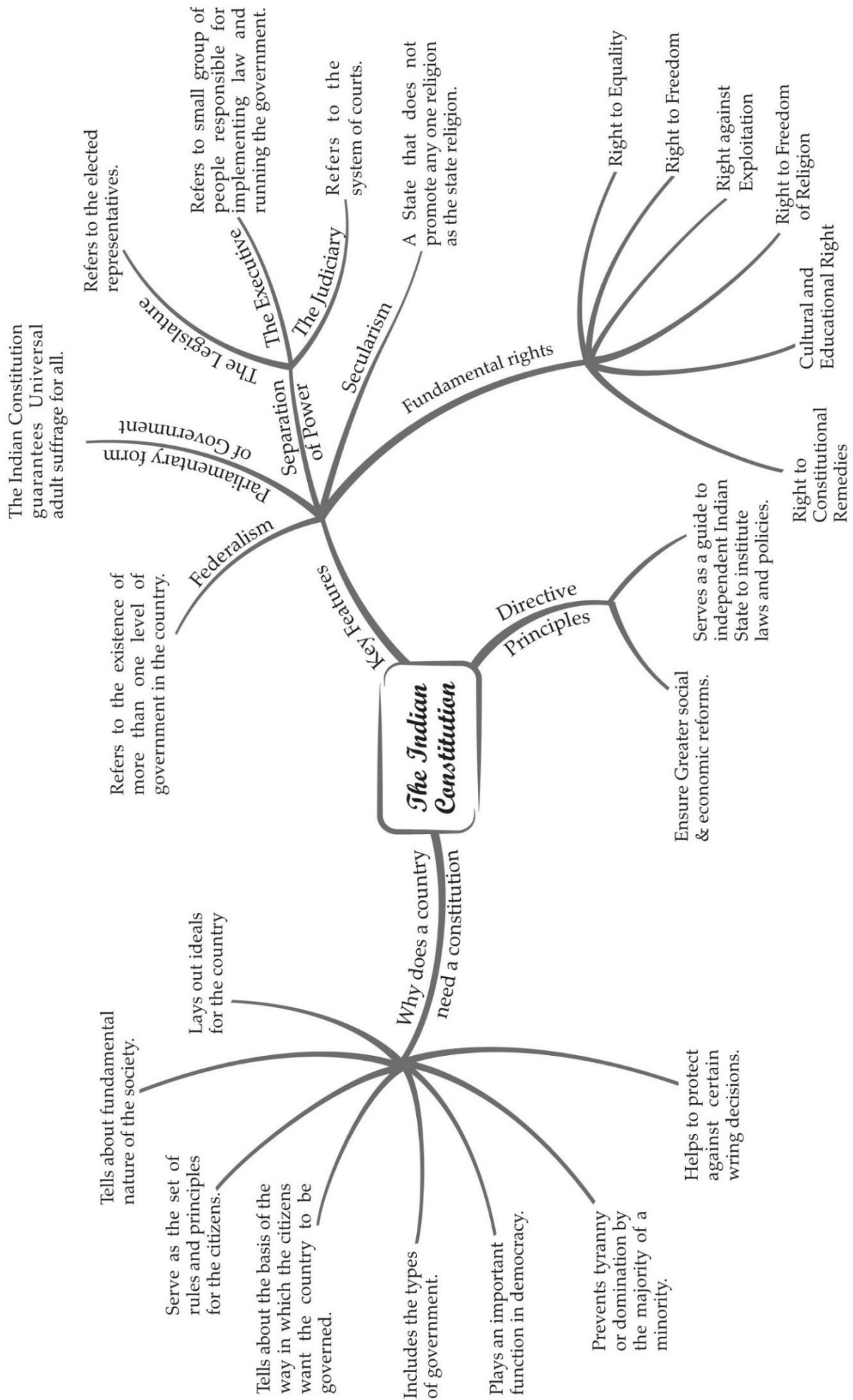
These duties of a citizen were added to the Constitution by the 42nd Amendment Act in 1976. These cannot be enforced by law. Some of these duties are:

- To abide by the Constitution and respect its ideals, the national flag and the national anthem
- To cherish and follow the noble ideals of the freedom struggle
- To uphold and protect the sovereignty, unity and integrity of India
- To defend the country and render national service when required
- To promote harmony and the spirit of brotherhood among all Indians
- To value and preserve the heritage of our composite culture
- To protect and improve the natural environment

Know a Little More

Do you know about the Flag Code of India? Among other things, it describes the procedures to be followed while handling our national flag. This code was last amended in 2002.

MIND MAP : LEARNING MADE SIMPLE CHAPTER-19



Important Questions

Multiple Choice Questions-

Question 1. Which part of the Indian Constitution has been referred to as the 'Conscience'.

- (a) Secularism
- (b) D.P.S.P
- (c) Fundamental Rights
- (d) Fundamental Duties

Question 2. Which is the 3rd tier of government?

- (a) Panchayati Raj
- (b) Municipal corporation
- (c) State government
- (d) Central government

Question 3. When did Indian National Congress (INC) make the demand for a Constituent Assembly?

- (a) 1934
- (b) 1945
- (c) 1946
- (d) 1947

Question 4. When did the Maoists join other political parties in Nepal to sign a 12-point agreement?

- (a) April 2006
- (b) October 2007
- (c) Nov 2005
- (d) Feb 2005

Question 5. The Constitution prohibits human trafficking, forced labour, and children working under 14 years of age. It is mentioned under which Fundamental Right?

- (a) Right to Freedom
- (b) Right to Freedom of Religion
- (c) Right to Constitutional Remedies
- (d) Right against Exploitation

Question 6. Which court issue the Writs?

- (a) District Courts

- (b) Panchayats
- (c) Civil Courts/Criminal Courts
- (d) Supreme Court/High Courts

Question 7. Panchayati Raj is the tier of which government?

- (a) First
- (b) Second
- (c) Third
- (d) Fourth

Question 8. When did our Constitution was adopted and was enforced?

- (a) 26 January 1950
- (b) 15 August 1947
- (c) 2 October 1950
- (d) 26 November, 1949

Question 9. According to which set of fundamental rules the country functions.

- (a) A law
- (b) An amendment
- (c) A constitution
- (d) A preamble

Question 10. By which amendment the Fundamental duties were included in the Constitution?

- (a) 38th Amendment
- (b) 42nd Amendment
- (c) 40th Amendment
- (d) 39th Amendment

Question 11. What are the objectives for implementing the fundamental rights according to Dr. B.R. Ambedkar?

- (a) To ensure every citizen is benefited
- (b) To ensure every citizen is rich
- (c) To ensure every citizen has ration card
- (d) None of these

Question 12. What is the significance of the Preamble in the Indian Constitution?

- (a) States the objectives of the president
- (b) States the objectives of the election

(c) States the objectives of the Constitution

(d) None of these

Question 13. What is Sovereignty?

(a) Freedom to establish new country

(b) Freedom to govern oneself

(c) People's government

(d) None of these

Question 14. What is Democracy?

(a) Rule of people

(b) Rule of king

(c) Rule of British

(d) None of these

Question 15. What is a constitution?

(a) Set of rules of court

(b) Set of rules to govern country.

(c) Set of rules of company

(d) None of these

Very Short:

1. In politics, what is a constitution?
2. In Nepal, when did the Interim Constitution come into effect?
3. What are the negative points of a democratic society?
4. What do you mean by federalism?
5. What is Right to Equality?
6. What is Right against Exploitation?
7. How has the section on Fundamental Rights often been referred to?
8. How are Fundamental Rights important? Give one point.
9. What does the word 'State' refer to?
10. What caused fear among the members of the Constituent Assembly?
11. What did the members of the Constituent Assembly do to come out of their fear?
12. What do you mean by a secular state?

Short Questions:

1. How can a leader misuse power in a democratic country?

2. Differentiate between a monarchy and a democracy?
3. How does the Indian Constitution safeguard the minorities of the country?
4. What will happen if there is no restriction to the powers of elected representatives?
5. What is universal adult franchise?
6. What do you mean by the legislature, the executive and the judiciary?
7. Mention the key features of the Indian Constitution.
8. What are the factors the drafting committee had to take into consideration while drafting the constitution?

Long Questions:

1. What is a constitution? What purposes does it serve?
2. Why did Dr. Babasaheb Ambedkar urge Scheduled Castes to join the government as well as the civil services?
3. What were the challenges before the members of the Constituent Assembly?
4. Who do you mean by federal form of government? Why is it important?
5. Explain Right to Equality in detail.

Answer Key:

MCQ:

1. (c) Fundamental Rights
2. (a) Panchayati Raj
3. (a) 1934
4. (c) Nov 2005
5. (d) Right against Exploitation
6. (a) Supreme Court/High Courts
7. (c) Third
8. (a) 26 January 1950
9. (c) A constitution
10. (b) 42nd Amendment
11. (a) To ensure every citizen is benefited
12. (c) States the objectives of the Constitution
13. (b) Freedom to govern oneself
14. (a) Rule of people
15. (b) Set of rules to govern country

Very Short Answer:

1. In Politics a constitution can be described as a document outlining the basic laws or principles by which a country is to be governed.
2. In Nepal, the Interim Constitution came into effect from January 15, 2007.
3. In a democratic society Power can be misused. Sometimes the Majority can undermine the minority. The citizens need certain rules to save themselves from folly.
4. The term federalism refers to the existence of more than one level of government in the country.
5. Right to Equality means that all persons are equal before the law.
6. Under this Right the Constitution prohibits trafficking, forced labour and children working under 14 years of age.
7. It has often been referred to as the conscience of the Indian Constitution.
8. Fundamental Rights protect citizens against the arbitrary and absolute exercise of power by the state.
9. The word 'State' refers to a political institution that represents a sovereign people who occupy a definite territory. For example, the Indian State.
10. They feared that the executive might become too strong and ignore its responsibility to the legislature.
11. They included several provisions in the Constitution to limit and control the actions taken by the executive branch of government as a whole.
12. A secular state does not officially promote any one religion as the state religion.

Short Answer:

Ans: 1. A leader misusing his power may send his security guards to beat up his neighbors for a personal reason or ask the police not to take action against a relative who has committed a crime.

Ans: 2. A country which is governed by a king or a queen is called a monarchy. While Democracy is forms of government where people can vote to select their respective representative well govern the state on their behalf.

Ans: 3. The Indian constitution ensures that the dominant group does not use its power against other, less powerful people or groups. The Constitution contains rules that ensure that minorities are not excluded from anything that is routinely available to the majority. It also prevents the domination of the majority over the minority.

Ans: 4. If there would have been no restrictions to powers of elected representatives, they may have misuse their powers. They could have used their powers in doing wrong deeds. They could even have supported a single religion.

Ans: 5. Universal adult franchise is every adult citizen having a right to vote irrespective of sex,

caste, creed, education, and financial status.

Ans: 6. The legislature refers to our elected representatives. The executive is a smaller group of people who are responsible for implementing laws and running the government. The judiciary refers to the system of courts in this country.

Ans: 7. The key features of the Indian constitution are:

- Federalism
- Parliamentary Form of Government
- Separation of Powers
- Fundamental Rights
- Secularism

Ans: 8. The committee had to keep in mind that India was a land of many communities, languages and many religions. India was a land of diverse cultures and the Princely states in India had to be considered. The partition of the country into India and Pakistan was about to happen and the drafting committee had to bear this in mind. Finally, the biggest consideration was the socio-economic condition of a majority of Indians which was in a bad state.

Long Answer:

Ans: 1. A Constitution is a written document containing certain rules. It serves several purposes. It tells us what the fundamental nature of our society is. A country is usually made up of different communities of people who share certain beliefs but they may not necessarily agree on all issues. A Constitution helps serve as a set of rules and principles that all persons in a country can agree upon as the basis of the way in which they want the country to be governed.

The second important purpose of a Constitution is to define the nature of a country's political system. In countries that have adopted a democratic form of government, the Constitution lays out certain important guidelines that govern decision-making within these societies.

Ans: 2. Dr. Ambedkar was an important member of the Constituent Assembly. He believed that his participation in the Assembly helped the Scheduled Castes get some safeguards in the draft Constitution. But he also stated that although the laws might exist, scheduled castes still had reason to fear because the administration of these laws were in the hands of upper caste Hindu officers. Therefore, he urged scheduled castes to join the government as well as the civil services. It would give them a chance to play their role in law-making.

Ans: 3. The following were the challenges before the members of the Constituent Assembly: (a) The country was made up of several different communities who spoke different languages, practised different religions and had distinct cultures. (b) At the time the Constitution was being written, the country was going through considerable turmoil. The partition of the country was imminent, some of the Princely States remained undivided about their future. (c) The socio-economic condition of the vast mass of people appeared dismal. (d) Poverty was another major challenge.

Ans: 4. Our Constitution provides for a federal form of government. This means that the responsibility of governing our country has been divided into the central government and the state governments. Panchayati Raj is the third tier of government.

India is a vast country. Different communities of people live here. Hence, a system of government needed to be devised that did not involve only persons sitting in the capital city of New Delhi and making decisions for everyone. Instead, it was necessary to have another level of government in the states so that decisions could be made for that particular area. In this way, it will be easier to make positive efforts for the development of the country as well as the states.

Ans: 5 . Our Constitution states that all persons are equal before the law. This means that all persons shall be equally protected by the laws of the country. The Constitution also states that no citizen can be discriminated against on the basis of their religion, caste or sex. Every person has access to all public places such as hotels, playgrounds, shops, etc. The state cannot discriminate against anyone in matters of employment.