

# APPOLO STUDY CENTRE

## (INDIAN POLITY) Salient Features of Constitution

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### 6<sup>th</sup> term I Unit 2 - Achieving Equality

- The society that we live in comprises people from various social groups who are different in many ways. Since we believe in 'Unity in Diversity', we should have been living peacefully with one another irrespective of those differences. Often, we see that diversity is not accepted, and people harbour attitudes of hostility towards those who are 'different' from them. They form opinions about the other groups and this often leads to tension in the society. Such 'opinions' are often 'prejudiced'.

#### 1. Prejudice

- Prejudice means to judge other people in a negative or inferior manner, without knowing much about them. It happens when people have false belief and ideas.

Prejudice -----► Pre + Judge

- The word 'prejudice' refers to prejudgement. Prejudices can be based on many things like people's religious beliefs, the region they come from, the colour of their skin, their accent or the clothes they wear. The types of prejudice are gender prejudice, racial prejudice, class prejudice, disability prejudice and so on.
- For example, urban people are more civilised than rural people in attitudes and behaviour, is one such prejudice.

#### Causes for Prejudice

Some common social factors that contribute to the rise of prejudice are

1. Socialization
2. Conforming behaviours
3. Economic benefits
4. Authoritarian personality
5. Ethno-centrism
6. Group closure
7. Conflicts

## 2. Stereotypes

- When prejudice gets stronger, it develops into a stereotype. Stereotype is a false view or idea about something. For example, girls are not good at sports. Stereotype is learned at a very early age, and children grow to have very strong ideas or opinions about things, groups or ideologies. As children grow up, the lines of like and hate for other things, people, cultures, beliefs, languages become sharper.

### Example

- Ragu was hit in his eye with a soft ball and to everyone's surprise, he started to cry. The others started to laugh at him; Mani felt sad for him but started laughing along with others. Now we understand that when we fix people in our image, we create a stereotype. In the above example, we have a general opinion that girls cry and boys don't cry. When Ragu cried out of pain, others laughed at him.
- Gender-based stereotypes are often portrayed in films, advertisements and TV serials. Almost all the advertisements related to detergents, washing machines, dishwashers and others show a woman as the main lead or user of that product. On the other hand, all the stunts shown in a bike advertisement is performed by ferocious looking men.

## 3. Inequality and Discrimination

- Inequality means difference in treatment. The different forms of inequalities such as caste inequality, religious inequality, race inequality or gender inequality give rise to discrimination.
- Discrimination can be defined as negative actions towards people. Discrimination can happen on the basis of colour, class, religion, gender etc. Treating dark-skinned people differently from fair-skinned people, giving more importance to people of higher than to those of lower caste and thinking boys are smarter than girls are all thoughts of discrimination.

- Article 15(1) of the Constitution states that the State shall not to discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

### **End of Apartheid**

After 27 years in prison, former South African President, Nelson Mandela, was freed in 1990 and successfully achieved the end of apartheid in South Africa, bringing peace to a racially divided country and leading the fight for human rights around the world.

### **Dr. Bhimrao Ramji Ambedkar**

- He is popularly known as Baba Saheb.
  - He was an Indian jurist, economist, politician and social reformer.
  - He earned his M.A. in 1915 and then obtained a D.Sc at the London School of Economics before being awarded Ph.D by Columbia University in 1927.
- He served as the chairman of drafting committee of the constituent assembly and hence regarded as the father of Indian Constitution.  
He was independent India's first Law Minister.  
He was posthumously awarded the Bharat Ratna in 1990.

### **Caste Discrimination**

- Caste system is the most dominant reason for inequality and discrimination in India. In the beginning, the society was divided into different groups on the basis of occupation, known as Varnas.
- Many people in India have fought against caste oppression. The most prominent among them was Dr. B.R. Ambedkar. He belonged to a such depressed family and suffered discrimination throughout his childhood. He fought actively for equality among the citizens of India.

### **Gender Discrimination**

- Gender discrimination refers to health, education, economic and political inequalities between men and women in India. For example, A girl is not allowed to go to college after finishing her schooling. Similarly, most of the girls are not allowed to select a career of their choice rather they are forced into marriage. In some families, girls are not allowed to wear modern dresses while boys in such families often wear modern dresses.

### **Religious Discrimination**

- Religious discrimination is unequal treatment of an individual or group based on their beliefs. Religious discrimination has been around for a long time. There have been problems between people of different religions for thousands of years. Some

people are not allowed to enter in public places; especially the places of worship because they belong to another religion. Some religious people often end up in conflict with each other because of their rituals and way of life.

### Socio-Economic Inequality

- In the socio-economic field, the benefits of growth have not been spread evenly. However, the income inequality is much higher than the inequality in human development. The low-income districts are associated with low industrial development, low agricultural productivity

#### Literacy rate - 2011 Census

High			Low		
s.no	District Name	Percentage	S.No	District Name	Percentage
1.	Kanyakumari	91.75%	1.	Dharmapuri	68.54%
2.	Chennai	90.18%	2.	Ariyalur	71.34%
3.	Thoothukkudi	86.16%	3.	Krishnagiri	71.46%
4.	The Nilgiris	85.20%	4.	Villupuram	71.88%

#### Sex Ratio - 2011 Census Number of females per 1,000 males

High			Low		
S.no	District Name	Percentage	S.No	District Name	Percentage
1.	The Nilgiris	1041	1.	Dharmapuri	946
2.	Thanjavur	1031	2.	Salem	954
3.	Nagapattinam	86.16%	3.	Krishnagiri	956
4.	Thoothukkudi	85.20%	4.	Ramanathapuram	977

and low human development. Similarly, the Districts with literacy rate are found to be with lower sex ratio..

### Remedial Measures for Abolishing Inequality and Discrimination

- The remedial measures for abolishing inequality and discrimination in Indian society are as follows.
  1. Wider access to quality basic services like healthcare and education for all.
  2. Be aware of current gender bias.
  3. Make women more visible in public life and institution to eradicate gender disparity.
  4. Be open to learning about other religions.
  5. Promoting community dining in the classroom may help the students to sit together without any bias of caste, religion or gender.
  6. Socialise with people of all types outside home.
  7. Effective implementation of laws.

## Constitution of India and Equality

- A Constitution is a set of rules and regulations guiding the administration of a country. Article 14 of the constitution of India provides equality before the law or equal protection within the territory of India and prohibits the unreasonable discrimination between persons.
- Our Constitution says ours is a land of diversity; therefore, equality has to be ensured for all. Two significant parameters to ensure equality in society are respecting diversity and ensuring freedom. The different kinds of freedom are freedom to follow their religion, speak their language, celebrate their festivals and express their views freely.
- The Constitution is a legal framework of rules and regulations by which a nation would function. Equality is where untouchability is seen as a crime. In India, as per the Article 17 of the Indian Constitution, untouchability is totally abolished and its any form is forbidden. Even today, different types of discrimination are reported across the country. Women, peasants, tribes and people from lower social classes are still striving for equality in India.

Unit -2 -THE CONSTITUTION OF INDIA

Pathway

The Lesson speaks about the formation of the constitution of India. It gives guidelines to govern the country, while ensuring the fundamental rights and duties of the citizens and how it protects them.

- Yazhinian and Sudaroli are brothers. Yazh is student of standard six and Sudar is in standard four. Yazh was preparing for his class test. Sudar after completing his home assignments was watching an animated series on television. Sudar was watching it but the noise level disturbed Yazh. Sudar was totally engrossed in the series and laughed and clapped loudly. Yazh could not concentrate on his lessons.
- So he asked Sudar to reduce the volume. But Sudar was not ready to adhere to his elder brother's advice. In spite of Yazh's continuous request Sudar did not reduce the volume.
- Yazh complained to his father that Sudar did not decrease the volume of the television in spite of requesting him several times. Yazh made it clear that he had a class test the following day.
- "Isn't your brother preparing for his class test? Weren't you wrong in troubling him?" continued his father.
- "I was watching the TV. Yazh kept disturbing and stopped me from watching it." said Sudar.
- "Studying for the test and watching television are not the same" said his father.
- But Sudar was not ready to accept the fact. Sudar was consistent that he had all rights to watch a film as much as Yazh had the right to study.
- His father admitted that both had equal rights. But one must not hinder another's freedom. Sudar didn't realise the fact that he was very stubborn.
- "Look Sudar. You have all rights to watch the film" said his father.
- "Yes dad"
- "Similarly, Yazh also has the right to listen to his favourite song on TV Couldn't he?"
- "How can that happen? When I watch the television he cannot do that."

- “When you can watch a film by increasing its volume, Yazh can also hear music loudly.” said father.
- “How will I watch the movie?”.
- “How will Yazh study?” .
- “Oh! I didn’t think of it. Okay dad, I will not watch the movie while Yazh studies.” .
- “No my child. You can watch the movie without causing trouble to anyone,” .
- “Don’t be angry Yazh. You study and I promise I will not disturb you.”
- Yazh smiled and patted Sudar’s back and left the place.
- Sudar’s mother was watching everything silently. She said, “ Even to run a small family don’t we need to follow so many rules and regulations? How much more of that will we need to administer a country?” she exclaimed.
- “It is an ocean Deepa. In order to administer people who follow different religions, speak different languages and belong to different castes and culture and treat everyone equally, we need to have a good code of laws and guidelines which we call as ‘The Constitution of India.’
- The next day Sudar and Yazh went to school. It was the Republic Day also.
- The celebration was a jubilant. The students and teachers were standing in line around the flag post. Immediately after the hoisting of the flag, a discussion was held with the chief guest for the day, Mr. Arumugam, an expert in social sciences.
- “Wish you a happy Republic Day!” wished Mr. Arumugam.
- “Wish you the same Sir.”
- “Do you know why do we celebrate the Republic Day?”
- “Our Constitution was framed and came into existence from 26th January 1950. That is why every year we observe this day as the Republic Day.” said the history teacher Malarmathi
- “Yes, it is true. There are other reasons why this constitution came into existence on 26th January 1950. When the Congress met at Lahore in 1929, the members of the Congress unofficially declared the same day as the Day of Poorna Swaraj or the Day of complete self governance. The next year, 26th January 1930 was celebrated as the Independence Day. That day has been observed as our Republic Day.”
- “What do you mean by the “Constitution of India” asked Nathar.

- “Before that, let me ask a few questions. You answer me. Then I will explain in detail about the constitution of India.”.

“All right sir.”

(The students were prepared to answer the questions)

“Are you following any rules and regulation at home?”

“Yes sir”

“Are you following any rules at school?”

“Yes sir”

“Are both of them the same or different?”

“Mostly, they are different”

“Is it necessary to follow certain rules in public places?”

“Yes, Sir”

“Why is it necessary?”

“We should not disturb anybody in public” said Tamilselvi.

“It’s true. Also no one should disturb us” said Selva

- “Yes, I do accept it. But what if someone compels you to follow some rules? How would you feel?”

“It would be difficult to do so.”

“How do you feel when you are asked to make your own rules?”

- “We would be proud and pleased to obey our own rules.” (Everyone agreed and nodded their heads)
- The constitution is an authentic document containing the basic ideas, principles and laws of a country. It also defines the rights and duties of citizens. The laws governing a country originate from the constitution. Every country is ruled on the basis of its constitution”

- “What are the things that make the constitution of India?” asked Deepika.



- “The constitution of India is the ultimate law. We have to abide by it. It explains the fundamental concepts of structure, methods, powers and the duties of Government bodies. It also lists the fundamental rights and duties of the citizens. Directive Principles are also mentioned in the constitution. So it is holistic in nature.”
- “When did they begin to frame the constitution?” asked Christopher.

### Constituent Assembly

- In 1946, nearly 389 members of the constituent Assembly who belonged to different parties from different places came together to frame the Constitution of India. The Chairman of the committee was Mr. Rajendra Prasad.
- Jawaharlal Nehru, Sardar Vallabhai Patel, Moulana Azad, S. Radhakrishnan, B. R. Ambedkar, and Sarojini Naidu were the significant members in the Constituent Assembly. 15 women members were in the Constituent Assembly.
- “Who were the other significant members in the Constituent Assembly?”

“How many women members were there in the Constituent Assembly?”

The Father of the Constitution of India is Dr. B. R. Ambedkar.

“15 women members were in the Constituent Assembly”

### **Drafting committee**

- The Drafting committee was formed with eight members and its Chairman was B. R. Ambedkar; B. N. Rao was appointed as an advisor. The committee met for the first time on 9th December 1946. On the same day, the drafting of constitution of India started.

“How did they form the Indian constitution?”

### **Features of Constitution**

- The constitutions of nearly 60 countries including the UK, USA, former USSR, France, Switzerland etc., were thoroughly examined and their best features have been adopted by our constitution.
- No, nearly 2000 amendments were made before the draft was finalised
- It took a period of 2 years, 11 months, and 17 days. It was completed on 26th November 1949.

- The constitution was accepted by the Constituent Assembly. So, 26th November is celebrated as the Day of the Constitution. The Preamble of our constitution stresses on the justice, liberty, equality and fraternity.
- “How much was spent to frame the constitution of India?” asked Nathar.
- “They spent almost 64 lakhs”.
- “What are the objectives of the Constitution?”
- “The Preamble of our constitution stresses on the justice, liberty, equality and fraternity.”

“What is a Preamble?” “

### **PREAMBLE**

- “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 26th day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.”
- The preface of the constitution is the Preamble. According to it, India is a Sovereign, Socialist, Secular Democratic Republic.

### **Features of Preamble**

- The constitution has granted the people the right to rule. The members of the parliament and the legislative assembly are elected by the people. The right to decide is only in the hands of the representatives. Sovereignty refers to the ultimate power of the country.

- Law allows all the citizens of a country, the right to follow different faith and religious beliefs. All citizens enjoy the freedom of worship. The country does not have a religion of its own. All the religions in our country hold the same status.

### **Type of Government**

- The Constitution of India provides a Parliamentary form of Government, both at the centre and the state. In a Parliamentary System, the Executive is collectively responsible to the Legislature. The party which has the majority forms the government.

### **Fundamental Rights**

- “What are fundamental rights?”  
Fundamental rights are the basic human rights of all citizens.

### **Directive Principles**

- “You mentioned about Directive Principles. What do you mean by that?”
- There are certain guidelines to be followed while the governments frame law. Though these are not mandatory, they should be taken into account.”

### **Universal Adult Franchise**

“What is Universal Adult Franchise?”

- Every Indian citizen has the right to vote when they attain 18 years of age, irrespective of any caste, religion, gender or economic status.
- “Like fundamental rights, every citizen will have duties too, won't they?”

### **Fundamental duties**

- There are duties respecting the National flag and National Anthem, respect and protect the Constitution, follow our great leaders who fought for our freedom, to protect our country, readiness to serve our country if necessary, treating everyone as brothers irrespective of their castes, religions, languages, races etc., to conserve our ancient heritage, and conserve natural elements like forests, rivers and lakes and fauna, to develop science, humanity and feelings of reformation to avoid non-violence and protect government property, parents or guardians providing educational opportunities to children between 6-14 years etc., have been added as our duties

**7<sup>th</sup> term 1**  
**UNIT 1- EQUALITY**

**Introduction:**

- Nature has made man unequal in colour, height, talent, physical strength etc., and the natural inequalities can never be rectified. Even the twins looking like the similar are not equal in their abilities. Man made inequalities on the basis of caste, money religion etc can be rectified. It is universally accepted that people are differed in their capacity, ability, attitude etc but at the same time, it is also accepted that they should be given equal opportunities for the development of their skills and talents.
- Equality is ensuring individuals or groups that are not treated differently or less favorably on the basic of specific protected characteristic, including areas of race, gender, disability, religion or belief, sexual orientation and age. According to Prof Laski "Equality does not mean identity of treatment, the sameness of reward. It means first of all absence of social privilege, on the second it means that adequate opportunities are laid upon to all".

**Importance of Equality**

- Equality is a powerful moral and political ideal that has inspired and guided human society for many centuries. The concept of equality invokes the idea that all human beings have equal worth regardless of their caste, color, gender, race or nationality. The democratic ideals such as liberty, equality etc are meaningful and effective only when they are implemented with justice.

**Kinds of Equality**

**Social equality**

- Social equality means that all citizens are entitled to enjoy equal status in society. There should not be any discrimination of caste, creed, color and race. All should have equal opportunity to develop their personality and to complete goals.

**Civil Equality**

- **Civil equality is enjoyment of civil rights by all citizens. There should not be any discrimination of superior or inferior, the rich or the poor, caste or creed. Equal rights should be available to all the persons and nobody should be denied enjoyment of any rights. Rule of law is in force in England and in the eyes of law all are equal and equal treatment is given to all by the rule of law. In India the same rule of law is followed.**

## NOTE

- Rule of law was advocated by A.V.Dicey, the British legal luminary.

## Political Equality

- All the democratic countries including India have guaranteed the political rights to all citizens. It includes
  - ❖ Right to vote
  - ❖ Right to hold public Office
  - ❖ Right to criticize the government
- Citizens should have equal opportunity to actively participate in the political life. These rights can be enjoyed through the Universal Adult Franchise. In India the voting right is given to all the citizens who have attained 18years of age without any discrimination. India is the first country to give right to vote to women from the very first general election held in the year 1952. In Switzerland the right to vote is given to women in 1971. Any person who has completed the age of 25 years can contest in the election. Right to criticize the government is also very important right and the people can express their resentment through demonstrations. The value of the vote of the Prime Minister and value of vote of common man in general election is same which denotes political equality.

## Gender Equality

- All human beings, both men and women, are free to develop their personal abilities and make choices without any limitations. Women were not given equal rights and they were considered as weak as compared to man and they were placed in a secondary position to men. They should be treated equally. It does not mean that women and men have to become the same, but that their rights, responsibilities and opportunities will not depend on whether they are born male or female. Gender Equality is the equal right of both men and women to have access to opportunities and resources. They have right to participate in the economic sphere and make important decisions. Women with their talent and hard work have proved that their ability is not less than men in any aspect. Nowadays, women are successfully working in many fields like Border security force, Indian Air Force, etc. For the uplift of women 50% reservation has been given for women in local bodies.

## NOTE

- UNICEF says Gender Equality “means that women and men, and girls and boys, enjoy the same rights, resources, opportunities and protections. It does not require that girls and boys, or women and men, be same, or that they be treated exactly alike.” As of 2017, gender equality is the fifth of seventeen sustainable development goals of the United Nations.

## Equality of Opportunity and Education

- All the individuals should have similar chances to receive education. They should have similar opportunities to develop their personality. We need equality to get equal treatment in society. If we treat equality we can earn respect and dignity.

## Equality in Indian constitution

- ❖ Almost the constitution all the countries in the world have guaranteed equality. Likewise, the constitution of India has also guaranteed equality to all citizens by providing Articles form 14-18.
- ❖ Article 14 - guarantees to all the people equality before law.
- ❖ Article 15 - deals with the prohibition of discrimination.
- ❖ Article 16 - provides equality of opportunity in matters relating to employment.
- ❖ Article 17 - abolishes the practice of untouchability .
- ❖ Article 18 - abolishes the titles conferred to citizen.
- ❖ Equality before law and equal protection of law have been further strengthened in the Indian constitution under Article 21.

## We can promote equality by

- ❖ Treating all fairly
- ❖ Creating an inclusive culture
- ❖ Ensuring equal access to opportunities
- ❖ Enabling to develop full potential
- ❖ Making laws and policies
- ❖ Education.

## Conclusion

- India is a the largest democratic country in the world. Equality and justice are the pillars of democracy. Justice can be achieved when people are treated equality. Equality is so important because it preserves the dignity of an individual. Equality is an important principle for a society to function.

## NOTE

- Efforts were made by many social activists from the 19th century onwards. The noted champions of this cause were Raja Rammohan Roy, IshwarchandraVidyasagarDayanandSaraswati, MahadevGovindRanade, TarabaiShinde, BegumRokeyaSakhawatHussain. They worked hard to get equal status to the women.

## **8<sup>th</sup> term I**

### **UNIT 2- CITIZENS AND CITIZENSHIP**

- The word 'Citizen' is derived from the Latin word 'Civis' which means resident of a City State of Ancient Rome. After the disappearance of City-State system, it has been used to mean a member of the State. The citizens of a state enjoy full civil and political rights.

#### **Citizen and Citizenship**

- Citizen is a person of a country who is entitled to enjoy all the legal rights and privileges granted by a state and is obligated to obey its laws and to fulfil his duties.
- Citizenship is the status given to the citizens which provide them the right to legally live in a country as long as they want.

#### **Types of Citizen**

There are two types of citizens, Natural and Naturalised citizens.

1. Natural citizens: are the citizens by birth.
2. Naturalised citizens: are the one who acquires citizenship.

#### **Acquisition of citizenship**

- The citizenship Act of 1955 prescribes five ways of acquiring citizenship. They are by birth, descent, registration, naturalisation and incorporation of territory.

##### **1) By Birth**

- A person born in India on or after 26th January 1950 but before 1st July 1987 is a citizen of India by birth irrespective of the nationality of his Parents.  
A person born in India on or after 1st July 1987 is considered as a citizen of India only if either of his Parents is a citizen of India at the time of his birth.

##### **2) By Descent**

- A Person born outside India on or after 26th January 1950 but before 10th December 1992 is a citizen of India by descent, if his father was a citizen of India at the time of his birth. A person born outside India on or after 10th December 1992 is considered as a citizen of India if either of his parents is a citizen of India at the time of his birth. From 3rd December 2004 onwards, a person born outside India shall not be a citizen of India by descent, unless his birth is registered at an Indian consulate within one year of the date of birth.

### **3) By Registration**

- A Person of Indian origin who is ordinarily resident in any country or place outside undivided India. A Person of Indian origin who is ordinarily resident in India for seven years before making an application for registration. A Person who is married to a citizen of India and is ordinarily resident in India for seven years before making an application for registration

### **4) By Naturalisation**

- The Central Government may, on an application, grant a certificate of naturalization to any person if he is not a citizen of any country where citizens of India are prevented from becoming subjects or citizens of that country a citizen of any country, renounce the citizenship of that country he has either resided in India or been in the service of a Government in India or throughout the period of twelve months he is a good character and has an adequate knowledge of a language specified in the Eighth Schedule to the Constitution. (presently 22 languages)

### **5) By incorporation of Territory**

- If any foreign territory becomes a part of India, the Government of India specifies the persons who among the people of the territory shall be the citizens of India. Such persons become the citizens of India from the notified date. For example, when Pondicherry became a part of India, the Government of India issued the citizenship (Pondicherry) order, 1962.

### **Loss of Indian Citizenship**

- Part II of the Constitution of India (Article 5-11) prescribes three ways of losing citizenship.

**Renunciation:** (is a voluntary act) when a person after acquiring the citizenship of another country gives up his/her Indian citizenship.

**Termination:** (takes place by operation of law) When an Indian citizen voluntarily acquires the citizenship of another country; he/she automatically ceases to be an Indian citizen.

**Deprivation:** (is a compulsory termination) The citizenship is deprived on the basis of an order of the Government of India in cases involving acquisition of Indian citizenship by fraud, false representation or being disloyal to the Constitution.

### **Single citizenship**

- Our Indian Constitution provides for only Single citizenship, that is, the Indian citizenship. But federal states like USA and Switzerland has dual citizenship.



(National citizenship and the State citizenship). In India, all citizens irrespective of the state in which they are born or reside enjoy the same political and civil rights of citizenship all over the country.

### **Rights and Duties of Citizen**

- Our Constitution confers the following rights for the citizen of India.
  - ❖ Fundamental Rights
  - ❖ Right to vote in the election to the Lok Sabha and the State Legislature
  - ❖ Right to hold certain public offices
  - ❖ Right to become the Member of Parliament and State Legislature.
  - ❖ According to 42 Amendment of our Constitution, a set of Fundamental Duties are prescribed for all citizens of India. (For e.g. paying taxes honestly, respecting the rights, beliefs and opinions of others, defending the country, respect and obey state and local laws and so on)

### **Qualities of a good citizen**

- ❖ Loyalty to the Constitution.
- ❖ Obeys laws.
- ❖ Contributes to society and community and performs civic duty.
- ❖ Quality of goodness and justice.
- ❖ Respecting diversity.

### **Global Citizenship**

- Global citizenship is an idea that everyone, no matter where they live is part of a worldwide community rather than as the citizen of particular nation or place. All people have rights and civic responsibilities. It is fundamental in enabling young people to access and participate in shaping modern society.
- Our Constitution of India has introduced Single citizenship and provides uniform rights for the people of India to promote the feeling of fraternity and unity among them to build an integrated Indian nation.

### **NOTE**

#### **Indian Citizenship Act, 1955**

- This act is to provide for the acquisition and termination of Indian citizenship.

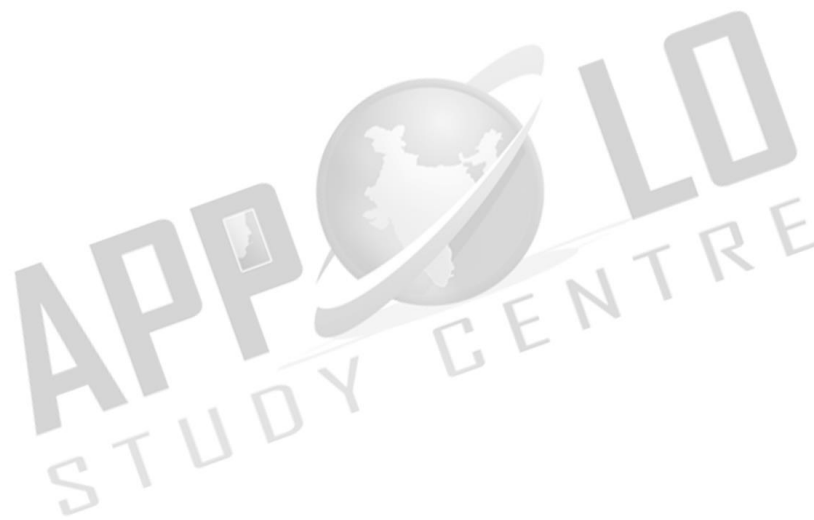
#### **Nationality and citizenship**

- Nationality is the status of belonging to a particular nation by origin, birth basically, it's an ethnic and racial concept. Nationality of a person cannot be

changed. Citizenship is granted to an individual by the government of the country when he/she complies with the legal formalities. Citizenship can be changed.

- As per the order precedence President is the first citizen of our country. Alien and immigrant are two terms that are used to refer to non-nationals of a country. Alien refers to all non-citizens or non-nationals residing in a country. eg. tourists, foreign students. Immigrant refers to alien who has been granted the right to reside and work permanently without restriction in a particular country. Overseas Indians' Day Pravasi Bharatiya Divas (PBD) Sponsored by Ministry of External Affairs of Government of India is celebrated once in every two years, to "mark the contributions of Overseas Indian Community in the development of India". The day commemorates the arrival of Mahatma Gandhi in India from South Africa.

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**10th vol I**  
**UNIT 1 - INDIAN CONSTITUTION**

**Introduction**

- The Constitution is the fundamental law of a country which reflects the fundamental principles on which the government of that country is based. It is the vehicle of a Nation's progress. More particularly, it is concerned with institutional fabric and the framework of the distribution of powers between the various organs of the government and between the Union and the States. The concept of constitution was first originated in U.S.A.

**The Need for a Constitution**

- All Democratic countries have a constitution that governs them. A constitution puts down certain principles that form the basis of any kind of a state that we as citizens, desire to live in. A constitution tells us the fundamental nature of our society. A country is usually made up of different communities of people who have different beliefs; it will be helpful in fulfilling the beliefs of different segments of citizens.

**Making of Indian Constitution**

- The Constitution of India was framed by a Constituent Assembly setup under the Cabinet Mission Plan, 1946. The Assembly consisted of 389 members representing Provinces (292), States (93), the Chief Commissioner's provinces (3) and Baluchistan (1). The Assembly held its first meeting on December 9, 1946. Dr. Sachchidananda Sinha, the oldest member, was elected as the temporary President of the Assembly. While the work was in progress, Dr. Sachchidananda Sinha died. Dr. Rajendra Prasad was elected as the President of the Assembly. Similarly, both H.C. Mukherjee and V.T. Krishnamachari were elected as the Vice-Presidents of the Assembly. The Assembly met for 11 sessions along with 166 days of meetings. During the discussion, 2473 amendments were presented. Some of them were accepted. The Assembly worked through various committees and the draft of the Constitution was prepared by the Drafting Committee under the chairmanship of Dr. B.R. Ambedkar. He is recognised as the 'Father of the Constitution of India'. After the draft had been discussed by the people, the press, provincial assemblies and others, the Constitution was finally adopted on November 26, 1949, contained a Preamble, 22 parts, 395 Articles and 8 Schedules. The drafted Constitution came into force on 26th January, 1950. Thursday is known as the Republic Day. It is being observed every year.

**Salient features of Indian Constitution**

- ❖ It is the lengthiest of all the written constitutions of the world.
- ❖ It has borrowed most of its provisions from the constitutions of various countries.

- ❖ It is partly rigid and partly flexible.
- ❖ It establishes a federal system of government.
- ❖ It establishes the parliamentary system not only at the Centre but also in the states.
- ❖ It makes India as a secular state.
- ❖ It provides an independent judiciary.
- ❖ It introduces Universal Adult Franchise and accords the right to vote to all citizens above 18 years of age without any discrimination.
- ❖ It provides single citizenship.
- ❖ It makes special provisions for minorities, Scheduled Castes, Scheduled Tribes, etc.

### **Preamble**

- The term 'preamble' refers to the introduction or preface to the Constitution. It consists of the ideals, objectives and basic principles of the Constitution. It contains the summary or essence of the Constitution. It has great value and has been described as the 'key to the Constitution'. The Preamble to the Indian Constitution is based on the 'Objective Resolution', drafted by Jawaharlal Nehru, which was adopted by the Constituent Assembly on January 22, 1947. It has been amended once by the 42nd Constitutional Amendment Act of 1976, which added three new words - socialist, secular and integrity. The Preamble begins with the phrase 'We, the People of India'. This clearly implies that the Constitution derives its authority from the People of India. Thus, we can say that the people of India are the source of our Constitution. The Preamble of our Constitution states that India is a Sovereign Socialist Secular Democratic Republic. Its aim is to secure to all Indian citizens Social, economic and political justice. The Constitution guarantees Liberty of thought, expression, belief, faith and worship to all. It gives Equality of status and of opportunity to all. It wants to promote Fraternity among all Indians.

### **Citizenship**

- The word 'Citizen' is derived from the Latin term 'Civis'. It means resident of a City State. The Constitution of India provides for a single and uniform citizenship for the whole of India. Articles 5 to 11 under part II of the Constitution deals with the citizenship.

### **Citizenship Act of 1955**

- The Citizenship Act of 1955 provides for acquisition and loss of citizenship after the commencement of the Constitution. This Act has been amended so far eight times. Originally, the Citizenship Act (1955) also provided for the commonwealth Citizenship. But, this provision was repealed by the Citizenship (Amendment) Act, 2003.

## Acquisition of Citizenship

- The Citizenship Act of 1955 prescribes five ways of acquiring citizenship, viz, birth, descent, registration, naturalisation and incorporation of territory: According to the Citizenship Act, 1955, the citizenship could be acquired through any of the following methods.

**By Birth:** All persons born in India on or after January 26, 1950 are treated as citizens by birth.

**By Descent:** A person born outside India on or after January 26, 1950 shall be a citizen of India by descent, if his father is a citizen of India at the time of his birth.

**By Registration:** A person can acquire citizenship of India by registration with appropriate authority.

**By Naturalisation:** A foreigners can acquire Indian citizenship, on application for naturalization to the Government of India.

**By Incorporation of Territory:** In the event of a certain territory being added to the territory of India, the Government of India shall specify the persons of that territory who shall be citizen of India.

## Loss of Citizenship

- The Citizenship Act of 1955 prescribes three ways of losing citizenship whether acquired under the Act or prior to it under the Constitution, viz, renunciation, termination and deprivation.
- It can be voluntarily renounced by a citizen. It can be terminated if a person acquires the citizenship of some other country.
- The central government can deprive a naturalized citizen, if it satisfied that the citizenship was acquired by fraud, false representation or concealment of material facts or indulges in trade with enemy countries or if the person has been sentenced to imprisonment for a period of 2 years.

## Fundamental Rights

- The Fundamental Rights are enshrined in Part III of the Constitution from Articles 12 to 35. In this regard, the framers of the Constitution derived inspiration from the Constitution of USA. Originally, the Constitution provided for seven Fundamental Rights. At present, there are only six Fundamental Rights. Part III of the Constitution is rightly described as the Magna Carta of India. While Fundamental Rights are available to all persons, certain Fundamental Rights are available only to Indian Citizens.

### **Right to constitutional remedies (Articles 32)**

- A writ is an order or command issued by a court in writing under its seal. It is in the nature of a command or prohibition from performing certain acts that are specified in the orders of the court. Both the Supreme Court and the High Courts are empowered to issue five kinds of writs of habeas corpus, mandamus, prohibition, quo warranto and certiorari. That is why the Supreme Court is called the “Guardian of the Constitution”. According to Dr. Ambedkar, Article 32 is “the heart and soul of the Constitution”.

**Habeas Corpus:** Safeguards people from illegal arrests.

**Mandamus:** It protects the petitioner who requires legal help to get his work done by respective public authorities.

**Prohibition:** It prohibits a subordinate court from acting beyond its jurisdiction.

**Certiorari:** It quashes an order issued by a subordinate court by overstepping its jurisdiction.

**Quo Warranto:** It prevents usurpation of public office through illegal manner.

### **Suspension of Fundamental Rights**

- When the President makes a Proclamation of Emergency under Article 352, the freedoms guaranteed under Article 19 are automatically suspended. The President can suspend other fundamental rights through specific orders. These orders must be approved by the Parliament. But he cannot suspend the freedoms given under Arts. 20 and 21 (protection in respect of conviction for offences and protection of life and personal liberty respectively) in any circumstances.

### **Directive Principles of State Policy**

- The Directive Principles of State Policy are enumerated in Part IV of the Constitution from Articles 36 to 51. The Constitution does not contain any classification of Directive Principles. However, on the basis of their content and direction, they can be classified into three broad categories, viz, socialistic, Gandhian and liberal-intellectual. These principles are not enforceable by the courts. But they are fundamental for the governance of the country. The Government is duty bound to apply these principles while making laws. They aim at promoting the Social Welfare of the people. Dr. B.R. Ambedkar described these principles as ‘novel features’ of the Indian Constitution.

### **Differences between Fundamental Rights and Directive Principles of State Policy**

<b>Fundamental Rights</b>	<b>Directive Principles of State Policy</b>
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It was derived from the Constitution of the USA.	It was drawn on the model of the Constitution of Ireland.
Even the Government cannot take away or abridge these rights.	These are mere instructions to the Government.
These are enforceable by a court of law.	These are not enforceable in any court.
These have legal sanctions.	These have moral and political sanctions.
These rights strengthen political democracy in the country.	The implementation of these principles ensures social and economic democracy.
These are natural rights.	These lead to protect human rights.

### **Fundamental Duties**

- The Fundamental Duties in the Indian Constitution are inspired by the Constitution of former USSR. In 1976, the Congress party set up the Sardar Swaran Singh Committee to make recommendations on fundamental duties. The 42nd Amendment Act of 1976 added some responsibilities of citizens to our Constitution called the Fundamental Duties. This amendment added a new part, namely, Part IVA to the Constitution. This new part consists of only one Article that is Article 51A which for the first time specified a code of ten fundamental duties of the citizens.

### **List of Fundamental Duties**

Article 51A declares it to be the duty of every citizen of India.

- a) To abide by the constitution and respect its ideals and institutions, the National Flag and the National Anthem.
- b) To cherish and follow the noble ideals which inspired the national struggle for freedom
- c) To uphold and protect the sovereignty, unity and integrity of India

- d) To defend the country and render national service when called upon to do so
- e) To promote harmony and the spirit of common brotherhood among all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women
- f) To value and preserve the rich heritage of our composite culture
- g) To protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures
- h) To develop scientific temper, humanism and the spirit of inquiry and reform
- i) To safeguard public property and to abjure violence
- j) To strive towards excellence in all spheres of individual and collective activity, so that the nation constantly rises to higher levels of endeavour and achievement
- k) To provide opportunities for education to his child or ward between the age of six and fourteen years. (The 86th Constitutional Amendment Act, 2002 has also introduced the 11th Fundamental Duty under 51A(k) under which all citizens of India or parents shall provide opportunities for education to their children between age of 6 and 14 years)

### **Centre-State Relations**

- The Constitution of India, being federal in structure, divides all powers between the Centre and the States. The Centre-State relations can be studied under three heads:

### **Legislative relations**

- The Union Parliament has the power to legislate for the whole or any part of the territory of India, which includes not only the States but also the Union Territories or any other area for the time being, included in the territory of India. The Seventh Schedule of the Constitution embodies three lists namely, the Union List, State List and Concurrent List consisting of 97, 66 and 47 items respectively. The Parliament enjoys the exclusive power to legislate on subjects enumerated in the Union List. The State Legislature has exclusive right to legislate on the State List. Both Parliament and State Legislatures have power to legislate on subjects contained in the Concurrent List. But in case of conflict between the law of the State and the Union on a subject in the Concurrent List, the law of Parliament prevails.



### Administrative relations

- The Administrative power of a State extends only to its own territory and with respect to which it has legislative competence, whereas the Union has exclusive executive power over:
- The matters with respect to which Parliament has exclusive power to make laws and The exercise of its powers conferred by any treaty or agreement.

### Financial relations

- Article 268-293 in Part XII deal with the financial relations between centre and the states. The Centre and States are empowered by the Constitution to impose various kinds of taxes. And certain taxes are imposed and collected by the centre and divided between centre and states based on the recommendation of the Finance Commission appointed by the President under Article 280 of the Constitution. Late Prime Minister Indira Gandhi appointed the Sarkaria Commission in 1983 to make an enquiry into the Centre-State relations. The Central government has implemented 180 (out of 247) recommendations of the Commission. The most important is the establishment of the Inter-State Council in 1990.

### Official Language

- Part XVII of the Constitution deals with the official language in Articles 343 to 351. Its provisions are divided into four heads namely, Language of the Union, Regional languages, Language of the judiciary and texts of laws and Special directives. The First language committee was appointed in 1955. It submitted its report in 1956. As a follow up of the report, parliament enacted the Official Language Act, 1963. The act laid down that even after 15 year, English may continued to be used along with Hindi for all official purposes of the Union and also for transaction of business in parliament. Again through the Official Languages (Amendment) Act, 1967, it was provided that the use of English would continue indefinitely. The Constitution also permitted certain regional languages to be used for intra-state official transactions. Initially, the Constitution recognised 14 regional languages which were included in the Eighth Schedule. At present, 22 languages are recognised.

### Emergency Provisions

- The Central Government has been vested with extraordinary powers to deal with conditions of emergency. Three types of emergencies are envisaged in the Constitution:

#### National Emergency (Article 352)

- The President under Article 352 can declare emergency if he is satisfied that India's security is threatened due to war, external aggression or armed rebellion, or if there

is an imminent danger or threat. When a national emergency is declared on the ground of war or external aggression it is known as external emergency. On the other hand, when it is declared on the ground of armed rebellion it is known as internal emergency. This type of emergency has been declared three times so far: in 1962, 1971 and 1975.

### **State emergency (Article 356)**

- Under Article 356, the President can declare an emergency in a state if the Governor reports that a situation has arisen under which the government of a State cannot be carried on in accordance with the provisions of the Constitution. The continuance of such an emergency beyond one year is possible only if emergency under Art. 352 are in operation or the Election Commission certifies that there are difficulties in holding Assembly elections. Maximum duration of the emergency can be three years. In this kind of emergency, the States lose much of their autonomy in legislative and executive matters. After such an announcement state legislature is suspended and the State is governed by the Governor on behalf of the President. For the first time, the President's Rule was imposed in Punjab in 1951.

### **Financial emergency (Article 360)**

- Article 360 authorises the President to declare financial emergency if he is satisfied that the financial stability or credit of India or of any of its parts is in danger. In this type of emergency, salaries and allowances of any class of persons serving State or Union, including judges of the Supreme Court and High Court can be reduced by an order of the President. This type of emergency has not been declared in India so far.

### **Amendment of the Constitution**

- The term amendment denotes change, improvement and modification. Usually this term is associated with one or more changes made in the Constitution of a country. Article 368 of the Constitution in Part XX, deals with the powers of Parliament to amend the Constitution and its procedure.

#### Procedure of Amendment

- An amendment of this Constitution may be initiated only by the introduction of a Bill for the purpose in either House of Parliament, and when the Bill is passed in each House by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting, it shall be presented to
- The President who shall give his assent to the Bill and thereupon the Constitution shall stand amended in accordance with the terms of the Bill. The constitution

amendment can be brought about only by the Parliament. State legislatures cannot initiate for any amendment to the Constitution.

### **Types of Amendments**

- Article 368 provides for three ways of amendments, that is, by a special majority of Parliament and also through the ratification of half of the states by a simple majority. But, some other articles provide for the amendment of certain provisions of the Constitution by a simple majority of Parliament, that is, a majority of the members of each House present and voting (similar to the ordinary legislative process). Notably, these amendments are not deemed to be amendments of the Constitution for the purposes of Article 368. Therefore, the Constitution can be amended in three ways:
  - ❖ Amendment by simple majority of the Parliament
  - ❖ Amendment by special majority of the Parliament
  - ❖ Amendment by special majority of the Parliament and the ratification of half of the state legislatures.

### **Constitutional Reform Commissions**

- The National Commission to Review the Working of the Constitution was set up by a resolution of the Government of India in 2000 headed by M.N.Venkatachaliah. In April 2007, a three member commission headed by the former Chief Justice of India M.M.Punchhi was set up by the then Government to take a fresh look at relative roles and responsibilities of various levels of Government and their inter-relations.

## UNIT - 3 BASIC CONCEPTS OF POLITICAL SCIENCE

### SOVEREIGNTY

#### Introduction

#### Let us discuss about Sovereignty

- Do you think you are powerful? How do you know you are powerful? But, you can say your country is powerful. Do you know how? It is because we are a sovereign nation.
- Sovereignty, the term has been derived from the Latin word 'superanus' which means supreme or paramount. Roman jurist and the civilians during the middle ages employed the term 'summa' potestas and 'Plenitude potestas' to designate the supreme power of the state. In political science the use of the term 'sovereignty' dates back to the publication of Bodin's 'The Republic' in 1576.
- The stability of a nation depends on the supremacy of the sovereignty the nation enjoys. Sovereignty as a concept represents the legal supremacy of the state. Constitution lays down rules and laws of the state and the constitution of the state is just the representation of the sovereignty. The word sovereign in the preamble of the constitution of India means that the state has the power to legislate on any subjects in conformity with constitutional limitations.

#### We shall now study the characteristics of Sovereignty. What are they?

##### 1. Permanence

- The chief characteristic of sovereignty is permanence. Sovereignty lasts as long as the state lasts. The death of the king or the overthrow of the government does not affect sovereignty. Hence, the people of England say 'King is dead, Long live the king'.

##### 2. Exclusiveness

- Exclusiveness here implies that there cannot be two sovereign in one independent state and if it exists the unity of the state will be destroyed.

##### 3. All comprehensiveness

- Every individual and every association of the individual is subject to the sovereignty of the state. However rich or powerful association or group may be, it cannot resist or disobey the sovereign authority.

#### 4. Inalienability

Sovereignty is the life and soul of the state and it cannot be alienated without destroying the state itself.

#### 5. Unity and Everlasting

The spirit of sovereignty lies in its unity. Sovereignty is not bound by time and lasts until the state lasts.

#### 6. Indivisibility

Indivisibility is the life line of sovereignty.

#### 7. Absoluteness

- Sovereignty is unconditional and unlimited. Sovereignty is beyond obedience and it is entitled to do whatever it likes.

#### 8. Originality

- Sovereignty wields power by virtue of its own right and not by anybody's mercy.

#### What are the two aspects of Sovereignty?

- **Internal sovereignty:** An assembly of people in every independent state has the final legal authority to command and enforce obedience. This sovereignty exercises its absolute authority over all individuals or associations of the individuals in the state.
- **External sovereignty:** In simple terms external sovereignty means National Freedom. Every state enjoys absolute liberty to determine its foreign policy and join any power block it likes. External sovereignty implies that every state is independent of other states.

Sovereignty can no more be alienated than a tree can alienate its right to sprout or a man can transfer his life or personality to another without self destruction

- Lieber

#### Quotable Quote

Sovereignty of the people therefore can mean nothing more the power of them the majority of the electorate, in a system of approximate universal suffrage prevails, acting through legally established channels to express their will and make it prevail.

- Dr.Garner

### Types of Sovereignty

Nominal and Real Sovereignty	Legal Sovereignty	Political Sovereignty	Popular Sovereignty
a. Ancient times many states had monarchs. Kings exercised real sovereignty and were considered Real Sovereigns	a. The authority of the state has the legal power to issue final commands	a. Political Sovereign in the representative democracy is understood as the whole mass of the people, i.e. electorate or the public opinion.	a. Popular Sovereignty designates public as supreme
b. The French revolution transformed the situation	b. the power which has the legal authority to issue and enforce these law is legal sovereignty	b. Political sovereignty rests in the class of people under whose influence the mass of the people are with.	b. During ancient period popular sovereignty was used as a weapon to challenge the absolutism of the monarchs.
c. The Council of Minister were considered the real Sovereign while the King enjoyed only nominal power.	c. The legal sovereigns always definite and determinate and the authority of sovereign is absolute and supreme.		

### "De - facto and De-jure sovereignty"

De-facto sovereignty	De-Jure-Sovereignty
De-facto sovereign is one who has no legal claim to sovereignty but possesses it in fact and exercises necessary force to make and enforce its laws.	De-jure sovereignty is one who has a legal claim to sovereignty but does not possess it in fact.

### What is Pluralism?

- Pluralism is a powerful protest against the monistic theory of sovereignty, which endows the state with supreme and unlimited power. The pluralistic theory originated in the writings of Otto V. Gierke. The pluralist challenges the claims of

the state to supremacy on the ground that the society consists of many associations and the state is one among them. Hence, the state cannot be endowed with sovereign power of the community. There exists many social, political, cultural and economic institutions in society and many of these institutions are prior to the state. For example, Family and church are prior to the state.

### **Exponents of pluralist theory**

- Harold J. Laski
- J.N. Figgis
- Ernest Barker
- G.H Cole
- Maciver

### **Pluralist Theory**

The nature of the state is such attempts to resolve the disputes or conflicts that arise between these various groups in a way that is in everyone's best interests.

### **The dawn of pluralist theory**

- In democracy, the authority of the ruler is confined, the cabinet becomes more powerful but the state remains sovereign and supreme. With the advent of the welfare state there came a rapid increase in the functions of the state and there remained no sphere of life with which the state did not interfere, the sovereign and the supreme state also faced revolt and reaction. This reaction against the sovereign and supreme state resulted into the dawn of pluralism.

### **Is Pluralism important?**

- Pluralism upholds the importance of associations and claim more autonomy for it.
- For democracy to flourish the sovereign state must not be subject to any legal authority.
- Division of sovereignty leads to the destruction of sovereignty and in the absence of sovereignty, anarchy will prevail in society.

### **What are the criticisms for Pluralism?**

- It is the Sovereign state that brings about unity and regulates all the associations existing in society.
- Laws are framed by the state unlike the belief of pluralist.
- State is needed for protecting people from the excess of associations.

## **EQUALITY**

### **Introduction**

#### **Understanding equality**

- The idea that human beings are equal is enigmatic. A nation that seeks equality creates laws to bring change in its society. A law for equality is inadequate and opposed where pluralistic pattern of society has become the order of the day whether it's a developed or under developed nation. Liberty and rights lead to a third principle in political theory, which is of equality. Equality determines how rights are to be distributed amongst the individuals as citizens and groups, both whether equally or unequally. If unequally then what are the grounds for unequal treatment?. On what ground the state or the public authority relate with citizens, individuals and groups unequally. When we talk of equality, we imply different meanings at different times. In liberal perspective, legal and political equality may be emphasized more than economic equality. On the other hand, in a socialist and Marxian framework emphasis is more on economic equality. A feminist would argue that gender equality is vital while in a caste divided society like India, it could be argued that social equality is more essential, if other dimensions are to be meaningful.

#### **Meaning of Equality**

- Equality, which means state of being equal, is derived from aequus/ aequalis, meaning fair. It signifies 'having the same rights, privileges, treatments, status, and opportunities'. Equality is treated as something that relates to distributive principle because of which rights, treatments, and opportunities are distributed amongst the beneficiaries in a fair manner. Fairness does not mean all to be treated equally in all circumstances. In fact it very well means unequal treatment for those who are unequal. Essentially it relates to the principle of justice because it requires fair distributive principle.
- However those who are equal should not be treated as unequal and the unequal as equal.

#### **Importance of Equality**

##### **Why equality is important?**

- The most powerful moral and political ideal that has inspired and guided human society for several centuries is equality. Every all faith and religion invariably proclaim that all human beings are creation of God. The concept of equality as a political ideal invokes the idea that all human beings have an equal worth regardless of their color, gender, race, or nationality. It urges among human beings equal consideration and respect because of the common humanity. The belief in this notion of humanity led us to the declaration of universal human rights.



- Equality became the slogan in the struggle against states and social institutions which uphold inequalities of rank, wealth, status or privilege, among people during the modern period. In the eighteenth century, the French revolutionaries used the slogan 'Liberty, Equality and Fraternity' to revolt against the landed feudal aristocracy and the monarchy. The demand for equality was also raised during anti-colonial struggle in Asia and Africa during the twentieth century. It continues to be raised by struggling groups such as women or Dalits who feel marginalized in our society.
- Equality now has become a widely accepted ideal which is embodied in the constitutions and laws in the world. However the most visible and disturbing factor around us in the world and as well in our society is inequality. We can see in country slums existing side by side with luxury housing, schools which may lack even drinking water facilities or toilets, waste of food as well as starvation. There are visible differences between what law promises and what we see around us.
- India through its constitution attempts to fill the gap between equal and unequal with the principle of equality as enshrined in the constitution.

### **Dimensions of Equality**

#### **What is Equality?**

- We live amidst distinctions between human beings on the ground of race and color, knowing well it is unacceptable. In fact such distinctions violate our intuitive understanding of equality which tells us that all human beings are entitled to similar respect and consideration because of their common humanity. No society treats all its members in exactly the same way under all circumstances. There can be no identity of treatment so long as men are different in wants, capacities, and needs. Injustice arises much from treating unequals equally as from treating equals unequally. And most importantly apart from the natural inequalities, there are inequalities created by the society- inequality based upon birth, wealth, knowledge and religion.
- The movement of history is not towards greater equality because as fast as we eliminate one inequality, we create another one: the difference being that the one we discard is unjustifiable while the one we create seems reasonable. Hence the social political, educational equalities are always in need of reinforcement and reinterpretation by every new generation. Like liberty, equality can also be understood in its negative and positive aspects. Negative equality was associated with the end of such privileges and positively it meant the availability of opportunity.

### **According to Laski equality means:**

- Absence of privileges. It means that will of one is equal to the will of any other. It means equality of rights
- Adequate opportunities are laid open to all. Opportunities should be given to all to realize the implications of his personality.
- All must have access to social benefits and no one should be restricted on any ground. The inequalities by birth or because of parentage and hereditary causes are unreasonable
- Absence of economic and social exploitation

### **According to Barker, the concept of equality means**

- Fundamental equalities of all
- Equality of opportunity
- Equality of conditions where there is an attempt to make the conditions of life equal
- Equality of outcome of results

A State divided into a small number of rich and large number of poor will always develop a government manipulated by the rich to protect the amenities represented by their property.

- Harold laski

### **Equality of opportunities**

- The concept of equality implies that all people as human being are entitled to the same rights and opportunities to develop the skills and talents, to pursue their goals and ambitions. However, it is not the lack of equality of status or wealth or privilege that is significant but the inequality in peoples access to such basic goods, as education, health care, safe housing that make for an unequal and unjust society.

### **Natural inequality and social inequality**

- Natural inequalities are those that emerge between people as a result of their different capabilities and talents. These kinds of inequalities are different from socially produced inequalities which emerge as a consequence of inequalities of opportunity or the exploitation of some groups in a society by others. Natural inequalities are considered to be the result of the different characteristics and abilities with which people are born with. Social inequalities on the other hand are those created by society. Unequal treatment in society based on race, color, gender and caste are of social inequalities. Women were denied equal rights for centuries similarly; Blacks were treated as slaves until the institution of slavery was questioned. Even people born with disability with modern technological innovations are able to contribute like any other normal person. Stephen Hawkings, contribution despite his disability is remarkable. Political philosophers have

contributed various theories, philosophies and ideologies for further understanding and innovation to place society on equal platform.

Types of Equality				
Civil Equality	Political Equality	Social Equality	Natural Equality	Economic Equality
No Discrimination (religion, belief, etc)	Access to authority Voting	Opportunity Privileges	Natural rights	Wealth

### (i) Social Equality

- Social equality means no one should be discriminated in the distribution of rights, privileges and opportunities based on birth, caste, religion, race, colour, gender or social status. Each one should be given equal opportunity to develop his personality. Social equality implies few important aspects. They are: removal of discrimination based on social status, absence of special privileges to few and finally ensuring equal opportunity in terms of acquiring education. History reveals that certain forms of social inequality world over were rejected and the demand for social equality are being raised. Slavery in South Africa, west Asia and America, untouchability in India, Racial discrimination in USA against Blacks, Policy of Hitler against Jews and gender related inequalities and discrimination are few examples of social inequalities with countries world over are trying to redress with the policy of government. Civil rights movement in United States of America for Blacks by Martin Luther king Jr and Dr.B.R. Ambedkar's effort for the social equality for the lower caste in India are few examples that set movement for social equality in motion.
- The American declaration announced that 'all men are created equal', French declaration of Rights of Man and citizens declared that 'men are born and always continue free and equal in their rights. The United Nations organization on 10th December, 1948, declared the charter of human rights which laid stress on social equality. However according to the report of Amnesty International, these rights have been violated frequently by a number of countries in the past and still efforts are being made to address the issues of social inequality world over.

### (ii) Civil Equality

- The word 'civil' is derived from the Latin word civilis or civis, which means citizen. Civil equality means equality in which each citizen is provided with equal civil rights and liberties. Civil equality consists of similar civil liberties and civil
- There should not be any discrimination of superior and inferior, the rich and the poor, caste and creed, colour and race, clans and tribes, groups and classes. In

England, Rule of law is in force and in the eyes of the rule of law all are equal. Equal treatment is given to all by the rule of law. It is from the British constitution India had adopted the rule of law.

### **(iii) Political Equality**

- Political Equality means equal right of all citizens, without any distinction, allowed to participate in the affairs of the state. Political right of all citizen is ensured through universal adult franchise. The other factors that ensure the political rights of citizens are:
  - Right to vote
  - Right to contest in election
  - Right to hold public office
  - Right to petition the government and criticize public policy
- Political equality guarantees the enjoyment of similar political rights to all citizens. Universal adult franchise is a means to this end. Political equality is actually the test on the experiments of democracy. It is also believed that political equality in itself is not adequate to disperse political power, it also needs socio-economic equality to achieve political equality.

“Economic Equality is the attempt to expunge all differences in wealth, allotting to every man and woman an equal share in worldly goods”.

- Lord Bryce

### **(iv) Economic Equality**

- Economic equality is justifiable only when all people have reasonable opportunities to develop themselves fully. Economic equality is meaningful only when there is an adequate scope for employment, reasonable wages, adequate leisure and equal share in the management of economic concern. Professor Laski explains economic equality, “Political equality is, therefore, never real unless it is accompanied with virtual economic liberty; political power otherwise is bound to be the hand-maid of economic power”.
- Economic equality here means the provision of equal opportunities to all so that they may be able to make their economy progress. Ideologically this is possible in Socialism and not in Capitalism.

### **(v) Equality of opportunity and education**

- Equality of opportunity and education means, all the citizens should be given equal and similar opportunities by the state. All the citizens should have similar chances to receive education and equal opportunities be given to develop their personality. Social inequalities such as race, caste, religion, language, rich, poor and gender

based discrimination should be eradicated. In India, constitution provides provisions for equal opportunities and equal education.

### **Relation between Liberty and Equality**

- There is no value of liberty in the absence of equality. They are understood from different perspectives by political thinkers such as Lord Acton, De Tocqueville and Harold. J.Laski. Lord Acton and Alexis De Tocqueville were the ardent advocates of liberty. They were of the opinion that where there is liberty, there is no equality and vice versa. "The passion for equality made vain the hope for liberty." - Lord Acton Professor H.J. Laski believed that liberty and equality should go together. If an individual is given unrestrained liberty to do whatever he likes, he may cause harm to others. Unrestrained liberty will bring only chaos in the society. In the nineteenth century, the Individualists wrongly interpreted the term Liberty. They did not attach any importance to economic equality and laid stresses on Laissez Faire to be adopted by the government said Laski.
- Professor H.J. Laski in his remark said that 'Where there are rich and poor, educated and uneducated, we always find a relation of master and servant'.

Laissez faire is an economic system in which transaction between private parties are free from government intervention such as regulation privileges, tariffs and subsidies.

- Adam Smith was the ardent supporter of the view that the Individualists maintained that there should be a free competition between the capitalists and labor leaders. They did not want the government to involve in the economic matters. Formula of Demand and Supply was adopted. It was expected that the economic difficulties will be removed by this formula, but resulted in dangerous consequences in Europe.
- The capitalists exploited the opportunity to the core and as a result of it, the gap between rich poor got wider. The labor class was worst affected and the reaction against individualism resulted in the dawn of Socialism. Socialism rose to condemn and refute the principles of Individualism. The transition made clear that Liberty is meaningless in the absence of economic equality.
- Economic equality is essential for the existence of political freedom. Otherwise it will be a capitalist democracy in which the labourers will have right to vote but they will not get their purpose served. Hence liberty is possible only in socialistic democracy where liberty and equality go together. There is only one solution to liberty. It lies in equality. Thus liberty and equality are complimentary to each other said Pollard.

### **Problems with Equality**

1. Variety of meanings: equal treatment, equal outcomes, equal opportunities (and lots of shades of meaning within these broad categories)
2. Conflicts between each type: equal outcomes: equal outcomes violate equal treatment.
3. Equal opportunities conceptually flawed by problem of regression: is education and training an outcomes or an opportunity? Is an entry level job an outcome or an opportunity?
4. Equal treatment reinforces difference in opportunities and lacks a theory of what should count as a relevant difference and irrelevant differences eg obesity.
5. Equal outcomes are not in fact generally desired as a goal: fairness rather than egalitarianism is the model of social justice being sought. Equality is an aspect of fairness, but also in equality is desired on the ground of fairness to reward 'merit' and to accommodate to choose a way of life.

### **How Equality can be promoted**

- The difference as we understand between liberals and socialist lead us to the desirable way of achieving the goal of equality. The wide debate on the means of promoting equality may lead us to few methods. They are,
  - ✓ Establishing formal equality
  - ✓ Equality through Differential Treatment
  - ✓ Affirmative action

### **Perspectives of various Ideologies on Equality by Andrew Heywood**

- **Liberals** believe that people are 'born' equal in the sense that they are of equal moral worth. This implies formal equality, notably Legal and political equality of opportunity, but social equality is likely to be purchased at the expense of freedom and through the penalizing of talent. Nevertheless, whereas classical liberals emphasize the need for strict meritocracy and economic incentives, modern liberals have argued that genuine equal opportunities require relative social equality.

**Conservatives** have traditionally viewed society as natural hierarchical and have thus dismissed equality as an abstract and unachievable goal. Nevertheless, the new right evinces a strong industrialist belief in equality of opportunity while emphasizing the economic benefits of material inequality.

**Socialist** regards equality as a fundamental value and in particular, endorses social equality. Despite shifts within social democracy towards a liberal belief of opportunity, social equality, whether in its relative (social democratic) or absolute (communist) sense, has been seen as essential to ensuring social cohesion and fraternity, establishing justice or equity and enlarging freedom in a positive sense.

**Anarchists** place a particular stress upon political equality, understood as an equality and absolute right to personal autonomy, implying that all forms of political inequality

amount to oppression. Anarcho-communists believe in absolute social equality achieved through the collective ownership of productive wealth.

**Fascists** believe that humankind is marked by racial inequality, both between leaders and followers and between the various nations or race of the world. Nevertheless, the emphasis on the nation or race implies that all members are equal, at least in terms of their core identity.

**Feminists** take equality to mean sexual equality, in the sense of equal rights and equal opportunities (liberal feminism) or equal social, economic power (social feminism) irrespective of gender. However, some radical feminists argued that the demand for equality may simply lead to women being 'male-identified'.

Ecologists advance the notion of bio centric equality, which emphasizes that all life forms have an equal right to 'live and blossom'. Conventional notions of equality are therefore seen as anthropocentric, in that they exclude the interest of all organisms and entities other than humankind.

*Heywood, Andrew. (2004) Political Ideologies: An Introduction, 4th ed. New York: Macmillan.*

### **Ways of establishing formal Equality**

- Social, economic and political inequalities all over the world have been protected by customs and legal systems that prohibited some sections of society from enjoying certain kinds of opportunities and rewards. Poor were denied of right to vote. Women were not allowed to be a carrier oriented women in some part of the world. The caste system in India prevented people from the lower castes from doing anything except manual labour. In some countries only some families can occupy important positions. Equality cannot be achieved unless these privileges are stalled.
- For ages these systems have the sanction of law, hence for achieving equality government intervention is needed by means of law. Our constitution as a fundamental or supreme law of the land does it. The constitution of India prohibits discrimination on the grounds of religion, race, caste, sex or place of birth. Our constitution also abolishes untouchability. Most of the modern states and democratic governments have incorporated in their constitution the principle of equality.

### **Equality in Indian Constitution**

#### **The concept of Equality in Indian constitution**

- The Indian constitution under article 14 provides for equality before law or the equal protection of laws to all persons. This is a statement of formal equality and gives meaning to what preamble seeks to ensure in terms of 'equality of status and

of opportunity'. This also means that laws of the land will apply to all equally and there should not be discrimination on grounds of birth, caste, color, gender, language, race, religion, etc. in fact article 15 of the constitution substantiates article 14 further by prohibiting any such discrimination.

- Equality before law and equal protection of law have been further strengthened in the Indian constitution under article 21. It ensures that 'No Person shall be deprived of his life or personal liberty except according to procedure established by law. This means that a reasonable fair and just procedure should be followed for depriving a person of his personal liberty and life. It admits no arbitrariness, discriminatory procedure or unequal treatment for different individuals'.

#### **Right to Equality (Article 14 - 18)**

- ✓ Equality before law (Article 14)
- ✓ Prohibition of discrimination on grounds of religion (Article 15)
- ✓ Equality of opportunity in matters of public employments (Article 16)
- ✓ Abolition of Untouchability (Article 17)
- ✓ Abolition of titles (Articles 18)

- How Equality can be achieved through differential treatment? It is necessary sometime to treat people differently in order to ensure that they can enjoy equal rights. Certain differences may have to be taken into account for this need. Some special consideration for the disabled and protection for women employees especially in the corporate and IT industries when they travel amidst work in the night are provided. These acts should not be treated as an infringement of equality but an enhancement of equality. Similarly some of the policies are needed to overcome the hindrances of equality by the government. For example, India follows the principle of reservation and other countries follow affirmative action.

#### **Affirmative action**

##### **Perception of Affirmative action**

- Affirmative action implies that it is not sufficient to establish formal equality by law. In order to eliminate deep rooted inequalities, some positive measures are necessary and such positive measures could minimize and eliminate slowly the entrenched forms of social inequalities. Most of the policies of affirmative action are thus designed to correct the cumulative effect of past inequalities. In our country we have adopted a policy of quotas or reserved seats in education and jobs to provide equality of opportunity to deprived groups, and this has been the subject of considerable debate and disagreement. The policy has been defended on the grounds that certain groups have been victims of social prejudice and discrimination in the form of exclusion and segregation. Therefore in the interest of creating an egalitarian and just society they need to be given special protection and help. However these measures of affirmative actions are time bound and temporary.



It is expected that these special consideration will enable these communities to overcome existing disadvantages with others on equal terms.

- The critics of positive discrimination contend that the provision of reservation and quota arbitrarily denies the rights of other sections right to equal treatment. They think that reservations are of reverse discrimination where the principle of equality remained questioned. Equality is meant for treating all equals instead it creates a distinction among individuals on the basis of caste and racial prejudices. Hence this theorist wants to do away with social distinctions that divide society. Whatever the debate may be the fact is health and education for rural and slum children are glaringly deprived while comparing with the children in elite schools.

### **Affirmative Action Definition**

A Policy or program providing advantage for people of a minority group who are seen to have traditionally been discriminated against, with the aim of creating a more egalitarian society through preferential access to education, employment, health care, social welfare, etc.

- These students face hurdles in gaining access to special coaching and fees for professional courses may also be high. Hence they cannot compete on equal terms with the more privileged sections. We all know that such social and economic inequalities of this kind remain as hinder to equal opportunities. Theorists of today acknowledge this but what they contest is not the goal of equal opportunity but the policies that the state should pursue to achieve the goal of equality.

Of equal - As it harmed me, giving others the same chances and rights as myself- As it were not indispensable to my own rights that others possess the same.

## **Liberty**

### **Introduction to Liberty**

- You have liberty to enjoy the freedom sanctioned as per law. The business of law is to safeguard the liberty of an individual. In the safety of an individual lies the status of one's freedom. The law and liberty are twins and are connected to each other to sanction equal treatment equally for all. Here we all know that, it is the objective of the state to safeguard the liberty of its citizens.
- Do you know something that the law of the state propels a reasonable restriction on every individual? That doesn't mean the privileges of citizens are compromised. The main objective of the state is to protect, what is due for him as his right. And in the process care for the equality of an individual becomes an agenda of state.
- Shall we take a journey into the world of liberty, we intend to enjoy

- In a classroom setting, the liberty of a student varies. In the view of some student, some teachers are strict and some are liberal, in terms of liberty and freedom he/she enjoys in the classroom. Teachers have a privilege to sanction reasonable restriction against student's undue advantage in a classroom. The sanction of reasonable restriction by teacher is actually for the smooth conduct of a student and as well for the effective learning in the classes. Understanding the concept of liberty begins in the classroom by the conduct and attitude of student towards his teacher and his classmates. Raising questions to clarify doubts to his class teacher is his/her right, but the sanction of it becomes liberty. Liberty is just the sanction of law and the restrictions imposed are also a kind of liberty. Conducive learning environment of classroom, conditions the student to understand the meaning and the purpose of liberty.

Shall we trace the origin of Liberty?

- Liberty remained an essential element for both man and state for progress. History records very well the cruelty of absolute monarchy that ignored the claims of liberty in ancient and medieval ages of England. People could no longer tolerate and rose in revolt against the absolute monarchy. The struggle continued until Emperor John had to bow down and ensure freedom for his subjects. Attempt of emperors after Tudor and Stuart, and the continued absolute monarchy resulted in civil war. King Charles was beheaded and even during the period of Cromwell people could not attain freedom.
- This resulted in the famous "Glorious revolution" in England in the year 1688, containing the absolute monarchy for some period and later led to the outbreak of French revolution in 1789.
- However it had not given a desired liberty. The successors of Napoleon behaved like monarchs. The fall of Napoleon III, resulted in establishing the Third Republic. After the fall of Third Republic in 1940 and Fourth Republic in 1958, Fifth republic was established. Struggle against countries that colonized got liberated after a long struggle for independence. Italy in nineteenth century and India in twentieth century made untold sacrifices for attaining national liberty.

### Historical Context

- ✓ Response to the rationalism of the Enlightenment
- ✓ Response to the French Revolution (1789)
- ✓ The revolutionaries in France fought for "liberty, equality, and fraternity"
- ✓ Ideas of the French Revolution influenced writers in England – they were inspired by the fight for democracy and the common man
- ✓ Response to industrialism
- ✓ Longing for nature and simplicity

### Meaning of Liberty

- The term 'liberty' has been derived from the Latin word 'Liber' which means free from all shackles. The Latin word 'Liber' denotes the absence of all restraints. It means one can do whatever one likes, regardless of all conditions. Liberty does not permit a person to do whatever one likes. The basic fact of liberty is that law is the condition of liberty. According to Professor Barker "Liberty is possible only in an ordered state, a state where the legal and political aspects of sovereignty coincide or nearly coincide. Laski believes that 'Historical experience has evolved for us rules of convenience which promote right living and to compel obedience to them is a justifiable limitation of freedom."

### Exponents views on Liberty

- ✓ "Liberty is the positive power of doing and enjoying those things which are worthy of enjoyment and work"-**Gettel**
- ✓ "Liberty is the freedom of the individual to express without external hindrances to personality"-**Professor G.D.H. Cole.**
- ✓ "Liberty does not means the absence of restraint but it lies in development of liberty"- **Mahatma Gandhi**
- ✓ "Without right then cannot be liberty, because without rights, men are the subjects of law unrelated to the needs of personality".-**Harold. J. Laski**

### Two Phases of Liberty

- Positive liberty: Positive liberty mean freedom to do something that the individual should have rights and opportunities to develop his personality. Negative Liberty: For J.S. Mill liberty means Negative liberty He submitted that there should not be any restraint imposed upon man and his actions. He also asserted that there should not be any hindrance in the path of man.

#### i. Natural Liberty

- The concept of Natural liberty indicates unrestrained freedom to do what ever one likes. Natural liberty means absence of all restraint –an unrestrained freedom to do whatever one likes.
- JohnLocke: In the state of Nature people enjoyed the rights to life, liberty and property.
- Critic: It is absolutely incorrect because it is only the state that guarantee the enjoyment of these rights. In the state of nature people possessed not rights, but the power of animal.

Rousseau: "Man was born free, but everywhere he is in chains"

- Critic: Rousseau does not appear sound because there is no scope for the growth of human personality. According to social contractualist, liberty looks like a license

than a liberty. If he is allowed to do whatever he likes, there will be only chaos in the society.

## **ii. Civil Liberty**

- The concept of civil liberty reflects “Rule of law” civil liberty indicates the liberty man enjoyed in the society it prevails in the state. It denotes the enjoyment of our rights within the limits of law. The protection of civil liberty is guaranteed by the laws of the state.

## **iii. Political Liberty**

- The concept of political liberty means liberty of citizen to participate in the political life and the affairs of the state. Leacock calls political liberty as constitutional liberty and Gilchrist considers political liberty as a concept synonymous with democracy. Political liberty includes minimum rights. These rights are the right to vote, the right to contest elections, the right to hold public views and criticize the government and right to petitions.

## **iv. Personal Liberty**

- The concept of personal liberty means the availability of those conditions in which the individual can act as he pleases without being under any type of arbitrary and illegitimate restraint. It also means that every individual has the right not to permit any other individual to interfere in the affairs of his personal life. Every individual should have the liberty to dress, food, standard of living, marriage and education of children etc. The state should not interfere in the personal matters of the individual such liberty is essential for the free development of human society.

## **v. Economic Liberty**

- The concept of economic liberty means the liberty to earn one’s daily bread. Beyond the distinction of caste, colour, creed and gender every individual should have liberty to earn his daily bread by fair means.

### **Liberty unfurled**

- Liberty is an important condition in a state that gives an opportunity for human beings to develop their personality.

## **vi. Fiscal Liberty**

- According to this principle; there should be no taxation without representation. It was the slogan given by middle classes who claimed that they should be allowed to decide as to how and on whom their money was to be spent. Both civil and fiscal liberty were related to property and the rights of their owners. It was felt by the

middle classes that without fiscal and civil liberty they would not be able to exist and be exploited by arbitrary rulers.

### **vii. Domestic Liberty**

- It covers equal right for women and children. They need to be protected against maltreatment, cruelty and exploitation. They were also having the right to education. It means the liberty of the nation or the country. National liberties exist where the nation or the community is independence and sovereign. National liberty can otherwise also call as National sovereignty. Every nation wishes to stay independent and without this independence the progress of the nation or the state is not possible. Liberation remains an ultimate slogan for all those nations enslaved by imperialistic forces. Nations colonized by imperialist force struggled against foreign empire until freedom is restored.
- The struggle of Italy against Austria, England against Hitler and Napoleon struggle of African counties against imperialist forces and Indians struggle against England are few examples where struggle was made ultimately for restoring the liberty of the Nation. When India was attacked by China in 1962, and by Pakistan in 1965 and 1971 the Government of India made all efforts to safeguard the freedom of nation.

### **ix. International Liberty**

- This concept implies peace and international cooperation and the formation of world federation of states. Liberals were opposed to the use of force as an instrument of national policy. Capitalism needed peace and international cooperation for the free flow of goods from one country to another and they needed all political and other barriers to be removed that stood in the way of the development of world resources.

### **Perspective of various ideologies on Freedom by Andrew Heywood**

- Liberals give priority to freedom as the supreme individualist values. While classical liberals support negative freedom, understood as the absence of constraints or freedom of choice, modern liberals advocate positive freedom in the sense of personal development and human flourishing. Conservatives have traditionally endorsed a weak view of freedom as the willing recognition duties and responsibilities, negative freedom posing a threat to the fabric of society. The new right however, endorses negative freedom in the economic sphere, freedom of choice in the market place.
- Socialists have generally understood freedom in positive terms to refer to self-fulfilment achieved through either free creative labour or cooperative social interaction. Social democrats have drawn close to modern liberalism in treating freedom as the realization of individual potential. Anarchists regard freedom as an absolute value believing it to be irreconcilable with any form of political authority.

Freedom is understood to mean the achievement of personal autonomy, not merely being 'left alone' but being rationally self-willed and self-directed.

- Fascist rejected any form of liberty as nonsense. 'True' freedom, in contrast, means unquestioning submission to the will of the leader and absorption of the individual to the national community. Ecologists particularly deep ecologist, treat freedom as achievement of oneness, self-realization through the absorption of the personal ego into the ecosphere or universe. In contrast with the political freedom, this is sometimes seen as inner freedom, freedom as self-actualization.
- Religious fundamentalist see freedom as essentially an inner or spiritual quality. Freedom means conformity to reveal the will of god, spiritual fulfilment being associated with submission to religious authority. Heywood, Andrew. (2004) Political Ideologies: An Introduction, 4th ed. New York: Macmillan

How liberty, sovereignty and law are related to each other?

- Liberty does not mean the complete absence of laws. Liberty exist only in a state in order. The state makes law and the sovereign state operates through these laws. There exist a close relationship between liberty, sovereignty and law. The anarchist and syndicalist wanted to abolish the states. They are of the opinion that if state is more powerful than individual liberty will also be curtailed.

#### **Individualist views**

- They regarded the control of the state as harmful to the individual and therefore supported the confinement of the authority of the state. Though this doctrine resulted in dangerous consequences in England. It is now universally accepted that laws are the protectors of liberty. Liberty ceases to exist in the absence of law.

#### **How does law protect liberty?**

- i. Provides congenial atmosphere for the smooth running of civilized life in society. Law punish criminal and defends the rights of the individuals.
- ii. Law guarantee the enjoyment of individual rights and duties and protect them. The state punishes the individual who causes harm to others and hinders path of others.
- iii. Constitution is custodian of liberty and it confines the authority of the state and protects the fundamental right of the people.

How liberty is safeguarded?

#### **i. Democracy**

- Liberty is safer in democracy than in any other form of government. Democratic government is the government of the people where as in other forms of government

like monarchy and dictatorship all power are centralized in the hand of one person or a group of person. Opposite parties are given due respects in democracy and criticism of government is accepted and tolerated in democracy.

## ii. Constitutions

- Authority of the state dwells in the constitution of the respective nation.
- Let us read the Preamble of our Constitution very carefully and understand the meaning of each of its key words.
- The Preamble of Constitution reads like a poem on democracy. It contains the philosophy on which the entire Constitution has been built. It provides a standard to examine and evaluate any law and action of government, to find out whether it is good or bad. It is the soul of the Indian Constitution.

## iii. Fundamental rights

- Fundamental rights confine the authority of the state. Fundamental rights assure us that the state cannot interfere in the matters of personal life.

## iv. Decentralization of powers

- Decentralization of power is required for the safeguard of liberty. Power should be divided into central, provincial and local government and such decentralization leads to efficient administration.

### Independent judiciary

Safeguard of Liberty depends upon the independence of judiciary. It should be free from the control of the executive. In the communist countries or in the countries which have dictatorship, fundamental rights are given to the people but judiciary is not free from the influence of the executive. In such countries, the safeguard and security of fundamental rights, liberty and constitution is not possible.

## v. Economic security

- Economic security Economic security is a condition to liberty. "Where there are rich and poor, educated and uneducated, we always find a relation of master and servant". - Laski

Poverty is not an accident. Like slavery and apartheid, it is man-made and can be removed by the actions of human beings.

**Nelson Mandela**

## vii. Rule of law

- Rule of law is established in England, USA and India Rule of law mean that there should not be any distinction of caste and creed colour and race. In the eyes of law all are equal and all are liable to be punished if they commit crime.
- The rule of law was further popularised in the 19th century by British jurist A. V. Dicey. The concept, if not the phrase, was familiar to ancient philosophers such as Aristotle, who wrote "Law should govern".

#### viii. Political education and eternal vigilance

- Permanent safeguard of liberty is possible. Educated are acutely aware of their rights and duties. Eternal vigilance is the price of liberty and in its absence one can act according to his will whenever the government crosses the barrier of its authority and interference in the personal life of the people, may rise in revolt against the government.
- "It is the proud spirit of the citizens, less than the letter of the law, that is the most real safeguard" - Harold . J. Lask

**Sovereign:** People have supreme right to make decisions on internal as well as external matters. No external power can dictate the government of India.

**Republic:** The head of the state is an elected person and not a hereditary position.

**Justice:** Citizens cannot be discriminated on the grounds of caste, religion and gender. Social inequalities have to be reduced. Government should work for the welfare of all, especially of the disadvantaged groups.

**Liberty:** There are no unreasonable restrictions on the citizens in what they think, how they wish to express their thoughts and the way they wish to follow up their thoughts in action.

**Socialist:** Wealth is generated socially and should be shared equally by society. Government should regulate the ownership of land and industry to reduce social-economic inequalities.

**Secular:** Citizens have complete freedom to follow any religion. But there is no official religion. Government treats all religious beliefs and practices with equal respect.

**Democratic:** A form of government where people enjoy equal political rights, elect their rulers and hold them accountable. The government is run according to some basic rules.



**Equality:** All are equal before the law. The traditional social inequalities have to be ended. The government should ensure equal opportunity of all.

**Fraternity:** All of us should behave as if were member of the same family. No one should treat a fellow citizen as interior.

**We, he people of India:** The constitution has been drawn up and enacted by the people through their representatives, and not handed down to them by a king or any outside powers.

**Sovereignty:** The supreme power which cannot be distorted and divided. The per-Independent India was ruled over by British empire and India didn't posses sovereignty a country is ruled over by other nation, sovereignty resides with the ruling one and not the ruled. In the globalized era sovereignty is under threat, since the global exchange is unavoidable.

**Preamble:** Like preface of any book preamble is a gist or glimpses of any constitution in the world. If you want to understand about the basic structure of a political system, preamble is an apt one to read. Our Indian constitution's preamble states, India is democratic, republic and sovereign.

**Universal Suffrage:** Voting rights to all the people invariable of gender, caste, color, religion, property and other divisive factors. India introduced adult suffrage immediately after the freedom. The superpowers like USA,UK have not implemented the suffrage to all the people after their freedom.

**Statutes:** A written law passed by the legislative body of a country. It is also added in the parliamentary laws after having had appropriate discussion.

**Justice:** Justice was the main concept discussed by many Greek philosophers. Justice is the main phenomenon which has to be maintained regardless of all kinds of discriminations.

**Fiscal:** Monetary oriented. Government of all types always used to concentrate in fiscal policy.

**State of Nature:** The stage of antiquity in which there was no organized form of government and society.

**Anarchy:** A complete chaos or the stage of confusion. Particularly in the modern era Iraq and Afghanistan haven't possess concrete government structure since they are under American occupation.

**City-state:** Small states in which people are considered as powerful in decision-making. It exists in Greece 2300 years back.

**Vasudaivakudumbagam:**One world one family. It is a global idea which interlinks the entire nation-states into on family in which there will not be any distinctions.

**Inalienable:**That one which cannot be separated.

**Ordinances:**Special orders issued by the president on adhoc occasions.

**De-jure:** On accordance with law.

**De-facto:**Factually,one who rules really and concretely.

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**UNIT - 4 Basic Concepts of Political Science Part-II**

## **LAW**

### **Introduction**

- Law is the prescription of rules and regulations sanctioned by the sovereignty for the state. Law as, Bodin said, is the command of the sovereign. Similarly Aristotle has rightly pointed out that if there is no law even man will behave like a beast. In order to preserve society and protect the progressive nation, law has become an integral part of the system world over. The enormous power of law could not be a complete solution to maintain an order in the society due to the limitations it is framed with. Law is a tyrant for criminal and a guardian for its citizen.
- There is always an intense debate that happens on, why the law is lenient in some part of the world and so powerful in another part of the world. The question of leniency and powerful the law is, ascertained by its functions especially the punishment it involves. For example, law in a democratic country is much different and concerned than the law in a totalitarian state. And more, how the law unfurls freedom for its citizens matters a lot while executing and exercising it. Ignorance of law is not an excuse anywhere in the world. Hence it is pertinent to introduce the concept of law to the young minds to understand it as the basic rules and regulations as sanctioned by our constitution.

### **Meaning of Law**

- The term 'Law' was derived from an old Teutonic root 'lag' "which means something which lies fixed or evenly. Without law life may witness utter chaos and confusion and in fact it is law that regulates life. The word law is used to denote 'uniform'. There are two kinds of laws. They are: physical and human law. Physical law regulates nature where as human law regulates human life. The term law in political science is used to mean body of rules to guide human action. The function of state is done through government and the government in turn interprets the will of the state through law.

### **Views on Law**

- "Law is the command of the sovereign" according to John Austin
- "Law is the collection of rules which the state recognizes and applies in the administration of Justice" said Salmond
- According to Krabbe "Law is the expression of the judgments of value which we human beings make by virtue of our disposition and nature"

- “Law is that portion of the established thought and habit which has gained distinct and formal recognition in the shape of uniform rules backed by the authority and power of the government.” Said Woodrow Wilson
- “A law is of general rule of external human action enforced by a sovereign political authority.” Said Holland

### **What is the purpose of Law?**

- According to MacIver “A law does not become a law until and unless it is backed by the state. The purpose of law is to establish sure foundations in the certitude of which men can rebuild the many mansions of society.” The term ‘Law’ is considered as a body of rules to govern human action and as well to regulate human life by the discipline Political Science. ‘It is not the issuing of law that makes the state, it is the force of the state that makes law” believe Hocking.

### **What are the purposes of Law?**

- Protect basic human rights
- Promote fairness
- Help resolve conflicts
- Promote justice
- Promote order and stability
- Promote desirable social and economic behaviour
- Represent the will of the majority (on some issues)
- Protecting the rights of minorities

### **Are you aware of the classification of Laws?**

#### **i. Private laws**

The relationship of citizens and the regulation of relations among one another are determined by private laws.

#### **ii. Public laws**

The laws that determine the relation of citizens to the state are public laws. Public law perceives state as an arbiter as well as one of the parties interested in it.

#### **iii. Constitutional laws**

The common law differs from statutory law because it mainly based on precedent. Statutory law of a more formal body of the legal system that consists of written legislation. This legislation will mainly be based on rules and regulation either mandating or prohibition certain behaviours of the general public. Common law, on the other hand, will allow judges to decide cases based on the ruling of prior cases with similar circumstances.

- Constitutional laws are the basic laws according to which the government in a state conducts itself. The laws that define interpret and regulate the functions of the government are known as constitutional laws. For example, the election of President, the powers and functions of the Supreme Court and method of the appointment of the governor are constitutional affairs. The laws which are not related to the forms and functions of the government and to the fundamental rights but are related to the social and economic affairs of all citizens are known as ordinary laws. For example, the abolition of child marriage and prohibition etc come under ordinary laws.

#### **iv. Statute Laws**

- Statute laws are the laws which are framed by the Legislative Assembly or by the Parliament. Democratic Government being popular in most of the countries, the laws of those governments are framed mostly by the Parliaments in those countries.

#### **v. Ordinances**

- Ordinances are generally issued by the executive branch of the government as per the law of the state. Ordinances are temporary by nature and are issued by the President in the absence of parliament, especially to face the emergency.

#### **vi. Common Laws**

- Common laws are those laws which rest on customs but are enforced by the courts like statute law. Common laws are popular in England.

#### **vii. Administrative Laws**

- The office and responsibilities of government servants are interpreted and governed by Administrative law. It is the Administrative law that enable the public officers to separate law and procedure from private individuals. These laws also make an attempt to interpret the privileges of government officials. Administrative laws are not popular in England, U.S.A. and India. They are popular in France and a few countries of Europe. For example, When any dispute arises between a citizen and government servant the administrative court resolves the issue with administrative laws.

#### **viii. International Laws**

- The rule that determine the conduct of the civilized states in their relation with other states in international arena is otherwise called International law. There are no such framed laws that govern international relations but backed by public opinion and the rule of UNO as an international body matters for any nation to enjoy its

sovereign status. There are also laws such as Sea law, where there are International borders and as well Air law that demands aircraft of other nation to fly with permission of respective nations.

### **Do you want to know the sources of Law?**

#### **i. Customs**

- Customs play an important role in the framing of the laws. Most of the laws that came from customs are recognized by state later. Since ancient period we can notice that the dispute among tribal were resolved by the head of the Tribes using their customs and traditions. Customs became laws when tribes extended into the formation of state. State cannot actually ignore the customs of the country. The common law of England for example sprang mainly from customs.
- For example Bull-Taming sport culture of Tamils of India resulted into the creation of Jallikattu Law in 2017. (Read the box for more information about Jallikattu Law of 2017) Read the text and write six questions, one for each of the Question word: What, where, when, which, how and why.

#### **ii. Religion**

- The religion practiced by Primitive communities played a decisive role in evolving the laws of the state later. Religion was a basis of law for most of the nation. The origin of Hindu law can be traced in the code of Manu. The origin of Mohammedian law can be traced in Shariat law. Divine law is a law revealed through man from God. God is the ultimate source of divine law. For Christians Ten Commandments were the first law given by the Lord Almighty to his people and was considered as the basis of law.

“Indeed the early law of Rome was little more than a body of technical religious rules, a system of means for obtaining religious rights through the proper carrying out of certain religious formulas”.

- Woodrow Wilson

#### **iii. Judicial decisions**

- Gettell maintains that the ‘state arose not as the creator of law but as the interpreter and enforcer of custom’. The function of the Judiciary is to interpret and declare the law. While discharging its function the judiciary creates new laws. The laws later gets recognized by the state. Judicial decisions thus became an another source of law. Some time the verdict of High Court and Supreme Court are treated as laws.

#### **iv. Equity**

- When laws are ambiguous and do not fit in, the principles of equity are applied and cases are decided according to common sense and fairness.

“Equity is body of rules existing by the side of the original civil law, founded on distinct principles and claiming incidentally to superior sanctity inherent in those principles.”

- Sir Henry Maine

### Equity

- The name given “Equity” is the set of legal principles in countries following the English common law tradition, which supplement strict rules of law where their application would operate harshly, so as to achieve what is sometimes referred to as “natural justice”
- It also means “fairness”
- Equity has been described as “a gloss (meaning a supplement) on the common law, filling in the grapes and making the English legal system more complete
- In English Law, equity means that body of rules originally enforced only by the court of chancery.

### v. Scientific commentaries

- Another source of law are scientific commentaries. when the commentary appears it is understood only as an argument, later on its authority is recognized as more authoritative than the Judicial decision.

He opinion of learned writes on law have often been accepted as correct law: in England, for instance the opinions of coke and Blackstone in America of story and ken, in India of Vijnaneswara and Apararka”

- A. Appadurai

### vi. Legislature

- Most of the laws in the modern times are framed by legislature and it is one of the most important source of law. Indian constitution is a classic example where the best provisions of other constitutions are borrowed and made it available for the best of our nation

“The state is founded on the minds of its citizens, who are moral agents... a bad people means a bad state and a bad laws.”

- Gilchrist

## Sources of the Indian Constitution

1. **Government of India Act 1935:** The federal scheme. Office of the Governor. Role of federal judiciary. Emergency provisions
2. **UK Constitution:** Law making procedures, Parliamentary Government, Rule of Law, Single citizenship and Bicameral Legislature.
3. **US Constitution:** Fundamental Rights, Independent judiciary, Judicial Review, Impeachment of the President, Procedure for the removal of the judges of the Supreme Court, High Courts and Role of Vice President.

## How law is related to state and morality?

- Law and morality are complimentary to each other. Ethics reveals its citizens the code of conduct. Similarly the laws framed by state also aim to achieve the same goal. The sole aim of the state lies in the promotion of the welfare of the people. As there is a close affinity between law and morality, there also exist a good relationship between law and state.

He best state is that which is nearest in virtue to the individual. If any part of the body politic - suffers, the whole body suffers".

- Plato

- A bad state will have bad citizens and a good state will have good citizens. So it is the sole function of the state to keep a good standard of morality. Government of India is trying its best to eliminate the evil of untouchability. It has framed laws against untouchability. Though there is law against social ills it is understood that it is rather a sin to adopt the policy of discrimination on the grounds of caste and creed, colour and race, clans and tribes, groups and classes. The government is taking measures to prohibit the drinking of wine and also prohibits child marriages. Generally democracy does not have any such law as opposed to morality. Wilson maintains that the aim of the law of a state is to develop morality in the state. Hence the sovereign law-making authority pays due attention to the code of the intimacy between law and morality.

"We regard the state as the condition or morality. The state and law continually affect both public opinion and actions; in its turn law reflects public opinion and thus acts as the index or moral progress"

- Maclver

## Distinction between Law and Morality:

- Laws are enforced by the state, if not obeyed to the commands of law, he is likely to be punished by the state.



- The severe punishment one can be awarded to a person for not observing the scruples of morality is the social boycott.
- Morality is concerned with both internal and external affairs of man whereas law is concerned only with the external affairs of man. Hence, law punishes only those persons who violate laws by their external actions.
- Law punishes a person only when he commits a theft or dacoity or murder or any other physical crime.
- Law cannot punish a person for telling a lie or for abusing some one.
- Telling lies, condemning someone and being ungrateful and many other actions of man are sins but they are not crimes. Machiavelli maintained that even the immoral practices are legal, if they are applied for the benefit of the state.

### **What is Moral law?**

- A law framed with a purpose of eliminating evils such as drinking of wine, gambling, theft, dacoity and murder are moral laws. The laws which are based on morality remain permanent

### **How Law and Public opinion are related to each other?**

- The power of democracy lies in the participation of people in the democratic exercise of electing their representatives. People are not directly involved in the framing of laws, yet they could elect their representatives to legislature. People elect their representatives to execute the will of the electorate. The elected body are just expected to represent the will of the public. Here we can understand the close affinity of law and public opinion.
- In democracy laws are framed only based on the support of public opinion. People carry out peaceful demonstrations to express their opinion or resentment. Common welfare of the people and social progress are the primary considerations of public opinion.

The Modern state appeals to motility, to religion, and to natural law as the ideological foundation of its existence. At the same time it is prepared to infringe any are all of these in the interest of self-preservation.

- J.M.Coetzee

### **Quotable Quote**

O turn all moral obligations, legal obligations would be to destroy morality. There is thus a legal conscience, and they do not always coincide".

- Maclver

Law and order exist for the purpose of establishing justice and when they fail in this purpose they become the dangerously structured dams that block the flow as social progress.

- Martin Luther King, Jr

# CITIZENSHIP

## Introduction

- In political theory, citizenship refers not only to a legal status as a member of a country but also a normative ideal which means the ruled are full and equal participants in the political process. Democracy and citizenship go hand in hand. Democracy focuses on political parties, electoral systems, rule of law, etc., while citizenship focuses on the attributes of individual citizens. Citizens have certain rights that differ from one country to another. Today, we are following a modern state and citizenship connotes a status which is defined as a set of rights and duties of the people.
- Are you a natural citizen? or a naturalised citizen of your country? What are the differences between the two? Natural citizens are the citizens by virtue of their birth but naturalised citizens are the ones who acquire citizenship. Aristotle defined citizenship with reference to the birth place, family lineage and culture. Stoics viewed citizenship as a cosmopolitan ideal. Confucius emphasized it as the restoration of commonwealth, where everyone worked for harmony and welfare. In India too, there persisted the concept of "VasudevaKutumbakam".

## Citizenship and the City-state:

- Citizenship was an important theme in the ancient Greek and Roman Republics but they disappeared from the feudal systems. This was later revived as a desirable aspect of civic humanism during the Renaissance. Citizenship was considered only as participation of duties during the ancient Athens. Citizenship was considered as a pivotal importance to Aristotle as he perceives ideal state is possible only in a law-based state where citizens are law abiding. He states that an individual is a political animal who finds fulfilment only within the polis and hence desiring for political posts is natural. He says that citizenship is a criterion wherein the rule must be applicable to all irrespective of whether they are residents, aliens or even slaves from other countries. A citizen is one who enjoys the right to share in the deliberative and judicial offices and is able to exercise his political rights effectively under the constitutional system.

## Marshall's Analysis

- Marshall, a liberal-social democrat links citizenship to social class in the context of capitalism. According to Marshall, citizenship has three essential divisions: civil, political and social. Every individual requires a right for freedom and that is what is in as civil component. This is also an important ingredient of rule of law. As a citizen we have the right to participate in political decision-making process. This is reflected in the political division. No citizen can be deprived of the prevailing

## Aristotle

- defines citizenship as "he who has the power to take part in the deliberative or judicial administration of any state." Greeks enjoyed the privilege of being governed by democracy; their government was made up of commoners, and they were allowed freedom of speech to a large extent through public speaking rights. Standard of living and they have all the rights to enjoy the fruits of this. Hence, Marshall stresses upon the social services.

## Citizenship and Education

In this, we shall study about the influence of education towards citizenship, according to various philosophers. Aristotle considers three qualities to be necessary for a man universally. They are:

- ❖ Loyalty to the constitution
  - ❖ High degree of capacity to one's duties and
  - ❖ Quality of goodness and justice.
- A democratic nation upholds political and economic equality for which identification between a good man and good citizen are always necessary. Plato considers education is a cure to corruption and political instability. Hence, he speaks for effective and responsible form of education. Aristotle, Hume and Rousseau, point out that the citizens will need knowledge of the attitudes and the expectations of their fellow citizens. J.S. Mill and Tocqueville on the other hand stress upon the need of political knowledge and in order to participate and conduct the affairs of the local government, voluntary association or jury service, education is very much necessary.

## Citizenship in India

- India is a secular, democratic and nation state. Why do you think Independence Movement began? The main reason was to bind together people of different religions, regions and cultures. Though there were differences with the Muslim League during the Partition of the Country, yet this strengthened the Indian National Leaders to maintain the secular and inclusive character of the Indian Nation state.

In USA, dual citizenship system prevails where a citizen is both the citizen of the country (USA) and the respective state. IN India single citizenship system prevails where a citizen is only the citizen of the country (India).

The Maintenance and welfare of Parents and Senior Citizens Act was passed in 2007 by to provide maintenance and support to elderly parents and senior citizens.

What the Act states

- The Act established the Maintenance Tribunal to provide speedy and effective relief

to elderly person.

- Maintenance, according to the Act, pertains to “provision for food, clothing, residence and medical attendance and treatment”.
- The only condition for claiming maintenance under this Act is that the persons must be unable to maintain themselves from their own earnings and property.
- The Act mandates that the maximum maintenance paid will be 10,000/- per month. The maintenance amount is determined by the needs of the claimant and the aim is provide maintenance for the person to lead a normal life.
- Parents or senior citizens can avail the services of the State government appointed maintenance officer to represent their interests during proceedings before the Maintenance Tribunal. Lawyers are not allowed to present cases before the Tribunal according to the Act.
- Any person who is responsible for the protection and care of a senior citizen and intentionally abandons the senior citizen completely is liable to pay a fine of 5000/- or be imprisoned for three months or both.

### **Global citizenship and National citizenship**

- National citizenship assumes that our state can provide us with protection and rights we need to live. However, states today are to tackle a lot of problems and hence individual rights are guaranteed to protect the safety of the people. Global citizenship on the other hand, deals with the importance of citizenship across the national boundaries. Here, one may need the cooperative action by the people and the governments of many states.

Therefore, citizenship for all can resolve many socio- economic inequalities. Moreover, global citizenship reminds us that we live in a world where the states are interconnected with each other and strengthening the links is most important.

### **RIGHTS AND DUTIES**

#### **Introduction**

- The language of rights has formed part of our moral, legal and political vocabulary for many centuries. Rights are so common in our world that we might suppose that they are woven into a fabric of human rights. The significance of rights in the modern era is not limited to their entrenchment in the constitutions and their announcement in international declarations. If all human beings possess rights merely in virtue of being human, then all humans possess rights merely in virtue of being human, then all humans possess a certain equality of moral standing which cuts across differences of class, caste or race or religion.

#### **Do you know about rights?**

- **Rights** are important conditions of social life without which no person can generally realise his best self. It is only when people get and enjoy rights that they can develop

their personalities and contributes their best service to the society. They are the common claims of the people which every cultures society recognizes as essential claims for their development and which are therefore enforced by the state.

“Rights are powers necessary for the fulfilment of man’s vocation as a moral being...”  
- T.H. Green

- **Isaiah Berlin** defines rights in terms of positive liberties and negative freedoms. A positive right is an entitlement to: A right to free expression, for instance, entitles one to voice opinions publicly. A negative right is a freedom from; Freedom of person is a right to be free of bodily interference.

### Features

- Rights are the important rational and moral claims of the people for the societal development.
- They are available to all the people irrespective of caste, creed, race or gender bias.
- Rights and duties are interrelated to each other. “No duties, no rights.” “If I have rights it is my duty to respect the rights of others in the society”.
- Rights are justiciable.
- Rights are protected and enforced by the laws of the state. It is the duty of the state to protect the rights of the people.

### Let us differentiate Rights and Responsibilities

- Rights and responsibilities are inseparable. When someone is borne with a lot of responsibilities, they are automatically bestowed upon with enough rights. Rights actually enable an individual to perform their responsibilities in the different roles we play on a day to day basis.

What are your responsibilities?

- ❖ To safeguard the unity and integrity of India.
- ❖ To protect the public property.
- ❖ To conserve and protect the natural resources of the country like wildlife, lakes, forests and rivers.
- ❖ To maintain the spirit of brotherhood and create harmony among all irrespective of caste, creed, colour and economic status.
- ❖ To preserve the rich Indian culture and heritage.
- ❖ To maintain the spirit of brotherhood and create harmony.
- ❖ To respect the National Anthem and National Flag.

Are you aware of the different types of Rights?

### i. Natural Rights

- a. These rights are parts of human nature and reason. Political theory explains that an individual has certain basic rights and the government cannot deny these rights. In classical political philosophy, “natural right” denotes to the objective rightness of the right things, whether the virtue of a soul the correctness of an action, or the excellence of a regime.

## ii. Moral Rights

- a. Moral rights include rules of good conduct, courtesy and moral behaviour. Moral Rights include rules of good conduct, courtesy and of moral behaviour and stand for moral perfection of the people.

## iii. Legal Rights

- Legal rights are equally available to all the citizens and they follow without any discrimination. Legal rights are those which are accepted and enforced by the state. Legal rights are of three types:
  - ❖ **Civil Rights:** These are the rights which provide opportunity to each person to lead a civilized social life and that which are protected by the state. Right to life, liberty and equality are civil rights.
  - ❖ **Political Rights:** These are the rights by virtue of which the people get a share in the political process. These rights include the right to vote, right to get elected, right to hold public office, etc.
  - ❖ **Economic Rights:** These are the rights which provide the economic security to the people. The people are empowered to make proper use of their civil and political rights. Right to work, right to adequate security, right to social security. Legal rights are what the law says there are, insofar as the law is enforced. They gain importance through legislation or decree by a legally authorized authority.

## iv. Contractual Rights

- These rights originate from the practice of promise – keeping. They apply to particular individuals to whom contractual promises have been made. The numerous examples of contractual rights include rights to purchase a product or service, right to sell a product or service.

## v. Human Rights

- Human Rights are the rights of highest order. They are morally important and are possessed in virtue of the universal moral status of human beings. They are protected and supported by international and national laws and treaties.

**Have you heard of Bill of Rights and Fundamental Rights?**

- The Bill of Rights, in the United States, was adopted as a single unit on December 15, 1791, and they constitute a collection of mutually reinforcing guarantees of individual rights and limitations on federal and state governments. The Bill of Rights, in the United States, was adopted as a single unit on December 15, 1791, and they constitute a collection of mutually reinforcing guarantees of individual rights and limitations on federal and state governments.
- The Bill of Rights derives from the Magna Carta (1215), the English Bill of Rights (1689), the colonial struggle against king and Parliament. The United States Bill of Rights plays a central role in American law and government, and remains a fundamental symbol of the freedoms and culture of the nation.

James Madison Proposed the Bill of Rights. Bill of Rights was influenced by George Masori's 1776 Virginia Declaration of Rights & 1689 English Bill of Rights.

- James Madison

### **Fundamental Rights:**

- India won independence from the British Imperial-colonial rule in 1947. India emerged as democratic, secular country that had high emphasis on Rights.
- On August 29, 1947, the Constituent Assembly set up a drafting committee under the chairmanship of Dr. B.R. Ambedkar. The total number of amendments that were made was approximately 7635, out of which nearly 2473 were actually moved. The 12th session of the Assembly held on January 24, 1950 elected Rajendra Prasad as the first President of the Indian Union. The legal and political luminaries of the Assembly affixed their signatures on the official copies of the Indian Constitution.
- Part-III of the Indian Constitution contains Fundamental Rights that is the critical foundation of the Democratic ethos of the Indian Constitution. The Indian Constitution in its text and scope is the most detailed and the most elaborate in the world. Every minute aspect of the fundamental rights is enumerated in the Constitution which is also one of the important aspects for it to be voluminous. The various facets of the Fundamental Rights are elaborated below:

### **Right to Equality**

It took the constituent Assembly 2 years 11 months and 20 days to frame the constitution.

- Right to Equality guarantees equality before law to all the people irrespective of their caste, creed, gender and race, etc. It also emphasizes on the prevention of discrimination to visit any public places. This permits anyone to visit temples, restaurants, hotels and places of public entertainment. It also guarantees equality of opportunity to employment to citizens in Union or states. Right to equality forbids any form of untouchability and considers this as a serious offence.

- Right to Freedom Equality and freedom or liberties are the two kinds of rights necessary for democracy. This article assures freedom of speech and expression, freedom to assemble peacefully and without arms, freedom to form associations and to move freely throughout India. Do you know that this Article also provides you the freedom to practise any profession of your choice? Yes, you can. You can set up a clinic, a pharmacy or even a supermarket.
- Right to Life and Personal Liberty No citizen can be denied of his personal liberty. This means no person can be detained without informing the grounds of his arrest. An arrested person has also the liberty to consult and be defended by a lawyer of his choice. Besides this, he is not to be kept under custody beyond 24 hours and must be produced before the Magistrate. Preventive Detention Preventive Detention is considered as a check on the actions of the miscreants which is actually the dire need of the hour. If the State feels that a person can be a threat to law and order as well as to peace and security of the nation, it can arrest or detain that person.
- Right against Exploitation There are millions and millions in our country who are exploited and used. They are the underprivileged and the deprived, in the society. In the today's scenario, human trafficking has become a serious exploitation of human beings. Human trafficking is buying and selling of human beings and treating them as slaves. Apart from human trafficking, child labour is another problem being faced where children are put into forced labour without payment.
- This is the reason why the Constitution has provided with the Right against exploitation, wherein trafficking in human beings and beggary are forms of forced labour. It also prohibits the children below the age of 14 years from employment in any factory or mine or any kind of hazardous labour.

### **Right to Freedom of Religion**

- In India, all the people have the right to choose their own religion and faith. None can stop them from practising their religion as well as propagating it. These rights include the social as well as the personal aspects of the religion which are enjoyed by every citizen in the country.
- Right to freedom of religion guarantees to all persons freedom of conscience and authorises them to profess, practice and propagate any religion subject to the prescribed limitations of public order, morality and health. Article 26 allows establishing and maintaining institutions related to religious affairs and charitable purposes also. You can own a movable or an immovable property and administer the property in accordance with law.



## **Cultural and Educational Rights**

- There are certain non-political rights of religious, cultural and linguistic minorities, groups or sections of people. Constitution guarantees these rights for them.
- No citizen is denied the admission to the State or the State aided educational institutions owing to caste, creed, gender, etc. The citizens have their right to get educated in any schools or colleges of their choice. If in case the institutions are found to practise discrimination, the government will not extend aid to such institutions. Moreover, the State should not dictate the pattern of education to these institutions too and must allow them to decide in order to preserve our culture.

## **Right to Constitutional Remedies**

- Constitutional Remedies provides the rights to the citizens to move the Supreme Court or the High Court to protect their rights. Article 32 provides the remedies to the citizens at the Supreme Court while Article 226 by the High Court. The courts can issue writs or orders in the nature of Habeas Corpus, Mandamus, Certiorari, Quo Warranto and Prohibition or Injunction. Therefore, fundamental rights are critical and instrumental in protecting the rights and liberties of the individuals in the country. By doing so, they establish the democratic way of living through these cardinal principles of equality and justice.
- Fundamental Rights therefore constitute the cornerstone of our national liberty, which are cherished and attained after trials and tribulations.

Be aware of the new rights

## **Right to Information**

- Do you have any queries to the Government? You can very well ask them about how they work and who are the members who aid in their working. Wondering how? Yes, Right to Information Act of 2005 provides you this with this mandate of posing queries to the working of the Government. This is to empower the citizens and initiate transparency and accountability. An informed citizen is kept more vigilant on the instruments governing the functions of the government thereby making them accountable.

## **Right to Privacy**

- People of India will surely not surrender the most precious aspects of human persona, like, life, liberty and freedom. The citizen will surely not surrender all these rights to the mercy of the state. Right to privacy is moreover an integral part of human dignity. "The right to privacy is protected as an intrinsic part of the right to life and personal liberty under Article 21 and as a part of the freedoms guaranteed by Part III of the Constitution"

## **Rights of Transgender**

- Who are transgender? Have you seen them? Yes, transgender people are individuals of any age or sex and their appearance and characteristics are different from how men and women are supposed to be. They exist in every culture, race and class, ages back. Today they are addressed as the third gender. The Supreme Court has infact directed the Union and the State Governments to grant legal recognition of their gender identity. Moreover, the fundamental rights must be available. They are also entitled with the provision of public health and sanitation and socio-economic rights.

## **Directive Principles of State Policy**

- Part-IV of the Indian Constitution is Directive Principles of State Policy. It constitutes the most comprehensive political, economic and social programme for the welfare state. They have set up the blueprint for a humanitarian socialistic perspective. The Directive Principles are a set of rules enforced upon the State to direct policies towards securing adequate means of livelihood for men and women equally. It also enforces equal pay for equal work for both men and women. These principles ensure a decent standard of living and full enjoyment of leisure and social and cultural opportunities. The incorporation of Gandhian Principles under the Directive Principles of State Policy directs in promoting cottage industries on an individual or cooperative basis in the rural areas. These principles also endeavour in controlling the consumption of intoxicants.
- Liberal Democratic Principles of the Directive Principles helps in securing a uniform civil code throughout the country. It also seeks to provide free and compulsory education to all children between the age group of 6 and 14 years. It also ensures that no child is subjected to any physical punishment or mental harassment.
- Liberal Democratic Principles of the Directive Principles helps in securing a uniform civil code throughout the country. It also seeks to provide free and compulsory education to all children between the age group of 6 and 14 years. It also ensures that no child is subjected to any physical punishment or mental harassment.

## **Political Obligation**

- Do you feel or expect that the Government must be transparent and accountable to the citizens of the nation? If yes, then how are you reciprocating back to the Government? This is what Political Obligation is. It is related to moral affair. Every individual has to perform certain duties such as payment of taxes, participate in voting, perform judicial and military functions, but for what? It is in order to maintain the political institutions of the country.
- Political obligation binds a person to the performance of duties as mentioned in the Constitution. An individual has to follow the rules and regulations in the society for

his own welfare and the society's welfare. When the State is responsible towards the citizen, the citizen must also reciprocate to the Government. The proper functioning of the State depends upon the proper functioning of the systems of the government.

- The word 'political' actually deals with policy and the government's administration. The framework of the political system is framed and then the limitations of the power are identified.
- T.H. Green states political obligation as, "it is intended to include the obligation of the subject towards the sovereign, the obligation of the citizen toward the state, and the obligation of the individual to each other as enforces by the political superior."

### **Political Obligation and Political Authority**

- When the state has a political authority, it has the right to compel the non-compliers. For example if anything within the State's authority to levy the taxes, then the State has all the rights to compel the non-compliers to pay the taxes. However, even if the State does not enforce its authority, still it is the moral duty of the citizens to comply with the laws.
- Hence, every human being is subject to political obligation owing to the omnipresence of the modern nation state. Political obligation otherwise involves three major aspects:
- The identifiable authority to which political obligation is rendered: If a person has an obligation to do or refrain from doing, he has to be directed by a person who has the authority or the power to direct or instruct. However, a person's political obligation has a certain link to the citizenship of the state. A foreigner will not have political rights but will have legal obligation and protection.
- To what extent political obligation can be rendered: The State can enforce laws and expect minimum obligation. This means that the people cannot be selective about the laws but have to obey the laws. Examples to quote can be voting, military duty, etc. These are the basic duties of the citizens which have to be compulsorily implied without being selective.
- The basis of Political Obligation: Political obligations have gained momentum only after the sixteenth century. Earlier, the people considered Political obligation as the will of God. But, modern political theory differs in its explanation. This theory says that no person is forced to do a work but they voluntarily assume their own duties as their valid obligations.
- Do you know why the people assume in such a way? The reasons are self-interest and realisation of the state's basic duties. The State is providing the people with physical safety and security. People are aware that securing justice or maximizing happiness cannot happen without the political authority. When these are provided by the state, naturally the people are responsible for political obligations.

## Features of Political Obligation

- ❖ There prevails a source of political spirit and social service
  - ❖ Honesty and integrity are the essential aspects when it comes to the performance of public duty.
  - ❖ There must prevail political legitimacy and effectiveness
  - ❖ The citizens also have the responsibility of guarding their guardians
- Let us think over the kinds of Political Obligations Political Obligations are of four kinds. What are they?

**Moral Obligation:** Are you hospitable to the guests who come to your house? Do you help the poor? Will you not take care of your parents in their old age? These are your moral obligations. They do not legally bind the community and the individuals and if you do not behave within the moral obligations, you can also not be punished. However, this is your ethics and moral principle innate in you.

**Legal Obligation:** Our nation is a welfare state where the Government focuses on providing us with the infrastructural facilities. Roads, health centres, hospitals, education, etc are few of the examples of concern.

**Positive Obligation:** There are certain rules made by the state which cannot be disobeyed and hence they are considered as the positive obligation. Can you think of some examples related to positive obligations? Yes, paying tax and serving the defence are some of the examples under positive obligation.

**Negative Obligation:** This is the direct opposite of positive obligation. Here, an individual is not permissible to do what the government prevents him from doing so.

- Now, think of some examples under negative obligation. Have you seen some people get drunk and behave in a very disorderly manner? Some drink and drive, some of them cause a lot of problems to the family after being drunk. In the same way, commission of crime is also a negative obligation. Hope, you understood what negative obligations are?

## The Constitution and important obligations

- The Constitution is considered as a rule book of the state and it expects the citizens to adhere to the rules. If the Constitution has to work successfully, then people's cooperation is also a must. "Law is a means to an end and never an end to itself". There is a concept called the steam roller legislature. In case a law does not serve good then it has to be changed. There are situations where some laws are framed by the Government which are harmful and yet they get a support, which is called the Steam roller legislature. It is the duty of the citizen to resist such laws too. Hence, the concept of political obligation not only informs people to obey the rules and

regulations of the authority of power but also informs to resist if the laws are found not to be good for the society.

- Theories of Political Obligation All of us have some theories, values in life. We practise whatever is right and do not follow misleading principles. In the same way, theories are applicable for political obligations too. There are different types of theories of political obligation:

#### **i. The Divine theory**

- In the olden days, people thought that the God created the state and the king was his representative. But this theory could be popular only during the ancient and middle ages but not during the modern era.

#### **ii. The Consent Theory**

- This theory proposes that the authority of the state is based on the people's consent. Hobbes, Locke and Rousseau justified this theory on the grounds that the authority of power was dependent on the people's consent. But, later it could not be accepted because it treated state as an artificial organisation.

#### **iii. The Prescriptive Theory**

- This theory states that the respect to the political authority is based on the principle of customary rights. It is a fact that political institutions are continuous from the past, this idea has been supported by Edmund Burke. But over a period of time, it lost its effect due to its overemphasis on the respect for the well-established practices.

#### **iv. The Idealistic Theory**

- This theory regards man and the state as two entities. "Man" is regarded as a political and rational creature while "state" is considered as a self-sufficing community. This idealistic theory propounds that when the individual receives his rights from the state, he can have no rights that can conflict with the state. However, this theory proved to be quite abstract and which could not be understood by man.

#### **v. The Marxian Theory**

- The Marxian theory is actually different from the other theories. It has been classified into three stages:

**Pre- revolutionary stage:** This stage explains political non-obligation

**Revolutionary Stage:** It is an eventual change from political non-obligation stage to a stage of total political obligation.

**Post- revolutionary stage:**

This stage is a complete transition from total political obligation to social development.

- The Marxian theory of politics explains the state as an instrument of power in the hands of the proletariat. Towards the success of the revolution to consolidate the socialist order, it may lead to what is called as 'withering away' of the state. However, this theory was also considered to be illogical since it made man subservient to the state.

**Why should we obey the State? Is it necessary?**

- Though the theories mention about the political obligation, yet some seem to be abstract while some are illogical too. But, have you ever thought why should we obey the state? Is it because you fear or you have a sense of patriotism? Shall we see, what are the reasons that make an individual to obey the state?

**i. Fear of Punishment:** Do you fear being punished by your teacher with an imposition if you go to school with an incomplete homework? Does your father obey the traffic signals properly fearing being penalised? Yes, fear is always there if we do not perform our tasks properly. In the same way, individuals perform their functions fearing punishments. In other ways, it is actually the coercive authority of the state that compels a man to conform to the system of regulations.

**ii. Patriotism:** Why do we stand up for our National Anthem? It is because of patriotism. We love our nation. Hence, to keep our surroundings as well as to keep the streets and roads garbage free is also our duty. So, the members of the state are conscious about the state they live as without that they cannot live as civilized human beings. The members develop a binding towards the state.

**iii. Fear of disorder and anarchy:** Do you like your house to be run in a disorganised manner? Imagine you have breakfast in the afternoon everyday and the clothes are strewn here and there. Would you like if your place is unclean? We don't. It is a general principle that human beings always wish for peace and order. They not only obey the laws but also look upon the ones who do not obey.

**iv. Habits and traditions:** We are all brought about to follow good habits like being courteous, honest, discipline and obedient. This is what our traditional values instilled. Hence, in a nation, even the citizens wish to establish good traditions, and obedience to the state, that which becomes a habit.

- Therefore, let us understand that political obligations are necessary for the citizen to maintain a good system nationwide. Every individual hence has to abide by the laws for a good reciprocation from the state as well.

## Property

- Property is considered as a natural right which is necessary for human dignity, freedom and dignity of life. Property refers to the legal relations between the persons with respect to specific things which may be material or abstract. Abstract can be the copyrights of a book or a film, etc. Property does not only refer to the private property. Private property is one of the various forms of the property. The notion of private property relies upon the following features:
  - i. Do you own a house? If so, it is called as your private property where you are the owner and no one can access your property or claim.
  - ii. As an owner you can use your property but altering or destroying the same requires the necessary authorised permission.
  - iii. The third feature is, if in case you wish to transfer, some forms of transfer may be forbidden or penalized by taxation, like gift tax or capital transfer tax. Other forms of property include the public property, common property or the state property. Property rights grant the owner an exclusive power to decide what will happen to a particular thing or resource. Public properties include transport, railways, etc.

## Locke and the Utilitarian Justification

- According to Locke, the Government's main function is to guarantee every citizen the protection of their individual rights and secure conditions to enjoy their properties peacefully. Humans need property which is also the necessary means of life. Humans do not plan their lives from moment to moment but rather plan with future material security.
- Security is an important aspect which can provide peace and happiness in the minds of the people. Hence, the utilitarian's state that the system of property rights is necessary if the individuals is to achieve a sense of happiness. If at all the governments want to promote the happiness of its people, productivity must be encouraged by protecting individual's property rights. No government should take away the property from the people who are expected to possess and enjoy.

## Twentieth Century Developments

- Most of the developed and developing nations practised social welfare policies after World War II. The main components of these policies entailed taxation on property, transfer of basic industries, and basic public amenities like health and education to state control.

## Feminist Perspectives

- With the advent of women empowerment in the 20th century, women too claim equal status. Feminist scholars state that an important condition for the subjugation of women has been owing to denial of access of women to resources to income, such as land. This is owing to the prevailing patterns of male ownership and control of such resources. Owing to this, status of women has been one of the dependence on men. This dependent status has actually led to their rights to own and claim property.
- The Indian Constitution does not recognize property right as a fundamental right. In the year 1977, the 44th amendment eliminated the right to acquire, hold and dispose of property as a fundamental right. However, Article 300 (A) was inserted in another part of the Constitution. This was to affirm that no person shall be deprived of his property save by authority of law. Hence, this has become a statutory right now.
- Hence, in a civilized society, the scope for coercion and forcible acquisitions needs to be minimal. Unless circumstances are compelling, no forcible acquiring of property must be initiated. The state should neither act as brokers nor as agents of big businesses but should be in according stronger property rights to the farmers too.



**12<sup>th</sup>vol I**  
**unit - 1 Indian Constitution**

**Meaning, Functions and Significance of the Constitution**

- Nationalism during the colonial period strived not only for political independence but also for territorial integration, constitutionalism and democratization.
- India is a culturally diverse country, yet united as a political state. Indians are dependent upon each other in many ways, and they cooperate in many ways. There is a felt need to have specific agreed basic rules and regulations which could facilitate the people of this country to live together. The absence of the basic rules and regulations may imperil the very statehood of India also make the people feel insecure. Colonial rule was based on Charters, councils Acts and government of India Acts. The leaders and political movements of the newly emerging Indian nation to based on a definite written constitution. The central legislative body was converted into a constituent Assembly (i.e. a constitution waking body). The proposed constitution was meant to bind different shatter and different categories of society into one state, facilitating a union of states and co-operation and co-ordination between various segments that constitute the federal narrow.
- The most critical function of a constitution is to provide a set of basic rules that allow for optimal coordination amongst members of the state. A constitution is a body of necessary codes according to which a state is constituted and governed. The constitution specifies the necessary allocation of power between the various segments of the state. Indian diversities necessitated a Union of states, and the freedom movements favoured a democratic form of government. For example, Accordingly the Parliament in India decides laws and policies.
- Constitution empowers the government to fulfill the aspirations of a society and create conditions for a just society. The part four of the Indian Constitution has provisions for the government to make laws to address many problems prevalent in Indian society. The constitution expresses the fundamental identity of the people in a country. People in a community may have many similar ethnic identities that exist before the enactment of the constitution. The people of a country will have a political identity after the promulgation of the structure by accepting the fundamental laws of the state put forth by the constitution. The individual's objectives, aspirations, and freedoms should comply with the constitutional regulations of a country. The constitution puts forth specificfundamental laws which cannot be violated by its citizens. It also protects certain fundamental rights of the people living in a country. The constitution of a country defines who are all the citizens of a nation. It also sets the framework that illustrates the relationship between the states or parts of a country with each other and even with the central government. Most of the constitutions in the world are written documents that comprise many articles and schedules. There are still a few constitutions like that of the United Kingdom which do not have one single document, which could be called

as a district constitution. The United Kingdom, instead has a series of customs, conventions and historical precedents which are collectively referred to as its coconstitutional components.

### **Formulation**

- Formulation refers to how a constitution comes into being, who crafted it and their authority. Indian nstitutional components.
- Constitution like the United States was drafted after a successful national movement. The Constitution of India has the legitimacy since it has been drafted by a constituent assembly consisting of people's representations. The Constitution of India reflected the consensus of most of the sections of people in India during Independence. There are instances where some countries have subjected their constitution to a full-fledged referendum.

### **Referendum**

- A referendum is a method of referring a question or set of questions to the electorate directly rather than allowing them to be settled by the people's representatives in the legislature. The referendum is also often used to determine issues of morality which divide a government of party and to settle local matters which it is thought are best left to individual areas to decide. The referendum is seen as conferring legitimacy and popular approval on an individual and sanctions absolute authority.
- Neither Indian Constitution nor the amendments made later were subjected to a referendum which could also be seen as a setback in Indian democracy perhaps the conditions prevailing at that time were not conducive to a referendum. In this regard may be useful to study the working of referendum in Switzerland.

### **Provisions of a Constitution**

- An ideal constitution should accommodate the aspirations of all sections of people in society. Constitutions that are discriminative based on religion, caste and language may not get the overwhelming acceptance from all in the nation. The fundamental laws of the structure would reveal the nature of a constitution. Any constitution could be successful only when it preserves the freedom and equality of all its citizens.

### **Secularism in India**

- The 42nd Amendment enlarged the Preamble of the Indian Constitution from "Sovereign Democratic Republic" to a "Sovereign, Socialist Secular Democratic Republic," and also changed the words "unity of the nation" to "unity and integrity of the nation." Former Prime Minister Indira Gandhi enacted the 42nd Amendment in 1976, during the Emergency, obviously to emphasise the latent secular and socialist ideals as inalienable spirit of the constitution.

- Well-drafted constitution does not concentrate all powers in a single person or a single institution as it may lead to abuse of power by few or one institution. One method that may be incorporated to address this issue is to divide powers among different organs in a balanced way.

The Indian Constitution separates the power horizontally amongst institutions like the legislature, executive and judiciary that prevents any of the organs from subverting the Constitution and enhances its success and durability. Indian Constitution is not too rigid and not too flexible, which is evident from the restrictions and flexibility in the name of the basic structure of constitution and

- amending provisions respectively. A well-drafted constitution will maintain the core values and also adapt itself to changing environment. The Indian Constitution balanced the possibility to not only change the provisions but also limits on such changes. The framers of the Indian Constitution had ensured that it would survive during the test of times.

### **Making of Indian Constitution**

- The members of Constituent Assembly drafted the Indian Constitution. The Constituent Assembly held its first meeting on 9 December 1946 and re-assembled after partition of Pakistan as Constituent Assembly for the remaining India on 14th August 1947. The members of the Provincial Legislative Assemblies indirectly elected the members of the Constituent Assembly.
- The Constituent Assembly was composed of members along the lines suggested by the plan proposed by the Committee of the British Cabinet, also known as the Cabinet Mission.

*(February 1948: some members of the Drafting Committee of the Constituent Assembly of India: (seated from left) N. MadhavaRao, Saiyid Muhammad Saadulla, Dr. B. R. Ambedkar, Sir AlladiKrishnaswamyAyyar and Sir B. N. Rao. Also in the Picture are (Standing from Left) S.N. Mukherjee. Jugal Kishore Khanna and Kewal Krishnan)*

### **According to this plan**

- Provinces and princely states or group of states were allotted seats proportional to their respective population roughly in the ratio of 1:1 million. The provinces were to elect 292 members while the princely states were to send a minimum of 93 seats.
- The seats of each province were distributed among three main communities, namely, the Hindus, Muslims, and Sikhs, in proportion to their respective populations in their province.

- Members of each community in the Provisional Legislative Assembly elected their representatives by the method of proportional representation with a single transferable vote.
- The method of selection of representatives of Princely States was to be determined by the princely states themselves.

### **The composition of the Constituent Assembly**

- Two hundred eighty-four members were present on 26 November 1949 and appended their signature to the Constitution as finally passed.
  - The 1st meeting of the Constituent Assembly took place in Constitution Hall, New Delhi, on Monday, the 9th December 1946, at Eleven of the Clock. The title of the first debate was "Election of Temporary Chairman," Acharya J. B. Kripalani (United Provinces: General) requesting **Dr. Sachchidananda Sinha** to take the Chair as temporary Chairman. (Constituent Assembly Debates) □ The Final meeting held on 24.01.1950 with the title of "Signing of the Constitution" and **Dr. Rajendra Prasad** is the Chairman of the debate. □ The Constituent assembly debate consists of 12 Volume and it held between **9th December 1946 to 24th January 1950**
- 1.2 Sources of Indian Constitution** The primary sources of the Indian Constitution are as follows: The framers of the Constitution adopted the features of the Indian Constitution from several sources. The primary sources that inspired the framers of the Indian Constitution are:

### **Salient Features of Indian Constitution**

**Longest written constitution:** The Indian Constitution is considered to be the longest written constitution in the world. It contains different provisions for states and centre and their inter-relationship. The framers of the Constitution have borrowed provisions from several sources and several other constitutions of the world. The Indian Constitution contains the detailed list of individual rights as fundamental rights, directive principles of state policy and details of administrative procedures.

**A unique blend of rigidity and flexibility:** Indian Constitution may be called rigid as well as flexible based on its amending procedure.

**Sovereign, Socialist, Secular, Democratic and Republic:** Its people govern India through their representatives elected by the universal adult franchise. India as a sovereign country means it manages its internal and external affairs freely without the interference of any external factors. The term socialist was added to the Indian Constitution through the 42nd Amendment in 1976. Socialism in Indian context means achievement of socialist goals through democratic, evolutionary and non-violent means. In India, we follow the mixed model of the socialist and capitalist economy. Secularism in Indian context means that it recognizes all religions equally without having any state religion. Republic in Indian context means the head of the state in India is elected and not the monarch.

**Parliamentary System of Government:** Parliament controls the functioning of the Council of Ministers, and hence it is called the Parliamentary system. In a parliamentary system of government, (i.e.) the executive is responsible to the legislature and remains in power only when it enjoys the confidence of the majority legislators. The President of India, remaining in office for a five-year duration, is the nominal, titular or constitutional head, and the executive head. However, the Prime Minister in India is the real executive and head of the Council of Ministers who are collectively responsible to the Lok Sabha.

**Single Citizenship:** Indian Constitution has the provision for single citizenship provided by the union and recognized by all the states across India.

**Universal Adult Franchise:** The Constitution of India establishes political equality in India through the method of the universal adult franchise which operates with the principle of 'one person one vote.' All Indians who are eighteen years of age or above is entitled to vote in the elections. There is no discrimination in voting rights for the citizens of India based on caste, religion, gender, race or status.

**Independent and Integrated Judicial System:** In India, the judicial system is an autonomous organ kept free from the influence and intervention of the executive and the legislature in exercising its functions. The integrated Indian judicial system has the Supreme Court at the apex, the high courts and lower courts are subordinate to it.

**Fundamental Rights:** Fundamental Rights are significant provisions of the Indian Constitution and are inviolable and normal times. Fundamental Rights in India can be suspended during emergencies; and can be amended by extra ordinary means. The provisions of Fundamental Rights are enforceable in the court of law when it is violated.

- **“Right to Education** -The Indian Constitution (Eighty - Sixth Amendment) Act, 2002 inserted Article 21-A in the Constitution of India to provide free and compulsory education to all children in the age group of six to fourteen years as a Fundamental Right in such a manner as the State may, by law, determine. The Right of Children to Free and Compulsory Education (RTE) Act, 2009, which represents the consequential legislation envisaged under Article 21-A, means that every child has a right to full-time elementary education of satisfactory and equitable quality in a formal school which satisfies certain essential norms and standards.”

**Directive Principles of State Policy:** Fourth part of the Indian Constitution titled the Directive Principles of State Policies provides the guidelines to be followed by the states regarding governance and are not enforceable in the court of law.

**Fundamental Duties:** The Fundamental Duties were added to the Indian Constitution through the 42nd Amendment. Fundamental duties provided in part IVA Article 51A are moral conscience which ought to be followed by the Indian Citizens.

- **Federal or Unitary:** India is an indestructible Union with destructible states which means it acquires a unitary character during the time of emergency. The Union is not strictly a federal polity but a quasi-federal polity with some vital elements of unitariness. Though federal in form, the Indian Constitution, unlike other federal Constitutions, is both unitary as well as federal according to the requirements of the times and the circumstances.

### **Balancing Parliamentary supremacy with Judicial Review:**

- The Constitution recognizes the need to provide for the review of the judgment or the order of the Supreme Court by itself. Subject to the provisions of any law made by Parliament or any rules made by the Supreme Court under Article 145, the Supreme Court has the power to review any judgment pronounced or made by it. The independent judiciary in India with the power of judicial review is a prominent feature of our constitution. The harmonization which our Constitution has effected between Parliamentary Sovereignty and a written Constitution with a provision for Judicial Review is a remarkable achievement of the framers of our Constitution. **Indian Citizenship** Citizenship identifies those who are the lawful members of a country. The Citizenship Act, 1955 regulates the determination and acquisition of citizenship after the adoption of the Indian Constitution. The Indian Constitution provides for citizenship by birth, descent, registration, naturalization and by incorporation of territory. The Constitution also provides for renunciation and termination of citizenship under certain circumstances. The Constitution contains provisions regarding registration of Overseas Citizens of India and their rights. The Citizenship (Amendment) Bill, 2015 was introduced in Lok Sabha by the Minister of State, Ministry of Home Affairs, on February 27, 2015 that amends the Citizenship Act, 1955. The Act allows a person to apply for citizenship by registration or naturalization if they fulfill specific qualifications. A person may apply for a certificate of naturalization if they have resided in India or have served the Government in India for twelve months immediately preceding the date of application. The Bill allows the Central Government to relax the requirement of twelve months stay or service if extraordinary circumstances exist.

### **Fundamental Rights:**

- The Constitution of India asserts the basic principle that every individual is entitled to enjoy certain essential rights. The provisions for Fundamental Rights are mentioned in Part III of the Indian Constitution. Fundamental Rights as categorized into six heads, firstly Right to Equality, secondly Right to Freedom, thirdly Right against Exploitation, fourthly Right to Freedom of Religion, fifthly Cultural and Educational Rights and lastly Right to Constitutional Remedies. Initially there was a provision for Right to Property under Article-31 which was also a Fundamental Right. The 44th Amendment Act, 1978 had omitted Right to Property from the Fundamental Rights Part and added it as Article 300A therefore considered as a legal right. Fundamental rights provided in Part III of the Indian Constitution are judicially enforceable, thereby the individual can move the judiciary, if there is a

violation on any of these rights. The right to move straight to the Supreme Court for the enforcement of fundamental rights has been guaranteed under Article 32 that is named as Right to Constitutional Remedies. Fundamental rights in India are however not absolute and rational restrictions can be imposed keeping in view of the security requirements of the state. It ensures political justice for the people.

### **Directive Principles of State Policy:**

- One of the unique provisions of the Indian Constitution is the chapter on Directive Principles of State Policy. These principles are like directives to the government to implement them for establishing social and economic justice in India. It comprises significant provisions for equal pay for both men and women, free and compulsory primary education, and right to work. Part IV of the Indian Constitution also has provision for public assistance in case of old age, unemployment, sickness and disablement, the organisation of village Panchayats, adequate means to livelihood, special privilege to the economically backward sections of the people and distribution of wealth. Most of these principles could help in making India a welfare state. Though the provisions given in the Directive Principles of State Policy is not justifiable, these principles are considered very significant in the governance of the country.

### **Panchayati Raj: Gandhi Vs Ambedkar:**

- Gandhi wanted the central government to have minimal power, and he wanted the villages to rule themselves traditionally with village chiefs and councilors. According to Ambedkar, village possessed a cruel reality of communalism and caste system; thus it will lead to the cornering of minorities.
- Gandhi through his social and political initiatives facilitated the country to realize that the power of people which could be facilitated only through effective local self-government. "I shall work for an India in which the poorest shall feel that it is their country, in whose making they have an effective voice." Gandhi time and again emphasized need for power in the hands of the people in India through the Panchayat Raj model. Gandhi said, "The greater the power of the people, the better for the people."

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**My idea of Gram Swaraj is that it is a complete republic, independent of its neighbours for its own vital wants and yet interdependent for many others in which dependence is necessary. - Mahatma Gandhi**

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- For Ambedkar, those villages were nothing "but a sink of localism, a den of ignorance and communalism." The dominant and influential communities would make villages their monopoly and that would render other communities voiceless. The result was that the Constitution that was drafted under his Chairmanship did not mention a word about Panchayati Raj. Many Gandhians persuaded the

committee to have a provision for the village panchayats in Part IV of the Indian Constitution titled Directive Principle of State Policy vesting the responsibility in State legislatures. Article 40 states that the State shall take steps to organize village panchayat and endow them with such powers and authority as may be necessary to enable them to function as units of self- government.

### **Fundamental Duties**

- Part IVA of Indian Constitution defines as Fundamental duties. (51A) - It shall be the duty of every citizen of India -

(a) To abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;

(b) To cherish and follow the noble ideals which inspired our national struggle for freedom;

(c) To uphold and protect the sovereignty, unity, and integrity of India;

(d) To defend the country and render national service when called upon to do so;

(e) To promote harmony and the spirit of universal brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;

(f) To value and preserve the rich heritage of our composite culture;

(g) To protect and improve the natural environment including forests, lakes, rivers, and wildlife, and to have compassion for living creatures;

(h) to develop the scientific temper, humanism and the spirit of inquiry and reform;

(i) To safeguard public property and to abjure violence;

(j) To strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement;

(k) Who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years.

### **Parliamentary democracy in India.**

- Under Article 79, the Parliament of the Union consists of the President and two Houses known respectively as the Council of States (RajyaSabha) and the House of the People (LokSabha). The Union Legislature is bicameral, and the need for a bicameral system of the legislature in a federation is admitted: the Upper Activity



House represents the units, the Lower House represents the people; the two Houses respectively at once functioning to preserve the integrity of the units and to secure the integration of the Union. The RajyaSabha consists of 250 members, where the President nominates twelve in the manner provided. The remaining 238 members will be the representatives of the States and the Union territories. The LokSabha consists of 543 members chosen by direct election from territorial constituencies in the States and not more than twenty-five members to represent the Union territories selected in such manner as Parliament may by law provide.

### Relevance of RajyaSabha

- The 'Council of States' which is also known as RajyaSabha, a nomenclature that was announced by the Chair on 23rd of August 1954 as its distinguishable feature. It is the second chamber of the Parliament. The origin of the second Chamber can be traced to the Montague- Chelmsford Report. The Government of India Act, 1919 provided for the creation of a 'Council of State' as a second chamber of the then legislature with a restricted franchise which came into existence in 1921. The Governor-General was the ex-officio President of the then Council of State. The Government of India Act, 1935, hardly made any changes in its composition. An extensive debate took place in the Constituent Assembly regarding Second Chamber and decided to have a bicameral legislature due to a vast country with immense diversities. RajyaSabha is a federal chamber where 238 members are elected by the elected members of Assemblies of the States and Union Territories. Apart from elected, the President can nominate 12 members to RajyaSabha, thus making a total of 250. The Vice-President acts as the Chairman of RajyaSabha. In his absence, the deputy chairman takes the place of the chairman who is elected by the members of RajyaSabha. The 1st sitting of RajyaSabha was held on 13th May 1952, unlike LokSabha, RajyaSabha can never be dissolved.
- The Rules of Procedure and Conduct of Business in RajyaSabha is the booklet that provides explicit conduct of its members. There are various discussions namely: half an hour discussion, short duration discussion and motions of matters in public interests.

### RajyaSabha

- ❖ The RajyaSabha means "Council of States," and it is the upper house of the Parliament of India.
- ❖ The RajyaSabha held its first sitting (1st session) on 13th May 1952, and recent sitting (246th session) held on 1st August 2018.
- ❖ Generally, during a year, three sessions of the RajyaSabha are held, as follows:  
**First Session** (Budget Session) is held between mid or late February and mid-May. **Second Session** (Monsoon Session) is generally held in mid-July to end

of August. **Third Session** (Winter Session) is held from the end of November to end of December.

❖ □ (Leaders of the House in the Rajya Sabha in 1952 to Till Date)

**Important Debate 1st August 2014:** Use of Tamil as court language in Tamil Nadu

**Important** "India, that is Bharat, shall be a Union of States. Article 1(1)"

### **Constructive debates in Tamil Nadu State legislative Assemblys**

- The first Assembly (1952-1957) under the constitution of India discussed the scheme of elementary education launched by the Rajaji Government and criticized by many including a few in the Congress party that it would perpetuate caste-based social hierarchy. After Kamaraj succeeded him, Education Minister C. Subramaniam in May 1954 informed the House that the scheme would be dropped. The Rajaji days are remembered for landmark laws to protect tenants of farmlands and landless agriculturists. "Premier of Madras Presidency, C. Rajaji presenting his first budget in 1937. Location is Madras Legislative Assembly, Senate House, Chepauk Campus of Madras University Date 1937" In 1967, the Dravida Munnetra Kazhagam came to power with C.N. Annadurai as Chief Minister. The Hindu Marriage Act was amended to recognize "self-respect marriages" or those marriages free of religious rituals. His successor and five-time Chief Minister, M. Karunanidhi, piloted several Bills and moved numerous motions. In his last bill (2006-2011), laws for exclusive reservation for Muslims and Christians within the quota of Backward Classes and Arundathiyars within the reservation of Scheduled Castes were made.
- The 10-year-long rule (1977-1987) of the Government, headed by M.G. Ramachandran of the All India Anna Dravida Munnetra Kazhagam, was noted for various measures in the area of revenue administration. Notably, the system of hereditary village officers such as "karnam" was abolished at one stroke. He upgraded the mid-day meal scheme into Nutritious Meal Scheme.

### **Public Accounts Committee**

The Chairperson of the Public Accounts Committee is appointed by the Speaker from amongst its Members of Lok Sabha. The Speaker, for the first time, appointed a Member of the Opposition as the Chairperson of the Committee for 1967-68.

□ Since the Committee became a Parliamentary Committee under the control of the Speaker from January 1950, it has presented 1596 Reports till April 2018.

- After the Supreme Court delivered the Mandal Commission judgment in November 1992 for reservation in education and employment at 50 percent, the Assembly responded through legislation aimed at safeguarding the existing 69 percent quota

for Backward Classes, Most Backward Classes, Scheduled Castes, and Scheduled Tribes.

### **Constitutional Amendments of India**

- The framers of the Indian Constitution have given provisions to amend the Constitution according to the changing needs of society. The Constitution has not lost its ideals and basic premises though many such amendments have already taken place. The Indian judiciary has played a critical role in protecting the Constitution and also in interpreting the Constitution. The Indian Constitution like many other constitutions is a document that keeps evolving and responding to changing circumstances and political upheavals. The Indian Constitution continues to function as the primary framework within which the Government of India operates. The framers of the Constitution were very farsighted that they provided for many solutions for future situations. The Indian Constitution accepts and accommodates the necessity of modifications according to changing situations of the society. There has been enough flexibility in implementing the Constitution which has made the Indian Constitution a living document than a rigid rulebook. The framers of the Constitution sought a balance to ensure that it is not a static and unalterable document and also a sacred document where the basic structure is not altered. The framers of the Constitution desired it to be 'flexible' and at the same time 'rigid' and also to protect it from unnecessary and frequent changes. Article 368 of the Indian Constitution has the provision through which Parliament may in the exercise of its constituent power amend by way of addition, variation or repeal any provision of this Constitution by the procedure laid down in this article. Since the Constitution was framing a federal polity, the basic rights and powers of the States may not be changed without the consent of the States. Some features of the Constitution were so central to the spirit of it that the framers wanted to protect these from change and so made it uncompromising. These considerations by the framers of the Constitution led to different ways of amending the Constitution.

**There are three types of Constitutional Amendments, they are;**

1. A simple majority (requires addition)
  2. Amendment can be made by a special majority of the two houses of the Parliament. (2/3 of members present and at least 50 percent of the total members)
  3. The third method requires a special majority of the Parliament and consent of half of the State legislatures.
- All these types of amendments to the Constitution are initiated only in the Parliament. Based on the provisions given no referendum are required for ratification of the amendment. The amendment bill will be presented before the President for his assent. The President has no powers to send it back for reconsideration in these cases. The elected representatives of the people are empowered to consider and take final decisions of the question of amendments.

### **Constitution Amendment Bills**

Bills seeking to amend all other provisions of the Constitution including those enumerated in the provisions to article 368(2) are called by the title 'Constitution Amendment Bills'. These Bills can be introduced in either House of Parliament

### **Private Member Bills:**

- If any member other than a minister introduces a bill, it is called a private member bill. The bill can be introduced by both ruling and opposition party MP's. Private member bill is a bill proposed by a member who is not a member of the cabinet and executive. The session for private member bill is held at alternative Fridays from 2 pm to 6 pm.
- This bill needs a month of notice; this has no impact on the health of the government when the private member bill gets rejected. Till date, parliament has passed fourteen private member bills; the last one was passed on 1970. Most of the bill passed by the private member is not even read or discussed and dismissed. Private members bills are accepted even those are constitutional amendment bills but not that those are money bills.

### **The Rights of Transgender Persons Bill, 2014**

- ❖ In Lok Sabha, the last two and half hours of a sitting on every Friday, and in Rajya Sabha two and half hours, i.e., from 2.30 p.m. to 5.00 p.m. on every alternate Friday are allotted for transaction of "Private Members' Business", i.e., Private Members' Bills and Private Members' Resolutions.
- ❖ The last time a private member's Bill was passed by both Houses was in 1970.
- ❖ Till Now, only Fourteen Private Member's bill have been passed by the Parliament. **The Rights of Transgender Persons Bill, 2014:** The Rights of Transgender Persons Bill, 2014 is a private member bill introduced by Trichy Shiva, which seeks to end the discrimination faced by transgender people in India. The Bill was passed by the upper house Rajya Sabha on 24 April 2015. It was introduced in the lower house Lok Sabha on 26 February 2016. The Bill is considered historic as for being the first private member's bill to be passed by any house in 36 years and by Rajya Sabha in 45 years.

### **Article 370:**

- The article 370 in the Constitution is about Jammu and Kashmir region given the provision which grants special autonomous status. According to this law, except defence, foreign affairs, communication, and finance, the central government requires the State Government's permission for applying all other laws. The State and its residents have a separate set of laws relating citizenship, property right and fundamental right from other citizens of India. The centre has no power to impose

financial emergency through article 360 over the State. An emergency is declared only during the time of war and external aggression. Therefore the central government cannot declare an emergency for a case of internal disturbance or other dangers unless the state requests the centre.

### **Sankarlinganar**

- Sankarlinganar is a Tamil Indian Independence activist and Gandhian. He was born in Manmalai Medu in Virudhunagar District to Karuppasamy and Valliammal in 1895. He joined the Indian National Congress in 1917. He also participated in the Salt March in 1930 along with Gandhi under Rajaji's influence. The consequence of PottiSreeramalu fasted demanding for a separate state of Telugu from Madras state for Telugu speaking people and Madras city to be its capital in 1952 led to new agitation in Madras state in need to change its name.
- In 1956, Sankarlinganar started to fast on demand for change in the name of the state from Madras to Tamil Nadu. He started his hunger strike on 27th July on 1956 in Virudhunagar for 12 demands. Despite the request of C.N. Annadurai, M.P Sivaganam, and Jeevanardham, he continued to fast and died on the 76th day on 13th October 1956.

### **Tamil Nadu**

- ❖ ThiyaagiSankaralinganar observed Fasting 76 days from 27.07.1956 to 10.10.1956, for the name conversion of Chennai Presidency as "Tamizhagam."
- ❖ The State of Madras changed the name as State of Tamil Nadu by the Madras State (Alteration Of Name) Act, 1968.
- ❖ He was the person in India History to end his life by observing fast for many days in Gandhian Way

### **Select Committee**

- The Select Committee is made up of a small number of parliamentary members appointed to deal with particular aspects originating in the Westminster System of parliamentary democracy.
- Under Rule 125 of the Rajya Sabha Rules and Procedures, any member may move a bill which is referred to a select committee and, when the motion is admitted, the bill shall be referred to such a committee.
- The quorum needs to be one-third of the total number of members of the committee. In case of a tie on any matter, the chairman (or any other person presiding) will cast his vote. The select committee may appoint a sub-committee to examine any particular points connected with the bill. If any doubt arises on any aspect of the

procedure the chairman may refer the point to the Rajya Sabha Chairman, whose decision will be final.

### **Important joint sittings**

6 and 9 May 1961 on Dowry Prohibition Bill, 1959

26 March 2002 on Prevention of Terrorism Bill, 2002.

- Whenever a bill passed by one house is rejected by another house or any disagreement or more than six months has elapsed, the President of India may call a joint sitting of the two Houses to resolve the deadlock. The bill will be passed in both Houses by a majority of the total number of members of both Houses present and voting. There is no provision in the Indian Constitution for a joint sitting of both houses on a money bill or a Constitution Amendment Bill.

