

Examrace

Competitive Exams: Constitution

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What is Constitution?

- Constitution means a document having a special legal sanctity, which sets out the framework and principal functions of the Government.
- There are various forms of Government prevalent across the world. Constitution of a country gives idea about the basic structure of the political system under which its people are to be governed.
- The idea of Constitutionalism suggests ways and means to work out a governmental form, which exercises power and ensures, at the same time, individual freedom and liberty.
- Constitutionalism suggests a way for reconciling the power of the State with individual liberty, by prescribing the principles of organizing the State.
- It defines the powers of the main organ of the State, demarcates their responsibilities and regulates their relationships with each other and with the people.
- It can also be termed as the Fundamental Law of a country which reflects people's faith and aspirations.

Significance of the Constitution

- The philosophy embodied in a nation's constitution determines the kind of Government present there.
- A constitution outlines the vision of the state and is its most important document.
- A constitution ensures certain rights to its citizens as well as define their duties.
- A constitution is an expression of faith and hopes, that people have from the state, and the promises that they wish to make for the future.

Is Constitution Static?

A Constitution is an extension of the philosophical and organizational frameworks into the future.

But as State has to face the challenges of changing social, economic and political conditions in the society.

All living Constitutions provide for procedures for introducing changes in them by means of amendments.

Written and Unwritten Constitutions

Constitutions of most countries came into existence as a result of a conscious decision to have such a document. These are the 'written' Constitutions, which provide institutional arrangements and procedures, e But, the laws and institutions of British Constitution have gradually evolved over the centuries. The British Constitution is an 'unwritten' Constitution. It comprises the constitutional conventions that act as precedents for the working of institutions and other documents such as the statutes and Acts of Parliament. Here the Parliament is supreme, unlike the 'written' Constitution where, the Constitution is supreme.

In Britain, any change in the Constitution is possible by means of laws passed by the Parliament. There is no distinction between an ordinary law and a constitutional law. This is an example of the most flexible form of Constitution.

Constitutional Developments

The Indian Administrative structure is largely a legacy of the British rule. The various functional aspects such as public services, education system, political set up, recruitment, training, office procedures, district administration, local administration, police system, revenue administration, budgeting, auditing, and so on, have their roots in the British rule.

The British rule in India can be divided into two phases-the Company rule till 1858 and the Crown's rule from 1858 to 1947.

Landmarks

The landmarks in the development of the Constitution are:

Regulating Act of 1773

- This was the first step taken by the British Government to control and regulate the affairs of the East India Company in India.
- It designated the Governor of Bengal as the Governor-General of India.
- The first Governor-General was Lord Warren Hastings.
- It subordinated the Governors of Bombay and Madras to the Governor-General of Bengal. The Supreme Court was established at Fort Williams as the Apex Court in 1774.

Pitt's India Act of 1784

- It was introduced to remove the drawbacks of the Regulating Act.
- Was named after the then British Prime Minister.
- Placed the Indian affairs under the direct control of the British Government.
- Established a Board of Control over the of Directors.

Charter Act of 1833

- It made the Governor-General of Bengal as the Governor-General of India.
- First Governor-General of India was Lord William Bentick.
- Governor-General's Council were separated.
- It introduced a system of open competition as the basis for the recruitment of civil servants of the Company.

Government of India Act of 1858

- This Act transferred the Government, territories and revenues of India from the East India Company to the British Crown.
- In other words, the rule of Company was replaced by the rule of the Crown in India.
- The powers of the British Crown were to be exercised by the Secretary of State for India.
- The Secretary of State was a member of the British Cabinet.
- He was assisted by the Council of India, having 15 members.
- He was vested with complete authority and control over the Indian administration through the Governor-General as his agent.
- He was responsible ultimately to the British Parliament.
- The Governor-General was made the Viceroy of India.
- Lord Canning was the first Viceroy of India.

Indian Councils Act of 1861

- It introduced for the first time the representative institutions in India.
- It provided that the Governor-General's Executive Council should have some Indians as the non-official members while transacting the legislative businesses.

Government of India Act of 1935

- The Act provided for the establishment of an All-India Federation consisting of the Provinces and the Princely States as the units.
- The Act divided the powers between the Centre and the units in terms of three lists, namely the Federal List, the Provincial List and the Concurrent List.
- The Federal List for the Centre consisted of 59 items, the Provincial List for the Provinces consisted of 54 items and the Concurrent List for both consisted of 36 items.
- The residuary powers were vested with the Governor-General.
- The Act abolished the Dyarchy in the Provinces and introduced 'Provincial Autonomy'
- It provided for the adoption of Dyarchy at the Centre.

- Introduced bicameralism in 6 out of 11 Provinces.
- These six Provinces were Assam, Bengal, Bombay, Bihar, Madras and the United Province.

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