

## **Ch 3 CONSTITUTIONAL DESIGN**

### **1. Define the term Apartheid .What are its features?**

- i) Apartheid was the name of a system of racial discrimination unique to South Africa. The white European imposed this system on the majority blacks in South Africa.
- ii) The system of apartheid divided the people and labeled them on the basis of their skin colour. The native people of South Africa are black in colour. They made up about three-fourths of the population and were called the 'blacks'.
- iii) Besides these two groups, there were people of mixed races who were called 'coloured' and people who migrated from India. The white rulers treated all non-whites as inferiors. The non-whites did not have voting rights.
- iv) The system of apartheid was particularly oppressive for the blacks. They were forbidden from living in white areas. They could work in white areas only if they had a permit. Trains ,buses, taxis ,hotels, hospitals, schools and colleges, libraries, cinema halls, theatres, beaches, swimming pools, public toilets, were all separate for the whites and blacks. This was called segregation. They could not even visit the churches where the whites worshipped. Blacks could not form associations or protest against the terrible treatment.

### **2. Who was Nelson Mandela?**

Nelson Mandela was the President of South Africa. He fought against the racial discriminatory policy known as apartheid under the banner of African National Congress(ANC). He was imprisoned by the White minority Government for 28 years. After his release and the election followed he became the President.

### **3. Why is the South African constitution considered a noble constitution?**

- i) The South African constitution is built on equality of all races and man and women, on democratic values, social justice and human rights.
- ii) The party that ruled through oppression and brutal killings and the party that led the freedom struggle sat together to draw up a common constitution.
- iii) This constitution gave to its citizens the most extensive rights available in the country. Together, they decided that in the search for a solution to the problems, nobody should be excluded; no one should be treated as a demon.
- iv) They agreed that everybody should become a part of the solution, whatever they might have done or represented in the past.

### **4. Define the term 'constitution'.**

The constitution of a country is a set of written rules that are accepted by all people living together in a country. Constitution is the supreme law that determines the relationship among people living in a territory (called citizens) and also the relationship between the people and the government.

### **5. Why did the people of South Africa require a Constitution?**

- i) The people of South Africa agreed to accept some basic rights for the poor and the workers. The blacks agreed that majority rule would not be absolute. They agreed that the majority would not take away the property of the white minority. This compromise was not easy.
- ii) Even if they managed to trust each other, what was the guarantee that this trust will not be broken in future? The only way to build and maintain trust in such a situation is to write down some rules of the game that everyone would abide by.
- iii) These rules lay down how the rulers are to be chosen in future. These rules also determine what the elected governments are empowered to do and what they cannot do. Finally these rules decide the rights of the citizen. These rules will work only if the winner cannot change them very easily.
- iv) This is what the South Africans did. They agreed on some basic rules. They also agreed that these rules will be supreme, that no government will be able to ignore these. This set of basic rules is called a constitution.

### **6. What was the compromise between the blacks and whites in South Africa?**

- i) The whites agreed to the principle of majority rule and that of one person one vote. They also agreed to accept some basic rights for the poor and the workers.
- ii) The blacks agreed that majority rule would not be absolute. They agreed that majority would not take away the property of white minority.

### **7. What are the functions of a constitution?**

- i) First, it generates a degree of trust and coordination that is necessary for different kind of people to live together;
- ii) Second, it specifies how the government will be constituted, who will have the power to take decisions;
- iii) Third, it lays down limits on the powers of the government and tells us what the rights of the citizens are; and
- iv) Fourth, it expresses the aspirations of the people about creating a good society.

### **8. Why was making of the Indian constitution a difficult task?**

- i) The making of a constitution for a huge and diverse country like India was not an easy affair. At that time the people of India were emerging from the status of subjects to that of citizens.
- ii) The country was born through the partition on the basis of religious differences. This was a traumatic (unpleasant) experience for the people of India and Pakistan. At least ten lakh people were killed on both sides of the border in partition related violence.
- iii) The British had left it to the rulers of the princely states to decide whether they wanted to merge with India or with Pakistan or remain independent.
- iv) The merger of these princely states was a difficult and uncertain task. When the constitution was being written, the future of the country did not look as secure as it does today. The makers of the constitution had anxieties about the present and the future of the country.

## **9. What are the factors which contributed to the making of the Indian Constitution?**

- i) Motilal Nehru and eight other Congress leaders had drafted a constitution for India popularly known as Nehru Report of 1928.
- ii) In 1931, the resolution at the Karachi session of the Indian National Congress dwelt on how independent India's constitution should look like.
- iii) The familiarity with political institutions of colonial rule also helped develop an agreement over the institutional design.
- iv) The experience gained by Indians in the working of the legislative institutions, when they formed Congress ministries in 1937 proved to be very useful for the country in setting up its own institutions and working in them. The Indian constitution adopted many institutional details and procedures from colonial laws like the Government of India Act 1935.
- v) . Many of our leaders were inspired by the ideals of French Revolution, the practice of parliamentary democracy in Britain and the Bill of Rights in the US.
- vi) The socialist revolution in Russia had inspired many Indians to think of shaping a system based on social and economic equality. Yet they were not simply imitating what others had done. At each step they were questioning whether these things suited our country

## **10. Write a short note on the making of the Constituent Assembly of India.**

- i) The drafting of the document called the constitution was done by an assembly of elected representatives called the Constituent Assembly.
- ii) Elections to the Constituent Assembly were held in July 1946. Its first meeting was held in December 1946. Soon after the country was divided into India and Pakistan. The Constituent Assembly was also divided into the Constituent Assembly of India and that of Pakistan.
- iii) The Constituent Assembly that wrote the Indian constitution had 299 members. Dr. B.R Ambedkhar was the chairman
- iv) The Assembly adopted the Constitution on 26 November 1949 but it came into effect on January 26, 1950. To mark this day we celebrate January 26 as Republic Day every year.

## **11. Why should we accept the Constitution made by the Constituent assembly 50 years ago?**

- i) The Constitution does not reflect the views of its members alone. It expresses a broad consensus of its time.
- ii) Over the last half a century, several groups have questioned some provisions of the Constitution. But no large social group or political party has ever questioned the legitimacy of the Constitution itself.
- iii) The second reason for accepting the Constitution is that the Constituent Assembly represented the people of India. There was no universal adult franchise at that time. So the Constituent Assembly could not have been chosen directly by all the people of India. It was elected mainly by the members of the existing Provincial Legislatures. This ensured fair geographical share of members from all the regions of the country

iv) The Assembly represented members from different language groups, castes, classes, religions and occupations. Even if the Constituent Assembly was elected by universal adult franchise, its composition would not have been very different.

### **12. What are constituent assembly debates? Why are they important?**

Several rounds of thorough discussion took place on the Draft Constitution, clause by clause. More than two thousand amendments were considered. The members deliberated for 114 days spread over three years. Every document presented and every word spoken in the Constituent Assembly has been recorded and preserved. These are called 'Constituent Assembly Debates'. When printed these debates are 12 bulky volumes. These debates provide the rationale behind every provision of the Constitution. These are used to interpret the meaning of the Constitution.

### **13. What are the guiding values of the Indian Constitution? (any 4)**

The guiding values of the Indian Constitution are:

- i) Sovereignty: People have supreme right to make decisions on internal as well as external matters. No external power can dictate the government of India.
- ii) Socialism: Wealth is generated socially and should be shared equally by society. Government should regulate the ownership of land and industry to reduce socio-economic inequalities.
- iii) Secularism: This is when every individual has the right of freedom of religion and the states do not adopt any religion as the state religion.
- iv) Democracy: 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.
- v) Republic: The head of the country(President) is an elected person and not a hereditary position..
- vi) 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.
- vii) Liberty: Citizens have the freedom to think, express their thoughts and the way they wish to follow up their thoughts in actions.
- viii) Equality: Everyone is equal before the law. The government should ensure equal opportunity for all.
- ix) Fraternity: All of us should behave as if we are members of the same family. No one should treat a fellow citizen as inferior

### **14. What are constitutional amendments?**

A constitution is not merely a statement of values and philosophy. A constitution is mainly about embodying these values into institutional arrangements. Much of the document called Constitution of India is about these arrangements. It is a very long and detailed document. Therefore it needs to be amended quite regularly to keep it updated. Those who drafted the Indian Constitution felt that it has to be in accordance with people's aspirations and changes in the society. They did not see it as a sacred, static and unalterable law. So, they made provisions to incorporate changes from time to time. These changes are called constitutional amendments.

**15. What is the importance of the constitution?**

- i) The Indian Constitution lays down a procedure for choosing persons to govern the country.
- ii) It defines who will have how much power to take which decisions.
- iii) And it puts limits to what the government can do by providing some rights to the citizen that cannot be violated.

**16. How did Apartheid come to an end in South Africa?**

- i) As protests and struggles against apartheid had increased, the government realized that they could no longer keep the blacks under their rule through repression.
- ii) The white regime changed its policies. Discriminatory laws were repealed. Ban on political parties and restrictions on the media were lifted.
- iii) After 28 years of imprisonment, Nelson Mandela walked out of the jail as a free man. Finally, at the midnight of 26 April 1994, the new national flag of the Republic of South Africa was unfurled marking the newly born democracy in the world. The apartheid government came to an end, paving way for the formation of a multi-racial government.

**17. What is preamble of a Constitution?**

It is the preface of the Constitution It sums up the ideals of the Constitution. The Preamble of the 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 government, to find out whether it is good or bad. It is the soul of the Indian Constitution.