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CONSTITUTIONAL GOVERNMENT AND DEMOCRACY IN INDIA

B.P.S.C.-102

B.A. Pol. Science (Hons.)- 1st Semester

**Chapter Wise Reference Book
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Based on

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QUESTION PAPER

June – 2023

(Solved)

CONSTITUTIONAL GOVERNMENT AND DEMOCRACY IN INDIA

B.P.S.C.-102

Time: 3 Hours]

[Maximum Marks: 100

Note: Answer any five questions by selecting at least two questions from each section. All questions carry equal marks.

SECTION-I

Q. 1. Discuss the significance of the preamble to the constitution of India.

Ans. Ref.: See Chapter-3, Page No. 25, 'Introduction', Page No. 28, Q. No. 2, Page No. 31, Q. No. 8.

Q. 2. Analyse the features of Directive Principles of State Policy.

Ans. Ref.: See Chapter-5, Page No. 45, 'Genesis to Directive Principles of State Policy', Page No. 46, 'Amendments to Directive Principles of State Policy', 'Execution of Directive Principles of State Policy'.

Q. 3. Discuss the powers of the President of India.

Ans. Ref.: See Chapter-8, Page No. 85, 'Powers of the President'.

**Q. 4. Write short notes on the following:
(a) The Fundamental Rights.**

Ans. Ref.: See Chapter-4, Page No. 40, Q. No. 3, Page No. 37, 'Salient Features of Fundamental Rights'.

(b) The fifth schedule of the constitution.

Ans. Ref.: See Chapter-12, Page No. 130, 'The Fifth Schedule'.

SECTION-II

Q. 5. What are Fundamental Duties? Explain.

Ans. Ref.: See Chapter-6, Page No. 58, 'Entry of the Fundamental Duties in the Constitution'.

Q. 6. Elaborate upon the relationship between the Cabinet and the Parliament.

Ans. Ref.: See Chapter-8, Page No. 87, 'The Cabinet and the Parliament'.

Q. 7. Analyse the features of the Panchayati Raj Institutions.

Ans. Ref.: See Chapter-13, Page No. 147, Q. No. 5, Page No. 148, Q. No. 6, Q. No. 7.

Q. 8. Write short notes on the following:

(a) Sarkaria Commission.

Ans. Ref.: See Chapter-10, Page No. 110, 'Sarkaria Commission'.

(b) The Government of India Act, 1935.

Ans. Ref.: See Chapter-1, Page No. 1, 'The Government of India Act, 1935 and Other Acts'.

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QUESTION PAPER

December – 2022

(Solved)

CONSTITUTIONAL GOVERNMENT AND DEMOCRACY IN INDIA

B.P.S.C.-102

Time: 3 Hours]

[Maximum Marks: 100

Note: Answer any five questions by selecting at least two questions from each section. All questions carry equal marks.

SECTION-I

Q. 1. Discuss the formation of the Constituent Assembly of India.

Ans. Ref.: See Chapter-1, Page No. 2, 'Formation of the Constituent Assembly'.

Q. 2. Compare the Directive Principles of State Policy and Fundamental Rights.

Ans. Ref.: See Chapter-5, Page No. 47, 'Directive Principles of State Policy and Fundamental Rights: A Comparison'.

Q. 3. Write note on Fundamental Duties.

Ans. Ref.: See Chapter-6, Page No. 58, 'Introduction' and 'Entry of the Fundamental Duties in the Constitution'.

Q. 4. Write notes on the following:

(a) Special Powers of the Rajya Sabha

Ans. Ref.: See Chapter-7, Page No. 77, Q. No. 9.

(b) Collective Responsibility

Ans. Ref.: See Chapter-8, Page No. 87, 'Collective Responsibility'.

SECTION-II

Q. 5. Discuss the features of the Fifth Schedule of the Constitution.

Ans. Ref.: See Chapter-12, Page No. 130, 'The Fifth Schedule'.

Q. 6. Discuss the powers of the President of India.

Ans. Ref.: See Chapter-8, Page No. 85, 'Powers of the President'.

Q. 7. Enumerate the features of Urban Local Self-government.

Ans. Ref.: See Chapter-13, Page No. 142, 'Urban Local Self-government'.

Q. 8. Write notes on the following:

(a) Judicial Review

Ans. Ref.: See Chapter-9, Page No. 99, 'Judicial Review'.

(b) Objectives Resolution

Ans. Ref.: See Chapter-2, Page No. 18, Q. No. 3.



Sample Preview of The Chapter

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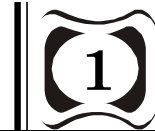


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CONSTITUTIONAL GOVERNMENT AND DEMOCRACY IN INDIA

The Making of The Indian Constitution



INTRODUCTION

The Constitution of India became operative on 26 January, 1950, two months after it was adopted on 26 November, 1949. However, some provisions relating to elections, citizenship, provisional parliament, temporary and transitional provisions become effective after the adoption. The date, January 26, was significant since the Indian National Congress had first celebrated it as the Independence Day of India in 1930. The Constitution is product of a long drawn process and deliberations. In this chapter, we will discuss some issues relating to the making of the Indian Constitution.

CHAPTER AT A GLANCE

EVOLUTION OF THE INDIAN CONSTITUTION 1858-1935

The Indian Constitution was result of the deliberations from December 9, 1947 to November 26, 1949 by the Constituent Assembly. Some of its features have evolved over three quarters of a century from 1858 to 1935 through various Acts. The Constitution has provisions providing basic democratic rights and provisions for the availability of institutions for legislation, execution and jurisdiction for the fulfilment these rights. It also has a vision for social transformation and deepening of democracy in India.

The Government of India Act, 1935, and Other Acts

From 1858 to 1935, the British government introduced certain rules of governance through different Acts. The Government of India Act, 1935 was the most important among them.

The Government of India Act, 1858 provided for a combination of centralised and decentralised power structure. The centralised structure was introduced in the areas which were under the direct control of the

Crown. These areas were called British India provinces or provinces. The decentralized structure was introduced in the areas which were not under the direct control of the Crown. These areas were ruled by the Indian princes, and were called princely states or states. The princes had power to govern in all internal matters of their princely states, but they were subject to the British control. In the British India provinces, the Secretary of State for India, assisted by a fifteen-member council of ministers, had all the power to govern on behalf of the Crown. The Secretary of State of India was assisted by the Viceroy, who was assisted by an executive council. At the district level, a small number of British administrators assisted the viceroy. The provincial government did not have financial autonomy.

The Council of India Act, 1909 expanded the scope of political institutions in the provinces. This Act introduced a “representative element” for the first time in British India, which included elected non-official members. This Act also introduced separate representation to Muslim community.

The Government of India Act, 1919 delegated some authority to the provincial governments, retaining the control of the central government (unitary government) on them. It relaxed the control of the central government in a limited way and divided the subjects for jurisdiction of administration and sources of revenue between centre and provinces. Under this arrangement, the provincial government was given control on resources of revenue such as land, irrigation and judicial stamps. The provincial subjects were divided into “transferred” and “reserved” categories. The “transferred” subjects were governed by the governor, and “reserved” subjects were governed by the legislature. The governor (executive head) was not accountable to the legislature.

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The Government of India Act, 1935 was an important Act. According to M. Govinda Rao and Nirvikar Singh (2005), the Act was a basis for the Constituent Assembly to make the Constitution. This Act provided for provincial government autonomy. It provided safeguards for minorities like provisions for separate representations to Muslims, the Europeans, Sikhs, Indian Christians and Anglo-Indians. This Act gave three lists of divisions of power between the federation (central government) and provinces: federal (central), concurrent and provincial. Under this Act, a federal court was established to adjudicate disputes between federation and provinces. Governor was the executive head of the provincial government and he could veto the decisions of the provincial legislature. He acted on behalf of the Crown, and enjoyed discretionary powers to exercise his "individual judgements" in certain matters. He acted under the control of the Governor-General, and indeed the Secretary of the State. He was also not accountable to the legislature but he was needed to act on the advice of ministers, who were accountable to the legislature. The Government of India Act, 1935 had a provision for setting up of a central government consisting of representatives from the provinces (areas ruled by the British India government) and the states (the areas covered under princely states). However, the federal government could not be formed because there was no unanimity among the princes to join the federation. Thus, the provincial governments could be formed as per this Act. The election to the provincial legislature as per the Government of India Act, 1935 was held in 1937. After the election, provincial governments headed by the Indian National Congress were formed in eight provinces. The Indian National Congress government resigned in 1937.

The Nehru Report (1928): First Indian Initiative to Draft Constitution

The Nehru Report (1928) was the first attempt by Indians to prepare a Constitution. The chairman of the drafting committee of the report was Motilal Nehru. Thus, it was called the Nehru report. The decision to form the drafting committee was taken by all India parties including Indian National Congress, Swaraj Party and Muslim League. The Justice Party of Madras and Unionist Party of Punjab did not take part in this. The Nehru Report demanded universal suffrage for adults and responsible government both in the centre and in the provinces. However, it supported the Dominion Status, which meant that Indians would have

freedom to legislate on certain limited matters under the control of the British India government. The report also prepared list of central and provincial subjects, and fundamental rights. In 1934, the Indian National Congress demanded a constitution of Indian people without external interference.

FORMATION OF THE CONSTITUENT ASSEMBLY

The Cripps Mission

The British government sent Sir Stafford Cripps, its cabinet member, in 1942 with the draft declaration on proposals on the formation of constitution for Indians to be implemented at the end of the World War II provided both the Muslim League and the Indian National Congress had agreed to accept them. The recommendation made in the draft proposals were: Dominion Status to India with equal partnership of the British Commonwealth of Nations; all Provinces ruled by the British India government and Indian States ruled by Indian princes should form one Indian Union by the British Constitution; the Constitution of India should be framed by an elected Constituent Assembly of Indian people but if any province which was not prepared to accept the Constitution was to be free to retain its constitutional position which had existed at that time. Such provinces were to be free to enter separate constitutional arrangements. Both the Indian National Congress and the Muslim League rejected the proposals. The Muslim League demanded that India should be divided on the communal lines and some provinces should form an independent state of Pakistan and there should be two Constituent Assemblies, one for India and the other for Pakistan.

The Cabinet Mission

To bridge the differences between the Indian National Congress and the Muslim League, the British government sent a delegation of the Cabinet members, which came to be known as the Cabinet Mission Plan. It had three cabinet members – Lord Pathic Lawrence, Sir Stafford Cripps and A. V. Alexander. The mission failed to bring the two groups to an agreement. However, it made its own proposal which was announced simultaneously on 16 May, 1946 in England and in India. The recommendations made were: there should a Union of India consisting of British India and the States with jurisdiction over subjects of Foreign Affairs, Defense and Communication; the Provinces and the States should have all residuary powers; the Union would have executive and legislature with the representatives from the Provinces and the States; the

provinces would be free to form groups with executives and legislatures; and each group would be free to decide on the Provincial Subjects.

Election to the Constituent Assembly

Based on the proposals of the Cabinet Mission, the election to the Constituent Assembly was held. The members of both the Indian National Congress and the Muslim League were elected by the Provincial Legislative Assemblies. However, the Indian National Congress and the Muslim League differed on interpretation of "Group Clauses" of the Cabinet Mission. The British government intervened and explained that the contention of the Muslim League was correct. On December 6, 1946, the British Government published a statement, which for the first time acknowledged the possibility of two Constituent Assemblies and two States. Thus, the Constituent Assembly which first met on December 9, 1946, was boycotted by the Muslim League.

NATURE OF THE CONSTITUENT ASSEMBLY'S REPRESENTATION

The representatives of the Constituent Assembly were indirectly elected by the restricted adult franchise confined to the elite sections of society including the educated and tax payers. According to Granville Austin, the restricted franchise and indirect election to the Constituent Assembly members were spelled by the Cabinet Mission Plan to avoid the cumbersome and slow progress in the process of Constitution making. The Cabinet Mission suggested the indirect election to the Constituent Assembly by the elected members of the provincial legislature. However, the Constituent Assembly represented different shades of opinions and religious communities of India. The Constituent Assembly had members with different ideological orientations, and three religious communities – Sikhs, Muslims, Hindus and all other communities like the Anglo-Indians, Parsis, etc. Majority of the Constituent Assembly members were from the Indian National Congress. More than a dozen members were non-Indian National Congress members including A.K. Ayyar, N.G. Ayyangar, H.N. Kunjru, S.P. Mukherjee and Dr. B.R. Ambedkar. S.P. Mukherjee represented the Hindu Mahasabha. The Constituent Assembly included representatives from the Princely States also. Ambedkar was initially elected to the Constituent Assembly from Bengal as member of the Scheduled Caste Federation, but lost this seat after the partition of Bengal and was re-elected by the Bombay Indian National Congress as a non-Indian National Congress candidate at the request

of the Indian National Congress High Command. The Constituent Assembly sought to address concerns of every person irrespective of their social and cultural orientations. Thus, it held elaborate deliberations before incorporating a provision in the constitution. The Constituent Assembly sought to accommodate universal values of democracy. The Constituent Assembly adopted several provisions from different constitutions of world and adapted them to the needs of India. While incorporating provisions, the Constituent Assembly adopted "two wholly Indian concepts" of resolving differences among its members, i.e., consensus and accommodation. Most members of the Constituent Assembly took part in its proceedings, but about twenty individuals played the most influential role in the Assembly. Some of them were Rajendra Prasad, Maulan Azad, Vallabhbhai Patel, Jawaharlal Nehru, Govind Ballabh Pant, P. Sitaramayya, A.K. Ayyar, N.G. Ayyangar, K.M. Munshi, Dr. B.R. Ambedkar and Satyanarayan Sinha. The Constituent Assembly was the sole forum where deliberations took place, but the deliberations also happened in coordination of the Indian National Congress Party and the interim government. Austin said Nehru, Patel, Prasad and Azad had enjoyed unquestioned honour and prestige in the Assembly. The Constitution Drafting Committee meticulously incorporated in the draft constitution the decisions of the Constituent Assembly. Dr. B.R. Ambedkar, chairman of the Drafting Committee played the leading role in drafting of the Constitution.

THE ROLE OF THE CONSTITUENT ASSEMBLY IN THE MAKING OF INDIAN CONSTITUTION 1946-1949

The Constituent Assembly held its inaugural session on 9 December, 1946. Only 207 members attended it and the Muslim League members boycotted it. Dr. Sachchidananda Sinha was the temporary chairman of the House. The members passed a resolution on 10 December, 1946 for election of a permanent chairman. On 11 December, 1946, Dr. Rajendra Prasad was elected as its permanent Chairman. On 13 December, 1946, Jawaharlal Nehru moved resolution regarding the objectives of the constituent assembly. After that, different committees were formed. Some of the important committees were: (a) **Union Power Committee:** It had nine members and was chaired by Jawaharlal Nehru; (b) **Committee on Fundamental Rights and Minorities:** It had 54 members under the chairmanship of Sardar Ballabh Bhai Patel; (c) **Steering Committee:** Its three members

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included Dr. K.M. Munshi (chairman), Gopalaswami Iyengar and Bhagwan Das; (d) **Provincial Constitution Committee:** It had 25 members and Sardar Patel as its chairman; (e) **Committee on Union Constitution:** It had 15 members under the chairmanship of Jawaharlal Nehru. The Constituent Assembly appointed a Drafting Committee on 29 August, 1947 under the chairmanship of Dr. B.R. Ambedkar. The draft was prepared by Sir B.N. Rao, Advisor to the Constituent Assembly. A seven-member Committee was constituted to examine the draft. Ambedkar, who was also the Law Minister, piloted the draft in the Assembly. The Draft Constitution was published in February 1948. Its discussion by the Constituent Assembly was completed by October 17, 1949. This discussion was the second reading. The Constituent Assembly again met on 14 November, 1949 to discuss the draft further or to give it a third reading. It was finalised on 26 November, 1949 after receiving the signature of the President of the Constituent Assembly. On January 26, 1950, the Constitution was implemented.

SALIENT FEATURES OF THE CONSTITUTION

The Indian constitution was prepared “after ransacking all the known Constitutions of the world”. It is the longest written constitution. At the time of its formation, it had 395 Articles and 8 Schedules. It ensures both Justiciable and Non-Justiciable Rights: Fundamental Rights and the Directive Principles of the State Policy. It made provision for universal adult franchise. The Parliamentary System has been adopted from the British Constitution; the provision on Fundamental Rights is based on the American Constitution; the Directive Principles of State Policy have been adopted from the constitution of Ireland; the Emergency provisions are based on the Constitution of Weimar (Germany) and Government of India Act, 1935. The borrowed features were modified as per the needs of our country.

Universal Adult Suffrage and Abolition of the Separate Electorate

After debating its draft list of Fundamental rights the Sub-Committee on Fundamental Rights did not recommend inclusion of all of them in the section-III of the Constitution as the Fundamental Rights. Instead, it suggested that these should be incorporated in other places in the Constitution. One such example is that of the Universal suffrage, and secret and periodic elections. The sub-committee agreed unanimously in favour of the Universal suffrage but suggested that it should not be part of the Fundamental Rights.

Accordingly, it was placed in the Article 326 of the Part XV on election. The word “universal”, however, is missing from the Article 326. But the fact that every adult citizen of the country is entitled to vote makes it practically a universal adult franchise. In fact, before Indians really got the right to universal adult franchise, the prominent leaders of the Indian National movement strove for the abolition of the separate electorate in favour of the joint electorate. The British had sought to continue separate electorate in India since the Morley-Minto reforms, 1909 till the Communal Award of 1932 in the Constitution. The Communal Award aimed to accord separate electorate for Muslims, Europeans, Sikhs, Indian Christians and Anglo-Indians. It also provided for seats for the Depressed Classes which were to be filled in elections from special constituencies. In such constituencies only the depressed classes could vote. In addition, the depressed classes were also entitled to vote in general constituencies. Gandhi opposed the recommendation of the notion of separate electorate for the depressed classes. In opposition to the proposal for separate electorate, he set on fast unto death in September 1932. Gandhi’s fast evoked opposition from Ambedkar. However, both Gandhi and Ambedkar reached compromise in Poona Pact. According to the Poona Pact, seats were reserved for the depressed classes in the general constituencies. This resulted in the abolition of the separate electorate. The abolition of separate electorate got reflected in the reservation of seats in the legislative bodies Constitution.

Universal Adult Suffrage and Abolition of the Separate Electorate

The Article 326 of the Part XV of the Indian Constitution has the provision for adult franchise. The Sub-Committee on Fundamental Rights suggested that adult franchise should not be part of the Fundamental Rights. The word “universal”, however, is also not included. The prominent leaders of the Indian National movement sought for the abolition of the separate electorate in favour of the joint electorate. The British had sought to continue separate electorate in India since the Morley-Minto reforms, 1909 till the Communal Award of 1932 in the Constitution. The Communal Award aimed to accord separate electorate for Muslims, Europeans, Sikhs, Indian Christians and Anglo-Indians. It also provided for seats for the Depressed Classes which were to be filled in elections from special constituencies. In such constituencies only the depressed classes could vote. Besides, the depressed