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History and Civics 9

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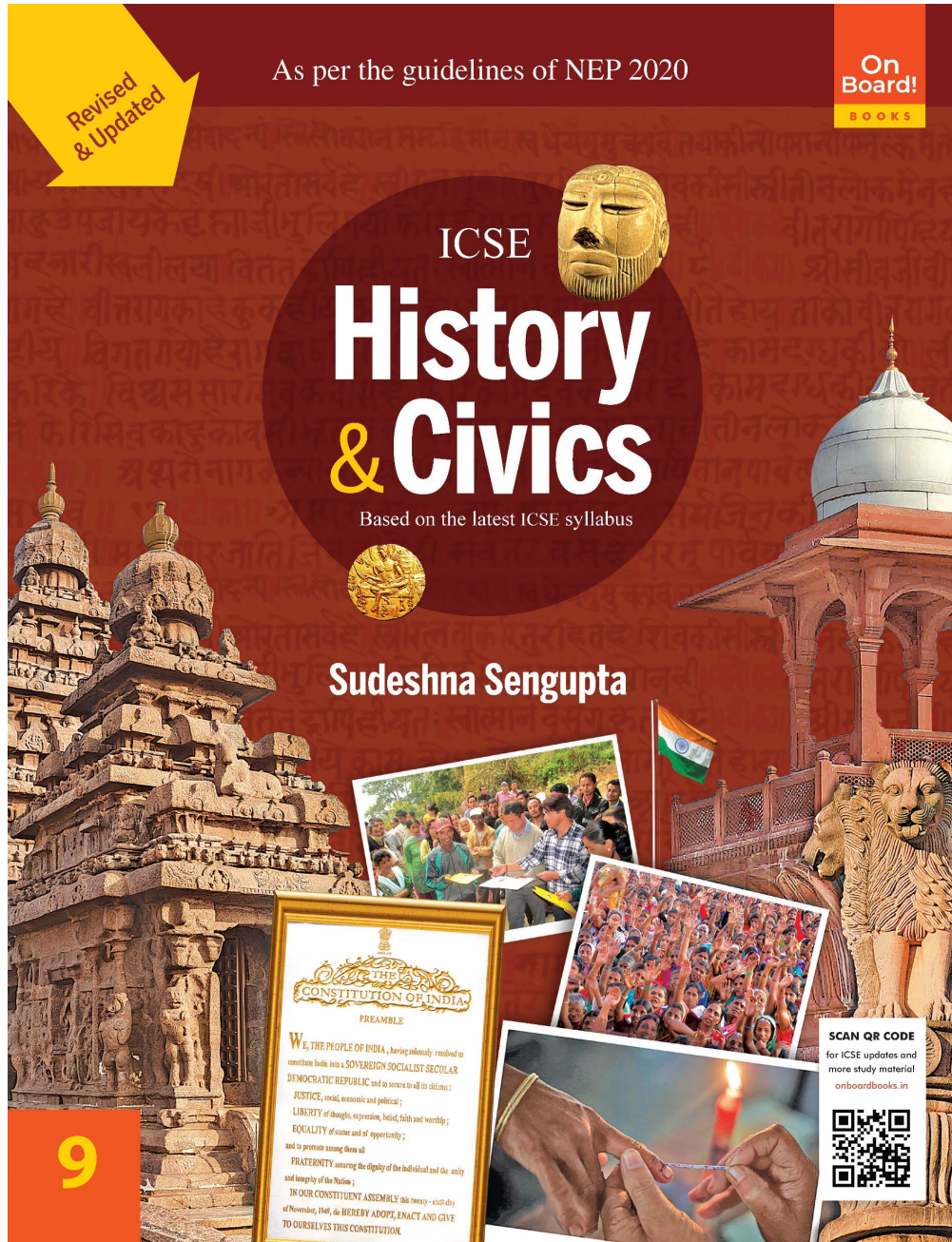
CONSTITUTION OF INDIA

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 thirteenth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.

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Civics 9

Chapter 2: Basic Features of the Constitution

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Chapter 2: Basic Features of the Constitution

Parliamentary System of Government

The Constitution makers rejected the Presidential form of government as in the United States and adopted the British model of Parliamentary Democracy minus the monarchy. There is an elected Head of the Executive (the President) who acts on the advice of the Union Council of Ministers. The real powers of governance are in the hands of the Council of Ministers headed by the Prime Minister. At the state level, the Head of the Executive is the Governor and the real power lies with the Council of Ministers headed by the Chief Minister.

Partly Unitary and Partly Federal

Perhaps the most unique feature of the Indian Constitution is the combination of the federal and unitary systems of governance. The essential federal features include the following.

- There are two sets of governments—the Union Government and the State Governments.
- There is a distribution of legislative authority between the two sets of governments. The Constitution does it in detail under the head of three Lists. They are: the Union List (97 items) over which the Union Government has exclusive rights, the State List (66 items) over which the State Governments exercise their jurisdiction, and the Concurrent List (47 items) over which both have equal powers to legislate.

- The powers of governance are divided between the three branches—the Legislature, the Executive and the Judiciary. The Judiciary is independent of the other two branches.
- The Constitution of the country is supreme and the federation derives its existence from it.
- In a federation it is essential to maintain the division of powers between the different branches of government by giving a courts the power to interpret the Constitution.

The essential unitary features of the Indian system include:

- The Constitution of India provides for single citizenship. An Indian, irrespective of the State he is born or is living in is a citizen of India.
- The Constitution provides for the creation of All-India Services, but they are common to the Union and States.
- When the country is in a state of Emergency or there is President's Rule in any state, the Union Government has complete powers to legislate on any matters of the State List.
- The President exercises control over the administration of a State through the Governor.
- The Union Parliament may assume legislative power over any subject included in the State List during other times also, if the Rajya Sabha resolves by 2/3 majority that it needs to be done for the national interest.
- The distribution of powers also has a very strong bias towards the Centre. There are more items included in the Union List.

- India also has a unified judiciary, headed by the Supreme Court. The High Courts and the Subordinate Courts come below in the hierarchy.
- The Parliament has the right to change or fix the boundaries between two States and create a new State.

The Constitution of India is 'quasi-federal', that is, 'it is neither purely federal nor purely unitary but is a combination of both. It enshrines the principle that in spite of federalism the national interest ought to be paramount.'

Partly Rigid and Partly Flexible

A few elements of flexibility were imported into the federal Constitution, which was inherently rigid in nature. The three types of amendments that the Constitution provides to enforce this procedure are:

Simple Majority: Certain provisions of the Constitution can be amended by a process of securing one more than half of the members of the House (Parliament) present and voting. This applies to issues like establishment of new states, rearranging boundaries, etc.

Partly Rigid: The process of amendment involves the passing of the Bill by 50% of the membership of the House and 2/3 of the members present and voting.

Very Rigid: If the amendment seeks to change the manner of election of the President, or the extent of the executive power of the Union and the States, etc, the process involves the passing of the Bill by 50% of the members of the House and two-third of the members present and voting by both the Houses and then ratified by one-half of the State Legislatures.

Fundamental Rights and Duties

The Constitution of India has embodied a number of Fundamental Rights in Part III to act as limitations on the powers of the Executive as well as the Legislature. These Rights give the citizens freedom of speech, religion, movement, etc. and the right to equality against exploitation among others. These are enforceable in the court of law and writs are issued for their enforcement. The Fundamental Duties, inserted by the 42nd Amendment Act of 1976, form an integral part of the Constitution.

Directive Principles of State Policy

Part IV of the Constitution contains the Directive Principles of State Policy. It shall be the duty of the State to follow these principles both in the matter of administration as well as in the making of laws. They embody the objective of the nation to establish a 'welfare state'. The socialistic pattern of our society assures equal opportunity to all citizens through suitable means like ensuring adequate means of livelihood and just distribution of wealth. Though these Principles are not enforceable by law like the Fundamental Rights, they strive towards establishing a just society.

Role of the Judiciary

The Judiciary is 'the third pillar of democracy' and it is kept independent of the Executive and the Legislative wings of the government. In a federal system of governance, the Judiciary has to examine the laws passed by the two sets of governments (centre and state) and state whether they are in accordance with the provisions in the Constitution.

Single Citizenship

All the people irrespective of the State they are residing in are citizens of the country. Of course the Government has decided to grant dual citizenship to Non-Resident Indians (NRIs) who migrated to foreign countries after 26 January 1950.

Universal Adult Franchise and Joint Electorates

The Constitution of India provides for Universal Adult Franchise by which all Indian citizens who have completed 18 years of age, can take part in elections for the Union, state and the local self-governing institutions. There is no room for any discrimination based on caste, creed, colour, educational qualifications or property rights. This is a key feature of a democratic system of government as it is composed by members elected by the people and for the people.

The British policy of Divide and Rule had created a system of separate electorates for different religious groups. With Independence, the Constitution makers removed this divide and introduced the system of joint electorates. By this the people within a constituency vote for candidates representing that constituency irrespective of the caste, creed or religion.

The democratic institution of this great Republic is thus a unique creation that the Constitution makers designed and put together. A country with a population exceeding 1.1 billion, a country where 22 languages are officially recognized by the Constitution with Hindi in Devanagari script as the language of the government, a country where secularism is an integral part of life, it is but natural that a Constitution of such magnitude and diversity would be needed to meet the needs of the people and the demands of the government. It is an ever-evolving Constitution that is ready to meet the challenges of the 21st century and yet preserve the traditions that this country has always stood for.

To Remember

Parliamentary system of government—The President acts on the advice of the Council of Ministers headed by the Prime Minister.

Partly unitary and partly federal—Two sets of government, distribution of powers, the branches of government, Constitution is supreme, single citizenship, all-India Services common to the Union and the states, Emergency period and President's Rule Union has all powers, unified Judiciary, Constitution is quasi-federal.

Partly rigid and partly flexible—Methods of amendment vary according to the importance of the Bill, to keep the Constitution abreast with the needs of the time.

Fundamental Rights and Duties—Part III of the Constitution, enforceable in a court of law, Duties inserted by the 42nd Amendment Act 1976.

Directive Principles of State Policy—Part IV of the Constitution, objective is the establishment of a welfare State, a socialist State, not enforced by law.

Role of the judiciary—The third pillar of democracy, kept independent, examines all laws passed by the Parliament and the Assemblies, the power of judicial review.

Single citizenship—All Indians are citizens of the country no matter which State they belong to, NRIs granted dual citizenship.

Universal Adult Franchise—All citizens 18 years of age and above can exercise their franchise, no separate electorates on the basis of religious difference, weaker sections have been safeguarded by reservation of seats.

Thank You