

BPSC -102: CONSTITUTIONAL GOVERNMENT AND DEMOCRACY IN INDIA

(TUTOR MARKED ASSIGNMENT)

Course code: BPSC-102

Assignment Code: BPSC-102/ASST/TMA/2020

Marks: 100

Answer the following in about 500 words each.

1. Discuss the features of the Constituent Assembly of India.

Ans:-The Indian Constitution has some salient features. These features give Indian Constitution a distinct identity. It is based on the features of different constitutions of the world. In the words of Dr. Ambedkar, The Indian constitution was prepared “after ransacking all the known Constitutions of the world”

Some of the important features of the assembly were as follows:

- (i) Each province and each Indian State or group of States were allotted the total number of seats proportional to their respective populations, roughly in the ratio of one to a million.
- (ii) The seats in each Province were distributed among the three main communities, Muslim, Sikh and General, in proportion to their respective population.
- (iii) They were to be elected by the representatives of each community in their respective Legislative Assemblies by the method of proportional representation

with a single transferable vote.

(iv) As a result the Constituent Assembly was to comprise of 389 members. As many as 296 of them were to be elected from British India and 93 of them were to be the representatives of the Native States. The Muslim League boycotted the Assembly, hence, out of 296 members only 211 attended, its first meeting.

(v) The method of selection in the case of representatives of Indian States was to be determined by consultation.

(vi) The Constituent Assembly duly opened on the appointed day, Monday, the 9th day of December, 1946— at 11 O'clock in the morning.

(vii) On the 5th day of the First Session of the Constituent Assembly-December 14, 1946—Jawaharlal Nehru moved the historic Objectives Resolution, which gave to the Assembly, its guiding principles and the philosophy that was to permeate its task of constitution-making.

(viii) The Assembly appointed a Drafting Committee on 29th August, 1947 to consider the Draft Constitution. Dr. Ambedkar was appointed as the Chairman and the committee had six other members.

(xi) The Constituent Assembly had a total of more than 15 Committees with a membership of more than eighty individuals.

(x) The members of the Constituent Assembly included some of the most leading personalities of the Indian public life. The moving spirit of the Assembly was Jawaharlal Nehru and Dr. Rajendra Prasad (who was its president too).

(xi) The Constituent Assembly was able to conclude its labour within a period of less than three years— 2 years, 11 months and 17 days, to be exact. During this period, it had 11 sessions and 165 days of actual work.

(xii) The Draft Constitution had 315 Articles and 13 Schedules, The final form of the Constitution, as it was originally passed in 1949, had 395 Articles and 8 Schedules.

(xiii) Under the Indian Independence Act, the Legislative Council, of which Ganesh Vasudev Mavalankar was president, automatically got dissolved and the Constitution became the Supreme Sovereign Legislative body.

(xiv) However, G.V. Mavalankar became the first speaker of the Legislative Assembly.

(xv) The Assembly members applied to their task with great effectiveness, two wholly Indian concepts, consensus and accommodation.

2.Compare the Fifth and the Sixth Schedules of Indian Constitution.

Ans. The Fifth Schedule

Under Article 244(1) of the Constitution, the provisions of the Fifth Schedule shall apply to the administration and control of the Scheduled Areas and Scheduled Tribes in any state other than the State of Assam, Meghalaya, Tripura, and Mizoram. The principal object of these specific provisions in the Fifth Schedule Fifth and Sixth Schedules

is to protect the interests and rights of the tribals in their land, habitat and economy;

and to preserve the communities customs and tradition and to ensure a faster socio-economic development in the “Scheduled Areas”. The “Scheduled Areas” as defined in Part C of the Fifth Schedule are “such areas as the President may by order declare to be Scheduled Areas”. The criteria for the declaration of any area as a Scheduled Area under the Fifth Schedule as recommended by the First Scheduled Areas and Scheduled Tribes Commission also known as Dhebar Commission are:

- a) Preponderance of tribal population,
 - b) Compactness and reasonable size of the area,
 - c) Under-developed nature of the area, and
 - d) Marked disparity in the economic standard of the people.
- ules of Indian Constitution.

Important Provisions of Fifth Schedule:

The Governor of a state has been entrusted with special responsibilities in the administration of the

Scheduled Areas in the state. The governor has been vested with legislative powers.

i. He/she is required to prepare a special report annually, or whenever required and submit

to the President regarding the administration of the Scheduled Areas.[Section 3 of Schedule V].

ii. The Union Government can issue appropriate directives to the State Governments as to

the administration of the Scheduled Areas.

iii. This Schedule also provides for constitution of the Tribes Advisory Council with 20

members of whom $\frac{3}{4}$ should be the scheduled tribe members of the state legislature to

advise on such matter pertaining to the welfare and advancement of the Schedule Tribes

as may be referred to them by the Governor [S 4(2)].

12.3.2 The Sixth Schedule

Considering the distinct life and outlook of the tribals in the North-East (erstwhile State of Assam), the Constituent Assembly recognised the necessity of a separate administrative structure for the tribals in the region. Therefore, under Article 244(2) of the Constitution, the Sixth Schedule makes special arrangement for the administration of Tribal Areas in the States of Assam, Meghalaya, Mizoram and Tripura. One of the most important provisions of the Sixth Schedule is that the tribal areas are to be administered as Autonomous Districts and Autonomous Regions. Under the provision of the Sixth Schedule, the Governor of the State is empowered to determine the area or areas as administrative units of the Autonomous Districts and Autonomous Regions

The Autonomous Districts and Autonomous Regions in the above four States are specified in the Table appended to Para 20 of the Sixth Schedule. Originally, it consisted of two parts A and B, but at present, there are 10 such areas in four parts as listed below:

Part I (Assam)

- 1) The North-Cachar Hills District (Dima Haolang)
- 2) The Karbi-Anglong District
- 3) The Bodoland Territorial Area District

Part II (Meghalaya)

- 1) The Khasi Hills District

2) The Jaintia Hills District

3) The Garo Hills District

Part II-A (Tripura)

The Tripura Tribal Areas District

Part III (Mizoram)

1) The Chakma District

2) The Mara District

3) The Lai District

Features of The VI Schedule in Constitution Of India

According to Dr. Ambedkar, the tribal people of Assam differed from the tribals of other areas. As for

the latter, they were more or less Hinduised, more or less assimilated with the civilization and culture of

the majority of the people in whose midst they lived. As for the former, their roots were still in their own

civilization and their own culture. They had not adopted either the modes or the manners of the Hindus

who surrounded them. Their laws of inheritance, their laws of marriage, Custom, etc. were quite different

from that of Hindus. He felt that the position of the tribals of Assam was somewhat analogous to that of

the Red Indians (Now referred to as American Indians) in the United States, who are a Republic by

themselves in that country, and were regarded as a separate and independent people. He agreed that

Regional and District Councils have been created to some extent on the lines which was adopted by the

United States for the purpose of the Red Indians.

This schedule provides for two kinds of governing units in the Tribal Areas: the Autonomous District

Councils and the Autonomous Regions.

Assignment - II

Answer the following questions in about 250 words each.

3. Explain the features of the Fundamental Rights. 10

Ans:

There are six fundamental rights recognised by the Indian constitution:

Right to equality(Articles. 14-18)

Right to Freedom (Articles. 19-22)

Right Against exploitation (Articles. 23-24)

Right to Freedom of Religion (Articles. 25-28)

Cultural and Educational Rights (Articles. 29-30), and

Right to Constitutional Remedies (Articles. 32-35)

1. The right to equality includes equality before the law, the prohibition of discrimination on grounds of religion, race, caste, gender or place of birth, equality of opportunity in matters of employment, the abolition of untouchability and

abolition of titles.

2. The right to freedom includes freedom of speech and expression, assembly, association or union or cooperatives, movement, residence, and right to practice any profession or occupation.

3. The right against exploitation prohibits all forms of forced labour, child labour and trafficking of human beings.

4. The right to freedom of religion includes freedom of conscience and free profession, practice, and propagation of religion, freedom to manage religious affairs, freedom from certain taxes and freedom from religious instructions in certain educational institutes.

5. The Cultural and educational Rights preserve the right of any section of citizens to conserve their culture, language or script, and right of minorities to establish and administer educational institutions of their choice.

6. The right to constitutional remedies is present for enforcement of fundamental rights.

The right to privacy is an intrinsic part of Article 21 (the Right to Freedom) that protects the life and liberty of the citizens.

The right to privacy is the newest right assured by the Supreme Court of India. It assures the people's data and personal security

4. Discuss the Special Powers of the Rajya Sabha. 10

Ans:Special Powers of Rajya Sabha

It has every right to seek information on all matters which are exclusively in the domain of Lok Sabha. It has no power to pass a vote of no-confidence in the Council of Ministers. It also does not have much influence on the matters of Money Bill. However, the Constitution grants certain special powers to the Rajya Sabha. As the sole representative of the States, the Rajya Sabha enjoys two exclusive powers which are of considerable importance. First, under Article 249, the Rajya Sabha has power to pass a resolution by a majority of not less than two-thirds of members present and voting, declaring that it is 'necessary or expedient in the national interest'. The matter in such resolution should belong to the State List. The law passed on the matter in the resolution shall be valid for one year. The second, Article 312 also provides special power to the Rajya Sabha to pass a resolution on another matter, i.e. to create one or more All India Services.

Organs of the Government Like the resolution to be passed under Article 249, under Article 312 also, the resolution should be passed by two-third of members present and voting in the House. Thus, these special provisions make the Rajya Sabha an important component of Indian Legislature rather than just being an ornamental body. Its

compact composition and permanent character provide continuity and stability in the system.

5. What were the recommendations of the Sarkaria Commission? 10

Sarkaria Commission

With a view to reviewing the working of the existing arrangements between the Union and the States in the changed socio-economic scenario, the Government vide Ministry of Home Affairs Notification No.IV/11017/1/83-CSR dated June 9, 1983 constituted a Commission under the Chairmanship of Justice R.S. Sarkaria with Shri B. Sivaraman and Dr. S.R. Sen as its members. The terms of reference of the Commission as enunciated in this notification were as under:

"The Commission will examine and review the working of the existing arrangements between the Union and States in regard to powers, functions and responsibilities in all spheres and recommend such changes or other measures as may be appropriate." "In examining and reviewing the working of the existing arrangements between the Union and the States and making recommendations as to the changes and measures needed, the commission will keep in view the social and economic developments that have taken place over the years and have due regard to the scheme and framework of the Constitution which the founding fathers have so sedulously designed to protect the independence and ensure the unity and integrity of the country which is of paramount importance for promoting the welfare of the people."

The Main recommendations of the Commission with regard to Inter-State Council and its Secretariat were:

The Council should be charged with duties in broad terms embracing the entire gamut of clauses (b) and (c) of Article 263. The Council should not be vested with powers of enquiring into and advising upon disputes between the States;

Without an independent permanent secretariat, the Council will not be able to establish its credibility. Considering the nature of meetings and the level of

participants, the Council's Secretariat should be suitably staffed and modeled on the Union Cabinet Secretariat.

Assignment - III

Answer the following questions in about 100 words each.

6. What are the main points in academic debate on the Constituent Assembly of India? 6

The Constituent Assembly of India consisted of people who were not elected by the universal adult franchise. They were elected by restricted adult franchise on the basis of educational qualification and property. The critics of the Constituent Assembly said that it was an elite body and did not represent the general people. Jaya Prakash Narayan referred to it as "a restricted and curbed Constituent Assembly", a creation of the British imperialism and so unable to bring freedom to the country. Churchill said that the Assembly represented "only one major community in India" and for Vincent Simon, it was a "body of Hindus". The working procedure, composition and status of the Constituent Assembly have been criticised on the grounds of it being dominated by the Congress party as the Congress had a built-in majority in the Assembly after partition.

7. Enumerate the limitations of Directive Principles of State Policy. 6

Ans: The main limitation of Directive Principles of State Policy is that the state is not legally bound to implement them. This is despite the fact that the state has moral duty to implement them and they are accommodated in the constitution. Exemption of Directive Principles from being justiciable may make the state vulnerable to the pressure of politically and economically influential groups in the society. Some members of the Constituent Assembly underlined their limitations, especially regarding their being non-justiciable. K.T. Shah commented that the limitation would make Directive Principles of State Policy 'pious wishes'. T.T. Krishnamachari described them as "a veritable dustbin of sentiment".

8. What were the recommendations of the Nehru Report? 6

Ans: The Nehru report

underlined the need for securing Fundamental Rights that had been denied to them by the colonial government. Indeed, the Fundamental Rights in the Nehru report were reiteration of the rights mentioned in the Commonwealth of India Bill, about which you have read above. This report underlined prominently the need to protect minority rights. The Congress party in its session in 1931 held at Karachi passed a Resolution which came to be known as the Karachi Resolution. The Karachi Resolution highlighted the need to end exploitation of masses and to make economic freedom intertwined with the political freedom. It suggested that suitable legislations should be made to safeguard the interests of working classes.

9. Write a note on Judicial Review. 6

Judicial review is a process under which executive or legislative actions are subject to review by the judiciary. A court with authority for judicial review may invalidate laws, acts and governmental actions that are incompatible with a higher authority: an executive decision may be invalidated for being unlawful or a statute may be invalidated for violating the terms of a constitution. Judicial review is one of the checks and balances in the separation of powers: the power of the judiciary to supervise the legislative and executive branches when the latter exceed their authority. The doctrine varies between jurisdictions, so the procedure and scope of judicial review may differ between and within countries.

10. Identify the features of the 73rd Constitutional Amendment

Ans: The passage of the Constitution (73rd Amendment) Act, 1992 marks a new era in the federal democratic set up of the country and provides constitutional status to the Panchayati Raj Institutions (PRIs).

The main features of the Act are:

Establishment of a three-tier structure: Village Panchayat (Gram Panchayat); intermediate panchayat (Panchayat Samiti; and the district panchayat (Zila Parishad);

Regular elections, every five years;

Reservation of seats for the Scheduled Castes and Scheduled Tribes in proportion to their population;

Not less than one-third reservation of seats for women at three different levels of PRIs;

Disclaimer/Note:

These are just the sample of the answers/solutions to some of the questions given in

the Assignments. These sample answers are submitted by students / private tutors.

These sample answers may be seen as the Guide/Help for the reference to prepare the

answers of the questions given the assignment. Student should read and refer the

official study material provided by the university