

CUET · POLITICAL SCIENCE · CLASS XI · CODE 323

Constitution: Why and How?

CUET unit: Indian Constitution at Work — Constitution: Why and How?

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Snapshot

- Establishes what a constitution is and the four functions it performs for a society (coordination, allocation of decision-making power, limitation on government, expression of aspirations).
- Introduces the idea that a constitution also expresses the fundamental identity of a people.
- Discusses what gives a constitution authority — mode of promulgation, substantive provisions, and balanced institutional design.
- Narrates how the Indian Constitution was made — composition of the Constituent Assembly, the principle of deliberation, procedures, and the inheritance of the nationalist movement.
- Highlights borrowings from other constitutions (British, US, Irish, French, Canadian) and shows that they were adapted, not copied.
- CUET tests this chapter for definitions of "constitution", its functions, key dates of the Constituent Assembly, the Objectives Resolution, and provisions borrowed from foreign constitutions.

Detailed Notes

2.1 Core concepts

Why do diverse individuals living in a single society — differing in religion, profession, ability, age, wealth and taste — need a constitution at all? Imagine a large, diverse group that must live together. Such a group needs basic rules to coordinate; without them everyone would be insecure, unsure of what other members could do to one another, and unable to claim rights with confidence (NCERT §"Why do we need a Constitution?", pp. 2–3). The **first function of a constitution** is to provide "a set of basic rules that allow for minimal coordination amongst members of a society" — rules that are publicly promulgated, known to all members, and legally enforceable so that citizens have the **assurance** that others will follow them (NCERT §"Constitution allows coordination and assurance", p. 3).

The **second function** is the **specification of decision-making powers**. A constitution must answer not just what the rules are but **who** gets to decide them. In principle, this question can be answered in many ways: in a monarchy a monarch decides; in the old Soviet Union one party did; in democracies, broadly speaking, the

people decide — but even saying "the people decide" raises further questions (direct voting, or representatives elected in what way?). In the Indian Constitution, it is specified that "in most instances, Parliament gets to decide laws and policies, and that Parliament itself be organised in a particular manner" (NCERT §"Specification of decision making powers", pp. 4–5). If Parliament is to enact laws, there must first be a law that bestows that authority on Parliament — and this is precisely what the constitution does. It is the authority that "constitutes government in the first place".

The **third function** is to set **limitations on the powers of government** — limits that the government may **never** trespass. Even if a legitimate authority enacts laws that are obviously unjust (banning a religion, banning clothes of a certain colour, denying water from public wells to certain skin colours, arbitrary arrest), citizens would consider these unjust — so a constitution must constrain government authority itself. The most common way is to specify certain fundamental rights — freedom of speech, freedom of conscience, freedom of association, freedom to conduct trade or business — that no government may violate. These rights may be limited only during times of national emergency, under conditions specified by the constitution (NCERT §"Limitations on the powers of government", pp. 5–6).

The **fourth function** is to give expression to the **aspirations and goals of a society**. Older constitutions limited themselves to power allocation and limitation, but many twentieth-century constitutions — of which the Indian Constitution is "the finest example" — also empower the government to take positive measures to overcome inequality and deprivation. India aspires to be a society free of caste discrimination, so the government must be enabled to take steps towards that goal; South Africa's new constitution had to enable the government to end racial discrimination. The Indian Constitution's enabling provisions are supported by the Preamble, the Fundamental Rights, and the Directive Principles of State Policy (NCERT §"Aspirations and goals of a society", pp. 6–8). The Constitution of South Africa assigns many responsibilities — promoting conservation of nature, protecting persons from unfair discrimination, progressively ensuring adequate housing and health care — and that Indonesia's constitution similarly requires the state to conduct a national education system and look after the poor and destitute (NCERT box "Enabling provisions of the Constitution", p. 8).

The **fifth function** — "perhaps even most importantly" — is to express the **fundamental identity of a people**. People become a collective entity by agreeing to a basic set of norms about how one is to be governed. First, this constitutes one's basic **political identity**; second, the constitution defines the **moral identity** of a community by setting the values one may not trespass; third, some basic political and moral values are now shared across constitutional traditions. German identity was constituted by being ethnically German, and the German constitution gave expression to this; the Indian Constitution, by contrast, "does not make ethnic identity a criterion for citizenship" (NCERT §"Fundamental identity of a people", pp. 8–10). Different nations embody different conceptions of the relationship between regions and the central government — and this relationship constitutes the national identity.

What gives a constitution authority? Three factors. The first is the **mode of promulgation** — how the constitution came into being and who crafted it. Many constitutions remain defunct because they were crafted by military leaders or unpopular leaders. The most successful constitutions, "like India, South Africa and the United States, are constitutions which were created in the aftermath of popular national movements" (NCERT §"Mode of promulgation", p. 11). India's Constitution was formally created by a Constituent Assembly between December 1946 and November 1949, but it drew upon a long nationalist movement that had built up immense public credibility. Although it was **never subjected to a referendum**, it carried enormous public authority because it had the consensus and backing of leaders who were themselves popular (NCERT p. 12). The boxed "Debate over Constitution making in Nepal" contrasts this with Nepal, where five "granted" constitutions (1948, 1951, 1959, 1962, 1990) preceded a long struggle for a popularly elected constituent assembly; Nepal finally became a democratic republic in 2008 and adopted its new constitution in 2015 (NCERT box, p. 12).

The second factor is **the substantive provisions of a constitution**. It is the hallmark of a successful constitution that it gives **everyone** in society some reason to go along with its provisions. A constitution that systematically privileges some, that allows permanent majorities to oppress minorities, that trenches the power of a few — would cease to command allegiance. "The more a constitution preserves the freedom and equality of all its members, the more likely it is to succeed" (NCERT §"Substantive provisions", pp. 12–13).

The third factor is **balanced institutional design**. Constitutions are often subverted not by the people but by small groups wishing to enhance their own power. Well-crafted constitutions therefore fragment power intelligently across institutions so no single institution acquires a monopoly. "The Indian Constitution... horizontally fragments power across different institutions like the Legislature, Executive and the Judiciary and even independent statutory bodies like the Election Commission" (NCERT §"Balanced institutional design", p. 13). The Constitution must also strike the right balance between rigidity and flexibility: too rigid a constitution breaks under the weight of change; too flexible a constitution offers no security or identity. The Indian Constitution is therefore described as "a living document" because it strikes precisely this balance (NCERT p. 14).

How was the Indian Constitution made? The Constituent Assembly held its first sitting on **9 December 1946** and reassembled as the Constituent Assembly for divided India on **14 August 1947**. Members were chosen by indirect election by the Provincial Legislative Assemblies that had been established under the **Government of India Act, 1935**, on the lines of the **Cabinet Mission Plan**. Under that plan, each Province and each Princely State (or group of States) was allotted seats proportional to population in the ratio of 1:10,00,000 — Provinces under direct British rule were to elect **292 members** and Princely States were allotted a minimum of **93 seats**. Seats in each Province were distributed among Muslims, Sikhs and "general" in proportion to their populations; members of each community elected their own representatives by

proportional representation with single transferable vote. Princely-State representatives were selected by consultation (NCERT §"How was the Indian Constitution made?", pp. 14–15).

The **composition of the Constituent Assembly** after Partition: under the 3 June 1947 Partition plan, members from territories that fell under Pakistan ceased to be members of the Assembly; the membership was reduced to **299**. The Constitution was adopted on **26 November 1949**; **284 members** were present on 24 January 1950 and signed the Constitution as finally passed; it came into force on **26 January 1950**. The Constitution was framed against the "horrendous violence" of Partition, but the framers committed themselves to a new conception of citizenship in which religious identity would have no bearing on citizenship rights. Although the Assembly was not elected by universal suffrage, a serious attempt was made to make it representative — members of all religions were represented under the scheme; the Assembly had **twenty-eight members from the Scheduled Castes**; and the Congress dominated the Assembly with as many as **eighty-two per cent** of the seats after the Partition (NCERT §"Composition of the Constituent Assembly", p. 16).

The Principle of Deliberation. The authority of the Assembly came not only from the fact that it was representative but also from the procedures it adopted and the values its members brought to deliberations. Each member deliberated with the interests of the whole nation in mind; few of the disagreements could be traced to members protecting their own interests. "Only one provision of the Constitution was passed without virtually any debate: the introduction of universal suffrage", which meant that "all citizens reaching a certain age would be entitled to be voters irrespective of religion, caste, education, gender or income" (NCERT §"The Principle of Deliberation", p. 17). The Constitution drew its authority from "**public reason**" — members gave principled reasons rather than appeals to interest. "These debates deserved to be memorialised as one of the most significant chapters in the history of constitution making, equal in importance to the French and American revolutions" (NCERT p. 18).

The Assembly's **procedures** further reinforced public reason. The Assembly had eight major Committees, usually chaired by Jawaharlal Nehru, Rajendra Prasad, Sardar Patel or B.R. Ambedkar — leaders who had publicly disagreed with one another yet worked together. Each Committee drafted particular provisions which were then debated by the entire Assembly. Consensus was the usual mode, with voting where necessary; "every single argument, query or concern was responded to with great care and in writing." The Assembly met for **one hundred and sixty-six days, spread over two years and eleven months**, and its sessions were open to the press and the public (NCERT §"Procedures", pp. 18–19).

The **inheritance of the nationalist movement** is presented as the background consensus on which the Assembly drew. "Perhaps the best summary of the principles that the nationalist movement brought to the Constituent Assembly is the **Objectives Resolution** (the resolution that defined the aims of the Assembly) moved by **Nehru in 1946**" (NCERT §"Inheritance of the nationalist movement", p. 19). The Objectives

Resolution committed to India being an independent, sovereign republic; a Union of erstwhile British Indian territories, Indian States, and other parts willing to join; territories forming the Union to be autonomous units exercising all powers except those vested in the Union; "all powers and authority of sovereign and independent India and its constitution shall flow from the people"; social, economic and political justice; equality of status and opportunity; fundamental freedoms of speech, expression, belief, faith, worship, vocation, association and action — subject to law and public morality; adequate safeguards for minorities, backward and tribal areas, and depressed and other backward classes; territorial integrity; and contribution to world peace (NCERT Objectives Resolution box, p. 20).

Institutional arrangements. The Assembly spent a lot of time evolving the right balance among the Executive, the Legislature and the Judiciary, leading to the adoption of the parliamentary form and the federal arrangement. The framers were not averse to borrowing from other constitutions — they took the best available everywhere in the world and made it their own. But this was not slavish imitation: each provision had to be defended on grounds that it was suited to Indian problems and aspirations. Ambedkar himself, addressing the Assembly on 4 November 1948, said that the new things in a constitution framed so late in the day "are the variations made to remove the faults and to accommodate it to the needs of the country" (NCERT CAD Vol. VII, p. 21). The famous schematic on "**Provisions adapted from constitutions of different countries**" (p. 22) lists the British Constitution (First Past the Post; Parliamentary Form of Government; the idea of the Rule of Law; institution of the Speaker and her/his role; Law-making procedure); the United States Constitution (Charter of Fundamental Rights; Power of Judicial Review and independence of the judiciary); the Irish Constitution (Directive Principles of State Policy); the French Constitution (principles of Liberty, Equality and Fraternity); and the Canadian Constitution (a quasi-federal form of government — a federal system with a strong central government — and the idea of Residual Powers).

2.2 Definitions to memorise

Term	Definition	Page
Constitution	A body of fundamental principles according to which a state is constituted or governed; the document(s) that perform coordination, allocation of power, limitation on government, expression of aspirations and identity.	4, 11
Coordination and assurance	First function of a constitution — providing publicly known, enforceable basic rules that give citizens assurance others will follow them.	3
Specification of decision-making powers	Second function — defining who gets to decide laws and how the government will be constituted.	4
		5–6

Term	Definition	Page
Limitations on government	Third function — fundamental rights and other constraints government may not trespass.	
Aspirations and goals	Fourth function — enabling positive measures to overcome inequality (Preamble, Fundamental Rights, DPSP).	6–8
Fundamental identity of a people	Fifth function — constitutes political and moral identity of a community.	8–10
Mode of promulgation	First authority-factor — how the constitution came into being and who crafted it.	11
Substantive provisions	Second authority-factor — preserving freedom and equality of all members so all have reason to go along.	12
Balanced institutional design	Third authority-factor — intelligent fragmentation of power and balance between rigidity and flexibility.	13
Living document	Description of the Indian Constitution as one that balances core values and adaptability.	14
Constituent Assembly	The body that drafted the Constitution; first sitting 9 December 1946; reassembled for divided India 14 August 1947; 299 members after Partition.	14–16
Cabinet Mission Plan	British cabinet plan on which the Assembly was composed; seats in ratio 1:10,00,000 of population.	15
Government of India Act, 1935	The Act under which the Provincial Legislative Assemblies (which indirectly elected the Constituent Assembly) had been established.	15
292 + 93 seats	Provinces under direct British rule were to elect 292 members; Princely States were allotted a minimum of 93 seats.	15
Single transferable vote	Method by which each community elected its own representatives — proportional representation.	15
3 June 1947 Plan	The Partition plan after which Assembly membership was reduced to 299.	16
26 November 1949	Date the Constitution was adopted by the Assembly.	16
24 January 1950	Date 284 members signed the Constitution as finally passed.	16
26 January 1950	Date the Constitution came into force.	16
Universal suffrage	The right to vote of all citizens above a certain age irrespective of religion, caste, education, gender or income — only provision passed without significant debate.	17
Public reason	Practice of giving principled reasons (not interest-based arguments) for one's position.	17–18
Eight major Committees	Committees of the Assembly usually chaired by Nehru, Rajendra Prasad, Patel or Ambedkar.	18

Term	Definition	Page
166 days, 2 years 11 months	Duration of Assembly's sittings, open to press and public.	19
Objectives Resolution	Resolution moved by Nehru in 1946 encapsulating the aims of the Assembly.	19– 20
Provisions adapted (boxed schematic)	British → FPTP/Parliamentary form/Rule of Law/Speaker/Law-making procedure; US → Fundamental Rights/Judicial Review; Irish → DPSP; French → Liberty, Equality, Fraternity; Canadian → quasi-federal + Residual Powers.	22

2.3 Diagrams / processes to remember

- **Cartoons referenced:** "European Constitution / The Feuding Fathers" by Patrick Chappate (p. 5), Shankar's cartoon "4 December 1949" showing Nehru balancing different visions and ideologies (p. 7), "Iraqi Constitution" by John Trever (p. 9), and "Castle of Cards" by Ares illustrating the fragility of the Iraqi Constitution (p. 14). Each is used to illustrate the difficulties of constitution-making.
- **Box: "Provisions adapted from constitutions of different countries"** (p. 22) — schematic listing borrowings from British, US, Irish, French and Canadian constitutions; memorise the country → provision mapping.
- **Photograph of Rajendra Prasad and B.R. Ambedkar greeting each other** (p. 18), with Rajendra Prasad's tribute to Ambedkar's leadership of the Drafting Committee (CAD, Vol. XI, p. 994, 26 November 1949).
- **Photograph of B.R. Ambedkar presiding over a discussion in the Constituent Assembly**, with his quote (CAD, Vol. VII, p. 37, 4 November 1948) defending borrowing as justified when variations are made to "remove faults and to accommodate it to the needs of the country" (p. 21).
- **Ambedkar's box on liberty–equality–fraternity** (CAD, Vol. XI, p. 979, 25 November 1949) — "Liberty cannot be divorced from equality, equality cannot be divorced from liberty. Nor can liberty and equality be divorced from fraternity..." (p. 15).
- **Process flow:** Cabinet Mission Plan → indirect election by Provincial Legislatures (1946) → first sitting 9 Dec 1946 → Partition 3 June 1947 + Assembly reduced to 299 → reassembly for divided India 14 Aug 1947 → adoption 26 Nov 1949 → signing 24 Jan 1950 → enforcement 26 Jan 1950.
- **"Check your progress" matrix on p. 10:** maps Indian/other constitutional provisions to one of the five functions (limitations / specifying decision-makers / identity / aspiration / coordination).

2.4 Common confusions / NTA trap points

- **Adoption vs. enforcement dates:** 26 November 1949 (adopted) vs. 26 January 1950 (came into force) — NTA frequently swaps these.

- The Constituent Assembly was elected **indirectly** by Provincial Legislative Assemblies, **not** by universal adult suffrage; the only provision adopted without much debate was universal suffrage itself.
- The Indian Constitution was **never** put to a referendum; do not confuse it with the South African or other constitutions that were referred to a popular vote.
- "Directive Principles" come from the **Irish** Constitution; "Fundamental Rights / Judicial Review" come from the **US** Constitution — students mix these up regularly.
- "Residual Powers" and "quasi-federal form" come from the **Canadian** Constitution — not the US (US is dual federalism).
- "Liberty, Equality, Fraternity" come from the **French** Constitution — though widely associated with the French Revolution as well.
- "Parliamentary form / Speaker / Rule of Law / FPTP / Law-making procedure" come from the **British** Constitution.
- First sitting of the Constituent Assembly: **9 December 1946** (for undivided India); reassembly for divided India: **14 August 1947** — not 1947 first sitting or 1949 first sitting.
- The Assembly had **28 members from Scheduled Castes** and Congress had **82 per cent** of seats after Partition — both are favourite recall traps.
- Provinces were to elect **292 members**; Princely States were allotted a **minimum of 93 seats** — totalling roughly 385 before Partition. After Partition, the number was 299.
- The Objectives Resolution was moved by **Nehru in 1946**, not by Ambedkar or Rajendra Prasad.
- The Assembly had **eight** major Committees — not five or ten.
- Nepal had **five granted constitutions** (1948, 1951, 1959, 1962, 1990) before adopting its republican constitution in **2015** — distractor for "first constitution".

2.5 Key constitutional borrowings / events table

#	Source / Event	Provision adopted / Significance	Page
1	British Constitution	First Past the Post electoral system	22
2	British Constitution	Parliamentary Form of Government	22
3	British Constitution	The idea of the Rule of Law	22
4	British Constitution	Institution of the Speaker and her/his role	22
5	British Constitution	Law-making procedure	22
6	United States Constitution	Charter of Fundamental Rights	22
7	United States Constitution	Power of Judicial Review and independence of the judiciary	22

#	Source / Event	Provision adopted / Significance	Page
8	Irish Constitution	Directive Principles of State Policy	22
9	French Constitution	Principles of Liberty, Equality and Fraternity	22
10	Canadian Constitution	Quasi-federal form of government (federal system with a strong central government)	22
11	Canadian Constitution	The idea of Residual Powers	22
12	Government of India Act, 1935	Provided the Provincial Legislative Assemblies that indirectly elected the Constituent Assembly	15
13	Cabinet Mission Plan, 1946	Basis on which the Constituent Assembly was composed (1:10,00,000 ratio; 292+93 seats)	15
14	Objectives Resolution, 1946 (Nehru)	Defined the aims of the Assembly — sovereign republic, justice, equality, freedoms, minority safeguards	19–20
15	3 June 1947 Partition Plan	Reduced Assembly membership to 299	16

Practice MCQs

PYQ Alignment

This chapter appears almost every year in CUET Political Science papers. Typical questions test (i) the functions of a constitution (often as "which is NOT a function") and the exercise-style framing of NCERT Q1; (ii) key dates of the Constituent Assembly — first sitting, adoption, enforcement; (iii) match-the-following on borrowings from other constitutions (especially Irish → DPSP and US → Judicial Review); (iv) the Objectives Resolution and its mover; and (v) assertion-reason items on the Indian Constitution being a "living document" and on universal adult suffrage being adopted without debate.