

Construe the Constitution

Converse, Critic and Construe!

General Instructions

- Each team (two/three students each) submits one research report.
- There are two parts- Analysis (P1,P2,P3) and Synthesis (Theme1, Theme2, Theme3, Theme4).
- Questions P1, P2,P3 are compulsory, to gain the necessary background for further discussion.
- Students can choose any two themes.
- The best team which would have submitted the best research shall present during the event.
- One team per theme shall be selected. You may want to choose your themes strategically.
- You could also describe the methods which you've used to gather and analyse data.
- If you disagree with any implicit assumptions in the question, please state your views explicitly. You'd receive extra marks. There are no correct answers and wrong answers in social sciences.
- Scintation is very generous while awarding points, creative answers receive extramarks!

Selection Criterion

- **Sources**- citations mentioning credible sources from which the data is obtained.
- **Reasoning**- The arguments/assertions need to be justified.
- **Perspectives** - exploring the issues from the point of view of all stake holders.
- **Literature Review**- how did the student gather the necessary background.
- **Creativity**- Out of the box solutions to the problems

Scoreboard

	Source	Reasoning	Perspectives	Lit Review	Creativity
Analysis: P1	/5	/5	/5	/5	/5
Analysis: P2	/5	/5	/5	/5	/5
Analysis: P3	/5	/5	/5	/5	/5

	Source	Reasoning	Perspectives	Lit Review	Creativity
First Theme	/5	/5	/5	/5	/5
Second Theme	/5	/5	/5	/5	/5

Best of Two:

Total (Analysis + Synthesis):

PART-ONE: Analysis

If you were Dr B.R.Ambedkar, in the year 1947, entrusted with the responsibility of drafting the constitution for what would be the world's largest democracy, how would you do it?

Well, try and answer these questions, they say answers are often hidden within good questions!

P1: Why a Constitution

Q1: Why do we require 'collective action'? Can we fend for ourselves? Do we have to depend on others, for our needs? Why live in a society? Do we need some values/ethics when we live in a society? Can we create a society without rules? Can a system work without a law, with people following values/ethics voluntarily?

Q2: Now that we chose to live in a society, **how do we define a law which would determine who'd be responsible for adverse consequences, say a theft or a crime or natural disasters?** How do you distinguish between moral and legal correctness? Now that we have defined who is responsible, legally, what is the mechanism to find out who it is? Given that we have written elaborate rules and we have defined punishment mechanisms, do we still need values? Would law suffice?

Q3: Now that we have defined how to interpret the law, **do we need permanent institutions to follow the processes defined in Q2?** Why not form ad-hoc committees on demand? Do these committees iterate and learn after solving a case? What are the efforts or the transactional costs of the ad-hoc model versus permanent institutions model?

Q4: Now that we have decided that permanent institutions optimize transactional costs, **how do we fix law-makers, law-keepers and law judges in an institutional form?** What is an institution? Why fix roles and responsibilities? Why have different people perform different tasks? Why have a properly work flow structure? Why define processes? Are people more important or processes more important? How do we define processes to govern permanent institutions?

Q5: Is power dangerous if concentrated in the hands of one person or one body? How do we distribute power? What are the advantages of distributing power? What is the difference between a local body and a national body? Why have a separate law-maker and law-keeper? How do we distribute the powers horizontally (across law-making, law implementing and law judging bodies) and vertically (federal, state and local bodies)? **Why do we need a constitution?**

Comments

1. Question1 helps in understanding why need collective action and hence a law.
2. Question2 helps in understanding the process to define interpretation of law.
3. Question3 helps in understanding why need permanent institutions.
4. Question4 helps in understanding how to define permanent institutions.
5. Question5 helps in understanding why we need a constitution, basis Q1-Q4.

P2: What is a constitution? (Refer to the Preamble)

Q6 What are the sources of thought for the Indian constitution? What do you mean by a source of thought? Why do you need a source of thought? In the context of a classroom, if you were to organize a debate for your classmates, how would you start? Why would you look up various debates? How would you seek ideas from those debates? Why would you try and understand the Philosophy of the programmes and the context within which it was done? Would the same style suit all, why would you still look debates in other countries, for other age groups? Does the preamble state the sources of thought of Indian constitution?

Q7 How does the constitution describe the form of government in India? What are the various forms of government? What are the differences between a democracy, autocracy, dictatorship and anarchy? What is the difference between a socialist and a capitalist approach to governance? In the context of a classroom, what kind of a structure would you like to have in your classroom- a democracy or a republic, a 'bottom-up' or 'top-down' approach? What information do we get, about the form of governance in India, from the preamble?

Q8 Where does the authority lie? Who gets the power to enforce the constitution in India? How do they get the authority? How are these bodies formed? What are the procedural convictions to be followed for that authority to be exercised? How does the constitution define them and the process to form them? Why should these processes be described in the constitution contract? In the context of the classroom, why should you have a document which describes the process to elect a student class-representative?

Q9 What are the limits for state action? Why do we need limits for state action? In the context of a classroom, should the school define limits within which the student-class leader can operate? How can the school state these limits? How does the Indian Constitution state limits for state action?

Q10 What is a constitution? State your definition.

Comments

1. Q6 helps in understanding process of identifying sources of thought, to draft a constitution.
2. Q7 helps in understanding various types of governance structures definable in a constitution.
3. Q8 helps in understanding procedural convictions to define authority.
4. Q9 helps in understanding the importance to limit state action and how that could be done.
5. Q10 invites answers to a very philosophical question, basis responses to Q6-Q9.

P3: Analysis of Indian Constitution

Pre-1947 Trivia

1. Communal riots had fuelled the two-nation theory and led to birth of Pakistan.
2. Divide and rule (religion, region, caste etc) was a strategy used by British administration to consolidate their presence in India.
3. Mahatma Gandhi was on a hunger fast in the year 1947, due to communal riots in the country.
4. Calcutta riots 1946 (Direct Action Day- 16th August 1946) , the most horrifying religious riots , as reported by TIME Magazine, had about 5000-10,000 people killed and several tens of thousands of people injured.
5. India had seen several famines, with over 1million casualties before Independence. After Independence, we had none (of that magnitude).
6. Indian economy kept declining every year, before Independence. In the period 1950-1965, it's growth was approximately 1.7%.
7. India had 82% illiteracy levels, over 90% of the population were serfs, 80-85% population lived in rural areas in the year 1947.

How do you rate the success of Indian Constitution, based on the 67 year history, with respect to

1- Economic Parameters: Do the GDP figure reveal economic success of the constitution? Did the economy grow? Was this growth equal and equitable? Was the growth accompanied by sufficient capacity building? What other parameters or metrics can be used to measure economic success of India? What role did the constitution play in the economic success/failure of India, in the last 67 years?

2- Political Parameters: Do people participate in the electoral process? The turnout for LS 2014 stands at a record high of 66.4 % against 58.19% in 2009. Highest turnout was recorded earlier in 1984 at 64.01%. Do people trust the system and participate in it? What features inspire the people to vote? What role does the constitution have in creating trust in the system and in the electoral process?

3- Duration of survival: Does the duration of survival reflect the success of a constitution? Why do you think India and US are the only two countries with constitutions which have survived more than 60 years? How do you think flexibility helps you in survival? Please do note that Indian constitution underwent 100+ amendments over the last 67 years.

4- Guarding core values (as defined in the preamble): Why do you think it is important to guard the core values of a constitution? Can you list the core values of the Indian Constitution and discuss if they were guarded in the last 67 years.

5- Success in holding the nation together: What role does a constitution have in holding a nation together? How can a bad constitution create divisions in the society? Do you think Indian constitution helped in uniting people, over the last 67 years?

PART-TWO: Synthesis

Theme1: Constitution for your classroom

Can you come up with your own constitution, to govern your school classrooms?

Q1: How would you define the constituent Assembly which would draft the constitution? What are the roles and responsibilities of the constituent assembly? What kinds of people are chosen and what are the processes followed? Would you want to draw inspiration from India's constituent assembly which was formed in 1946? How would you form your constituent assembly?

Q2: How would you define the values for the constitution? Why are these values important? Why should the values not change over time? What are the values of your classroom which shouldn't change over time? Would you want students to listen all the time or would you want them to ask questions? Would you want everybody to get a chance or should the meritorious students get more opportunities to express themselves? Should students be punished if they don't do home-works? Can you list some values relevant to school education? Where can you draw inspiration from? Would reading interviews of professors, which are available online, help in listing values? Which values would you pick?

Q3: Now that you know the people who would be involved (the constituent assembly) and the values around which the constitution has to be drafted, how would you organize public debates to discuss the drafted constitution? How would you ensure all the perspectives are considered? How would you ensure that everybody gets a chance to speak and that the discussion is productive? Would you prefer written documents or oral discussions or a combination and how would you absorb ideas?

Q4: How do you ensure that all the students accept the constitution? Would you want to try and convince a few friends? What did you learn from these discussions? Why are discussions very important while bringing out a constitution or public policy? Why do we try and understand everybody's perspective?

Q5: Using the understanding of P1 (Why a constitution), P2 (What is a constitution), P3 (Indian Constitution Review) and Q1-Q4, describe your constitution in not more than 800 words.

Comments:

1. Question1 helps in understanding what is a Constituent Assembly and its role in drafting a Constitution.
2. Question2 helps in understanding the importance of defining the right values and sources of thought for a Constitution.
3. Question3 helps in understanding how to setup good platforms to initiate a churning process to review all perspectives before arriving at a Constitution.
4. Question4 helps in understanding the importance for winning support of all the citizens. This exercise would help you in understanding people's concerns. A Constitution is successful only when people subscribe to it.
5. Question5 helps in understanding the Philosophy and Structure of a Constitution by actually building of your own, basis the several ideas on which you've worked.

Theme2: Fundamental Rights/Duties

Q1: Should the powers of authority be limited? What happens if the powers are not limited? Can the state abuse power to hurt citizens? In the context of a classroom, can the student class-leader abuse power to hurt a fellow student? Can we have unintentional abuse of power? Can you think of an example where the powerful student class leader hurts a student unintentionally? How can this be avoided? How can the powers of the authority be limited?

Q2: What are the fundamental rights described in Indian constitution? Why do you think they were defined? **Do they help in addressing the problem stated in question1?** In the context of the classroom, how do you think the right to expression can prevent the students from being bullied by a student class-leader? Can you think of fundamental rights to solve the problems which you defined in Q1 (as in how a class-leader can hurt a fellow student, intentionally or unintentionally)?

Q3: Why are fundamental duties important in a democracy? Can a social system be successful without the participation of the citizens? In the context of the classroom, do you think the student class-leader can do his job without the support of his fellow classmates? What are the fundamental duties which you would prescribe, which if followed by the class would help the student class-leader? What are the fundamental duties described in the Indian Constitution? Why are they important? Are people the ultimate protectors of the constitution?

Q4: Why are fundamental duties non-juristicable in India? Do you think somebody should be punished for not following the prescribed fundamental duties? What would happen if people are forced to follow the fundamental duties? In the context of the classroom, do you think the students would like to have fundamental duties thrust upon them? What would happen if students are punished for not keeping up with prescribed duties?

Q5: Do you think Indian citizens' fundamental rights are protected? Do you think Indian citizens follow the fundamental duties? Why do you think the fundamental rights are not protected? Can you give some examples of fundamental rights violations? **Describe your ideas to ensure Fundamental rights are realized and to ensure that the citizens follow the fundamental duties.**

Comments

- 1- Question1 helps in understanding why powers of authority should be limited?
- 2- Question2 helps in understanding how Fundamental rights help in limiting the powers?
- 3- Question3 helps in understanding that a Constitution is successful only when people participate.
- 4- Question4 helps in understanding why Fundamental Duties may not be forced.
- 5- Question5 helps in understanding the challenges in protecting fundamental rights and the need to question authority in those cases, besides the responsibilities and duties of a citizen in a democracy.

Theme3: Amendment Suggestions

Indian Constitution, being very flexible, underwent 100+ amendments over the last 67 years. It is very interesting to note that most constitutions changed every 20years. India and USA are the only two countries with constitutions which have lasted for duration of over 60overs.

Q1: Which part of the Indian constitution would you want to amend? On what basis was the constitution organized into these 22 parts? Do you think the parts are arranged in a logical sequence? Why do you think “Union and its territories” was included the first part? Why do you think part-2 “citizenship” needs part-1 to be defined first? Why do you think part-3 “Fundamental Rights” needs part-2 to be defined first? **Which part would you like to amend and why?**

Q2: What is the structure of each part? What is the role of an article in a part? Why does an article have definitions and description of processes? Which article of the chosen part/chapter would you like to amend? Did you find any flaw in the article? Can it be interpreted in a manner which can be used by an adversary to act against interests of Indian citizens? **Why have you chosen this article?**

Q3 Why does the constitution have appendices? What are the various appendices of Indian Constitution? Why was appendix no 4, Right to Education brought into the constitution in 2002?

Q4: How would you conduct a discussion to understand multiple perspectives around the article? **Would you want to amend an article or would you rather choose to add an appendix?**

Q5: Suggest an amendment to the chosen article or the appendix which you'd like to add.

Comments

1. Q1 helps in understanding the various parts of the constitution and the rationale for the division.
2. Q2 helps in understanding the structure of each part.
3. Q3 helps in understanding the history of appendices.
4. Q4 helps in understanding the role of discussions while thinking of amendment suggestions.
5. Q5 utilizes the ideas of P1,P2,P3 and the above questions to think of new amendments/appendices, in order to appreciate the flexibility of Indian Constitution.

Theme4: Upliftment of neglected societies

Q1: If the state fails to provide equal rights to the poor ones, what would be the consequences? What would a poor man do if he doesn't get access to economic opportunities? **Why would he align with identity groups (based on caste, religion, language, occupation etc)?** In the context of a classroom, why would a student try to confine her discussions to her group if she is not given a chance to express herself? Why do people form identity groups? Does it have to do with access to opportunities?

Q2: Our democracy works on the basis of voting- each citizen gets one vote. **Why would a minority identity group fear a majority identity group?** Does this allow the majority to thrust their views and opinions on the minority? In the context of a classroom, if the agenda of hobby classes is decided on the basis of voting, would the cricket fans fear the soccer fans if they form the majority? How can the expression of minority groups be suppressed by the majority student groups?

Q3: Would a minority identity group accept the constitution if the concern in Q2 are not addressed? In the context of the classroom, would the cricket fans agree to use the voting method? Would the cricket fans agree to have a common activity for the entire class? Would it make sense to have a few common activities for the entire class? How do common activities help? Why and how would minorities revolt if their voice is not heard?

Q4: Why do we require special rights for the minority groups? How does it help in gaining acceptance for the constitution? In the context of the classroom, how can the concerns of the cricket fans be addressed? Can we think of special rights, can we allocate periods in a manner wherein we have at least one activity per sport? Can we have a council which decides the activity, can we have representation for cricket fans so that they have a voice? **How can we provide special rights for minority groups?**

Q5: Can you suggest any measures for the socio-economic upliftment of neglected communities? What do you understand by the phrases 'socio-economic' and 'historical' context? Do these communities have access to opportunities? What do you understand by the phrase 'social capital'? Why do these neglected communities have low 'social capital' and how does it affect access to economic opportunities? Why should we work towards their upliftment? Why do you think economic inequalities have historically correlated with naxal/terrorism activities across the world? How can we work towards economics upliftment of the neglected communities?

Comments:

- 1- Question1 helps in understanding why identity groups get formed, which may undermine the idea of a equal/equitable nation.
- 2- Question2 helps in understanding why minorities fear majorities in a democracy and why voting mechanism alone doesn't suffice.
- 3- Question3 provides the socio-psychological context and the chances of a minority group not subscribing to the constitution.
- 4- Question4 helps in understanding how special rights help in winning support of minority groups.
- 5- Question5 helps in understanding the importance of reducing economic inequalities and socio-economic upliftment of neglected communities?

Data Sources

- 1- <https://india.gov.in/my-government/constitution-india/amendments>
- 2- <http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780198286363.001.0001/acprof-9780198286363-chapter-2> (Famine Prevention in India)
- 3- <http://www.thehindu.com/opinion/lead/the-economic-consequences-of-nehru/article6503716.ece>
- 4- http://eci.nic.in/eci_main1/SVEEP/VoterTurnoutHighlightsLokSabha2014.pdf
- 5- <https://www.duo.uio.no/bitstream/handle/10852/14411/banik.pdf?sequence=6>

Questions developed by Sciansation, with inputs from Dr Lavanya Suresh, Asst Professor, TISS Hyderabad and Mr Pramod Reddy, Lawyer, Photographer and Philosophy enthusiast.

“Constitution is a contract between citizens and the country which is signed by just stepping in the country”- Hank Green, CoFounder, Crashcourse