

A CASE STUDY

Study of constitution meaning and types of constitution

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Every state has a fundamental law which is called the constitution or the law of the land. The term constitution is derived from the Latin word 'Constitute' which means to 'To Establish'. The constitution is the basic document of the state. The constitution outlines the power, ambit of work, basic structure etc. of the Government. The Government functions as per the rules and guide lines laid down in the constitution.

A constitution is a set of laws and rules setting up the machinery of the Government of a state and which determines the relationship between different organs of the Government. Summarily a constitution is the source, the jurisprudential fountain head from which all the other laws must flow. The first written constitution was that of United States of America. India has the longest written constitution in the world. United Kingdom has an unwritten constitution.

Meaning and definition of constitution :

Various political thinkers and jurist have given varied definitions of the constitution.

Aristotle:

Constitution is the way of life the state has chosen for itself (Mahajan, 2003).

Bouviés:

"The fundamental law of a state, directing the principles upon which the government is founded and regulating the exercise of the sovereign powers, directing to what bodies or person these powers shall be confined and the manner of their exercise" (Asirvatham and Misra, 2006).

Austin:

"Constitution fixes the structure of Supreme Government" (Mynemi, 2006).

Colley :

"The fundamental law of the state containing the principles upon which Government is founded regulating the division of the sovereign powers and directing to what persons each of these powers is to be confined and the manner in which it is to be exercised" (Ibid).

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Jaes McIntosh :

“The body of these written or unwritten fundamental laws which regulate the most important rights of the Higher Magistrates and the most essential privileges of the subject” (Myneni, 2006).

K.C. Wheare :

“Constitution is that body of rules which regulates the ends for organs through which government power is exercised” (Ibid).

Constitutionalism and Its evolution :

Constitutionalism means limited government or limitation on government. A country may have a constitution but not necessarily constitutionalism. Only when the constitutions of a country seeks to decentralise power instead of concentrating it at one point, and also imposes other restrictions and limitation thereon, does a country have not only a constitution but constitutionalism (Rao, 2013).

As professor Vile has remarked, “Western institutional theorists have concerned themselves with the problems of ensuring that the exercise of governmental power, which is essential to the realisation of the values of their society, should be controlled in order that it should not itself be destructive of the values it was included to promote (Jain, 2012).

Constitutions spring from a belief in limited government (Ibid). The idea of constitutionalism is not new. It is embedded deeply in human thought. Many philosophers of natural law school have promoted this ideal through their writings Grotius, Rousseau, Locke, Paine and Aquinas are some political philosophers who spoke about this idea.

In *I.R. Coelho V. State of Tamil Nadu* (Rao, 2013), it was held that the principle of constitutionalism is now a legal principle which requires control over the exercise of governmental power to ensure that it does not destroy the democratic principles upon which it is based. These democratic principles include the protection of fundamental rights. The principle of constitutionalism advocates a check and balance of separation of powers.

Constitutionalism is one of the milestones in perseverance and protection of individual freedom. Constitutionalism found its first expression in Philadelphia convention in the U.S.A. The U.S.A. was the first nation to experiment with a written constitution. Later the

French Revolution succeeded in giving a greater development to constitutionalism. The people of any nation have an abiding faith in the constitution. As it protect and promotes their rights. The education and elaboration of these rights has a long history in the U.K., the U.S.A. and France. Magna Carta, 1215, Habeas Corpus Act 1679, Bill of Rights in 1689 in the U.K. The U.S.A. declaration of independence of 1776. The U.S.A. bill of Rights 1791 and French declaration of rights of man and citizens 1789. By this time the constitutionalism as a concept was deep rooted in the third world countries.

The constitution itself is a check on the powers of the state, the effort is to ensure that the state exercise authority and at the same time ensures individual freedom. A constitution is not a static document. It is an extension of the philosophical and organisational framework of the state.

Nature of constitution :

The modern states are constitutional states they have been classified according to their nature. The constitution of any state can be rigid or flexible written or unwritten. The written as well as the unwritten constitution serves the same general purpose.

A constitution fixes the general structure of a state. It is the selection of the state. The constitution in the fundamental law. The Government is organised according to the provisions of the constitution. Constitution is also sometimes called the grundnorm or *suprema lex*.

The constitution of a country may be federal or unitary in nature. A federal type of constitution is one in which there is all the powers distributed among the center and state. In a unitary type of constitution the power is concentrated in a single head.

The constitutional law consists of both ‘legal’ as well as ‘non-legal’ norms legal norms are enforced and applied by the courts. On violation of such norms relief and redressed can be sought. On the other hand, non legal norms arise in the course of practice followed over and over again.

Necessity of a constitution :

The importance of constitution was more realised during American Revolution. The idea of constitution as a necessary and fundamental document was very much to the forefront. During the 19th Century the idea of constitution was firmly rooted.

The need for a constitution can be summed up in two probable answers :

- As per social contract situation the constitution being the natural desire of a politically organised people to have enduring law-setting out the structure of the government of the nation and its function.
- The new star by nations in the post colonial era.

The constitutions are often framed after profound disruption of some kind. The first need for a constitution arise from the need to limit the power of parliament.

Another reason why countries needed a constitution was to precisely define separation of powers specially in a federation.

With the developing concept of human rights it was thought that human rights should be incorporated in the constitution so that they could be protected in a better manner.

The demarcation and structuring of ambit of government is essential for the stability of governance and the rule of law within a nation.

Every country has aspirations which are particular and personal to its people, a distinctive tradition and culture as well we its own problems. A constitution must grow with the growth of the nation.

A constitution is a necessity and every state must and does in fact possess one. A constitution is necessary even in the case of despotism. A state without a constitution is not a state but a regime of anarchy.

The following may be the reasons why there is a need of a constitution.

- To curb the powers of government by a fundamental law.
- To restrain the government on behalf of the individual.
- To limit vegaries of the present and future generation.

Constitution determines the legal relations between its government and its subject.

Features of a good constitution :

When we go through the different constitutions of the different counters, it can be analysed that, every constitution has its own problems and defects. No constitution is perfect.

Even after being drafted carefully all constitutions lack some or the other feature. The deficiency can be because of nature of constitution different changing situations etc.

The following may be regarded as good features of

a good constitution.

Definiteness :

The constitution should be definite. It should be clear and precise. It has to be drafted carefully so that its principles are laid down with great precision and clarity. It should not have ambiguities and obscurities of languages, because this may lead to confiding interpretations. If there are ambiguities in the constitution then the interpretation will depend on the whims of the judges. The language used in the constitution must be simple and clear.

Comprehensive :

A good constitution should be definite, comprehensive and it should cover the whole field of government authority without any gaps. The powers of different organs of the government and various functionaries of the state must be clearly demarcated. The vital point is that a good constitution does not omit the main fundamentals and at the same time it does so liable to give rise to constitutional disputes in addition to invoking a sense of distrust. A constitution must be comprehensive enough so that the government may know its powers and limitation. The people may know their rights and obligations.

Stability and flexibility :

Stability and flexibility are the two important requisites of a good constitution tempering with the basic principles and the structure of the constitution is bound to weaken the allegiance of the people to the constitution. At the same time, the constitution should allow progressive change and growth in the absence of which constitution becomes redundant and inflexible. A rigid and stable constitution does not return the qualities of adaptability and adjustability. The best constitution is one which combines both the elements of rigidity regarding the basic structure and flexibility with their aspects. A good constitution should be a harmonious combination of stability and flexibility. It should be well planned. A constitution lacking reasonable flexibility will soon become outdated.

Suitability :

A good constitution must represent the needs of the time as well as the condition of the country and should be suitable for social, political and economic needs of the people. Legal sovereigns should coincide with political

and social sovereigns.

Provision of rights and duties :

A good constitution must provide and protect the rights people. It should remind the duties and protect the rights of the people. It should remind the duties and obligations of the people towards the nation and community. It should protect the individual liberty by providing for appeal to the law courts. The protection of rights has become a necessity in the modern democratic age.

Types of constitution :

The constitution may be classified on several basis. They classification may be on the basis of amendment procedure, written or unwritten unitary or federal. The following are the types of constitution.

Written constitution :

A written constitution is one in which most of the provisions are embodied in a single or several documents. It is the result of a deliberate effort to lay down the fundamental principles that govern the people.

Jameson says “It is a work of concisions as and the result of a deliberate effort to lay down a body of fundamental principles under which a government shall be organised and conducted” (Mahajan, 2003). A written constitution may be one single document having one date, or it may be a series of documents. Where ever there is a written constitution in a country, a distraction is made between the constitutional and the ordinary law. A written constitution should contain the following aspects.

- Provisions concerning the fundamental civil and political rights.
- Provisions outliving the organisation of government.
- Provisions for the amendment of constitution.

J.W. Garner says “Written constitution grows in three ways : By usage, by judicial interpretation and by formal amendment. The part played by customs and usages is more potent in case of old than of new constitution” (Gokhale, 2012). A written constitution is placed high above all the documents in the minds of the people of a country and special sanctity is attached to it. It is treated with a kind of reverence and no political or constitutional step is taken contract to its provisions.

Justice Holmes, has said “The provisions of the constitution are not mathematical formulas having their essence in their form, they are organic, living institutions

transplanted from English soil. Their significance is vital not formal; it is to be gathered not simply by taking the words and a dictionary, but by considering their origin and the line of their growth” (Pyles, 2012).

Merits :

- A written constitution clearly demarks the functions of each organ of government and as such there are very little chance of dispute between these organs.
- It is most useful in the formation of federations In fact, without a written constitution, federation cannot come into being.
- It is rigid and hence will be more stable.
- It provides safeguard against the usurpation of authority by the legislation as the constitution checks at every stage.
- It reflects the aspirations and interests of the people know about at least their minimum basic rights.

Demerits :

- It is generally not in a position to keep pace with the time and thus fails to go ahead with the progress of nation.
- It cannot compress all the ideals of a nation into a single document.
- It is rigid and conservative. It is difficult to amend the written constitution quickly. It leads to many complications.
- It results in legal disputes and litigations as the judiciary is entrusted with the task of watching whether the law conforms to the constitutional provision or not.
- It may prove as a stumbling block to political changes and progress and many even lead to violent revolutions.

Unwritten constitutions :

An unwritten constitution is one where the provisions have never been reduced to writting in a document or collection of documents. It is the process of growth or historical evolution. It grows and is never made. It generally consists of number of customs, traditions, constitution, usages, judicial precedents and formally enacted laws of fundamental nature.

Jameson says “An unwritten constitution is made up largely of customs and judicial decisions, the former more or less evanescent and intangible, since in a written they exist only in the unofficial collections or

commentaries of publicists or lawyers” (Mahajan, 2003).

An unwritten constitution is the child of wisdom and chance, it is the product of history. Sir James MacIntosh pointed out “Constitutions grow, instead of being made” (Mahajan, 2003).

An unwritten constitution is one in which principles of government are not found in a single document, on the other hand they can be discovered in the customs, conventions and usages and in numerous acts passed by the legislature.

C.F. strong says “An unwritten constitution grows on the basis of custom rather than on written law” (Gokhale, 2013). England is the only country having an unwritten constitution. Unwritten constitution is formed to meet immediate requirements, they were adapted to exercise more extensive and sometimes different functions.

Merits :

- An unwritten constitution is easily adaptable to the changing conditions of a dynamic society. It is flexible. It is most suitable in times of crisis.
- It is more suitable to those people who have a strong sense of tradition and great conservative spirits.
- Due to the elasticity of the unwritten constitution changes based on popular opinion are possible. Hence, it prevents violent agitation and peoples revolt against constitution.
- It results in legal disputes and litigations as the judiciary is entrusted with the task of watching whether the law conform to the constitutional provisions or not.
- It avoids the danger of documenting of the constitution in a single document bearing a particular date.

Demerits :

- An unwritten constitution is not suitable to modern democracies of the constitution it is meant for aristocratic societies.
- The judiciary has an upper hand in interpreting an unwritten constitution.
- It becomes a tool in the hands of unscrupulous and ambitious politicians to serve their ends.
- An unwritten constitution is most unsuited to the federations.
- It does not demarcate and differentiate the purpose and functions of each organ of government with the

result that disputes between various organs are quite possible.

- It demands a high degree of political maturity and the vigilance from the people to check the misuse of power by government.

Rigid constitution:

Lord Bryce classified constitution as Rigid and Flexible (Mahajan, 2003). The constitutions which are enacted by a different body, which have a higher status than ordinary laws and which can be altered only by a special procedure are called Rigid constitutions. They can be called as inelastic or stationary constitution. At written constitution is generally a rigid constitution. A rigid constitution sets up a high barrier to prevent statutory encroachments on it. This is done by clearly limiting the powers of the legislature.

Dicey says “Rigid constitution is one under which certain laws generally known as constitutional or fundamental laws cannot be changed in the same manner as ordinary laws” (Myneni, 2006). A rigid constitution may be drafted by a constituent assembly or by a foreign government and then handed over to the country concerned. A rigid constitution is not easy to amend. Often, the organ which passes the ordinary laws is not empowered to pass constitutional laws. Special majorities are required to pass or amend the constitutional laws. A rigid constitution is one in which by its inherent nature is with difficulty changed. It is hard and fixed and cannot be repealed or amended smoothly. A special procedure or machinery is required to make an amendment in the rigid constitution.

According to Dr. Garner, “Rigid constitution are those which emanates from a different source which legally stand over and above ordinary laws and which may be amend by different process” (Myneni, 2006). The constitutions of America, Australia, Switzerland are examples of Rigid constitutions. A rigid constitution is absolutely essential in the case of a federation, as there is a division of powers.

Merits :

- A rigid constitution reflects the conditions of the times and limitations of the sovereign body and the public opinion.
- It is clear, precise, definite and comprehensive.
- It protects the fundamental rights of the citizens. It cannot be changed over night by politicians.

–It is necessary for a federal government to distribute the powers and functions among the various branches of government.

–A rigid constitution safe guards legislative encroachments. It is a guarantee against hasty changes.

Demerits :

–A rigid constitution prevents progress since it is conservative in nature.

–It leads to revolution since constitution does not change as quickly as the society.

–The people may lose confidence in the constitution due to delay for the required amendments and ultimately cause a violent upheaval.

–It gives more power to judiciary including the powers of judicial Review.

–It is more subject to party influences than the flexible constitution.

Flexible constitution :

All those constitution which possess no higher legal authority than ordinary laws and which can be amended by the same procedure as ordinary laws. The flexible constitution may be enshrined in a single document or in a large number of conventions, are called flexible constitution. It is also called as elastic constitution. A flexible constitution can be easily amended and it can adapt itself to the changing times. In such constitutions ordinary and constitutional laws are on the same level. Dr. Garner defines flexible constitution “Those which possess no legal higher authority than ordinary laws whether they are embodied in a single document or consists largely of conventions, should these be classified as flexible, workable or elastic constitution (Myneni, 2006). It can be changed according to the circumstances. As society grows, the constitution can be so amended as to meet the new requirements. In a state with a flexible constitution people requirements can be met by amending the constitution and hence the possibility of a revolution is ruled out.

Under the flexible constitution the legislature is supreme. The judiciary has no powers of judicial review. It does not matter whether the constitution is a written constitution or an unwritten constitution. In such constitution there is no distinction between the constitution making authority and ordinary law making authority. Great Britain is an example of flexible constitution.

Merits :

–A flexible constitution is fairly elastic and highly adaptable.

–It can protect the society from violent revolution and it grows and expands with the society.

–It faithfully reflects the national mind.

–It allows orderly growth. It can adjust itself very easily in case of any emergency.

–It provides “Mirror of national mind” as it keeps pace with the nation and national feelings.

Demerits :

–Flexible constitution has no stability since it changes more than necessary.

–It becomes a tool in the hands of the ruling party and is not suitable for federal countries.

–It cannot guarantee the rights and liberties of the people and also cannot guarantee the work under all conditions and in all circumstances.

–It is said that a flexible constitution is only suitable to aristocratic rather than democratic form of government.

–It may be altered to satisfy the whims and fancies of the majority in the legislature.

Codified constitution :

A codified constitution is deliberately made by a constituent assembly or is the product of the law made by the parliament or king.

It is a man-made constitution it is made, enacted and adopted by an assembly or council. The council may be called constitutional council. It is duly passed after a thorough discussion over its objectives, principles and provisions.

It is written in the form of a book or as a series of documents and in a systematic and formal manner.

A codified constitution is one in which the key constitutional provisions are collected within a single document. Such constitutions are higher laws. They are binding on all political institutions including those institutions that make ordinary law.

It is more entrenched which means it is more difficult to amend or abolish these constitutions.

Since the constitution is the highest authority, the judiciary can declare whether a law or action is constitutional or unconstitutional.

A codified constitution gives all organs of government a limited ambit of work. It limits the powers of the organs

so that they do not act arbitrary.

Merits :

- The rules laws and regulations are clearly laid down. They are not vague and ambiguous.
- They have a neutral interpretation they can be easily interpreted and harmoniously constructed.
- It gives a very limited scope to the government. The government has to work within the limits provided by the constitution.
- It expressly gives provisions of the rights that are provided by the constitution. And also gives express provisions as to the protection of rights.
- It is the highest law in the state and the also binding on all.

Demerits :

- It is very rigid to stand the changing time. It is difficult to change overnight.
- Since the laws laid down by the legislature. There may be problem of being bias politically.
- Judiciary plays a major role in interpreting the laws, there can be intimidation of an innocent.
- There can be political bias while making and interpretation of laws.
- With the change of time there may be a situation when certain laws or rules may become unnecessary.

Uncodified constitution :

An uncodified constitution is a constitution that is made up of rules that are found in a variety of sources. It is the product of slow and evolutionary changes in the course of a long time. It is also known as cumulative, evolved constitution.

Such a constitution is not hammered into a definite shape by a constituent assembly or committee or council. It is built up gradually through accumulated experience. A large number of customs conventions, usages and practices goes into the structure of an uncodified constitution.

Thus, an uncodified constitution is not a result of an Act of parliament but the product of a slow process of evolution.

Uncodified constitution is not authoritative. It has equal status as the ordinary laws. It does not enjoy higher status as that of codified constitution.

It is not entrenched. The constitution can be changed through the normal process for enacting statute laws.

Since there is absence of a higher law, judges do not have a legal standard against which they can declare things constitutional or unconstitutional. It is less prone to judicial tyranny.

The examples for this kind of constitution are constitution of Israel, New Zealand, Saudi Arabia and U.K.

Merits :

- Uncodified constitution is not rigid so it can stand the changing time and needs of the people.
- The judges can make laws keeping in mind the people. They cannot on their own declare any action as unconstitutional.
- There are less number of unnecessary rules as the laws and regulations can be removed and incorporated when the need arises.
- It is less politically biased as compared to the codified constitution.
- The procedure of amendment is less hectic in comparison to the codified constitution.

Demerits :

- The rules are not clearly laid down. They are more prone to ambiguity.
- It gives unlimited power to the government to make laws and also their interpretation.
- The interpretation of the laws may be as per the whims and fancies of the judges. Neutral interpretation is not possible.
- There are no express provisions of rights and their protection.
- There is no higher law and therefore there is no binding law which creates an authority like the codified law.

Unitary constitution :

A unitary system is governed constitutionally as one single unit, with one constitutionally created legislature. This means that all powers of the government are centralised in one government that is central government.

In unitary constitution, the provinces are subordinate to the centre, but there is no division of powers between the center and state.

The unitary concentrates power with the center. The units are merely the creation in the hands of the central government. They are the agents of the centre for the purpose of local rule and autonomy.

Prof. Fince says. "A unitary government is one in which all the authority and powers are lodged in a single centre whose will and agents are legally omnipotent over the whole area" (Myneni, 2006).

Willioughby, says "A unitary government is one in which all the powers of government are conferred in the first instance upon a single central government and that government is left in complete freedom to effect such distribution of these powers teutorially as in its opinion is wise" (Myneni, 2006).

As per unitary constitution there shall be a single government. The centre is stronger than the state. Such government conducts the administration of the wholes state. The relation between the centre and the state will show the kind of constitution that a country has. There may be horizontal separation of power *i.e.*, between legislative executive and judiciary.

A unitary state has a single constitution for the entire state, a general system of law and a unified system of bodies of state power. The U.S.A. has a unitary constitution.

Merits :

- Unitary constitution provides for a storage state. All the powers are vested with the centre.
- The unitary constitution can adjust itself for changing conditions easily and quickly.
- It is less expensive because it provides for only one set of government at the centre and it is more economical.
- Such constitution is best suited to small and compact countries having geographical unity and cultural homogeneity.
- It promotes uniformity in the fields of law, policy and administration and promotes national unity.

Demerits :

- The chief weakness of the unitary constitution is the absence of a strong provincial and local government.
- As all the powers all concentrated at the centre, there is a greater chance for automatic and authoritarian rules.
- Such constitution are not suitable to those countries which are very big in size and population and have racial and linguistic diversities.
- It may result in greater red-tapism and bureaucratic administration.

- It tends to discover age popular interest in public affairs and suppresses local initiative.

Federal constitution :

The federal constitution speaks about the division of power between the central and the states. The constitution usually defines how power is shared between national state and local governments, the constitution allocates duties, rights and privilages to each level of government.

K.C. Wheare "In a federal constitution the powers of government are divided between a government for the whole country and government for parts of the country in such a way that each government is legally dependent within its own sphere (Gokhale, 2013).

Montesquieu says, "A constitution by which several similar states agree to become numbers of a large one is a federal Government" (Myneni, 2006).

Federation :

A federation is formed by the coming together of a number of states contiguously situated *i.e.*, geographically close states, desiring union rather than unity. It may come into existence as a result of integrating and disintegrating forces. In a federation there is double citizenship for the individuals.

Dicey has said that 2 pre conditions must be satisfied for the formation of a federations. These conditions are:

- A strong desire to have a union among the federating units.
- The federating units while desiring union should be able to maintain their seperate identity.

Confederation :

A confederation is nothing but 'loose federation'. In a confederation system certain powers are surrendered to a government for the mutual advantages of the separate states.

Prof. Wheare says "Inspite of the difficulties the word 'confederation' may be used to describe a form of association between governments, whereby they set up a common organisation to regulate matters of common concern but retain to themselves, to a great or less degree, some control over this common organisation and can be said to possess sufficient power to be called government and in that case it may be doubtful sometimes whether the document which establishes this common organisation should be called a constitution it might more properly be

called an agreement, a covenant, or a treaty (Myneni, 2006).

Quasi federal constitution :

Some people are of the opinion that the characteristics of Indian polity is a federal polity with strong unitary tendencies while there are other who feel that it is primarily a unitary polity with some federal features. Prof. K.C. Wheare, calls "The Indian polity a quasi-federal polity as it retains predominantly, Federal principles but not completely (Myneni, 2006).

Merits :

- A federation prevents rise of single despotism.
- It protects the political liberty of the citizens.
- The growth of bureaucratic authority is under check. Administrative efficiency increases.
- It provides for wider opportunities for higher maintenance of democratic values.
- It safeguards the interest of weak states and unity in diversity can be achieved.

Demerits :

- Federal constitution is weak in the conduct of internal and external affairs.
- It is more expensive because it demands two sets of government.
- It is not able to change according to the requirement of time.
- It suffers from disunity in the war time. The states may try to break away from the union.
- Unnecessary delay is caused in solving problem, since both the centre as well as the units have to be consulted.

Comparative study of constitutions :

United Kingdom :

The constitution of the United Kingdom is the sum of laws and principles that make up the body politic of the United Kingdom. It concern both the relationship between the individual and the state and the functioning of the Legislative the executive and the Judiciary U.K. has no single constitution document. This is sometimes expressed by stating that it has an uncodified or unwritten constitution. Much of the British constitution is embodied in written documents, within states, court judgments, works of authority and treaties. The constitution has other unwritten sources including parliamentary constitutional

conventions.

Since the Glorious revolution in 1688, the bedrock of the British constitution has traditionally been the doctrine of parliamentary sovereignty, according to which the states passed by parliament are the U.K.'s supreme and final source of law. It follows that parliament can change the constitution simply by passing new acts of parliament. Acts of parliament are bills which have received the approval of parliament *i.e.*, the Monarch, the house of Lords and the house of commons.

The United Kingdom is a constitutional monarchy and succession to the British throne is hereditary. The monarch, or sovereign, is the head of state of the United Kingdom and amongst several roles is notably the commander in chief of the British Armed Forces.

Under the British constitution, sweeping executive powers, known as the Royal Prerogative, are nominally vested in the monarch. In exercising these powers the monarch normally defers to the advice of the Prime Minister or the ministers. This principle, which can be traced back to the restoration was the most famously articulated by the Victorian writer Walter Bagehot as "The Queen reigns, but she does not rule".

There are three regional judicial system in the United Kingdom : that of England and Wales, that of Scotland and that of Northern Ireland. Under the constitutional Reforms Act 2005 the final court of appeal for all cases, other than Scottish criminal, is the newly seated Supreme Court of the United Kingdom : for Scottish criminal cases, the final court of appeal remains the High Court of Judiciary. Further more, the Constitutional Reform Act guaranteed the independence of judiciary, a concept that emerged from the Act of settlement, 1701. Vacancies in the Supreme Court are filled by the Monarch.

United States of America :

The United States constitution is the supreme law of the limited states of America. The constitution, originally comprising seven articles, delineates the national frame of government. It first three articles entrench the doctrine of separation of powers, where by the federal government is divided into three branches : the legislative consisting of the bicameral congress; the executive consisting of the President and the Judicial consisting of the Supreme Court and other Federal Court. Articles four, five and six entrench concepts of federalism, describing the rights and responsibilities of state government and of the states in relationship to the federal

government. Article seven establishes the procedure subsequently used by the thirteen states to ratify it.

Since the constitution came into force in 1789, it has been amended 27 times. The constitution is interpreted supplemented and implemented by a large body of constitutional law. The constitution of the United States is the first constitution of its kind and has influenced the constitution of other nations.

The Articles of confederation and perpetual union was the first constitution of the United States. It was drafted by the second continental congress from mid 1776 through late 1777 and ratification by all 13 states was completed in early 1781. Under the Articles of confederation, the central governments power was kept quite limited. The confederation congress could make decisions, but lacked enforcement powers. Implementation of most decisions, including modification to the articles, required unanimous approval of all 13 state legislatures.

India :

The constitution of India is the Supreme Law of India. It is a living document an instrument which makes the government system work. It lays down the frame work defining fundamental political principles, establishes the structure, procedures, powers and duties of government institutions and sets out fundamental rights, directive principles and the duties of the citizens. It is the longest written constitution of any sovereign country in the world, containing 448 articles in 25 parts 12 schedules, 5 appendices and 98 amendments. Besides English version, there is an official Hindi translation.

The 389 members constituents assembly took 2 years 11 months, 18 days, to complete the twistorick task of drafting the constitution for independent India. During this period, it held 11 sessions covering a total of 165 days.

Dr. Bhimrao Ramji Ambedkar is widely regarded as the chief architect of the Indian constitution but it was constituent assembly who under Dr. Ambedkar and his team worked and drafted final copy of Indian constitution.

The constitution follows parliamentary system of government and the executive is directly accountable to the legislature. The constitution of India is federal in nature but unitary in spirit. This unique combination makes it Quasi Federal in form.

The constitution was adopted by the Indian

constituent assembly on 26 November by 1949, and came into effect on 26 January any 1950.

The constitution lays down the parliamentary form of government. It has a bicameral legislature; legislative assembly and legislative council. Every state has a high court and there is a Supreme Court at Delhi. There is an independent Judiciary like United Kingdom. There is a President who is a nominal head. The legislature comprises of a Prime Minister and his cabinet of Minister. There is a separation of powers between the legislature, executive and judiciary.

Conclusion :

The constitution is the highest law of the land. It is the Grundnorm. The constitution can be taken as the fountain head from which all other law originate. Any law which is inconsistent with the constitution is set aside.

The constitution lays down the basic structure of any countries laws. Every country has a constitution of its own. The constitution may be written or unwritten, codified or uncodified.

A written constitution is taken as the ideal type of constitution U.S.A. India have a written and codified constitution. A written constitution clearly specifies the rights and liabilities of its people. A good constitution should be unambiguous, clear and precise.

The legal system or precisely the entire system of the country works as per guide laid down by the constitution. The nature of constitution depends upon the size and population of the country.

U.S.A. has a written constitution, India also has a written constitution, U.K. has an unwritten constitution. India has the longest constitution and the largest amended constitution, America has the oldest constitution.

Constitution is the source from which all other laws flow. The constitution is the law of the land. It should be in clear terms and also it should not be confusing.

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