

IMPORTANT QUESTION CLASS – 11 DC @H75 @ SCIENCE CHAPTER- 9 CONSTITUTION '5 G'5 ' LIVING DOCUMENT

Question 1.

Define constitutionalism and constitution.

Answer:

Constitutionalism stands for a check on the arbitrariness of the ruler. Constitutionalism stands for rule of law and seeks to check the rule of whims and fancies of the rulers. Constitutionalism stands for discussion and debate on the issues of government. Constitutional development is a part of constitutionalism. Which is meant for evolving the norm and regulations for administrators.

The constitution can be defined as a body of rules and regulations which provide a framework for governance in a democratic setup. It defines the area of work for different organs of the government. It also decides the made and norms and philosophy and direction of the government as well as ' society.

Question 2.

Discuss how the Constitution is a living document.

Answer:

A constitution is a living document because it reflects the aspirations of living beings. This is a document-which keeps on responding to the situations and circumstances arising from time to time. Like a living being the constitution responds to experience. A constitution is a dynamic document reflecting the movement and dynamism of the society. It continues to work for society effectively because of its dynamism and response to the changing situations and the demand of the circumstances. The constitution protects the democracy and Fundamental Rights of the people and the existence of different constitutions. The constitution allows the evolution of new practices and also needs respect from the citizens.

Question 3.

Explain the contribution of the judiciary in the development of the Constitution.

Answer:

Judiciary plays important role in the development of the Constitution. Judiciary is the final authority in the matter of interpretation of the constitution. Judiciary examines and interprets the laws made by the parliament and state legislature and gives a final ruling on different issues which becomes the source of law and part of the Constitution. Judiciary ensures that all the laws of the legislatures and policies and programs of the executives are made within the framework of the constitution. Sometimes this leads to controversy between the judiciary and Parliament.

It has happened many times on different occasions when the Judiciary declared the laws of the Parliament as unconstitutional and Parliament amended the Constitution to nullify the ruling of the Judiciary. For example in 1967 in the Golaknath case, the judiciary gave the ruling that Parliament cannot amend the Fundamental Rights but Parliament brought the 38th and 39th Amendments to nullify the effect of that ruling.

Question 4.

What is the basic structure theory case?

Answer:

To nullify the effect of the ruling in the Golaknath case, the Parliament passed 38th and 39th amendments in the constitution in 1971. In 1973, in the Keshwananda Bharti case, these amendments were challenged by the Supreme Court, The court ruled that Parliament can amend any part of the Constitution, including Fundamental Rights but cannot amend the basic structure of the constitution. This particular case ie; Keshwananda Bharti Case is known as the Basic Structure Theory case.

Question 5.

Make a distinction between the letter and spirit of the Constitution.

Answer:

In the interpretation of the Constitution and in giving its ruling in different cases, the judiciary has made a distinction between the letter and spirit of the constitution. The court is of the view that in reading a text of a document, we must respect the intention behind that document. A mere text of the law is not so important as the social circumstances and aspirations that has produced that law or document or the aspiration which are reflected by that document. The circumstances and the background of the law or document can indicate the real intention and purpose of the document. Therefore spirit is more important than the letter of the Constitution.

Question 6.

Discuss the circumstances and main provisions of the 42nd amendment.

Answer:

42 amendment of the constitution is known to be the most con-troversial amendment and it was passed in the most controversial circumstance. 42nd amendment was passed in 1976 when an internal Emergency was in force and top opposition leaders were in jail.

The main provisions 42nd Amendment are as under:

1. The term of Parliament and state legislature were extended for six years in place of 5. years.
2. Fundamental Rights were made. inferior to Directive Principles of State Policy.
3. Important institutions like Judiciary were made weak and subordinate
4. Two new words socialism and secularism were added in the Preamble of the Constitution.
5. The position of the President is also reduced.
6. The powers of the press were snatched
7. Restrictions were put on the judiciary

8. Chapter 10 of Fundamental Duties were added.

Question 7.

How far the Constitution should be flexible and rigid.

Answer:

The Constitution provides the framework of the government which is most suitable and responsive for the present and future society. The Constitution has to be able to respond to the challenges that may arise in the future. Therefore it must be the quality and characteristic of the constitution- that it has something that is contemporary and something that has a more durable importance suiting to the needs of the future. It should also show some rigidity also so that the Constitution does not become a plaything in the hands of the ruling party and it is not misused at any stage.

Question 8.

Indian Constitution is both flexible as well as rigid. Explain.

Answer:

The makers of the Indian constitution were aware of both the needs of the Constitution ie; flexibility as well as rigidity. Therefore they struck a balance. They made the Constitution above law and expected that the future generation will respect this document. At sometimes were aware that in the future this document will require modifications because circumstances are bound to change according to the needs of the time. Due to differences of Opinion also change would become necessary. It is because of this they made it flexible and to save the Constitution from the atrocity of the ruling party they made it rigid.

Question 9.

Explain the significance of the 44th constitutional amendment.

Answer:

42nd amendment distorted the entire Constitution during the Emergency in 1976. In 1977 elections were held in which the Congress party under Mrs. Indira Gandhi was badly ruled out and Janata Party come to power under the Prime- ministership of Shri Morarji Desai. Janata Party Government was committed to correct the distortions of the 42nd amendment. Therefore the 44th constitutional amendment was passed by Janata Party Government in 1979 for this purpose its main provisions are as under:

1. The tenure of Parliament and State legislature were again deduced to five years.
2. The status and position of the President and judiciary were restored to them by this amendment.
3. Fundament Rights were given primary position.
4. The fundamental Right of the property was deleted from the Constitution.

Question 10.

Mention the main provisions of the 52 amendments of the Constitution.

Answer:

52nd amendment was passed in 1985 by Rajiv Gandhi Government to check the evil of defection in Indian politics. The main provisions of this Act are as under: It was based on the consensus of all political parties.

1. A person who is elected on a ticket of a particular party will lose his/her membership if he/she joins another party after the election
2. An independently elected member will also lose the membership if he/she joins any political party of the election.
3. If a nominated member joins any political party he/she will also lose the membership of the house.
4. However, in the case of a split and merger of the political parties, the membership will not be affected. For split $\frac{1}{3}$ membership will be required and for a merger $\frac{2}{3}$ majority of the legislative group of the party will be required.
5. Speaker will be the final authority to decide the split or merger of the political parties.