

B.A.LL.B. V SEMESTER
SUBJECT : CONSTITUTIONAL LAW INDIA-I
CODE : BL-5003

TOPIC : Introduction to constitutional law

State under International law is defined as “independent political entity” occupying a defined territory, the members of which are united to greater for purposes of resisting external force & preservation of internal order.

A modern state does not rest content with being mealy a police or law & order State . it is much more then that . it tends to become a social welfare state .

Need of constitutional law

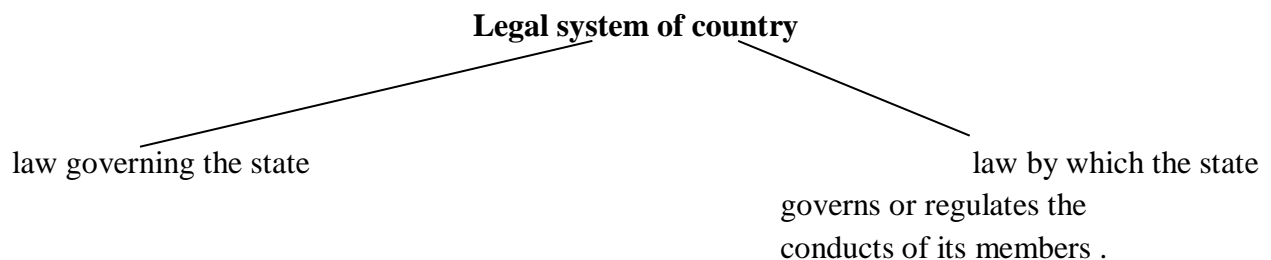
all the people in the state cannot be Combined to greater all the time to achive

if there is need for certain organs through which the state acts there must be some law to lay down law these organs are to be established?

how these organs are to Functions ?

what their powers are going to be ?

what is to be their mutual relationship with each other ?



constitution of Country seeks to establish its fundamental or basic or apex organs of government and administration describe their structure , composition , power and principal functions define

the inter relationship of these organs with one another and regulate their relationship with the people more the Political relationship .

Structure of government

legislature

executive

judiciary

Constitution invariably deals with these three organs . It establishes these organs or constitution can also create some additional organs like finance commission , comptroller auditor general of India etc.

Most significant feature of the constitution is fundamental rights . These rights are granted to people as well As citizens of the nation

Constitution can be of any type in Nature — Federal (U S A, CANADA ,GERMANY etc)
Unitary (SRI LANKA , SINGAPORE, BRITAIN etc)

Constitution can be written or un written most of me modern constitution are written like us U S A (1787) , CANADA (1867) AUSTRALIA (1900)

Constitutionalism

These can be countries which has constitution but not Constitutionalism. Like in case of monarchy there may be constitution as word of monarch . but it does not have constitutionalism.

Constitutionalism recognize need of the government but insist for limitation being laid upon government powers .

Constitutionalism denotes the essence of limited government. Constitutionalism is antithesis is to arbitrary power.

Constitutionalism – 1 _____.

arbitrary use of power by constitutional functionaries.

Constitutionalism is embedded in the human thoughts.

some of the principle norms set by the independent judiciary with power of judicial review , separation of powers, free elections , accountable & transparent democratic government , fundamental rights, decentralization of powers etc.

Salient features of the constitution.

(1) Written constitution – Indian constitution is lengthy , elaborate and detail document.

Reasons for it being lengthy

(A) It deals with organizations & structure of centre as well as States

(B) Centre – state relationship are important matter of Indian Constitution deals with detained Relationship .

(C) It also contains many unwritten constitutional conventions in writing.

(D) It contain detailed provisions of fundamental Rights , safeguarding Minorities , sc & st .

(E) It also mentions the future of the Indian state by incorporating D.P.S.P.

(F) It not only mentions about the fundamental details of the government but also administrative details like official language government services etc.

(2) Preamble

Preamble does not grant any power but it gives direction and purpose to the Constitution It contain fundamental of constitution.

It has several purposes like:-

(A) It contain enacting clause

(B) It declare Rights to freedom that are intended to secure .

(C) It declare basic type of government and polity to be established in Country

(D) It throw lights on the source of the Constitution

(3) socialistic state

(4) welfare state

India is a social welfare State i.e. state which render social services to the people and promoter their general welfare.

- (5) **secular state**
- (6) **responsible government**
- (7) **fundamental rights**
- (8) **elections (free and fare)**
- (9) **judiciary**
- (10) **Federal Constitution .**

Constitutional framers does not swayed by the theoretical aspect of federalism , they have taken the pragmatic. Approach information of federalism in India .

some thinkers says it quasi federal but the fact remains that in India states are not agent of centre .

in India centre is strong but almost inter – government cooperation are made within the frame work of the constitution states enjoy larger amount of autonomy federal portions of the constitution cannot be amended unilaterally but cooperation of centre and state is necessary these aspects are essence to the federalism .

Suggested reading

- (1) Constitution of India , H.M. SREEVAI
- (2) Indian constitutional law M.P. JAIN
- (3) Constitution of India ,D.D. BASU

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