**Question: Discuss the Salient Features of Chinese Constitution**

**Answer**

The draft of 1982 Constitution of China was prepared by the Central Committee of the Communist Party of China after prolonged nationwide discussions spread over a span of 2 years. It was officially recognized by the National People Congress (NPC), which met in December 1982. The draft of the Constitution adheres to four cardinal principles namely; adherence to socialist road, to the people’s democratic dictatorship, to, the leadership by the Communist Party of China and by Marxism, Leninism and Mao Zedong thought. Chapter 1 of the Constitution of the People Republic of China (PRC) deals with general principles. It has 32 articles in all Following are the main features of the Chinese Constitution. Following are the salient features of Constitution of China.

1. **A Written Document:** The Constitution of People Republic of China is written in nature. It is a brief document containing 138 Articles, which comprises of four chapters. Though, it is brief yet it lays down in sufficient detail. The political, social and economic objectives ‘of the regime. It deals not only with the structure of the state machinery but is also embodies a program for future (Its preamble states the goals of the Communist regime in accordance with the basic lines of the Communist Party of China (CPC). According to Article-I of Chinese constitution People Republic of China (PRC) is a socialist state. The Socialist system is the basic system of People Republic of China. No individual or organization is allowed to sabotage the socialist system. This principle is based on the definite ideology of Marxism and Lenin as interpreted by .Chinese socialist leader Mao.
2. **A Transitional Constitution:** The Preamble of the constitution reveals that the document is meant to cater to the needs of the country during the transitional period i.e. from the inception of the People’s Republic of China to the attainment of Socialist Society. The leaders of the country have been often proclaiming that period of transition will last from 15 to 20 years. However the tightening of the iron hand of General Mao over China reveals that the transition period will never end and totalitarian regime will ever remain entranced on Chinese soil.
3. **Flexible Constitution:** The China Constitution of 1982 is flexible. Article-64 of the constitution declares, “Amendments to the constitution are to be propose by the standing committee of National People Congress (NPC) and by more than I/5th of the deputies to the NPC and adopted the majority vote of more than 2/3rd of all deputies to the Congress”. Statutes and resolutions are adopted by simple majority of the deputies of National People Congress.  In comparison with other rigid constitutions of the world the procedure of amendment in the Chinese Constitution is easier. Thus the constitution is not rigid, but a flexible.
4. **Unitary system:** The 1982 Constitution like the previous one (1954, 1975, 1978) provides for a unitary system. It provides for the centralization of powers at the Centre. Though there are provinces autonomous regimes and municipalities, but they are given powers by the Central Government, which can be taken always whenever it is so desired.
5. **People’s Republic:** Article-II of the Constitution says that all powers in People Republic of China belong to the people, which are exercised through National People Congress and Local People’s Congress. The people administer the state affairs and manage their economic, social and other affairs through various channels in various ways in accordance with law. The People Republic of China is a state of people’s democratic dictatorships led by the working class based on allowance of workers and peasants and rallying all democratic classes and various nationalities within the country.
6. **Democratic Centralism:** The Article-III of the constitution lays down that the state organs of People Republic of China apply the principle of democratic centralism. The National People at different levels is instituted through democratic election and responsible to the people. All the state organs are created by the people’s congresses. The division of powers and functions between the Centre and the local state organs is guided by the principle of giving full play to initiative and enthusiasm of local authorities under the unified leadership of central authorities. The government of the People Republic of China is a government of the People’s Congress on the principle of democratic centralism.
7. **Communist Party of China (CPC):** Like the Soviet Russia, the political system of China is also characterized by one party system i.e. the Communist Party of China (CPC) under the leadership of Mao Zedong and Marxist and Leninist thought is the guiding and controlling force and agency (in China). Though the Constitution does not emphatically and clearly declares the supreme position of the Communist Party, yet in practice, the party exercises complete control over the machinery of the government. The party occupies the position of permanently not only in the legislative and executive but also to the judicial branch. Thus every organ of .the government is under its control and nothing can be done either without its consent or against its will.
8. **Unicameral Legislature:** The constitution of the People Republic of China declares that there will be a unicameral legislature to be known as National People’s Congress (NPC). It is the highest organ of the state power and the sole legislative assembly of China. It is repository of all powers and authority in the country and people exercise their powers through it. Its deputies are directly elected by the people.
9. **Fundamental Rights and Duties**: The Article 33-36 of Chapter II of the constitution gives a detail description of the fundamental rights and duties of the citizens. The individual’s rights include right to vote, freedom of religion, freedom of speech, freedom of press, freedom of assembly, freedom of association, freedom of procession and of demonstration. The state also protects the right of citizens and their lawfully earned income saving, house, property and also his right to inherit property. The important duties include safeguarding the unity of the country, to abide by the laws of constitution, to defend the motherland and resist aggression, to perform.
10. **Public Interest:** The state forbids any person to use his private property to the detriment of the public interest. Again, it must be noted that in China, it is the government and in ultimate sense, the Communist Party that wholly determines what that “Public Interest” is.
11. **No Discrimination and Exploitation:** The constitution of China declares that all nationalities are equal which a major characteristic of Chinese constitution is. All types of discrimination or oppression with any nationality and acts, which undermine the unity of the nationalities, are prohibited. It also disbands the exploitation of man by man or exploitation of men by state.

**Question: Discuss the composition, powers and functions National People's Congress**

**Answer**

The National People's Congress is the highest organ of state power. It is a unicameral legislature unlike that of Supreme Soviet of Soviet Russia which is unicameral legislature. It only and the highest legislative body in the country.

**Composition**

The NPC is composed of deputies elected from the provinces, autonomous regions and municipalities directly under the Central Government and deputies elected by the People Liberation Army. The deputies are elected by secret ballot. The numbers of deputies to the Congress and manner of their elections are to be prescribed by electoral laws. All the citizens of the People Republic of China, who have attained the age of eighteen, have the right to vote and be elected irrespective of nationality, sex, race, occupation, religion education, property social origin, status or residence. The land lords whose status has not been changed according to law counter revolutionaries and others who have been deprived of political rights according to law and insane person are denied the right to vote. The Congress at present consists of about 3000 deputies.

**Term**

The NPC is elected for a term of five years. The Standing Committee of the NPC must ensure the completion of election of deputies to the succeeding NPC two months prior to the expiration of the term of office of the current NPC. Under special circumstances its term can be extended or the succeeding National People’s Congress may be convened before its due date. The Congress holds its session once a year. When necessary’ the session may be advanced or postponed.

 **Functions and Powers**

The NPC exercises the following functions and powers:

1. To amend the Constitution: The amendment of the Constitution shall be proposed by the Standing Committee of the NPC or more than one-fifth of the deputies to the NPC and can only be adopted by a majority of no less than two-thirds of the deputies to the NPC.
2. To supervise the enforcement of the Constitution;
3. To enact and amend basic laws governing criminal offences, civil affairs, the state organs and other matters;
4. To elect the President and the Vice President of the People's Republic of China;
5. To decide on the choice of the Premier of the State Council upon nomination by the President, and on the choice of the Vice Premiers, State Councilors, Ministers in charge of ministries or commissions, the Auditor-General and the Secretary-general of the State Council upon nomination by the Premier;
6. To elect the Chairman of the Central Military commission and, upon nomination by the Chairman, to decide on the choice of all other members of the Central Military Commission;
7. To elect the President of the Supreme People's Court;
8. To elect the Procurator-General of the Supreme People's Procurator;
9. o examine and approve the plan for national economic and social development and the report on its implementation;
10. To examine and approve the state budget and the report on its implementation;
11. To alter or annul inappropriate decisions of the Standing Committee of the NPC;
12. To approve the establishment of provinces, autonomous regions, and municipalities directly under the Central Government;
13. To decide on the establishment of special administrative regions and the systems to be instituted there;
14. To decide on questions of war and peace;
15. To exercise such other functions and powers as the highest organ of state power should exercise.

**Removal Power**

The NPC has the right to remove the following functionaries:

1. The Chairman and Vice Chairman of the People's Republic of China;
2. The Premier of the State Council, the Vice Premiers, State Councilors, Ministers in charge of the ministries or commissions, the Auditor-General and the Secretary-general of the State Council; c
3. The Chairman, Vice Chairman and other members of the Central Military Commission;
4. The President of the Supreme People's Court;
5. The Procurator-General of the Supreme People's Procuratorate.
6. Deputies to the People's Congresses, g. The election of deputies

**Rights and Privileges of the Deputies**

The members of the national Congress possess the rights to address inquiries to the State Council or to Ministers and Commission of the State Council, the Supreme People’s Court and Procuratorates. No deputy may be arrested or placed on trail without the consent of People’s National Congress or its Standing Committee when it is not session. The deputies of the Congress are subject to supervise by the units which elect them. These electoral units possess the power to replace at any time the deputies they elect as prescribed by laws.

**Conclusion**

An appraisal o the powers and functions of the Congress make us conclude that National People’s Congress is not merely a deliberative body. It governs the country. It makes and unmakes the executive. It appoints and removes the head of the judicial and chief Procurator. It is the deciding factor on the question of war and peace. It plays a pivotal role in the national finances. It can even amend constitution and supervise its implementation. Thus, apparently it exercises legislative, financial, executive, judicial and constituent powers. But, what is a legal truth is a political untruth. How cans such an unwieldy body meeting once a year, afford to attend to such important functions as enumerated in article 22-23? Evidently all these routine functions are performed by a smaller body termed as Standing Committee of the Congress.

  **Question; Discuss the composition, powers and functions of Standing Committee of the National People’s Congress.**

The Standing Committee of the NPC is the permanent organ of the NPC. When the NPC is not in session, the Standing Committee performs the right of the highest organ of state power. It is responsible to and reports to the NPC. The NPC meets once a year though its functions are all embracing. Hence a standing committee has been constituted by the New Constitution in order to carry on the NPC’s functions when it is not in session. Article 24 describes the Standing Committee as the permanent organ of the National people Congress.

**Composition of NPC**

Article 24 describes the Standing Committee as the permanent organ of National People’s Congress. The Standing Committee of the NPC is composed of the Chairman, Vice Chairmen, Secretary-general and members. Ethnic minorities are entitled to appropriate representation on the Standing Committee. It is responsible and accountable to the NPC.The NPC elects and has the power to recall members of the Standing Committee.

**Term**

The term of office of the Standing Committee corresponds with that of the NPC and it shall exercise its power until a succeeding Standing Committee is elected by the succeeding NPC. The Chairman and Vice Chairmen of the NPC shall not serve more than two consecutive terms.

**The functions and powers of the Standing Committee**

The Standing Committee of NPC exercises the following functions and powers:

1. To interpret the Constitution and supervise its enforcement;
2. To conduct the election of deputies.
3. To convene the session of NPC
4. To supervise the work of the State Council, the Central Military Commission, the Supreme People's Court and the Supreme People's Procuratorate.
5. To change or annul inappropriate decisions adopted by the organs of the state powers. of provinces, autonomous regions and municipalities directly under the Central Government.
6. To decide on the appointment and removal of individual members of the State Council when NPC is not in session.
7. To decide, upon nomination by the Chairman of the Central Military Commission, on the choice of other members of the Commission, when the NPC is not in session;
8. To decide on the appointment or recall of plenipotentiary representatives abroad;
9. To appoint and removal Vice –President of the Supreme People’s Court and Deputy Chief Procurators of the Supreme People’s Procuratorate.
10. To decide on the ratification and abrogation of treaties concluded with foreign states.
11. To decide on the granting of special pardons;
12. To Institute state titles of honour and decide on their conferment.
13. To decide, when the NPC is not in session, on the proclamation of a state of war in the event of an armed attack on the country or in fulfillment of international treaty obligations concerning common defense against aggression;
14. To decide on the imposition of martial law throughout the country or in particular provinces, autonomous regions, or municipalities directly under the Central Government;
15. To exercise such other functions and powers as the NPC may assign to it.

**Organs of the Standing Committee**

The Chairman of the Standing Committee of the NPC directs the work of the Standing Committee and convenes its meetings. The Vice Chairmen and the Secretary-general assist the Chairman in his work.
The Chairman, Vice Chairmen and Secretary-general constitute the Council of Chairmen which handles the important day-to-day work of the Standing Committee of the NPC.The Standing Committee of the NPC establishes a deputy credentials examination committee to examine the credentials of the deputies to the current NPC through by-elections and those newly elected to the succeeding NPC. The credentials examination committee is composed of the chairman, vice chairman and members, nominated from among the members of the Standing Committee by the Council of Chairmen and agreed upon by the plenary session of the Standing Committee. The NPC establishes special committees to examine, discuss and draw up relevant bills and draft solutions under the direction of the NPC and its Standing Committee.
When the NPC is not in session, its special committees work under the direction of the Standing Committee of the NPC.

**Conclusion**

An analyzing of the functions of the Standing Committee reveals that this is a wieldy body performing heterogeneous functions during the intervals of the NPC. Since NPC remains on as long recess, it plays a pivotal role in framing legislature which appears in the form of decrees and is formally ratified by the NPC when it meets. Likewise it controls the executive and supervises even the judiciary. Its power of interpreting the constitution reminds us of the American Supreme Court. Its power of ratification and abrogation of treaties with foreign States takes it close to the American Senate. Powers of institution of titles of honor and their conformant, granting pardons and proclamation of a state of war draws it closer to the British Crown.