

The evolution of the Indian Constitution and its principles can be understood through the following historical perspectives:

1. Ancient Indian Governance Systems Governance in ancient India was often decentralised during the Vedic period, with decisions made through assemblies and councils like the Sabha (Council of Elders) and Samiti (a more powerful assembly involved in electing kings and passing laws). The concept of Janapadas, ancient political units with republics and kingdoms, followed participatory governance, where people's involvement in decision-making was important. These ideas later appeared in the Indian Constitution.

2. Influence of British Rule The British Rule introduced modern political institutions and governance concepts, although primarily to serve their own interests. Several important Acts passed during this period shaped the Indian political structure.

- \* Charter Acts: Starting in 1773, these acts gradually reduced the power of the East India Company, transferring authority to the British Crown. The 1833 Act consolidated British power and established a centralised administrative system, influencing India's future governance structure.

- \* Government of India Act 1858: Following the 1857 Indian Rebellion, the British Crown took direct control, ending East India Company rule and establishing governance through a Viceroy and Governor-General. This centralised system further shaped India's administrative structure.

- \* Government of India Act 1919: This introduced the concept of Dyarchy, dividing subjects between provinces and the central government, representing a step towards political decentralisation and self-governance.

- \* Government of India Act 1935: Described as the most important British legislation leading India towards self-rule, this act introduced the concept of a Federal System with a division of powers between the central government and provinces. It provided a framework for India's future parliamentary and federal structure and was a major influence on the Constitution's drafting.

3. Key Milestones of Independence and the Constituent Assembly The Indian Independence Act of 1947 was a turning point, granting India independence and leading to the creation of the Constituent Assembly to frame the new Constitution. Formed in 1946, the Assembly comprised 299 members representing various backgrounds and interests across India. The drafting process involved significant debates on issues that would define India's political system, including Federalism, Fundamental Rights, and Social Justice. While a quasi-federal system with a strong centre was chosen, the debates ensured diverse points of view were reflected. The Constitution was adopted on 26 November 1949 and India became a Republic on 26 January 1950.

4. Influences on the Constitution's Principles The principles embedded in the Constitution were shaped by a blend of various ideas:

- \* Western Liberal Thought: Inspired concepts like democracy, liberty, and individual rights, leading to the adoption of a republican form of government with elected representatives and an independent judiciary. Influences came from systems like those in the United States and the British Parliamentary system.

- \* **Socialist Ideals:** Concern for India's social and economic inequalities influenced the inclusion of provisions for social welfare, state intervention in the economy, and workers' rights
- \* **Gandhian Principles:** Ideas like non-violence, rural development, and self-sufficiency influenced provisions related to Panchayati Raj and rural welfare.
- \* **Indian Tradition:** Indian cultural, religious, and philosophical traditions, including values like non-violence, respect for diversity, and community welfare, are reflected in the Constitution's provisions on social justice and secularism.

## The Preamble

Preamble serves as the introduction to the Indian Constitution. It defines the Constitution's goals, ideals, and objectives. It is described as a short paragraph stating India's core values and goals. Dr. B.R. Ambedkar referred to the Preamble as the "soul of the Constitution". The Preamble outlines several key values and ideals that describe the kind of country India aims to be:

### Core Values (Nature of the Indian State):

- \* **Sovereign:** This means India is a completely independent country and makes its own decisions, internally and internationally, without control from any other nation.
- \* **Socialist:** This implies striving for equality for everyone, particularly supporting poor and vulnerable people. The government makes policies to reduce the gap between the rich and poor and work for everyone's welfare.
- \* **Secular:** India is a secular state, meaning the government does not favour any one religion. Every religion is respected, and every citizen has the freedom to choose, practice, and spread their religion or not follow any religion at all, receiving equal treatment. This value helps maintain peace and unity in a diverse country.
- \* **Democratic:** India is a democracy, where the government is of the people, by the people, and for the people. People elect their government through free and fair elections, and leaders are accountable to the public. Every citizen has an equal vote.
- \* **Republic:** This signifies that the Head of the State (the President) is elected, rather than holding the position based on heredity like a monarch. This ensures that leadership comes from the people's vote, and power is not permanently held by one family.

### Ideals (Objectives of the Constitution):

- \* **Justice:** The Preamble seeks to secure justice for all citizens at the social, economic, and political levels. Social justice aims for an equal society without discrimination based on caste, gender, religion, or background. Economic justice focuses on the fair distribution of wealth and resources, ensuring basic needs are met. Political justice guarantees every citizen an equal right to participate in politics, including voting.
- \* **Liberty:** This ideal guarantees the freedom of thought, expression, belief, faith, and worship. Citizens are free to express their opinions openly, believe in what they choose, and freely follow their religion or faith without coercion. This personal freedom is essential for a dignified life.
- \* **Equality:** The Constitution aims for equality of status and opportunity for all citizens. Everyone is equal before the law, and all individuals should have equal chances to advance

in life, regardless of their background. Policies like reservations for backward communities are mentioned as part of this idea.

\* **Fraternity:** This promotes brotherhood and unity among all citizens. It fosters a sense of belonging and mutual respect, viewing every person as part of one family and respecting their dignity. Fraternity helps keep India united despite its diverse languages, religions, and cultures.

The Preamble begins with the phrase "We, the People of India," which signifies that the Constitution's power originates from the people themselves. It indicates that the people collectively made the Constitution for themselves. Overall, these values act as a guiding principle, a moral compass, and the philosophical foundation for understanding the Constitution's true purpose and aspirations for the nation. They are considered "living values" that guide every generation.

## **Fundamental Rights are defined as the basic rights granted to every citizen.**

They are located in Part Three of the Constitution, specifically Articles 12 to 35. These rights provide every citizen with basic freedoms, such as freedom of speech, equality before law, freedom of religion, and protection of life and liberty.

\* The main purpose of Fundamental Rights is to protect citizens from the unjust actions of the government and to ensure a dignified life for everyone.

\* D.D. Basu states that Fundamental Rights are the foundation of any modern democracy. They are described as powerful rights that cannot be taken away by the Government or any other authority.

\* These rights guarantee a fair environment for growth, the ability to express ideas, and active participation in public life. Democracy involves not just freedom but also the empowerment of citizens to hold the government accountable.

\* M.V. Pylee highlights that without Fundamental Rights, the government could misuse its power. The existence of these rights means that actions by the Government or any authority can be challenged in court if they are wrong. They protect citizen's freedom, dignity, and equality, embodying the essence of constitutional democracy.

\* A crucial aspect is their enforceability; if Fundamental Rights are violated, citizens can approach the court. This is guaranteed by the Right to Constitutional Remedies.

### **six major categories of Fundamental Rights:**

#### **1. Right to Equality (Articles 14 to 18):**

\*Article 14: Equality Before Law. All citizens are equal in the eyes of the law, regardless of wealth.

\* Article 15: No Discrimination. Discrimination based on religion, caste, sex, or place of birth is prohibited in areas like education, jobs, and public places.

\* Article 17: Abolition of Untouchability. Untouchability is considered a crime and is punishable.

\* Article 18: Abolition of Titles. The Government cannot grant titles that would make someone superior.

#### **2. Right to Freedom (Articles 19 to 22):**

\* Article 19: Freedom of Speech and Expression. Citizens have the right to express their opinions through speech, writing, or other mediums. This is considered the soul of democracy. It also includes the rights to assemble peacefully, form groups and associations, and move freely throughout India. However, these freedoms can be restricted if they harm national security or public order.

\* Articles 21 & 22: Protection Against Arbitrary Arrest. A citizen cannot be arrested without a valid reason, and the reason for arrest must be provided. The arrested person must be presented before a magistrate within 24 hours.

### **3. Right Against Exploitation (Articles 23 to 24):**

\* Article 23: No Forced Labour or Human Trafficking. Forcing someone to work or engaging in human trafficking or bonded labour is strictly prohibited.

\* Article 24: No Child Labour. Children below 14 years of age are prohibited from working in hazardous industries like factories or mines. Every child is entitled to a safe childhood and education.

### **4. Right to Freedom of Religion (Articles 25 to 28):**

\* Article 25: Freedom of Conscience and Religion. Every citizen has the right to freely follow any religion or no religion at all.

\* Articles 26 to 28: Religious Equality. The State will not favour any single religion, and all religions are allowed to practise freely as long as they do not harm public order or morality. Religious instruction in schools or public institutions is subject to certain conditions.

### **5. Cultural and Educational Rights (Articles 29 to 30):**

\* Article 29: Protecting Minority Culture and Language. Minority groups have the right to preserve their language, culture, and identity.

\* Article 30: Right to Establish Institutions. Religious and linguistic minorities can establish their own educational institutions to preserve their culture. This ensures that every community can secure its identity through education.

### **6. Right to Constitutional Remedies (Article 32):**

\* This is the right that protects all other Fundamental Rights. If a citizen's rights are violated, they can approach the Supreme Court under Article 32.

\* The Supreme Court can issue writs (like Habeas Corpus, Mandamus, Certiorari, Prohibition, and Quo Warranto) to restore violated rights.

\* Dr. B.R. Ambedkar referred to Article 32 as the "heart and soul of the Constitution". While Fundamental Rights are crucial, they are not absolute.

\* Limitations can be imposed by laws under certain situations, such as restricting freedom of speech if it promotes hatred or violence, for reasons of public order, morality, and national security.

\* During a National Emergency (under Article 359), the President can suspend some Fundamental Rights. However, the Right to Life and Liberty (Article 21) usually remains protected. During an emergency, protecting national interest becomes the priority, which can temporarily place some individual rights on hold. In the broader constitutional framework, Fundamental Rights are interconnected with Fundamental Duties and Directive Principles of State Policy (DPs). As discussed previously, while Fundamental Rights grant

freedoms, Fundamental Duties remind citizens of their responsibilities, and DPs guide the state in creating a just and welfare-oriented society where these rights can be effectively enjoyed by all.

The Directive Principles of State Policy, while not legally enforceable, also embody the goals of social and economic justice that the state should strive for in its policies, working in conjunction with fundamental rights to create a just and equitable society. In essence, the constitutional values are the bedrock of India's democratic framework, representing the ideals of justice, equality, liberty, and fraternity that guide the nation's journey and require conscious effort from all citizens and institutions to uphold. Drawing on the provided sources, we can distinguish between Fundamental Rights and Directive Principles of State Policy (DPSPs) based on several key characteristics. Both are integral parts of the Indian Constitution's framework, but they differ significantly in their nature, purpose, and enforceability. Here are the main distinctions:

### **1. Justiceability:**

- \* Fundamental Rights are justiciable. This means they can be enforced in a court of law. If a citizen's Fundamental Right is violated, they can approach the courts to seek a remedy.
- \* Directive Principles are non-justiciable. They cannot be enforced through the courts. If these principles are violated or not followed by the state, citizens cannot seek legal redress in court based solely on their violation.

### **2. Focus/Purpose:**

- \* The focus of Fundamental Rights is on individual freedoms and protecting citizens from arbitrary state action. They aim to ensure basic freedoms such as freedom of speech and the right to life, ensuring a dignified life for every citizen.
- \* The focus of Directive Principles is on social and economic welfare. They are guidelines for the state to promote policies that aim for poverty alleviation, equitable wealth distribution, education, health, and overall social and economic justice for all citizens.

### **3. Nature:**

- \* Fundamental Rights are generally negative in nature. They place limitations on the powers of the state, preventing the state from infringing upon individual freedoms.
- \* Directive Principles are generally positive in nature. They direct the state to take active steps or make policies towards achieving the goals of a just and equitable society.

### **4. Role:**

- \* The primary role of Fundamental Rights is to protect individual rights from the state. They serve as safeguards against potential state overreach or arbitrary actions.
- \* The role of Directive Principles is to guide the government in policy and law-making. They help the state work towards establishing a welfare state and ensuring social and economic justice.

### **5. Enforceability:**

- \* Fundamental Rights can be enforced in court, and remedies are available for their violations. Article 32, referred to as the "Heart and Soul of the Constitution" by Dr. B.R. Ambedkar, grants the right to constitutional remedies, allowing citizens to approach the Supreme Court for the enforcement of their Fundamental Rights.
- \* Directive Principles cannot be enforced in court. While they are important guidelines, their violation does not provide citizens with a legal basis for seeking remedies in the courts. Despite these differences, Fundamental Rights and Directive Principles are

intended to work together to create a just and balanced society. While Fundamental Rights protect individual freedoms, DPSPs guide the state in implementing policies that promote collective well-being and social justice. a constitutional democracy. It goes beyond simply following the written law; it involves understanding and applying the ethics and spirit behind the Constitution.

## **Constitutional Morality**

Constitutional Morality is a fundamental concept within the Indian political and legal framework. Here is a breakdown of what Constitutional Morality entails, according to the sources:

- \* It represents the principles and values of the Constitution.
- \* It is described as the ethical values clearly defined in our Constitution.
- \* These core values include justice, equality, liberty, and the Rule of Law.
  - Rule of Law: Everyone, including the government, is equal before the law.
  - Equality Before Law: No discrimination based on caste, religion, gender, or race; everyone receives equal treatment.
  - Justice and Fairness: Striving for social and economic justice, ensuring equal opportunities and preventing exclusion of any group.
  - Secularism: The state does not favour any single religion, allowing all citizens to practise their faith freely without bias.

As Dr. B.R. Ambedkar noted, Constitutional Morality is not an inherent sentiment but has to be cultivated. Constitutional Morality is explicitly contrasted with Popular Morality. While popular morality is based on the opinions of the majority or social norms, influenced by emotions or political ideologies, constitutional morality is based on the clear values defined in the Constitution, such as Justice, Equality, Liberty, and Fairness.