



सत्यमेव जयते

THE CONSTITUTION OF INDIA

SALIENT FEATURES

INTRODUCTION

The Constitution of India is the supreme law of India. It lays down the framework 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 citizens. It is the longest written constitution of any sovereign country in the world, containing **448 Articles in 22 parts, 12 Schedules and 98 Amendments**. The Constitution was adopted by the Constituent Assembly on **26 November 1949**, and came into effect on **26 January 1950**.

Points to be noted :-

- Constitution of India is the supreme law.
- It lays down the framework defining political principles
- Establishes the structure, procedures, powers and duties of government institutions
- Sets out fundamental rights, directive principles and duties of citizens.
- Its repeated criticism is that it is very little original and mostly borrowed from other constitutions
- Never less, it has distinctive features of its own and is unique in many ways.



1. What Is Constitution Anyway?

Almost everything we do is governed by some set of rules. There are rules for games (like- soccer), for social clubs and for adults in the workplace. There are also rules imposed by morality and custom that play an important role in telling us what we should and should not do.

For example- In the game of soccer, a referee has "full authority to enforce the Rules or Law of the Game on the Players", when a player do something against the Rules referee takes action like send-off a player, as shown in images below.



should



Should not



Red-card



Some rules that are made by the legislatures (also known as Lok sabha /Rajya Sabha in India), for there own country, are called “Law”.

We need Laws in Society so our society can regulate and work properly. They are designed to protect us and our property and to ensure that everyone in society behaves the way that the community expects them too.

Laws tell us what to expect as a consequence of our actions. Laws have been the glue that has kept society together. Without laws there would be complete anarchy.

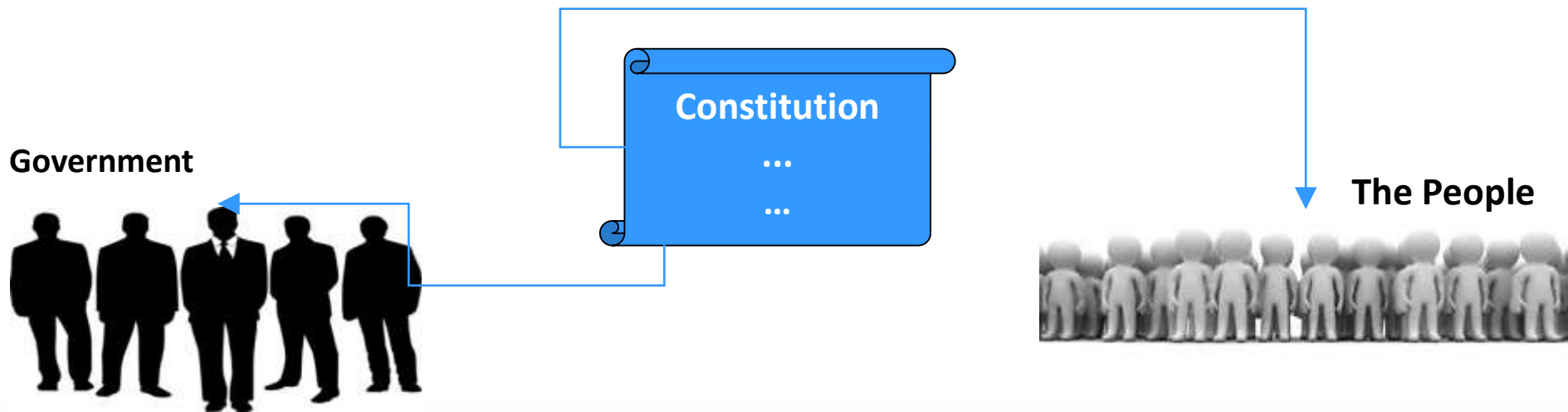




The Constitution is the supreme law of the land. All other laws have to conform to the Constitution. The constitution contains laws concerning the government and its relations with the people.

A constitution is concerned with 2 main aspects:-

- a) The relation between the different levels of government and
- b) Between the government and the citizens.



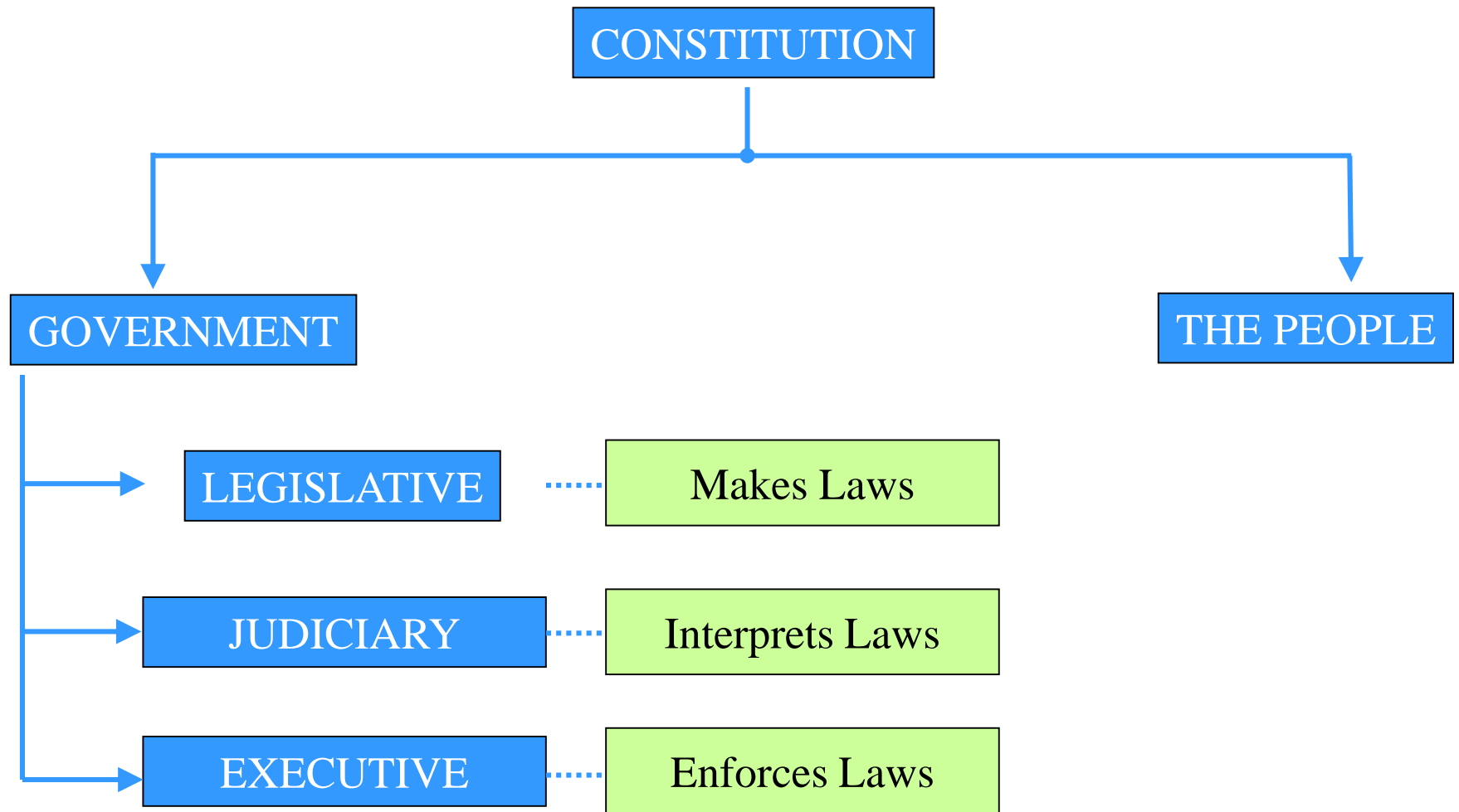
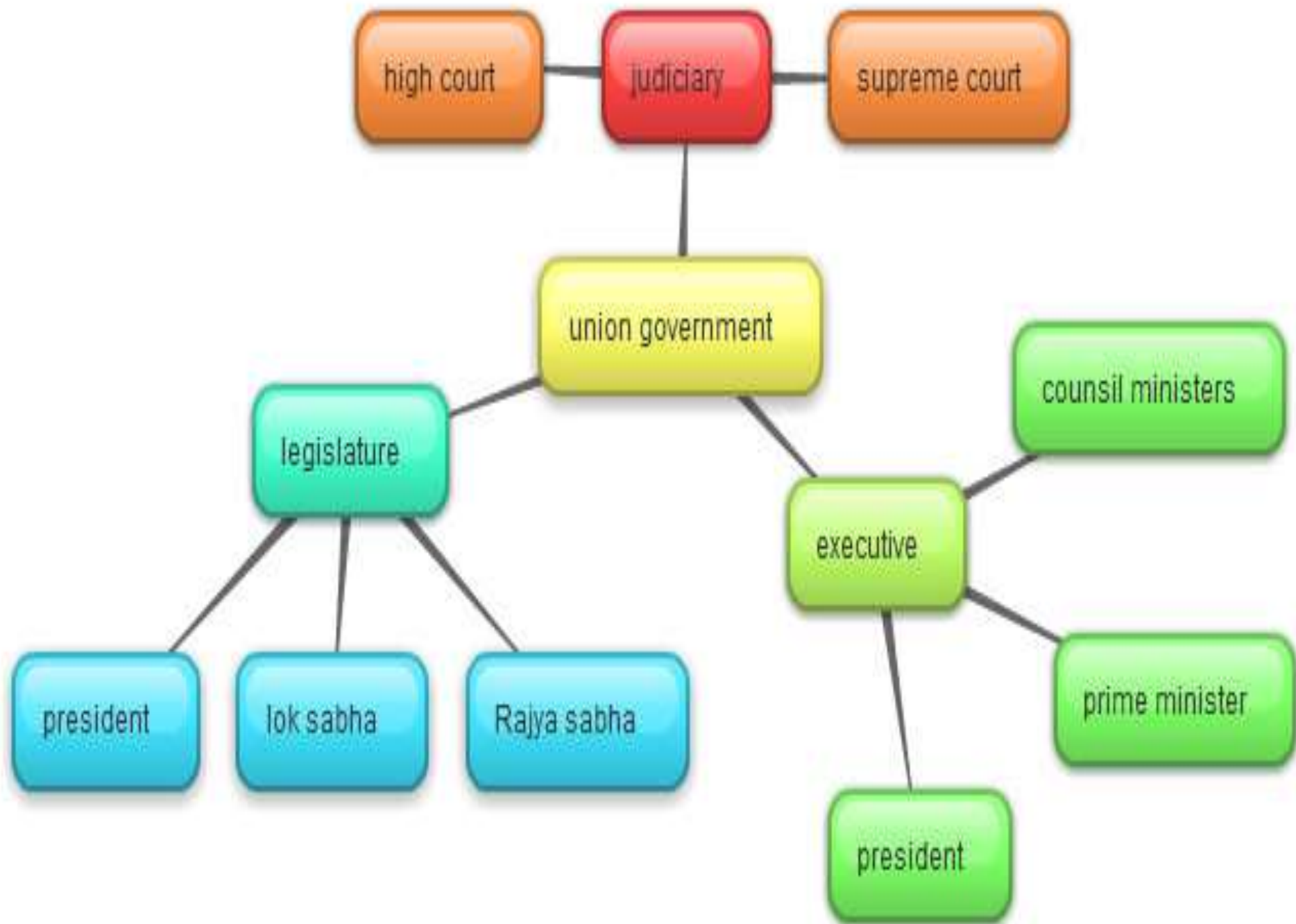


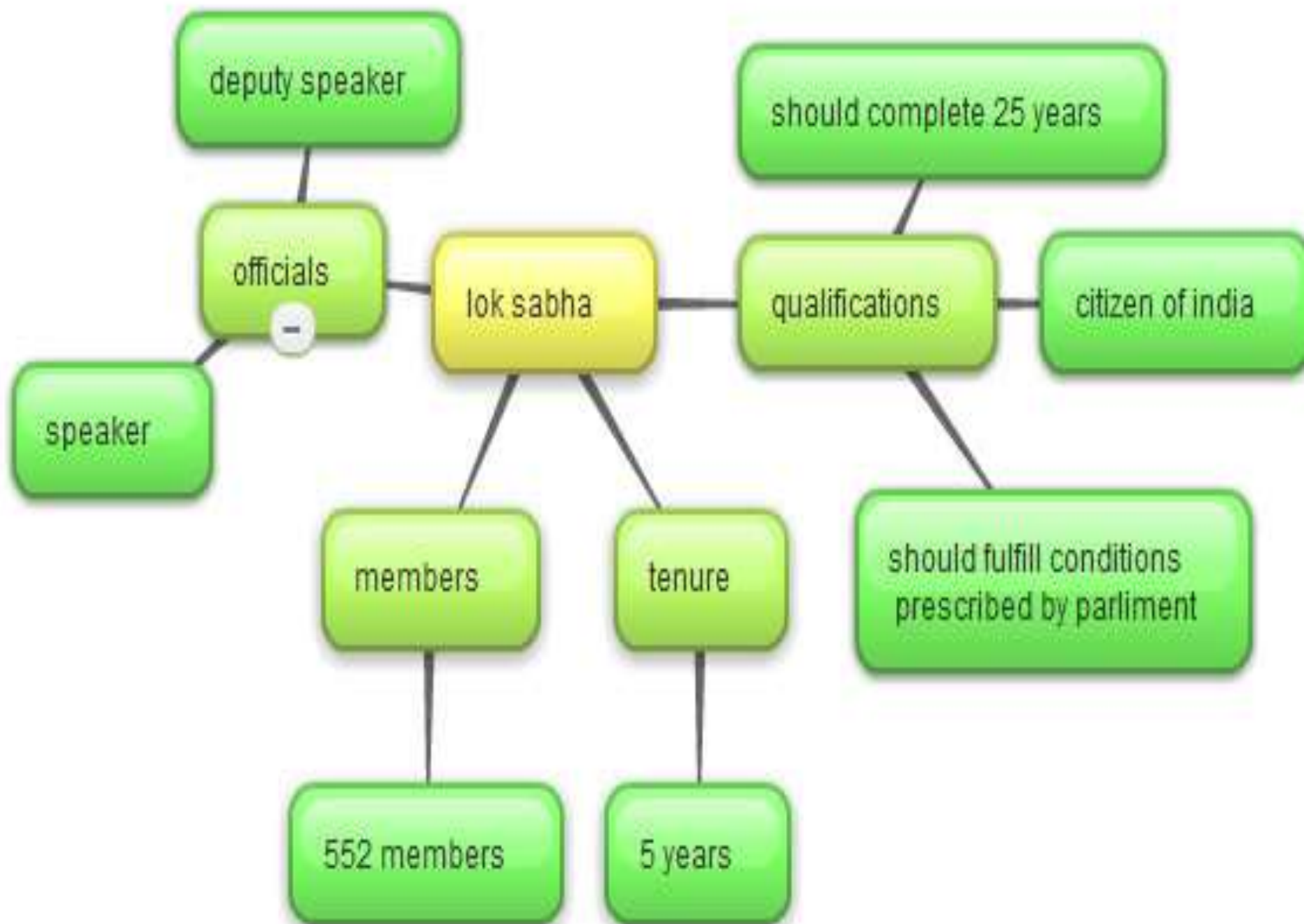
Fig.- Role of Constitution in relationship between Government and its people

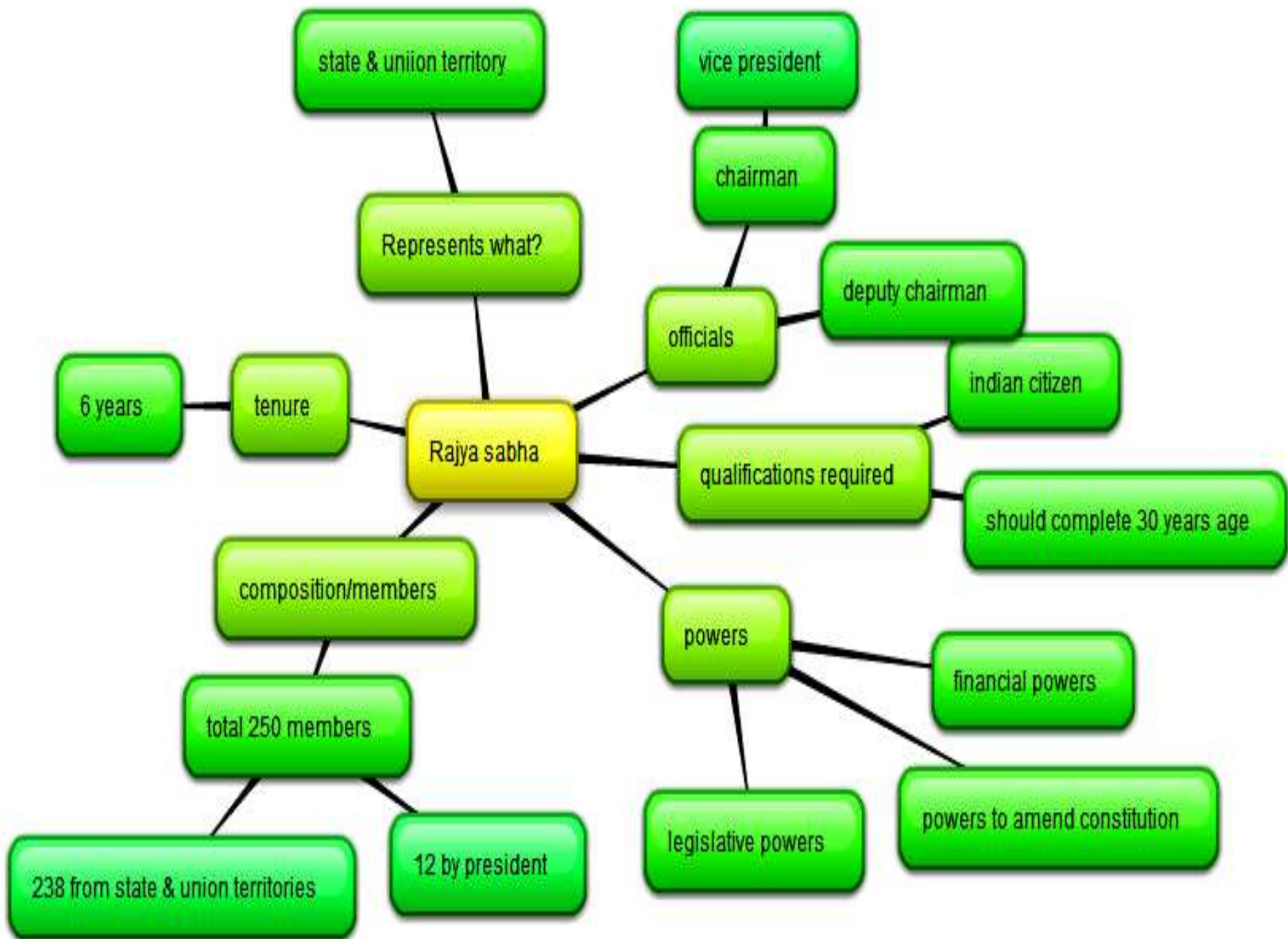


UNION LEGISLATURE

- The union legislature is known as parliament.
- Parliament consists of president , lok sabha , Rajya sabha.
- Lok sabha & Rajya sabha are two houses of parliament.









Technical Definitions-

A constitution is a set of fundamental principles or established precedents according to which a state or other organization is governed. These rules together make up, i.e. *constitute*, what the entity is. When these principles are written down into a single collection or set of legal documents, those documents may be said to comprise a **written constitution**.

or

The document containing laws and rules which determine and describe the form of the government, the relationship between the citizens and the government, is called a **Constitution**.



2. Why Do We Need Constitution?

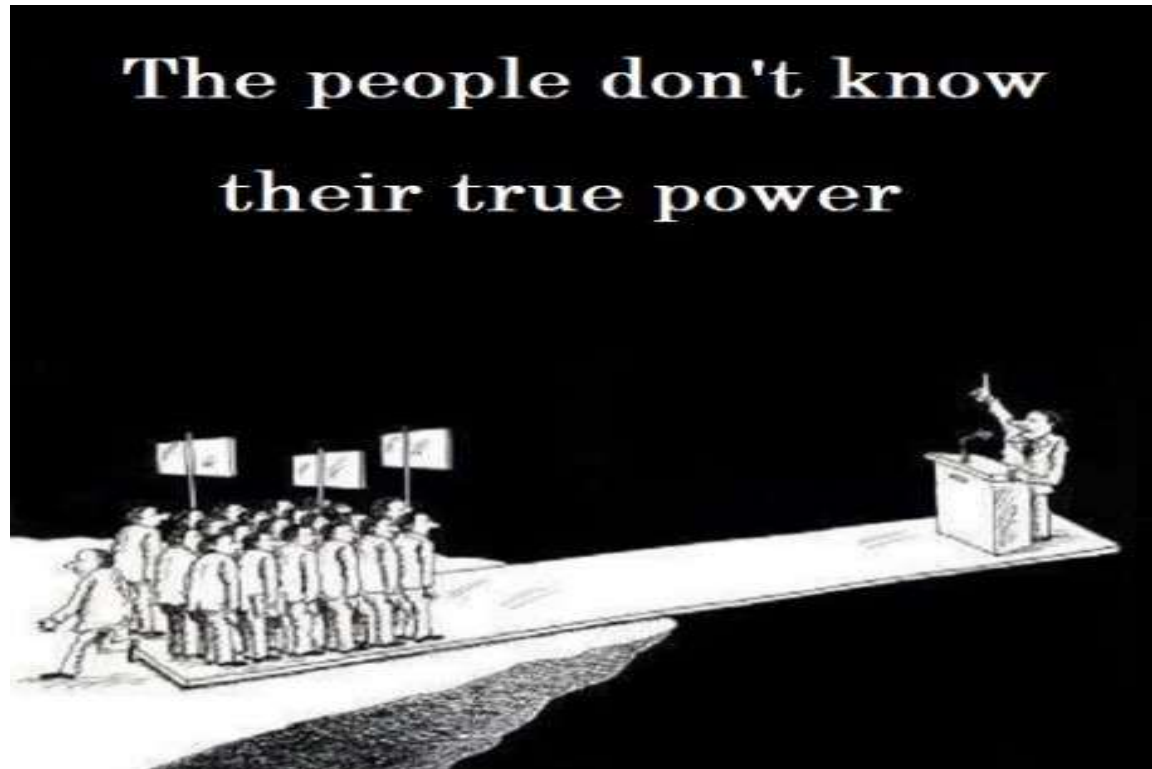
In General-

- I. We need a constitution to govern a country properly.
- II. The constitution defines the nature of political system of a country.
- III. sometimes we feel strongly about an issue that might go against our larger interests and the constitution helps us guard against this.
- IV. All the 3 organs of government (executive, legislature and judiciary) functions within the constitution. All the 3 organs of government, including ordinary citizens, derive their power and authority (i.e. Fundamental Right) from the constitution. If they act against it, it is unconstitutional and unlawful.

So constitution is required to have authoritative allocation of power and function, and also to restrict them within its limit.



2. Why Do We Need Constitution?





2. Why Do We Need Constitution?

To Perform the following functions we need Constitution:

- I. **The first function** of a constitution is to provide a set of basic rules that allow for minimal coordination amongst members of a society.
- II. **The second function** of a constitution is to specify who has the power to make decisions in a society. It decides how the government will be constituted.
- III. **The third function** of a constitution is to set some limits on what a government can impose on its citizens. These limits are fundamental in the sense that government may ever trespass them.
- IV. **The fourth function** of a constitution is to enable the government to fulfill the separations of a society and create conditions for a just society.

NEED OF THE CONSTITUTION

- Constitution plays a crucial role in laying out certain important guidelines that govern.
- The Right to Equality is one of the fundamental Rights, guaranteed by the Indian constitution.
- Ensures that a dominant group does not use its power against the minorities.
- Constitution is to save us from ourselves
- The Constitution helps to protect us against certain decisions that we might take that could have an adverse effect on the larger principles that the country believes in.



History of Indian Constitution

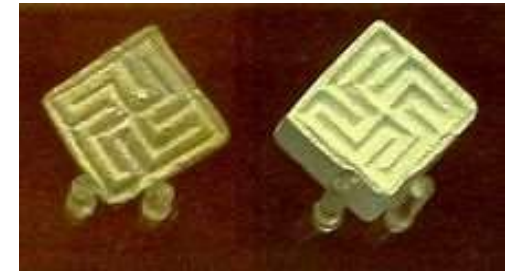




3.The History of Constitution of India.

A Look at Ancient India-

India is a home of ancient “Indus valley civilization” which goes back to 3300–1300 BC (mature period 2600–1900 BC). India is a world famous for its ancient history and culture.



Shiva Pashupati & Swastika Seals from the Indus Valley

The time Before 500 AD is widely accepted as era of Ancient India. The earliest anatomically modern human remains found in South Asia date from approximately 30,000 years ago.

But regarding to *Constitutional History*, India goes back to only 3rd Century BC(269 BC to 231 BC) in the time of the **Emperor “Ashoka The Great.”**



INDIAN CONSTITUTIONAL HISTORY

1.324 BC - 185 BC

Emperor Ashoka Maurya established constitutional principles, Engraved them in major rocks, pillar and on minor rocks for public to take reference. Also known as **Edicts of Ashoka**.

2.1599AD - 1765AD

East India Company takes **total administrative control** by gaining right of taxation in Bengal after Battle of Plassey (1757).

3.1765AD - 1858AD

East India Company takes **total unified control** over the whole of India from a single center in Calcutta. But its rule ended with the Revolt of 1857.

4.1858AD - 1947AD

This period of the **British Raj** was the time when the **Constitution of India** took shape.

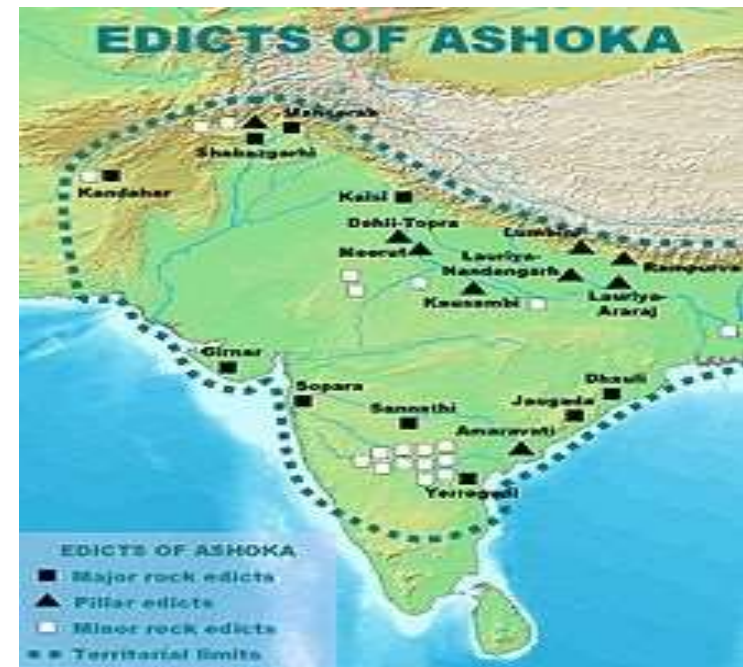
5.1950 AD

Finally **Constitution of India**, created in **independent India** by its own free people, was adopted on 26 November 1949 and came into effect on 26 January 1950. As we know it and use it today.



1) **The Edicts of Ashoka (324 BC - 185 BC)** established constitutional principles for the 3rd century BC Maurya king's rule in Ancient India.

The Edicts of Ashoka are a collection of 33 inscriptions on the Pillars of Ashoka, as well as boulders and cave walls, made by the Emperor Ashoka of the Mauryan dynasty.



Fragment of the 6th Pillar, in Brahmi, View of the Ashokan Pillar at Vaishali. sandstones. British Museum.



2) **East India Company (1599AD-1765AD)**- In 1600, the East India Company came to India as a trading company from Britain. In 1765, it became an administrative power after gaining the **Right of Taxation** in Bengal after defeating the Nawab of Bengal at the Battle of Plassey (1757).



Established in 1600 by Queen Elizabeth



View of East India House



3) **East India Company (1765AD-1858AD)**- During this period, the company established a **unified control over the whole of India** from a single center in Calcutta. Different Acts and Laws were forced by company during this period just so company could remain in power and authority. But the company came under increasing control by parliament of Britain and its rule ended with the Revolt of 1857.



Different battles all over the India.



4) **British Raj(1858AD-1947AD)**- This period of the British Raj was the time when the Constitution of India took shape. The main stages of its evolution were:

I. **The Act for the Better Government of India (1858)** - This put India directly under the control of the British government. It set up the office of the Secretary of State, member of the British parliament, who would be in charge of Indian government. In India, the Governor-General, working under the Secretary of State, led the administration.



Flag of British India (Known as star of India)



Left Hunting of Indian Tigers, Right Famines and epidemics in the British Raj

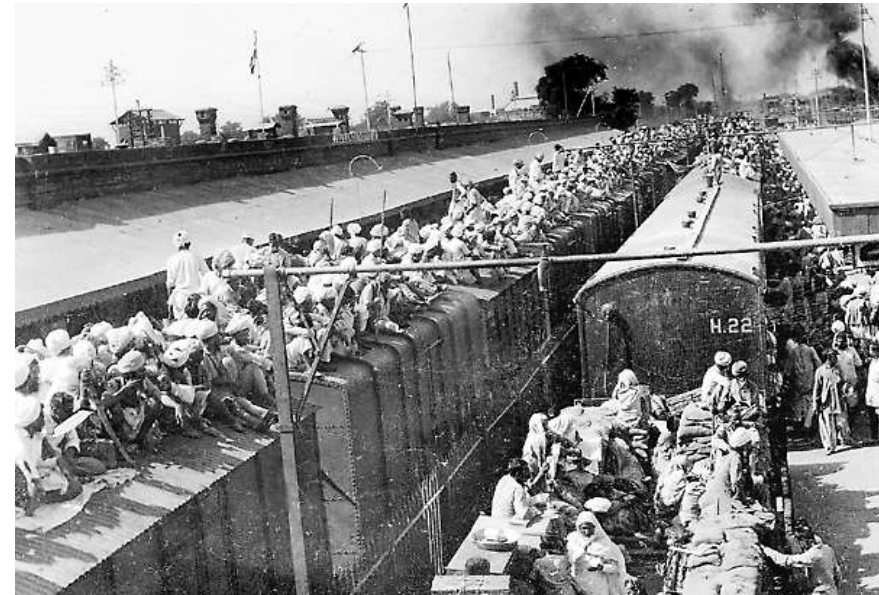


- II. **Indian Councils Act (1861)**- A separate legislative council was set up to assist the Governor-General in making laws. Indians could be appointed to the council, but only on the discretion of the Governor-General.
- III. **Indian Councils Act (1892)**- As a result of Indian demands, the sizes of the executive and legislative councils were increased. More Indians were appointed to these Councils, and the principle of election was introduced.
- IV. **Indian Councils Act (1909)**- This act increased the sizes of the councils again, and also gave the legislative council the power to discuss certain matters and to ask questions. More people were elected to the councils.
- V. **Government of India Act (1919)**- This introduced 'diarchy' (partial responsible government) at the provincial level. Elected Indians were given charge of some areas of government (e.g., industry, education) at the provincial level.



VI. Government of India Act (1935)- This introduced 'provincial autonomy': responsible government at the provinces with elected Indians in charge of the administration, and responsible to the elected legislatures. A federal government was proposed, though it did not come into effect. At the centre, 'diarchy' was introduced.

VII. Indian Independence Act (1947)- The British gave up control of the Government of India to two dominions - India and Pakistan. For the time being till the constitution was made, both of them would be governed in accordance with the Government of India act 1935.



The Partition of British India was based on the prevailing religions, broadly as shown in this map of 1909.

Photo of Refugees at railway station in Punjab



5) **Constitution of India(1950AD)**- The Constitution was enacted by the Constituent Assembly on 26 November 1949, and came into effect on 26 January 1950.

The date 26 January was chosen to commemorate the **Purna Swaraj declaration of independence of 1930**. With its adoption, the Union of India officially became the modern and contemporary Republic of India and it replaced the Government of India Act 1935 as the country's fundamental governing document.

Conscious efforts were made to have consensus on different issues and principles and thereby avoid disagreement. The consensus came in the form of the ‘Objectives Resolution’ moved by Jawahar Lal Nehru in the Constituent Assembly on December 17, 1946 which was almost unanimously adopted on January 22, 1947.

Historical Era's

We can broadly divide the period as follows :-

- ❖ 1600 – 1765 :- The Coming of the British
- ❖ 1765 – 1858 :- Beginning of the British Rule
- ❖ 1858 – 1919 :- End of Company's Rule
- ❖ 1919 – 1947 :- Introduction of Self Government
- ❖ 1947 – 1950 :- The Framing of the New Constitution

End of Company's rule - 1858 - 1919

❖ **The Government of India Act, 1858 :-**

- The Act of 1858 transferred Government of India from the Company to the British Crown.
- India henceforth to be governed by and in the name of “Her Majesty”.
- All the powers where in hands of Her Majesty's Secretary of State.
- The powers of the Crown were transferred or to exercised by the secretary of state for India assisted by a council of 15 members.

➤ **The Essentials Features of the System introduced by Act of 1858 :-**

- The administration of the country was not only unitary but rigidly centralized. The provincial Governments were mere agents of the government of India and had to function under the superintendence, direction and control of the Governor – General .
- There was no Separation of functions. All the Authority for governance of India - civil & military , executive & legislative was vested in the hands of Governor – General in Council.
- The control of the Secretary of State over the Indian administration was absolute. The secretary has - superintendence, direction and controls of all acts related to the government of India.
- The entire machinery of administration was bureaucratic, totally unconnected about public opinion in India.

❖ **The Indian Council's Act, 1861 :-**

The Indian Councils Act, 1861 was of basic importance.

- The Act enlarged the council of the Governor-General for the purpose of making laws and regulations by the additions of not less than 6 and not more than 12 'Additional Members': half of these were to be non-official members.
- This Act suffered from many defects. It gave unlimited power to the governor-general rather than people.

❖ **The Indian Council's Act, 1892 :-**

This Act achieved three things :-

- It increased the number of members in the Central and Provincial Council
- Introduced the election systems partially, and
- Enlarged the functions of the Council.

It is true that the Act laid down the foundation of the representative Government but it also suffered from many defects.

1st defect- that the system of election was defective.

2nd defect – the power of Legislative Councils were very limited.

3rd defect – the number of non-official members was very small.

❖ **The Morley – Minto Reform & The Indian Council Act, 1909 :-**

The first attempt at introducing a representative and popular element was made by Morley – Minto Reforms known by the names of the Secretary of State (Lord Morley) & Viceroy Lord Minto which was implemented by the Indian Councils Act, 1909.

By this Act the size of Legislative Councils, Central as well as Provincial, was considerably increased. The powers were also enlarged.

The council had also the right of discussing & moving a resolution on the financial statement but they were not given the power of voting.

Introduction of self government

1919 – 1947

❑ **Montagu – Chelmsford Report :-** The landmark report in constitutional development which led to enactment of the Government of India Act, 1919.

❖ **Main Features of Act, 1919 :-**

1. **The Declaration** – promised for responsible government to India.
2. **Diarchy in the Provinces** – Double Rule. Its objects was to train the natives in the act of Self-Government.
3. **Central Government** – It was responsible to British parliament through the Secretary of State. It has bicameral legislative.
4. **Structure of Government to remain unitary** – Central Legislative had power to legislate on any matter. Government of India remained unitary and centralized government with the Governor General-in-Council as the key stone of constitution.
5. **Shortcoming of Act, 1919** – Reforms of 1919, **failed to fulfill aspirations** of the people of India. Its **reasons** where -
 - 1st non fulfillment of the demands for responsible Government.
 - 2nd the failure of Dyarchy.

❑ **Simon Commission :-**

- British Government appointed a Statutory Commission known as Simon Commission.
- This commission was constituted for 10 yrs. The commission was headed by Sir John Simon.
- After 10 yrs completion Simon submitted his report in 1930. The Report was considered by a Round Table Conference consisting of the British Government & British India as well as of the Rulers of Indian states was to unite the Indian States with the rest of India under a federal scheme.

❑ **The Government of India Act, 1935 :-**

This Act regarded as the full milestone on the highway leading to full responsible government. The basic features of the Act were –

- federation & provincial autonomy
- Dyarchy at the Centre
- A bicameral central legislative created
- Distribution of powers between center and provinces.

❑ **Cripps Mission :-**

Cripps Mission came in 1942 & recognized the demand that..

- a constitution to be framed by an elected constituent assembly.
- Indian to be given a dominion status.

Cripps proposal were rejected. The labour party came into power in England. The Labour Govt. was more sympathetic towards India and wanted to solve the Indian problem with this end in view the cabinet mission was send to India.

❑ **Cabinet Mission, 1946 – Formation of Constituent Assembly :-**

The cabinet Mission came into India on 4th March 1946. It consisted of 3 British members – Lord Pethic Lawrence, Sir Stafford Cripps, Mr. Alexander.

- The Cabinet Mission provided for an indirectly elected constituent assembly.
- The Assembly consisted of total 389 members. From which – 292 to be elected from Provinces, 93 to be nominated from princely states, 4 to be nominated from chief common areas.

❑ **Joint Constituent Assembly for India & Pakistan :-**

- The 1st meeting of the constituent assembly was held on Dec 9, 1946.
- But it was boycotted by Muslim League.
- Muslim League demanded a separate assembly for Pakistan.
- On 26th July 1947 – Governor General Lord Mountbatten announced the setting of a separate constituent assembly for Pakistan.

❑ **Indian Independence Act, 1947 (Mountbatten Plan) :-**

- ❖ Creation of 2 Independent Dominions i.e. India & Pakistan from 15th August 1947.
- ❖ Dominions to Have Governor – General appointed by King.
- ❖ Constituent Assemblies were empowered to frame laws.
- ❖ After 15th August 1947 – No control of British Government on Dominion of the provinces.
- ❖ Till New Constitutions came into existence - Dominions & the provinces were governed by Government India Act, 1935.
- ❖ Post of Secretary – abolished – taken over by Secretary of Commonwealth of Nation.

So , Indian Independence Act, 1947 came into force on 15th August 1947.

THE FRAMING OF THE NEW CONSTITUTION

1947 - 1950

- The struggle for independence was thus over by 15th August 1947. But the attainment of independence was not an end itself.
- The 1st tasks undertaken by independent India was framing of New Constitution.
- The 1st meeting of the assembly was held on 9th Dec 1946 as the sovereign Constituent Assembly for India. On 11th Dec , Dr. Rajendra Prasad was elected as permanent Chairman.
- The Draft constitution was published in Jan, 1948. The people of India were given 8 months to discuss the Draft & propose amendments.
- The Draft constitution was considered for 114 days.
- The New Constitution of India was adopted by the constituent assembly on 26th Nov 1949 & signed by the President Dr. Rajendra Prasad.
- Some of the new provisions of constitution, which came into force on 26th Jan 1950 & this was the date on which constitution was commenced.



In the light of these 'Objectives' the Assembly completed its task by November 26, 1949. The constitution was enforced with effect from January 26, 1950. From that day India became Republic of India.

On 26th January, 1950, the present Constitution of India was brought into force which announced to world the birth of a new republic.

The constitution of the Indian Republic is the product not of a political revolution, but of the research & deliberations of a body of eminent representatives of the people.

These people improve the existing system of administration, thus making constitutional development for a proper understanding.



Dr. Rajendra Prasad signing the new constitution



4.The Framing of Constitution of India.

The Constituent Assembly of India was elected to write the Constitution of India. Following India's independence from Great Britain, its members served as the nation's first Parliament.

This body was **formed in 1946** for the purpose of making independent India's constitution. The assembly passed a resolution in 1947 January defining **the objectives of the constitution:-**

- 1) To set up a Union of India comprising British India and the princely states.
- 2) To set up a federal form of government with separate state and central governments.
- 3) To set up a democracy in which all power is derived from the people:
 - I) where all people are guaranteed justice, equality and freedom;
 - II) where minorities, depressed classes and the tribal's rights are protected;
- 4) To protect the integrity of India and her sovereign rights over land, sea and air.
- 5) To help India attain its rightful place in the world - and work for peace and welfare of all mankind.

- The British sent a group of officials known as the cabinet mission.
- The cabinet mission formed the constituent assembly in Dec 1946.
- There was a dispute among the Indian national leaders and the partition took place.
- After the partition and independence the constituent assembly took up the work for framing the constitution.
- There were 308 members who were elected by the Provincial Legislative Assembly.
- The congress ensured that all the communities get equal recognition.





Dr. Sachchidananda Sinha was the first president (temporary) of the Constituent Assembly when it met on December 9, 1946. Later, Dr. Rajendra Prasad became the President of the Constituent Assembly and Dr. Bhimrao Ambedkar became the Chairman of its drafting committee on December 11, 1946 .



First president (temporary) Dr. Sachchidananda Sinha (Left) on December 9, 1946. Dr. Rajendra Prasad (Middle) the President of the Constituent Assembly and Dr. Bhimrao Ambedkar (Right) the Chairman of its drafting committee as on December 11, 1946 .

PROMINENT LEADERS

- Dr. Rajendra Prasad.
- Sardar Patel
- Mualana Azad
- S.P Mookerji
- K.M Munshi
- Sir Tej Bahadur
- A.K Ayyar
- H.N Kunzru
- C.Rajagopalachari
- Sarojini Naidu
- Vijay Laxmi Pandit
- Frank Anthony- Anglo Indians
- Dr. H.C Mookerjee- Christians
- H.P Mody- Parsis

DRAFTING THE CONSTITUTION



- Drafting committee was formed with 8 members, under the chairmanship of Dr. B.R. Ambedkar.
- The committee studied the constitutions of various countries and took the good features from every constitution and included them in the Indian Constitution.
- The draft was prepared by February 1948.



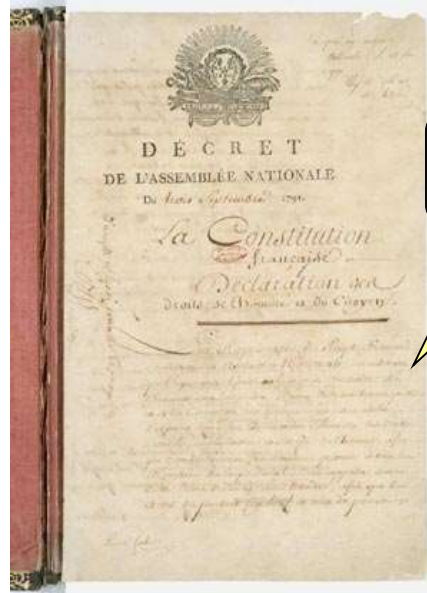
The Constituent Assembly consisted of 385 members, of which 292 were elected by the elected members of the Provincial Legislative Assemblies while 93 members were nominated by the Princely States. To these were to be added a representative each from the four Chief Commissioners Provinces of Delhi, Ajmer- Marwar, Coorg and British Baluchistan.



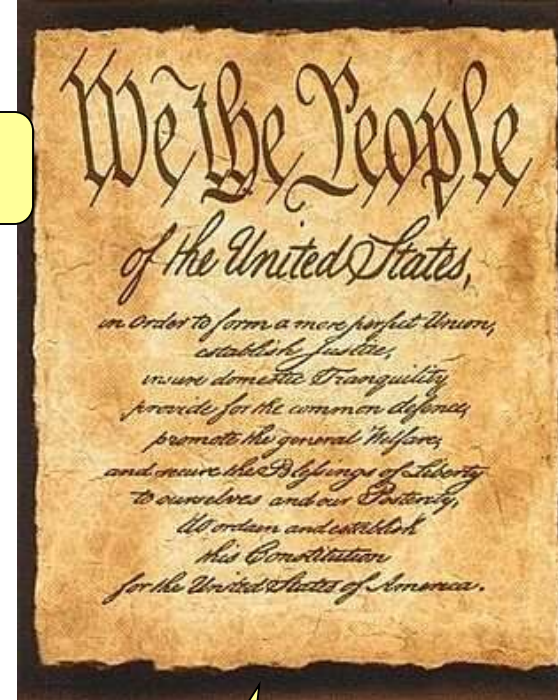
First day (December 9, 1946) of the Constituent Assembly. From right: B. G. Kher and Sardar Vallabhai Patel; K. M. Munshi is seated behind Patel.



USSR



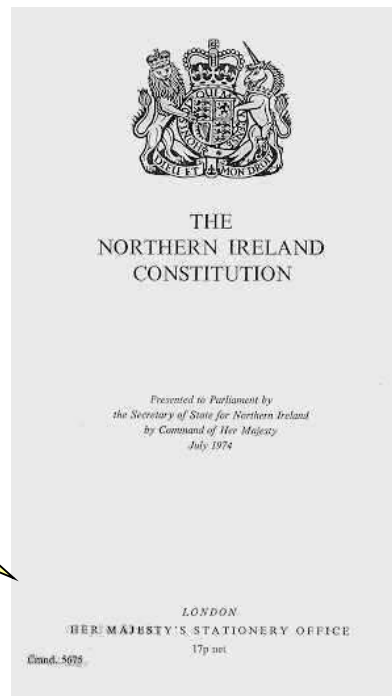
BRITAIN



FRANCE



IRELAND



UNITED
STATES OF
AMERICA



BORROWED FEATURES OF CONSTITUTION OF INDIA

- 1.From U.K.** - Nominal Head – President, Cabinet System of Ministers, Post of PM, Parliamentary Type of Govt., Bicameral Parliament, Lower House more powerful, Council of Ministers responsible to Lower House, Provision of Speaker in Lok Sabha.
- 2.From U.S.A**- Written constitution, Appointment of Vice President, Fundamental Rights, Supreme court, Head of the state known as president, Provision of states, Judicial review
- 3.From Australia**- Concurrent List, Centre-State relationship, Language of the Preamble
- 4.From USSR**- Fundamental Duties, Five year plan
- 5.From Germany**- Emergency provisions
- 6.From Japan**- Law on which the Supreme Court functions
- 7.From Canada**- Federal System and Residuary powers
- 8.From South Africa**- Procedure of constitutional amendment
- 9.From Ireland**- Concept of Directive Principles of state policy.



For the time being till the constitution was made, India would be governed in accordance with the Government of India act 1935.

The Assembly met in sessions open to the public, for 166 days, spread over a period of 2 years, 11 months and 18 days before adopting the Constitution. It was finally passed and accepted on Nov 26, 1949. In all the 284 members of the Assembly signed the official copies (Original) of the Indian Constitution.

After many deliberations and some modifications over 111 plenary sessions in 114 days, the 308 members of the Assembly signed two copies (Final) of the document (one each in Hindi and English) on 24 January 1950

Same day the Assembly unanimously elected Dr, Rajendra Prasad as the President of India. which came into effect on Jan 26, 1950, known and celebrated as **the Republic Day of India.**



5.The Preamble to Constitution of India.

The Preamble to the Constitution of India is a brief introductory statement that sets out the guiding purpose and principles of the document.

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a **SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC** and to secure to all its citizens:

JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity;

and to promote among them all

FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation;

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949,
do **HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.**

PUBLIC OPINION

- After the draft was ready it was published in all the newspapers.
- This was done to enable the people to read the draft and give their views on it.
- It was discussed at great length.
- The session were attended by hundreds of people and the press.

ADOPTION OF THE CONSTITUTION

- On 26 November 1949 the constitution was finally approved and signed the member of the constituent assembly.
- It took 3 years and costed Rs 6.4 crores.
- The new constitution came into effect on 26 January 1950.
- C. Rajagopalachari took over from Lord Mountbatten and became the first Governor General of India.
- India became a republic and Dr. Rajendra Prasad was the first President.





26 January

In December 1929 the congress had passed the resolution of “Purna Swaraj”. On 26th January 1930 the first Independence Day was celebrated by hoisting the tri colour . Although the constitution as a document was ready in November 1949 our leaders decided to wait till 26th January 1950 to adopt the Constitution.



5.The Preamble to Constitution of India.

The preamble-page, along with other pages of the First and original **Book of Constitution of India**, was designed (Art) and decorated (Frames) solely by renowned painter Beohar shakha.



Hindi (Left) and English (Middle) versions of Preamble as available in the First book of Constitution of India (Right).



The first words of the Preamble - "**We, the people**" - signifies that power is ultimately vested in the hands of the People of India. So far the Preamble has been amended only once in 1976 by 42nd amendment (change) which inserted the words Socialism, Secularism and Integrity. **A brief description of these concepts are as follows** (in the order they come in Preamble)-

1. **Sovereign-** It means free to follow internal and external Policies.
2. **Secular-** It means no particular Religion is preferred.
3. **Socialist-** It means no concentration of Power and Money.
4. **Democratic-** It means rule by elected representative of the People of India.
5. **Republic-** It means no room for hereditary ruler or monarch.



5.The Preamble to Constitution of India.

Purpose of Having a Preamble:

The Preamble to our Constitution serves two purposes: -

- A) It indicates the source from which the Constitution derives its authority;
- B) It also states the objects, which the Constitution seeks to establish and promote.

The Preamble seeks to establish what Mahatma Gandhi described as The India of my Dreams, "...an India in which the poorest shall feel that it is their country in whose making they have an effective voice; ...an India in which all communities shall live in perfect harmony. There can be no room in such an India for the curse of unsociability or the curse of Intoxicating drinks and drugs. Woman will enjoy as the same rights as man."



6. What Is The constitution of India?

(i) Constitution of India In General:-

Constitution of India is considered to be the supreme law of the country, as it puts forth the framework of fundamental political principles. It establishes the structure, procedures, powers and duties of the government and mentions the fundamental rights, directive principles and duties of citizens.

The Constitution declares India as a Sovereign, Socialist Democratic, and Republic with a parliamentary form of government. The Indian Constitution shows Federal as well as Unitary System.

1. **Federal System-** powers are divided and/or shared between state and central governments
2. **Union System-** power concentration in central government with weak state Government



Both features are listed below:-

Federal Features-

1. Supremacy of the Constitution,
2. Division of power between the Union (central Governments) and State, and
3. The existence of an independent judiciary in the Indian Constitution.

Unitary Features-

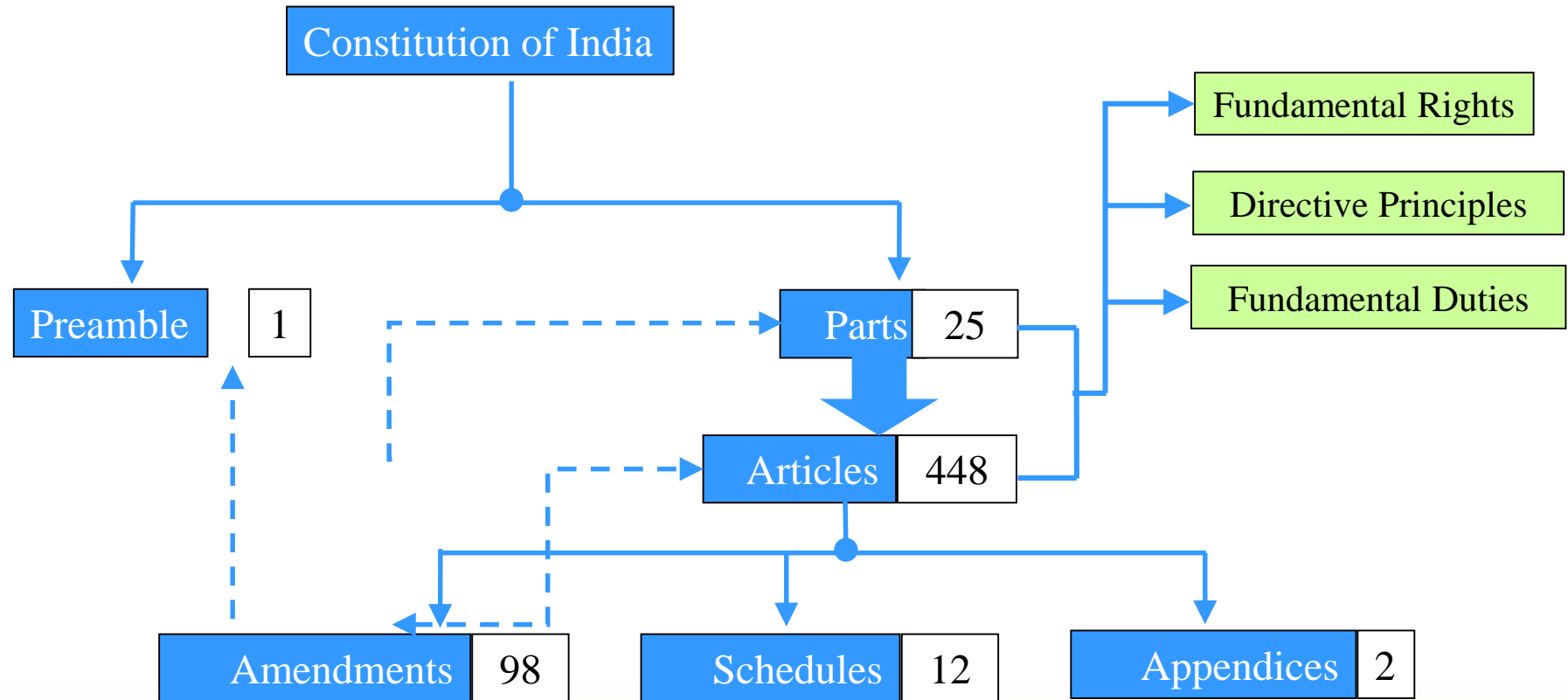
1. Single Citizenship
2. Single Constitution
3. Power of union to override on the state matters
4. During emergency the system became virtually unitary
5. Changes in the names and boundaries of the states by the Parliament
6. Integrated Judiciary System
7. Centre appoints the Governors
8. Dependence of states on the centre for economic assistance and grants.



6. What Is The constitution of India?

(ii) Structure of Constitution of India:-

The Constitution, in its current form (2014), consists of 1 preamble, 25 parts containing 448 articles, 12 schedules, 2 appendices and 98 amendments to date. Although it is federal in nature it also has a strong unitary bias.





Different elements of constitution are described as follows:-

1. **Preamble (1)** - The Preamble to the Constitution of India is a brief introductory statement that sets out the guiding purpose and principles of the document.
2. **Parts (25)** – The individual Articles of the Constitution are grouped together into the following Parts:
 1. Part I – Union and its Territory
 2. Part II – Citizenship.
 3. Part III – Fundamental Rights.
 4. Part IV – Directive Principles of State Policy.
 5. Part IVA – Fundamental Duties.
 6. Part V – The Union.
 7. Part VI – The States.
 8. Part VII – States in the B part of the First schedule (Repealed).
 9. Part VIII – The Union Territories
 10. Part IX – The Panchayats.



11. Part IXA – The Municipalities. (Part IXB – The Cooperative Societies -not effective yet)
 12. Part X – The scheduled and Tribal Areas
 13. Part XI – Relations between the Union and the States.
 14. Part XII – Finance, Property, Contracts and Suits
 15. Part XIII – Trade and Commerce within the territory of India
 16. Part XIV – Services Under the Union, the States.
 17. Part XIVA – Tribunals.
 18. Part XV – Elections
 19. Part XVI – Special Provisions Relating to certain Classes.
 20. Part XVII – Languages
 21. Part XVIII – Emergency Provisions
 22. Part XIX – Miscellaneous
 23. Part XX – Amendment of the Constitution
 24. Part XXI – Temporary, Transitional and Special Provisions
 25. Part XXII – Short title, date of commencement, Authoritative text in Hindi and Repeals
3. **Article (1-450)** - It is subcategory of different Parts in the constitution which contains detail information of the subject or the Title which an Article represents.



4. **Amendments (97)** - Amendment of the Constitution of India is the process of making changes to the nation's fundamental law. Changes to the Indian constitution are made by the federal parliament. The procedure is laid out in Part XX, Article 368, of the Constitution.
5. **Schedules (12)** - Schedules are lists in the Constitution that categorize and tabulate bureaucratic activity and policy of the Government.
6. **Appendices (2)** - They are extension to the constitution.
7. **Fundamentals Rights (Part III- Article12-35)** - The word fundamental suggests that these rights are so important that the Constitution has separately listed them and made special provisions for their protection. The Fundamental Rights are so important that the Constitution itself ensures that they are not violated by the government.

8. **Fundamental Duties (Part IV Article 51A)**- These Fundamental rights have been provided at the cost of some fundamental duties. These are considered as the duties that must be and should be performed by every citizen of India. These fundamental duties are defined as: It shall be the duty of every citizens of India: -

- a. To abide by the Constitution.
- b. To uphold & protect the sovereignty, unity and integrity of India.
- c. To Cherish & follow the noble ideas which inspired our national struggle for freedom
- d. To defend the country & render national service when called upon to do so.
- e. To promote harmony & the spirit of common brotherhood.
- f. To value & preserve the rich heritage of our composite culture.
- g. To protect & improve the national environment.
- h. To develop the scientific temper, humanism and the spirit of inquiry and reform.
- i. To safeguard public property & to abjure violence.
- j. To strive towards excellence in all spheres of individual & collective activity, so that the nations constantly rises to higher levels of endeavor & achievement.



9. **Directive Principles (Part IV- Article 36-51)**- It provides the social and economic base of a genuine democracy. The classification of these are as follows-

1. Socio-economic Principles
2. Liberal Principles
3. Gandhian Principles
4. International principles

1. Socio-Economic Principles

1. Article 38 of the Constitution of India shall endeavor to formulate such social system which will secure social, economic and political justice to all in all the spheres of life.
2. Article 39(a) the state shall try to formulate its policy in such a manner so as to secure adequate means of livelihood for all its citizens.
3. Article 39(b) the ownership of material resources would be controlled in such a manner so as to sub serve the common good.
4. Article 39(c) the economy of the state will be administered in such a manner so that wealth may not yet be concentrated in a few hands and the means of production may not be used against the public interest.



5. Article 41 of the Indian Constitution, the State will work within the limits of its economic viability and progress, provide to the citizens the right to work, the right to education and general assistance in the event of unemployment, old age, disease and other disabilities.
6. Article 42 of the Indian Constitution, the state will make provisions for the creation of just and humane conditions of work. It will also ensure maternity relief.
7. Article 43 of the Indian Constitution, the state will ensure adequate wages, good life and rest to the laborers. The state will also endeavor to make available to the laborers various sociocultural facilities.

2. Liberal Principles

1. Article 44 of the Indian Constitution, the State shall endeavor to formulate and implement a Uniform civil-code for all the people living throughout the territory of India.
2. Article 45 of the Indian Constitution, the State shall endeavor to provide early childhood care and education for all the children until they complete the age of six years.
3. Article 47 of the Indian Constitution, the State shall strive to raise the level of nutrition and the standard of living. Thus, it will endeavor to improve upon the health of the people.
4. Article 48 of the Indian Constitution, the State shall strive to organize agriculture and husbandry on modern and scientific lines. It will also try to maintain and improve upon the breed of the animals.



5. Article 50 of the Indian Constitution the state will try to separate the judiciary from the executive in the case of public service.

3. Gandhian Principles

1. Article 40, State will strive to organize Panchayats in villages and will endow them with such powers which enable them to act as units of self government.
2. Article 43, the state shall strive to develop the cottage industry in the rural areas both, on individual or cooperative basis.
3. Article 47, the state will strive to ban the consumption of wine, other intoxicating drinks and all such commodities which are considered injurious to health.
4. Article 48 reveals that State will ban slaughtering of cows, calves and other milk cattle.

4. International Principles

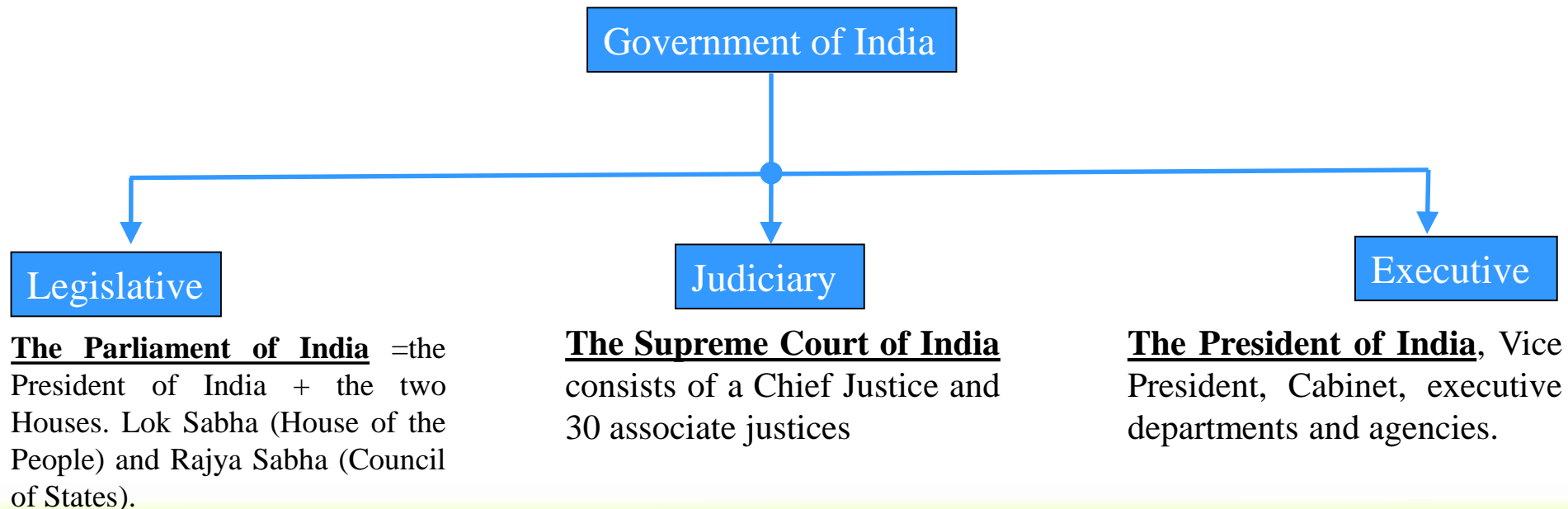
1. Article 51(a)- The State will strive to promote international peace and security.
2. Article 51(b)- The State will strive to maintain just and honorable relations among various states in the world.
3. Article 51(c)- The State will endeavor to promote respect for International treaties, agreements, and law.
4. Article 51(f)- The State will strive to settle international disputes by arbitration.



(iii) Constitution of India and Government:-

The Indian government is divided

Into three distinct but interrelated branches: **Legislative**, **Executive** and **Judiciary** – have to function within their own spheres demarcated under the Constitution. In other words, the doctrine of Separation of Powers has been implicitly recognized by the Indian Constitution.





(iv) The Basic Principles of the Constitution of India:-

A careful study of the Constitution will show that there are at least eight basic principles which are embodied in it and which form the foundation of the political system in India. These are:

- (1) Popular sovereignty,
- (2) Socialism,
- (3) Secularism,
- (4) Fundamental rights,
- (5) Directive Principles of State Policy,
- (6) Judicial independence,
- (7) Federalism and
- (8) Cabinet government.



6. What Is The constitution of India?

(v) Procedure of Amendments of the Constitution of India:-

The basic structure of the Constitution is unchangeable and only such amendments to the Constitution are allowed which do not affect its basic structure or rob it of its essential character.

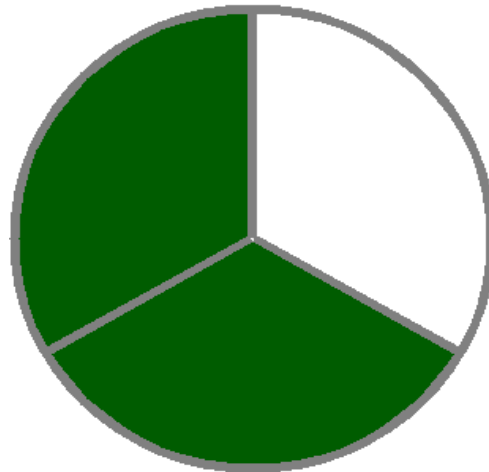
1. **By simple majority of the Parliament:** Amendments in this category can be made by a simple majority of members present and voting, before sending them for the President's assent.
2. **By special majority of the Parliament:** Amendments can be made in this category by a two - third majority of the total number of members present and voting, which should not be less than half of the total membership of the house.
3. **By special majority of the Parliament and ratification** of at least half of the state legislatures by special majority. After this, it is sent to the President for his assent.



6. What Is The constitution of India?

An amendment to the “Constitution of India” is an extremely difficult affair, and normally needs at least “two-thirds(2/3)” of the Lok Sabha and Rajya Sabha to pass it.

However, the Constitution of India is one of the most frequently amended constitutions in the world. Many matters that would be dealt with by ordinary statutes in most democracies must be dealt with by constitutional amendment in India due to the document's extraordinary detail.





6. What Is The constitution of India?

(vi) Checks and Balances:-

The Indian Supreme Court and Election Commission are recognized as the bedrock of Indian democracy; these two bodies stand up to the enormous powers that the constitution invests in the central government in general and to the unbridled powers of the Indian prime minister in particular.

The checks and balances that are provided by the constitution also smooth out the strained relations between the central government and the states by limiting the central government's ability to interfere in the states' affairs. Usually, either the state government or a political party may file an appeal or a writ petition in the Supreme Court against a policy or practice of the union or a state.





6.What Is The Constitution of India?

Although India's constitution follows the British parliamentary system, it is the constitution and not the parliament of India that reigns supreme. As in the United States, the Indian courts interpret the constitution and adjudicate the laws passed by the parliament.

Although the parliament has the authority to amend the constitution, India's courts have made sure that the parliament does not change its fundamental structure, which guarantees economic opportunities, social justice, and religious and political freedom to all its citizens. Although political corruption and coercion are rampant in India—as they are in other developing countries—the courts are judiciary guarantors of India's freedom from oppression.





The Constitution of India has some distinct and unique features as compared to other constitutions to the world. As Dr. B.R. Ambedkar, the Chairman of the Drafting Committee puts it, the framers had tried to accumulate and accommodate the best features of other constitutions, keeping in view the peculiar problems and needs of our country. Main Characteristics of Constitution of India are:-

1. Longest written constitution.
2. Partly Rigid and Partly Flexible
3. A Democratic Republic
4. Parliamentary System of Government
5. A Federation
6. Fundamental Rights
7. Directive Principles of State Policy
8. Fundamental Duties
9. Secular State
10. An Independent Judiciary
11. Single Citizenship



8.Conclusion



Picture shows the pages from the Constitution of India, at the **PARLIAMENT MUSEUM**, Parliament Library Building, New Delhi.

PARLIAMENT MUSEUM : A high-tech story-telling Museum depicting the continuum of the democratic heritage in India has been dedicated to the Nation by **Dr. A P J Abdul Kalam, President of India** on 14th August 2006.

FEATURES OF INDIAN CONSTITUTION

1. SIZE

- Longest written constitution of any sovereign country.
- It has 448 articles in 25 parts, 12 schedules, 5 appendices and has been amended 98 times (out of 120 constitution amendment bills)
- Very comprehensive and includes matters which are legitimately the subject matters of ordinary legislation or administrative action
- The Government of India act, 1935 was used as an initial working draft
- The size, complexities and diversity of Indian situation necessitated miscellaneous provisions for certain regions.

LONGEST CONSTITUTION

The Constitution of India is the longest in the world. Originally it had The Indian constitution is the world's longest constitution. At the time of commencement, the constitution had 395 articles in 22 parts and 8 schedules. It consists of almost 80,000 words and took 2 years 11 months and 18 days to build, passed since its enforcement in 1950, have also become a part of the Constitution. Today it has 448 Articles divided into 22 parts and 12 Schedules.

The constitution of USA has 7 Articles, of China 138, Japanese 103, and Canadian 107 Articles.

THE CONSTITUTION BECAME LENGTHY MAINLY DUE TO THE FOLLOWING FACTORS.

- (a) The constitutional fathers wanted to put everything in great detail.
- (b) In other federations, there are two constitutions: one for the federation and the other for the states. In India, the states do not have separate constitutions. The powers of states along with the powers of the federation have been stated in one constitution.
- (c) The Government of India Act, 1935 was in operation when India got independence. Our leaders were familiar with this Act. They borrowed heavily from this lengthy Act while framing our constitution.
- (d) India is a country of great diversity. It is a country of several minorities; it has many languages, castes, races and religions. The problems and interests of these different groups have found place in the constitution.

THE CONSTITUTION BECAME LENGTHY MAINLY DUE TO THE FOLLOWING FACTORS.

(e) Good features of other constitutions have been included, with necessary modifications, in our constitution. For example, we have brought the 'bill of rights' from the American constitution, parliamentary system of government from the British constitution and Directive Principles of State Policy from the Irish constitution.

While including these elements of other constitutions in our constitution Ambedkar said the framers of our constitution tried to remove their faults and suit them to our conditions.

(f) Many members of the Constituent Assembly were "lawyer-politicians". They have made the constitution not only long, but also extremely complicated.

2. MODERN CONSTITUTION

- Since it was drafted in the mid-twentieth century, it gave an advantage to take cognizance of various constitutional processes operating in different countries
- Rich fund of human experience, wisdom, heritage and traditions in area of governmental process was drawn
- It suited the political, social and economic conditions in India.
- Thus, it turned out to be a very interesting and unique document

FEATURES BORROWED

- Federalism – America, Canada, Australia
- FR – American Bill of Rights
- Amendment – USA
- Writs and Parliamentary form – UK
- Centre-State relations and Freedom of trade & commerce – Australia
- Directive Principles (here in after DPSP) – Irish Constitution

What new? – Minority rights, Special rights for Backward Classes, Reduced the rigidity of usual federalism.

3. WRITTEN CONSTITUTION

- It is a lengthy, elaborate and detailed written document and following aspects are given in detail:-
- Citizenship details (including Indo-Pak location)
- Territory defined, FRs, DPSP, Fundamental Duties
- Judiciary powers, State legislature, Executive details
- Centre-state relations, Local Govt. (73rd, 74th amendment)
- Now – Cooperative societies, 3 Lists – State, Union and Concurrent
- Originally it consisted of 395 Articles arranged under 22 Parts and 8 Schedules.
- Now, after 98 amendments, it has 448 Articles and 12 Schedules and 25 parts.

4. PREAMBLE

- Unlike Australia, US or Canada, the Indian Constitution has an elaborate Preamble
- Its purpose is to clarify: who has made the constitution, what is its source, who is the ultimate sanction behind it, what is the nature of polity and what are its goals and objectives
- It lays emphasis on principle of equality which is basic to the Constitution
- Gives the source and sanction (we the people of India is the source and sanction)
- Nature of polity (sovereign, socialist, democratic, republic)
- Objectives (secure its citizens equality, fraternity, justice social economical political...)
- Preamble is the key to open the minds of the Constitutional makers.

5. SOCIALISM AND SECULARISM

- Word “Socialist” was added by way of 42nd Constitution amendment in 1976.
- Preamble establishes the concept of Socialism and Secularism.
- Principle of socialism is to eliminate inequality of income, status/standards of life. It aims to end poverty, ignorance, disease and inequality of opportunity.
- “Secular” word added by way of 42nd Amendment of 1976 - After amendment, the principle was made “express”
- Prior to this amendment also, the principle of “secular” was implicit because Indian State has no recognized or official religion.
- The policy of non- discrimination towards any religion makes India a Secular state.
- All religions are held equally with high esteem

6. OUASI- FEDERAL : FEDERAL IN NATURE

- Federalism is when all powers of governance are divided into central and state governments.
- 3 lists that lay down the legislative power for passing laws on specific subjects 1. Union list, 2. State list, 3. Concurrent list.
- Indian federalism was inspired from US, Canada and Australia yet it deviates from their federalisms in many respects establishing its own distinctiveness.
- Article 249: Parliament can legislate on any topic of state list if its in Nation's Interest.
- No dual citizenship. In USA, every federal state can make its own Constitution. This is not so in India.
- The States depend largely on financial assistance from the Union.
- Existence of Union Territories, Emergency Provisions
- Appointment of Governors by President, Common All India Services - Thus, its Quasi- Federal.

7. PARLIAMENTARY SYSTEM

- India is a Republic Country. Unlike US President, Indian President is only a nominal or constitutional head of the executive, he acts only on aid and advice of the Council of Ministers.
- Thus, following British pattern, Indian Constitution has adopted Parliamentary system of governance
- Cabinet takes executive decisions, but the cabinet is also answerable to the Parliament.
- Parliament makes laws and all the representatives are accountable to the people
- President and Governors can reject the bills – brings responsibility.
- Writs – Protect Fundamental Rights and makes the State responsible.

8. PARLIAMENTARY SOVEREIGNTY AND JUDICIAL SUPREMACY

- We are governed by the rule of law and judicial review of administrative action
- Since powers and functions of every organ are defined and delimited by the Constitution; there is no question of any organ being Sovereign
- Both Parliament and Supreme Court are supreme in their respective spheres

9. ADULT FRANCHISE & ELECTIONS

- By Parliamentary democracy we mean ‘one man, one vote’
- Indian Constitution provides for ‘Universal Adult Suffrage’
- Every adult Indian without any distinction at once has equal voting rights. – All over 18 years.
- Free and Fair Elections.
- Election Commission is an autonomous body and it will follow “Code of Conduct” – Model.
- Recently third gender have also been given voting rights. This was implicit, however denied for trivial reason of existence of only two genders.

10.CHARTER OF FUNDAMENTAL RIGHTS

- The Constitution of India guarantees six fundamental rights (listed in part III) to every citizen.
- It has been adopted from U.S.A.
- The Constitution guarantees certain basic human rights and freedoms to the people of India.
- Art. 32 and 226 are the tools to enforce FRs

11. FUNDAMENTAL LAW

- No law can be made against the Constitution
- All laws abrogating / violating / infringing the Constitution are void
- Sets out the powers of all the organs
- Constitution is the law “that holds together all other laws”
- Granville Austin called it as the “Cornerstone of a Nation”
- Kelson calls Constitution as the “Grund Norm”

12. MINORITIES, BACKWARD CLASSES AND WELFARE STATE

- Minorities – a State needs to protect its minorities. Under Indian Constitution, minorities given special protection. Eg: Minorities educational institutions.
- Backward Classes – economically and socially backward people. Given several special privileges. Eg: Under Art. 15 and 16.
- Social welfare - State rendering social services
- Promote general welfare
- DPSP is the basis – promotion of Health, Education, Environment, and reduction of inequalities.
- Non-Justiciable – cannot be enforced in a court of law.

15. SINGLE CITIZENSHIP & INDEPENDENT JUDICIARY

- The founding father provided for ‘single-citizenship’ despite the federal structure.
- Unlike US, Indian Constitution has single citizenship where all citizens are entitled to same rights all over the country.
- Independent judiciary is established with powers of judicial review which strengthens the rule of law.
- Courts are not subject to improper influence from other branches of government or from private interests. - Judicial independence is vital to the idea of Separation of Powers.

14. FUNDAMENTAL DUTIES

- 42nd Amendment to the Constitution added ‘Fundamental Duties’
- Inspiration is from the U.S.S.R.
- It lays down 11 duties for all the citizens

13. DIRECTIVE PRINCIPLES

- The Directive Principles of State Policy are inspired from the Irish Precedent
- It's a unique feature of our Constitution
- Socio-economic rights are included under this head
- Though they are not enforceable but are expected to guide the governance of the country

INTRODUCTION - RIGHTS AND DUTIES

- Rights are defined as basic human freedoms which every Indian citizen has the right to enjoy for a proper and harmonious development of personality.
- These rights universally apply to all citizens, irrespective of race, place of birth, religion, caste or gender.
- The fundamental duties are defined as the moral obligations of all citizens to help promote a spirit of patriotism and to uphold the unity of India.
- Rights and duties are two wheels on which the chariot of life moves forward smoothly. Life can become smoother if rights and duties go hand in hand and become complementary to each other.

WHAT ARE FUNDAMENTAL RIGHTS?

- Fundamental rights guarantees civil liberties such that all Indians can lead their lives in peace and harmony as citizen of India.
- These rights are fundamental because of two reasons.
 1. These are mentioned in the Constitution which guarantees them.
 2. These are justiciable, i.e. enforceable through courts.
- Anyone guilty of non-compliance to such fundamental rights will be punished as per the Indian penal code.
- The part III of the constitution of India gives a detailed description on charter of rights called the 'fundamental rights'.

DEFINITION & SIX FUNDAMENTAL RIGHTS

Fundamental Rights are essential human rights that are offered to every citizen irrespective of caste, race, creed, place of birth, religion or gender. These are equal to freedoms and these rights are essential for personal good and the society at large. The rights are:-

1. The Right to EQUALITY
2. The Right to FREEDOM
3. The Right to Freedom from EXPLOITATION
4. The Right to FREEDOM OF RELIGION
5. CULTURAL and EDUCATIONAL Rights
6. The Right to CONSTITUTIONAL REMEDIES

RIGHT TO EQUALITY



Articles 14-18, State and Elaborate the Right to Equality in India

- (i) **Equality before Law :-** Article 14 of the constitution guarantees that all citizens shall be equally protected by the laws of the country
- (ii) **Social Equality and Equal Access to Public Areas:-** Article 15 of the constitution states that no person shall be discriminated on the basis of caste, colour, language etc. Every person shall have equal access to public places like public parks, museums, wells, bathing ghats and temples etc. However, the State may make any special provision for women and children.

RIGHT TO EQUALITY



- **(iii) Equality in matters of Public Employment:-** Article 16 of the constitution lays down that the State cannot discriminate against anyone in the matters of employment. All citizens can apply for government jobs.
- **(iv) Abolition of Untouchability :-** Article 17 of the constitution abolishes the practice of untouchability. Practice of untouchability is an offense and anyone doing so is punishable by law.
- **(v) Abolition of Titles:-** Article 18 of the constitution prohibits the State from conferring any titles. Citizens of India cannot accept titles from a foreign State. Military and academic distinctions are, however, exempted.

EQUALITY BEFORE LAWS AND EQUAL PROTECTION OF LAWS (ARTICLE 14)

- It ensures that every citizen shall be likewise protected by the laws of the country.
- The State will not distinguish any of the Indian citizens on the basis of their gender, caste, creed, religion or even the place of birth.
- **“equality before the law”** implies that all are equal in the eyes of law and all will be tried by the same law and will be given the same punishment for same crime.
- It implies equality of treatment in equal circumstances both in privileges conferred and liabilities imposed.
- So all the persons must be treated alike on reasonable classification.

EQUALITY BEFORE LAWS AND EQUAL PROTECTION OF LAWS (ARTICLE 14)

- This allows the Parliament to classify persons for the purpose of taxation. The classification should be reasonable
- The state may also make some exceptions.
- Equal protection thus ensures equal treatment in equal circumstances and differing treatment in differing circumstances.

The constitution stipulates some exceptions:

- The President of India or the Governor of a State is not answerable to any court for his official actions.
- The President or the Governor is not subject to criminal prosecution during his term of office.
- Civil suits claiming relief for personal actions cannot be brought against the President or, a Governor when in office.

SOCIAL EQUALITY AND EQUAL ACCESS TO PUBLIC AREAS

(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to—

- (a) access to shops, public restaurants, hotels and places of public entertainment; or
- (b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.

(3) Nothing in this article shall prevent the State from making any special provision for women and children.

(4) The State can make special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

(5) The State can make any special provision, by law, for the advancement of any socially and educationally backward classes in so far as such special provisions relate to their admission to educational institutions including private educational institutions.

EQUALITY IN MATTERS OF PUBLIC EMPLOYMENT

- There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the state.

These are some exceptions to prohibition of discrimination under Art. 16.(I)

- The state may reserve some appointments for backward classes
- Offices in the religious institutions may be kept reserved for the followers of the religion concerned.
- Posts in the state services may be kept reserved for the scheduled castes and tribes.
- Finally Art. 16 forbid discrimination in matters of state employment only on the grounds stated in the article itself.

ABOLITION OF UNTOUCHABILITY AND TITLES

- Article 17 of the Constitution of India abolishes the practice of untouchability in India.
- Practice of untouchability is declared as a crime and anyone doing so is punishable by law.
- Article 18 of the Constitution of India prohibits the State from granting any titles. Citizens of India are not allowed to accept titles from a foreign State.
- However honors conferred by the government of India such as Bharat Ratna or Padmashri etc. are not titles but are only recognition of meritorious services.

RIGHT TO FREEDOM



- (i) **Freedom of Speech and Expression**, which enable an individual to participate in public activities. The phrase, "freedom of press" has not been used in Article 19, but freedom of expression includes freedom of press.
- (ii) **Freedom to assemble peacefully without Arms**, on which the State can impose reasonable restrictions in the interest of public order and the sovereignty and integrity of India.
- (iii) **Freedom to form Associations or Unions** on which the State can impose reasonable restrictions on this freedom in the interest of public order, morality and the sovereignty and integrity of India.

RIGHT TO FREEDOM



- (iv) **Freedom to move freely throughout the Territory of India** though reasonable restrictions can be imposed on this right in the interest of the general public, for example, restrictions may be imposed on movement and travelling, so as to control epidemics.
- (v) **Freedom to reside and settle in any part of the territory of India** which is also subject to reasonable restrictions by the State in the interest of the general public or for the protection of the schedule tribes because certain safeguards as are envisaged here seem to be justified to protect indigenous and tribal peoples from exploitation and coercion.

RIGHT TO FREEDOM



- (vi) **Freedom to practice any Profession or to carry on any Occupation, Trade or Business** on which the State may impose reasonable restrictions in the interest of the general public. Thus, there is no right to carry on a business which is dangerous or immoral.

RIGHT AGAINST EXPLOITATION



- The abolition of trafficking in human beings and Begar (forced labour)
- Abolition of employment of children below the age of 14 years in dangerous jobs like factories and mines.
- Begar, practised in the past by landlords, has been declared a crime and is punishable by law.
- Trafficking in humans for the purpose of slave trade or prostitution is also prohibited by law.

RIGHT TO FREEDOM OF RELIGION



According to the Constitution, all religions are equal before the State and no religion shall be given preference over the other. Citizens are free to preach, practice and propagate any religion of their choice.

- i. Religious communities can set up charitable institutions of their own.
- ii. Activities in such institutions which are not religious are performed according to the laws laid down by the government
- iii. No person shall be compelled to pay taxes for the promotion of a particular religion.
- iv. A State run institution cannot impart education that is pro-religion

CULTURAL & EDUCATIONAL RIGHTS



- ARTICLES 29 & 30
- Any community which has a language and a script of its own has the right to conserve and develop it.
- All minorities, religious or linguistic, can set up their own educational institutions to preserve and develop their own culture.

RIGHT TO CONSTITUTIONAL REMEDIES - (Article 32-35)



- Mere declaration of fundamental rights is meaningless until and unless there is a machinery for its enforcement.
- Right to constitutional remedies empowers the citizens to move a court of law in case of any denial of the fundamental rights.
- This procedure of asking the courts to preserve or safeguard the citizens' fundamental rights can be done in various ways. The courts can issue various kinds of writs. These writs are habeas corpus, mandamus, prohibition, quo warranto and certiorari.

RIGHT TO CONSTITUTIONAL REMEDIES - (Article 32-35)



- Article 32 which was referred to “as the very soul of the constitution” by Dr. Ambedkar, provides for constitutional remedies.
- This right empowers the citizens to move a court of law in case of any denial of the fundamental rights.
- The Supreme Court shall have the power to issue directions or order or writs for the enforcement of any of the rights conferred by fundamental rights.

DIRECTIVE PRINCIPLES OF STATE POLICY

The Constitution enumerates several Directive Principles of State Policy (listed in part IV) which are intended to be implemented by the Centre and State Governments in due course.

The Directive Principles cannot be enforced by the law courts. In general, the Directive Principles aim at building a Welfare State. The Directive Principles are not enforceable in a Court of Law, but they are nevertheless fundamental in the governance of the country. These principles provide the criteria with which we can judge the performance of the government.

- ❑ There should not be concentration of wealth and means of production to the detriment of common man.
- ❑ There should be equal pay for equal work for both men and women.
- ❑ Workers should be paid adequate wage.
- ❑ Weaker sections of the people, Scheduled Caste and Scheduled Tribe people should be given special care.
- ❑ The state should promote respect for international law and international peace.

FUNDAMENTAL DUTIES - (Article 51A)

- Added to the Constitution by the 42nd Amendment in 1976, upon the recommendations of the Swaran Singh Committee.
- The 42nd amendment of 1976 added Article 51-A to the Constitution requiring all citizens to fulfill 10 duties. These duties set in part IV-A of the Constitution of India.
- They are not legally enforceable. They are held by the Supreme Court to be obligatory for all citizens.
- Originally ten in number, the Fundamental Duties were increased to eleven by the 86th Amendment in 2002.
- Failure to perform these duties does not carry any penalty, yet the citizens are expected to follow them. These are:

FUNDAMENTAL DUTIES

1. To abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem.
2. To cherish and follow the noble ideals which inspired our national struggle for freedom.
3. To uphold and protect the sovereignty, unity and integrity of India.
4. To defend the country and render national service when called upon to do so.
5. To value and preserve the rich heritage of our composite (Complicated) culture.
6. To safeguard public property and to abjure violence.

FUNDAMENTAL DUTIES

7. To promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women.
8. To protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures.
9. To develop the scientific temper, humanism and the spirit of inquiry and reform.
10. To strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavor and achievement.

SIGNIFICANCE OF FUNDAMENTAL DUTIES

- They serve as a reminder to perform specific duties towards society and warning to citizens against anti social activities.
- They serve as a warning against the anti-national and antisocial activities like burning the national flag, destroying public property and so on.
- They serve as a source of inspiration for the citizens and promote a sense of discipline and commitment among them.
- They create a feeling that the citizens are no mere spectators but active participants in the realization of national goals.
- If the court finds that a law in question seeks to give effect to a fundamental duty, it may consider such law to be reasonable

Difference - Fundamental Rights & Duties

- Fundamental Right applies to both citizens & foreigners but fundamental duties apply only to citizens.
- Fundamental duties are non-justiciable in nature i.e. they can't be taken to court of law if they are not followed.
- Fundamental duties lack legal sanction & direct enforcement. But Parliament can enforce it if it wants via proper legislation.
- Fundamental Rights have impact on the government. Fundamental Duties have impact on the Citizens.
- Rights are what we want others to do for us whereas the duties are those acts which we should perform for others.

SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC

The Constitution declares India as a **Sovereign, Socialist, Secular, Democratic, Republic**. The words, 'Socialist' and 'Secular' were added in the Preamble of the Constitution by **42nd amendment in 1976**.

Sovereign : It means absolutely independent; it is not under the control of any other state. Before 1947, India was not sovereign as it was under the British rule. Now it can frame its policy without any outside interference.

Republic : Means, the head of the State is not a hereditary monarch but a President who is indirectly elected by the people for a definite period.

Socialist : It implies a system which will endeavour to avoid concentration of wealth in a few hands and will assure its equitable distribution. It also implies that India is against exploitation in all forms and believes in economic justice to all its citizens.

Secular : India is a country of several religions and each individual has fundamental profess any religion he likes. The state neither force its citizen to accept any specific religion nor discriminate on the basis of religion.

Democratic : Means, the power of the government is vested in the hands of the people. People exercise this power through their elected representatives who, in turn, are responsible to them. All the citizens enjoy equal political rights.

PARLIAMENTARY DEMOCRACY

In India, there is a parliamentary form of government. The majority party in the *Lok Sabha* forms government. The government is run by the Prime Minister and other members of the Council of Ministers. The Cabinet exercises the executive powers and is responsible to the concerned legislature. In Presidential form of government, the President is the executive head. In India, the President is only the nominal head. The Constitution provides a Parliamentary form of Government in the Centre as well as in the States. The Indian President & the State Governor are mere Constitutional heads. The Cabinet exercises the executive powers and is responsible to the concerned legislature. The Cabinet can be removed from office by a vote of no-confidence in the legislature even before its term of office is over.

FEDERAL GOVERNMENT WITH UNITARY BIAS

India is a federation, although the word 'federation' does not find a place in the whole text, the elements of federation are present in the Indian Constitution. There is constitutional division of powers between the centre and the states. There is also an independent judiciary. **The Supreme Court** arbitrates the disputes between the centre and the states. All these provisions make India a federation. But in Indian Federation, the centre is strong as compared to the states. The centre has more financial powers and the states largely depend upon it for their economic development.

FEDERAL GOVERNMENT WITH UNITARY BIAS

The Planning Commission has emerged as a 'super cabinet' or a 'super state'. The Governor acts as the agent of the center.

The center can reorganize a state, but a state cannot reorganize the center. In other words, the center is indestructible while the states are destructible. During emergencies, the powers of the center considerably grow and the states become weak. K. C. Wheare has described the Indian government as 'quasi-federal'. India has also been characterized as 'a federal state with unitary spirit'.

JUDICIAL REVIEW

Another significant feature of the Indian Constitution is the provision for Judicial Review. This means that the Supreme Court of India is empowered to declare a law passed by the Indian Parliament as null and void if it is inconsistent with the Fundamental Rights.

In the case of the Acts passed by the State Legislatures, this power is vested with the concerned High Courts. The Constitution has made the judiciary independent of the executive. The President of India appoints the judges of the Supreme Court and High Courts after consulting the Chief Justice of India. The judges are free from the executive control. Their tenure is guaranteed and their salaries are fixed by the Constitution.

UNIVERSAL ADULT FRANCHISE

Article 326 of the Constitution of India provides universal adult suffrage. The voting age has now come down from 21 to 18. Anybody who has completed 18 years of age, irrespective of his caste, creed, sex or religion, is eligible to vote in general elections.

This is one of the most revolutionary aspects of Indian democracy.

LANGUAGE POLICY

India is a country where different languages are spoken in various parts. Hindi and English have been made official languages of the central government. A state can adopt the language spoken by its people in that state also as its official language.

Although India is a multi-lingual state, the constitution provides that Hindi in *Devnagri script* will be the national language. It shall be the duty of the union to promote and spread Hindi language.

At present, we have 22 languages which have been recognized by the Indian Constitution.