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## Longhiest Written Constitution:

- Originally (1949), the Constitution contained a [Preamble](#), 395 Articles (divided into 22 Parts) and 8 Schedules.
- Presently, it consists of a Preamble, about 470 Articles (divided into 25 Parts) and 12 [Schedules](#).
- **Reasons for Vastness:**
  - **Geographical factors**, that is, the vastness of the country and its diversity.
  - **Historical factors**, e.g., the influence of the [Government of India Act, 1935](#), which was bulky.
  - Single Constitution for both the Centre and the states.
  - The dominance of **legal luminaries** in the Constituent Assembly.
  - Detailed administrative provisions.

# Drawn from various sources

Source	Features Borrowed
Government of India Act, 1935	Federal Scheme, Office of <a href="#">Governor</a> , <a href="#">Judiciary</a> , <a href="#">Public Service Commissions</a> , <a href="#">Emergency Provisions</a> , Administrative Details
British Constitution	<a href="#">Parliamentary Government</a> , <a href="#">Rule of Law</a> , Legislative Procedure, <a href="#">Single Citizenship</a> , <a href="#">Cabinet System</a> , <a href="#">Prerogative Writs</a> , <a href="#">Parliamentary Privileges</a> , <a href="#">Bicameralism</a>
US Constitution	<a href="#">Fundamental Rights</a> , <a href="#">Independence of Judiciary</a> , <a href="#">Judicial Review</a> , <a href="#">Impeachment of President</a> , Removal of <a href="#">Supreme Court</a> and <a href="#">High Court</a> Judges, Post of <a href="#">Vice-President</a>
Irish Constitution	<a href="#">Directive Principles of State Policy</a> , Nomination of Members to <a href="#">Rajya Sabha</a> , Method of Election of President
Canadian Constitution	Federation with a Strong Centre, Vesting of Residuary Powers in the Centre, Appointment of State Governors by the Centre, Advisory Jurisdiction of Supreme Court
Australian Constitution	<a href="#">Concurrent List</a> , Freedom of Trade, Commerce, and Inter-course, Joint Sitting of Two Houses of Parliament
Weimar Constitution of Germany	Suspension of Fundamental Rights During Emergency
Soviet Constitution (USSR, now Russia)	<a href="#">Fundamental Duties</a> , Ideal of Justice (Social, Economic, and Political) in Preamble
French Constitution	Republic and Ideals of <a href="#">Liberty</a> , <a href="#">Equality</a> , and <a href="#">Fraternity</a> in Preamble
South African Constitution	Procedure for Amendment of Constitution, Election of Members of Rajya Sabha
Japanese Constitution	<a href="#">Procedure Established by Law</a>

## A Blend of Rigidity and Flexibility:

- The Constitution can be amended in three ways:
  - Amendment by a **simple majority** of the Parliament,
  - Amendment by a **special majority** of the Parliament, and
  - Amendment by a **special majority of the Parliament and the ratification of half of the State Legislatures**.
- **Article 368 of Indian Constitution** provides for two types of amendments:
  - By a **Special Majority of Parliament** (50% of the total membership of the House + 2/3rd of the members present and voting), Example amendments to Fundamental Rights, Directive Principles of State Policy.
  - By a Special Majority of Parliament plus ratification of 1/2 of the states by a Simple Majority, Example Election of the President and its manner, Provisions related to the Supreme Court and High courts, etc.
- One other type of amendment can be done by a **Simple Majority of Parliament**. **Ex:** Formation of new states and alteration of areas, boundaries, or names of existing states. However, these amendments are **not deemed to be amendments** for the purpose of **Article 368**.
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# Basic Structure of the Constitution

- The Basic Structure of the Indian Constitution refers to a set of core principles deemed essential, which cannot be destroyed or altered through amendments by the Parliament. This concept, though not explicitly mentioned in the Constitution, was established by the Supreme Court in the landmark Kesavananda Bharati case (1973).
- The Doctrine of Basic Structure is a check on the amending power of the Parliament and ensures that the fundamental ethos, principles, and the underlying framework of the Constitution remain intact, preserving its spirit.

## Federal System with Unitary Bias

- The Constitution of India establishes a federal system of Government.
- It contains all the usual features of a federation, viz., two Governments, division of powers, written Constitution, the supremacy of Constitution, rigidity of Constitution, **independent judiciary** and bicameralism.
- However, the Indian Constitution also contains a **large number of unitary** or non-federal features, viz., a strong centre, single constitution, single citizenship, flexibility of constitution, integrated judiciary, appointment of state governor by the centre, all-India services, emergency provisions and so on.
- The term '**Federation**' has nowhere been used in the constitution.
- Article 1, on the other hand, describes India as a '**Union of States**' which implies two things:
  - Indian Federation is **not the result of an agreement** by the states.
  - No state has the **right to secede** from the federation.
- The Indian Constitution has been variously described as 'federal in form but, unitary in spirit', '**quasi-federal**' by K.C. Wheare, 'bargaining federalism' by Morris Jones, 'co-operative federalism' by Granville Austin, 'federation with a centralising tendency' by Ivor Jennings.

# Unitary Features of the Indian Union

- **Constitution's Flexibility:** Amendments can be easily made, but changes to federalism are harder.
- **Power with the Centre:** Union List gives more power to the central government, overriding state laws on certain matters.
- **Unequal Rajya Sabha Representation:** States' representation is based on population, not equality.
- **Executive-Legislature Link:** The executive is part of the legislature, violating the separation of powers.
- **Lok Sabha vs. Rajya Sabha:** Lok Sabha holds more power, making the system unequal.
- **Emergency Powers:** Centre gains more control over states during emergencies, weakening state autonomy.
- **Integrated Judiciary:** No separate judiciary for the centre and states.
- **Single Citizenship:** One national citizenship fosters unity and ensures freedom of movement.
- **Governor's Appointment:** Governors are appointed by the Centre, not the state.
- **State Formation:** Parliament can alter state boundaries or names.
- **All India Services:** Centre influences state administration through services like IAS and IPS.
- **Integrated Election Machinery:** The Election Commission manages elections at all levels.
- **Veto on State Bills:** The president can veto state bills, challenging federal principles.
- **Integrated Audit Machinery:** The President appoints the CAG to audit both Centre and states.



## Parliamentary Form of Government:

- The Constitution of India has opted for the **British Parliamentary System** of Government rather than the American Presidential System of Government.
- The Constitution establishes the parliamentary system not only at the Centre, but also in the states.
- The features of parliamentary government in India are:
  - Presence of nominal and real executives
  - Majority party rule
  - Collective responsibility of the executive to the legislature
  - Membership of the ministers in the legislature
  - Leadership of the Prime Minister or the Chief Minister
  - Dissolution of the lower House (Lok Sabha or Assembly)
- Even though the Indian parliamentary system is largely based on the British pattern, the two have some fundamental differences.
  - For example, the **Indian Parliament is not a sovereign body** like the British Parliament.
  - The Indian State has an elected head (republic) while the British State has a hereditary head (monarchy).



## Synthesis of Parliamentary Sovereignty and Judicial Supremacy:

- The doctrine of sovereignty of Parliament is associated with the British Parliament, while the principle of **judicial supremacy** is with that of the American Supreme Court.
- The American Constitution provides for 'due process of law' against the 'procedure established by law' contained in the Indian Constitution (Article 21).
- Therefore, the framers of the Indian Constitution have preferred a proper synthesis between the British principle of parliamentary sovereignty and the American principle of judicial supremacy.
  - The Supreme Court, on the one hand, **can declare parliamentary laws** as unconstitutional through its power of judicial review.
  - On the other hand, the Parliament can amend the major portion of the constitution through its constituent power.

# Difference between Procedure Established and Due Process of Law

Aspect	Procedure Established by Law	Due Process of Law
Origin	Derived from the British legal system.	Originated in the American legal system, enshrined in the U.S. Constitution.
Constitutional Reference (India)	Article 21 of the Indian Constitution: "No person shall be deprived of his life or personal liberty except according to procedure established by law."	The concept of "due process" is not explicitly stated but has been read into Article 21 by the judiciary.
Concept	Ensures actions are taken according to the formal legal procedures prescribed by law.	Ensures laws and actions are just, fair, and reasonable, considering both procedures and the substance of the law.
Focus	Emphasizes strict adherence to procedural formalities specified in the law.	Emphasizes both procedural fairness and the substantive justice of laws.
Judicial Review Scope	Courts limit their review to whether the procedure prescribed by law has been correctly followed.	Courts have the authority to assess not only whether the proper procedure was followed but also whether the law itself is fair and just.
Scope of Protection	Narrower scope; ensures that only the prescribed legal procedure is followed without assessing the fairness of the law.	Broader scope; protects individuals from unjust laws and procedures, ensuring overall fairness and justice.
Impact on Fundamental Rights	Can uphold laws that may be arbitrary, as long as the correct procedure is followed.	Protects individuals from arbitrary laws, demanding that both the law and the procedures are fair, reasonable, and just.
Interpretation in Indian Context	Initially interpreted narrowly (A.K. Gopalan case, 1950) to mean only procedural adherence. Over time, the Indian judiciary has expanded its interpretation to include elements of substantive due process (Maneka Gandhi case, 1978).	Recognized within the framework of Article 21 of the Indian Constitution post-Maneka Gandhi case, where the Supreme Court ruled that the procedure must be "right, just, and fair" and not arbitrary, fanciful, or oppressive.
Implications	May lead to the upholding of laws that are procedurally correct but may be inherently unjust or oppressive.	Ensures that laws must meet standards of fairness and reasonableness, providing greater protection to individual rights and liberties.

## Integrated and Independent Judiciary:

- The Indian Constitution establishes a judicial system that is integrated as well as independent.
- The Supreme Court stands at the top of the integrated judicial system in the country. Below it, there are high courts at the state level.
- Under a high court, there is a hierarchy of subordinate courts, that is, district courts and other lower courts.
- This single system of courts enforces **both the central laws** as well as the state laws.
- The **Supreme Court is a federal court**, the highest court of appeal, the guarantor of the fundamental rights of the citizens, and the **guardian of the constitution**.
- The Constitution has made various provisions to ensure its independence including the security of tenure of the judges, fixed service conditions for the judges, etc.

## Fundamental Rights:

- **Part III** of the Indian Constitution guarantees **six fundamental rights** to all the citizens:

Right	Articles
Right to Equality	14-18
Right to Freedom	19-22
Right against Exploitation	23-24
Right to Freedom of Religion	25-28
Cultural and Educational Rights	29-30
Right to Constitutional Remedies	32

## Directive Principles of State Policy:

- According to [Dr. B.R. Ambedkar](#), the [Directive Principles of State Policy](#) is a 'novel feature' of the Indian Constitution.
- They are enumerated in **Part IV** of the Constitution.
- They can be classified into **three broad categories**:
  - Socialistic
  - Gandhian
  - Liberal-intellectual.
- Unlike the Fundamental Rights, the directives are non-justiciable, that is, they are **not enforceable** by the courts for their violation.
- The Constitution itself declares that 'these principles are fundamental in the governance of the country and it shall be the duty of the state to apply these principles in making laws'.

# Directive Principles of State Policy:

- free and compulsory education for all children up to the age of 14;
- promotion of education and economic interests of scheduled castes, scheduled tribes and other weaker sections;
- organisation of village **panchayats**;
- separation of judiciary from executive;
- promulgation of a uniform civil code for whole country;
- protection of national monuments;
- promotion of justice on a basis of equal opportunity; provision of free legal aid;
- protection and improvement of environment and safeguarding of forests and wildlife of the country;
- promotion of international peace and security; just and honourable relations between nations;
- respect for international law; treaty obligations; and
- settlement of international disputes by arbitration.

## Fundamental Duties:

- The **original constitution did not provide** for the Fundamental Duties of the citizens.
- These were added during the operation of internal emergency (1975–77) by the 42<sup>nd</sup> Constitutional Amendment Act, 1976 on the recommendation of the Swaran Singh Committee.
- The 86th Constitutional Amendment Act, 2002 added one more fundamental duty.
- The Part IV-A of the Constitution (which consists of only one Article 51-A) specifies the eleven Fundamental Duties.
- The fundamental duties serve as a reminder to citizens that while enjoying their rights, they have also to be quite conscious of the duties they owe to their country, their society, and to their fellow citizens.
- These are also non-justiciable in nature.



# Fundamental Duties:

- To **abide by the Constitution** and respect its ideals and institutions, **the National Flag and the National Anthem**,
- To cherish and follow the **noble ideals that inspired the national struggle** for freedom,
- To uphold and protect the sovereignty, unity, and integrity of India,
- To **defend the country** and render **national service** when called upon to do so,
- To **promote harmony and the spirit of common brotherhood** amongst all the people of India transcending religious, linguistic, and regional or sectional diversities and to **renounce practices derogatory to the dignity of women**,
- To value and preserve the **rich heritage of the country's composite culture**,
- To **protect and improve the natural environment** including forests, lakes, rivers, and wildlife, and to **have compassion for living creatures**,
- To **develop a scientific temper, humanism, and the spirit of inquiry and reform**,
- To **safeguard public property and to abjure violence**,
- 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, and
- To provide opportunities for education to his child or ward **between the age of six and fourteen years (added by the 86th Constitutional Amendment Act of 2002)**.

## A Secular State:

- The Constitution of India stands for a secular state.
- Hence, it does not uphold any particular religion as the official religion of the Indian State.
- The distinguishing features of a secular democracy contemplated by the Constitution of India are:
- The State will not identify itself with or be controlled by any religion;
- While the State guarantees everyone the right to profess whatever religion one chooses to follow (which includes also the right to be an antagonist or an atheist), it will not accord preferential treatment to any of them;
- No discrimination will be shown by the State against any person on account of his religion or faith; and
- The right of every citizen, subject to any general condition, to enter any office under the state will be equal to that of fellow citizens. Political equality which entitles any Indian citizen to seek the highest office under the State is the heart and soul of secularism as envisaged by Constitution.
- The conception aims to establish a secular state. This does not mean that the State in India is anti-religious.
- The Western concept of secularism connotes a complete separation between religion and the state (negative concept of secularism).
- But, the Indian constitution embodies the **positive concept of secularism**, i.e., giving equal respect to all religions or protecting all religions equally.
- Moreover, the Constitution has also abolished the old system of communal representation. However, it provides for the temporary reservation of seats for the scheduled castes and scheduled tribes to ensure adequate representation to them.

## Universal Adult Franchise:

- The Indian Constitution adopts universal adult franchise as a basis of elections to the Lok Sabha and the state legislative assemblies.
- Every citizen who is not less than 18 years of age has a **right to vote** without any discrimination of caste, race, religion, sex, literacy, wealth, and so on.
- The voting age was reduced to 18 years from 21 years in 1989 by the 61st Constitutional Amendment Act, 1988.

## Single Citizenship:

- In a federal state usually, the citizens enjoy double citizenship as is the case in the USA.
  - In India, there is only single citizenship.
  - It means that every Indian is a citizen of India, irrespective of the place of his/her residence or place of birth.
  - He/she is not a citizen of the Constituent State like Jharkhand, Uttaranchal or Chattisgarh to which he/she may belong but remains a citizen of India.
  - All the citizens of India can secure employment anywhere in the country and enjoy all the rights equally in all parts of India.
  - The Constitution makers deliberately opted for single citizenship to eliminate regionalism and other disintegrating tendencies.
- Single citizenship has undoubtedly forged a sense of unity among the people of India.

## Independent Bodies:

- The Indian Constitution establishes **independent bodies** as key pillars safeguarding the democratic system of government in India:
  - [Election Commission](#) to ensure free and fair elections
  - [Comptroller and Auditor-General of India](#) to audit the accounts of the central and state governments.
  - [Union Public Service Commission](#) to conduct examinations for recruitment to all-India services and higher Central services and to advise the President on disciplinary matters.
  - [State Public Service Commission](#) in every state to conduct examinations for recruitment to state services and to advise the governor on disciplinary matters.

## Emergency Provisions:

- The Indian Constitution contains **elaborate emergency provisions** to enable the President to meet any extraordinary situation effectively.
  - The rationality behind the incorporation of these provisions is to safeguard the sovereignty, unity, integrity and security of the country, the democratic political system and the Constitution.
  - The Constitution envisages **three types of emergencies**:
    - **National emergency** on the grounds of war or external aggression or armed rebellion (Article 352). Ex: **1962 Indo – China war, 1971 – Indo – Pak war, 1975-1977** - The third and most controversial national emergency was declared in 1975 due to "internal disturbance". The emergency was declared on the advice of Prime Minister Indira Gandhi.
    - **State emergency (President's Rule)** on the ground of failure of constitutional machinery in the states (Article 356) or failure to comply with the directions of the centre (Article 365). Ex: The President declared a state emergency in Jammu and Kashmir after the Chief Minister resigned in 1996 (Farooq Abdullah). This was the longest term of Article 356, lasting 6 years and 264 days. President's rule was withdrawn in Jammu and Kashmir on Sunday (October 13, 2024), paving the way for the **formation of a new government** in the Union Territory.
- The first use of Article 356 was in Punjab, where it was imposed for over 3,000 days
- **Financial emergency** on the ground of threat to the financial stability or credit of India (Article 360). A financial emergency has never been declared in India. (Ex – Sri Lanka declared in 2021,

## Three-tier Government:

- Originally, the Indian Constitution provided for a dual polity and contained provisions with regard to the organisation and powers of the Centre and the states.
- The 73rd and 74th Constitutional Amendment Acts, 1992 have added a third-tier of Government (i.e., local) which is not found in any other Constitution of the world.
  - The 73<sup>rd</sup> Amendment Act, 1992 gave constitutional recognition to the panchayats (rural local governments) by adding a new Part IX and a new Schedule 11 to the Constitution.
  - The 74th Amendment Act, 1992 gave constitutional recognition to the municipalities (urban local governments) by adding a new Part IX-A and a new Schedule 12 to the Constitution.



## Co-operative Societies:

- A co-operative society is a voluntary association of individuals having common needs who join hands for the achievement of common economic interest. Its aim is to serve the interest of the poorer sections of society through the principle of self-help and mutual help.
- The 97<sup>th</sup> Constitutional Amendment Act, 2011 gave constitutional status and protection to co-operative societies.
- Article 19(1)(c): Includes the right to form cooperative societies as a fundamental right
- Article 43B: Inserted as a directive principle of state policy for promoting cooperative societies
- Part IX-B: Inserted provisions for incorporating, regulating, and winding up cooperative societies

## Conclusion

- The Indian Constitution is a **dynamic and adaptable document**, reflecting India's complex diversity and evolving socio-political landscape. Its blend of rigidity and flexibility, federal structure with a unitary bias, and the inclusion of fundamental rights and duties make it a **resilient framework for governance**.
- Despite criticisms, the Constitution's borrowed elements were **carefully modified** to suit Indian needs, **ensuring its relevance** and enduring significance in shaping the nation's **democratic principles and institutions**.