

Features of Indian Constitution

- **Topic 3 - Features of Indian Constitution**

- Indian Constitution is unique in its contents and spirit.

- Salient Features of Indian Constitution

- It have several salient features that distinguish it from the constitution of other countries.

Salient features

- Lengthiest Constitution
- Parliamentary form of Government
- Rigidity and Flexibility
- Fundamental Rights
- DPSP – Directive Principles of State Policy
- Adult Suffrage
- An independent Judiciary – Judicial Review
- A Secular State
- Single Citizenship
- Fundamental Duties
- Three –tier System

1.Lengthiest Constitution:

- It is the lengthiest in the world.
- It is very comprehensive, elaborate and detailed document
- Originally has preamble, 395 articles, 8 Schedules, 22 Parts
- Currently 2021- Around 448 Articles, 25 Parts and 12 Schedules.

- Four factors contributing to the size of Constitution:
 1. Geographical factors
 2. Historical factors
 3. Single constitution for both centre and state
 4. Dominance of legal luminaries in the Constituent Assembly

Constitution contains not only fundamental principles of governance but also detailed administrative provisions.

- 2. Parliamentary form of Government
 - The Parliamentary system is also known as 'Westminster' model of government, responsible government and cabinet government.
 - Though it is based on UK model there are certain fundamental difference in India.
 - It is based on the principle of cooperation and co-ordination between the legislative and executive organ.

- **Features** of parliamentary form of government is
 - Presence of nominal and real executives
 - Majority party rule
 - Collective responsibility
 - Leadership of the Prime Minister and so on

3. Rigidity and Flexibility

- Rigid – Special procedure for its amendment Eg: American Constitution
- Flexible – Can be amended easily

Eg: British Constitution

- Indian Constitution – neither rigid nor flexible
- Art 368 – (i) Special Majority (2/3rd majority)
(ii) Special Majority + Ratification of states
(iii) Simple Majority

4. Fundamental Rights :

- Part III – Six fundamental rights
 1. Right to Equality – (Art 14 – 18)
 2. Right to freedom (Articles 19-22)
 3. Right against exploitation (Articles 23-24)
 4. Right to freedom of religion (Articles 25-28)
 5. Cultural and educational rights (Articles 29-30)
 6. Right to Constitutional Remedies (Art 32) – Writ Jurisdiction

Kinds of writs

- Habeas Corpus
- Mandamus
- Prohibition
- Certiorari
- Quo-Warranto

Justiciable in nature

Subjected to reasonable restrictions

Promoting the idea of political democracy

5. DPSP – Directive Principles of State Policy

- Part IV of the Indian Constitution (Art 36 – 51)
- Promoting the ideal of social and economic democracy
- Establish the welfare state
- Dr.Ambedkar considered this as 'novel feature' of the Indian Constitution.

6. Adult Suffrage

- Universal adult franchise is based on the elections in India
- Citizens above 18 years can cast their vote without any discrimination based on race, caste, religion, sex, literacy etc
- Voting rights was reduced from 21 to 18 years in 1989 by 61st Constitutional Amendment Act 1988.
- Essence of democracy, upholds the principle of equality and protects the interest of all.

7. An independent Judiciary – Judicial Review

- Hierarchy of courts – Supreme Court – High Court and then subordinate courts
- Supreme Court is the guardian of Constitution
- Single court system in India
- USA – Federal laws enforced by federal judiciary and state laws are enforced by state judiciary

- Independence is ensured through various provisions of Indian Constitution such as
 1. Appointment of judges
 2. Tenure
 3. Service conditions etc
- Separation of judiciary from executive is dealt under Art 50
- Judicial Review

8. A Secular State

- Does not uphold any religion as official religion.
- Art 25- 28
- Preamble – secular was added, secure all its citizen liberty of belief, faith and worship
- Art 14,,15,16, 29 and 30
- Constitution embodies the positive concept of secularism – giving equal respect to all the religions.

9. Single Citizenship

- USA – Dual Citizenship
- India – irrespective of state they are born enjoy the same political and civil rights

10. Fundamental Duties

- inserted as PART IV A by 42nd Amendment Act, 1976 on the recommendation of swaran singh committee.
- Reminder to the citizens that rights includes duties as well.

- 11. **Three tier system:**
 - Panchayat Raj system - 73rd and 74th amendment act
 - Gram Panchayat at the village level
 - Panchayat Samiti at the block level and
 - Zila Parishad at the district level.

CITIZENSHIP (Article 5 to 11)

- Article 5 to 9 – determines who are the Indians at the commencement of Constitution.
- Article 10 – Continuance of such citizenship
- Article 11 – power of parliament to make law regarding citizenship.
- Citizenship Act, 1955

- Citizens are people who enjoy all civil and political rights.
- Nationality is a place of birth of a person whereas
- Citizenship is his legal status in a country.
- Domicile - intention to reside forever in a country is an essential element for domicile.

Article 5 :

- During the commencement of the Indian Constitution, each person who has his or her domicile in the territory of India and :
 - (a) who was **born in the Indian** territory; or
 - (b) either of **whose parents was** born in the Indian territory; or
 - (c) An individual who has been **ordinarily resident in the Indian territory for at least 5 years** immediately preceding such commencement, shall be a citizen of India.

Article 6

- **Migrants from Pakistan:**

Due to Independence Act, 1947, India was partitioned into India and Pakistan, with effect from 15-8-1947.

- A person migrated to India from Pakistan became an Indian Citizen if he or either of his parents or any of his grandparents was born in undivided India and also fulfil any one of the two conditions:

- Migrants from Pakistan before 19th July,1948 – ordinary resident in India.
- Migrants from Pakistan to India on or after 19th July,1948 – he be the residents for not less than 6 months preceding the date of his application for registration.

Article 7

Person who migrated to Pakistan from India after march 1, 1947 , shall not be deemed to be a citizen of India.

Provided nothing said above will apply to a person if later he returned to India for resettlement could become an Indian citizen.

Article 8

Rights of Citizenship of Certain Persons of Indian Origin Residing Outside India

- Any **person who or either of whose parents or grandparents were born in India** as stated in the Government of India Act 1955 and who is residing ordinarily in any country outside India shall be considered to be a citizen of India.
- **If he has registered as a Citizen of India** by an Indian diplomatic or consular representative in that country on an application made by him or her in the prescribed document form to such diplomatic or consular representative, whether before or after the commencement of the Constitution.

- **Article 9** - Voluntarily Acquiring Citizenship of a Foreign State Not to be Citizens
- Article 10 – Every person are subjected to the law created by the parliament
- Article 11 - Parliament to Regulate the Right of Citizenship by Law
 - Citizenship Act, 1955
 - Citizenship Amendment Act, 2019

2019 Amendment:

- **2019 Amendment**
- Illegal migrants who are Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Afghanistan, Bangladesh and Pakistan, eligible for citizenship.
- Period of naturalisation for such group of persons from six years to five years.