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1	Constitutional Law of India, Dr. J.N. Pandey, Central Law Agency
2	Introduction to the Constitution of India, Durga Das Basu, LexisNexis.
3	Indian Constitutional Law, 7th Edition, M.P. Jain, LexisNexis
4	V.N.Shukla's Constitution of India, Mahindra Pal Singh, Eastern Book Company
5	Constitutional Law – I Structure, Udai Raj Rai, Eastern Book Company

Chapter 1

- **Meaning of the constitution law and constitutionalism**
- **History of Indian Constitution**

- **Constitution** is often defined as the “Supreme law of a country”
- **Constitutionalism** is a system of governance under which the power of the government is limited by the rule of law.
- Constitutionalism recognizes the need of limited concentration of power in order to protect the rights of groups and individuals.

Purpose of Constitution

- Defines the scope of government power
- It establishes the institutions to exercise this power
- It encapsulates ideology, values and principles
- It enumerates society's aspirational goals
- It protects fundamental rights and freedoms
- It reaffirms the state's international obligation

- The constitutionalism principle requires that all government actions comply with constitutions.
- Constitutionalism is a “set of rules or norms creating, structuring, and defining the limits of government or authority”.
- A constitution must be enduring, it must constitute a supreme law, it must be more difficult to amend than ordinary laws.
- Constitutionalism is a commitment to the principle of “**Rule of law**”.
- Rule of law developed out of an acknowledgment of the need to restrict state’s authority of law.
- Today, the executive, legislature and judiciary are all regulated by law , specifically, the constitution.

Modern/Liberal constitutionalism

- **A theory of limited Government**

:- Rule of law, central feature, limitations on exercise of government of power

- **The separation of power doctrine:** Separation of powers is a doctrine of constitutional law under which the three branches of government (Executive, Legislative, and Judicial) are kept separate. This is also known as the system of checks and balances, because each branch is given certain powers so as to check and balance the other branches.

:- **Legislature, executive and judicial** powers should be separated

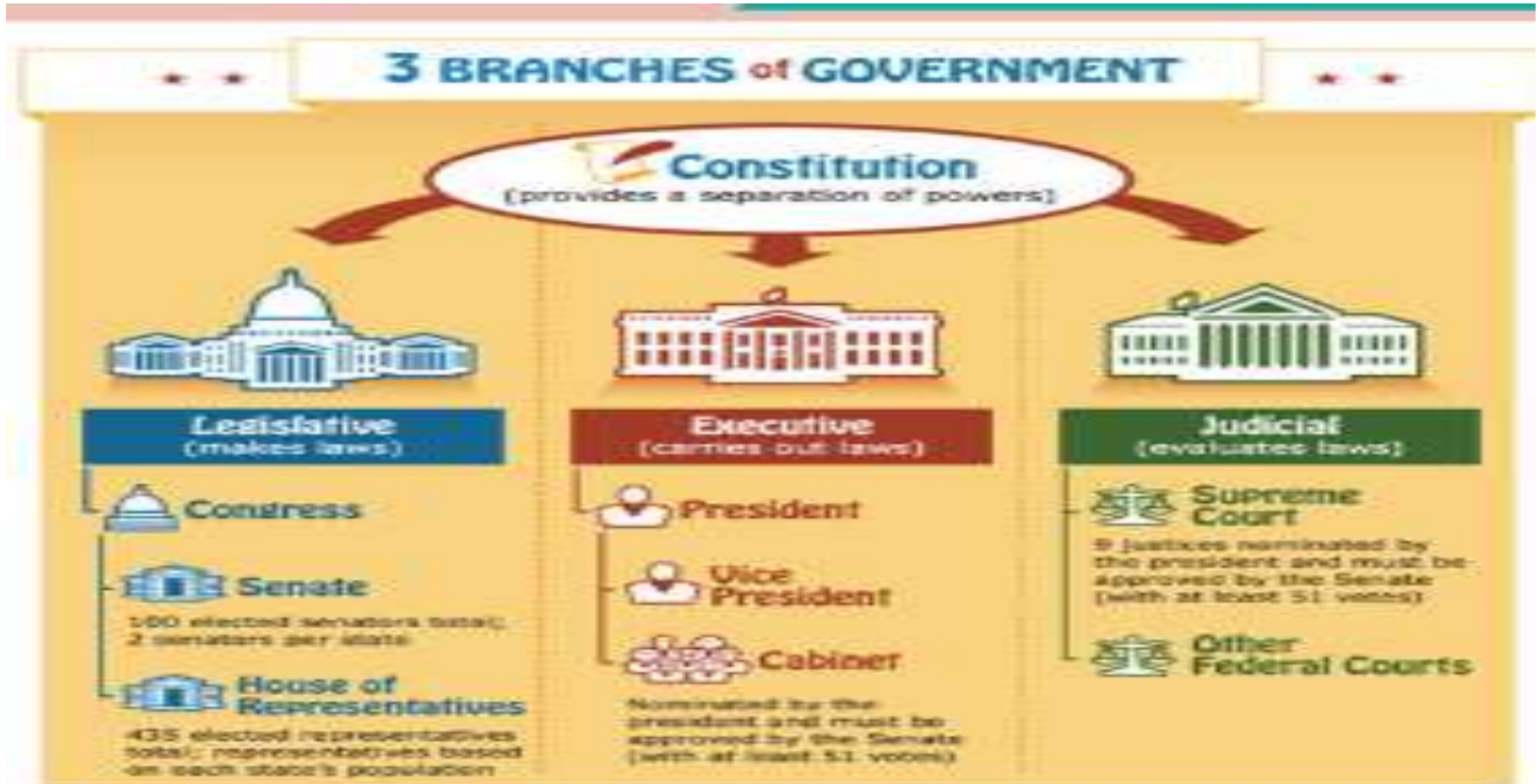
- **The power of judicial review**

- :- Independent judicial review of legislative and executive action is hallmark of liberal constitutionalism
 - :- Court plays crucial role in protection of fundamental values and human rights
 - :- Constitutional supremacy is not equated with judicial supremacy

- **Fundamental rights and duties**

- :- Constitutionally given fundamental rights and freedoms must be protected against state
 - :- Individual rights are inherent component of western liberal tradition
 - :-social rights, economic rights, Minority rights

Historical Perspective of constitution of India



Government of India (Central/Union Government)

Executive

Executive consists of :

1. President
2. Vice President
3. Cabinet Ministers

Responsibility

To pass the laws made
by the Legislature

Legislature or Parliament

Legislature consists of :

1. Lok Sabha + Rajya Sabha
2. Prime minister (MP)

Responsibility

To make laws

Judiciary

Judiciary consists of :

Supreme Court of India

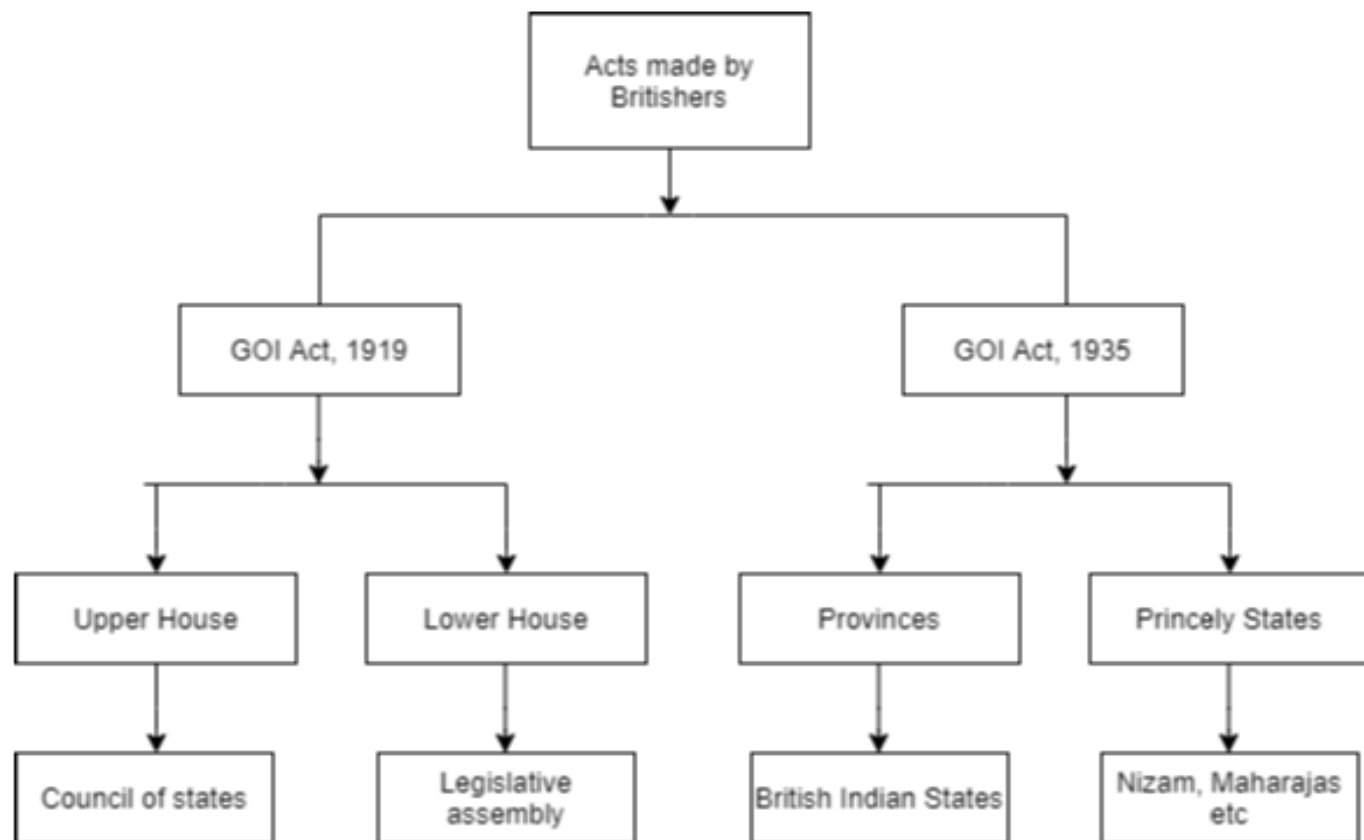
Responsibility

1. To solve conflicts
between Executive and
Legislature
2. other public related
matters or conflicts

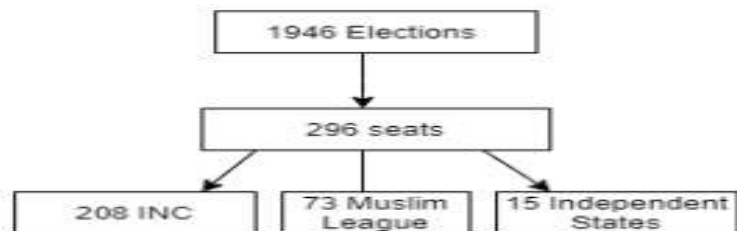
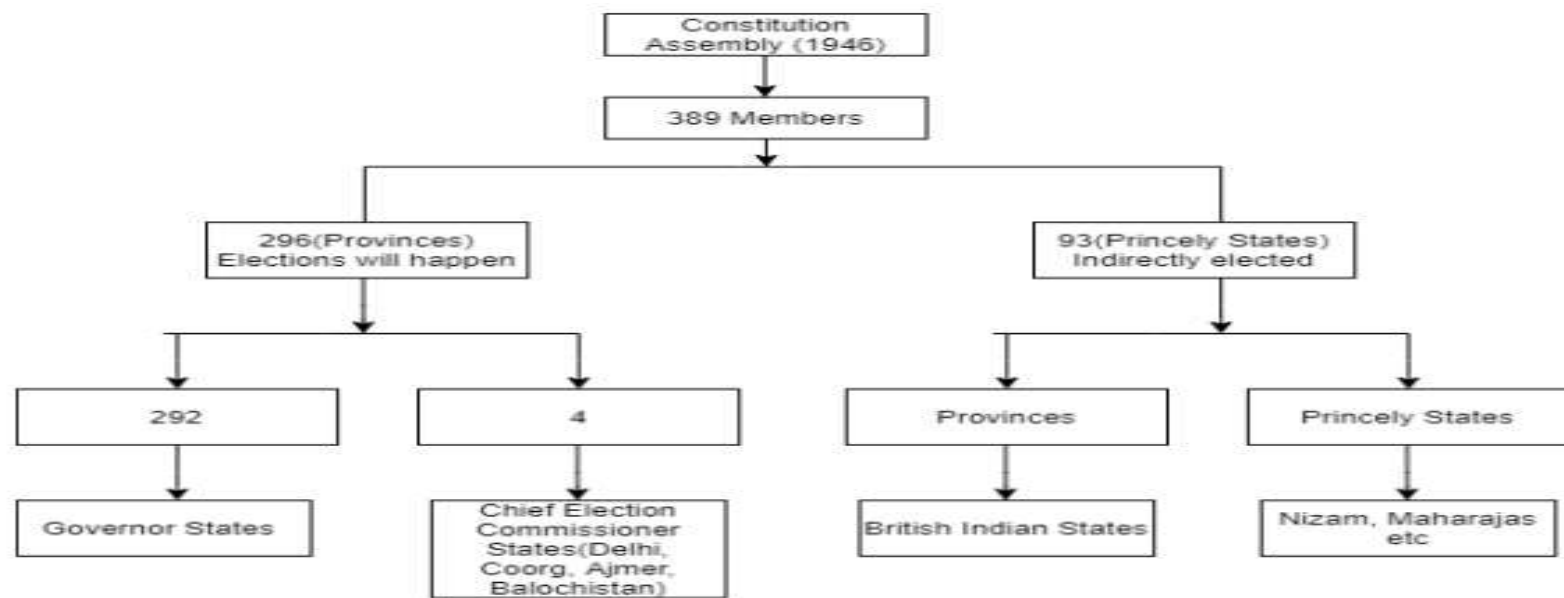
Forms of Government

- Federal Government (Normal Time)
- 3-Tier Government
- Centre
- State
- Village
- Power is distributed
- Unitary Government (Emergency)
- Unit, Single
- Central Government
- At the time of National Emergency
- War, Internal Disturbance, External aggression

- Quasi federal Government



- In 1934 M N Roy gave idea of Indian Constitution for first time.
- In 1935 INC demanded for the first time for Indian Constitution.
- In 1940 Britishers gave August offer to given Indian Constitution but our people rejected the offer.
- In 1942 Cripps Mission said that we will make IC but Muslim League rejected the offer.
- World war 2 (1939-45)
- Cabinet Mission Plan 1946 (Under which plan constitution was created?) , we accepted the offer
- In Cabinet Mission Plan 3 people were involved
 1. Pathic Lawrence
 2. Sir Stafford
 3. AV Alexander
- They recommended Federal Government.



- Mahatma Gandhi and Mohammad Ali Jinnah were not part of Constitution Assembly.
- On 9th Dec, 1946 first meeting of Constitution Assembly.
- Constitutional Assembly's first president was Sachidanand Sinha as was oldest member.
- He was president for only a day and on 11th Dec, 1946 Dr. Rajendra Prasad was selected as President of Constitutional Assembly. (Not president of India)
- On 13th Dec, 1946 J. L. Nehru proposed objective resolution(preamble).
- IC is based on philosophy of Equality, Liberty, Expression of belief.
- On 22nd Jan 1947 resolution was opted.

- 14th Aug, 1947 we were undivided India.
- 15th Aug, 1947 India got independence
- Initially there were 389 members after independence new count was 299 out of that 229 Indian Provinces (directly elected) and 70 Princely states(Indirectly).
- 17th Nov, 1947 meeting of Indian Parliament where G V Mavalankar was elected as speaker.
- When CA met as parliament for law making GVM was chairman.
- When CA met for constitution making Dr. Rajrindra Prasad was chairman.

Committees	Chairman
Rules and Procedures	Dr. Rajendra Prasad
Steering Committee	
Fundamental Rights	Sardar Vallabhbhai Patel
Provincial committee	
State Constitution	
Union Power committee	J L Nehru
Union Constitution committee	
Drafting committee	Dr. B. R. Ambedkar

- On 26th Nov, 1949 Constitution was ready.
- But we received constitution on 26th Jan, 1950.
- We waited for 26th Jan as on 26th Jan, 1930 Poorn Swaraj Session or Lahor session was held.
- It took 2 years 11 months and 18 days to prepare IC.
- Total expnse was Rs. 6400000. (6,817,809,408)
- We took help of constitution of around 60 countries

Sources of Indian Constitution

1. GOI Act, 1935 (75%)

- Federal system (Distribution of Power)
- Ordinance Power (President issue ordinance when parliament is not in session)
- Office of Governor

2. USA

- Independent judiciary
- Judicial Review
- Fundamental Rights (Equity, Freedom, Against exploitation)
- Preamble (Preface)
- Removal of judges(With 2/3 majority in LS,RS it can be done)

3. Britain

- Parliamentary form(Agreement with 16 countries for dual citizenship)
- Rule of law(Only and only law)
- Bicameral legislature will run country

4. Canada

- Federation with strong centre
- Residuary power given to centre

5. Ireland

- Directive Principles of State Policy
- Welfare State

6. Germany

- Suspension of fundamental rights during emergency except
- Article 20 (Law of particular time should be applicable, No person shall be prosecuted for same offence more than once, No person shall be compelled to be witness against himself)
- Article 21 (Right to life, personal liberty)

7. Australia

- Concurrent list
- Center and state can both make laws

8. South Africa

- Amendment procedure (Change in constitution)
- Article 368 (Amendment 2/3 majority in LS, RS and president sign)

9. France

- Liberty
- Equality
- Fraternity (Common brotherhood)

10. USSR (Russia)

- Fundamental duties
- Respect Flag, Anthem, Women
- Public Property, Education

THANK YOU