

INDIAN CONSTITUTION

UNIT 1: The Constitution Introduction



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1.What Is Constitution?

2.Why do we need Constitution?

3.The History of Constitution of India.

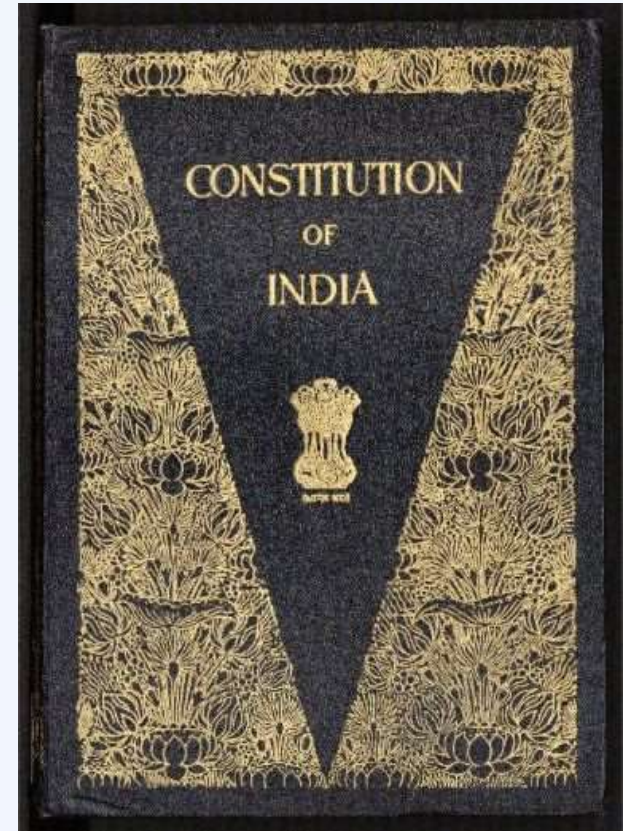
4.The Framing of Constitution of India.

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The First Book of Constitution of India is Located at Parliament Library Building, New Delhi, India.

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1.What Is Constitution?

Almost everything we do is governed by some **set of rules**. There are also rules imposed by morality and custom that play an important role in telling us what we should and should not do.



should



Should not



Red-card

1.What Is Constitution?

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**.



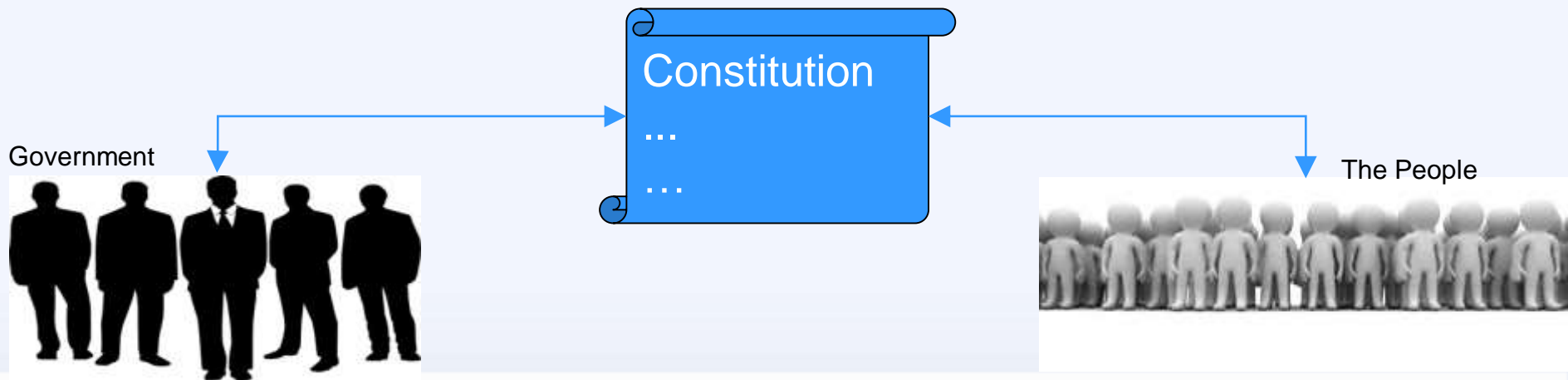
1.What Is Constitution?

I) In General-

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.

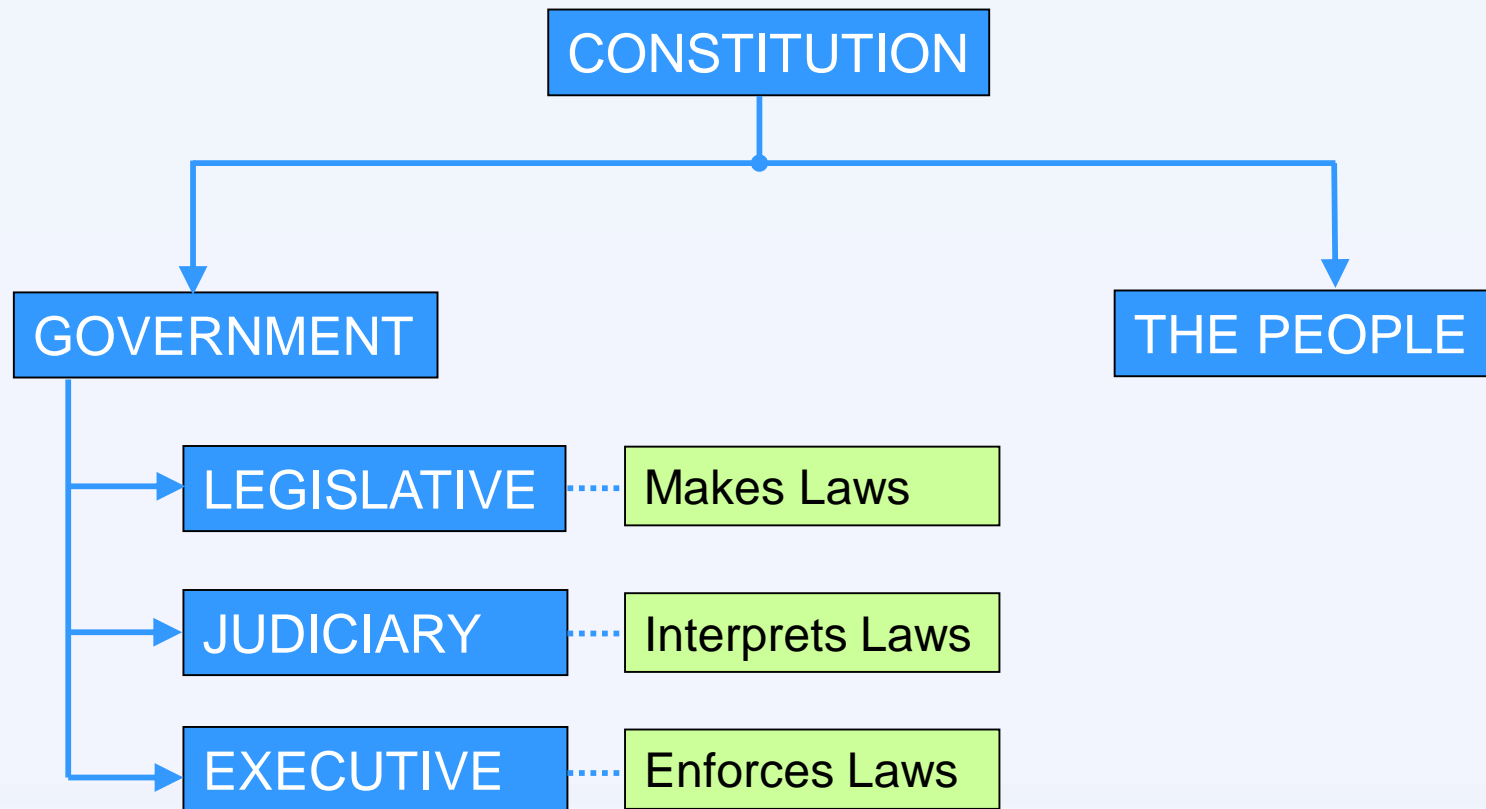
A constitution is concerned with 2 main aspects:-

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



1.What Is Constitution?

Role of Constitution in relationship between Government and its people:-



1.What Is Constitution?

II) 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**.

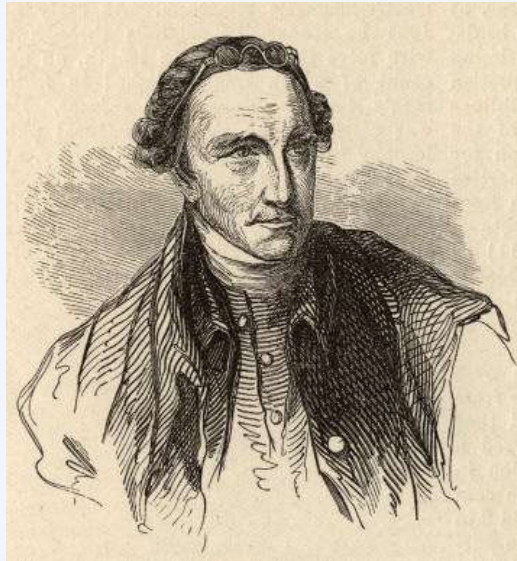
or

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**.

1.What Is Constitution?

III) An observation-

“The Constitution is not an instrument for the government to restrain the people, it is an instrument for the people to restrain the government.” --Patrick Henry



Patrick Henry (1736-1799)

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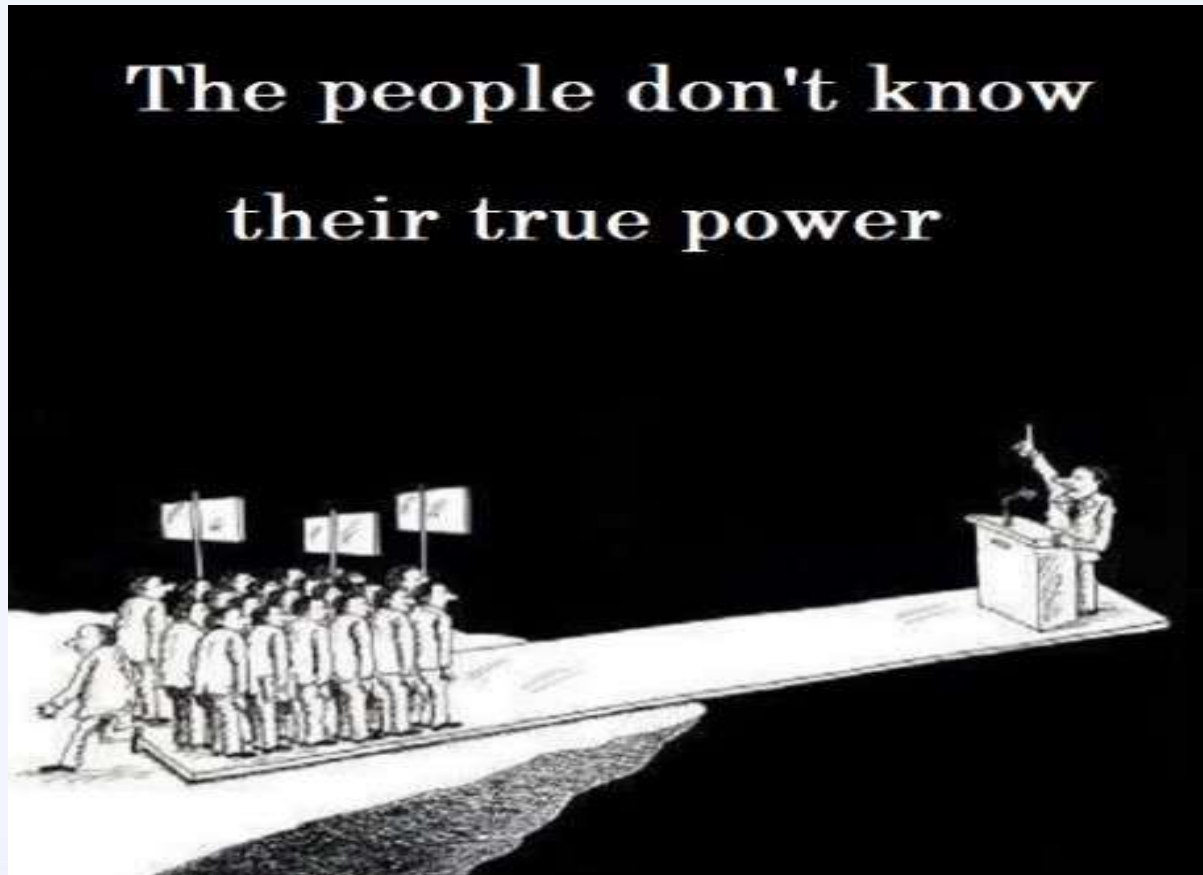
2. Why Do We Need Constitution?

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 following Functions we need Constitution-

- I. a constitution is to provide a set of basic rules that allow for minimal coordination amongst members of a society.
- II. a constitution is to specify who has the power to make decisions in a society. It decides how the government will be constituted.
- III. 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. a constitution is to enable the government to fulfill the separations of a society and create conditions for a just society.

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3.The History of Constitution of India.

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.



Dr. Rajendra Prasad signing the new constitution

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4.The Framing of Constitution of India.

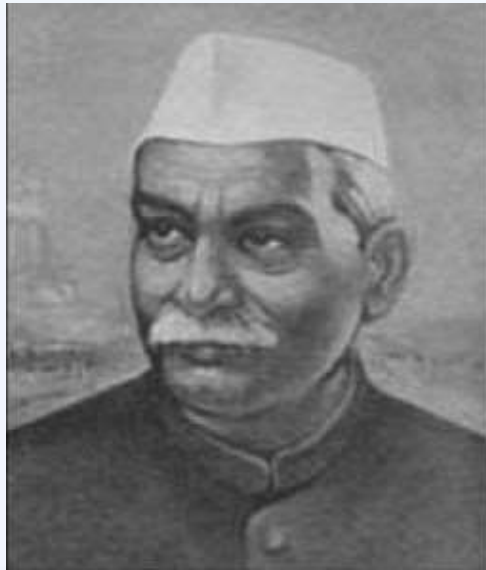
The Constituent Assembly of India was elected to write the Constitution of India. Following India's independence from Great Britain, its members served as the nation's first Parliament.

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.

4.The Framing of Constitution of India.

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 .

4.The Framing of Constitution of India.

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.

4.The Framing of Constitution of India.

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.

4.The Framing of Constitution of India.

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**.

4.The Framing of Constitution of India.



The 66th Republic Day Celebrations on 26th January 2015
at New Delhi, India



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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.**

5.The Preamble to Constitution of India.

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.

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).

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."

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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

6.What Is The constitution of India?

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.

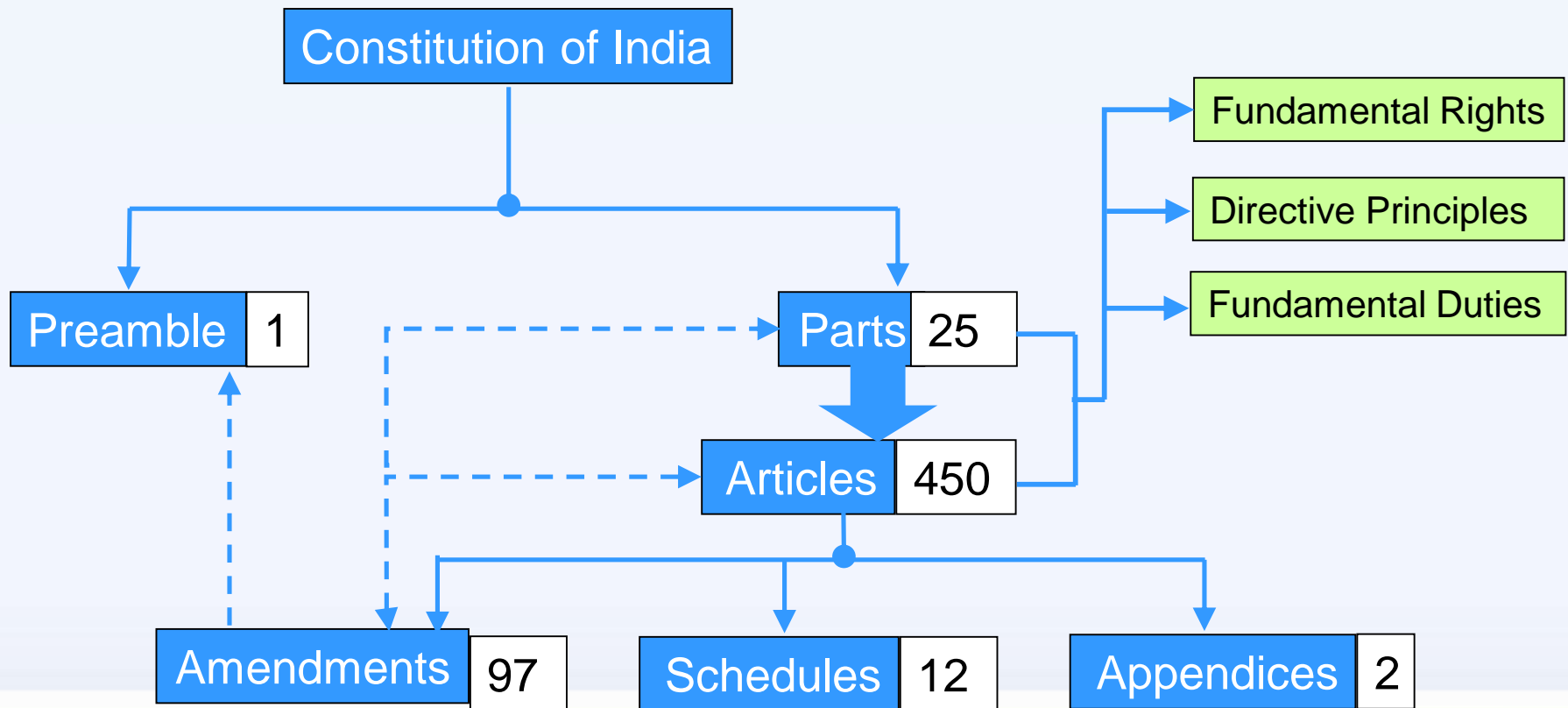
Unitary Features-

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 (March 2011), consists of 1 preamble, 25 parts containing 450 articles, 12 schedules, 2 appendices and 97 amendments to date. Although it is federal in nature it also has a strong unitary govt.



6.What Is The constitution of India?

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.

6.What Is The constitution of India?

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.

6. What Is The constitution of India?

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- Article 12-35)** - 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.

6.What Is The constitution of India?

Fundamental Rights are different from other rights available to us. While ordinary legal rights are protected and enforced by ordinary law, Fundamental Rights are protected and guaranteed by the constitution of the country.

The Constitution of India recognizes certain basic fundamental rights for every citizen of India, such as:-

- (a) Right to Equality
- (b) Right to Freedom
- (c) Right to Freedom of Religion
- (d) Right against Exploitation
- (e) Cultural & Educational Rights
- (f) Right to Constitutional Remedies



6.What Is The constitution of India?

Ordinary rights may be changed by the legislature by ordinary process of law making, but a fundamental right may only be changed by amending the Constitution itself. Besides this, no organ of the government can act in a manner that violates them.

Any infringement of fundamental rights can be challenged by any citizen of India in the court of law. The Constitution of India also prescribes some fundamental duties on every citizen in India.



6.What Is The constitution of India?

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.

6.What Is The constitution of India?

9. **Directive Principles (Part IV- Article36-51)**- 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.

6. What Is The constitution of India?

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.

6.What Is The constitution of India?

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

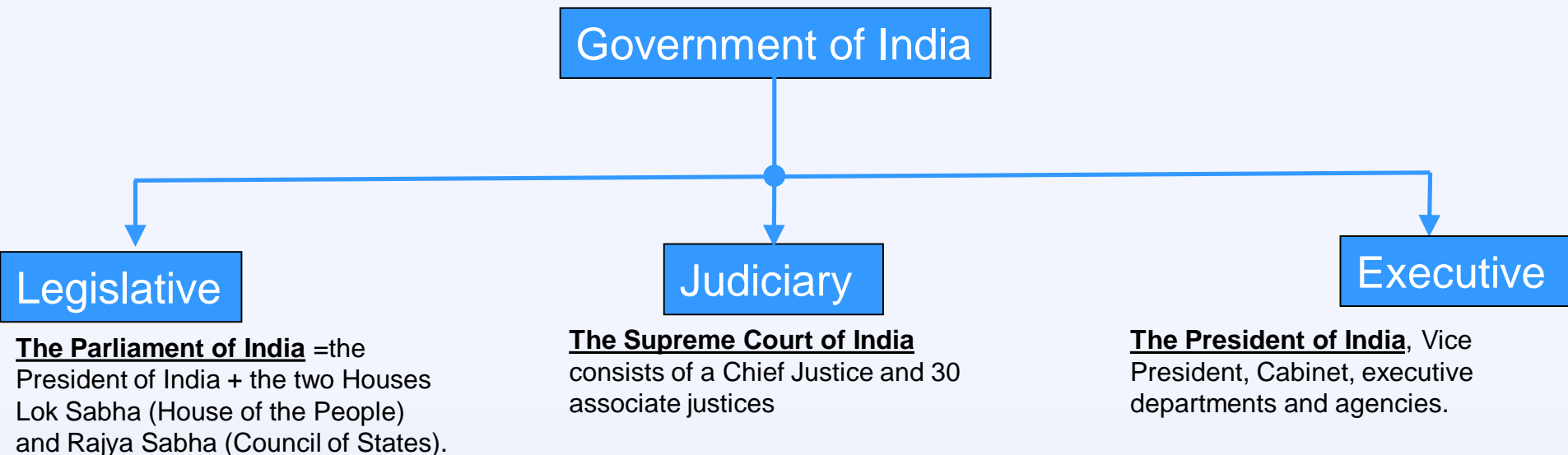
1. Article 51(a)- The State will strive to promote international peace and security.
2. Article 51(b)- The State will strive to maintain just and honorable relations among various states in the world.
3. Article 51(c)- The State will endeavor to promote respect for International treaties, agreements,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

6.What Is The constitution of India?

(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.



6.What Is The constitution of India?

(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:-

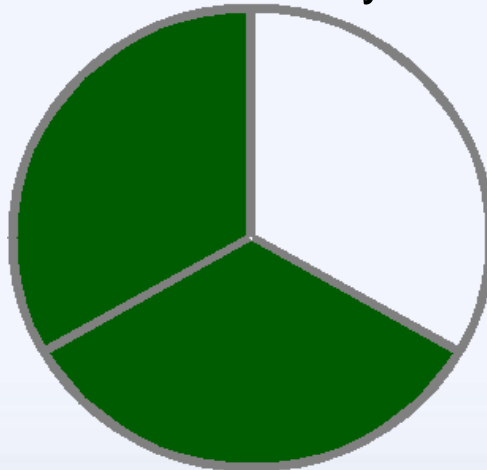
The basic structure of the Constitution is unchangeable and only such amendments to the Constitution are allowed which do not affect its basic structure or rob it of its essential character.

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.



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7.Main Characteristics of Constitution of India.

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

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8. Conclusion

A Constitution symbolizes independence of a country. Framework and structure for the governance of a free country are provided in the Constitution. The Constituent Assembly prepared the draft of the Constitution by keeping the 'Objectives Resolution' as the backdrop which reflected the aspirations of the people of India.

The framing of the Constitution was completed on November 26, 1949 when the Constituent Assembly formally adopted the new Constitution. The Constitution came into force with effect from January 26, 1950.

The Constitution begins with a Preamble which declares India to be a Sovereign, Socialist, Secular, Democratic, Republic. The Preamble also mentions the goals of securing justice, liberty and equality for all its citizens and promotion of national unity and integrity on the basis of fraternity among the people assuring dignity of the individual.

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.

8. Conclusion

The Constitution of India has several distinctive features. It is the lengthiest Constitution in the world and it is a combination of rigidity and flexibility. The Constitution provides for a quasi-federal (It means a federal set up where despite having two clear sets of government – central and the states, more powers are given to the Central Government.) set up with a strong centre.

There is a clear division of powers between the Centre and the States. The Supreme Court of India, is the apex court of India which will resolve the disputes between the centre and state or between the states.

India has a parliamentary democracy. The Council of Ministers headed by the Prime Minister enjoys the real powers and is responsible to the Parliament. The Indian Constitution provides for Fundamental Rights which are justifiable. Ten Fundamental Duties have also been added to the Constitution. The Directive Principles of State Policy give a concrete shape to the welfare concept.

8. Conclusion

It is time to undertake a study of Indian Federalism with a view to valuate the trends, frictions and difficulties which have developed in the area of inter-governmental relations and to seek to evolve ways and means to meet the challenging task of making the Indian federation a more robust, strong and workable system so that the country may meet the tasks of self-improvement and development.

The responsibility lies on not only the jurists and policy framers, but also the citizens of the country to work in a harmonious manner for the development of the country.