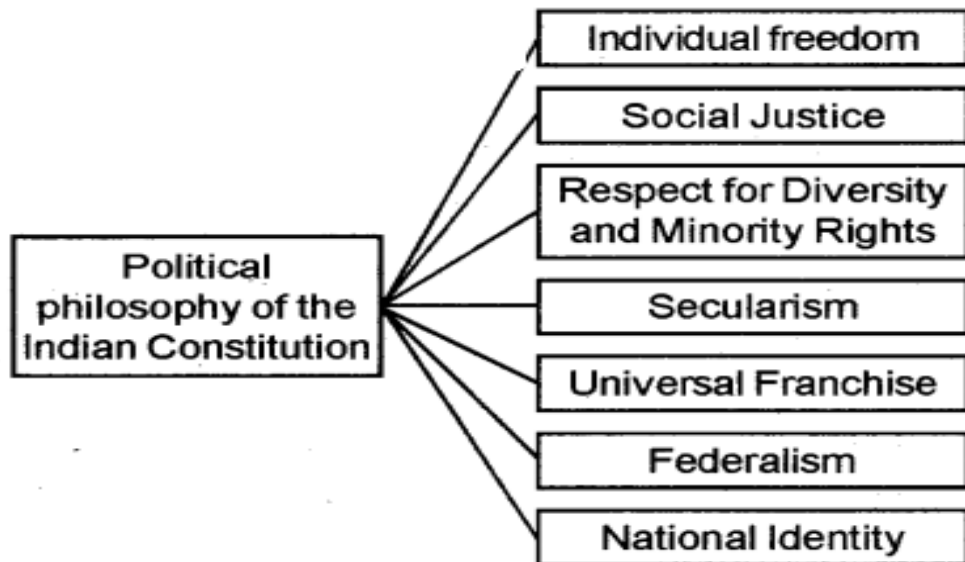


MOD-II PHILOSOPHY OF THE INDIAN CONSTITUTION



Philosophy of the Constitution:

The Constitution provides a framework of governance. It lays down the basic governing set of principles or essential rules of governance to establish the basic organs and structure, functions, composition, and powers of government.

The philosophical thought behind it was that for being a strong and independent country there must be a constitution that helps to frame the interrelationship between various organs and regulate their relations with people. In the form of certain rights, the relationship between the government and the people was generally given on the basis of fundamental political, economic, and religious views of the nation.

Philosophy of Constitution through Preamble:

The preamble is a brief introduction to the Constitution and it gives summarised knowledge of the legislative intent and policy. A preamble is a brief form of ideas and beliefs which the constitution wants to achieve. It states the marginal contents of the constitution that are in our constitution.

The preamble of the constitution is the core of the constitution which contains words that the constitution-makers want to achieve like 'we the people of India' means 'by the people, for the people, and to the people.'

1. Sovereign:

Sovereignty is one of the essential requirements of statehood. It is indicative of the fact that India is not subject to any foreign power from an internal or external perspective and the state is free to legislate on any subject in conformity with the constitution.

The Preamble uses the words 'we the people of India'; the idea behind this is that a constitution is a creation of all the people and not a group of individuals or some older law. The Preamble emanated from the constituent assembly which represented the Indian people though it was not an elected mass. So we can say that sovereignty lies with the people of India and not the Parliament. Nor even is the constitution sovereign; it is the main expression of the people's Sovereignty.

2. Socialist:

Socialist word was not there when the constitution was made but later by the 42nd amendment, it was added to our constitution and the basic meaning of socialist is socialism which the constitution provides to safe and secure the Indian citizens from social endangerment.

Socialism will continue to have a different meaning until a necessity arises to delete it. Most significantly the validity of socialism in the Preamble has not been challenged yet.

3. Secularism:

Being secular means the state is neutral in any matters related to religion and it means the constitution does not promote or deprive any religion. It was also added in the 42nd amendment. Unlike the West, Indian secularism is not the result of a conflict between church and state; very often in our common language, the term secularism is used simply as the opposite of communitarianism.

Secular is a vague term to be defined. The dictionary defines it as 'not concerned with religion' and it implies religious freedom and tolerance and respect for ideas of nationalism, materialism, Humanism, etc.

The definition of secularism has two aspects, one is negative except that it is a state not to interfere in any religion and the other is a positive aspect which is the state to take necessary steps for ensuring equality of religions thus, helping minority religions would not be unconstitutional.

4. Democratic:

It indicates that the source of the power of the government is in its people. It is the Government of the people for the people and by the people. Democracy is the People's power and State's power vest in the people which means democracy makes the people supreme.

5. Republic:

It means that the head of the nation is an elected representative. Republic is a government that derives its powers directly or indirectly from the great body of the people and is administered by people who hold office for pleasure, for a limited time, or for good conduct. Even India's membership of the Commonwealth of nations does not detract it from its Republican character; that is an external arrangement and the queen has not been recognized as the head of the country.

Fundamental rights and duties

Fundamental rights and duties are the basic rights of an Indian Citizen in the Indian Constitution. These fundamental duties and rights apply to all the citizens of the country irrespective of their religion, gender, caste, race, etc.

1. Articles 14-18: **Right to Equality**

These articles talk about equal rights for all the citizens of the country irrespective of their caste, class, creed, gender, place of birth, or race. It says that there shall be equal opportunities with regard to employment and other aspects.

These articles also work towards the abolition of orthodox practices that have been taking place in the country like, untouchability, etc.

2. Articles 19-22: **Right to Freedom**

This is one of the most vital rights in the country whose foundation is based on Democracy. The constitution of India says that the citizens of the country have freedom in various regards. The freedom rights in the Indian Constitution include freedoms of -:

- Expression
- Speech
- Assembly without arms
- Association
- Practising any profession
- Residing in any part of the Country.

However, these rights are subjective. This further implies that the state has the right to impose restrictions on these rights depending upon the situation.

3. Articles 23-24: **Right against Exploitation**

These articles talk about the exploitation of humans and their rights. It prohibits any activities that encourage child labor, human trafficking, and other forms of forced labor. This article also prevents the state from imposing any compulsory service for public purposes.

Also, while making such compulsions, the state shall not discriminate against anyone on the basis of caste, creed, gender, etc.

4. Articles 25-28: **Right to Freedom of Religion**

India, being a secular country, consists of people from varied religions and faiths and therefore, it becomes of utmost importance that we and the constitution of India support freedom of religion. Under these articles, the state can be prevented from making the laws that might be associated with a specific religious practice.

5. Articles 29-30: **Cultural and Educational Rights**

These are the articles that work towards protecting the rights of cultural, religious, and linguistic minorities by aiding them to preserve their heritage and culture. The state is supposed to have no official religion.

These articles grant all the citizens of the country the right to worship any religion of their choice. Under these articles, the state does not hold the right to discriminate against any educational institution on the basis of it being a minority-run institution.

6. Articles 30-35: **Right to Constitutional Remedies**

These articles bind all the previously mentioned as this right makes sure that all the other fundamental rights are not being violated in any case. If any citizen of the country feels that their rights are being violated, they have the right to approach the court and demand justice.

Under these articles, the supreme court also holds the power of issuing writs against activity that it might find unsuitable.

Herein, the parliament holds the power control the rights that are being given to –

- Army personnel
- Bureaucrats
- Members in charge of maintenance of public order

The Fundamental Rights, Directive Principles of State Policy and Fundamental Duties' are sections of the Constitution of India that prescribe the fundamental obligations of the states to its citizens and the duties and the rights of the citizens to the State.[note 1] These sections are considered vital elements of the constitution, which was developed between 1949 by the Constituent Assembly of India.

The **Fundamental Rights** are defined in Part III of the Indian Constitution from article 12 to 35 and applied irrespective of race, place of birth, religion, caste, creed, gender, and equality of opportunity in matters of employment. They are enforceable by the courts, subject to specific restrictions. The

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. These duties set out in Part IV–A of the Constitution, concern individuals and the nation. Like the Directive Principles, they are not enforceable by courts unless otherwise made enforceable by parliamentary law.

Directive Principles of State Policy

These are included in Part IV of the Constitution. For the framing of certain Laws, the Government requires certain guidelines. These are included in the Directive Principles of State Policy. According to Article 37, they are not enforceable by the courts under their respective jurisdiction. It just lays down the fundamental principles and guidelines on which they are based are fundamental guidelines for governance. The State needs to follow these principles while designing the laws. Emphasis is on the Welfare of State Model.

The establishment of Directive Principles of State Policy is in accordance with certain articles of the Constitution of India.

or

Directive Principles of State Policy are guidelines for the framing of laws by the government. These provisions, set out in Part IV of the Constitution, are not enforceable by the courts, but the principles on which they are based are fundamental guidelines for governance that the State is expected to apply in framing policies and passing laws.

The Fundamental Duties in the Life of an Indian

These are defined as the moral obligations of all citizens to help promote a spirit of patriotism and to uphold the unity of India and concern the individuals and the nation. Included in Part IVA of the Constitution, like the Directive Principles, they are not enforceable by the law. According to the

constitution, let us have a look at the following information on duties to be followed by every citizen of India

- 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 which inspired our national struggle for freedom.
- To uphold and protect the sovereignty, unity, and integrity of India.
- To defend the country and render national service for the nation's security when called upon to do so.
- To promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic, social and regional or sectional diversities; to renounce practices derogatory to the dignity of women.
- To value and preserve the rich heritage of our composite culture.
- To protect and improve the natural environment including forests, lakes, rivers, wildlife and to have compassion for living creatures.
- To develop the 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 endeavour and achievement.
- Who is a parent or guardian, to provide opportunities for education to his child, or as the case may be, ward between the age of six to fourteen years.

- According to the 86th constitutional amendment in 2002, it is the duty of the people of India to adapt to make India a safer place to live, to be clean and make the surrounding clean and not to hurt anybody physically and mentally.

Part-xx Article 368 (1) of the Constitution of India grants constituent power to make formal amendments and empowers Parliament to amend the Constitution by way of addition, variation or repeal of any provision according to the procedure laid down therein, which is different from the procedure for ordinary legislation.

Procedure For Amending Indian Constitution - Constitutional Provisions

- ☐ A private member's bill or a minister's bill must be introduced to modify the constitution. The president's approval is not required. It can be carried out in any house. It requires a special majority of two-thirds of the members of the House present and voting, as well as a majority (that is, more than 50%) of the overall membership of the House.
- ☐ A similar procedure is followed in the other house before being referred to the president for his assent. It requires the President's mandatory consent.
- ☐ If an amendment affects the federal aspects of the constitution, it must be approved by a simple majority of state legislatures before being brought to the president for assent. An ordinance cannot modify the

constitution. There is also no provision for joint sitting in the event of a disagreement.

For more [click here](#)

MODULE-III UNION GOVERNMENT

A union government refers to the organisation that is created at the national level especially to look after the big and important issues at the national and also international level. It has the right to interfere in the working of government at the lower level or state level (only as per the Constitution)

The function of the legislative is to form policies and laws that will govern the nation. The Union Parliament is chiefly concerned with this function. To ensure that these functions are duly followed, the Constitution of India provides for two houses, Lok Sabha or the Lower House and Rajya Sabha or the Upper House.

The Legislature of the Union, which is called Parliament, consists of the President and two Houses, known as Council of States (Rajya Sabha) and House of the People (Lok Sabha). Each House has to meet within six months of its previous sitting. A joint sitting of two Houses can be held in certain cases.