



Fundamental Rights & Duties

Introduction

- Certain rights are guaranteed to all individuals by the constitution - **Fundamental Rights**
- Certain duties must also be performed in a democratic country - **Fundamental Duties**
- **Duties and Rights** go hand-in-hand
- Rights – rules of interaction between people
- Rights are claims of an individual that are essential for the development of his or her own self and that are recognized by society or State
- Example – **Right to life**

- There are a long list of rights that are recognized by society.
- Some of the most important rights – fundamental rights - are listed in the Constitution.
- Why fundamental?
 - Mentioned in the constitution and therefore guaranteed
 - Justiciable/Enforceable
 - Fundamental rights provided in *Part III* of the constitution

Fundamental Rights

- Fundamental rights are the basic human rights **treasured** in the Constitution of India which are guaranteed to **all citizens**.
- They are applied **without discrimination** on the basis of race, religion, gender, etc. Significantly, fundamental rights are **enforceable** by the courts, subject to certain conditions.
- The existence of Democracy can't be imagined **without** Fundamental Rights in India because Rights are the pillars of Democracy.

Fundamental Rights

- Fundamental Rights are incorporated from Article 12 to 35 in the Third Chapter (Part) of the Indian Constitution.
- Rights are the basic facilities which we need for our growth.
- These are the claims of individual recognised by the society and enforced by the State.
- The existence of Democracy can't be imagined without Fundamental Rights in India because Rights are the pillars of Democracy.

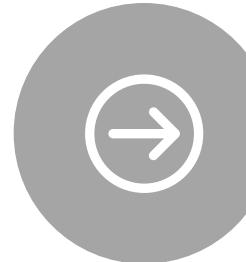
Nature of Rights

- Fundamental rights are **equal** to all.
- Rights are **justiciable**
- Fundamental rights are **not absolute**.
- They **limit the authority** of the central and state governments.
- Fundamental rights **distinguish between** citizens and foreign nationals.
- They **can be suspended** during emergency.
- Parliament **can amend** Fundamental rights.

6 Fundamental Rights (Article 12 – 35)



1. Right to Equality(14-18)



2. Right to Freedom(19-22)



3. Right Against Exploitation(23-24)



4. Right to Freedom of Religion(25-28)



5. Cultural and Educational Rights(29-30)



6. Right to Constitutional Remedies(32-35)

Article 12

- In this Part, unless the context otherwise requires, "**the State**" includes
 - the Government and Parliament of India and*
 - the Government and the Legislature of each of the States and*
 - all local or other authorities within the territory of India or*
 - under the control of the Government of India.*

Article 13 {Laws inconsistent with or in derogation of the fundamental rights}

- (1) All laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void.

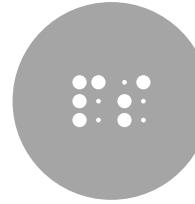
1. Right to Equality

- Equality before law Article-14 provides that «*the state shall not deny to any person equality before law or the equal protection of law within the territory of India* ».
- Prohibition of Discrimination, Article-15
(on grounds of religion, race, caste, sex or place of birth)
- Equality of Opportunity Article-16
(in matters of public employment)
- Abolition of Untouchability Article-17
- Abolition of Titles Article-18

Provisions of Right to Equality



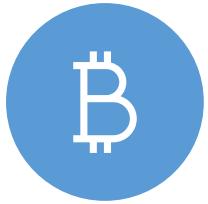
*Equality before
the law*



*No discrimination
on the basis of
religion race*



*Equality of
opportunity to all
citizens in matter
of public
employment*



*Abolition of
untouchability*



*Abolition of
titles*

Equality before Law

- *The Constitution guarantees that **all citizens will be equal** before law.*
- *Everyone will be **equally protected** by the laws of the country.*
- *If two persons commit the same crime, both would be given the **same punishment**.*

No discrimination on the basis of religion, etc.

- The State *cannot discriminate* against a citizen on the basis of religion, race, caste, sex or place of birth.
- This is necessary to bring about *social equality*.
- Every citizen of India has *equal access to* shops, restaurants, places of public entertainment or in the use of wells, tanks or roads without any discrimination.
- However, the State can make special provisions or concessions for women and children.

Equal opportunity in public employment

- The State *cannot discriminate* against anyone in the matter of public employment.
- All citizens *can apply and become employees* of the State.
- *Merits and qualifications will be the basis of employment.*
- However, there is a *special provision for the reservation of posts* for citizens belonging to Scheduled Castes, Scheduled Tribes and Other Backward Classes (OBCs)

Abolition of Untouchability

- Practicing *untouchability* in any form has been made a punishable offence under the law.
- This provision is an effort to *uplift* the social status of millions of Indians who had been looked down upon and kept at a distance because of either their caste or the nature of their profession.

Abolition of Titles

- British **titles like Sir** (Knighthood) have been abolished because they created distinctions of artificial nature.
- The **President of India can confer civil and military awards** to those who have rendered meritorious service to the nation in different fields.
- The **civil awards** – *Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Shri*
- **Military awards** – *Veer Chakra, Paramveer Chakra, Ashok Chakra*
- Educational and military awards can be **prefixed** with one's name

2. Right to Freedom

- Articles 19 – 22
- Article 19 provides 6 freedoms:
 - Freedom of speech and expression
 - Freedom to assemble peacefully and without arms
 - Freedom to form Associations and Unions
 - Freedom to move freely throughout the territory of India
 - Freedom to reside and settle in any part of India
 - Freedom to practice any profession or to carry on any occupation, trade or business



Right to Freedom – Article 19 (contd.)

- *The purpose of providing these freedoms is **to build and maintain** an environment for proper functioning of the democracy.*
- *However, the Constitution has authorized the State **to impose certain reasonable restrictions** on each of them.*

Reasonable Restrictions

- *Restriction on the movement of a person/group to prevent spread of violence*
- *Not allowed to run trades like gambling, prostitution, selling of narcotic drugs*
- *Not allowed to reside too closer to aerodrome*
- *Restriction on the use of language that may instigate people for communal violence*
- *Not allowed to form an association to help terrorist activities*
- *Should be peaceful and participants should not carry any weapon*

Reasonable Restrictions of Freedom of Speech and Expression

- Sovereignty and integrity of India (16th constitutional amendment act 1963)
- Security of State
- Friendly relations with foreign countries
- Public order
- Decency or morality
- Contempt of Court
- Defamation
- Incitement to an offence

Right to Freedom – Article 20

- Protection with respect to conviction for offences
 - *No one can be convicted for an act that was not an offence at the time of its commission.*
 - *No one can be given punishment greater than what was provided in the law prevalent at the time of its commission.*
 - *No one can be prosecuted and punished for the same offence more than once and can be forced to give witness against his or her own self.*

Right to Freedom - Article 21

- *Protection of life and personal liberty*
 - No one can be *deprived of his or her life or personal liberty* except according to the procedure established by law

Right to Freedom – Article 22

- *Protection against arrest and detention in certain cases*
 - *Whenever a person is arrested, he or she should be informed of the grounds for arrest and allowed to consult and be defended by a legal practitioner of his or her choice.*
 - *The arrested person must be produced before the nearest magistrate within 24 hours.*
 - *The case of the person arrested under preventive detention law should also be referred to an Advisory Board within a period of three months of his or her arrest*

Right Against Exploitation

- Article 23 and 24
- Prohibition of human trafficking and forced labour
- Prohibition of employment of children in factories, etc.
 - No child below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment.
 - It is their basic right to enjoy a happy childhood and get education.



Right Against Exploitation, Article 23-24

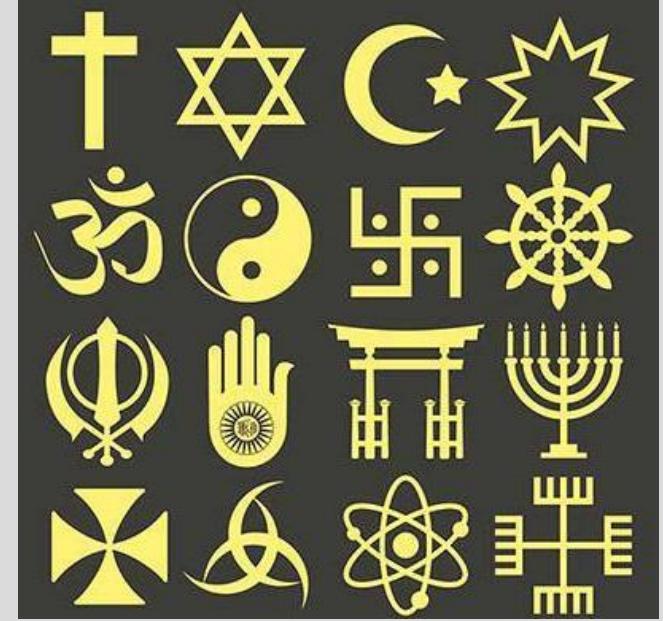
- Prohibition of traffic in human beings and forced labour. Article 23
- Prohibition of compulsory services Article-23 : under this article the state can not force people to do compulsory service for public purposes.
- Prohibition of Child Labour Article-24: Children below the age of forteen years will not be allowed to work in factories, mines or in other dangerous places so that their health is not adversely affected.

Right to Freedom of Religion, Article 25 to 28

- Freedom to profess and propagate any religion, Article-25
- Freedom to manage religious affairs, Article-26
- Freedom not to pay taxes for the promotion of any particular religion, Article-27
- No religious instructions in government éducationnel institutions, Article-28(1)
- In private educational institutions religious education not against the will, Article-28(3)

Right to Freedom of Religion

- Since India is a multi-religion country, Constitution declares India a secular state.
- Constitution allows full freedom to all the citizens to have faith in any religion and to worship, the way they like.
- But this should not interfere with the religious beliefs and ways of worship of other fellow beings.
- This freedom is available to the foreigners as well.
- Articles 25 – 28



Freedom of conscience and free profession, practice and propagation of religion

- *All persons are equally entitled to freedom of conscience and the right to profess, practice and propagate religion freely.*
- *However, it does not mean that one can force another person to convert his/her religion.*
- *Also, certain inhuman, illegal and superstitious practices have been banned.*
- *The State can also impose restrictions on this right on the grounds of public order, morality and health.*

Freedom to manage religious affairs

- *Every religious group has the right to*
 - *establish and maintain institutions for religious and charitable purposes*
 - *manage its own affairs in matters of religion*
 - *own and acquire movable and immovable property*
 - *administer such property in accordance with law*

Freedom as to the payment of taxes for promotion of any particular religion

- *A person will not be compelled to pay any tax for the proceeds of which are specifically used in payment of expenses incurred on the promotion or maintenance of any particular religion*

Freedom as to attendance at religious instruction or religious worship in certain educational institutions

- No religious instruction shall be provided in any educational institution wholly maintained out of State funds.
- However, it will not apply to an educational institution which is administered by the State but has been established under any trust which requires that religious instruction shall be imparted in such an institution.

Cultural and Educational Rights

- India is the largest democracy in the world having diversity of culture, scripts, languages and religions.
- Though democracy is a rule of the majority, the minorities are also equally important for its successful working.
- Therefore, protection of language, culture and religion of the minorities becomes essential so that the minorities may not feel neglected or undermined under the impact of the majority rule.
- Articles 29 – 30



Cultural and educational rights, Article 29 to 30

- Protection against interest of minorities, Article-29(1)
- Freedom to get admission in educational institutions, Article-29(2)
- Right to minorities to establish educational institutions, Article-30(1)
- No discrimination while giving grants- Article-30(2)

Protection of interests of minorities

- Any minority group having a distinct language, script or culture of its own shall have the right to conserve the same.
- No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.

Right of minorities to establish and administer educational institutions

- *All Minorities, whether based on religion or language, have the right to establish and administer educational institutions of their choice.*
- *The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language.*

Right to Constitutional Remedies

- Article 32
- Since Fundamental Rights are justiciable, they are just like guarantees. They are enforceable, as every individual has the right to seek the help from courts, if they are violated
- When any of our rights are violated, we can seek justice through courts. We can directly approach the Supreme Court that can issue directions, orders or writs for the enforcement of Fundamental Rights.



Right to constitutional remedies, Article-32

- Article-31(1), provides that a citizen can approach the supreme court of India by due process of law for the implementation of the Fundamental Rights included in Chapter 3 of the constitution.
- Article-32(2), the Supreme court of India has the right to issue writs in the nature of the Habeas Corpus, Mandamus, Prohibition, etc.
- Article-32(3), The Indian Parliament can empower any court to issue notice within its jurisdiction without infringing or influencing the powers of the Supreme Court of India.
- Article-32(4), the state cannot suspend the right to constitutional remedies except in cases provided in the Indian Constitution.

Types of Writs

Type of Writ	Meaning of the word	Purpose of issue
Habeas Corpus	You may have the body	To release a person who has been detained unlawfully whether in prison or in private custody.
Mandamus	We Command	To secure the performance of public duties by lower court, tribunal or public authority.
Certiorari	To be certified	To quash the order already passed by an inferior court, tribunal or quasi judicial authority.
Prohibition	-	To prohibit an inferior court from continuing the proceedings in a particular case where it has no jurisdiction to try.
Quo Warranto	What is your authority?	To restrain a person from holding a public office which he is not entitled.

Critical Evaluation of Fundamental Rights



- Public Opinion

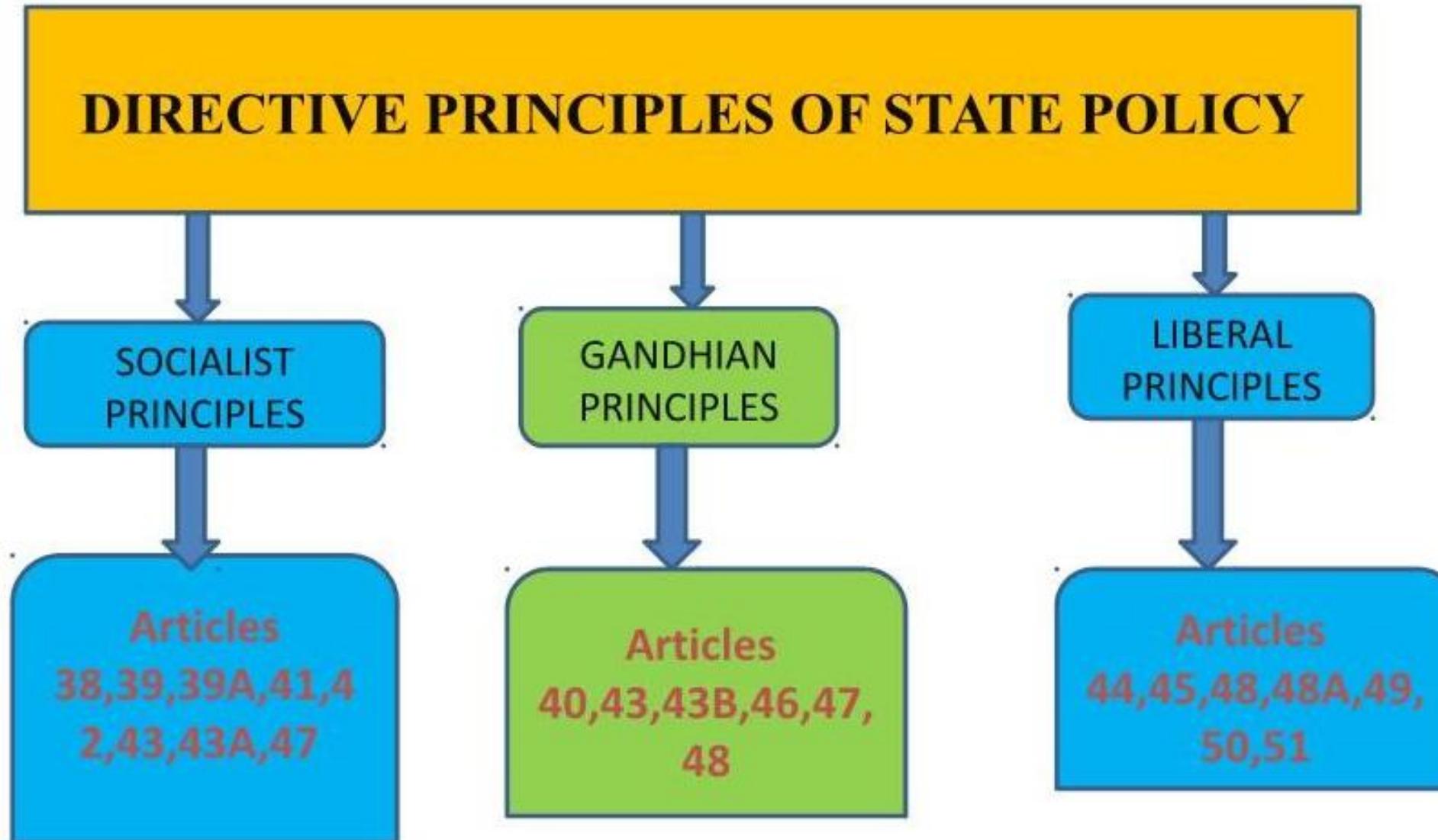
Critical evaluation of fundamental rights

- No rights outside the constitution
- Too many limitations
- Preventive Detention and Fundamental rights
- Rights can be suspended during emergency
- Absence of Economic rights
- Vague and complex language
- Supremacy of Parliament over Fundamental Rights
- Special concessions for minorities and backward classes are against the Principle of Equality.

Importance of Human Rights

- Foundation of democracy
- Check on the arbitrariness of the Government
- Create proper conditions for the development of Men
- Foundation of Rule of law
- Establishment of Secular state
- Protection of the interests of the minorities
- Reconciliation between individual interests and social interests.

CLASSIFICATION OF DIRECTIVE PRINCIPLES OF STATE POLICY



Directive Principles of State Policy (DPSP)

- They are the principles that aim at providing social and economic justice and set the path towards the welfare state.
Under various articles, they direct the state to:
- **Article 38:** Promote the welfare of the people by securing a social order through justice—social, economic and political—and to minimize inequalities in income, status, facilities and opportunities.

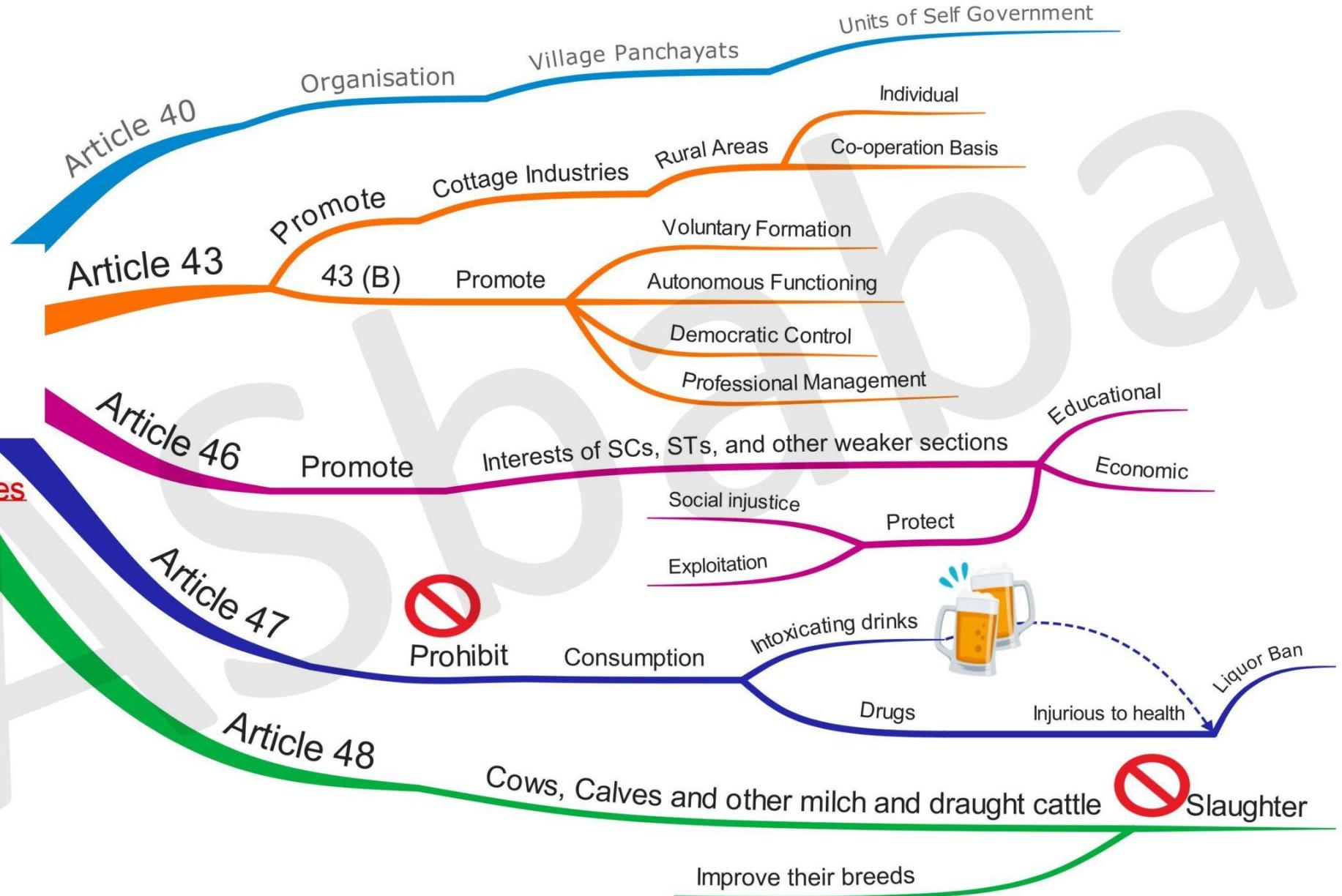
- **Article 39:** Secure citizens:
 - Right to adequate means of livelihood for all citizens
 - Equitable distribution of material resources of the community for the common good
 - Prevention of concentration of wealth and means of production
 - Equal pay for equal work for men and women
 - Preservation of the health and strength of workers and children against forcible abuse
 - Opportunities for the healthy development of children

- **Article 39A:** Promote equal justice and free legal aid to the poor.
- **Article 41:** In cases of unemployment, old age, sickness and disablement, secure citizens:
 - Right to work
 - Right to education
 - Right to public assistance,
- **Article 42 :** Make provision for just and humane conditions of work and maternity relief.
- **Article 43:** Secure a living wage, a decent standard of living and social and cultural opportunities for all workers.
- **Article 43A:** Take steps to secure the participation of workers in the management of industries.
- **Article 47:** Raise the level of nutrition and the standard of living of people and to improve public health.

Gandhian Principles



DPSP
Gandhian Principles



DPSP- Gandhian Principles

These principles are based on Gandhian ideology used to represent the programme of reconstruction enunciated by Gandhi during the national movement. Under various articles, they direct the state to:

Article 40: Organise village panchayats and endow them with necessary powers and authority to enable them to function as units of self-government.

Article 43: Promote cottage industries on an individual or co-operation basis in rural areas.

Article 43B: Promote voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies

- **Article 46:** Promote the educational and economic interests of SCs, STs, and other weaker sections of the society and to protect them from social injustice and exploitation
- **Article 47:** Prohibit the consumption of intoxicating drinks and drugs which are injurious to health.
- **Article 48:** Prohibit the slaughter of cows, calves and other milch and draught cattle and to improve their breeds.

DPSP-Liberal- Intellectual Principles

- These principles reflect the ideology of liberalism. Under various articles, they direct the state to:
- **Article 44:** Secure for all citizens a uniform civil code throughout the country

- **Article 45:** Provide early childhood care and education for all children until they complete the age of six years.
- **Article 48:** Organise agriculture and animal husbandry on modern and scientific lines.
- **Article 49:** Protect monuments, places and objects of artistic or historic interest which are declared to be of national importance
- **Article 50:** Separate the judiciary from the executive in the public services of the State.
- **Article 51:**
 - Promote international peace and security and maintain just and honourable relations between nations
 - Foster respect for international law and treaty obligations
 - Encourage settlement of international disputes by arbitration

New DPSPs :

- **Article 39:** To secure opportunities for the healthy development of children.
- **Article 39A:** To promote equal justice and to provide free legal aid to the poor.
- **Article 43A:** To take steps to secure the participation of workers in the management of industries.
- **Article 48A:** To protect and improve the environment and to safeguard forests and wildlife.

Fundamental Duties:

- The Indian Constitution imposes certain duties and responsibilities upon its citizens, which are **essential** for the well-being and **progress** of the society as a whole.
- The Fundamental Duties were **added** to the Constitution by the **42nd Amendment Act, 1976**.
- The Constitution of India provides for **11 fundamental duties** which are as follows:

Fundamental Duties

Abide by th constitution
ect the national flag & anthem

cherish & follow the
national ideas

rotect & uphold the sovernity,
unity & integrity

To defend the country

To promote harmony
& spirit of brotherhood

To value & preserve
the rich heritage

To protect the natural
environment

Indian constitution

article 51 A

To provide opportunit
& education

To strive toward
excellence

To safe the public
property

To develope the scientific
temper & humanism

Fundamental Duties

- The following ELEVEN duties have been listed in the Constitution of India:
 1. To abide by the Constitution and respect its ideals and institutions, the National Flag, National Anthem;
 2. To cherish and follow the noble ideals which inspired our national struggle for freedom;
 3. To uphold and protect the sovereignty, unity and integrity of India;

Fundamental Duties

4. To defend the country and render national service when called upon to do;
5. To promote harmony and the spirit of common brotherhood amongst all the people of India and to renounce practices derogatory to the dignity of women;
6. To value and preserve the rich heritage of our composite culture;
7. To protect and improve the natural environments including forests, lakes, rivers and wildlife;

8. To develop the scientific temper, humanism and the spirit of inquiry and reform;
9. To safeguard public property and not to use violence; and
10. To strive to achieve excellence in all spheres of individual and collective life so that the nation makes progress.
11. To provide opportunities for education to his child or ward between the age of six and fourteen years.

FUNDAMENTAL Duties





INDIAN CONSTITUTION



सत्यमेव जयते



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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.



5.The Preamble to Constitution of India.



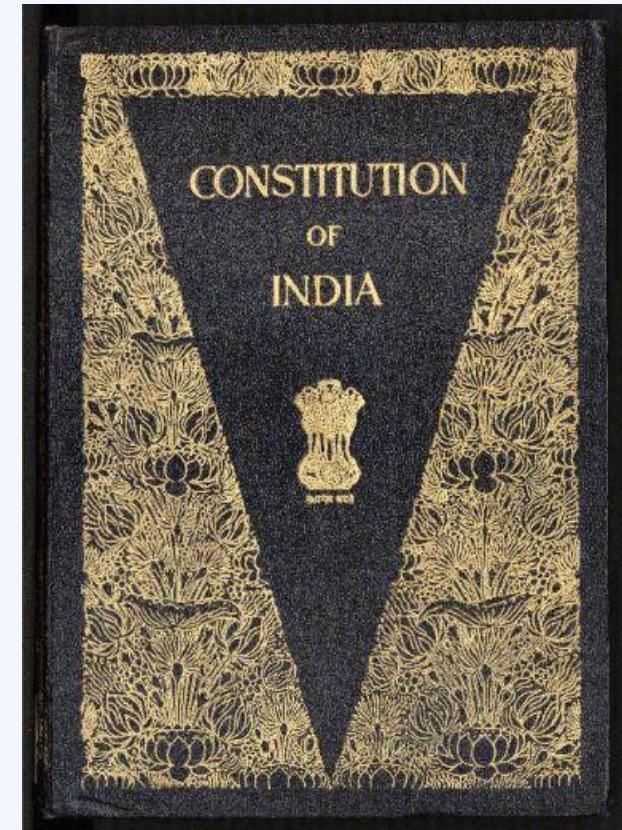
6.What Is The constitution of India?



7.Main Characteristics of Constitution of India.



8.Conclusion



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



1.What Is Constitution?

Almost everything we do is governed by some **set of rules**. There are rules for games (like- soccer), for social clubs and for adults in the workplace. There are also rules imposed by morality and custom that play an important role in telling us what we should and should not do.

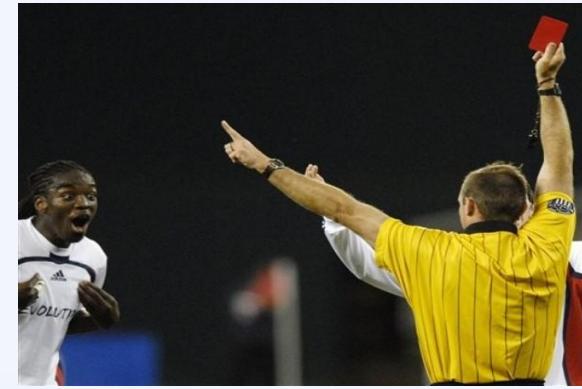
For example- In the game of soccer, a **referee** has "full authority to enforce the **Rules or Law of the Game** on the Players", when a player do something against the Rules referee takes action like send-off a player, as shown in images below.



should



Should not



Red-card



1.What Is Constitution Anyway?

Some rules that are made by the **legislatures** (also known as **Lok sabha/Rajya Sabha** in India), for their 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 Anyway?

I) In General-

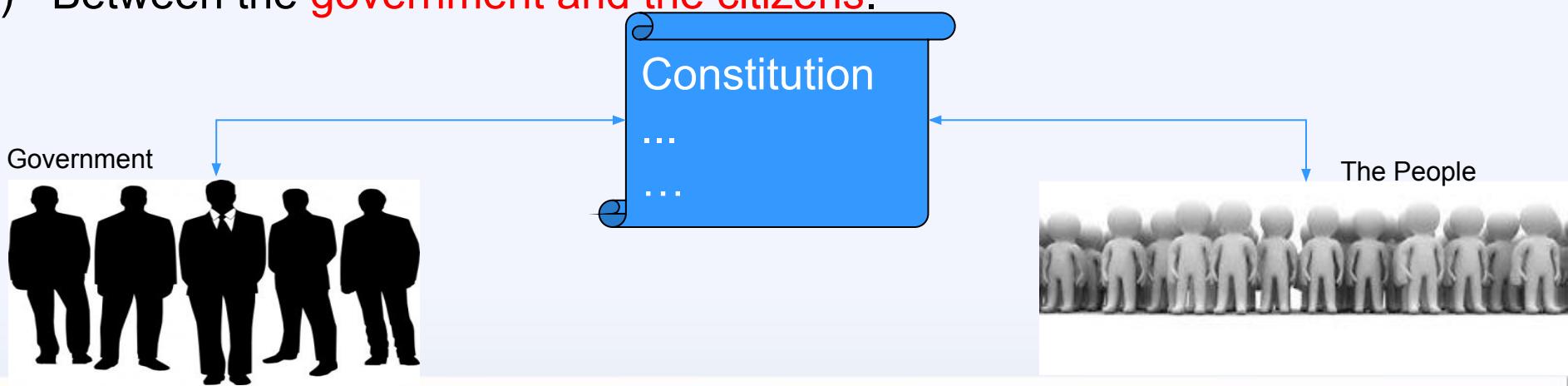
The Constitution is the **supreme law** of the land.

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:-

- The relation between the **different levels of government** and
- Between the **government and the citizens**.





1.What Is Constitution?

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

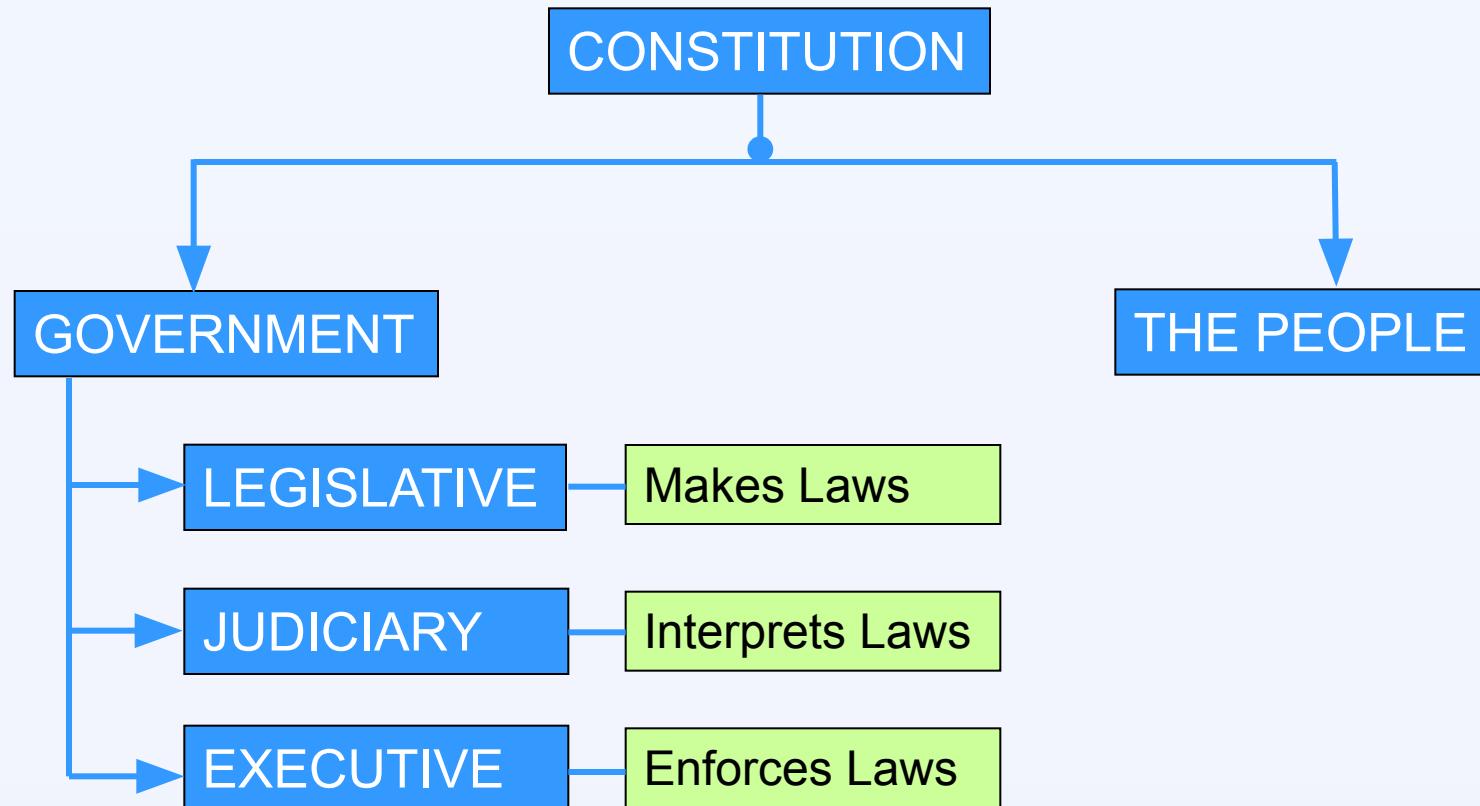


Fig.- Role of Constitution in relationship between Government and its people



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**.

Differences Between Law and Rules:

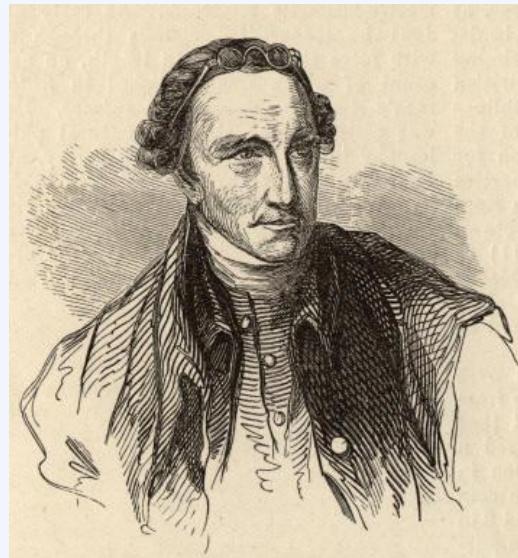
- **Law** is a system of rules and guidelines that dictate social behaviour and provide for acceptable conduct within a community.
- **Rules**, on the other hand, are concrete directions for behaviour that must be followed to avoid punishment or censure.



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

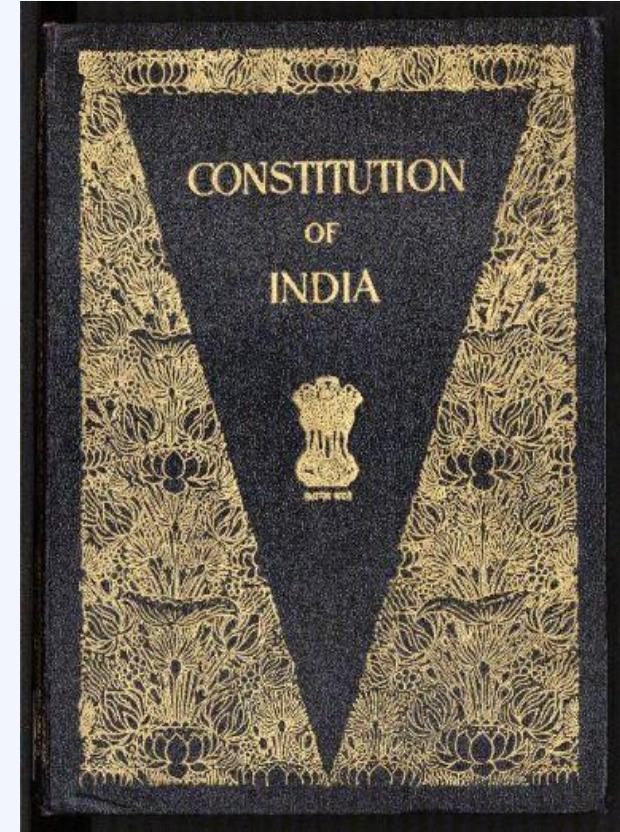


Patrick Henry (1736-1799)



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2.Why Do We Need Constitution?

In General-

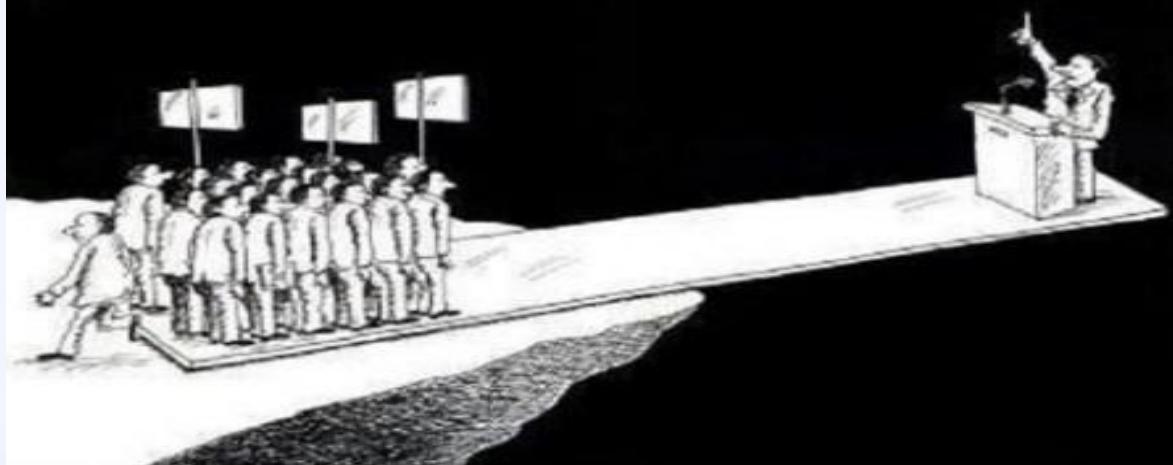
- I. We need a constitution to **govern a country** properly.
- II. The constitution defines the **nature of political system** of a country.
- III. Sometimes we feel strongly about an **issue** that might go against our larger **interests** and the constitution helps us **guard** against this.
- V. 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?

The people don't know
their true power





2.Why Do We Need Constitution?

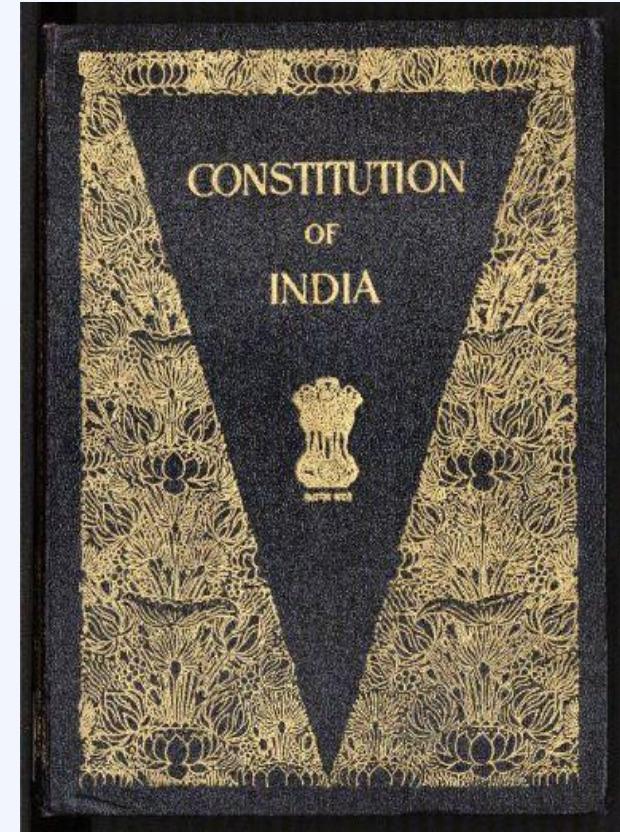
To perform following Functions we need Constitution-

- I. **The first function** of a constitution is to provide a **set of basic rules** that allow for minimal coordination amongst members of a society.
- II. **The second function** of a constitution is to **specify who has the power to make decisions** in a society. It decides how the government will be constituted.
- III. **The third function** of 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.
- V. **The fourth function** of 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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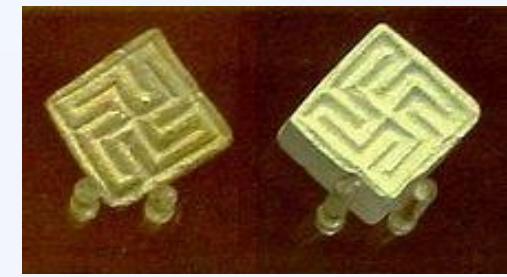
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3.The History of Constitution of India.

A Look at Ancient India-

India is a home of ancient “Indus valley civilization” which goes back to 3300–1300 BC (mature period 2600–1900 BC). India is a world famous for its ancient history and culture.



Shiva Pashupati & Swastika Seals from the Indus Valley

The time Before 500 AD is widely accepted as era of Ancient India. The earliest anatomically modern human remains found in South Asia date from approximately 30,000 years ago.

But regarding to *Constitutional History*, India goes back to only 3rd Century BC(269 BC to 231 BC) in the time of the **Emperor “Ashoka The Great.”**

B.C. and A.D. Explained

- **B.C. stands for "before Christ,"** meaning before Jesus was born. So 400 B.C. means 400 years before Jesus was born.
- **A.D. comes from the Latin "anno Domini,"** which means "in the year of the Lord."
- A.D. applies to years following the birth of Jesus. Therefore, it's easy to assume that A.D. 1500 means 1,500 years after Jesus was born, but that's not strictly true because A.D. began at 1. A.D. 1500 is actually 1,499 years after Jesus was born.



3.The History of Constitution of India.

Indian Constitutional History

1.324 BC - 185
BC

Emperor Ashoka Maurya established constitutional principles, Engraved them in major rocks, pillar and on minor rocks for public to take reference. Also known as **Edicts of Ashoka**.

2.1599AD-1765
AD

East India Company takes **total administrative control** by gaining right of taxation in Bengal after Battle of Plassey (1757).

3.1765AD-1858
AD

East India Company takes **total unified control** over the whole of India from a single center in Calcutta. But its rule ended with the Revolt of 1857.

4.1858AD-1947
AD

This period of the **British Raj** was the time when the **Constitution of India took shape**.

5.1950AD

Finally **Constitution of India**, created in **independent India** by its own free people, was adopted on 26 November 1949 and came into effect on 26 January 1950. As we know it and use it today.



3.The History of Constitution of India.

1) The Edicts of Ashoka (324 BC - 185 BC) established constitutional principles for the 3rd century BC Maurya king's rule in Ancient India.

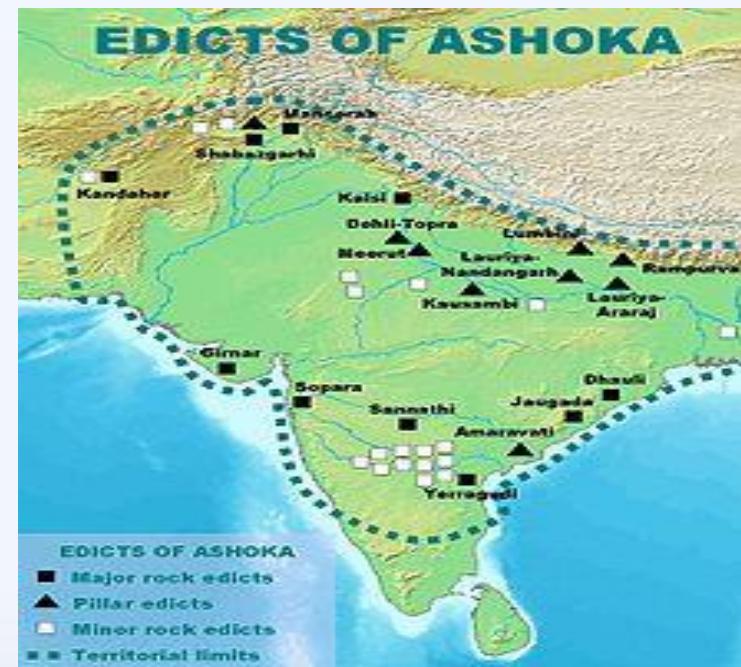
The Edicts of Ashoka are a collection of 33 inscriptions on the Pillars of Ashoka, as well as boulders and cave walls, made by the Emperor Ashoka of the Mauryan dynasty.



Fragment of the 6th Pillar, in Brahmi, sandstones. British Museum.



View of the Ashokan Pillar at Vaishali.





3.The History of Constitution of India.

2) East India Company (1599AD-1765AD)-

In 1600, the East India Company came to India as a **trading company** from Britain.

In 1765, it became an **administrative power** after gaining the **Right of Taxation** in Bengal after defeating the Nawab of Bengal at the Battle of Plassey (1757).



Established in 1600 by Queen Elizabeth



View of East India House



3.The History of Constitution of India.

3) East India Company (1765AD-1858AD)-

During this period, the company established a **unified control over the whole of India** from a single center in Calcutta. **Different Acts and Laws** were forced by company during this period just so company could remain in power and authority. But the company came under increasing control by parliament of Britain and its rule ended with the Revolt of 1857.



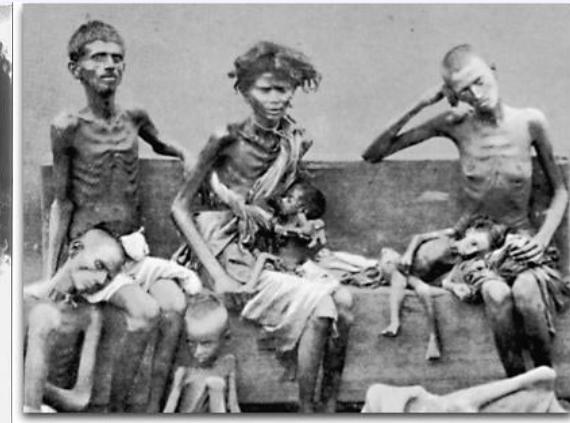
Different battles all over the India.



3.The History of Constitution of India.

4) **British Raj(1858AD-1947AD)**- This period of the British Raj was the time when the Constitution of India took shape. The main stages of its evolution were:

- I. **The Act for the Better Government of India (1858)**- This put India directly under the control of the British government. It set up the **office of the Secretary of State**, member of the British parliament, who would be in charge of Indian government. In India, the **Governor-General**, working under the Secretary of State, **led the administration**.



Flag of British India (Known as star of India)

Left Hunting of Indian Tigers, Right Famines and epidemics in the British Raj



3.The History of Constitution of India.

- II. **Indian Councils Act (1861)**- A separate legislative council was set up to assist the Governor-General in making laws. Indians could be appointed to the council, but only on the discretion of the Governor-General.
- III. **Indian Councils Act (1892)**- As a result of Indian demands, the sizes of the executive and legislative councils were increased. More Indians were appointed to these Councils, and the principle of election was introduced.
- IV. **Indian Councils Act (1909)**- This act increased the sizes of the councils again, and also gave the legislative council the power to discuss certain matters and to ask questions. More people were elected to the councils.
- V. **Government of India Act (1919)**- This introduced 'diarchy' (partial responsible government) at the provincial level. Elected Indians were given charge of some areas of government (e.g., industry, education) at the provincial level.



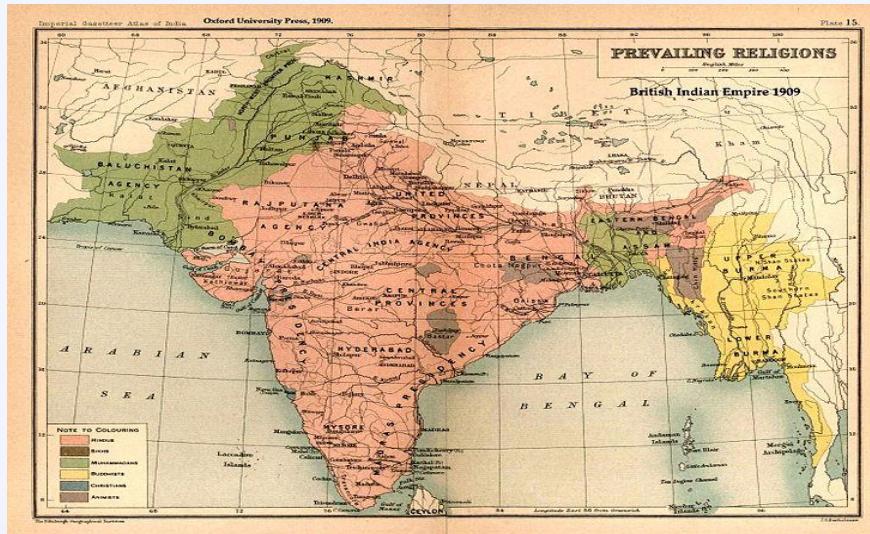
3. The History of Constitution of India.

VI.

Government of India Act (1935)- This introduced '**provincial autonomy**': responsible government at the provinces with elected Indians in charge of the administration, and responsible to the elected legislatures. A federal government was proposed, though it did not come into effect. At the centre, '**diarchy**' was introduced.

VII.

Indian Independence Act (1947)- The British **gave up control** of the **Government of India to two dominions - India and Pakistan**. For the time being till the constitution was made, both of them would be governed in accordance with the Government of India act 1935.



The Partition of British India was based on the prevailing religions, broadly as shown in this map of 1909.

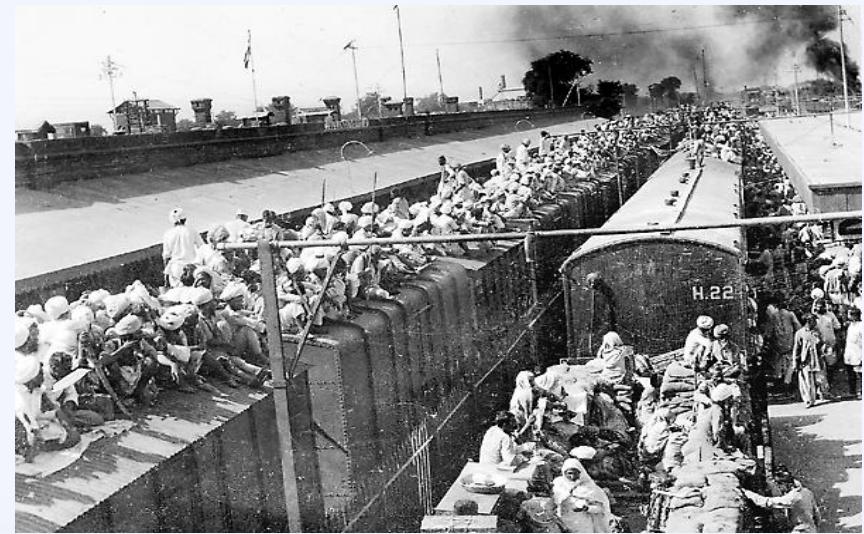


Photo of Refugees at railway station in Punjab



3.The History of Constitution of India.

5) **Constitution of India(1950AD)**- The Constitution was enacted by the Constituent Assembly on 26 November 1949, and came into effect on 26 January 1950.

The date 26 January was chosen to commemorate the **Purna Swaraj (Complete Independence) declaration of independence of 1930**. With its adoption, the Union of India officially became the modern and contemporary Republic of India and it replaced the Government of India Act 1935 as the country's fundamental governing document.

Conscious efforts were made to have consensus on different issues and principles and thereby avoid disagreement. The consensus came in the form of the 'Objectives Resolution' moved by Jawahar Lal Nehru in the Constituent Assembly on December 17, 1946 which was almost unanimously adopted on January 22, 1947.



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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1.What Is Constitution Anyway?

2.Why Do We Need Constitution?

3.The History of Constitution of India.

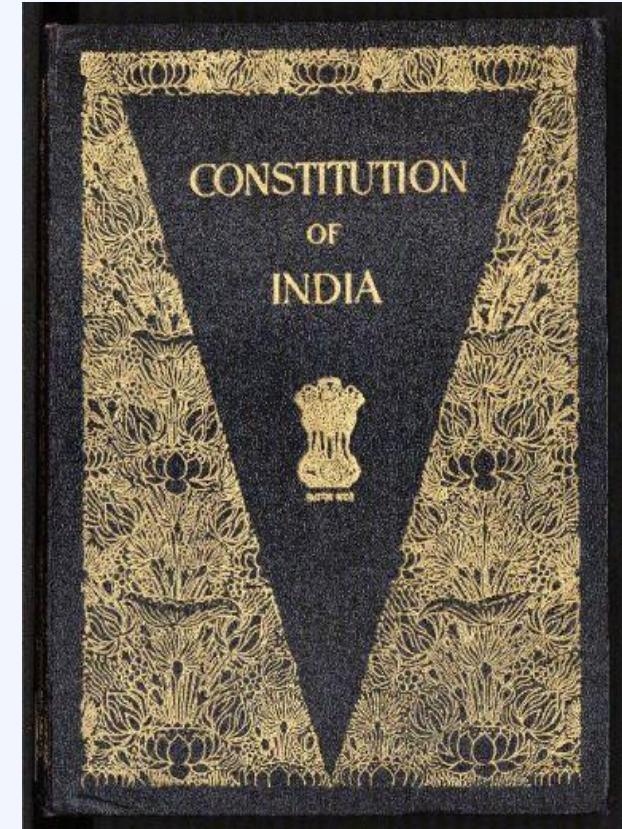
4.The Framing of Constitution of India.

5.The Preamble to Constitution of India.

6.What Is The constitution of India?

7.Main Characteristics of Constitution of India.

8.Conclusion



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



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**.

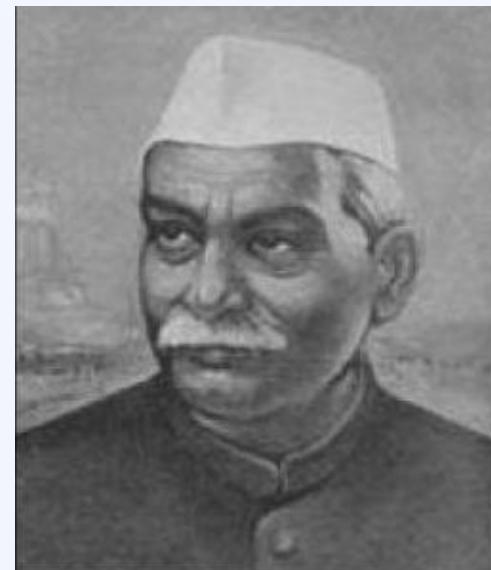
This body was **formed in 1946** for the purpose of making independent India's constitution. The assembly passed a resolution in 1947 January defining **the objectives of the constitution**:-

- 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 63rd Republic Day Celebrations on 26th January 2012 at New Delhi, India





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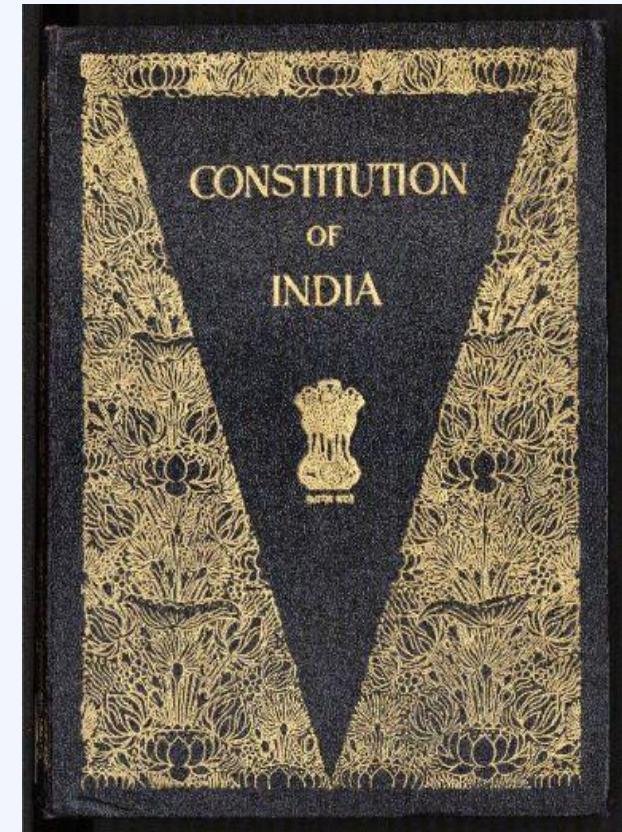
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5.The Preamble to Constitution of India.

The Constitution of India **commences** with a Preamble.

The Preamble is like an **introduction or preface** of a book.

'Preamble' explains the **purposes and objectives** with which the document has been written.

As such the 'Preamble' provides the **guide lines** of the Constitution.

The Preamble to the Constitution of India is a brief introductory statement that sets out the guiding purpose and principles of the document.



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 the 42nd amendment (change) which inserted the words Socialism, Secularism and Integrity. So the 42nd Amendment changed the description of India from a "sovereign democratic republic" to a "sovereign, socialist secular democratic republic", and also changed the words "unity of the nation" to "unity and integrity of the nation".

The Preamble, in brief, explains the **objectives** of the Constitution in **two ways**:

- 1) About the **structure of the governance**
- 2) About the **ideals to be achieved** in independent India.

It is because of this, the Preamble is considered to be the **key** of the Constitution.



5.The Preamble to Constitution of India.

The **objectives**, which are laid down in the Preamble, are:

)Description of Indian State as

Sovereign, Socialist, Secular, Democratic, Republic.

(Socialist, Secular added by 42nd Amendment, 1976).

)Provision to all the citizens of India i.e.,

Justice social, economic and political

Liberty of thought, expression, belief, faith and worship

Equality of status and opportunity

Fraternity assuring dignity of the individual and unity and integrity of the nation.



5.The Preamble to Constitution of India.

Sovereignty

Sovereignty is one of the foremost elements of any independent State.

It means **absolute independence**, i.e., a government which is not controlled by any other power : internal or external. A country *cannot* have its own constitution without being sovereign. India is a sovereign country. It is free from external control. It can frame its policies. India is free to formulate its own foreign policy.



5.The Preamble to Constitution of India.

Socialist

The word socialist was not there in the Preamble of the Constitution in its original form. In 1976, the 42nd Amendment to the Constitution incorporated 'Socialist' and 'Secular', in the Preamble.

The word 'Socialism' had been used in the context of **economic planning**. It signifies major role in the economy.

It also means commitment to **attain ideals like removal of inequalities, provision of minimum basic necessities to all, equal pay for equal work.**

When you read about the Directive Principles of the State Policy, you will see how these ideals have been incorporated as well as partly, implemented in the Constitution.



5.The Preamble to Constitution of India.

Secularism

In the context of secularism in India, it is said that 'India is neither religious, nor irreligious nor anti-religious.' Now what does this imply? It implies that in India there will be **no 'State' religion** – the 'State' will not support any particular religion out of public fund.

This has **two implications**,

- a) every individual is free to believe in, and practice, any religion he/ she belongs to, and,
- b) State will not discriminate against any individual or group on the basis of religion.



5.The Preamble to Constitution of India.

Democratic

As you have noticed while reading the Preamble to the Constitution, that the Constitution belongs to the people of India. The last line of the Preamble says '**.... Hereby Adopt, Enact And Give To Ourselves This Constitution**'. In fact the Democratic principles of the country flow from this memorable last line of the Preamble.

Democracy is generally known as **government of the people, by the people and for the people**. Effectively this means that the Government is elected by the people, it is responsible and accountable to the people. The democratic principles are highlighted with the **provisions of universal adult franchise, elections, fundamental rights, and responsible government**.



5.The Preamble to Constitution of India.

Republic

The Preamble also declares India as a Republic.

It means that the head of the State is the President who is **indirectly elected** and he is **not a hereditary ruler** as in case of the British Monarch.



5.The Preamble to Constitution of India.

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.

Justice, Liberty and Equality

The struggle for freedom was not only against the British rule but their struggle should also usher in an era of

- restoring the dignity of men and women,
- removal of poverty and end to all types of exploitation.

Such strong motivations and cherished ideals had prompted the framers to lay emphasis on the provisions of **Justice, Liberty and Equality** to all the citizens of India.



5.The Preamble to Constitution of India.

Justice

Justice promises to give people what they are entitled to in terms of

- basic rights to food, clothing, housing,
- participation in the decision-making and
- living with dignity as human beings.

The Preamble covers all these dimensions of justice – social, economic and political. Besides, the granting of political justice in the form of universal adult franchise or the representative form of democracy.



5.The Preamble to Constitution of India.

Liberty

The Preamble also mentions about liberty of thought and expression.

These freedoms have been guaranteed in the Constitution through the Fundamental Rights.

Though freedom from want has not been guaranteed in the Fundamental Rights, certain directives to the State have been mentioned in the Directive Principles.

Directive Principles of State Policy is to create a '**Welfare State**'. In other words, the motive behind the inclusion of DPSP is not establishing political democracy rather, it's about establishing social and economic democracy in the state.



5.The Preamble to Constitution of India.

Equality

Equality is considered to be the essence of modern democratic ideology. The Constitution makers placed the ideals of equality in a place of pride in the Preamble. All kinds of inequality based on the concept of rulers and the ruled or on the basis of caste and gender, were to be eliminated. All citizens of India should be treated equally and extended equal protection of law without any discrimination based on caste, creed, birth, religion, sex etc. Similarly equality of opportunities implies that regardless of the socio-economic situations into which one is born, he/she will have the same chance as everybody else to develop his/ her talents and choose means of livelihood.



5.The Preamble to Constitution of India.

Fraternity, Dignity, Unity and Integrity

In the background of India's multi-lingual, multi-cultural and multi-religious society and keeping in view the partition of the country, the framers of the Constitution were very much concerned about the unity and integrity of our newly independent country. There was a need for harmonious co-existence among various religions, linguistic, cultural and economic groups. Inclusion of phrases like 'dignity of individuals', 'fraternity among people' and 'unity and integrity of the nation' in the Preamble highlight such a need.



5.The Preamble to Constitution of India.

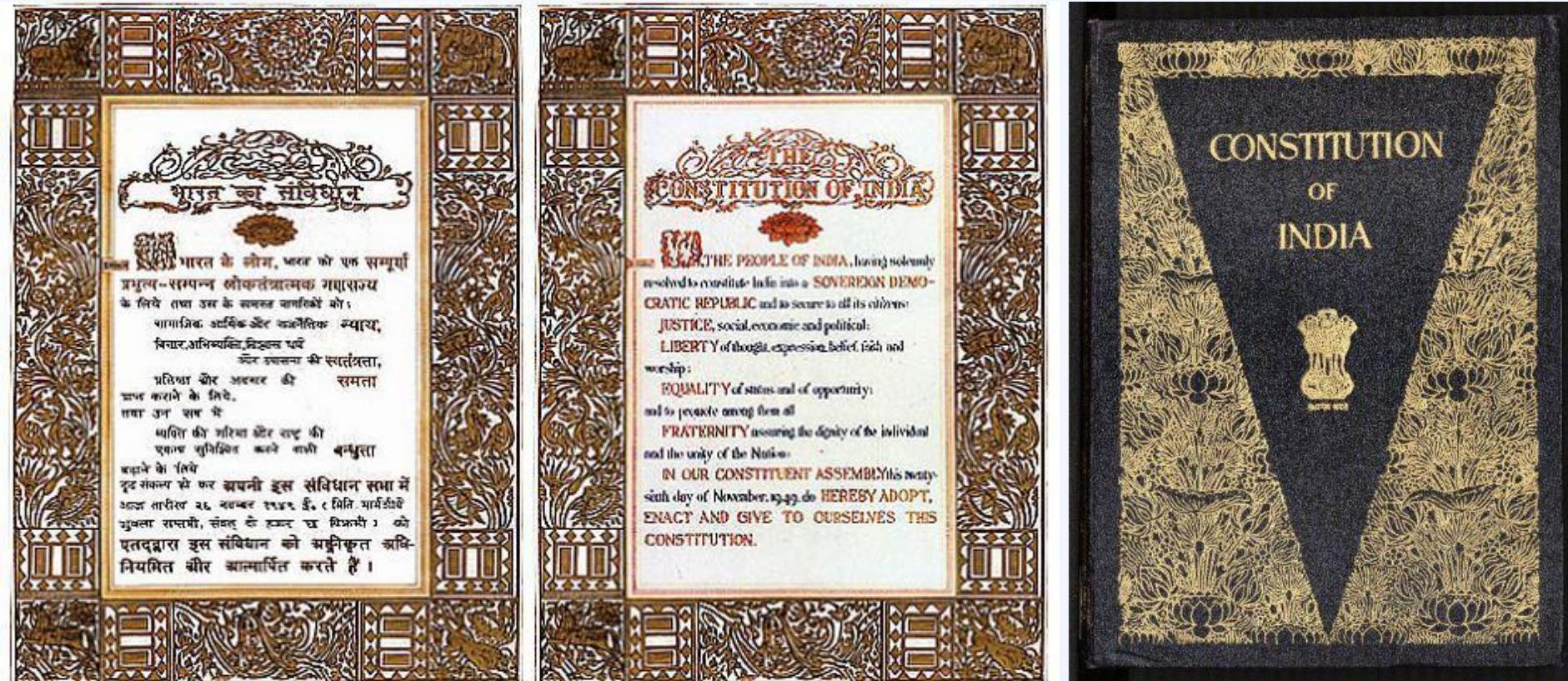
Egalitarian: A society, which feels concerned for meeting the needs of all its members, is known as egalitarian society. An egalitarian state is expected to reduce inequalities among citizens and fulfill minimum requirements of all.

The Preamble has provided for a vision humane which is, democratic, secular and, therefore, egalitarian. Therefore, in spite of not being a part of the Constitution, the Preamble has always been given due respect and regard by the courts while interpreting the Constitution.



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."



25MS101

Constitution of India

Learning Unit 1

Roots of the Constitution

S. Sreemathi



Roots of the Constitution

01

Historical Legal
Background



02

Constituent
Assembly Role

03

Drafting Committee
Debates

04

Preamble Core
Values

05

Basic Structure
Doctrine



01

Historical Legal Background

**What is
CONSTITUTION?**

What is CONSTITUTION?

Constitution

- Fundamental laws which governs a country
- The **Constitution of India** is the supreme law of the land, adopted on **26th November 1949** and enforced on **26th January 1950**.

Why 26th January?

- Date selected because of **Purna Swaraj**
- On 26th Jan, 1930 INC seeded fight for complete Independence and hoisted the Indian national Flag for the first time.

What is fundamental law?

- It's an essential key for a country like it defines the structure of government

Structure of GOVERNMENT

Branch	Function	Key Institution
Executive	Enforces laws	President, Prime Minister
Legislative	Makes laws	Parliament (Lok Sabha, Rajya Sabha)
Judicial	Interprets laws	Supreme Court, High Courts

1. Executive Branch – Enforces laws

- **President of India :**

Droupadi Murmu

- **Ceremonial head of state**

- Appoints the Prime Minister, Governors, and Judges

- **Prime Minister :**

Narendra Modi

- **Head of government**

- Leads the Council of Ministers

- Responsible for running the country

Role:

- Executes laws passed by Parliament
- Manages foreign policy, defense, and administration
- Implements government programs



2. Legislative Branch – Makes laws

Parliament of India (Bicameral - having two chambers)

➤ **Lok Sabha (Lower House)**

- Members directly elected by the people (MPs)
- Led by the **Speaker of Lok Sabha**
 - **Shri. Om Birla**
- Controls the executive through motions, debates



➤ **Rajya Sabha (Upper House)**

- Members mostly elected by state legislatures
- Led by the **Vice President of India** (Chairperson of Rajya Sabha)
 - **Shri Jagdeep Dhankhar**



Current Context (2025):

Ruling Party:

Bharatiya Janata Party (BJP)

Parliament Functions:

- Passes laws, budgets, and constitutional amendments
- Controls and checks the executive branch

3. Judicial Branch – Interprets laws

- Supreme Court of India:

Chief Justice (2025)

B.R.Gavai



- ✓ Highest constitutional court in the country
- ✓ Can strike down unconstitutional laws (**judicial review**)
- ✓ Protects **Fundamental Rights** of citizens

Other Courts:

- High Courts (in each state)
- District and Subordinate Courts

Why CONSTITUTION is Needed?

Why CONSTITUTION is Needed?

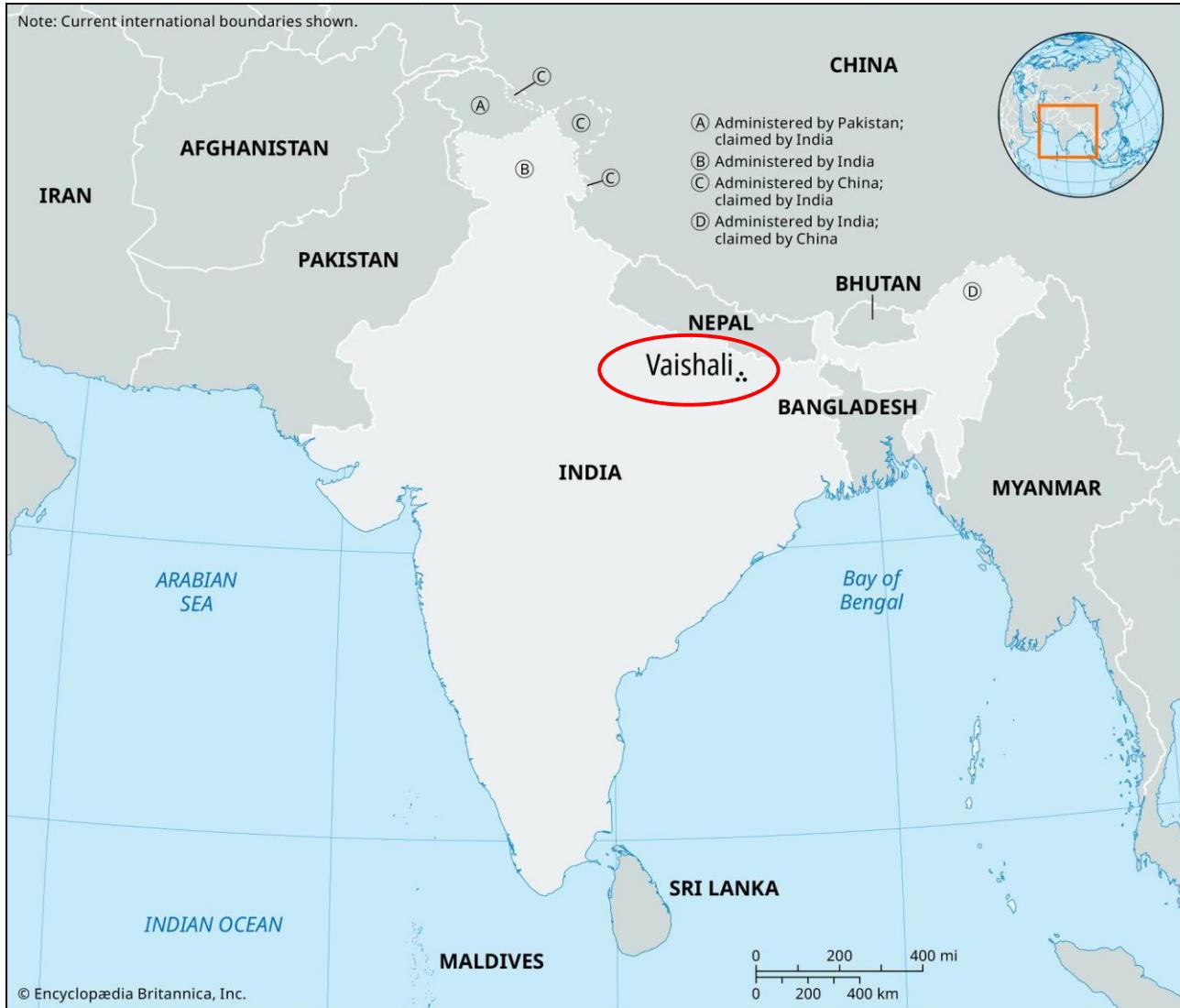
- To safeguard rights of the people against misuse of state power
- To ensure rule of law
- To avoid conflicts between :
 1. The state and the citizens fundamental rights
 2. Organs of government (Legislature, Judiciary & Executive)
 3. Units of government (Union, States , Local governments)

Historical Underpinnings of Indian Constitution

2. Ancient & Indigenous Traditions

- Even before colonial laws, India had:
 - a) Republican traditions in Lichchavi, Vaishali (6th century BCE) – assemblies and councils
 - b) Dharma Shastras and Arthashastra (Kautilya) – ideas of law, justice, and statecraft
 - c) Concepts like Raj Dharma (duty of rulers) influenced later constitutional morality

2. Ancient & Indigenous Traditions



a) Lichchavi, Vaishali

- Around the 6th century BC
- Vaishali was the capital of the **Vajji Confederacy**, a league of smaller clans led by the **Lichchhavis**

2. Ancient & Indigenous Traditions

- Instead of a single king, power was shared among elected representatives
- Assembly met in a large hall called the **Santhāgāra**, where decisions on wars, trade, and laws were taken collectively
- Members were chosen by vote from different clans, and important policies were decided by majority consensus
- Buddha, often referred to the Vajjis as a model of unity and collective leadership

2. Ancient & Indigenous Traditions

b) Dharma Shastras and Arthashastra (Kautilya) – 4 BC

- Dharmashastra and Arthashastra are two distinct, yet complementary, ancient Indian texts
- Dharmashastra focuses on dharma (righteousness, duty) and provides guidelines on moral, social, and religious conduct,
- Arthashastra deals with the practical aspects of statecraft, economics, and political strategy

2. Ancient & Indigenous Traditions

C) Raj Dharma (duty of rulers)- 500 BC

- Raj dharma, in ancient Indian political thought, refers to the duties and responsibilities of a ruler (king or leader) towards their subjects and the state
- It emphasizes the importance of righteousness, justice, and the welfare of the people as the core principles of governance

Pre-Company Rule



1600

East India Company
(EIC) came to India
has a traders

Under a charter of
Queen Elizabeth I

1757

The EIC got victory in Battel of Plassey in 1757 was a major turning point in Indian history

The beginning of British political rule in India and laid the foundation for nearly **200 years of British colonial rule** in India.

1765

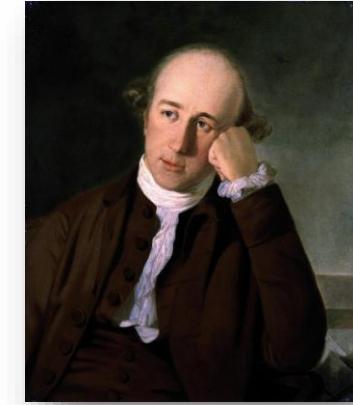
EIC got Dwani Rights

In states

- a. Bengal
- b. Bihar
- c. Odisha

The EIC established its capital from 1773 - 1911 at Calcutta

Company Rule 1773-1858



Lord
Warren
Hastings

▪ Regulating Act of 1773

- The first step taken by the British Government to control and regulate the affairs of the EIC in India
- It designated the Governor of Bengal as Governor General of Bengal. First GG of Bengal **Lord Warren Hastings** and made four Executive Council members to assist him
- It made the Bombay and Madras presidencies subordinate to the governor general of Bengal
- The first Supreme court established at Calcutta (1774) comprising of **one chief justice and three other judges**

Pitt's India Act of 1784

1. Distinguished between commercial and political functions of the company.
2. It allowed **court of directors** to commercial and new body called **board of control** to political to manage affairs of the company. Thus established system of Double government.
3. Empowered Board of Control
 - To supervise the operations of Civil and Military Govt
 - Revenues of British possessions in India
4. The British Govt was given supreme control over company's affairs and its administration in India

The Charter Act, 1793

1. The EIC got further 20 years charter
2. Salary of Members of the Board of Control to come from fund of India.
3. To become GG or Member of Governor Legislation they must remain 12 years in India.

The Charter Act, 1813

1. The EIC monopoly ended but EIC can continue trade of tea with China.
2. The Act also provided for the British parliament to control the revenues of India.

■ The Charter Act, 1833

1. Final step towards centralization in British India.
2. Made GG of Bengal the GG of India .The GG of India **Lord William Bentinck**.
3. He has the Exclusive Legislation power for entire British India.
4. The Act ended activities of EIC as Commercial body and EIC became purely administrative body.

The Charter Act, 1853

1. Under Macaulay Committee first time separated functions of Legislative Executive of GG Council.
2. Introduced first time local representation in the Indian Legislative Council.

The Crown Rule (1858-1947)

Government of Indian Act of 1858

1. This Act was enacted in the wake of the Revolt of 1857 also known as the **First War of Independence** or the '**sepoy mutiny**'.
2. Abolished the EIC and transferred the powers of government , territories and revenues to the British Crown.
3. It changed the designation of the **GG of India to that of Viceroy of India**. He is the direct representative of the British Crown in India. **Lord Canning thus became 1st Viceroy of India.**

The Crown Rule (1858-1947)

Indian Councils Act of 1861

1. After the great revolt of 1857, the British Govt felt the necessity of seeking the cooperation of the Indians in the administration of their country.
2. It made a beginning of representative institutions by associating Indians with the law-making process.
3. It thus provided that the viceroy should nominate some Indians as non-official members of his expanded council.

Indian Councils Act of 1892

1. Act increased the function of legislative councils and gave them the power of discussing the budget and addressing questions to the executive.

Indian Councils Act of 1909

1. This Act is also known as Morley-Minto Reforms
2. This act increased the sizes of the councils again, and also gave the legislative council the power to discuss certain matters and to ask questions. More people were elected to the councils.
3. **Satyendra Prasad Sinha** became the first Indian to join the **viceroy's Executive Council**. He was appointed as the law member.

Government of Indian Act of 1919

1. This Act is also known as **Montagu-Chelmsford Reforms**.
2. Act introduced for the first time, **Bicameralism** and direct elections in the country consisting of an Upper house(Council of States) and Lower house(Legislative Assembly).
3. The majority of members of both the Houses were chosen by direct election.
4. Establishment of a central public service Commission was set up in 1926 for recruiting civil servants.

Government of Indian Act of 1935

1. This Act established **All India Federation** consisting of provinces and princely states as units.
2. Act divided the powers between the centre and units in terms of three lists
 - a. Federal list
 - b. provincial list
 - c. concurrent list
3. **Residuary power** were given to the Viceroy.
4. It abolished **dyarchy** and introduced ‘**provincial autonomy**’ and **adopted dyarchy at centre**.

Government of Indian Act of 1947

1. On Feb 20, 1947 the British Prime Minister **Clement Atlee** declared that the British rule in India would end by June 30, 1948.
2. **Lord Mountbatten**, the viceroy of India, put forth the India and Pakistan partition plan known as Mountbatten plan.
3. Act ended the British rule in India and declared Indian as an independent and sovereign state from Aug 15, 1947.

Government of Indian Act of 1947

4. Lord Mountbatten became the first Governor-General of the new dominion of India.

He swore in **Jawaharlal Nehru** as the first Prime Minister of Independent India.

5. The constituent Assembly of India formed in 1946 became the parliament of the Indian Dominion.

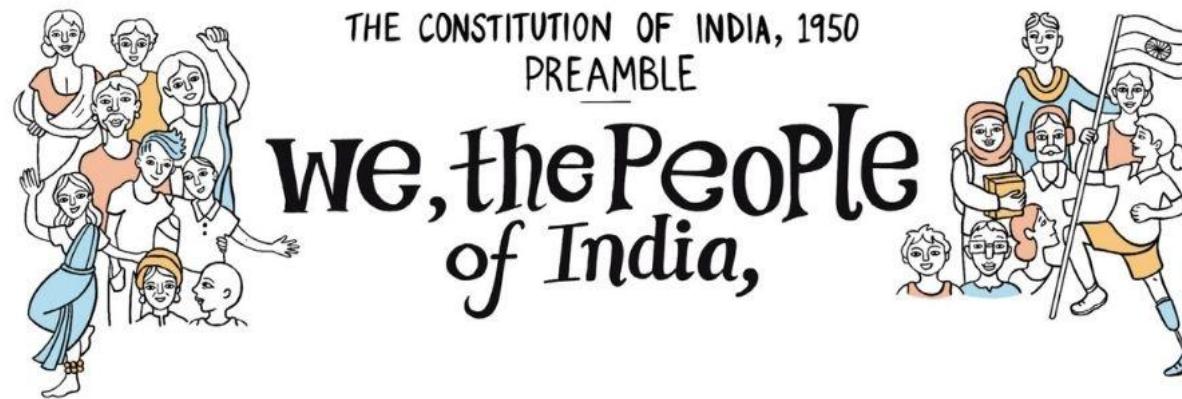
Summary

- **6th century BCE** – *Vaishali Vajji Confederacy* with elected representatives.
- **4th century BCE** – *Dharmashastras & Arthashastra*: Moral governance & statecraft.
- **500 BCE** – *Raj Dharma*: Duties of rulers towards justice and welfare.
- **1773** – Regulating Act: First British control over East India Company.
- **1784** – Pitt's India Act: Double government system.
- **1793, 1813** – Charter Acts: Extended Company rule; ended trade monopoly.
- **1833** – Charter Act: Centralized administration under Governor-General of India.
- **1853** – Charter Act: Legislative & Executive separation; local representation.
- **1858** – Government of India Act: Crown Rule begins; Viceroy appointed.
- **1861, 1892** – Indian Councils Acts: Introduced Indians into law-making process.
- **1909** – Morley-Minto Reforms: Expanded councils; first Indian in Viceroy's Executive Council.
- **1919** – Montagu-Chelmsford Reforms: Bicameralism & direct elections.
- **1935** – Government of India Act: Provincial autonomy; federal structure.
- **1947** – Indian Independence Act: End of British rule; India becomes sovereign.

*Thank
you!*

25MS101 Constitution of India

LEARNING UNIT 1 THE PREAMBLE



S. Sreemathi

THE CONSTITUTION OF INDIA

PREAMBLE

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 ²[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.**

1. Subs. by the Constitution (Forty-second Amendment) Act, 1976, Sec. 2, for "Sovereign Democratic Republic" (w.e.f. 3.1.1977)
2. Subs. by the Constitution (Forty-second Amendment) Act, 1976, Sec. 2, for "Unity of the Nation" (w.e.f. 3.1.1977)

The Preamble of Indian Constitution

KEYWORDS OF PREAMBLE

Sovereign

Socialist

Secular

Democratic

Republic

Justice

Liberty

Equality

Fraternity

1. Introduction

- ❖ The American Constitution was the first to begin with a **Preamble**
- ❖ The term Preamble refers to the introduction to the Constitution.
- ❖ Contains summary/essence of the constitution
- ❖ **Objective Resolution** – Drafted by Nehru on Dec 13th 1946 and adopted on Jan 22nd 1947

2. Preamble As Part of the Constitution

I. Berubari Union case (1960)

1. Preamble is **not a part** of Constitution and can not be amended.

II. Kesvananda Bharti Case (1973)

1. Preamble is a **part** of the Constitution.

2. Hence it can be amended under the Art.368 without changing the basic Structure of the constitution which decided by the Supreme Court.

3. By the 42nd Constitution Amendment Act 1976 which added the new words **socialist, secular and integrity**.

III. LIC of India case (1995)

1. Preamble is an **Integral Part** of the Constitution.

So far the Preamble has been amended only once through the 42nd Amendment Act, 1976.

Three new words were added to the Preamble:

1. Socialist
2. Secular
3. Integrity

3. Ingredients

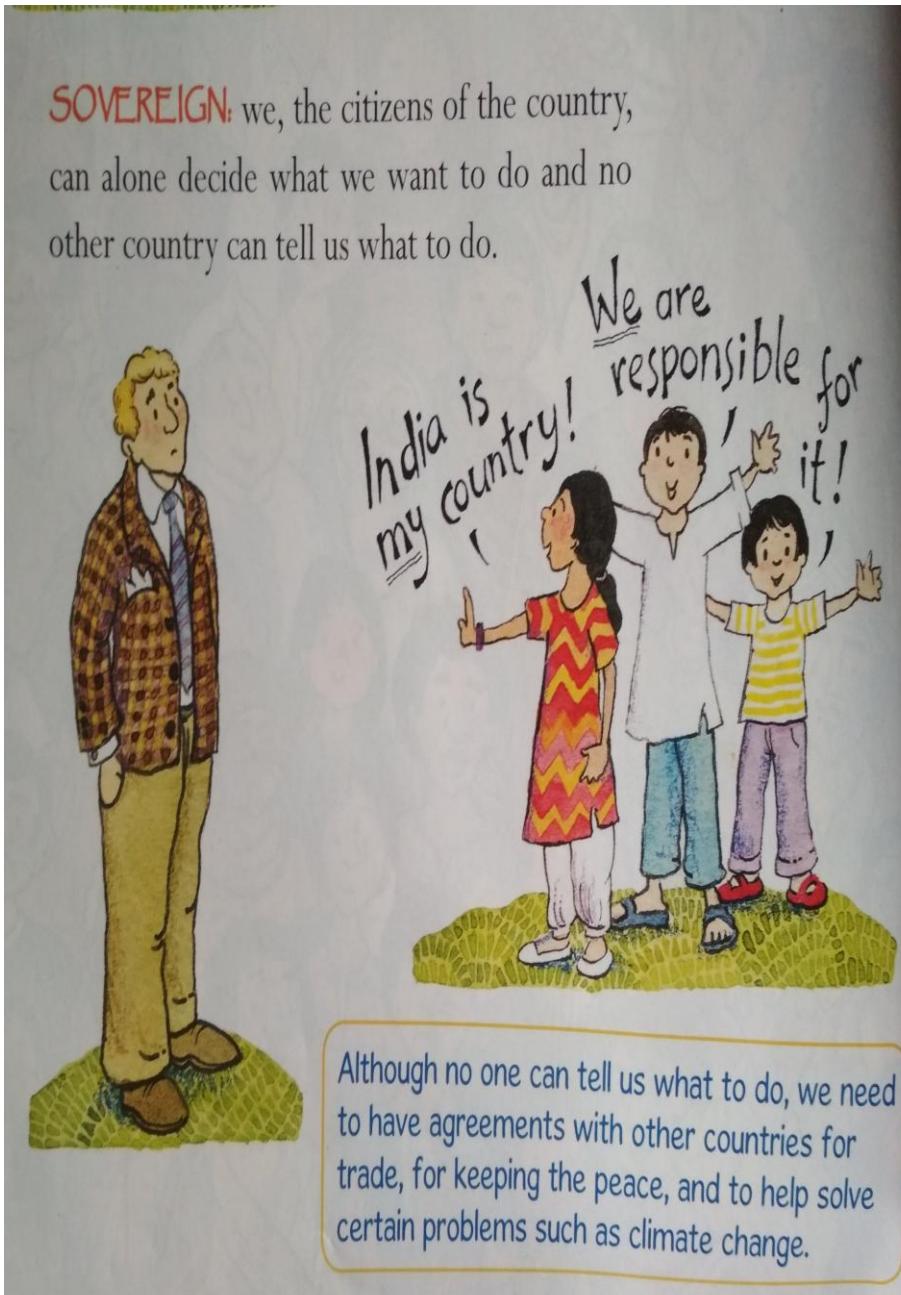
- ❖ Source of authority – People
- ❖ Nature of State – **Sovereign , Socialist , Secular , Democratic & Republic**
- ❖ Objective of the Constitution – **Justice , Liberty , Equality , and Fraternity**
- ❖ Adoption – Nov 26th 1949 called as **Constitution Day**

4. Keywords

Nature of state

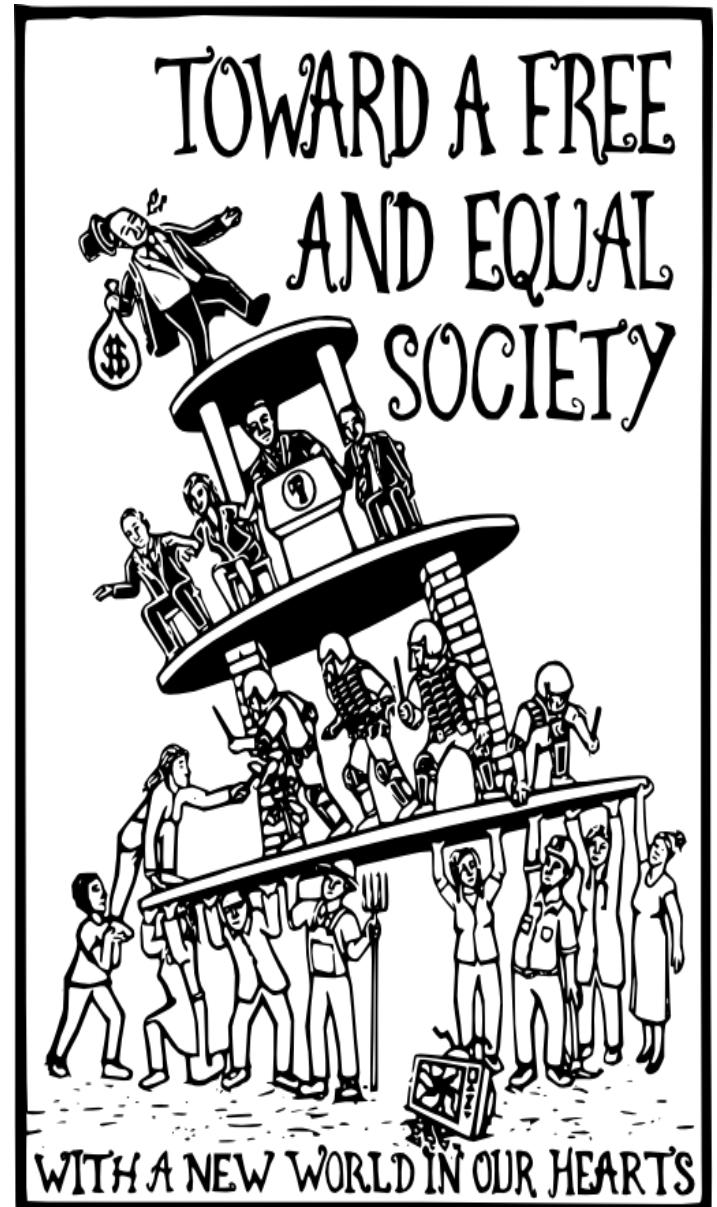
1. Sovereign

- Neither a dependency nor a dominion.
- There is no authority above it.
- Being a sovereign state, India can either acquire a foreign territory or cede a part of its territory in favour of a foreign state.



2. Socialist

- The Constitution had a content in the form of certain DPSP.
- Avadi session 1955, adopted a resolution to establish a '**socialistic pattern of society**' by **Congress party**.
- Indian brand of socialism is a '**democratic socialism**' and not a '**communistic socialism**'.
- Democratic socialism – faith in '**Mixed Economy**'
- Indian socialism is a blend of **Marxism and Gandhism**.
- New economic policy 1991 of **LPG** has diluted the socialist credentials of the Indian State.



3. Secular

- Does not uphold any particular religion as the state religion.
- As the Supreme court said in 1974 the words ‘Secular state’ were not expressly mentioned in the Constitution, there can be no doubt that Constitution makers wanted to establish such a state.
- Ar. 25 – 28 **Right to Freedom of Religion** i.e. , all religions in our country have the same status and support from the state.



**Freedom
Of Religion**

4. Democratic

Democracy is ‘Government of the people , for the people , by the people’

-Abraham Lincoln

- a. Direct Democracy
- b. Indirect Democracy



a) Direct Democracy

People exercise their supreme power directly.

Example – Switzerland

1. **Referendum** – Citizens get an opportunity to straightforwardly vote on a particular issue.
2. **Initiative** – People can propose.
3. **Recall** – Voters can remove and not to remove a representative.
4. **Plebiscite** – Public opinion to solve the territorial disputes.

b) Indirect Democracy

- Representatives elected by the People
- Prevailing system of democracy in India
- Two kinds – Parliamentary and Presidential

5. Republic

a. Monarchy

The head of the state – king or Queen enjoys a hereditary position.

Example – Britain

b. Republic

Head of the state – Elected directly or indirectly for a fixed period.

Example - USA



ASPECT	MONARCHY	DEMOCRACY
RULER	<ul style="list-style-type: none">▪ Single ruler	<ul style="list-style-type: none">▪ Collective / majority ruler
SELECTION OF THE RULER	<ul style="list-style-type: none">▪ Ascribed status▪ Inheritance / single family rules from generation to gen.	<ul style="list-style-type: none">▪ Achieved status▪ Election / people's decision
RULING SYSTEM / RULING MECHANISM	<ul style="list-style-type: none">▪ Royal▪ Only few line	<ul style="list-style-type: none">▪ Legislative, judiciary and executive
TYPE	<ul style="list-style-type: none">▪ Traditional political system	<ul style="list-style-type: none">▪ Modern political system
POLITICAL RIGHTS	<ul style="list-style-type: none">▪ Right and power meant to the royal families▪ No freedom of speech	<ul style="list-style-type: none">▪ Right and power to the people▪ Stress on the freedom of speech
TYPE OF AUTHORITY	<ul style="list-style-type: none">▪ Traditional authority	<ul style="list-style-type: none">▪ Rational-legal authority

Objective of the Constitution



Justice

Freedom
State of being unrestricted or unimpeded

Example

she gave me the freedom of her house.



Liberty
Condition of having autonomy and rights

Example

people who attacked phone boxes would lose their liberty.



Liberty



Equality



Fraternity

Objective of the Constitution

6. Justice

Idea of justice is taken from **Russian Revolution** 1917. Three distinct forms – social , economic and political.

a. Social Justice

- Ensures equal treatment of all citizens without discrimination based on caste, religion, gender, or economic status.
- Aims to remove social inequalities and provide opportunities for everyone, especially for historically disadvantaged groups (e.g., through reservations and welfare measures).



JUSTICE

The term 'justice' in the preamble embraces three distinct forms - social, economic and political; secured through various provisions of Fundamental Rights and Directive Principles. Social justice denotes the equal treatment of all citizens without any social distinction based on caste, colour, race, sex, religion.

b. Economic Justice

- Seeks to reduce the gap between the rich and the poor.
- Guarantees fair distribution of wealth and resources, equal pay for equal work, and protection against exploitation.
- Promotes policies to uplift weaker sections and eliminate poverty.

c. Political Justice

- Ensures equal political rights for all citizens, such as the right to vote and the right to contest elections.
- Protects freedom of speech and participation in the democratic process.
- Aims to prevent political discrimination or domination by any particular group.

7. Liberty

Taken from French Revolution

Liberty of Thought & Expression

- Citizens can think freely and express their ideas, opinions, and views openly.
- Example: Freedom of speech, writing, media, protests (as long as they are peaceful and do not harm public order).

Liberty of Belief, Faith & Worship

- Citizens are free to follow, practice, and propagate any religion or to follow none.
- Example: Choosing one's religion, celebrating festivals, building places of worship without discrimination.



LIBERTY

The term 'liberty' means the absence of restraints on the activities of individuals, and at the same time providing opportunities for the development of individual personalities. The preamble secures to citizens of India liberty of thought, expression, belief, faith and worship through fundamental rights.

Example - Freedom of Assembly (Article 19(1)(b))

- **Restriction Example:** You can protest peacefully, but not block essential services or harm public property.
- **Real Case:** During some protests, authorities impose Section 144 CrPC (prohibiting gatherings) to maintain public order.

8.Equality

Equality before law & equal protection of laws (Article 14)

- Everyone is subject to the same laws, regardless of their status.
- **Example:** If a minister commits a crime, they face the same legal process as an ordinary citizen.
- The government can make special laws for disadvantaged groups to ensure *real* equality (positive discrimination).



EQUALITY

The term 'equality' means the absence of special privileges to any section of the society, and the vision of adequate opportunities for all individuals without any discrimination. The preamble secures civic, political and economic equality of status and opportunity to all citizens.

Prohibition of discrimination (Article 15)

- No discrimination on grounds of religion, race, caste, sex, or place of birth.
- **Example:** A college cannot deny admission just because a student belongs to a particular caste or religion.
- However, the state can make special provisions for women, children, and weaker sections like SCs/STs/OBCs.

Equality of opportunity in public employment (Article 16)

- All citizens have equal opportunity for government jobs.
- **Example:** Jobs must be given based on merit, but reservations are allowed for disadvantaged groups.

Abolition of untouchability (Article 17)

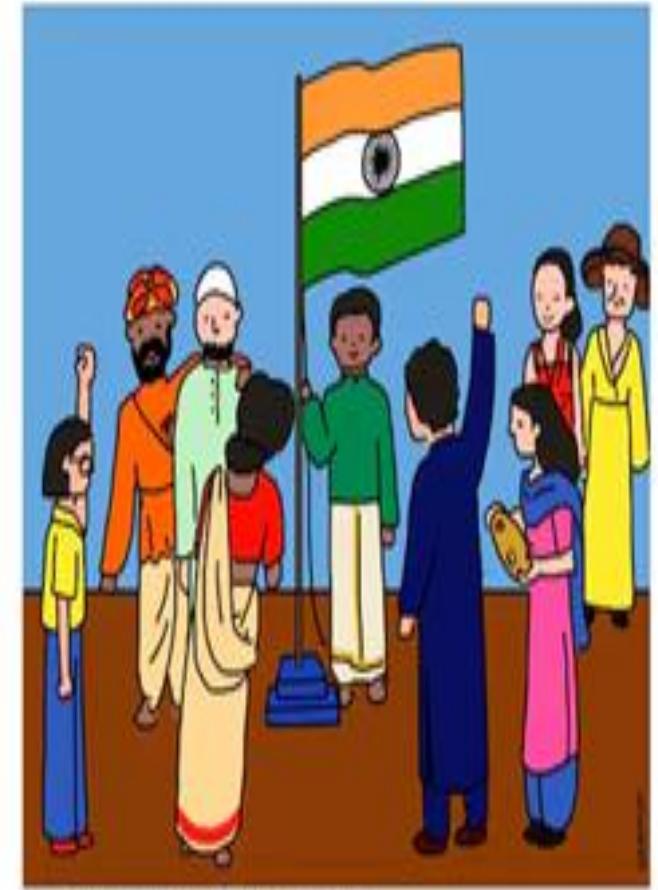
- Untouchability is abolished and its practice is a punishable offence.
- **Example:** Dalits cannot be denied entry into temples or public places.

Abolition of titles (Article 18)

- No titles like “Raja” or “Maharaja” can be conferred by the state (except military or academic distinctions).
- **Example:** Bharat Ratna is an award, not a title that grants special privileges.

9. Fraternity

1. Promotes **national integration** and emotional unity among citizens.
2. **Fundamental Duties** (Article 51A) ask citizens to promote harmony and brotherhood.
3. India is a diverse country with many religions, languages, and cultures.
4. Fraternity prevents social divisions, communal violence, and discrimination.
5. It strengthens the idea of “**unity in diversity**”



FRATERNITY

Fraternity means a sense of brotherhood. It is the fundamental duty of every citizen to promote harmony and a spirit of brotherhood amongst all the people of India transcending religious, linguistic, regional and sectional barriers. The constitution promotes the feeling of fraternity by the system of single citizenship.



Thank
You!

25MSI01

CONSTITUTION OF

INDIA

ROOTS OF THE CONSTITUTION

S. Sreemathi

CONTENTS

- I. Constituent Assembly Role**
- 2. Drafting Committee Debates**

I. Constituent Assembly Role



Seal of the Constituent Assembly



**First day of Constituent Assembly of India.
In the first row (From Left): Dr. B. R. Ambedkar,
B. G. Kher, Vallabhai Patel and K. M. Munshi**

I. CONSTITUENT ROLE ASSEMBLY

- A **constituent assembly** is a body of elected or chosen representatives that is specifically formed to draft or revise a constitution
- It is a temporary body with the primary purpose of creating or amending the fundamental law of a nation

I. CONSTITUENT ROLE ASSEMBLY

- **Formation:** Established in 1946 under the Cabinet Mission Plan
- Total strength: 389 members (later reduced to 299)
- Members were indirectly elected by provincial assemblies (not by direct vote)

I. CONSTITUENT ROLE ASSEMBLY

- **Composition :** Included representatives from provinces, princely states, Scheduled Castes, Scheduled Tribes, and minorities
- Leading figures: Dr. Rajendra Prasad (President), Jawaharlal Nehru, Sardar Patel, B.R. Ambedkar, Maulana Azad, and many more.

I. CONSTITUENT ROLE ASSEMBLY

- **Functions & Responsibilities:** Draft and adopt the Constitution of India
- Act as the legislative body for the new Dominion of India until general elections
- Safeguard diversity by ensuring representation of minorities, backward classes, and women.

I. CONSTITUENT ROLE ASSEMBLY

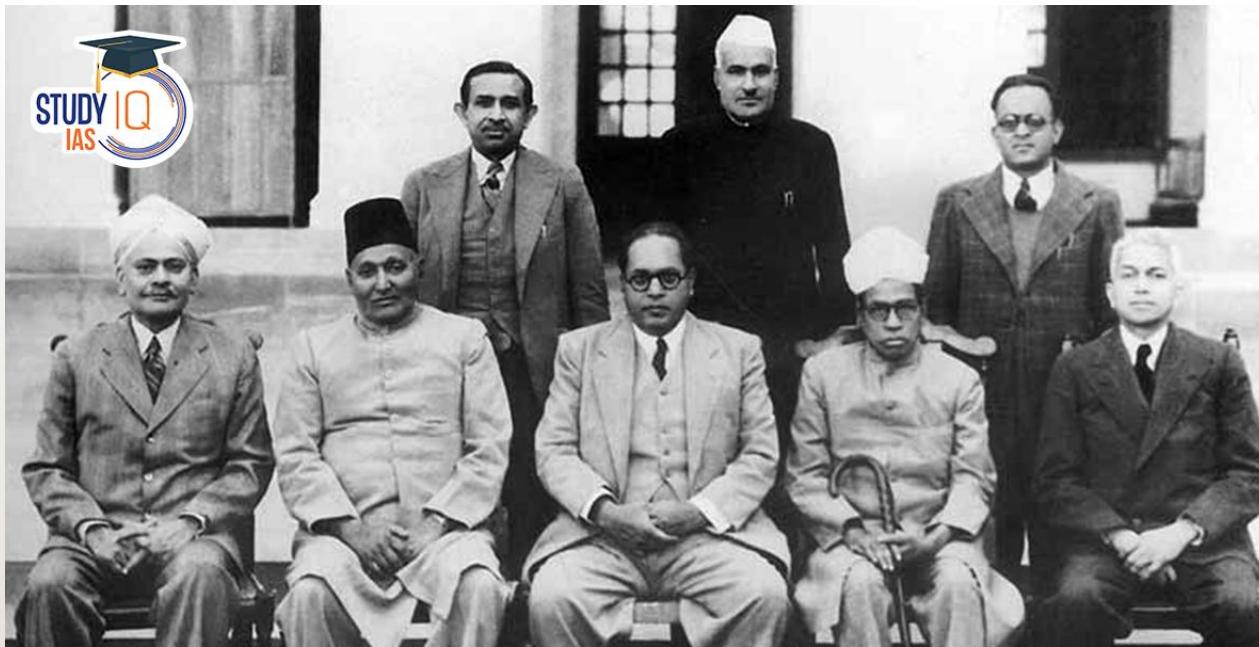
Working:

- First session: 9th December 1946
- Committees formed: Union Powers, Fundamental Rights, Minorities, Union Constitution, Provincial Constitution, etc.
- Adopted Objectives Resolution (moved by Nehru, Jan 1947), which became the Preamble.

I. CONSTITUENT ROLE ASSEMBLY

- **Significance** : Produced a comprehensive Constitution balancing federalism, democracy, secularism, and social justice
- Completed in 2 years, 11 months, 18 days. Adopted on 26 November 1949, enforced on 26 January 1950.

2. Drafting Committee Debates



DRAFTING COMMITTEE

2. DRAFTING COMMITTEE DEBATES

- Drafting debates were needed to ensure the Constitution reflected India's diversity and democratic spirit
- They allowed different viewpoints to be heard and helped balance conflicting interests like language, rights, and Centre–State powers

2. DRAFTING COMMITTEE DEBATES

- By studying and adapting global models, the Assembly shaped provisions suited to Indian realities.
- The debates gave clarity of intent for future interpretation by courts and governments.
- Built consensus and legitimacy, making the Constitution a true social contract of the people.

2. DRAFTING COMMITTEE DEBATES

Formation	Role
<ul style="list-style-type: none">Constituent Assembly appointed a Drafting Committee on 29 August 1947.Chairman: Dr. B.R. Ambedkar.Members: K.M. Munshi, Alladi, Krishnaswami Ayyar, N. Gopalaswami Ayyangar, B.L. Mitter (later replaced by N. Madhava Rau), Syed Mohammad Saadulla, and T.T. Krishnamachari (replaced K.M. Panikkar).	<ul style="list-style-type: none">To prepare the first draft of the Constitution based on reports of other committees and Assembly debates.Synthesized principles of parliamentary democracy, fundamental rights, directive principles, and federal structure.

2. DRAFTING COMMITTEE DEBATES

- **Major Debates**

- I. Fundamental Rights vs Directive Principles** – How to balance justiciable rights with non-justiciable goals.
- 2. Federal vs Unitary Powers** – Division of powers between Union and States (strong center emphasized due to partition & integration of princely states).

2. DRAFTING COMMITTEE DEBATES

- **Major Debates**
- **Minority Rights** – Safeguards for minorities, Scheduled Castes, and Tribes; separate electorates rejected.
- **Official Language** – Contentious debate; Hindi accepted as official language with English to continue for 15 years.

2. DRAFTING COMMITTEE DEBATES

- **Major Debates**
- **Emergency Powers** – Provisions for national emergencies, president's rule in states.
- **Judiciary** – Independent judiciary with judicial review.

2. DRAFTING COMMITTEE DEBATES

- **Outline**

- Draft had 395 Articles divided into 18 (25) parts and 8 (12) schedules covering

ARTICLES IN THE CONSTITUTION

Definition: Articles are the **individual sections or provisions** in the Constitution.

- They are like **rules or clauses** that explain specific rights, duties, powers, and procedures.

Example:

- **Article 14** → Right to Equality
- **Article 21** → Right to Life and Personal Liberty
- **Article 370** (now abrogated) → Special status for J&K
- India's Constitution currently has **448 Articles** (originally 395).

PARTS OF THE CONSTITUTION

Definition: Articles are grouped into **Parts** based on their subject.

- Each Part covers a broad theme.

Example:

- **Part III** (Articles 12–35) → Fundamental Rights
- **Part IV** (Articles 36–51) → Directive Principles of State Policy
- **Part V** (Articles 52–151) → Union Government
- There are **25 Parts** in the Constitution.

SCHEDULES OF THE CONSTITUTION

Definition: Schedules are like **annexures or tables** in the Constitution that give **detailed lists or extra information** related to Articles.

Example:

- **1st Schedule** → Names of States and Union Territories
- **8th Schedule** → List of 22 Official Languages
- **9th Schedule** → Laws protected from judicial review (mainly land reforms)
- There are **12 Schedules** in the Constitution.

2. DRAFTING COMMITTEE DEBATES

- **Outcome**
- First draft circulated in February 1948
- Second draft in October 1948 after public feedback
- Final draft submitted to the Constituent Assembly on 21 February 1948, debated clause by clause until 1949
- Adopted on 26 November 1949.

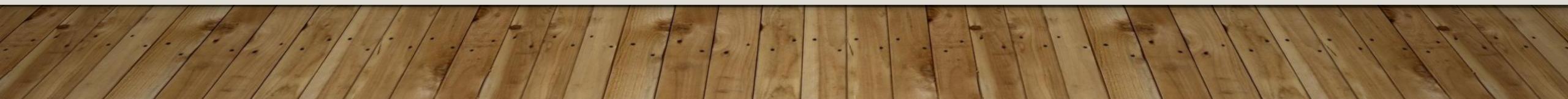
2. DRAFTING COMMITTEE DEBATES

- **Final Draft**

- Each Assembly member signed two copies: **one in Hindi** and **one in English**.
- The Constitution was **handwritten** and **beautifully illustrated** by:
 - **Beohar Rammanohar Sinha**
 - **Nandalal Bose (Shantiniketan)**
- **Calligrapher: Prem Behari Narain Raizada**
- **Printed at:** Survey of India, **Dehradun** using **photolithography**.
- **Cost of drafting:** ₹6.3 crore
- Took nearly **5 years** to finalize.

2. DRAFTING COMMITTEE DEBATES

These debates reveal that nothing in our Constitution was accidental — every clause was weighed, argued, and balanced.



QUIZ

I) The Constituent Assembly of India was formed in:

- a) 1942
- b) 1946 ←
- c) 1947
- d) 1950

QUIZ

- 2) Who was elected as the **President** of the Constituent Assembly?
- a) Jawaharlal Nehru
 - b) Sardar Vallabhbhai Patel
 - c) Dr. Rajendra Prasad ←
 - d) B.R. Ambedkar

QUIZ

3) The **Objectives Resolution** presented by Jawaharlal Nehru in 1947 laid down the framework for:

- a) Fundamental Duties
- b) India's independent Constitution ←
- c) Emergency Provisions
- d) Governor's Powers

QUIZ

- 4) Who was the Chairman of the Drafting Committee?
- a) Jawaharlal Nehru
 - b) K.M. Munshi
 - c) B.R. Ambedkar 
 - d) Alladi Krishnaswami Ayyar

QUIZ

- 5) The Constituent Assembly took how long to frame the Constitution?
- a) 1 year, 10 months, 5 days
 - b) 2 years, 11 months, 18 days ←
 - c) 3 years, 2 months, 10 days
 - d) 5 years

QUIZ

6) Which Fundamental Right was most debated and later removed in 1978?

- a) Right to Equality
- b) Right to Freedom
- c) Right to Property
- d) Right to Religion



QUIZ

- 7) Which issue caused the most heated debate in the Assembly?
- a) Federalism
 - b) Minority rights
 - c) Official Language ←
 - d) Citizenship

QUIZ

- 8) Who strongly defended preventive detention despite criticism?
- a) K.M. Munshi
 - b) Jawaharlal Nehru
 - c) B.R. Ambedkar
 - d) T.T. Krishnamachari
- 

QUIZ

- 9) Which Act transferred power from the East India Company to the British Crown?
- a) Pitt's India Act, 1784
 - b) Charter Act, 1833
 - c) Government of India Act, 1858 ←
 - d) Indian Councils Act, 1909

QUIZ

10) Why were drafting debates important?

- a) To speed up Constitution making
- b) To copy foreign models directly
- c) To reduce the size of the Constitution
- d) To ensure consensus, clarity, and democratic legitimacy

