

CONSTITUTION

MODULE - 1

- On 29 August, 1947, the Constituent Assembly set up a Drafting Committee under the Chairmanship of Dr. B.R. Ambedkar to prepare a Draft Constitution for India. While deliberating upon the draft Constitution, the Assembly moved, discussed and disposed of as many as 2,473 amendments out of a total of 7,635 tabled.

COMPOSITION OF CA

- Initially, there were 389 members. Following partition, several members moved to Pakistan, bringing the total to 299 people. There were 229 nominations from British provinces and 70 from princely kingdoms.
- The first temporary chairman of the Constituent Assembly was Dr. Sachchidananda Sinha. Later, Dr. Rajendra Prasad was chosen president, and Harendra Coomar Mookerjee was appointed vice president. BN Rau served as the constitutional advisor.

FUNCTIONS OF CA

- Frame the Constitution of India and make sure that everyone in the country gets equal rights and opportunities.
- The assembly adopted the National flag on July 22, 1947.
- Enact the laws
- In May 1949 the assembly approved India's membership in the British Commonwealth.
- On January 24, 1950, Dr Rajendra Prasad was elected the first President of India through this committee.
- Adopted both the National anthem and National Song on January 24, 1950.

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 **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.**

Objectives of PREAMBLE

i) Description of Indian State as Sovereign, Socialist, Secular, Democratic Republic.

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

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

- *a) Justice* social, economic and political
- *b) Liberty* of thought, expression, belief, faith and worship
- *c) Equality* of status and opportunity
- *d) Fraternity* assuring *dignity* of the individual and unity and integrity of the nation

Features of Preamble

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.

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.

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.
- b) State will not discriminate against any individual or group on the basis of religion

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. You will read socio-economic justice in next lessons.

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.

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.

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.

DPSP

- The **Directive Principle of State Policy** has been derived from the Irish Constitution and makers of our [Indian Constitution](#) have included these principles in Part IV of the constitution from Article 36 to Article 51. These principles were extremely important in the governance of the country which exemplify the hopes and aspirations of the people.
- The concept behind the Directive Principles of State Policy is to create a 'Welfare State'. In other words, the motive behind creating the directive policy is not just establishing political democracy rather establishing social and economic democracy in the state. The state must follow these directive principles both in the matter of administration as well as while formulating laws because the Directive Principles aim to create a state where social and economic democracy might flourish. Read the article below to understand the meaning of directive policy clearly.

DPSP – FEATURES

- DPSP are Non - Justiciable; Supported By Public Opinion:** The Directive Principles are non - justiciable. Legal sanction, these are supported by public opinion which in reality is also the legal sanction behind the law.
- DPSP Provides Welfare of People:** The Directive Principles strive to enhance the welfare of the people by attaining a social order in which social, economical, and political conditions are informed in all institutions of life as per Article (38) of the Indian Constitution.
- DSPS Act as a Yardstick for Measuring Governments Worth:** Directive Principles act as a yardstick through which the people should measure the worth of the government. A government that does not implement the Directive Principles can be rejected by the people in favour of the Government by another political party that is expected to provide the required importance and value to the task of attaining Directive Principles.
- DSPS are Source of Continuity in Policies:** Directive principles are like a source of continuity in policies, in which the Government changes after a few years and every new Government makes different policies and laws of the country. The presence of such guidelines is significant because it ensures that every Government will follow the set of rules in the form of DSPS while formulating its laws.
- DSPS are Supplementary To Fundamental Rights:** DSPS can be considered as the positive directions for the state which helps in attaining the social and economical dimensions of democracy. DSPS are supplementary to Fundamental rights which grants political rights and other freedom. Directive Principles and Fundamental rights are nothing without each other as one provides social and economical rights whereas the other provides political rights.
- DSPS Constitute Policy of Nation:** Directive Principle constitutes a policy of the nation. These principles emulate the ideas and views which were there in the mind of drafters while formulating the constitution. This reflects the philosophy behind making the constitution hence providing useful information to the court in interpreting and existing confusion and in turning up with better laws and policies.

SIGNIFICANCE OF DPSP

- Directive Principles of State Policy are some instructions to the State for attaining socio-economic development.
- Directive Principles of State Policy are positive. These principles increase the power and nature of the state.
- Directive Principles aim to establish a welfare state by securing social and economic justice. These principles rely on social thinking.
- Directive principles are essential for the socio-economic development of a country because welfare and justice are dual aims of our constitution.
- Directive principles are significant in the governance of a country. The State should follow these principles for the progress of the country.
- Directive principles aim to reflect public opinion and their determination. They are incorporated in the constitution to meet the aspiration of the people.
- Directive Principles aim at establishing a welfare state by securing social and economic justice. These principles rely on social thinking.

SOCIALISTIC PRINCIPLES

Article 38

State to secure a social order for the promotion of welfare of the people

- The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life

Article 39

The State shall, in particular, direct its policy towards securing

1. That the citizens, men and women equally, have the right to an adequate means to livelihood;
2. That the ownership and control of the material resources of the community are so distributed as best to subserve the common good;
3. That the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;
4. That there is equal pay for equal work for both men and women;
5. That the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;
6. That children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment

Article 41

Right to work, to education and to public assistance in certain cases The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

Article 42

Provision for just and humane conditions of work and maternity relief The State shall make provision for securing just and humane conditions of work and for maternity relief.

Article 43

Living wage, etc, for workers The State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or co operative basis in rural areas.

Gandhian Principles

The principles which are said to be based on the ideology of Gandhi, are known as Gandhian Principles.

Article 40

The state provides for the establishment of Panchayat Raj Institutions and endows them with such powers and authority as may be necessary to enable them to function as units of self government.

Article 43

The State shall endeavour to promote cottage industries on an individual or co operative basis in rural areas

Article 46

The state provides for promotion of educational and economic interests of SCs, STs and other weaker sections and protects them from social injustice and all forms of exploitation.

Article 47

imposes a primary duty on the state to raise the level of nutrition and standard of living, to improve public health and to prohibit consumption of intoxicating drinks and drugs injurious for health except for medicinal purposes.

Article 48

directs the state to provide for the organization of agriculture and animal husbandry.

LIBERAL PRINCIPLES

The principles which are said to be focused on providing equality, freedom as well as liberty in the Governance are said to be known as liberal principles.

Article 39 (A)

directs the state to provide to all equal access to justice and free legal aid, by suitable legislations or schemes or in any other way, to ensure that the opportunities for securing justice are not denied to any citizen by any reason of economic or other liabilities (added by the 42nd Constitution Amendment Act 1976).

Article 44

directs the state to provide for establishment of a uniform civil code for the whole country.

Article 45

This article originally provided for free and compulsory education for all children up to the age of 14.

The 86th Constitutional Amendment Act 2002 made education a Fundamental Right for children between ages 6 – 14 years, as a consequence of which article 45 was substituted by a new article providing for early child care and education to children.

Article 48A

The State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country (added by the 42nd Constitution Amendment Act 1976).

LIBERAL PRINCIPLES

Article 49

It directs the state to provide for protection of National monuments.

Article 50

It directs the state to take steps to separate judiciary from the executive.

Article 51

1.Promotion of international peace and Security

2.Just and honourable relations between nations

3.Respect for international law and treaty obligations

4.Settlement of international disputes. International treaties do not automatically become a part of the National Law.

Salient Features of Constitution of India

- Longest Written Constitution
- Drawn from Various Sources
- Blend of Rigidity and Flexibility
- Federal System with Unitary Bias
- Parliamentary Form of Government
- Synthesis of Parliamentary Sovereignty and Judicial Supremacy
- Rule of Law
- Integrated and Independent Judiciary
- Fundamental Rights

Salient Features of Constitution of India

- Directive Principles of State Policy
- Fundamental Duties
- Indian Secularism
- Universal Adult Franchise
- Single Citizenship
- Independent Bodies
- Emergency Provisions
- Three-tier Government
- Co-operative Societies

Longhiest Written Constitution

There are two types of constitutions: written (like the American Constitution) and unwritten (like the British Constitution). The Indian Constitution holds the title of being the world's longest and most comprehensive constitution to date. In other words, of all the written constitutions in the world, the Indian Constitution is the longest. It is an extremely thorough, intricate, and extensive document.

Drawn from Various Sources

The majority of the provisions of the Indian Constitution were taken from other nations' constitutions as well as from the Government of India Act of 1935 (about 250 of the Act's provisions were included into the Constitution). Dr. B. R. Ambedkar proclaimed with pride that the Indian Constitution was drafted after "ransacking all known Constitutions of the world." The Government of India Act of 1935 served as the foundation for a substantial portion of the Constitution's structural provisions. The Irish and American Constitutions, respectively, served as models for the philosophical sections of the Constitution (the Fundamental Rights and the Directive Principles of State Policy). The British Constitution served as a major inspiration for the political portion of the American Constitution, including the notion of Cabinet administration and the relationships between the executive and legislative.

Blend of Rigidity and Flexibility

There are two types of constitutions: stiff and flexible. A rigid constitution, like the American Constitution, is one that must be amended through a certain process. A flexible constitution, like the British Constitution for instance, is one that can be changed in the same way that regular laws are produced. The Indian Constitution is a special illustration of how rigidity and flexibility may coexist. A constitution's amendment process determines whether it is rigid or flexible.

Federal System with Unitary Bias

A federal structure of governance is established under the Indian Constitution. Every characteristic of a federation is present, including two governments, a division of powers, a written constitution, the supremacy of the Constitution, its rigour, an independent judiciary, and bicameralism. K C Wheare has alternately defined the Indian Constitution as “federal in form but unitary in spirit” and “quasi-federal”.

Parliamentary Form of Government

The British Parliamentary System of Government has been chosen by the Indian Constitution above the American Presidential System of Government. The presidential system is founded on the notion of the separation of powers between the two organs, whereas the parliamentary system is based on the idea of cooperation and coordination between the legislative and executive organs. The Westminster model of governance, responsible government, and cabinet government are other names for the parliamentary system. The parliamentary system is established by the Constitution both at the Center and in the States. It is known as a “Prime Ministerial Government” since the prime minister's position has grown so important in parliamentary systems.

Synthesis of Parliamentary Sovereignty & Judicial Supremacy

The British Parliament is linked to the theory of parliamentary sovereignty, while the American Supreme Court is linked to the doctrine of judicial supremacy. The Indian Supreme Court has less judicial review authority than the US Supreme Court, much as how the Indian parliamentary system varies from the British one. This is so that it can be contrasted with the Indian Constitution's "procedure established by law" and the American Constitution's guarantee of "due process of law" (Article 21).

Rule of Law

This axiom states that men are not infallible and that hence people are ruled by law rather than men. The statement is essential to a democracy. The notion that the rule of law is supreme in a democracy is more significant. The main component of law is custom, which is nothing more than the ordinary people's ingrained behaviors and beliefs over a lengthy period of time. Rule of law, in the end, refers to the supremacy of the collective knowledge of the people.

Integrated and Independent Judiciary

A single, integrated judicial system exists in India. The Indian Constitution also establishes an independent judiciary by preventing the legislature and government from having any influence over it. The supreme court of the legal system is known as the Supreme Court. The state-level High Courts are superior courts to the Supreme Court. District courts and other lower courts fall within the high court's hierarchy of subordinate courts. As the highest court of appeal, the protector of people's basic rights, and steward of the Constitution, the Supreme Court is a federal court. As a result, the Constitution contains a number of safeguards that guarantee its independence.

Fundamental Rights

Fundamental Rights are guaranteed to all citizens of India under Part III of the constitution. One of the key components of the Indian Constitution is the guarantee of fundamental rights. The fundamental tenet of the Constitution is that everyone has a right to certain freedoms as a fellow human being, and that the exercise of those freedoms is independent of majority or minority opinion. Such rights cannot be revoked by a majority. The purpose of the fundamental rights is to further the notion of democratic democracy.

Directive Principles of State Policy

The Directive Principles of State Policy are a “new aspect,” in Dr. B. R. Ambedkar’s words, of the Indian Constitution. They are listed in the Constitution’s Part IV. For the sake of ensuring social and economic justice for our citizens, the Directive Principles were incorporated into our Constitution. According to Directive Principles, money will not be concentrated in the hands of a small number of people under India’s welfare state.

Fundamental Duties

The fundamental obligations of citizens were not outlined in the original constitution. The Swaran Singh Committee’s suggestion led to the 42nd Amendment Act of 1976, which introduced Fundamental Duties to our Constitution. It outlines a list of ten Fundamental Duties that all Indian people must uphold. One more essential obligation was later added by the 86th Constitutional Amendment Act of 2002. While the duties are expectations placed on every citizen, the rights are offered to the people as guarantees.

Indian Secularism

India's Constitution upholds a secular government. As a result, it does not support a specific religion as the state's official religion in India. The idea seeks to create a secular state. This does not imply that the Indian government is hostile to religion. The Indian constitution exemplifies secularism, which is the practice of treating all religions equally or providing equal protection for all of them.

Universal Adult Franchise

One person, one vote is the foundation upon which Indian democracy is based. Elections are open to all Indian citizens who are 18 years old or older, regardless of caste, sex, colour, religion, or status. The mechanism of universal adult franchise set forth in the Indian Constitution establishes political equality in India.

Single Citizenship

As is the case in the USA, citizens of federal states typically have dual citizenship. There is just one citizenship in India. It implies that every Indian is a citizen of India, regardless of where they were born or where they currently reside. He or she may be a resident of a Constituent State like Jharkhand, Uttaranchal, or Chhattisgarh, but they are not citizens of that state; instead, they are citizens of India. All Indian citizens have equal access to employment opportunities throughout the nation and to all of India's rights.

Independent Bodies

The Indian Constitution establishes a number of independent entities in addition to the legislative, executive, and judicial branches of the federal and state governments. The Constitution views them as the cornerstones of India's democratic system of government.

Emergency Provisions

The authors of the Constitution anticipated that there might be circumstances in which the government could not function as it does in normal circumstances. The Constitution elaborates on emergency provisions to deal with such circumstances. During a crisis, the state governments take complete control of the federal government, which gains absolute authority.

Three-Tier Government

The Indian Constitution originally called for a dual polity and included clauses describing the structure and authority of the Centre and the States. Later, a third level of governance (local government), which is absent from all other international constitutions, was added by the 73rd and 74th Constitutional Amendment Acts (1992). By adding a new Part IX and a new schedule 11 to the Constitution, the 73rd Amendment Act of 1992 gave the panchayats (rural local governments) formal status. Similar to this, the 74th Amendment Act of 1992 provided urban local governments (municipalities) official recognition by introducing a new Part IX-A and schedule 12 to the Constitution.

Co-operative Societies

The 97th Constitutional Amendment Act of 2011 granted cooperative societies a constitutional status and provided for their protection. It gives the Parliament the authority to create the necessary laws regarding multi-state cooperative societies, and it gives state legislatures the authority to do the same for other cooperative societies.