

# BASIC FEATURES OF INDIAN CONSTITUTION

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CONSTITUTION  
OF  
INDIA



# INTRODUCTION

- The Constitution of India was drafted by the Constituent Assembly. The Constituent Assembly held its first sitting on the 9th December, 1946. It reassembled on the 14th August, 1947, as the sovereign Constituent Assembly for the Dominion of India.
- Constitution of India is the supreme law of India. It lays down the framework defining fundamental political principles, establishing the structure, procedures, powers and duties, of the government and spells out the fundamental rights, directive principles and duties of citizens. Passed by the Constituent Assembly on 26 November 1949, it came into effect on 26 January 1950. The date 26 January was chosen to commemorate the declaration of independence of 1930.



- The Constitution of every country has certain special features because the historical background ,social, economic and political conditions influence the making of the constitution. All these factors have contributed in the making of the Constitution of India.

# WRITTEN CONSTITUTION

- The written constitution is the one which you can get in the form of a book and can be read. There are 395 Articles, 12 schedules and it has been divided into 22 parts and till date more than 104 amendments have been made into it. The Constitution, in its current form, consists of a preamble, 22 parts containing 448 articles, 12 schedules, 5 appendices and 108 amendments to date.

# UNWRITTEN CONSTITUTION

- The conventions grow automatically and make their special place in the constitutional system. The important conventions of the Indian Constitution :
- Prime Minister in Lok Sabha and Chief minister in State Legislative Assembly is the leader of the majority party.
- The Speaker and Deputy Speaker of Lok Sabha are generally elected unopposed.
- The Governor is generally taken from other state and the Chief minister of the concerned state is consulted at the time of his appointment.

# DETAILED CONSTITUTION

- The Indian Constitution is the longest and the most detailed in the world. A detailed list of Fundamental Rights from article 12-25 is included in chapter 3rd of the constitution. In chapter 4th from article 35-51 a detailed list of directive principles of State Policy is also included which are guidelines of the State in policy making. From article 350-360 the Emergency powers of the President have also been included in it. A detailed description of center-states relations is given in chapter 11 and 12 of it.

- Constitution starts with preamble.
- The preamble has been accepted as the part of the constitution. It includes the objectives of the constitution such as to provides Liberty, Equality and Justice to the citizens, and to promote among them all fraternity, assuring the dignity of the individual and unity and integrity of the nation. It also states about the nature of the state which is Sovereign, Socialist, Secular, Democratic Republic.



# CONSTITUTION DRAWN FROM VARIOUS SOURCES

- The objective of the Constituent Assembly was not to enact an original constitution rather to enact a good and workable constitution. The assembly evaluated the constitutions of other countries and whatever good they found in these constitutions, they included in their own constitution.
- Parliamentary Government and Rule of Law are the influences of the British Constitution.
- The Fundamental Rights and the special position of the judiciary is the influence of the constitution of U.S.A
- The Directive Principles of State Policy have been borrowed from the constitution of Ireland.

- 4. The Federal system of India is the influence of Canadian Constitution.
- 5. The method of the amendment of the constitution and the method of the election of the members of Rajya Sabha have been borrowed from the constitution of South Africa.
- 6. The Emergency powers of the President are the influence of the Weimer Constitution of Germany.

# Sovereign ,Socialist ,Secular,Democratic, Republic

- India has been declared a sovereign, secular, Democratic, Republic through the Preamble of the Constitution of India.
- Sovereign State –India is free to formulate its internal and foreign policy and free to maintain relations with any foreign state.
- Socialist State- The aim of the state is to establish socialist society which is free from exploitation of man by man and in which social economic and political justice is provided to all.
- Secular State- The state has no religion of its own, it does not discriminate against any religion by imposing restrictions upon it

- **4. Democratic State** -The preamble also declares India to be a democratic state in which the supreme power rests in the hands of the people.
- **5. Republic**- The President of India is elected for a fixed term by the indirect vote of the people.



# FUNDAMENTAL RIGHTS

- Fundamental rights have been included into the chapter 3rd of the constitution from Article- 12 to 35
- Right to Equality
- Right to Freedom
- Right Against Exploitation
- Right to Religious Freedom
- Cultural and Educational rights
- Right to Constitution Remedies

# RIGHT TO PROPERTY ,AN ORDINARY RIGHT

- Till 1979 Right to Property was included in the list of Fundamental Rights. But through 42nd amendment has been made an ordinary right and for this purpose Article-300 A has been included into the constitution.

# PARLIAMENTARY FORM OF GOVERNMENT

- The Constituent Assembly decided to adopt Parliamentary form of government both for the center and the states.
- Distinction is made between nominal and real executive head.
- The Council of Ministers is responsible before the Lok Sabha, The lower house of union parliament.
- There are close relations between executive and legislature.
- The tenure of the Council of Ministers is not fixed as it stays in office till it enjoys the confidence

# FUNDAMENTAL DUTIES

- These Fundamental rights have been provided at the cost of some fundamental duties. These are considered as the duties that must be and should be performed by every citizen of India. These fundamental duties are defined as:



- To abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
- To cherish and follow the noble ideals which inspired our national struggle for freedom;
- To uphold and protect the sovereignty, unity and integrity of India;
- To defend the country and render national service when called upon to do so;
- To promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;
- To value and preserve the rich heritage of our composite culture;
- To protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;
- To develop the scientific temper, humanism and the spirit of inquiry and reform;
- To safeguard public property and to abjure violence;
- To strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement.

# FIXED SIZE OF COUNCIL OF MINISTERS

- Under this amendment the size of council of ministers of both Center and States has been fixed and now it cannot be more than 15% of the total strength of the lower house of Parliament in Center and States legislatures in the states. In case the strength of the Legislative Assembly in a State is 60 or less than that, then the maximum number of the ministers will be 12 which will include the Chief Minister.

# RIGID AS WELL AS FLEXIBLE CONSTITUTION

- Indian constitution is neither rigid as the constitution of U.S.A nor flexible as the constitution of Great Britain.
- Under Article-368 of the constitution,
  1. Some of the articles of the constitution can be amended by the union parliament by passing a resolution with 2/3<sup>rd</sup> majority of the members present and voting and absolute majority of the total members.
  2. Some of the articles of the constitution can be amended by the Union Parliament by passing resolution with 2/3<sup>rd</sup> majority of the members present and voting and absolute majority of the total members and approval of 1/2 State Legislatures.

# FEDERAL IN FORM , UNITARY IN SPIRIT

- The Constitution of India provides for <<CENTRALISED FEDERALISM>>. There is no doubt that federal system has been adopted in India, but keeping in mind certain special situations, the centre is made more powerful or strong. Federal features :
  1. Written Constitution
  2. Rigid constitution
  3. Supremacy of the constitution
  4. Division of subjects
  5. Independent judiciary etc.



# UNIVERSAL ADULT FRANCHISE

- Article-326 provides for universal adult franchise and every citizen including both male and female who is 18 years of age is given the right to vote without making any discrimination on the basis of sex, caste, colour religion etc.

# SECULAR STATE

- Every person has the right to practise, profess, propagate his/her religion according to his/her goodwill. The religious dominations have the right to establish and maintain institutions for religious and charitable purposes; to manage its own affairs in matters of religion; to own and acquire movable and immovable property and to administer such property in accordance with law. But no individual is allowed to misuse his or her religious freedom.

# BI-CAMERAL LEGISLATURE

- According to Article 168 for every state there shall be legislature which shall consist of Governor and legislative Council and legislative assembly. Article-169 provides for the abolition and creation of Legislative Council which is known as the upper house of State Legislature and at present there is bi-cameral legislature in the states of Bihar, Maharashtra, Andhra Pradesh, Karnataka, Uttar Pradesh and Jammu and Kashmir whereas there is one house in all other states.

# LIMITED POWERS OF THE PARLIAMENT

- Indian Parliament is non-sovereign. There are limitations on the powers of the Parliament-
  1. It can pass laws on those subjects which have been entrusted to it by the constitution.
  2. The bills passed by the Parliament need the approval of the President.
  3. The supreme court can exercise the powers of judicial review over the laws passed by the parliament and can declare unconstitutional the laws which it considers are against the constitution.



# SINGLE-INTEGRATED JUDICIAL SYSTEM

- The entire judicial system of India is organized into an hierarchical order. Supreme Court is at the top of judicial administration below that there are high courts at the state level and there are district courts at the district level. All the courts of India are bound to accept the decisions of the supreme court.

# INDEPENDENT JUDICIARY

- The constitution of India makes provisions for the independence of judiciary because only independent judiciary can safeguard the rights and liberties of the people, can protect the supremacy of the constitution-
- 1. An impartial method has been adopted for the appointment of the judges
- 2. High qualifications have been fixed for the judges
- 3. The judges of the Supreme Court stay in office till 65 years of age and of High courts till 62 years of age

4. Difficult method has been adopted for the removal of the judges as they can be removed only through impeachment by the union parliament
5. There is prohibition of practice after the retirement of the judges

# POWER OF THE JUDICIAL REVIEW

- The judiciary in India is provided the power of judicial review through the constitution which means that all the laws passed by the parliament and State Legislatures, constitutional amendments, ordinances and executive orders issued by the executive are reviewed by the judiciary and in case judiciary finds that any one of these is against the constitution, the judiciary has the power to declare it unconstitutional.

# RULE OF LAW

- The Rule of Law means that the law is supreme over person and everybody is equally responsible before law howsoever he/she may be. Also the man is punished on the violation of law and no arbitrary punishment can be given to him



# SINGLE CITIZENSHIP

- There is provision of single citizenship in India. A person may be living in any state, but he is the citizen of India alone. The principle of double citizenship promotes regionalism and provincialism whereas the principle of single citizenship promotes national unity, therefore the principle of single citizenship is adopted in India.

# JOINT ELECTORAL SYSTEM

- The principle of Joint Electoral System was adopted after independence. Under Article-325 of the constitution it is said that for every constituency there will be one general electoral roll which will be one general electoral roll which will include the names of all the voters belonging to different classes , religions, sex and races etc., and they will elect a common representative.

# SPECIAL PROVISIONS

- **SPECIAL PROVISIONS FOR THE PROTECTION OF THE INTERESTS OF SCHEDULED CASTES, SCHEDULED TRIBES, BACKWARD CLASSES AND MINORITIES**
- **Everybody is given the Right to Equality**
- **Untouchability has been prohibited**
- **Under Article 29 and 30 special provisions for the made for the interests and protection of minorities.**

# NATIONAL COMMISSION FOR SCHEDULED CASTES

- The 68<sup>th</sup> Constitutional amendment made in 1990, it was provided for the appointment of the National Commission for the scheduled castes for the protection of their interests. In 2002, the government constituted two separate commissions for scheduled castes and scheduled tribes.

# CONSTITUTIONAL RECOGNITION TO LOCAL SELF-GOVERNMENT INSTITUTIONS

- Under 73<sup>rd</sup> and 74<sup>th</sup> constitutional amendments passed in April ,1993.
- Constitutional recognition was granted to the panchayati Raj Institutions in the villages and the urban local bodies in the cities and for this purpose part 9 and part 9A and 11<sup>th</sup> and 12<sup>th</sup> schedules were added to the constitution.



# PROVISIONS OF LIBERAL DEMOCRACY

- The Constitution of India makes provisions for the establishment of liberal democratic government in India.
  1. Provision of universal adult features has been made and everybody is given the right to vote without making any discrimination.
  2. Due respect is given to opposition and the leader of the opposition is given recognition in both the houses of Union Parliament and States Legislatures.
  3. India is declared a Secular state.
  4. There is provision of Individual judiciary.
  5. There is Rule of law in India.

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