

CONSTITUTION
OF
INDIA



सत्यमेव जयते

SALIENT FEATURES OF INDIAN CONSTITUTION

1. **Longest Written Constitution:** A written constitution is framed at a given time and comes into force on a fixed date as a document. Our constitution was framed in **2 years, 11 months and 18 days**; it was **adopted** on **26th November, 1949** and **enforced** on **January 26, 1950**. It consisted of 22 parts, 395 articles and 8 schedules. (448 art, 25 parts, 12 schedules)

- Geographical reasons(size, variety of race, religion, caste, diversity of India)
- Common constitution (union/ state)
- Made by a constituent assembly dominated by lawyers (covered the loopholes)
- GOI Act, 1935(Interim constitution of India)
- Various sources
- Ransacking of constitution-American, British, Irish, Russian, Japan etc

2. **Rigid and Flexible:** The Indian Constitution is a unique example of combination of rigidity and flexibility. A constitution is called rigid or flexible on the basis of its amending procedure. In a rigid constitution, amendment of the constitution is not easy like the constitutions of **USA, Switzerland and Australia** are rigid constitutions. Whereas, the **British Constitution** is considered flexible because its amendment procedure is easy and simple. The Constitution of India has three categories of amendments ranging from simple to most difficult procedure depending on the nature of the amendment. (art. 368)

- Some provisions are easy to amend(flexible)
- Some provisions are very difficult to amend(rigid)
- Most provisions are moderate

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3. **Federal Polity:** India has a federal structure. In a federation there are two **distinct levels of governments**. There is one government for the whole country which is called the Union or Central Government and there is a government for each Unit or State. The USA is a federation whereas the UK (Britain) has a unitary form of government where there is only one government for the whole country and the power is centralized. The *Constitution of India does not use the term 'federal state' but calls India a 'Union of States'*. There is a proper distribution of powers between the Union/Central Government and the State Governments in form of Union List, State List and the Concurrent List.

4. **Quasi Federal:** It means a federal set up where despite having two clear sets of government – central and the states, more powers are given to the Central Government, supremacy of the judiciary is an essential feature of a federation so that the constitution could be interpreted impartially.

- **Federal system with unitary bias (quasi federal)**

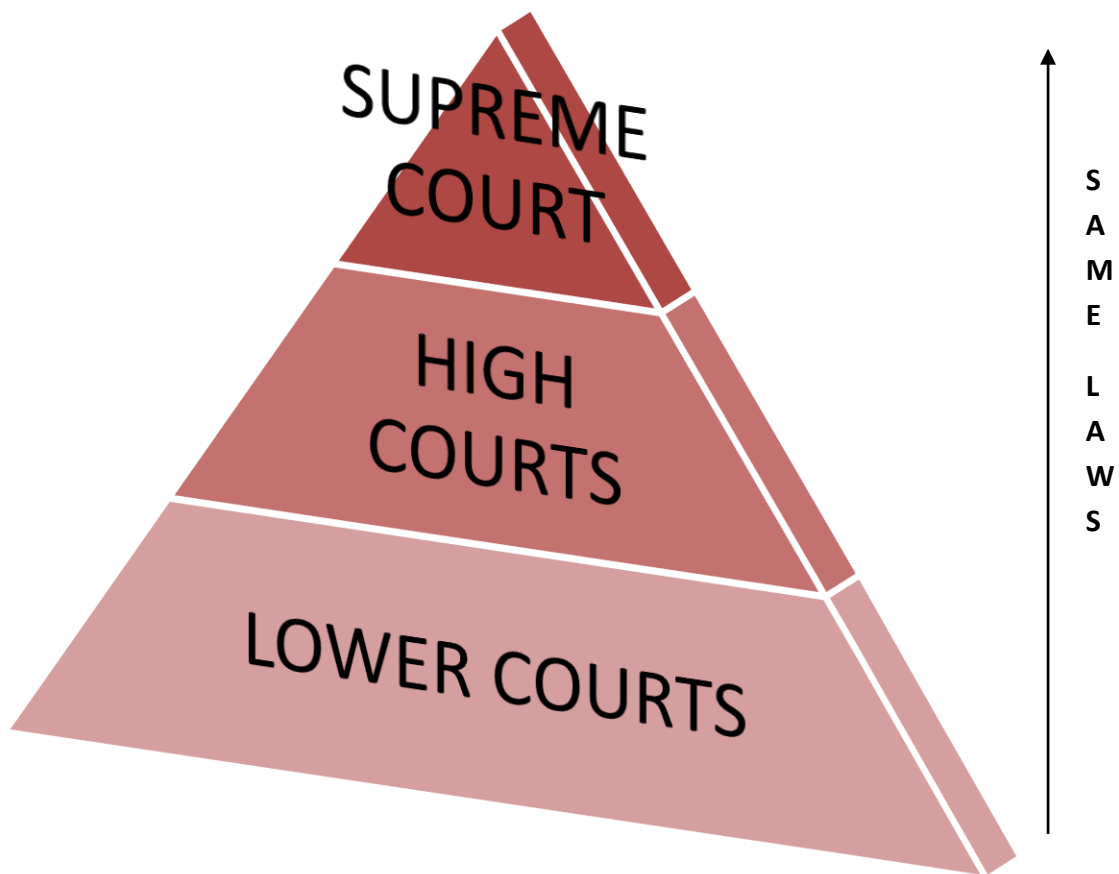
- Federal features of Indian Constitution
- two governments + bicameralism + Supremacy of written constitution + division of power+ independence of judiciary result
- Unitary features of Indian Constitution
- strong Centre + single constitution + single citizenship + governor + all India services

5. **Parliamentary Democracy:** India has a parliamentary form of democracy. This has been adopted from the British system. In a parliamentary democracy there is a close relationship between the legislature and the executive. The Cabinet is selected from among the members of legislature. The cabinet is responsible to the legislature. In this form of democracy, the Head of the State is nominal so in India, the President is the Head of the State. Constitutionally the President has numerous powers but in practice the Council of Ministers headed by the PM, exercises these powers. The President has to act on the advice of the Prime Minister and the Council of Ministers.

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- Parliamentary form of Government
- presence of nominal and real executive
- majority party rule (273+)
- collective responsibility of the executive to the Legislature(art 75)
- membership of ministers in the legislature(dual membership)
- leadership of prime minister for chief minister
- dissolution of lower house (lok Sabha or assembly)

6. **Single Integrated Judicial System:** India has a single integrated judicial system. The Supreme Court is the apex court of the judicial system. Below it are the High Courts which control and supervise the lower courts. The Indian judiciary is like a pyramid with the lower courts as the base, High Courts in the middle and the Supreme Court at the top.



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7. **Independence of Judiciary:** Indian judiciary is independent and impartial. It is free from the influence of the executive as well as the legislature. Its judges are appointed on the basis of their qualifications and cannot be removed easily neither can their terms of office be altered to their disadvantage.

- Independent and integral judiciary
- same law throughout India
- protection given to the judiciary (art. 124,125,126)
- One single apex court unlike USA

Parliamentary sovereignty with judicial Supremacy

- Due process of law/ procedure established by law(art 21)
- Judicial review
- Provincial subjects reserved & transferred(residuary powerwith union)

8. **Fundamental Rights and Fundamental Duties:** The Constitution of India guarantees Fundamental rights. The Constitution provides for six Fundamental Rights which are justifiable and hence are protected by the judiciary.

Fundamental Duties were added to our Constitution by the 42nd Amendment. It lays down a list of ten Fundamental Duties for all citizens of India. While the rights are given as guarantees to the people, the duties are obligations which every citizen is expected to perform.

Fundamental rights (adopted from USA-BILL OF RIGHTS first 10 amendments of BOR)

- Guaranteed rights to the individuals by the constitution of India enforceable by the courts against the state.
- present in part 3 of the constitution
- Writs (justifiable/ enforceable) (32/226)

- fundamental duties
- added by the 42nd constitutional amendment on Recommendation of Swaran Singh committee
- part 4A of the constitution (initially 10th, 11th fundamental duty added by the 86th amendment 2002)
- non enforceable

9. **Directive Principles of State Policy:** These have been adopted from the Irish Constitution, included in our Constitution to ensure **social and economic justice** to our people. Directive Principles aim at establishing a welfare state in India where there will be no concentration of wealth in the hands of a few.

- Directive principles of State Policy
- socialistic, Gandhian, liberal, intellectual
- welfare state
- non justifiable
- Balance between fundamental rights and Directive principles
- CASES

10. **Single Citizenship:** Usually in a federal state the citizens enjoys double citizenship like in the USA. But in India there is only single citizenship which means that every Indian is a citizen of India, irrespective of the place of his/her residence or place of birth. He/she is not a citizen of the Constituent State like Rajasthan, Uttaranchal or Chhattisgarh to which he/she may belong to. All the citizens of India can secure employment anywhere in the country and enjoy all the rights equally in all the parts of the nation.

- single citizenship
- fraternity the sense of brotherhood
- unlike USA

11. **Universal Adult Franchise:** Indian democracy functions on the basis of 'one person one vote'. The Indian Constitution establishes political equality in India through the method of universal adult franchise. Every citizen of India who is 18 years of age or above is entitled to vote in the elections irrespective of caste, sex, race, religion or status.

- Universal adult franchise (7% literacy at time of independence)
- initially the age of voting was 21 years
- by the 69th Constitutional Amendment this age was made 18 years
- give equality to people
- equal opportunities to minority
- make the scope of parliament broad-based

12. **Emergency Provisions:** The Constitution makers expected that there could be situations when the government could not be run in usual manner due to difficult circumstances. To cope with such situations, the Constitution elaborated on emergency provisions. There are three types of emergency; A) emergency caused by war, external aggression or armed rebellion; B) emergency arising out of the failure of constitutional machinery in states; and C) financial emergency.

- emergency provisions (Part 18)
- Concentration of powers
- article 352 national emergency
- article 356 presidential rule
- Article 360 financial emergency

13. Independent bodies

- Checks and balances
- Comptroller Auditor General article (148- 151)

- UPSC/ SPSC
- Election Commission of India(324-325)

14. Three tier government

- added by 73rd (panchayati raj) and 74th (municipal government) constitutional amendment 1992
- Union + state + local(based on Gandhian Gram Swaraj model) 24/APRIL/1993
- Power given to people also