

1.2. INDIAN CONSTITUTION

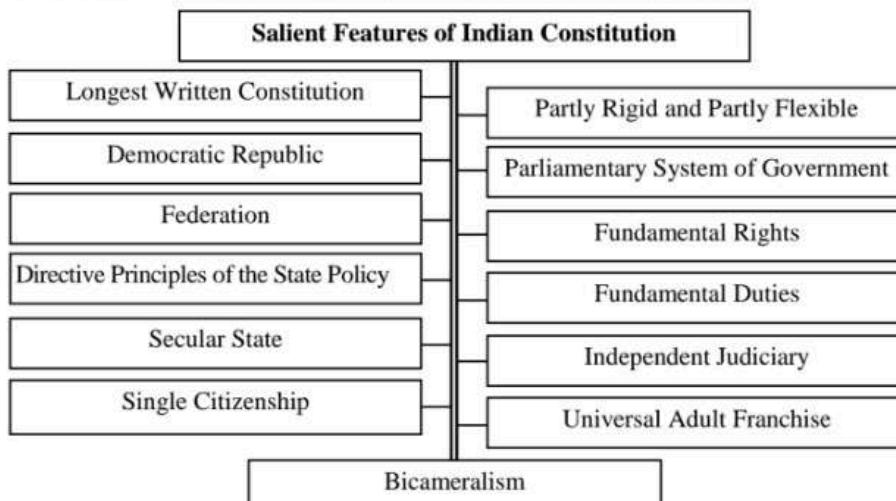
1.2.1. Introduction

Each sovereign nation has its own constitution. The Indian Constitution was approved on **November 26, 1949** by "The Constituent Assembly." It came into effect on **January 26, 1950** i.e. the day India celebrates Republic Day each year. The Indian Constitution is the longest constitution in the world, with 395 Articles and 12 Schedules. It is divided into 22 segments and each segment contains schedules and articles.

Apart from that, the Indian Constitution creates the framework for defining core political concepts, as well as outlining fundamental rights, guiding principles, and citizen obligations. It also outlines the structure, procedures, powers, and duties of governmental institutions. **Dr. Bhimrao Ramji Ambedkar** was known as the father of the Indian Constitution. The Indian Constitution is based on a federal structure but it describes India as a "Union of States." The Indian Constitution largely based on the political and judicial traditions of the Western nations. It adopts the lower and upper houses similar to the British Parliamentary System. Despite this, it has undergone numerous amendments. In general, to change the Indian Constitution, both houses of Parliament must vote with a two-thirds majority.

1.2.2. Salient Features of Indian Constitution

The following are the salient features or principles of the Indian Constitution:



- 1) **Longest Written Constitution:** Because of the volume of its contents, the Constitution of India is the longest written constitution among any sovereign nation in the world. It originally contained 395 Articles and 8 Schedules, to which additional provisions were later added through various amendments. Therefore, currently there are 395 Articles and 12 Schedules in the Constitution. Following are several other factors that contribute to the length of the Indian Constitution:
 - i) A major factor was that the framers of the Constitution took provisions from numerous sources and other international constitutions. For administrative details, they adhered to and reproduced the Government of India Act 1935.
 - ii) Special issues in India, such as scheduled castes, scheduled tribes, and backward regions were necessary to include in it.
 - iii) Provisions were taken to further develop Centre-State relations in all facets of their administrative and other operations.
 - iv) The Constitution's size increased as a result of the addition of provisions governing state administration. To make the Constitution clear and unambiguous for the ordinary citizen, a detailed list of Individual Rights, Directive Principles of State Policy, and the specifics of administration procedure were also set out. As a result, the Indian Constitution grew complex and extensive.
- 2) **Partly Rigid and Partly Flexible:** The Indian Constitution is not solely strict or solely flexible. Rigidity and flexibility coexist in perfect harmony. Several provisions of the Constitution were amended by Parliament using the standard legislative process. To amend certain provisions in Parliament, a Bill must be

passed in each house by a majority of the total membership of that house and by at least two-thirds of the members of that house present and voting. In the Constituent Assembly, **Pandit Nehru** remarked that “While we want the Constitution to be as solid and permanent as we can make it, there is no permanence in Constitution. There should be certain flexibility. If you make anything rigid and permanent, you stop the nation’s growth, the growth of a living, vital organic people”.

- 3) **Democratic Republic:** India is a democratic republic which means that the Indian people have sovereignty. They are able to govern themselves through the representatives chosen by the universal adult franchise. The President of India, the state’s highest elected official, is chosen for a fixed term. An association of sovereign and free countries is known as the **Commonwealth**. Despite the fact that India is a sovereign republic, it remains a member of the Commonwealth of Nations, with the British Monarch as its head.
- 4) **Parliamentary System of Government:** India has adopted the British-style parliamentary system. In this kind of system, the executive is responsible to the legislature and only holds onto power as long as the legislature gives it their support. The nominal, titular, or constitutional head of India is the President, who holds office for a period of five years. The Prime Minister serves as the head of the Union Council of Ministers, which is made up of representatives from the legislature. The head is collectively accountable to the House of People (Lok Sabha) and is required to resign as soon as that body loses trust in it. On the recommendation of the Union Council of Ministers i.e. the actual executive, the President and the nominal executive shall use his powers. The government is parliamentary in nature in the States also.
- 5) **Federation: According to Article 1 of the Indian Constitution**, “India that is Bharat shall be a Union of States”. The government is federal even though the name “Federation” is not used. A state is considered federal in the following cases:
 - i) When there are two separate governments, with a division of authority between them.
 - ii) When there is a written Constitution, which is the supreme law of the land.
 - iii) When the Constitution is interpreted by an independent Judiciary, which also resolves conflicts between the federal government and the states.

These characteristics are all prevalent in India. The Indian Constitution outlines the division of powers between the two levels of government i.e. one at the federal level and the other at the state level. The Constitution of India is written, and considered as the supreme law of the land. The Supreme Court, which is free from both the administrative and legislative branches of government’s influence, stands at the pinnacle of the one integrated judicial system.

Despite all of these crucial features of a federation, the Indian Constitution has a clear unitary tendency that is as follows:

- i) For the entire nation, there is also a single integrated judiciary.
- ii) Another unitary trait is demonstrated by the provision of All India Services like the Indian Administrative Service, Indian Police Service, and Indian Forest Service. The Union Public Service Commission conducts all-India recruitment for various services. In certain ways, the autonomy of states is restricted by the fact that the Union Government controls these services.
- iii) The Indian Constitution’s emergency provisions are an important unitary element. In times of emergency, the Union Government takes on a more significant role, and the Union Parliament gains the authority to enact legislation on behalf of the states. The Governor, who is designated as the Head of State under the Constitution, represents the centre and is responsible for safeguarding its interests. These rules demonstrate federation’s propensity for centralisation.

- 6) **Fundamental Rights: Prof. H.J. Laski** once said, “A state is known by the rights it maintains.” Every person has the right to enjoy a number of fundamental rights, which are covered in Part III of the Indian Constitution. These rights are referred to as **Fundamental Rights**. There were majorly seven categories of rights but now there are only six which are as follows:
 - i) Right to Equality,
 - ii) Right to Freedom,
 - iii) Right against Exploitation,
 - iv) Right to Freedom of Religion,
 - v) Cultural and Educational Rights,
 - vi) Right to Constitutional Remedies.

The 44th Amendment Act of 1978 removed the Right to Property [Article-31], which was once a fundamental right. But now it is a legal right. These Fundamental Rights are valid, and if any of them are violated, the affected person may file a case with the Supreme Court or the High Court. **Article 32** (Right to Constitutional Remedies) ensures the right to petition the Supreme Court directly for the implementation of Fundamental Rights. However, fundamental rights in India are not absolute. Given the state's need for security, reasonable boundaries can be established.

- 7) **Directive Principles of the State Policy:** The Directive Principles of State Policy Chapter of the Constitution is a new inclusion. These guidelines are more like directives to the government to put them into practise in order to build social and economic democracy in the nation. It upholds significant principles such as suitable means of livelihood, equal pay for men and women, wealth distribution in service of the common good, free and compulsory primary education, the right to work, public assistance in the event of old age, unemployment, sickness or disability, the organisation of village Panchayats, special consideration for the economically disadvantaged groups of the population, and so on. Although some principles are not justified but the majority of these principles could help in creating a welfare state in India. These principles have been described as "fundamental in the governance of the country".
- 8) **Fundamental Duties:** The Directive Principles of State Policy were added to the Constitution by the **42nd Amendment in 1976**, creating a new **Part IV (A)** for fundamental duties. These duties were included in the Constitution to serve a simple reminder to the citizens that while exercising their rights as citizens, they also had duties to fulfil because rights and duties are correlated with each other.
- 9) **Secular State:** A state that is neither religious nor irreligious, or anti-religious is said to be a **secular state**. Such states take a very neutral stance on religious issues. The Constitution's founding fathers believed it was appropriate to create a secular state in India because it is a country of many different religions. India is a secular state since it does not discriminate against people based on their religion. It does not support or oppose any particular religion. Contrarily, the Constitution guarantees the right to freedom of religion, and members of all religious groups having the right to proclaim, practise, or spread any religion they choose.
- 10) **Independent Judiciary:** The Indian Constitution places a high value on the judiciary and establishes its independence from both the legislative and executive branches. The Supreme Court of India is the apex of a unified and fully integrated judicial system. It serves as the 'protector of Fundamental Rights of Indian citizens' as well as the 'guardian of the Constitution'. The Supreme Court has the authority to declare a law passed by the legislature or an executive action unconstitutional if it violates the provisions of the Constitution. It thus has the ability to be reviewed by a judge. But in India, judicial review represents a medium ground between British parliamentary supremacy and American judicial supremacy.
- 11) **Single Citizenship:** The Indian Constitution identifies only one type of citizenship, whereas in United States, the provision of dual citizenship is acceptable. In India, a person is simply a citizen of India, regardless of the state to which they belong. This provision helps in the development of national unity and integrity.
- 12) **Universal Adult Franchise:** The number of persons who could vote during the rule was extremely few. People were subject to numerous limitations. A universal adult franchise is now proposed in the Constitution of independent India. Any person who is at least 18 years old, regardless of caste, colour, or creed, is eligible to vote.
- 13) **Bicameralism:** A bicameral legislature is provided by the Indian Constitution. It denotes that the state's legislatures are made up of both the houses i.e. Legislative Assembly (Vidhan Sabha) and the Legislative Council (Vidhan Parishad). Currently, only five states are having a bicameral legislature including Bihar, Jammu and Kashmir, Karnataka, Maharashtra, and Uttar Pradesh.