

Indian Constitution: Salient Features

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Abstract: The Indian constitution, one of the most acclaimed in the world, was adopted following a "ransacking" of all previously existing constitutions. We adopted a constitution that has withstood the test of time. The Indian Constitution has a number of prominent characteristics that set it apart from other countries' constitutions, even though elements from other constitutions were adopted. The Indian Constitution is a rare and singular text that differs from all other constitutions in a number of important ways. After searching through every known constitution in the world, we developed our own. The chairman of the committee that drafted the Indian Constitution, Dr. B. R. Ambedkar, and the other framers made an effort to collect and incorporate the best elements from other nations' constitutions into our own. Despite incorporating elements from other nations, our constitution stands out from the rest due to a few key characteristics. This paper discusses the key elements of the Indian Constitution and how they apply to our country.

Keywords: *Constitution, Features, law, India, Government.*

I INTRODUCTION

A document with a particular legal sanctity known as a "constitution" outlines the organization and main responsibilities of a state's governmental agencies as well as the ideals that should guide their actions. It is necessary to have a constitution to limit the powers of each branch of government and prevent totalitarian state governments. These institutions were developed for our protection and welfare, yet they have a simple tendency to turn against us. Therefore, we must create

the laws in a way that constantly checks this propensity of the states.

II CONSTITUTIONAL PHILOSOPHY

The Objectives Resolution, written by Jawaharlal Nehru, was approved by the Constituent Assembly on January 22, 1947. The Objectives Resolution outlined the political principles that should direct its discussions and included the core tenets of the Constitution.

The resolution's guiding principles were as follows

- a) India's status as a republic with full independence;
- b) That all of its constituent parts will have an equal amount of self-government and that it will be a democratic union;
- c) That the Union Government and the governments of the constituent parts receive all of their power and authority from the people;
- d) That justice based on social, economic, and political equality, opportunity, and equality before the law must be sought after and guaranteed by the constitution;
- e) Freedom of speech, thought, religion, worship, profession, affiliation, and action should all be guaranteed;
- f) That minorities, individuals from underdeveloped and tribal areas, and others must have fair rights guaranteed by the constitution in order for them to participate equally in social, economic, and political justice; and
- g) To draught a constitution that shall guarantee India a proper position in the international community.

The principles that a constitution upholds and the rules that the community's leaders are required to follow make up the philosophy of a constitution.

The following areas are where the influence of our ideology is shown in the Indian Constitution

a) Secularism: The Indian Constitution is distinguished by its secularism. Different religions have their own adherents who are allowed to practice them as they see fit. Every faith has received the same treatment. The truth that all religions value mankind and promote the truth was widely acknowledged in India. Religious tolerance, religious freedom, and equal respect for all religions have been promoted by all social reformers and political figures in contemporary India. All religions are accorded equal respect under the Indian Constitution, which is based on this very idea. Yet, the Constitution as it was enacted in 1949 had no reference of the phrase "secularism." The Preamble of the Constitution now includes the word "secularism" thanks to the 1976 42nd Amendment.

b) Democracy: The West gave us the modern kind of democracy. Democracy in this system refers to the periodic obligations of the Government to the People. Elections are held every five years to choose a government by the people for this reason. Nevertheless, democracy includes both the social and economic facets of existence. The Directive Principles of State Policy accurately reflect this facet of democracy. They pursue human welfare, cooperation, global brotherhood, and other goals.

c) Sarvodaya: Sarvodaya is the term for everyone's well-being. In contrast to the welfare of the majority, it is different. It aims to ensure the welfare of everyone, without distinction. It is known as Ram Rajya. Mahatma Gandhi, Acharya Vinoba Bhave, and J. Narayan created the Sarvodaya concept, which aims to advance everyone's material, spiritual, moral, and mental development. This concept is exemplified by the Directive Principles of State Policy and the Preamble of the Indian Constitution.

d) Socialism: India is not a newcomer to

socialism. The philosophy of Vedanta contains socialism. This objective was also part of the overall national liberation movement. In his own words, Jawaharlal Nehru identified as a socialist and republican. Nearly all political parties in India claim to support democratic socialism. The Directive Principles of State Policy comprise these ideas. But, the 42nd Amendment expressly added the word "socialism" to the Preamble of the Constitution in order to emphasize this point.

e) Humanism: A prominent aspect of Hindu ideology is humanism. According to Indian philosophy, humanity is all one large family. It supports mutually beneficial discussions as a means of settling international conflicts. The Directive Principles of State Policy contain information similar to this.

f) Decentralization: Sarvodaya also emphasizes decentralization.

Decentralization has been a tradition in India thanks to the Panchayat system. Gandhi supported decentralization as well. He is recognized as a philosophical anarchist as a result of this. To fulfill the goal of decentralization, the Panchayati Raj system was implemented in India. Decentralization is also referred to in the Directive Principles of State Policy's definition of cottage industries.

g) Liberalism: This term does not refer to the liberal ideology popular in the West. It alludes to self-government, secularism, nationalism, economic reforms, a constitutional approach, representative institutions, etc. in the context of India. The contemporary Indian leaders promoted each of these ideas.

h) Mixed Economy : Coexistence is a key component of our ideology. A mixed economic structure has allowed for coexistence. We have made it possible for the public and private sectors of the economy to operate concurrently under this framework. Industries that are important and of a large size have been moved to the public sector.

i) Gandhism: Gandhism stands for a moral and ethical India. Gandhi established a new standard for nonviolent resistance to foreign rule. He stressed the value of truth and nonviolence. He supported anti-gay laws, cottage industries, prohibition, adult education, and village revitalization. He envisioned a world that was decentralized and free from exploitation. All of these Gandhian ideals have a deserving position in the Indian Constitution.

The salient features of the Indian Constitution are listed and briefed below

a) Longest Written Constitution

Written constitutions, like the American one, and unwritten constitutions, like the British one, are two different categories of constitution.

The Indian Constitution holds the distinction of being the longest and most comprehensive constitution the world has ever created. To put it another way, the Indian Constitution is the longest written constitution in the world. It is a lengthy, complex, and meticulous document.

The following elements helped make the Indian Constitution so massive

- **Geographic factors**, i.e., the size and diversity of the nation.
- **Historical factors**, such as the weighty Government of India Act of 1935 and its influence.
- One constitution for the federal government and the states.
- The Constituent Assembly's predominance of eminent lawyers.
- Both fundamental governing concepts and specific administrative provisions are included in the Indian Constitution.
- The Constitution protects both legally actionable and non-legally actionable rights.

b) Drawn From Various Sources

The Government of India Act of 1935, whose around 250 clauses were included into the Indian

Constitution, and other countries' constitutions comprised the majority of the document's provisions. The Indian Constitution, according to Dr. B. R. Ambedkar, was written 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 Basic Rights and the Directive Principles of State Policy). The British Constitution served as a major inspiration for the political aspects of the American Constitution, including the notion of Cabinet administration and the relationships between the executive and legislative.

c) Blend of Rigidity and Flexibility

There are two types of constitutions: stiff and flexible.

A rigid constitution, like the American Constitution, can only be changed after following a certain procedure. A flexible constitution is one that can be altered in the same manner that customary laws are made, such as the British Constitution. A unique example of how rigidity and flexibility can coexist is the Indian Constitution. The ability to alter a constitution determines whether it is stiff or flexible. There are three ways to modify the Indian Constitution, each of which would be more or less difficult depending on the changes.

d) Unitary bias in the federal system

A federal structure of governance is established under the Indian Constitution. It has all the typical characteristics of a federation, including a written constitution, two governments, a division of powers, supremacy of the constitution, rigidity of the constitution, an independent judiciary, and bicameralism. A significant number of unitary or non-federal aspects, such as a strong central government, a single constitution, the nomination of state governors

by the federal government, all-India services, an integrated judiciary, and others, are also included in the Indian Constitution. And nowhere in the Constitution does the word "federation" appear. India is referred to in Article 1 as a "Union of States," which suggests two things: The states did not agree to create the Indian Federation. There is no state that has the authority to leave the federation. As a result, K. C. Wheare has alternately referred to the Indian Constitution as "quasi-federal" and "federal in form but unitary in heart."

e) **Parliamentary Form of Government**

The Indian Constitution picked the British Parliamentary System of Government above the US Presidential System of Government. The parliamentary system is based on the idea of cooperation and coordination between the legislative and executive departments, as opposed to the presidential system, which is based on the idea of the separation of powers between the two organs. Other names for the parliamentary system include responsible government, cabinet government, and the Westminster form of governance. Both at the federal level and at the state level, the parliamentary system is established by the Constitution. Because the role of the Prime Minister in a parliamentary system has become so crucial, the government is referred to as a "Prime Ministerial Government."

What characteristics distinguish India's parliamentary system?

- The Indian parliamentary system of government has the following characteristics: Existence of both actual and fictitious executives
- Prevailing party rule
- The executive and legislature share a collective duty
- Ministers' participation in the legislature
- Either the chief minister or the prime minister's leadership Abolishing the lower house (Lok Sabha or Assembly)

- Like the British Parliament, the Indian Parliament does not have sovereign authority. Parliamentary government with a president chosen by the people (Republic).

f) **Synthesis of Judicial Supremacy and Legislative Sovereignty**

The US Supreme Court is associated with the idea of judicial supremacy, whereas the British Parliament is associated with the concept of parliamentary sovereignty. Similar to how the Indian legislative system differs from the British one, the Indian Supreme Court has less judicial review authority than the American Supreme Court. This is so that it can be contrasted with the "procedure established by law" of the Indian Constitution and the Article 21 guarantee of "due process of law" in the US Constitution. As a result, the Indian Constitution's drafters sought a correct synthesis between the American ideal of judicial supremacy and the British principle of legislative sovereignty. Using its judicial review authority, the Supreme Court may find the parliamentary laws to be unconstitutional. With regard to the majority of the Constitution, the Parliament has the ability to alter it through its constituent authority.

g) **Rule of Law**

According to this axiom, people are dominated by law but not by men, that is, the basic fact that no man is infallible. The axiom is fundamental to a democracy. What's more significant is the idea that in democracies, the law is supreme. Custom, which is nothing more than the ingrained customs and beliefs of the general populace over many years, is the main component of law. The sovereignty of the collective knowledge of the people is what the rule of law ultimately means. Rule of law encompasses a number of additional concepts in addition to this crucial one, including Arbitrariness has no place. There are some basic rights that each person has, and The supreme court has the final say in upholding the integrity of the law of the land. This idea is included in Part III of the Indian Constitution, and in order to give effect to Article 14 (all are equal before the law and receive equal protection of the laws), Lok Adalats have been

promoted and the Supreme Court's "public interest litigation" initiative has been put into practice. Additionally, under current legislation, any litigant may request legal assistance from the judiciary or present their case independently before the presiding judicial authority.

h) Integrated and Independent Judiciary

There is an independent, integrated judicial system in India. The Indian Constitution also establishes a separate judiciary by prohibiting influence from the executive or legislative branches. The name given to the highest court in the legal system is the Supreme Court. At the state level, the High Courts are superior to the Supreme Court. District courts and other subsidiary courts are part of the high court's system of subordinate courts. As the nation's highest court of appeal, defender of people's fundamental rights, and keeper of the Constitution, the Supreme Court is a federal tribunal. As a result, the Constitution incorporates some clauses that guarantee its independence.

i) Fundamental Rights

Part III of the Indian Constitution guarantees six fundamental rights to all citizens. The protection of fundamental rights is one of the main tenets of the Indian Constitution. Everyone has a right to certain liberties as fellow humans, and exercising those freedoms is unaffected by majority or minority opinion. This is the fundamental principle of the Constitution. A majority cannot take away those rights. Fundamental rights are intended to strengthen political democracy. They act as checks on the legislative branch's arbitrary laws and the authoritarianism of the executive branch. Because they are reasonable in nature, the courts can enforce them when they are broken.

j) Directive Principles of State Policy

They act as checks on the legislative branch's arbitrary laws and the authoritarianism of the executive branch.

The Indian Constitution's Directive Principles of State Policy constitute a "new aspect," in the words of Dr. B. R. Ambedkar. Part IV of the Constitution contains a list of these. The Directive Principles were included in our Constitution in order to guarantee social and economic justice for our inhabitants. The welfare state in India won't result in a concentration of wealth in the hands of a select few, according to Directive Principles. They can never be justified by nature. The Supreme Court concluded in the *Minerva Mills* case (1980) that the balance between the Fundamental Rights and the Directive Principles forms the basis of the Indian Constitution.

k) Fundamental Duties

The responsibilities of citizens were not covered by the original constitution. On the proposal of the Swaran Singh Committee, the 42nd Amendment Act of 1976 introduced Basic Obligations to our Constitution. It establishes a list of ten Basic Responsibilities for all Indian people. The 86th Constitutional Amendment Act of 2002 later added one additional essential obligation. While the duties are requirements that every citizen is required to fulfill, the rights are provided to the people as assurances. The duties, however, share the same non-justifiable nature as the Directive Principles of State Policy. There are 11 fundamental responsibilities in all.

l) 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 Indian Constitution's definition of a secular democracy includes the following characteristics: The State will not identify with or submit to any particular religion; While the State grants everyone the freedom to practice any religion they so choose (including the freedom to be an agnostic or an opponent), it will not give anyone of them special treatment; The State will not treat anyone differently on the basis of their religion or belief; and Every citizen will have the same

opportunity to hold public office as their fellow citizens, subject to any general restrictions. The core of secularism as envisioned by the Constitution is political equality, which allows any Indian citizen to run for the highest office under the State. The idea seeks to create a secular state. This does not imply that the Indian government is hostile to religion. The idea of secularism as it is understood in the west implies a full separation between religion and the state (negative concept of secularism).

Nonetheless, the Indian constitution exemplifies the positive idea of secularism, i.e., treating all religions equally or protecting them all. Moreover, the Constitution eliminated the previous form of communal representation. To ensure enough representation for the scheduled castes and scheduled tribes, it does, however, provide for the temporary reserve of seats.

m) 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. Political equality in India is established by the Indian Constitution via the adult franchise system.

n) Single Citizenship

In a federal state, like the USA, residents typically have dual citizenship. Only one citizenship exists in India. No matter where they were born or where they currently reside, all Indians are considered to be citizens of India. Despite perhaps belonging to a constituent state like Jharkhand, Uttaranchal, or Chattisgarh, he or she is not a citizen of that state; instead, they are citizens of India. Every Indian citizen has the ability to find employment anywhere in the nation and is entitled to all rights equally throughout India. To combat regionalism and other dissolving tendencies, the Constitution's authors purposefully chose to institute single citizenship. The Indian people have clearly become more united as a result of their shared citizenship.

o) Independent Bodies

The legislative, executive, and judicial branches of the federal and state governments are not the only autonomous bodies created by the Indian Constitution. They are regarded by the Constitution as the pillars of India's democratic system of government.

p) Emergency Provisions

The Constitution's framers recognized that there would be situations in which the government could not operate as it does in most others. To address such situations, the Constitution goes into detail on its emergency measures.

There are three different types of emergencies

- Wartime, foreign aggression, or armed rebellion-related emergency [Article 352]
- Emergency resulting from a state's constitutional apparatus failing [Articles 356 and 365]
- Financial emergency [Article 360]

The purpose of including these clauses is to protect the Constitution, the democratic political system, and the sovereignty, unity, integrity, and security of the nation. In times of emergency, the central government assumes absolute power and the states take complete control of the federal government. The Indian Constitution is unique in that it allows for this type of transition of the political system from federal (during normal times) to unitary (during emergencies).

q) Three-tier Government

The original Indian Constitution stipulated a dual polity and contained provisions outlining the composition and powers of the Centre and the States. The 73rd and 74th Constitutional Amendment Acts (1992) eventually created a third degree of government (local government), which is absent from all other worldwide constitutions. The 73rd Amendment Act of 1992 gave the panchayats (rural local governments) official status by introducing a new Part IX and a new schedule 11 to the Constitution. Similar to this, by adding a new Part IX-

A and schedule 12 to the Constitution, the 74th Amendment Act of 1992 gave urban local governments (municipalities) official status.

r) Co-operative Societies

Cooperative societies now have a constitutional status and are protected by it thanks to the 97th Constitutional Amendment Act of 2011.

In this regard, it amended the Constitution in three different ways

- The ability to create cooperative organizations was elevated to a fundamental freedom (Article 19).
- A new Directive Principles of State Policy on the advancement of cooperative organizations was incorporated (Article 43-B).
- The Constitution now has a new Part IX-B called "The Co-operative Societies" (Articles 243-ZH to 243-ZT).

The new Part IX-B includes a number of provisions to guarantee that the cooperative societies in the nation operate in a democratic, competent, independent, and financially sound manner. It gives the power to make the necessary laws to the state legislatures for other cooperative societies and the Parliament for multi-state cooperative societies.

III CONCLUSION

The key elements of the Constitution mentioned above represent its philosophy ever since it was adopted. But the constitution has already undergone numerous changes. Due to the Constitution's remarkable features, which have allowed the country to flourish and expand while attaining its goals and the ambitions of people, its working has been phenomenal. Every important clause in our Constitution has been tried and tested over the past 75 years to maintain the country's democratic fabric; as a result, they will never become outmoded and will always be a driving force in our democracy's expansion.

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