



## Salient Features of Indian Constitution

**For Prelims:** [Indian Constitution](#), [Federalism](#), [Judicial review](#), [Parliamentary form of government](#), [Secular state](#), [Universal Adult Franchise](#), [Single citizenship](#), [Election Commission](#), [Comptroller and Auditor-General of India](#), [Union Public Service Commission](#), [Emergency provisions](#), [Panchayats](#), [Municipalities](#), [Co-operative Societies](#), [Equality](#), [Liberty](#), [Fraternity](#), [Social justice](#), [Directive Principles](#), [Fundamental Rights](#),

**For Mains:** Salient Features of [Indian Constitution](#), Criticism of [Indian Constitution](#)

### What are the Salient Features of the Indian Constitution?

#### ▪ **Longest Written Constitution:**

- The Constitution of India is the longest of all the **written Constitutions** of the world. It is a very comprehensive, elaborate, and detailed document.
- Originally (1949), the Constitution contained a [Preamble](#), 395 Articles (divided into 22 Parts) and 8 Schedules.
  - Presently (2019), it consists of a Preamble, about 470 Articles (divided into 25 Parts) and **12 Schedules**.
- **Reasons for Vastness:**
  - **Geographical factors**, that is, the vastness of the country and its diversity.
  - **Historical factors**, e.g., the influence of the [Government of India Act, 1935](#), which was bulky.
  - Single Constitution for both the Centre and the states.
  - The dominance of **legal luminaries** in the Constituent Assembly.
  - Detailed administrative provisions.

#### ▪ **Drawn From Various Sources:**

Source	Features Borrowed
Government of India Act, 1935	Federal Scheme, Office of <a href="#">Governor</a> , <a href="#">Judiciary</a> , <a href="#">Public Service Commissions</a> , <a href="#">Emergency Provisions</a> , Administrative Details
British Constitution	<a href="#">Parliamentary Government</a> , <a href="#">Rule of Law</a> , Legislative Procedure, <a href="#">Single Citizenship</a> , <a href="#">Cabinet System</a> , <a href="#">Prerogative Writs</a> , <a href="#">Parliamentary Privileges</a> , <a href="#">Bicameralism</a>
US Constitution	<a href="#">Fundamental Rights</a> , <a href="#">Independence of Judiciary</a> , <a href="#">Judicial Review</a> , <a href="#">Impeachment of President</a> , Removal of <a href="#">Supreme Court</a> and <a href="#">High Court</a> Judges, Post of <a href="#">Vice-President</a>
Irish Constitution	<a href="#">Directive Principles of State Policy</a> , Nomination of Members to <a href="#">Rajya Sabha</a> , Method of Election of President
Canadian Constitution	Federation with a Strong Centre, Vesting of Residuary Powers in the Centre, Appointment of State Governors by the Centre, Advisory Jurisdiction of Supreme Court
Australian Constitution	<a href="#">Concurrent List</a> , Freedom of Trade, Commerce, and Inter-course, Joint Sitting of Two Houses of Parliament
Weimar Constitution	Suspension of Fundamental Rights During Emergency

of Germany	
Soviet Constitution (USSR, now Russia)	<b>Fundamental Duties</b> , Ideal of Justice (Social, Economic, and Political) in Preamble
French Constitution	Republic and Ideals of <b>Liberty, Equality, and Fraternity</b> in Preamble
South African Constitution	Procedure for Amendment of Constitution, Election of Members of Rajya Sabha
Japanese Constitution	<b>Procedure Established by Law</b>

#### ▪ **A Blend of Rigidity and Flexibility:**

- The Constitution of India is neither rigid nor flexible, but a synthesis of both.
- **Article 368** provides for two types of amendments:
  - Some provisions can be amended by a special majority of the Parliament, i.e., a two-thirds majority of the members of each House present and voting, and a majority of the total membership of each House.
  - Some other provisions can be amended by a special majority of the Parliament and with the ratification by half of the total states.
- Some provisions of the Constitution can be amended by a simple majority of the Parliament in the manner of ordinary legislative process.
  - These amendments do not come under Article 368.

#### ▪ **Federal System with Unitary Bias:**

- The Constitution of India establishes a **federal system** of Government.
- It contains all the usual features of a federation, viz., two Governments, division of powers, written Constitution, the supremacy of Constitution, rigidity of Constitution, **independent judiciary** and bicameralism.
- However, the Indian Constitution also contains a **large number of unitary** or non-federal features, viz., a strong centre, single constitution, single citizenship, flexibility of constitution, integrated judiciary, appointment of state governor by the centre, **all-India services**, emergency provisions and so on.
- The term '**Federation**' has nowhere been used in the constitution.
- **Article 1**, on the other hand, describes India as a '**Union of States**' which implies two things:
  - Indian Federation is **not the result of an agreement** by the states.
  - No state has the **right to secede** from the federation.
- The Indian Constitution has been variously described as 'federal in form but, unitary in spirit', '**quasi-federal**' by **K.C. Wheare**, 'bargaining federalism' by Morris Jones, '**co-operative federalism**' by Granville Austin, 'federation with a centralising tendency' by Ivor Jennings.

#### ▪ **Parliamentary Form of Government:**

- The Constitution of India has opted for the **British Parliamentary System** of Government rather than the American Presidential System of Government.
- The Constitution establishes the parliamentary system not only at the Centre, but also in the states.
- The features of parliamentary government in India are:
  - Presence of nominal and real executives
  - Majority party rule
  - Collective responsibility of the executive to the legislature
  - Membership of the ministers in the legislature
  - Leadership of the **Prime Minister** or the **Chief Minister**
  - Dissolution of the lower House (**Lok Sabha** or Assembly)
- Even though the Indian parliamentary system is largely based on the British pattern, the two have some fundamental differences.
  - For example, the **Indian Parliament is not a sovereign body** like the British Parliament.
  - The Indian State has an elected head (republic) while the British State has a hereditary head (monarchy).

#### ▪ **Synthesis of Parliamentary Sovereignty and Judicial Supremacy:**

- The **doctrine of sovereignty** of Parliament is associated with the British Parliament, while

the principle of **judicial supremacy** is with that of the American Supreme Court.

- The American Constitution provides for '**due process of law**' against the '**procedure established by law**' contained in the Indian Constitution (**Article 21**).
- Therefore, the framers of the Indian Constitution have preferred a proper synthesis between the British principle of parliamentary sovereignty and the American principle of judicial supremacy.
  - The Supreme Court, on the one hand, **can declare parliamentary laws** as unconstitutional through its power of **judicial review**.
  - On the other hand, the Parliament can amend the major portion of the constitution through its constituent power.

▪ **Integrated and Independent Judiciary:**

- The Indian Constitution establishes a judicial system that is integrated as well as independent.
- The Supreme Court stands at the top of the integrated judicial system in the country. Below it, there are high courts at the state level.
- Under a high court, there is a hierarchy of **subordinate courts**, that is, district courts and other lower courts.
- This single system of courts enforces **both the central laws** as well as the state laws.
- The **Supreme Court is a federal court**, the highest court of appeal, the guarantor of the fundamental rights of the citizens, and the **guardian of the constitution**.
- The Constitution has made various provisions to ensure its independence including the security of tenure of the judges, fixed service conditions for the judges, etc.

▪ **Fundamental Rights:**

- **Part III** of the Indian Constitution guarantees **six fundamental rights** to all the citizens:

Right	Articles
Right to Equality	14-18
Right to Freedom	19-22
Right against Exploitation	23-24
Right to Freedom of Religion	25-28
Cultural and Educational Rights	29-30
Right to Constitutional Remedies	32

▪ **Directive Principles of State Policy:**

- According to **Dr. B.R. Ambedkar**, the **Directive Principles of State Policy** is a '**novel feature**' of the Indian Constitution.
- They are enumerated in **Part IV** of the Constitution.
- They can be classified into **three broad categories**:
  - Socialistic
  - Gandhian
  - Liberal-intellectual.
- Unlike the Fundamental Rights, the directives are non-justiciable, that is, they are **not enforceable** by the courts for their violation.
- The Constitution itself declares that 'these principles are fundamental in the governance of the country and it shall be the duty of the state to apply these principles in making laws'.

▪ **Fundamental Duties:**

- The **original constitution did not provide** for the Fundamental Duties of the citizens.
- These were added during the operation of **internal emergency** (1975-77) by the **42<sup>nd</sup> Constitutional Amendment Act, 1976** on the recommendation of the **Swaran Singh Committee**.
- The **86th Constitutional Amendment Act, 2002** added one more fundamental duty.
- The Part IV-A of the Constitution (which consists of only one Article 51-A) specifies the eleven Fundamental Duties.
- The fundamental duties serve as a reminder to citizens that while enjoying their rights, they have also to be quite conscious of the duties they owe to their country, their society, and to their fellow citizens.
- These are also non-justiciable in nature.

- **A Secular State:**
  - The Constitution of India stands for a **Secular State.**
  - It does not uphold any particular religion as the official religion of the Indian State.
  - The Indian Constitution embodies the **positive concept of secularism**, i.e., giving equal respect to all religions or protecting all religions equally.
- **Universal Adult Franchise:**
  - The Indian Constitution adopts **universal adult franchise** as a basis of elections to the Lok Sabha and the state legislative assemblies.
  - Every citizen who is not less than 18 years of age has a **right to vote** without any discrimination of caste, race, religion, sex, literacy, wealth, and so on.
  - The voting age was reduced to 18 years from 21 years in 1989 by the **61st Constitutional Amendment Act, 1988.**
- **Single Citizenship:**
  - The Indian Constitution is federal and envisages a dual polity (centre and state) but it provides for only a **single citizenship**, that is Indian citizenship.
  - In India, all citizens irrespective of the state in which they are born or reside enjoy the same political and civil rights of citizenship all over the country and no discrimination is made between them.
- **Independent Bodies:**
  - The Indian Constitution establishes **independent bodies** as key pillars safeguarding the democratic system of government in India:
    - **Election Commission** to ensure free and fair elections
    - **Comptroller and Auditor-General of India** to audit the accounts of the central and state governments.
    - **Union Public Service Commission** to conduct examinations for recruitment to all-India services and higher Central services and to advise the President on disciplinary matters.
    - **State Public Service Commission** in every state to conduct examinations for recruitment to state services and to advise the governor on disciplinary matters.
- **Emergency Provisions:**
  - The Indian Constitution contains **elaborate emergency provisions** to enable the President to meet any extraordinary situation effectively.
  - The rationality behind the incorporation of these provisions is to safeguard the sovereignty, unity, integrity and security of the country, the democratic political system and the Constitution.
  - The Constitution envisages **three types of emergencies:**
    - **National emergency** on the grounds of war or external aggression or armed rebellion (Article 352).
    - **State emergency (President's Rule)** on the ground of failure of constitutional machinery in the states (Article 356) or failure to comply with the directions of the centre (Article 365).
    - **Financial emergency** on the ground of threat to the financial stability or credit of India (Article 360).
- **Three-tier Government:**
  - Originally, the Indian Constitution provided for a dual polity and contained provisions with regard to the organisation and powers of the Centre and the states.
  - The **73rd and 74th Constitutional Amendment Acts, 1992** have added a third-tier of Government (i.e., local) which is not found in any other Constitution of the world.
    - The 73<sup>rd</sup> Amendment Act, 1992 gave constitutional recognition to the panchayats (rural local governments) by adding a new Part IX and a new Schedule 11 to the Constitution.
    - The 74th Amendment Act, 1992 gave constitutional recognition to the municipalities (urban local governments) by adding a new Part IX-A and a new Schedule 12 to the Constitution.
- **Co-operative Societies:**
  - The **97<sup>th</sup> Constitutional Amendment Act, 2011** gave constitutional status and protection to **co-operative societies.**

## What are the Criticisms of the Indian Constitution?

Criticism	Debunking
<b>Borrowed Constitution</b>	The framers adapted and modified borrowed features <b>to suit Indian conditions</b> , avoiding their faults.
<b>Carbon Copy of the Government of India Act, 1935</b>	While many provisions were borrowed, the Constitution is not a mere copy. It incorporates <b>significant changes</b> and additions.
<b>Un-Indian or Anti-Indian</b>	The Constitution <b>reflects Indian values</b> and aspirations, despite borrowing from foreign sources.
<b>Un-Gandhian</b>	While not explicitly Gandhian, the Constitution <b>aligns with many of Gandhi's principles</b> .
<b>Elephantine Size</b>	The Constitution's detailed nature is essential for managing India's diversity and complexity.
<b>Paradise of the Lawyers</b>	The legal language is essential for <b>clarity and enforceability</b> .

## Conclusion

The Indian Constitution is a **dynamic and adaptable document**, reflecting India's complex diversity and evolving socio-political landscape. Its blend of rigidity and flexibility, federal structure with a unitary bias, and the inclusion of fundamental rights and duties make it a **resilient framework for governance**. Despite criticisms, the Constitution's borrowed elements were **carefully modified** to suit Indian needs, **ensuring its relevance** and enduring significance in shaping the nation's **democratic principles and institutions**.

## UPSC Civil Services Examination Previous Year Question (PYQ)

### Prelims:

**Q. What was the exact constitutional status of India on 26th January, 1950? (2021)**

- (a) A Democratic Republic
- (b) A Sovereign Democratic Republic
- (c) A Sovereign Secular Democratic Republic
- (d) A Sovereign Socialist Secular Democratic Republic

**Ans: (b)**

**Q. The distribution of powers between the Centre and the States in the Indian Constitution is based on the scheme provided in the (2012)**

- (a) Morley-Minto Reforms, 1909
- (b) Montagu-Chelmsford Act, 1919
- (c) Government of India Act, 1935
- (d) Indian Independence Act, 1947

**Ans: (c)**

### Mains:

**Q. What can France learn from the Indian Constitution's approach to secularism? (2019)**

**Q.** Examine the scope of Fundamental Rights in the light of the latest judgement of the Supreme Court on Right to Privacy. **(2017)**

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