UNIT 3: FEATURES OF THE INDIAN CONSTITUTION

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3.1 LEARNING OBJECTIVES

After going through this unit you will be able to:

- explain the salient features of the Indian Constitution
- examine some distinctive features of the Indian Constitution such as lenghtiest Constitution, mixture of federal and unitary fetaures, etc.

3.2 INTRODUCTION

In the previous unit we discussed the philosophy and sources of the Indian Constitution. The Constitution is the embodiment of ideas, objectives and aspirations of the people of a state. Keeping in mind the uniqueness of our country, the Constitution of India is framed on the basis of some strong philosophical foundations. In keeping with such a strong philosophical foundation, our Constitution incorporates certain salient features for which it has become one of the famous Constitutions of the World. In this unit we will discuss the features of the Indian Constitution.

3.3 SALIENT FEATURES OF THE INDIAN CONSTITUTION

The constitution of a state is not only the fundamental law of the state, but it is also like a mirror of its social, political and economic systems.

Each constitution grows and develops within a particular environment. The Constitution of India is unique in many ways. Several special features of the Indian Constitution distinguish it from many other constitutions of the world. The salient features of the Indian Constitution of India described as follows:

- **Written Constitution:** The Constitution of India is a written document. To draft the Indian Constitution, a Drafting Committee was constituted by the Constituent Assembly under the Chairmanship of Dr. B. R. Ambedkar. The Constituent Assembly was a representative body which was indirectly elected by the people. It consisted of 389 members out of whom 296 members were elected from British India and 93 members were the 'representatives of Native States'. The elections to the Constituent Assembly were held in 1946 and Dr. Rajendra Prasad was elected the President of the Constituent Assembly. The Drafting Committee prepared the draft of the Constitution. After long efforts, the new Constitution was finally adopted on November 26, 1949. Thus, the Indian Constitution came into force on January 26, 1950.
- **The Lengthiest Constitution:** The Indian Constitution is the lengthiest, bulkiest and most detailed Constitution in the World. It contains 395 Articles (divided into 22 parts) and 8 Schedules at the time of its enforcement. At present, it has 444 Articles, divided into 25 parts and 12 Schedules. The Constitution of India contains a detailed list of Fundamental Rights, Directive Principles of State Policy, distribution of Powers between Centre and the States, Official Languages, Election and many other provisions over and above laying out the provisions regarding the executive, legislature and judiciary.
- **Partly rigid and partly flexible:** The Constitution of India is neither too rigid nor too flexible. A flexible constitution is that in which its provisions may be amended or modified by ordinary legislative process, whereas, in the case of a rigid constitution, a special procedure is required to be followed for the amendment or revision of its provisions.

The Indian Constitution follows three methods for amendment. Firstly, some of the provisions can be amended by a simple majority of the Parliament. Secondly, some provisions may be amended by a special majority of the Parliament and thirdly, some other provisions which are federal in character may be amended only with a joint initiative of both the Parliament and the State legislature. The framers of the Indian Constitution adopted this system so that the Indian Constitution can adapt itself to the changing circumstances while still retaining its basic characteristics. Because of all these provisions, the Indian Constitution is characterized by the mixture of flexibility and rigidity.

- **Supremacy of the Constitution:** The Constitution of India is the supreme law of the country. All the three organs of the Government i.e.: the Executive, Legislature and Judiciary function under the Constitution of India and are controlled by it. They cannot violate the Constitution.
- **Mixture of Federal and Unitary features:** The Constitution of India establishes India as a partly Federal and partly unitary government. The word 'Federalism' is not mentioned anywhere in the Constitution. It describes India as a 'Union of States'. Because of the peculiar features of the Indian Constitution, some experts describe it as a 'quasi-federal state'. Indian federalism is also known as 'co-operative federalism'. Some of the federal features included in the Indian Constitution are written constitution, supremacy of the constitution, division of powers and distribution of powers between the centre and the states, a strong judiciary, bicameral legislature etc. But, India cannot be called a true federation because some non-federal features or unitary features like- a strong centre, some rigid methods of amendment of the constitution, single citizenship, common All- India services, uniformity of judiciary, emergency provisions enjoyed by the President, appointment of Governors in the States, are distinctly noticed in the Constitution. Therefore, the Constitution of India is a mixture of federal and unitary features.
- **Parliamentary Government:** The Constitution of India provides for a

Parliamentary form of Government on the British model. In the Parliamentary form of Government, the Head of the State is nominal, whereas the Prime Minster who is the leader of the majority in the Parliament is the real executive. In India, the President is only the nominal head of our country and the real and actual powers of the government are exercised by the Prime Minister.

- **Secularism:** Secularism is another important feature of the Indian Constitution. The word has been included in the Preamble by the 42nd Amendment in 1976. India does not recognize any religion as the state or official religion and treats all religions equally. All the people of India are given the liberty of thought, expression, belief and worship and there is no discrimination on the grounds of religion, caste or community. The State shall not make any discrimination against any person on the ground of his or her religion.
- **Provision of Fundamental Rights:** The Fundamental Rights are contained in Part-III of the Constitution from Articles 12 to 35.The framers of the Constitution derived inspiration from the 'Bill of Rights' from the Constitution of the U.S.A. Fundamental Rights are justiciable in the sense that a person can approach the court in case of violation of his or her Fundamental Rights. The Supreme Court of India is the Guardian of the rights and liberties of the people. They are not absolute. The Government can impose reasonable restrictions on them, specially for maintaing morality and law and order in the society. The significance of the Fundamental Rights is that they protect the liberty and the freedom of the citizens against encroachment by the state. Originally, the Constitution provided for seven Fundamental Rights. But the Right to Property was abolished by the 44th Constitutional Amendment Act of 1978. At present, there are six Fundamental Rights. These six Fundamental Rights are- Right to Equality, Right to Freedom, Right Against Exploitation, Right to Freedom of Religion, Cultural and Educational Rights, Right to Constitutional Remedies.
- **Fundamental Duties:** Fundamental Duties are incorporated in Article 51A of Part IVA of the Constitution by the 42nd Constitutional

Amendment Act of 1976. The original Constitution did not contain the fundamental duties. The Fundamental Duties are very important for the overall development of the country, these Duties must be performed by the citizens of India. These duties are not legally binding upon the citizens. Some of the duties include abiding by the Constitution and to respect its ideals and institutions and the National Flag and National Anthem, to defend the country and render national service, to develop the scientific temper, humanism and the spirit of inquiry and reform, to safeguard public property, to value and preserve the rich heritage of our composite culture etc.

- **Directive Principles of State Policy:** Another distinctive feature of the Indian Constitution is the Directive Principles of State Policy described in Part IV of our Constitution from Articles 36-51. These Directive Principles are fundamental in the governance of our Country and it is the duty of the state to apply these principles in making laws. These principles aim at securing social and economic freedoms by appropriate state action. These Directive Principle of State Policy are categorised as Socialist and Economic Principles, Gandhian principles and International Principles
- **Independent and impartial Judiciary:** A basic feature of the Indian Constitution is independence of the judiciary. The judiciary is separated from the other two organs i.e. executive and legislature. The tenure of the Judges of the Supreme Court and High Court is fixed and the judges cannot be removed by simple procedure. Independence of judiciary is very essential for the success of democracy. This independent judiciary acts as the guardian of the Indian Constitution.
- **Division of Powers between the Centre and the States:** Another important feature of the Indian Constitution of India is the division of powers between the Central and State Government. For this purpose three lists have been included in the Seventh Schedule of the Constitution. These three list are - the Union List, the State List, and the Concurrent List. Over the subjects incorporated in the Union List the Central Government has exclusive jurisdiction, like that the State

Government has jurisdiction over the subjects included in the State List. On the subjects included in the Concurrent List both the Central Government and the State Government have power.

- **Universal Adult Franchise:** The Universal Adult Franchise is introduced by the Constitution and thus, all adult citizens above the age of 18 years, irrespective of their religion, caste, race, color and sex are entitled to participate in the election process.
- **Single Citizenship:** To promote the feeling of unity and oneness among the people of India, the framers of the Indian Constitution provided for a single citizenship for its citizens. It means that all the citizens of this country are Indian Citizens only. In the Federation like the United States of America dual citizenship is a very important federal feature, unlike India.
- **Emergency Powers:** The Indian Constituion has provided for emergency powers so that the whole nation can meet with any emergency situation the country or any part thereof may be faced with. The emergency powers are vested in the hands of the President of India. There are three kinds of Emergency powers. These are- National Emergency (Article-352), Emergency in a State (Article 356) and Financial Emergency (Article 360).

The above are some the important salient features of the Indian Constitution which makes it one of the most unique and distinct constitutions in the world.



LET US KNOW

National Emergency (Article-352) was declared three times respectively in 1962, 1971 and in 1975 in our country. Emergency in a State (Article 356) (commonly called President's Rule) has been imposed many times in different States of India. Financial Emergency (Article 360) has not been declared till now.



ACTIVITY 3.1

Do you know how many times President's Rule has been declared in Assam? Try to find out the reasons behind the same.

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CHECK YOUR PROGRESS

Q. 1: The Indian Constitution has ..... Schedules. (Fill in the blank).

Q. 2: Indian federalism is also known as "co-operative federalism" ? (True/False)

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Q. 3: Mention any four Fundamental Duties incorporated in the Constitution of India.

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Q 4: Mention four important features of the Indian Constitution.

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Q. 5: Mention four unitary features of the Indian Constitution?

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Q. 6: Through which Amendment the Right to Property is removed from the list of Fundamental Rights?

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Q 7: State the names of the three lists which divides powers between the Central Government and the State Governments.

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Q 8: Write briefly about Emergency Powers of the President of India as a feature of the Indian Constitution.

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3.4 LET US SUM UP

- The Indian Constitution is the lengthiest, bulkiest and most detailed Constitution in the World. It contains at present 444 Articles, divided into 24 parts and 12 Schedules. The Constitution of India contains a detailed list of Fundamental Rights, Directive Principles of State Policy, distribution of Powers between Centre and the States, Official Languages, Election and many other provisions over and above laying out the provisions regarding the executive, legislature and judiciary.
- The Indian Constitution is characterized by the mixture of flexibility and rigidity. The framers of the Indian Constitution adopted this system so that the Indian Constitution can adapt itself to the changing circumstances while still retaining its basic characteristics.
- The Constitution of India is the supreme law of the country. All the three organs of the Government i.e.: the Executive, Legislature and Judiciary function under the Constitution of India and are controlled by it. They cannot violate the Constitution.
- The Constitution of India establishes India as a partly federal and partly unitary government. Some of the federal features included in the Indian Constitution are written constitution, supremacy of the constitution, etc. But, India cannot be called a true federation because some non-federal features or unitary features like- a strong centre, some rigid methods of amendment of the constitution, single citizenship, etc. Therefore, the Constitution of India is a mixture of federal and unitary features.

- Some other important features of the Indian Constitution include provision of a Parliamentary form of Government on the British model, Secularism, Fundamental Rights, Independent and impartial Judiciary, Division of Powers between the Centre and the States, Universal Adult Franchise, Single Citizenship: and Emergency Powers.



3.5 FURTHER READING

1) Chander, Prakash.(2000). *Indian Government and Politics*. New Delhi :Cosmos Bookhive Pvt. Ltd.
2) Ghai, K. K.(2007). *Indian Government and Politics*. New Delhi: Kalyani Publishers.
3) Kapur, Anup Chand and Misra, K.K. (2006). *Select Constitutions.* New Delhi : S. Chand and Company.
4) Pylee, M. V. (2006). *Constitutional Government in India.* New Delhi: S. Chand and Company.



3.6 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No 1: 12 Schedules

Ans to Q No 2: True

Ans to Q No 3: (i) To abide by the Constitution and to respect its ideals and institutions and the National Flag and National Anthem,

(ii) to defend the country and render national service,

(ii)i to develop the scientific temper, humanism and the spirit of inquiry and reform,

(iv) to safeguard public property, to value and preserve the rich heritage of our composite culture .

Ans to Q No 4: i) Written and Lengthiest Constitution

ii) Partly flexible and partly rigid Constitution

iii) Supremacy of the Constitution.

iv) Universal Adult Franchise

Ans to Q No 5: (i) Strong Centre (ii) Single Citizenship (iii) Common All-India Services (iv) Emergency provisions exercised by the President.

Ans to Q No 6: 44th Amendment

Ans to Q No 7: the Union List, the State List, and the Concurrent List

Ans to Q No 8: The Indian Constituion has provided for emergency powers so that the whole nation can meet with any emergency situation the country or any part thereof may be faced with. The emergency powers are vested in the hands of the President of India. There are three kinds of Emergency powers. These are-National Emergency (Article-352), Emergency in a State (Article 356) and Financial Emergency (Article 360).



3.7 POSSIBLE QUESTIONS

Q 1: Mention any two federal features of the Indian Constitution.

Q 2: Discuss secularism and fundamental duties as features of the Indian Constitution.

Q 3: Why is the Indian state regarded as a mixture of Unitary and Federal features?

Q 4: Describe any eight features of the Indian Constitution.

Q 5: Why is the Indian Constitution considered to be partly rigid and partly flexible.

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