

**Foundation Course**  
**Semester 1**  
**UNIT 4**  
**The Indian Constitution**

**8: Basic Features of Indian Constitution**

The founding fathers of our constitution studied the various constitutions available in the various countries of the World and picked up the selected principles which would be suitable to Indian social-political, economic, cultural, religious conditions. The Constitution of India have provided the Indian citizen the best of the things for leading a happy and peaceful life. Therefore, the basic features of it are as follows:-

**The Longhiest Written Constitution in the World:**

**Popular Sovereignty:**

It is clearly stated in the preamble that India is not under any outside control. It is a sovereign nation under the people. The people will have right to elect their representatives to rule for themselves to the government. Hence, India has a democratic system of government. Any citizen who is above 18 years of age irrespective of religion, creed, caste, region, property, rich or poor, man or woman can execute adult franchise and have his representative for his/her welfare. It is very of significant provision in the constitution that the person may be from dire poverty or from an Industrialist will have right to one vote and one vote will have one value. Therefore, popular sovereignty is very important feature of the Constitution of India.

**Partly Rigid and Partly Flexible:**

When we read our constitutional document then we come to know that sometime, somewhere the articles of the constitution are very rigid to make any amendment and some where some articles are easily amended according to the situation exists. The article 368 of the Constitution provides for the amendment. At the sametime, in case of Jammu & Kashmir, the parliament has got limited rights to intervne in the affairs of this state. As against this, during 57 yrs. there are 92 amendments have been made in the constitution and states like Nagaland , Sikkim, Jharkhand, Chattisgarh etc. have been newly created. Many articles are added according to the present context.

**Provision of Fundamental Rights:**

The constitution of India guarantees the Fundamental Rights to every individual irrespective of birth, caste, creed, sex, religion, race, language, region, age, education, rich, poor etc: Articles from 12 upto 35 mentions of Fundamental Rights.

## **The Fundamental Rights are as follows:- .**

- 1, Right to Equality (equality before law for everyone).
- 2 .Right to Liberty (includes freedoms).
  - i) Freedom of speech and expression;
  - ii) Freedom of assembly;
  - iii) Freedom of practice any profession or occupation ;
  - iv) Freedom of union or professional organization;
  - v) Freedom of staying anywhere in India;
  - vi) Freedom to move anywhere in India;
- 3, Right to freedom of Religion.
- 4, Right against Exploitation.
- 5, Cultural and Educational Rights.
6. Right to Constitutional Remedies.
  - i) Habeas Corpus
  - ii) Mandamas
  - iii) Prohibition
  - iv) Co-Warranto and
  - v) Certiorari

The Right to Property have been deleted from the Constitution and have abolished the practice of Untouchability and it is regarded as an offence cognizable. prohibits forced labour. Thus by the provision of Fundamental Rights the constitution have woven the thread of unity of the Indians.

## **Fundamental Duties:**

The Constitution have also provided for the fundamental duties of each citizen/None the less, when Fundamental Rights were specified, it was obvious that one should not violate other's rights is the duty of everybody to be understood.  
Fundamental Duties.

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

The Constitution has its supremacy over all the political governments. The powers have been divided among the various provinces and states between the Union Government It also provides for the single Citizenship. The Central and State governments must discharge their powers-and duties according to their subjects of legislation and execution. The Constitution have divided the subjects into three lists i.e. **Central list, State list and concurrent list.** Central list have **99 subjects**, State list have **61** and Concurrent list **52** subjects as of now. It means that centre state can pass acts, make legislations only on the subjects listed in their list.

So far subjects listed in the Concurrent list, both the Centre and State can make legislation on these subjects. But due to unitary biasness the legislation of Central government will be supreme over the state. It means we can experience the equal power share between State and Federal government but regarding Emergency(due to Constitutional Breakdown) Central government can dissolve the State government may be with bias attitude.

### **Parliamentary Democracy:**

We have adopted the Parliamentary Democracy with President as its Constitutional and Executive head. It means that Prime Minister and his Council of Ministers is the representative of President. Therefore, it is said that President is the nominal head and real power of the Union Government is lying in Prime Minister.

**Parliament is bicameral and consists of i) Lok Sabha and ii) Rajyasabha.** These houses pass various laws, acts, with majority of the members of the Parliament.

### **Directive Principles of the State Policy:**

They are the extra legal instructions and guidelines to the political governments. The government is supposed to take note of those principles for the welfare of the people and achieve necessary conditions within the concept of welfare state. One cannot go against the violation of these principles in the court of law. Despite governments must follow these instructions for succeeding the next tenure of power. Otherwise people will not get political parties elected in future by ballot boxes, e.g. the constitution provides for the free and compulsory education the children between the age 6 to 14. Then to provide education them is the moral responsibility of that state government. Hence government starts schools, appoints teachers, pays their salaries construct school buildings etc. Therefore this one of the feature has got very significant role to play.

### **Principle of Secularism:**

The word 'Secular' is adopted in the Preamble of the Constitution. This means that state has no 'State Religion'. At the same time government will not favour anybody religion and also not disfavor the religion of others. State will not interfere in the religious affairs' of the Individual. Religion is the private affairs. According to former President of India R. Venkata Raman "India is not pro-religious, non-religious and anti-religious" i.e. India is secular. The religion will have no influence over any government. The citizens have got right to any religion, worship any God & Goddesses. It is only because of this constitutional secular nature of the state that led to become the President, Prime Minister from any religion or community.

### **Single Citizenship:**

The American Constitution has given its citizens the 'Dual Citizenship', one for the country and other from the representing state. Contrary to this Indian constitution provides only Single Citizenship i.e. only for the country and not for the state. It is due to multiplicity of the nature of Indians society that states should not have loyalties only to their States. Therefore,

any person can inhabit in any part of the country, take education, join profession or occupation. We also introduce ourselves as 'I am an Indian first.' Single citizenship binds the Indians into oneness and unity.

### **The Independent Judiciary:**

The Indian Constitution, among its three major bodies of Legislature, Executive and Judiciary; more rights and freedoms are given to the Judiciary. The rules and laws and regulations regarding the appointments and rights and powers of the Judiciary i.e. Supreme Court, High Court and Subsequent courts and their judges having been clearly stated in the constitution. The judiciary have been kept tally out of the purview of the legislation and executive body. The Judgement given by the judiciary becomes the law.

### **The Judicial Review:**

The Supreme Court and the High Courts are the guardians of the Constitution. They have also got right to interpret the provision of the constitution. Therefore, government before passing any act or law undergoes investigation into the constitution and takes care that there would not be violation of the constitutional provisions. It happens sometimes that Parliament Councils & Assemblies may be wrong in passing any act against which one can ask the Courts of law to review the decisions taken by the governments. The Supreme court and the High Court can declare such law null and void or unconstitutional if it goes against constitutional provisions.

### **End of Old Order and Rise of New Order:**

Our Indian constitution is revolutionary in true sense of the term. Since ancient times & for thousands of years, the power was administered by the provision in Manusmriti, instead, now it runs with provisions of Constitution. The Constitution guarantees equality, liberty, fraternity, justice, equal opportunity etc. which were denied to certain section of the society. Now, there is no discrimination based on sex, caste, creed, religion language, region, rich, poor etc. The Constitution has abolished untouchability and termed it as an offence punishable. It also protects women, children and historically deprived or depressed classes. Hence the Old Order of Mansmirti have gone and the New Order of the constitution has risen.