



In Depth: Major Constitutional Amendments

For Prelims: [Constitution Day](#), [fundamental rights](#), [Directive Principles of State Policy](#), [Preamble](#), [Sources of the Constitution](#), [Article 370](#), [Schedules](#), [Westminster Model](#), [Indian Parliament](#)

For Mains: Key Features of the Constitution, Major Constitutional Amendments

Why in News?

On 26th November, 2024, India celebrated [Constitution Day](#). A key strength of the Indian Constitution lies in its dynamic nature, allowing it to adapt over time through interpretation or amendment.

- As one of the most **frequently amended constitutions globally**, it ensures that it remains relevant and does not hinder the nation's growth and progress.

Constitution Day

- **About:** Constitution Day marks the **adoption of the Indian Constitution on 26th November 1949**. It celebrates India's democratic values and promotes awareness of justice, [liberty](#), [equality](#), and [fraternity](#).
 - In 2015, the Ministry of Social Justice and Empowerment declared 26th November as Constitution Day **to deepen citizens' connection with the Constitution**. Before 2015, 26th November was observed as **National Law Day**.
 - The day honours the [Constituent Assembly](#)'s vision in drafting the Constitution and [Dr B.R. Ambedkar's](#) pivotal role as Chairman of the Drafting Committee, earning him the title "[Father of the Indian Constitution](#)."
- **Constitution Day in Jammu and Kashmir:** For the first time in 74 years, Jammu and Kashmir celebrated Constitution Day, following the **abrogation of [Article 370 in 2019](#)**.
 - The event symbolized a new chapter in the Union Territory's alignment with India's legal and political framework.

What are the Key Facts About the Constitution?

- **Purpose:**
 - The constitution is the **supreme law of India**. This is a written document which lays down the framework demarcating the fundamental basic code, structure, procedures, powers, and duties of the Government and its organisations and **rights & duties of the citizen**.
- **Drafting Timeline:**
 - It was adopted by the Constituent Assembly on 26th November 1949 and **came into force on 26th January 1950**.
 - At the time of its adoption, the Constitution contained **395 Articles and 8 Schedules** and

was about 145,000 words long, making it the longest national Constitution to ever be adopted.

- It was handwritten by **Prem Behari Narain Raizada** in calligraphy, with pages decorated by artists from [Shantiniketan](#) under [Nandalal Bose's](#) guidance.
- Every Article in the Constitution was debated by the members of the Constituent Assembly, who sat for 11 sessions and 167 days to frame the Constitution, over a period of **2 years and 11 months**.

▪ **Preamble:**

- The [Preamble](#) of the Constitution declares India a [sovereign, socialist, secular](#), and democratic Republic and assures its citizens justice, equality, and liberty, and endeavours to promote fraternity.

▪ **Framing of the Constitution:**

- Dr. Bhim Rao Ambedkar is regarded as the chief Architect of Indian Constitution. [Dr. Rajendra Prasad](#), the first [President of India](#) became the first person to sign the constitution of India.

Important Committees of Constituent Assembly and Their Chairmen

| S. No | Name of Committee | Chairman |
|-------|--|---------------------------|
| 1 | Committee on the Rules of Procedure | Rajendra Prasad |
| 2 | Steering Committee | Rajendra Prasad |
| 3 | Finance and Staff Committee | Rajendra Prasad |
| 4 | Credential Committee | Alladi Krishnaswami Ayyar |
| 5 | House Committee | B. Pattabhi Sitaramayya |
| 6 | Order of Business Committee | K.M. Munsi |
| 7 | Ad hoc Committee on the National Flag | Rajendra Prasad |
| 8 | Committee on the Functions of the Constituent Assembly | G.V. Mavalankar |

What are the Key Features of the Constitution?

▪ **Longest Written Constitution:**

- The Indian Constitution is the longest written constitution in the world, known for its comprehensiveness, detail, and elaborate structure.
 - Initially, in 1949, it comprised a Preamble, 395 Articles organised into 22 Parts, and 8 [Schedules](#).
- As of 2019, it includes a Preamble, approximately **470 Articles divided into 25 Parts**, along with 12 Schedules.

▪ **Drawn From Various Sources:**

- The Constitution of India extensively borrows from various international constitutions and the [Government of India Act of 1935](#).
 - Dr. B.R. Ambedkar described its framing as "**ransacking all the known Constitutions of the World.**"



**Government of India
Act of 1935**

- Federal Scheme
- Office of governor
- Judiciary
- Emergency provisions
- Administrative details
- Public Service commissions



British Constitution

- Parliamentary government
- Rule of Law
- Legislative procedure
- Single citizenship
- Cabinet system
- Prerogative writs, parliamentary privileges and bicameralism.



US Constitution

- Fundamental rights
- Judicial review
- Impeachment of the president
- Independence of judiciary
- Removal of Supreme Court and high court judges and post of vicepresident.



Irish Constitution

- Directive Principles of State Policy
- Nomination of members to Rajya Sabha
- 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 the Supreme Court

Sources of the Constitution



Australian Constitution

- Concurrent List
- Freedom of trade
- Commerce and inter-course
- Joint sitting of the two Houses of Parliament



**Weimar Constitution
of Germany**

- Suspension of Fundamental Rights during Emergency.



**Soviet Constitution
(USSR, now Russia)**

- Fundamental duties
- The ideal of justice (social, economic and political) in the Preamble.



French Constitution

- Republic and the ideals of liberty, equality and fraternity in the Preamble.



South African Constitution

- Procedure for amendment of the Constitution
- Election of members of Rajya Sabha.



Japanese Constitution

- Procedure established by Law

▪ A Blend of Rigidity and Flexibility:

- Constitutions are classified as rigid or flexible. A rigid Constitution, like the **American** one, requires a special procedure for amendments, while a flexible Constitution, like the **British** one, can be amended like ordinary laws.
- India's Constitution is a blend of both. [Article 368](#) outlines two types of amendments:
 - **Special Majority:** Requires a two-thirds majority of members present and voting, plus a majority of the total membership in each House.
 - **Special Majority with State Ratification:** Requires the above, along with ratification by at least half the states.
- Additionally, **some provisions can be amended by a simple majority** in Parliament, following the ordinary legislative process.
 - These do not fall under [Article 368](#).

▪ Federal System with Unitary Bias:

- The Constitution establishes a [federal system](#) with typical features like dual government, division of powers, a written and supreme Constitution, rigidity, independent [judiciary](#), and bicameralism.
 - However, it also includes unitary features such as a strong [Centre](#), [single Constitution](#) and [citizenship](#), flexibility, integrated judiciary, centrally appointed [governors](#), [all-India services](#), and [emergency provisions](#).
- Notably, the **term Federation is absent from the Constitution**. [Article 1](#) describes India as a Union of States, signifying that states cannot secede and the union is not based on an agreement among states.
- Thus, India's Constitution is described as federal in form but unitary in spirit, [quasi-federal \(K.C. Wheare\)](#), [bargaining federalism \(Morris Jones\)](#), [co-operative federalism](#) (Granville Austin), and a federation with a centralising tendency (Ivor Jennings).

▪ Parliamentary Form of Government:

- The parliamentary system emphasizes **cooperation between the legislative and executive organs**, unlike the presidential system, which follows the separation of powers.
- Known as the [Westminster Model](#), the parliamentary system is established at both the Centre and the states. **Key features include:**
 - Nominal and real executives
 - Majority party rule
 - Collective responsibility of the executive to the legislature
 - Ministers being part of the legislature
 - Prime Minister/Chief Minister leadership
 - Dissolution of the lower house ([Lok Sabha](#) or Assembly)
- While modeled on Britain, India's system differs significantly, such as having an elected head of state (republic) versus Britain's hereditary monarchy.
 - Additionally, **the [Indian Parliament](#) is not sovereign**. The Prime Minister's role in both systems is so central that it is often termed [Prime Ministerial Government](#).

▪ Synthesis of Parliamentary Sovereignty and Judicial Supremacy:

- The British Parliament embodies [sovereignty](#), while the American Supreme Court reflects judicial supremacy. In India, **the parliamentary system and [judicial review](#)** differ from both models.
- The Indian Supreme Court's judicial review power is narrower than the US, **as [Article 21](#) adopts [procedures established by law](#) rather than [due process of law](#)**.
- India's Constitution balances parliamentary sovereignty and judicial supremacy. The [Supreme Court](#) **can declare laws unconstitutional**, while **Parliament can amend most parts of the Constitution** using its constituent power.

▪ Integrated and Independent Judiciary:

- The Indian Constitution establishes an integrated and independent judiciary, with the SC at the top, followed by high courts at the state level and [subordinate courts](#) below them.
 - Unlike the US, where federal and state laws are enforced by separate judicial systems, India's single system enforces both central and state laws.
- The SC serves as a federal court, the **highest appellate body**, guarantor of [fundamental rights](#), and guardian of the Constitution.

▪ Fundamental Rights (FRs):

- 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:

- [Dr. B.R. Ambedkar](#) called the [Directive Principles of State Policy](#) a novel feature of the Indian Constitution, outlined in Part IV. These principles, **classified as socialistic, Gandhian, and liberal-intellectual**, aim to promote social and economic democracy and establish a welfare state.
- Unlike FRs, they are **non-justiciable**, meaning courts cannot enforce them. However, the Constitution declares them fundamental to governance, imposing a moral duty on the state to apply them in lawmaking, with public opinion as their primary sanction.
- In the [Minerva Mills case \(1980\)](#), the SC stated that the Constitution rests on a balance between Fundamental Rights and Directive Principles.

▪ Fundamental Duties:

- The original constitution **did not provide for the Fundamental Duties** of the citizens.
- These were added during the operation of an [internal emergency](#) (1975-77) by the [42nd Constitutional Amendment Act, 1976](#) on the recommendation of the [Swaran Singh Committee \(1976\)](#).
- 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.
 - 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 adopted [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.

▪ 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](#)
 - [Comptroller and Auditor-General of India](#)
 - [Union Public Service Commission](#)

- [State Public Service Commission](#)

▪ **Emergency Provisions:**

- The Indian Constitution contains elaborate [emergency provisions](#) to enable the President to meet any extraordinary situation effectively.
- The Constitution envisages three types of emergencies:
 - [National emergency](#) (Article 352)
 - [State emergency \(President's Rule\)](#) (Article 365)
 - [Financial emergency](#) (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.

▪ **Co-operative Societies:**

- The [97th Constitutional Amendment Act, 2011](#) gave constitutional status and protection to co-operative societies.

What are the Major Constitutional Amendments?

▪ **1st Amendment (1951):**

- Empowered the state to create special provisions for the **advancement of socially and economically backward classes**.
- Ensured the protection of laws related to the acquisition of estates and similar matters.
- Introduced the [Ninth Schedule to shield land reform laws](#) and other included legislation from judicial review.
- **Added Articles 31A and 31B after Article 31.**
- Imposed three additional grounds for restricting [freedom of speech and expression](#): **public order, friendly relations with foreign states, and incitement to an offence.**
 - It also rendered these restrictions 'reasonable' and, therefore, subject to judicial scrutiny.
- Clarified that state trading or nationalization of any trade or business by the state cannot be deemed invalid on the grounds of infringing the right to trade or business.

▪ **7th Amendment (1956):**

- The 2nd and 7th Schedules were amended to implement significant changes:
 - The classification of **states into four categories—Part A, B, C, and D** was abolished, and states were reorganized into 14 states and 6 union territories.
 - The **jurisdiction of high courts was extended** to include union territories.
 - Provisions were made for the establishment of a common high court to serve two or more states.
 - Guidelines were introduced for the appointment of additional and acting judges in high courts.

▪ **42nd Amendment (1976):**

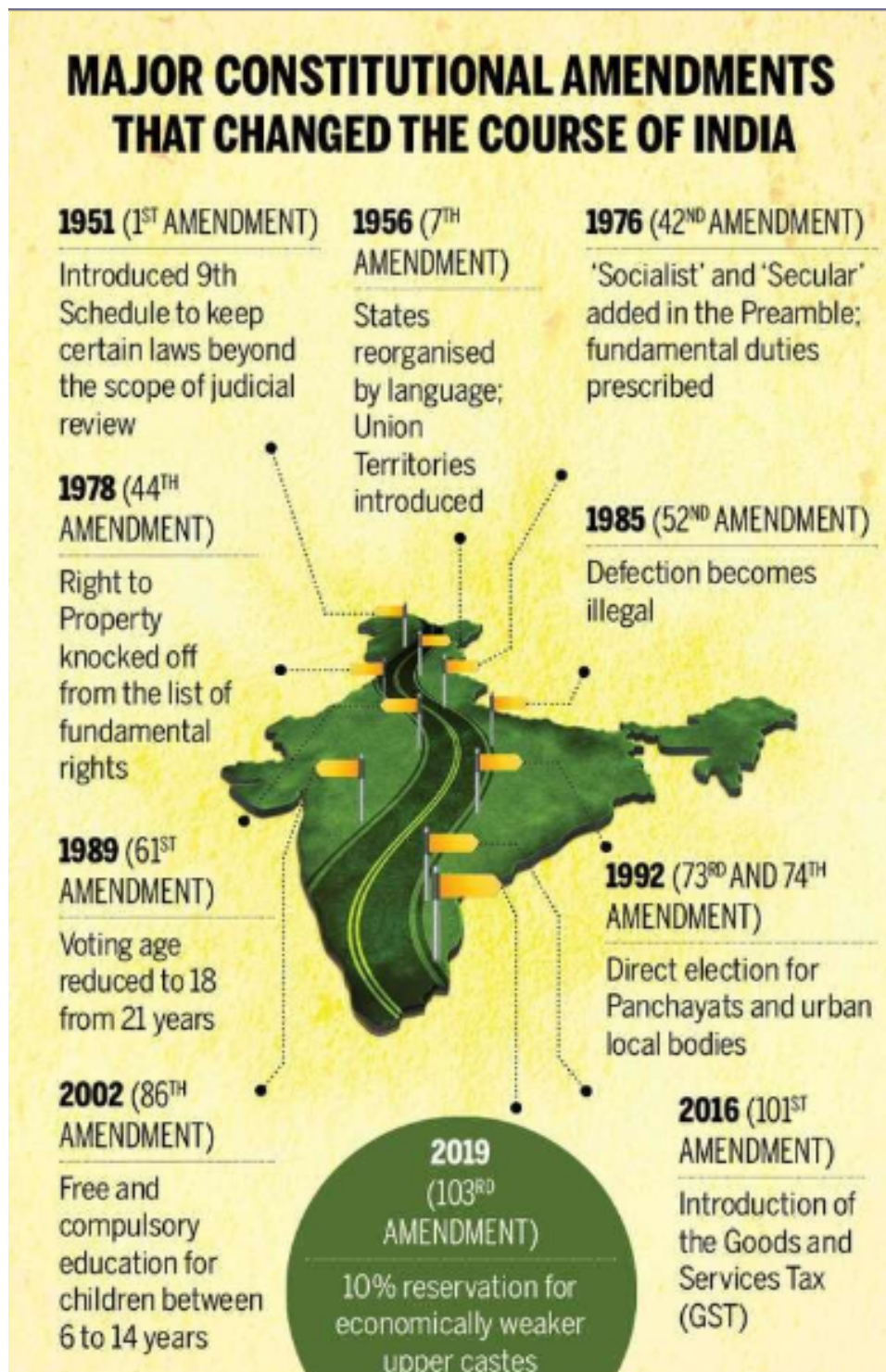
- It comprised 59 clauses and introduced numerous changes, earning it the title of a "**Mini Constitution.**"
- Incorporated three new terms into the Preamble: **socialist, secular, and integrity.**
- Introduced Fundamental Duties under a new Part IV-A.
- Mandated that the President must act in accordance with the advice of the cabinet.
- Declared constitutional amendments beyond the scope of judicial review.
- Stipulated that laws enacted to implement Directive Principles of State Policy cannot be invalidated for infringing upon certain Fundamental Rights.
- Added **three additional Directive Principles of State Policy.**
- Extended the tenure of the Lok Sabha and State Legislative Assemblies from five years to six years.
- Facilitated the **establishment of an [All India Judicial Service.](#)**
- Enabled the creation of [administrative tribunals](#) and other specialized tribunals, **introducing Part XIV-A to the Constitution.**

▪ **44th Amendment (1978):**

- Restored the original tenure of the Lok Sabha and State Legislative Assemblies to five years.

- Reinstated provisions regarding the [quorum in Parliament and state legislatures](#).
- Removed references to the British House of Commons in sections related to parliamentary privileges.
- Provided constitutional protection for publishing true reports of proceedings in Parliament and state legislatures in newspapers.
- Empowered the President to return the cabinet's advice for reconsideration, although the reconsidered advice is binding on the President.
- Removed the provision that made the satisfaction of the President, Governors, and Administrators final in the issuance of ordinances.
- Restored some of the judicial powers of the Supreme Court and High Courts.
- **Replaced the term 'internal disturbance' with 'armed rebellion'** in provisions concerning a national emergency.
- Required the President to declare a [national emergency](#) only upon the written recommendation of the cabinet.
- Introduced procedural safeguards for imposing a national emergency and [President's Rule](#).
- Deleted the [Right to Property](#) from the list of Fundamental Rights, making it a legal right instead.
- Ensured that **Articles 20 and 21 cannot be suspended during a national emergency**.
- Removed provisions that denied courts the authority to adjudicate election disputes involving the President, [Vice-President](#), [Prime Minister](#), and [Speaker of the Lok Sabha](#).
- **52nd Amendment (1985):**
 - Provided for disqualification of members of Parliament and state legislatures on the **ground of defection** and added a new [10th Schedule](#) containing the details in this regard.
- **61st Amendment (1988):**
 - Reduced the voting age from **21 years to 18 years** for the Lok Sabha and state legislative assembly elections.
- **73rd and 74th Amendments (1992):**
 - **73rd Amendment Act:**
 - [Panchayati Raj Institution](#) was constitutionalized through this amendment.
 - This act has added a **new Part-IX to the Constitution** of India and consists of provisions from Articles 243 to 243 O.
 - In addition, the act has also added a new [11th Schedule](#) to the Constitution and contains 29 functional items of the [panchayats](#).
 - **74th Amendment Act:**
 - Urban local governments were constitutionalized through the 74th Amendment Act **during the regime of P.V. Narsimha Rao's government** in 1992. It came into force on 1st June 1993.
 - It added Part IX -A and consists of provisions from Articles 243-P to 243-ZG.
 - In addition, the act also added the [12th Schedule](#) to the Constitution. It contains 18 functional items of [Municipalities](#).
- **86th Amendment (2002):**
 - Made elementary education a fundamental right under the [Article 21A](#)
 - Changed the **subject matter of Article 45** in Directive Principles
 - Added a new fundamental duty under Article 51-A
- **101st Amendment (2016):**
 - It allows both the centre and states to levy the [Goods and Services Tax \(GST\)](#).
 - Before the 2016 amendment, taxation powers were divided between the centre and states.
- **103rd Amendment (2019):**
 - For the first time in independent India, it introduced [reservations for the Economically Weaker Sections \(EWS\)](#).
 - The amendment to Article 16 provides a 10% reservation for EWS in public employment.
- **104th Amendment (2020):**
 - The [104th Constitutional Amendment Act](#), enacted by the Indian Parliament in 2020, **discontinued the reserved seats for the Anglo-Indian community** in the Lok Sabha and State Legislative Assemblies, while extending the **reservation for [Scheduled Castes \(SCs\)](#) and [Scheduled Tribes \(STs\)](#) for an additional ten years**.
- **106th Amendment (2023):**

- The [Constitution \(106th Amendment\) Act, 2023](#), reserves one-third of all seats for **women** in [Lok Sabha](#), [State legislative assemblies](#), and the Legislative Assembly of the National Capital Territory of Delhi, including those reserved for SCs and STs.
- The reservation **will be effective after the publication of the census conducted following the Act's commencement** and endures for a 15-year period, with potential extension determined by parliamentary action.



Conclusion

The Indian Constitution embodies India's dedication to democracy, justice, equality, and fraternity. Its adaptability, inclusiveness, and comprehensive framework have preserved its relevance through time. Constitution Day serves as a reminder of citizens' rights and responsibilities and honors the vision of its framers. Dr. B.R. Ambedkar's principle of constitutional morality, emphasizing respect for the

Constitution's supremacy and adherence to its procedures, remains vital. It unites all branches of government, constitutional authorities, civil society, and citizens in upholding its values, ensuring India's growth aligns with its foundational principles.

UPSC Civil Services Examination, Previous Year Questions (PYQs)

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) Who among the following was the chairman of the Union Constitution Committee of the Constituent Assembly? (2005)

- (a) B.R. Ambedkar
- (b) J. B. Kripalani
- (c) Jawaharlal Nehru
- (d) Alladi Krishnaswami Ayyar

Ans: (c)

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. It would have been difficult for the Constituent Assembly to complete its historic task of drafting the Constitution for Independent India in just three years but for the experience gained with the Government of India Act, 1935. Discuss. (2015)

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

Q. Though the federal principle is dominant in our constitution and that principle is one of its basic features, but it is equally true that federalism under the Indian Constitution leans in favour of a strong Center, a feature that militates against the concept of strong federalism. Discuss. (2014)

