

## Philosophical and Constitutional Framework of government

The Constitution of India was framed by the Constituent Assembly, set up in 1946 under the provisions of the Cabinet Mission Plan. Dr Rajendra Prasad was the President of the Constituent Assembly and Dr B.R. Ambedkar was the Chairman of the seven-member Drafting Committee which drafted the Constitution. The Constituent Assembly took 2 years, 11 months and 18 days to frame the Constitution.

The Constituent Assembly held its first meeting on 9th December 1946 and the Constitution of India was finally adopted on 26th November, 1949. It came into force on 26th January, 1950 (which is also known as the date of its “commencement”) and on this day India became a Republic. The reason for its commencement after two months of its adoption was to signify the January 26 as the original date of achievement of Independence. It was this day, i.e. 26th January, in 1930 which the Indian National Congress (INC) had first celebrated as the Independence Day of India.

### Value premises

A constitution is the highest law of a country and reflects the fundamental principles on which a system of government and administration of a country is based. Constitution of India is vision document for overall welfare of people. It has provisions for achieving this goal. The Constitution of India is a resolution of people of India to establish India as a Sovereign Democratic Republic, where all rights of the people irrespective of differences of class, race, sex, caste or place of birth are protected. These principles provide autonomy and dignity to each individual. Individuals are the supreme authority to take decisions about themselves through democratic process.

The Constitution makers tried to include the best features i.e. most desirable and suitable features from the Indian point of view and were successful to a very large extent. Speaking in the Constituent Assembly, Dr. B.R. Ambedkar

observed: “I feel it (Constitution) is workable, it is flexible and it is strong to hold the country together both in peace time and war time. Indeed, if I may say so, if things go wrong under the Constitution, the reason will not be that we had a bad Constitution, what we will have to say is that man was vile.”

### Salient features of Indian Constitution:

Dr. Subhash Kashyap (Constitutional expert and former Secretary-General of Lok Sabha) observes: “the Constitution of India is a most unique document. It is unique in many ways.

It cannot be fitted in any particular mould or model. It is a blend of the rigid and the flexible, federal and unitary, and presidential and parliamentary. It attempts a balance between the fundamental rights of the individual on the one hand and the socio-economic interests of the people and security of the state on the other. Also, it presents a synthesis between the principals of parliamentary sovereignty and judicial Supremacy.

### **1. Longiest written constitution**

The Indian Constitution is the longest and the most detailed written constitution in the world. It has been the endeavour of the framers of the constitution to provide for the solution of all the problems of administration and governance of the country. Even those matters which are subject of conventions in other countries have been put down in black and white. Thus, while the US Constitution originally comprised only 7 articles, the Australian constitution 128 articles the Canadian constitution 147 articles, the Constitution of India originally had 22 parts, 395 articles and 8 schedules. Presently, it has 25 parts, around 450 articles and 12 schedules and has been amended 106 times so far, with the latest 106th Amendment Act, 2023 providing 33% reservation to women in the Lok Sabha and State Assemblies. Three parts, namely, 9A Municipalities, 9B Co-operative societies, and 14A tribunals, were added to the Constitution as

amendments, raising the total number of parts from 22 to 25.

As we all know, India is a very diverse country and it was necessary to draft a long Constitution incorporating various provisions in order to accommodate various differences. The parent document for drafting the Indian Constitution was the Government of India Act 1935, and that document itself was very lengthy.

The extra-ordinary length of the constitution is because of several factors; some of them are mentioned below:

- It incorporates the experience of all leading constitutions like that of USA, UK, France, Australia, South Africa etc.
- It prescribes constitution for the Union as well as for the States. The American Federal Constitution covers only the organisation of national government leaving the state constitutions to be framed by the states themselves
- It incorporates detailed provisions regarding Centre - State relations in administrative, legislative and financial spheres.
- It includes justifiable rights (as in fundamental rights) and non-justifiable rights (for example in DPSPs).
- It contains special provisions to address tribal issues (e.g. 5th schedule, 6th schedule) and regional problems (e.g. Article 371 – 371H).
- It contains detailed provisions for local self-governments in Parts 9 and 9A and Schedules 11 and 12.

## 2. A Combination of Rigidity and Flexibility

The Indian Constitution is a unique example of combination of rigidity and flexibility. A constitution may be called rigid or flexible on the basis of its amending procedure. In a rigid constitution, amendment of the constitution is not easy. The Constitutions of USA, Switzerland and Australia are considered rigid constitutions while the British Constitution is

considered flexible because amendment procedure is easy and simple.

UK has no written constitution; there is no difference between a constitutional law and an ordinary law. The constitutional law can be amended exactly in the same manner in which ordinary law is passed or amended. In the United States however, the method of constitutional amendment is highly rigid. It can be carried out only with the agreement of two-third majority of the congress and its subsequent ratification by at least three fourths of the states.

The constitution of India strikes a golden mean, thereby avoiding the extreme flexibility of the English constitution and the extreme rigidity of the American constitution.

The Constitution of India provides for three categories of amendments:

- In the first category, amendment can be done by the two houses of Parliament simple majority of the members present and voting of before sending it for the President's assent. For example, as in the case of admission or establishment of new states, increasing the number of puisne judges in the Supreme Court, deciding upon the quorum in the parliament.
- In the second category amendments require a special majority. Such an amendment can be passed by each House of Parliament by a majority of the total members of that House as well as by the 2/3rd majority of the members present and voting in each house of Parliament and send to the President for his assent. Majority of the provisions in the constitution are amended in this way. For example, amendment of fundamental rights, DPSPs etc.
- In the third category besides the special majority mentioned in the second category, the same has to be approved also by at least 50% of the State legislatures. This category covers those

amendments which affect the federal structure of the polity, for e.g. amendment in the manner of the election of the President, amendment in the 7th schedule etc.

It is to be noted that the second and third categories of amendment are provided for under Article 368 while category 1 is outside the scope of Article 368. Category 1 amendments are not deemed to be the amendments of the constitution for the purposes of Article 368.

Thus, you can see that the Indian Constitution provides for three types of amendments ranging from simple to most difficult procedure depending on the nature of the amendment.

### 3. Drawn from different sources

The sources of the Indian Constitution are varied and diverse, reflecting India's long history and cultural traditions. The Constitution draws upon a number of sources such as –

#### a. Government of India Act, 1935

The British government enacted various acts from time to time viz. GoI Act, 1909, 1919 and 1935. Among these, the GoI Act, 1935 exercised the greatest influence on the constitution of the Indian republic. The constitution is, both in language and in substance, a close copy of the GoI act, 1935. Prof. Ivor Jennings rightly observes that “the constitution derives directly from the GoI Act, 1935 from which in fact, many of its provisions are copied almost textually From this Act, the Indian Constitution adopted distribution of powers between centre and states, federal structure of India, provincial autonomy, responsible form of government, bicameral system at the centre and in some states, office of governor etc.

#### b. British Constitution

It was but natural that the Constitution of Great Britain exercised great influence on the makers of the constitution. Because India's long association with Britain, the leaders of the

nation were familiar the constitution of that country and its working.

Key features adopted from British constitution–

- Parliamentary form of government and Cabinet system
- Rule of Law
- Legislative procedure
- Bicameralism
- Parliamentary privileges

Some Other Sources	Features borrowed
US Constitution	<ul style="list-style-type: none"> <li>▪ Fundamental Rights</li> <li>▪ Independence of Judiciary and Judicial review</li> <li>▪ Post of Vice-President</li> <li>▪ Impeachment of the President</li> </ul>
Canadian Constitution	<ul style="list-style-type: none"> <li>▪ Federal polity with a</li> <li>▪ strong Centre</li> <li>▪ Appointment of Governors by the Centre</li> <li>▪ Vesting residuary powers in the centre</li> </ul>
Irish Constitution	<ul style="list-style-type: none"> <li>▪ DPSPs</li> <li>▪ Election of the president</li> <li>▪ Nomination of members to the Rajya Sabha</li> </ul>
Australian Constitution	<ul style="list-style-type: none"> <li>▪ Concurrent list</li> <li>▪ Freedom of trade, commerce and intercourse</li> <li>▪ Joint sitting of the two houses of parliament</li> </ul>
South African Constitution	<ul style="list-style-type: none"> <li>▪ Constitutional amendment procedure</li> <li>▪ Election of members to the Rajya Sabha</li> </ul>



#### 4. Preamble: outlining the value premises and vision of the Constitution

The Preamble is like an introduction or preface of a book. As an introduction, it is not a part of the contents but it explains the purposes and objectives with which the document has been written. So is the case with the 'Preamble' to the Indian Constitution. As such the 'Preamble' provides the guide lines of the Constitution.

The Preamble of the Constitution declares India a Sovereign, Socialist, Secular and Democratic Republic. Besides, it highlights Justice, Liberty, Equality and Fraternity as objectives of the Constitution. The words 'socialist' and 'secular' were added to the Preamble by the 42nd Constitutional Amendment Act of 1976.

In the Kesavananda Bharati case (1973), the Supreme Court held that Preamble is a part of the Constitution. It observed that the Preamble is of extreme importance and the Constitution should be read and interpreted in the light of the grand and noble vision expressed in the Preamble. In the LIC of India case (1995) also, the Supreme Court again held that the Preamble is an integral part of the Constitution.

#### 5. Sovereign

The word sovereign implies that India is neither a dependency nor a Dominion of any other nation but an independent state and it is free to conduct its own affairs, both internal and external. Sovereignty is one of the foremost elements of any independent State. A country cannot have its own constitution without being sovereign.

The Preamble to the Constitution declares India to be a sovereign country. The Dominion status of India established under the Independent Act of 1947 has been terminated and India is now a full-fledged state with all the characteristics of sovereignty. The sovereignty basically vests in the people of India. It is the people of India that are collectively sovereign.

The Constitution proclaims the sovereignty of the people in its opening words. The Preamble begins with the words: "We the people of India, having solemnly resolved to constitute India into a Sovereign Socialist Secular Democratic Republic..." This idea of popular sovereignty is reaffirmed at several places in the Constitution particularly in the chapters dealing with elections. Article 326 declares that the elections to the House of the People and to the Legislative Assembly of every state shall be on the basis of adult suffrage. As a result, governments at the Centre and in the States derive their authority from the people who choose their representatives for Parliament and the state legislatures at regular intervals. Further, those who wield the executive power of the government are responsible to the legislature and through them to the people. This principle is visible in Article 75(3) and 164(2) where it is written that the Council of Ministers shall be collectively responsible to the House of the People and Legislative Assembly of the State respectively.

However, India is still a member of the Commonwealth of Nations because of an agreement reached at the Commonwealth Prime Ministers' conference in London in April 1949 which, of course, is an extra-legal voluntary association. As a yet another essential attribute of sovereignty, India can acquire foreign territory (as was done by accepting Sikkim as a part of Indian Federation) and in case of necessity, can cede a part of its territory in favour of a foreign state (as was conceded by the Supreme Court of India on the implementation of the Indo-Pakistan agreement to Berubari Union and exchange of enclaves, AIR 1960 S.C 845.)

#### Socialist

The word 'Socialism' had been used in the context of economic planning. It signifies major role of state in the economy. It also means commitment to attain ideals like removal of inequalities, provision of minimum basic



necessities to all, equal pay for equal work. When you read about the Directive Principles of the State Policy, for e.g. Articles 38, 39, 39, 41, 42, 43 etc. you will see how these ideals have been incorporated as well as

partly implemented in the Constitution.

It is to be noted that the “socialism” envisaged by the Constitution is not the usual state socialism of Russian or Chinese variety which involves nationalisation of all the means of production, distribution, communication etc. The late Prime minister, Indira Gandhi, explained the nature of Indian socialism: “We have always said that we have our own brand of socialism. We will nationalize the sectors where we feel the necessity. Just nationalization is not our type of socialism.” The trend in India has been from a socialistic pattern of society as envisaged in the Avadhi session of Congress in 1955 to a Socialist State by the 42nd Amendment Act of 1976 and to the New Economic Policy of 1991. There has been a trend towards opening up of the economy in line with the world-wide trend. It is however argued, that the New Economic Policy of 1991 encompassing liberalization, privatization and globalisation has diluted the socialist credentials of the Indian state.

### Secular

The word ‘secular’ was added by the 42nd Amendment Act 1976 and it has been guaranteed in Articles 25-28 of Part III of the Indian Constitution, wherein every individual has the freedom to profess, practice and propagate his own religion subject to restrictions imposed by the state in the interest of public order, morality, health or for social reforms. The state protects all religions equally and does not itself uphold any religion as the state religion.

The then Law Minister, H.R. Gokhale (1976) defined the concept as – “there will be freedom, liberty of faith and worship, whatever religion you belong to, is all what you mean by secularism.” The state will treat each religion equally and it will not have any foundation of

religion. The Supreme Court of India has declared secularism to be a basic feature of Indian Constitution in the S R Bommai case 1994. Secularism, in a negative sense, is the anti-thesis of the communal or theocratic state which officially identifies itself with a particular religion. Pakistan, for instance, has proclaimed itself an Islamic state. In its positive aspect, a secular state treats all its citizens alike and gives them equal opportunities. In the context of secularism in India, it is said that ‘India is neither religious, nor irreligious nor anti-religious.’ Now what does this imply? It implies that in India –

- 1) The state gives equal protection to all religions.
- 2) The state does not uphold any particular religion as the state religion.
- 3) Freedom of Religion is guaranteed in the constitution.
- 4) Equal respect for all religions.

It is clear from the above that secularism enshrined in the Indian Constitution is based on the principle that the state has no religion.

In *Indira Nehru Gandhi vs Shri Raj Narain & Anr*; the Supreme Court of India had reaffirmed this principle. The Court said: “the state shall have no religion of its own”.

### Democratic

As you have noticed while reading the Preamble to the Constitution, the Constitution belongs to the people of India. The last line of the Preamble says ‘... Hereby Adopt, Enact And Give To Ourselves This Constitution’. In fact, the Democratic principles of the country flow from this memorable last line of the Preamble. Democracy is generally known as government of the people, by the people and for the people. Effectively this means that the Government is elected by the people, it is responsible and accountable to the people.

The democratic principles are highlighted with the provisions of universal adult franchise



under Article 326, free and fair elections conducted by an independent Election Commission under Article 324, fundamental rights, and responsible government.

### **Republic**

The Preamble also declares India as a Republic. Republic implies that the Head of the State (President in India) is elected by the people (though indirectly in India) and is not a hereditary ruler as in case of the British Monarch. Both India and UK are democracies and both follow Parliamentary system of government but there is a difference between them. India is a democracy as well as a Republic but UK is only a democracy and not a Republic. United States, on the other hand, is a democracy as well as a Republic just like India even though the method of election of the president is different in both the countries as US follows the Presidential system of government unlike the Parliamentary system in India.

### **Fundamental rights and Constitutional remedies**

Every human being is entitled to enjoy certain rights which ensure good living. In a democracy all citizens enjoy equal rights. The Constitution of India guarantees those rights in the form of Fundamental Rights enshrined in Part III of the Constitution from Articles 12 to 35.

These rights ensure the fullest physical, mental and moral development of every citizen. They include those basic freedoms and conditions which alone can make life worth living. Fundamental Rights generate a feeling of security amongst the minorities in the country. They establish the framework of 'democratic legitimacy' for the rule of the majority. No democracy can function in the absence of basic rights such as freedom of speech and expression.

Fundamental Rights provide standards of conduct, citizenship, justice and fair play. They serve as a check on the government. Various social, religious, economic and political

problems in our country make Fundamental Rights important.

Fundamental Rights are justiciable and are protected by the judiciary. In case of violation of any of these rights one can move to the court of law for their protection. Our Constitution does not permit the legislature and the executive to curb these rights either by law or by an executive order. The Supreme Court (under Article 32) or the High Courts (under Article 226) can set aside any law or executive order that is found to be infringing or abridging the Fundamental Rights. The Fundamental Rights though justiciable are not absolute. The Constitution empowers the government to impose certain restrictions on the enjoyment of our rights in the interest of public good.

Fundamental rights and their expansion since Independence Indian citizens, under the Constitution, were guaranteed six fundamental rights - the right to equality, right to freedom, right against exploitation, right to freedom of religion, cultural and educational rights, and right to constitutional remedies. However, since then, the Supreme Court has read the Right to Information, the Right to education, and the Right to Privacy and many more into various fundamental rights, and given a broad interpretation to the right to life under Article 21. Moreover, the Right to Property, which was originally a fundamental right, has been made a legal right under Article 300A.

Successive Supreme Court judgments and amendments have both upheld and expanded the scope of the protection afforded to Indian citizens under Part III of the Indian Constitution.

A key piece in the defence of fundamental rights is the Supreme Court's landmark judgement in 1973 in the Kesavananda Bharati case – outlining the basic structure doctrine of the Constitution. In a 7:6 majority, the 13-judge SC bench held that although Parliament had the power to amend any part of the Constitution of India, it could not use this power to alter or destroy the "basic structure" of the



Constitution– protecting citizens’ fundamental rights from alteration.

### **Right to food**

The right to food as a basic amenity has been interpreted as part of the right to life under Article 21 by the Supreme Court in multiple

judgements. The Centre has taken steps to incorporate this in their programmes. In 2013, the Manmohan Singh government passed the National Food Security Act to ensure that 75 per cent of the rural population and up to 50 per cent of the urban population receives subsidized foodgrains under Targeted Public Distribution System (TPDS).

### **Right to water, shelter and electricity**

Right to water, shelter and electricity have also been declared as part of Article 21. Right to clean drinking water, which has been suggested implicitly by the drafters of the Constitution of India as a fundamental resource, also finds several other mentions in the articles of the Constitution. Article 39 (b) and Article 47 task the State to make policies to distribute material resources among the people, raise nutrition levels and the standard of living of citizens and Article 262 empowers Parliament to make laws to solve inter-state river disputes. Article 51(A) tasks citizens with the fundamental duty of preserving the environment.

Similarly, the right to shelter has been declared a part of Articles 21. This right has been reinforced by several national laws -

Recognition of Forest Rights Act (2006), Right to Fair Compensation and Transparency in Land Acquisition Act (2013), Protection of Human Rights Act (1993), Slum Areas Act (1956), Street Vendors Act (2014) – and Supreme Court judgements.

In 2021, the Kerala High Court ruled that electricity connection was an integral part of the fundamental right to life (Article 21). The Court noted that this right has been reinforced by the Electricity Act, 2005 which mandates that a

distribution licensee must provide an electric connection to any applicant within one month

### **Right to education**

Free and compulsory education of children in the 6 to 14 age group became a fundamental right when Article 21-A was inserted in the 86th Amendment to the Constitution in 2002.

While Indians have been granted educational rights under Articles 29 and 30, the Government of India in 2009 passed the Right to Education Act granting free and compulsory education to all children of the age of six to fourteen years, devoid of any kind of fee or charges or expenses. Under the Act, no school is allowed to hold back or expel any student from the school till he completes elementary education. Physical punishment and mental harassment of children is also prohibited.

### **Right to Information**

The right to information has now been enshrined under Article 19, which guarantees the freedom of speech. Right to Information (RTI) Act was passed in 2005, empowering citizens to access government information and mandating a timely response to citizen requests for such data.

### **Right to privacy**

Holding that the right to privacy was “intrinsic” to the fundamental right to life under Article 21, a nine-judge Supreme Court bench in 2017 in *KS Puttaswamy* case paved the way for protecting Indian citizens’ privacy. The Supreme Court was hearing pleas challenging Aadhaar as a breach of privacy, informational self-determination and bodily integrity. While the Supreme Court has held that the Aadhaar card cannot be mandated as a personal form of identification by the government, several Central programmes collect citizens’ data via Aadhaar for various uses. To define privacy and to protect citizens’ personal data, the Government has recently passed Digital Personal Data Protection Act, 2023, though not brought in force yet.



### Directive Principles of State Policy

The Directive Principles of State Policy, which have been adopted from the Irish Constitution, is another unique feature of the Constitution of India. The Directive Principles were included in our Constitution in order to provide social and economic justice to our people. Directive Principles aim at establishing a welfare state in India where there will be no concentration of wealth in the hands of a few.

### Fundamental duties

The original Constitution did not contain the Fundamental Duties. It is a well-established saying that rights have significance only when enjoyed in consonance with the duties. Therefore, Fundamental duties were added to the constitution to make the citizens conscious of their duties while enjoying their rights.

These were added by the 42nd Constitutional Amendment Act of 1976 on the recommendation of the Swaran Singh Committee. Later, in 2002, one more fundamental duty was added by the 86th Constitutional Amendment Act of 2002. Consequently, there are, at present, 11 fundamental duties in the Constitution. These are contained in Article 51A of Part IV A. Like the Directive Principles, these are also non-justiciable—the Constitution does not provide for their direct enforcement. Moreover, there is no legal sanction against their violation.

### Parliamentary system of government

India has a parliamentary form of democracy. This has been adopted from the British system. In a parliamentary democracy, there is a close relationship between the legislature and the executive. Basic tenet of this form of government is that the executive is derived from the legislature and is responsible to it (as enshrined in Article 75). In fact, the executive holds office so long as it enjoys the confidence of the legislature.

In this form of democracy, the Head of the State (President in India) is a nominal head.

Constitutionally the President enjoys numerous powers but in practice it is the Council of Ministers headed by the Prime Minister, which really exercises these powers.

The President (as outlined in Article 74) acts on the advice of the Council of Ministers headed by the Prime Minister. Ivor Jennings called the parliamentary system as ‘cabinet system’ because the cabinet is the nucleus of power in a parliamentary system. It is also known as responsible government or

Westminster model of government. The Westminster System takes its name from the Palace of Westminster in London, where the Model Parliament of 1295 was held. England's Houses of Parliament are still at the Palace of Westminster.

Prime Minister has traditionally been described as ‘primus inter pares’ (first among equals) in relation to the cabinet. However, the kind of power and influence that the PM today exercises over the entire politico administrative system has prompted scholars like Crossman, Mackintosh and others to describe the parliamentary system of government as ‘prime ministerial government’.

### A Federal Polity

The Constitution of India provides for a federal government. A unitary government is one in which all the powers are vested in the Central government and the state governments, if at all exists, derive their authority from the Central government. A federal government, on other hand, is one in which powers are divided between the Central government (i.e. national government or federal government) and state governments by the Constitution itself, and both operate in their respective jurisdictions independently. The United States of America is a federation whereas the United Kingdom (Britain) has a unitary form of government.

The Constitution of India does not use the term ‘federal state’. Article 1 describes India is a ‘Union of States’. There is a distribution of powers between the Union/Central



Government and the State Governments. Since India is a federation, such distribution of functions becomes necessary. There are three lists of powers (contained in 7th schedule) namely Union List, State List and the Concurrent List.

### **Provision for independent agencies**

The Indian constitution provides for some

independent constitutional authorities for the benefit of the people. The Election Commission is an independent authority to conduct the elections fairly. Comptroller and Auditor General is an independent authority to ensure proper spending and accounting of public money. The Union Public Service Commission and State Public Service Commissions are provided by the constitution in order to recruit personnel to the public services at the Union and state level.

### **Criticism of the Indian Constitution**

The Constitution of India, as framed and adopted by the Constituent Assembly of India, has been criticized on the following grounds:

#### **Borrowed Constitution**

The critics opined that the Indian Constitution contains nothing new and original. They described it as a 'borrowed Constitution' or a 'bag of borrowings' or a 'hotch-potch Constitution' or a 'patchwork' of several documents of the world constitutions. However, this criticism is unfair and illogical. This is because, the framers of the Constitution made necessary modifications in the features borrowed from other constitutions for their suitability to the Indian conditions, at the same time avoiding their faults.

While answering the above criticism in the Constituent Assembly, Dr. B.R. Ambedkar, the Chairman of the Drafting Committee, said: "One likes to ask whether there can be anything new in a constitution framed at this hour in the history of the world. More than hundred years have rolled over when the first written Constitution was drafted. It has been followed

by many countries reducing their constitutions to writing. What the scope of a constitution should be has long been settled. Similarly, what are the fundamentals of a constitution are recognized all over the world. Given these facts, all Constitutions in their main provisions must look similar. The only new things, if there can be any, in a constitution framed so late in the day are the variations made to remove the faults and to accommodate it to the needs of the country. The charge of producing a blind copy of the Constitutions of other countries is based, I am sure, on an inadequate study of the Constitution"

Thus, regardless of criticism, the Constitution, because of its borrowed character, is like a bouquet with the best flowers picked up from different gardens. Different legal systems have evolved differently, giving rise to various legal principles as the fruit of evolution. The borrowings have been justified and well defended by the constitution-makers. As is widely quoted, Dr. B.R. Ambedkar said the following: "Nobody holds any patent rights in the fundamental ideas of the Constitution." Thus, borrowing provisions have helped the Constitution to build upon the collective learning of the humankind.

#### **Carbon Copy of the 1935 Act**

The critics said that the framers of the Constitution have included a large number of the provisions of the Government of India Act of 1935 into the Constitution of India. Hence, they called the Constitution as a "Carbon Copy of the 1935 Act" or an "Amended Version of the 1935 Act". For example, N. Srinivasan observed that the Indian Constitution is "both in language and substance a close copy of the Act of 1935". Similarly, Sir Ivor Jennings, a British Constitutionalist, said that "the Constitution derives directly from the Government of India Act of 1935 from which, in fact, many of its provisions are copied almost textually". Further, P.R. Deshmukh, a member of the Constituent Assembly, commented that "the Constitution is essentially the Government of

India Act of 1935 with only adult franchise added”.

### **Un-Indian or Anti-Indian**

According to the critics, the Indian Constitution is ‘un-Indian’ or ‘anti-Indian’ because it does not reflect the political traditions and the spirit of India. They said that the foreign nature of the Constitution makes it unsuitable to the Indian situation or unworkable in India. In this context, K. Hanumanthaiya, a member of the Constituent Assembly, commented: “We wanted the music of Veena or Sitar, but here we have the music of an English band. That was because our Constitution-makers were educated that way”

### **An Un-Gandhian Constitution**

According to the critics, the Indian Constitution is un-Gandhian because it does not contain the philosophy and ideals of Mahatma Gandhi, the father of the Indian Nation. They opined that the Constitution should have been raised and built upon village panchayats and district panchayats.

In this context, the same member of the

Constituent Assembly, K. Hanumanthaiya, said: “That is exactly the kind of Constitution Mahatma Gandhi did not want and did not envisage”. T. Prakasam, another member of the Constituent Assembly, attributed this lapse to Ambedkar’s non-participation in the Gandhian movement and the antagonism towards the Gandhian ideas.

### **Elephantine Size**

The critics stated that the Indian Constitution is too bulky and too detailed and contains some unnecessary elements. Sir Ivor Jennings, a British Constitutionalist, observed that the provisions borrowed were not always well selected and that the constitution, generally speaking, was too long and complicated. In this context, H.V. Kamath, a member of the Constituent Assembly, commented: “The emblem and the crest that we have selected for our assembly is an elephant. It is perhaps in

consonance with that our constitution too is the bulkiest that the world has produced”. He also said: “I am sure, the House does not agree that we should make the Constitution an elephantine one”.

### **Paradise of the Lawyers**

According to the critics, the Indian Constitution is too legalistic and very complicated. They opined that the legal language and phraseology

adopted in the constitution makes it a complex document. The same Sir Ivor Jennings called it a “lawyer’s paradise”.

### **Constitutionalism**

The concept of constitutionalism refers to a political regime governed by or under a constitution that necessitates limited government and rule of law as opposed to arbitrary or totalitarian rule. Constitution-(s), defines the basic structure of the government and the main organs of the state- (the legislature, the executive and the judiciary), defines their powers, their responsibilities, and regulates their relationships with each other and with the citizens.

Constitutional government, therefore, should necessarily be a democratic government, and a natural by-product of a written constitution. But, it is certainly conceivable that some countries (there have been many examples) may have the letter of written constitutions that are not really democratic. It can be said that they have the letter of constitutions but without the spirit of constitutionalism. Also, there are instances where there is no written constitution but democracy and constitutionalism prevail. Israel and U.K. are classic examples.

Constitutionalism normally implies that there are rules that create legislative, executive and judicial powers, but also that these rules impose limits on those powers. Constitutional limits come in a variety of forms. They can concern such things as the scope of authority (e.g. in a federal system, provincial or State Governments may have authority over health

care and agriculture while the federal government's jurisdiction extends to national defence and banking); the mechanisms used in exercising the relevant power or scope of civil rights through a defined List of Rights. Constitutionalism in this inclusive sense means that government can and should be limited in its powers.

Some scholars believe that constitutional rules do not exist unless they are in some way enshrined in a written document. Others argue that constitutions can be unwritten. Constitution is not only what is written in the text but is also the practice of functioning institutions. It constantly grows and evolves. Every constitution derives meaning and content only from the manner in which and the people by whom it is operated, the effects it acquires from how it is interpreted by the courts of the land and what conventions and practices grow around its operational norms, procedures and practices.

A democratic political system provides the inputs for constitutionalism to flourish. A political system that is in conformity with the principles of constitutionalism must necessarily, inter alia, provide restraints and limitations on the exercise of powers by the organs of the State.

Sovereignty belongs to the people but constitutionalism forbids the people from attempting political change through violent means. It attempts to lay down a system, of checks and balances. Separation of powers between the legislature, the executive and the judiciary is one such device and in case of federal systems, distribution of powers between different tiers of government, is another. Arbitrary powers in the hands of any individual or any institution - even if conferred by a constitutional document negate the concept of constitutionalism.

Rule of Law is to be understood as opposed to arbitrary rule of a person or a political party. Thus, Rule of Law is an essential prerequisite for democracy. The British constitutional expert

Dicey held that the rule of law' embraces four separate features. First, no one should be punished except for breaches of law. Second, there should be equal subjection to the law or "equality before law" Third, when law is broken, there must be a certainty of punishment. Finally, the rights and liberties of the individual should be embodied in the ordinary law' of the land. This would ensure that when individual rights are violated citizens can seek redressal through the judiciary.

In its broad sense, the Rule of law is a core western liberal-democratic principle, embodying ideas such as constitutionalism and limited government to which most modern states aspire.

According to some scholars, the essential characteristics of Rule of law are:

1. The supremacy of law, which means that all citizens and political regimes are subject to law thereby to restrictions on the exercise of arbitrary power.
2. A practice of justice which emphasises law based on standards and the importance of procedures.
3. The exercise by Parliament of the legislative power and restrictions on the exercise of such power by the executive.
4. An independent judiciary.

It can be stated without doubt that establishment of the Rule of Law and the spirit of Constitutionalism in the administration and governance of the country was definitely in the mind and spirit of our Constitution makers.

### **Political Culture**

Political culture includes the attitudes, beliefs, and values which underpin the operation of a particular political system. These were seen as including knowledge and skills about the operation of the political system, positive and negative emotional feelings towards it, and evaluative judgements about the system. Particular regional, ethnic, or other groups



within a political system with their own distinctive sets of values, attitudes, and beliefs were referred to as sub-cultures. A greater awareness developed over time in the literature of the importance of studying elite political cultures, given that the influence of individuals in the political process varies significantly. One of the principal objections to political culture is that it can be used as a 'garbage can variable' to explain anything which cannot be accounted for in any other way. Hence, whilst appearing to explain everything, it actually explains very little. Cultural explanations can, nevertheless, assist the understanding of how reactions to political events and developments may vary in different societies, while the analysis of sub-cultures remains important in understanding tensions and cleavages within particular societies.

Political culture can be defined as "The orientation of the citizens of a nation toward politics, and their perceptions of political legitimacy and the traditions of political practice," and the feelings expressed by individuals in the position of the elected offices that allow for the nurture of a political society.

### Definitions

Dennis Kavanagh defines political culture as "A shorthand expression to denote the set of values within which the political system operates".

Lucian Pye describes it as "the sum of the fundamental values, sentiments and knowledge that give form and substance to political process".

Political culture is how we think government should be carried out. It is different from ideology because people can disagree on ideology, but still have a common political culture. Political scientist Sidney Verba, describes political culture as a "system of empirical beliefs, expressive symbols, and values, which defines the situation in which political action takes place."

### What is Political Culture?

### Political culture as shared paradigms

One way to understand political culture is in terms of the shared paradigms that co-exist within a single particular society. This involves identifying the various cultures within the society other than the dominant culture. Some of the variables used to define a political culture are its paradigms about government, economics and morality. There are several distinctions which can be made in identifying political cultures. One distinction is whether it is a belief of the culture that its basic unit is the individual or the family.

Another distinction is to ask whether the concept of the culture is cooperative or competitive. Yet another distinction is whether the culture believes the society should be organized hierarchically or is egalitarian.

According to William Stewart, all political behaviour can be explained as participating in one or more of eight political cultures. They are Anarchism, Oligarchy, Tory corporatism, Fascism, Classical liberalism, Radical liberalism, Democratic socialism and Leninist socialism. Societies that exemplify each of these cultures have existed historically, however their historical placement is not of primary significance. These cultures have existed in some form in varying degrees for thousands to years, and still exist today.

### Political culture in India

Indian political culture has the peculiarity of being traditional in some, modern in some and also a curious hotchpotch of the two in certain other respects. People's attachment with the bonds of casteism, communalism, parochialism, tribalism and the like constitute a dear case of traditionalism in the Indian political culture, while movement for more and more educational and social reforms, for opportunities of employment, and for democratization of the decision-making process constitutes instances of the modern political culture that is a definite result of the dispersion of power in post-independence era. With the inauguration of a democratic and

secular system in the country under the Constitution, social and political institutions have come so close to each other that one has affected the other to a considerable extent.

The element of tradition in the political culture of India may be noted in several important directions. For instance, most of the people living particularly in the poor and backward parts of the country have faith in caste and communal ties with the result that election campaign is conducted on the lines of wooing their votes. If the element of tradition prevails in the rural and relatively backward parts of the country, the element of modernity in India's political culture may be seen in the language of the Constitution, the system of law and justice in the courts, composition and functioning of the legislative bodies, running of administrative machinery, role of the press and working of the political parties. In other words, modernity "expresses itself in policies and interests, programmes and plans, arguments and representations, discussions and demonstrations, deliberations and decisions".

In a democratic, secular and socialist system of India the phenomenon of elite versus mass political culture may also be taken note of. While the elite political culture is a legacy of the foreign colonial rule, the emerging mass political culture is a consequence of the freedom struggle. The former may also be called 'defensive political culture in view of the fact that it is very critical of the success of a popular system in which decision-making process is shared by more and more people of the country. It has been the ruling culture of the country and its manifestation may be noticed in its unwillingness to share power with the common lot. Naturally, the leaders of the emerging mass culture condemn the class of the elites as the hand of exploiters' and strive as well as struggle for their participation in the avenues of power. They take inspiration from the forces of tradition, but they also desire to take advantage of the advanced political and administrative apparatus of the country. To them government is no longer a thing to be

feared, it is an instrument that they should handle themselves for their political ends. As Weiner says, "Under the new democratic structure political leadership is often torn between attractions of the older pattern of aloofness and the new requirement of intimacy with citizens. One important consequence of this change and of the greater developmental activities pursued by the government is that the punitive image of government which was so prevalent in the pre-independence era is rapidly being replaced by a more instrumental view. Rural people are developing high expectations with respect to the services government can perform for them".

Both kind of political cultures are neither wholly traditional nor wholly modern, they are a complex amalgamation of traditional and modernity nor, for this reason, both feed and fatten on each other. Those subscribing to the elite culture have realized that they have to make rapport with the emerging mass culture and those subscribing to the 'mass culture' have taken it for granted that they cannot remain in positions of power and influence without having some kind of rapport with the elite culture of the country. Though, several factors such as religion, caste, language ethnicity etc, divide people, the politicians of diverse 'hues' join together in a common search for prestige and power. Different kinds of loyalties cut across each other and politics plays the role of a great unifier. When such persons manage to secure control of the national government, they face the formidable task of making the emerging mass political culture acceptable to the national elite while, at the same time, they make intelligent modification in their own 'mass culture' so that it is truly conducive both to modernization and a stable democratic system."

### **Bureaucracy and Democracy**

In most western countries bureaucracy and democracy developed simultaneously and the role of two towards each other has been supportive as well as antagonistic. Thus, in words of E. Etzioni Halevy, "the role of

bureaucracy in a democracy is problematic because this is precisely one of the areas in which the democratic rules of the game are ill defined, ambiguous, self-contradictory and controversial." Bureaucracy and democracy are often considered antithetical properties of political systems. But it is also true and there is enough evidence to show that it has furthered the cause of freedom.

Weber noted that democratic movements demanding equality before the law and protection against arbitrary excess of legal and administrative authority helped the development of bureaucracy. These movements demanded recruitment to public services based on merit, rather than personal or political considerations.

Further, Weber says, democracy is basically opposed to the rule of bureaucracy because the latter concentrates power in the hands of those who are in charge of bureaucratic machinery and that such a concentration of power is against the basic premises of the former. It is particularly so when experts or technocrats are removed from the influence of popular public sentiments. Like Weber, the Marxists held that the bureaucratic tendencies i.e., the transfer of administrative power to a special stratum of experts, are a definite challenge to democratic principles.

The problem, as stated above, is more acute in the developing countries which after liberation from colonial rule, were to take up the task of rapid economic development. There appeared to be some incompatibility between rapid economic development on the one hand, and democratic political development on the other. In this matter, Riggs rightly stated that the price of democratic development might have to be slower development in the economic sphere. In fact, bureaucracies had to be strengthened in the framework of democratic system, so that both can work together.

In developing countries, the emergence of overpowering bureaucracies is a fact of life. Writing on the proposition - bureaucracy vis-a-

vis democracy - E. Etzioni Halvey puts three dimensions of the problem.

- First, there is an intrinsic connection between the two, although it is of paradoxical or self-contradictory nature.
- Second, the growing power of bureaucracy does pose a threat to democracy.
- Thirdly, a modern democracy cannot exist without a relatively powerful and independent bureaucracy.

Bureaucracy poses a threat to democracy because:

1. It may serve as a tool for enhancing state domination.
2. Bureaucracy has gained the potential of encroaching on the autonomy, liberty and privacy of the individual.
3. Bureaucracy is intent upon guarding information and preserving the utmost secrecy in into domain.
4. Bureaucracy has gradually gained the potential to exempt itself from the control of elected politicians.

Many and varied criticisms levelled against bureaucracy are arrogance, self-complacency, obsession with rules and routines, ignoring the human aspect, red tapism, indifference to democratic institutions, processes, etc.

It should be noted that bureaucracy and democracy are complementary to each other. Thus, bureaucracy should not be used as a term of abuse or condemned. Its contribution to governmental administration and development is not insignificant. In fact, it has made administration more efficient, rational, impartial and consistent than was the case in earlier times.

In the modern age of democratic set-up, bureaucracy is indispensable. Researches in social psychology and the working of different bureaucratic systems have resulted in further refinement of the earlier analysis of



bureaucratic organization. In the words of Herbert Morrison, 'Bureaucracy is the price of parliamentary democracy'. What is needed is to guard against its characteristic defects and to subject it to a continuous stream of instructive and effective criticism. Bureaucracy, in brief, has to be kept under control. Someone has aptly remarked that bureaucracy is like fire – invaluable as a servant, ruinous when becomes the master.

### **Safeguards against Bureaucratic Threat to Democracy**

Different scholars have approached the problem of overpowering bureaucracy's threat to in different ways. Some scholars suggest representative bureaucracy' or 'balanced bureaucracy' or participatory bureaucracy as desirable structures to safeguard.

#### **Representative Bureaucracy**

Paul P. Van Riper attributed the success of American democracy in part at least to the representative character of the federal civil service. He considers representative bureaucracy to be more responsive public needs, although several scholars consider additional factors also helping like American Bureaucracy cherishing common values which are part of the nation's socio-political consensus, egalitarian ethos of American society etc. According to Paul P. V Riper a representative bureaucracy must "(a) consist reasonable cross section of the body politic in terms of occupations, class, geography and the like, and (b) must be in general tune with the ethos and attitudes of the society of which it is a part. In social, economic, geographic, education, ethnic, religious and racial characteristics, American bureaucracy is essential mirror of the nation. To a large extent American system does succeed in building a bureaucracy which is, representative. Some students of the system declare that the American bureaucracy is more representative of American society than is the elected Congress.

#### **Balanced Bureaucracy**

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David Nachmias and David H. Rosenbloom think that in order for a public bureaucracy to be integrated, fully and effectively, into a democratic regime, it must be in a state of balance. "A bureaucracy is in imbalance when it fails to operate on the basis of democratic consent. Bureaucratic imbalance may be either despotic or subservient. Despotic implies that the bureaucracy is too much the master while subservient implies that it is too much the servant." Such a balance consists of the following elements (i) widespread knowledge about the bureaucracy, (ii) a feeling that the public's self-interest is being served by the bureaucracy and (iii) a feeling that the bureaucracy provides equal treatment and, (iv) bureaucracy must have are adequate prestige value.

Riggs, however, uses the terms "balanced Polity" and "imbalanced Polity", instead. For him, when a reasonably stable balance of power exists between a bureaucracy and constitutive (meaning political system) system, we may refer to the resultant form of government as a 'balanced polity.

#### **Participatory Bureaucracy**

The US and several West European political systems are, to an extent attempting reforms called 'participatory bureaucracy' to achieve political responsiveness and efficiency in public bureaucracies. Participatory bureaucracy consists of four major elements: (i) Representation i.e. a high level of social representativeness in a national bureaucracy (being attempted in India, US, Israel etc.) (ii) Organisational i.e., participation by bureaucratic employees in decisions concerning the structuring of work, personnel matters and the nature of public policy (iii) Bureaucrats may be allowed and even encouraged to contribute freely to public debate on matters of public policy, It would provide citizens with better knowledge about the operation, character and perspectives of national bureaucracy, (iv) it requires citizen participation in bureaucratic policy making. In principle it applies in all cases but it is

especially in the case of those citizens who affected most by bureaucratic decisions in any are given policy area. These elements can be integrated into a coherent approach for contributing to the resolution of tensions between democracy and bureaucracy that will help making bureaucracy more politically responsive to the citizens and more efficient in its operations. There is a strong internal logic to 'participatory bureaucracy'. The inability to render national bureaucracies completely apolitical wrongly suggests that if is to be safeguarded bureaucracies must be socially representative. Subash Sharma proposes four hypotheses and tries to test them in the context of India.

First hypothesis is that in a democracy, decision-making is done by political executive and its implementation is done by the bureaucracy, therefore, it is up to the political executive how to use and control the bureaucracy.

Second hypothesis is that in a democratic nation of the third world usually characterized by political instability and immaturity, a permanent and well-structured bureaucracy is required to ensure unity and integrity of the nation.

Third hypothesis is that in an egalitarian and asymmetrical society, where caste, religion, ethnicity, region and language play a significant role in everyday life, the upper classes and elites do not, and will not, allow the deprived, excluded oppressed and marginalized lower groups to share the economic, social and political power, and therefore, bureaucracy is needed to impartially and neutrally serve the interests of all, especially the poor.

Fourth hypothesis is that in any form of government, especially wherein any common man or woman may be elected in periodic general elections, bureaucracy provides specialized professional service in policy formulation as well as policy implementation.

To conclude, the design of a public bureaucracy and its capacity to administer public policies

effectively hinges on the capacity of representative institutions to maintain their authority and effective control over appointed officials. When such control evaporates (or fails to evolve) because of the weakness of representative institutions and/or the resulting maladministration of public policies, democratic government will almost surely collapse.

Moreover, in the design of public bureaucracies, it is important to establish structures that will enhance the power and authority of public officials enough to enable them to administer well but not so much as to enable them to seize power when great crises severely test the capabilities of the institutions of representative governance.

### **Bureaucracy and Development**

Bureaucracy and development have been famous and complex terms. The role of bureaucracy in development has been controversial and debatable. Bureaucracy represents static and rigid values while Development advocates for dynamic (moving) values. It was in the post war period that and both development consciousness and developmental efforts are developing independent of bureaucracy. The growth of sound Bureaucracy has been considered unavoidable for development. In a developing country like India, both development efforts and bureaucracy have functioned together for over six decades.

### **Nature of Development**

There is no agreed meaning for the term development. The simplest meaning of the term development found in dictionaries is in its end orientation. Development is defined into à better, fuller, higher and mature condition. The main tendency, however, among many theorists is to consider development as an endless activity. Weidner, for example, considers development as a state of mind, a tendency, a direction rather than a fixed goal. It is a rate of change in a particular direction. Moreover one of the complete definitions has been forwarded



by Riggs. He believes that development is a process of increasing autonomy (discretion) of social systems, made possible by rising level of diffraction. Here he considers discretion or autonomy to mean, ability of systems to choose from the environment as well as to affect the environment. In the simpler words, development in a country or in any other system, when there is an increase in the variety of activities and institutions based on division of labour and specialization which are well coordinated and integrated and in turn increase the ability of that system to act autonomously in relation to its environment. In the post war period, the development also meant a state directed and planned effort towards change. Therefore, development is a process of overall change of the society under mainly state directed and planned efforts.

#### **Nature of Development Bureaucracy**

Bureaucracy, popularly, is seen as the civil service or entire public administration machinery of a country. Public administration derives its meaning from its end orientation.

That is, it is an instrument for delivering the national goals. Here, the cause-and-effect relationship arises between development of administration and administration of development. Both these are part of Development Administration.

Referring to Weidner, it can be safely presumed that Development Bureaucracy (DB/DA) is the process of guiding an organisation towards the achievement of progressive political, economic and social objectives that are authoritatively determined in one manner or another from a comprehensive point of view. Panandhikar believes that the essence of DB is holistic change undertaken through integrated, organised and properly directed governmental action. DB can be understood from the perspective of two major dimensions i.e. Administration of development and Development of Administration

#### **The nature of development of administration:**

Development of Administration of Administrative Development can be generally defined as a pattern of increasing effectiveness in the utilisation of available means to achieve pre-defined goals. Two major dimensions of Administrative Development are:

- The re-patterning of administrative structure
- The re-patterning of bureaucratic behaviour

#### **Nature of bureaucracy**

Bureaucracy has been one of the most notorious words of our days. It has eluded universal definition. Though Max Weber is credited with providing a comprehensive outline to the term bureaucracy, the controversial nature, diversity of definition and lack of unanimous view on bureaucracy has led Martin Albrow to suggest that instead of investing time and energy to precisely define bureaucracy one should treat the term at a kind of sign post concept. The term bureaucracy has been used to refer to:

- Rational organisation
- Organisational efficiency
- Rule by officials
- Public Administration
- Administration by officials
- The Organisation
- The Modern Society
- The Top Civil Service

Therefore, the meaning of bureaucracy is dependent on the intention of the user.

#### **Role of Indian Bureaucracy in Development**

The role of civil service has changed significantly from the pre-independence days to the current times. This to a large extent has been driven by the changing external factors and the nature of domestic responsibilities. Prior to

Independence, the main responsibility of the civil service was to maintain law and order and manage revenue administration. For an effective discharge of duties, civil servants, back then, were required to possess simple skills of regulatory administration.

In today's context, the role of the civil service is constantly evolving with changing times. In the '1950-90' period, the civil servants had to essentially deal with developmental issues and hence, were required to possess and continuously acquire new skills relating to development administration. In the present post-globalized context civil servants are responsible for regulation of the private sector and the market, formulation of socio-economic and political policies; elimination of poverty; effective monetary and fiscal management; elimination of social inequities; participation in international negotiations and management of Public Sector Enterprises (PSEs). This has made the job highly challenging and requires a high degree of flexibility and competence on the part of the civil servants.

Civil servants of the pre-independence era reported to their British bosses, who in turn were not accountable to the public. Now, civil servants work within the boundaries of a democratic system, and report to elected members of the public. In addition, today's environment is characterized by an ever so vigilant press, public and alert legislatures, which make the working of civil servants all the more accountable. Over a period of time, the role of civil service has transformed from regulatory to developmental and currently as a facilitator for the efficient delivery of public services.

Towards Ethical Governance Ethical governance (another name for good governance) requires public officials to adhere to the principle of serving others by setting a high standard of moral conduct and by considering their jobs as a vocation. The objective is to create an atmosphere that motivates officials to respond to the challenges of government by adhering to their notion of duty and service to the community, as well as taking responsibility for the welfare of others. In order to achieve this objective, we do need to build the capacity of moral reasoning and ethical behaviour in our public service system. Without encouragement, reinforcement,

resurrection and strengthening of some articles of faith (drawn from the societal values, cultural traditions, and spiritual ideals), the system of governance is never going to be ethical despite penalties for non-compliance of laws.

We would, therefore, argue that in a democratic society, like India, a concern for democratic values should be paramount in the way we think about systems of governance. Values such as efficiency and productivity should not be lost, but should be placed in the larger context of democracy, community, and the public interest.

In terms of the normative models, we have examined here, the New Public Service clearly seems most consistent with the basic foundations of democracy in this country and, therefore, provides a framework within which other valuable techniques and values, might be played out. The New Public Service provides a rallying point around which we might envision a public service in India based on and fully integrated with civic discourse and the public interest.

### Past Year Questions:

**Q.1 The Government of India Act 1935 is the most important source of Indian constitution identify its features. (2022)**

**Answer:** The Government of India Act 1935 indeed played a significant role in shaping the constitutional development in India. While it is not the most important source of the Indian Constitution, it did have a substantial influence on the framing of the Constitution. Here are some of the notable features of the Government of India Act 1935:

- **Federal Structure:** The Act introduced a federal system of government in India, dividing powers between the central government and the provinces (states). It established a dual polity, with separate jurisdictions and responsibilities for the federal and provincial governments.
- **Division of Legislative Powers:** The Act assigned specific legislative powers to the federal and provincial

legislatures. The federal legislature had exclusive authority over specific subjects, while the provinces had the power to legislate on others.

- **Governor's Role:** The Act introduced the office of the Governor in the provinces, who acted as the constitutional head and representative of the British Crown. The Governor had powers related to the administration, legislation, and control of the provinces.
- **Provincial Autonomy:** The Act granted increased autonomy to the provinces, allowing them to have their own executive councils and legislatures. The provinces had the power to make laws on certain subjects and administer their affairs to a significant extent.
- **Central Government Powers:** The Act established a central government with significant powers and responsibilities. It had control over key subjects such as defense, foreign affairs, and finance. The central government was headed by the Governor-General and was responsible for the overall administration of British India.
- **Provincial Elections:** The Act introduced the concept of provincial elections, allowing for a limited form of representative government at the provincial level. It provided for the establishment of legislative assemblies in the provinces, with a system of indirect elections.
- **Judiciary:** The Act made provisions for a separate judiciary at the federal and provincial levels. It established Federal and Provincial Courts, with powers to interpret and enforce laws within their respective jurisdictions.
- **Separate Electorates:** The Act introduced the system of separate electorates, which divided voters along religious lines. It provided separate representation for Muslims, Sikhs, and other religious communities.

While the Government of India Act 1935 influenced the constitutional development in

India, it is important to note that the Indian Constitution, adopted in 1950, drew upon various sources including the Government of India Act 1935, the Indian Independence Act 1947, and the recommendations of the Constituent Assembly. The Indian Constitution is a distinct document that reflects the aspirations and values of the Indian people.

**Q.2) As Dr Bhim Rao Ambedkar observed, “the text of the constitution can provide the organs of the state. But the final outcome of the governance progress depends on how it has operationalized by the political parties and people.” Elucidate the statement. (2015)**

**Answer:** Dr. Bhim Rao Ambedkar's observation highlights the crucial role of political parties and the people in operationalizing the provisions and principles laid out in the text of the constitution. Here's an elucidation of the statement:

- **Constitution as a Framework:** The constitution provides the legal framework and structure for the functioning of the state, including the organs of governance such as the executive, legislature, and judiciary. It establishes the principles, rights, and responsibilities that guide the actions of these institutions. The text of the constitution sets the foundation for governance, but its practical implementation depends on the actions and decisions of political parties and the engagement of the people.
- **Political Parties as Implementers:** Political parties play a critical role in operationalizing the constitution by assuming positions of power within the government. They translate the constitutional principles and values into actionable policies, laws, and administrative measures.
- **Political Will and Leadership:** Effective governance requires political will and leadership from the ruling political parties. Political leaders, driven by their vision and ideologies, determine the priorities, agenda, and direction of governance. They have the power to shape and influence the

outcomes of governance, aligning them with the constitutional objectives.

- **Public Participation and Accountability:** The people, as citizens, have a crucial role in operationalizing the constitution through active participation and engagement in democratic processes. They exercise their rights and fulfill their responsibilities by voting, holding political parties accountable, and actively participating in public discourse.
- **Social Movements and Civil Society:** The role of civil society organizations and social movements is significant in operationalizing the constitution. They advocate for the rights and interests of marginalized groups, monitor governance, and hold political parties and governments accountable. Civil society organizations contribute to policy formulation, raise awareness, and act as watchdogs to ensure the constitution's ideals are upheld in practice.

In summary, while the text of the constitution provides the framework and organs of the state, the ultimate outcome of governance depends on how it is operationalized by political parties and the engagement of the people. Political parties, through their actions and decisions, translate constitutional provisions into practical governance outcomes. The active participation of citizens, civil society organizations, and social movements ensures that governance aligns with the constitutional objectives.