

Intermediate

Second Year Text Book

Civics

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Reprint

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Y.S. JAGAN MOHAN REDDY



**CHIEF MINISTER
ANDHRA PRADESH**

AMARAVATI

I congratulate Akademi for starting its activities with printing of textbooks from the academic year 2021 – 22.

Education is a real asset which cannot be stolen by anyone and it is the foundation on which children build their future. As the world has become a global village, children will have to compete with the world as they grow up. For this there is every need for good books and good education.

Our government has brought in many changes in the education system and more are to come. The government has been taking care to provide education to the poor and needy through various measures, like developing infrastructure, upgrading the skills of teachers, providing incentives to the children and parents to pursue education. Nutritious mid-day meal and converting Anganwadis into pre-primary schools with English as medium of instruction are the steps taken to initiate children into education from a young age. Besides introducing CBSE syllabus and Telugu as a compulsory subject, the government has taken up numerous innovative programmes.

The revival of the Akademi also took place during the tenure of our government as it was neglected after the State was bifurcated. The Akademi, which was started on August 6, 1968 in the undivided state of Andhra Pradesh, was printing text books, works of popular writers and books for competitive exams and personality development.

Our government has decided to make available all kinds of books required for students and employees through Akademi, with headquarters at Tirupati.

I extend my best wishes to the Akademi and hope it will regain its past glory.

(Y.S. Jagan Mohan Reddy)

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M.A., M.Phil., Ph.D.

Chairperson, (Cabinet Minister Rank)
Telugu and Sanskrit Akademi, A.P.



Message from Chairperson Telugu and Sanskrit Akademi A

In accordance with the syllabus developed by the Board of Intermediate, State Council for Higher Education, SCERT etc., we design high quality Text books by recruiting efficient Professors, department heads and faculty members from various Universities and Colleges as writers and editors. We are taking steps to print the required number of these books in a timely manner and distribute through the Akademi's Regional Centers present across the Andhra Pradesh.

In addition to text books, we strive to keep monographs, dictionaries, dialect texts, question banks, contact texts, popular texts, essays, linguistics texts, school level dictionaries, glossaries, etc., updated and printed and made available to students from time to time.

For competitive examinations conducted by the Andhra Pradesh Public Service Commission and for Entrance examinations conducted by various Universities, the contents of the Akademi publications are taken as standard. So, I want all the students and Employees to make use of Akademi books of high standards for their golden future.

Congratulations and best wishes to all of you.

(Nandamuri Lakshmi Parvathi)
Chairperson
Telugu and Sanskrit Akademi, A.P

J. SYAMALA RAO I.A.S.,
Principal Secretary to Government



er to e r t e t
Government of Andhra Pradesh

I Congratulate Telugu and Sanskrit Akademi for taking up the initiative of printing and distributing textbooks in both Telugu and English media within a short span of establishing Telugu and Sanskrit Akademi.

Number of students of Andhra Pradesh are competing of National Level for admissions into Medicine and Engineering courses. In order to help these students Telugu and Sanskrit Akademi consultation with NCERT redesigned their Textbooks to suit the requirement of National Level Examinations in a lucid language.

As the content in Telugu and Sanskrit Akademi books is highly informative and authentic, printed in multi-color on high quality paper and will be made available to the students in a time bound manner. I hope all the students in Andhra Pradesh will utilize the Akademi textbooks for better understanding of the subjects to compete of state and national levels.

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WE, THE PEOPLE OF INDIA, having
solemnly resolved to constitute India into a
[SOVEREIGN SOCIALIST SECULAR
DEMOCRATIC REPUBLIC] and to secure to all
its citizens:

JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith
and worship;

EQUALITY of status and of opportunity; and
to promote among them all

FRATERNITY assuring the dignity of the
individual and the [unity and integrity of the
Nation];

IN OUR CONSTITUENT ASSEMBLY this
twenty-sixth day of November, 1949 do HEREBY
ADOPT, ENACT AND GIVE TO OURSELVES
THIS CONSTITUTION.

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The role played by the Akademi in stabilizing Telugu Medium at the level of Higher Education since its inception (1968) is well known. The Akademi has rendered needful services by publishing a number of Text Books, Reference Books, Translations, Popular Series, Monographs, Dictionaries, Glossaries, Readings, etc., over the years.

Many among the above mentioned books were also reprinted as per the demand. Sincere effort is being made to improve the quality of these books by conducting workshops, refresher courses and also by taking suggestions given by the intellectuals in general and the students and the teachers in particular.

Akademi has been revising and updating its publications in accordance with the prescribed syllabi, as and when necessary. Akademi is publishing Text Books for Intermediate in Telugu Medium since its inception. In addition, the Akademi has entered a new phase of activity with the publication of language books from the year 1995, and preparation and publication of Intermediate Text books in English medium from the year 1998, as entrusted by the Board of Intermediate education.

For the academic year 2014-15, the Board of Intermediate Education has revised the syllabus of all Humanities Text Books for first year of Intermediate and entrusted the preparation, printing and distribution of Text Books to Akademi. Accordingly, Akademi prepared this Text Book strictly in accordance with the prescribed syllabus for the academic year 2014-15.

We are indeed very much grateful to the Government of India, State Government, State Universities, the Board of Governors of Telugu and Sanskrit Akademi. We also thank the Commissioner, Intermediate Education and Secretary, Board of Intermediate Education of Andhra Pradesh. We are also very much grateful to Text Book Development Committee of the subject concerned for their valuable cooperation.

Constructive suggestions are solicited for the improvement of this book. The suggestions received will be examined and incorporated in the subsequent editions.

Sri amakris na I.R.S
Director
Telugu and Sanskrit Akademi
Andhra Pradesh

Preface

The formation of Andhra Pradesh and the conditions prevailing in the state since then necessitated the revision of Civics text book. This text book on “Indian Government and Polity” conforms to the revised syllabus prescribed by the Board of Intermediate Education, Government of Andhra Pradesh, Hyderabad with effect from the academic year 2015-2016 for the students of Intermediate Second Year Course. This book aims at acquainting the students with the various aspects of Indian Government and Polity.

There are thirteen chapters in this book. The First Chapter deals with the matters relating to the Indian Constitution. The Second Chapter discusses at length about the Fundamental Rights of Indian Citizens, Directive Principles of State Policy, Fundamental Duties. The Third, Fourth and Fifth Chapters throw light on the various aspects of Union Executive, Union Legislature and Union Judiciary in Indian Polity. The Sixth, Seventh and Eight Chapters relate to the matters of the State Government. The Ninth focusses its attention on the Union-State Relations. The Tenth Chapter highlights its attention on the Rural and Urban Local Governments in India in addition to the role of District Collector. The Eleventh Chapter relates to the Elections, Electoral Process, Representation and Electoral Reforms. The Twelfth Chapter discusses the Political Parties, National and Regional Political Parties in India. The Thirteenth Chapter traces the recent developments in A.P and India.

On the occasion of the bifurcation of Andhra Pradesh into Andhra Pradesh and Telangana States, the Chief Editor and the Authors are pleased to inform the students and teaching faculty that many efforts are made to incorporate the latest developments and matters on the topics in various chapters. It seems that some matters and issues are detailed in some chapters and limited in some other chapters. In our impression, this book will help the students to acquire relevant knowledge on the Union and State governments and administrative systems and enable them to attend the competitive examinations with confidence and success.

The team of editors and authors thank the teachers who rendered valuable suggestions during the preparation of the manuscript. They make humble appeal to the teaching faculty and beloved students to bring to their notice any errors and discrepancies so that they will be rectified in the future edition. Any suggestion for improving the quality of the book is appreciated with due regards

EDITOR

re a e t e e ie ed diti n

The text book on *Civics* for second year students of Intermediate, published around 2015, made a fairly good attempt to apprise the student, the basic and essential elements of political features of Indian Republic. Since then, there have been many changes in the polity and the dynamics of various structures at Union, state and local governments which need to be closely examined. This text provides an overview of the political institutions and elaborates the salient features of the Indian Constitution.

In the annexures, brief snippets have been provided for major political and constitutional events and the details provided in the form of Tables have been updated with the current functionaries of various political offices at the Central, State and other autonomous bodies.

The State of Andhra Pradesh also got a new identity and had to encounter numerous practical issues during the last eight years. The review has been extremely limited exercise and the student will get to know the factual information about major Office bearers and political luminaries. We hope that the student would be motivated and inspired to probe the developments further and be ready for further learning and contribute to progressive and enlightened India.

We thank the Director, Research Officer and other supporting staff of Telugu Akademi for taking initiative to print the book and helping us in all possible ways to do our best in a short time.

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 a. High Court – Composition, Powers and Functions
 b. District Courts – Composition, Powers and Functions
 c. The State Advocate General

a. **Central Government - Union Territories** (09 Periods)

- a. Legislative, Administrative and Financial Relations
- b. Finance Commission and Planning Commission
- c. Other Commissions and Councils

a. **State Government - Local Governments in India** (12 Periods)

- a. Rural Local Bodies - Panchayat Raj Institutions - The Constitution (Seventy Third Amendment) Act
- b. Urban Local Bodies - Nagar Panchayats, Municipalities and Municipal Corporations - The Constitution (Seventy Fourth Amendment) Act
- c. District Collector - Powers and Functions

a. **Electoral System and Representation** (10 Periods)

- a. Elections - Electoral System in India
- b. Election Commission of India
- c. Representation - Electoral Reforms

a. **Political Parties** (10 Periods)

- a. Political Parties - Party System - Types of Political Parties
- b. Major National Political Parties in India
- c. Major Regional Political Parties in India

a. **Re-Organization of States and Human Rights in India** (10 Periods)

- a. Re-Organization of States with special reference to Andhra Pradesh
- b. Human Rights Commissions in India
- c. Right to Information Act -2005

CHAPTER 1



The Constitution of India

- 1.0 The Constitution
- 1.1 Elements of a Constitution
- 1.2 Indian Constitution – Its Historical Background
- 1.3 Making of the Constitution
- 1.4 Sources of the Constitution
- 1.5 Preamble of the Constitution
- 1.6 Salient features of Indian Constitution
- Summary
- Questions



1.0 The Constitution

In the First chapter we shall discuss different aspects pertaining to the Constitution like what is Constitution, how does it function, the historical background of the Indian Constitution making of the Constitution, sources of Indian Constitution, preamble of the Constitution and salient features of the Constitution. In the subsequent chapters you will know that the various aspects of the functioning of Constitution.

Before you start reading about the structure of the Government at the national, state, and local levels, their inter relationship, it is necessary that you understand, what is a Constitution? Why do we need it? How does it function? What are the factors that influenced the framing of the Constitution? What is its philosophy?

After studying this chapter, you will be able to know to get to know the fact that, why all modern societies are governed by the Constitutions. What is a Constitution? How the Constitution establishes the relationship between the government and the governed? How was the Indian Constitution framed? And so on.

The celebrated Greek Political Scientist, *Aristotle*, observed that ‘man is a social animal’. He further added that ‘Man is a political animal too’. Since, time immemorial, human beings are leading social life. It leads to inter-personal and inter-group relationships among them and it resulted in the evolution of society. As a member of the society, human being is governed by a set of mutually agreed upon rules and regulations. In the absence of a consensus among the people about the need to observe some basic principles, life becomes insecure and unpleasant. So, in the common interest of the society, a set of norms are to be worked and enforced authoritatively. That set of rules which ensure peace and well being of the society constitute a Constitution.

The political institution that governs the society is called State. India, Pakistan, Bangladesh, Sri Lanka, China, The United States of America (USA), Japan, Russia, The United Kingdom (UK), France, Germany, etc., are some examples of modern states. All the states provide for themselves a blue print to manage the things. The Constitution determines the general structure of the State which forms the skeleton. Now, we can define the Constitution as ‘A supreme document that regulates the relationship between the governed (people) and the Government’. The Constitution may be a written instrument enacted at a given time by a sovereign power as in case of India; or a combination of customs, traditions, judicial decision and legislative acts as in case of the United Kingdom. The Indian Constitution is said to be written, while the Constitution of the UK is considered to be unwritten. Of course, no Constitution is completely written or unwritten and all are a combination of both.

1.1 Elements of the Constitution

The Constitution has the following functions

1. The Constitution prescribes a set of basic rules that ensure coordination amongst the members and groups of a society. The Constitution specifies the basic allocation of power in a society. It decides who frames the laws. For example, in a democratic country, like, India, the people through their elected representatives make the laws. On the other hand, in People’s Republic of China, the Communist Party wields the power, and it actually makes the laws. In a Monarchy, like, Saudi Arabia, the King decides the nature of law. On the whole in India, the Constitution enjoins the Parliament/state legislature to enact laws.
2. It specifies the structure of the Government and its limitations of the modern governments are made up of three organs, viz., legislature, executive and judiciary. While the legislature frames the laws within the limits set by the Constitution, the executive- The President or Governor, the Council of Ministers headed by the Prime minister or Chief Minister, would be taking policy decisions as per the guide lines provided by the Parliament or legislature. In other words, the Constitution sets in motion the actions to be pursued in

public interest. It spells out the relations among the three organs of the Government. The judiciary, by interpreting the law would set limits to the powers of the Parliament and the Council of Ministers. It is through the judiciary, the Constitution ensures limited and responsible government. For example Article 13 of the Indian Constitution establishes the supremacy of the Constitution.

3. The Constitution, as mentioned in the beginning, establishes the relationship between the ruled and the rulers. Fundamental Rights and Fundamental Duties spell out in detail the mutual obligations of the citizens and the state. Part III and Part IVA of the Indian Constitution bind the state and the citizens towards each other.
4. Every society has certain aspirations and goals. The State came into existence to fulfill the bare needs of the people and continues to exist for the good life of all. It is the Constitution which obliges the state (through The Government) to look after the well being of its members. Part IV of our Constitution gives certain directions to The Government of the day.
5. The Constitution, as the supreme document, serves as a shock absorber in limiting the fluctuations of present and future generations. It is dynamic enough to accept the demands of change the same time it is strong enough to withstand any vagaries. It is a living document that connects the past with the present and assures a predictable future. Modern societies cannot survive without a just Constitution. Look at what is going on in our neighboring country, Nepal. For the past several years major political parties couldn't agree upon an accepted Constitution and literally there is no security for life and property. That is the price you pay when there is no Constitution.

1.2 The Indian Constitution -Its Historical Background

The Constitution can trace its origin to history of India under British rule. The East India Company incorporated in England in 1600 confined to commercial activities till the middle of the 18th century. The disintegration of Mughal Empire, the rise of innumerable native rulers and their rivalry among themselves, provided an opportunity to East India Company to emerge as a political power. But the mismanagement of company's commercial activities prompted the British Parliament to pass series of acts- Regulating Act 1773, Pitt's India Act 1784, 1793, 1813, 1833 and 1853 Charter Acts. The net result was the emergence of highly centralized British Administration in India.

The first war of Independence or 'Sepoy Mutiny' of 1857 resulted in the termination of East India Company's rule and the crown took over the reins of Indian administration with the passage of Government of India Act of 1858. The post 1858 administration of British India moved towards decentralization through a series of acts, viz., The Indian Councils Acts of 1861, 1892 and 1909. These acts laid the foundation for a Parliamentary form of government.

The outbreak of First World War necessitated the crown to seek the assistance of India, in terms of men and material. Emerging successful in its war efforts, the British government expressed its appreciation to the people of India by gradual development of self governing institutions. The Government of India Act of 1919 provided for the division of authority between the centre and the provincial governments and the introduction of 'Dyarchy' in the provinces. Dyarchy facilitated the division of executive powers between the Indian representatives and the British advisors of the governor.

The provisions of 1919 Act were implemented in letter but not in spirit. The emergence of a new spirit, zeal and unity of the educated Indians under the leadership of Indian National Congress demanded complete transfer of power to India. The non-violent, non cooperative movement started by Gandhiji gathered momentum. The Simon Commission appointed by British Government in 1927 was opposed to an all Indian federation. But the Nehru Committee (1928) of Indian National Congress was for a federation. The Three Round Table Conferences held in London in 1930, 1931 and 1932 and their recommendations led to the passage of Government of India Act, 1935.

The Act provided for the introduction of federal polity and the establishment of provincial autonomy in the British India provinces. But the provisions relating to Indian federation did not come into force; only the provincial autonomy did materialize. Unfortunately, the outbreak of World War II led to the resignation of Congress Party led ministries in seven provinces. It was a protest against the involvement of India in World War-II without consulting its people. Britain, badly in need of India's support, sent a senior cabinet minister Sir Stafford Cripps to negotiate with the Indian leaders. The Cripps Mission (1942) was a failure. In this backdrop, Indian National Congress under Gandhiji's leadership adopted the famous 'Quit India' resolution for the immediate ending of British rule in India.

The Second World War ended in favour of Allied powers. The Labour Party came to power in Britain's Parliamentary elections. Prime Minister Atlee sent three members of his cabinet to have a dialogue with the important leaders of India to decide the political future of India. While the All India Muslim League demanded the partition of the country on religious basis, the Indian National Congress was opposed to the partition of the country. The Cabinet Mission proposed a Confederation consisting of three groups of autonomous states. It was rejected by the All India Muslim League and it threatened direct action to achieve its goal. Lord Wavell formed an interim government with Jawaharlal Nehru as its head (1946). With the increasing communal violence it seems there is no alternative to partition of the subcontinent. The Mountbatten Plan (1947) provided for the partition of the country. The Indian Independence Act of 1947 provided for setting up of a dominion of India and a dominion of Pakistan. The

native states were given the choice of joining and becoming an integral part of either of the two dominions. The vision and constructive statesmanship of Sardar Vallabhai Patel the deputy Prime Minister and Home Minister facilitated the peaceful merger of most of the native states into the Indian Union. Of course, the merger of Jammu & Kashmir, Junagadh and Hyderabad states into the Indian Union proved to be a difficult task.

1.3 The Making of Indian Constitution

While negotiations were going on about the modalities of transfer of power, a Constituent Assembly was setup to draw the Constitution for India. The Cabinet Mission and the major political parties reached an agreement over the Constitution of Constituent Assembly in 1946. The election to Constituent Assembly is to be indirect and they were to be elected by the elected legislative assemblies of the provinces. 292 seats were allotted to British India Provinces and 93 to Native States. Thus, the total strength of Constituent Assembly is to be 385.

The first meeting was held on December 9, 1946. It was boycotted by the All India Muslim League members. It took two years, eleven months and seventeen days for the Constituent Assembly to finalize the Constitution. The members of Constituent Assembly were not selected purely on a party basis, but were drawn from all walks of life and represented almost every section of the Indian people. The moving spirit of Constituent Assembly, were: Jawaharlal Nehru, Dr. Rajendra Prasad, the Chairperson of Constituent Assembly and Sardar Vallabhai Patel. These three people contributed significantly in the formulation of basic principles of the Constitution. But it was the Drafting Committee headed by Dr.B.R. Ambedkar that provided the flesh to it. Dr.B.R. Ambedkar was assisted by eminent jurists, like, Alladi Krishna Swamy Ayyar, N. Gopalaswamy Ayyangar, K.M. Munshi and T.T.Krishnamachari. The brick and mortar of the structure was provided by the reports of the Union Powers Committee, the Union Constitution Committee, and the Advisory Committee on Minorities and Fundamental Rights. In the final form, the Constitution was passed and adopted by the Constituent Assembly on November 26, 1949. The members affixed their signatures on the original copy on January 24, 1950. The Constitution was inaugurated on January 26, 1950. It was the twentieth anniversary of the day on which the Indian National Congress adopted the resolution of ‘Purna Swaraj’ (complete Independence). It has ever since become the ‘Republic Day’ of India.

The draft Constitution had 315 articles and 13 schedules. But the final form has 395 articles and 8 schedules. This shows that the original draft had undergone considerable changes. Discussion was encouraged to the maximum. It was a full pledged democratic exercise.

1.4 Sources of Indian Constitution

As a polity, India is relatively young. As an Independent India, it is hardly 67 years old. The founding fathers of the Constitution while drafting it, generously borrowed ideas from the contemporary politics. It is the result of considerable adaption rather than the originality.

The major external source was the British Constitution. The Indian subcontinent was subjected to the influence of the United Kingdom for nearly three centuries. The people of India were more or less used to British practices. The Parliamentary form of government, the ideal of rule of law, the law making procedure, cabinet government and single citizenship can be traced to the United Kingdom. The Republican form of government, Fundamental Rights and independent judiciary can be traced to the United States of America. The Directive Principles of State Policy, contained in part IV of the Constitution, are borrowed from the Constitution of Irish Free State. The concepts of liberty, equality, and fraternity as are found in the Preamble of the Constitution were inspired by French Constitution. The quasi-federal form of government and the idea of residual powers were taken from the Canadian Constitution and the emergency powers are to be traced to the Weimar Constitution of Germany. Most importantly, the Indian Constitution owes a great deal to The Government of India Act of 1935. A strong central government with relatively weak state governments, the division of powers into three lists, integrated judiciary, protection of minorities etc., is some of the features borrowed from the 1935 Government of India Act.

1.5 Preamble of Indian Constitution

Preamble is described as the identity card of the Indian Constitution. It reflects the philosophy embedded in Indian Constitution. It reveals the aims, aspirations and objectives of the people of India. Justice Hidayatullah has aptly observed that it is “The Soul of the Constitution”. It is a key to open the minds of the makers of the Constitution. Pandit Jawaharlal Nehru moved the ‘Objectives Resolution’ in the first session of the Constituent Assembly and it was adopted unanimously. The objectives resolution is the preamble. The 42nd Amendment, to the Constitution has added the terms “Socialistic” and “Secular” to the Preamble.

The Preamble, as it stands today, reflect the Fundamental constitutional values. They are expected to guide all Indians from generation to generation. It spells out the nature of the State that the people of India wanted to create a Sovereign, Socialistic, Secular, Democratic and Republican State. Through such a state we wanted to provide to all citizens - Justice, Liberty, Equality, Fraternity and the Unity and Integrity of the nation. The Ideal State, we wanted to give to ourselves is to be ‘Sovereign’ which means its authority within the country is undisputed and externally it is free from outside control. It also implies that sovereignty

(supreme) vests with the people who have given to themselves this Constitution. ‘Socialist’ incorporated under 42nd Amendment to the Constitution, means a State that doesn’t allow any kind of exploitation - social, economic and political. ‘Secular’, again introduced through 42nd Amendment Act, 1976 of the Constitution emphasizes equality of rights to all citizens irrespective of their religious affiliation. In the opinion of Justice *Gajendra Gadkar*, “it gives equal freedom to all religions”. ‘Democratic’ nature of the state stipulates that the sovereign power resides with the people. They exercise it periodically through universal adult franchise. A ‘Republican’ State assures that public offices are open to every citizen without any discrimination. It negates the hereditary principle.

Such an ideal state would strive to secure to all its citizens – Justice, Social, Economic and Political. ‘Justice’ implies fairness in social, economic and political fields; all citizens would be treated fairly. Unfortunately, it still remains an ideal rather than a reality. Liberty of thought, expression, belief, faith and worship etc., incorporates various freedoms guaranteed in the Fundamental Rights of the Constitution. Articles 19, 25 to 28 spell these freedoms in details. But this liberty cannot degenerate into a license. It should be regulated so as not to endanger the security of the State and public interest.

‘Equality’ means absence of discrimination. It has legal, social, political and economic aspects. In the preamble it refers to ‘equality of status and opportunity’. Accordingly, all citizens are equal before law and enjoy equal protection of the laws of the land. There can be no discrimination on the basis of religion, race, caste, sex, place of birth in matters of access of public places and public employment. ‘Fraternity’ assures the dignity of the individual and the unity and integrity of the nation. ‘Fraternity’ means a common feeling of brotherhood. In a diversified society, like India, the feeling of oneness is most important to preserve the unity and integrity of the nation. Dignity of the individual can be protected by abolishing the practice of untouchability (Article 17) and further, by providing to all its citizens adequate means of livelihood, just and humane conditions and a decent standard of life.

1.6 Salient Features of Indian Constitution

All human beings look alike but every individual is unique. In the same way, all the countries have Constitutions and one may find many similarities amongst them; still each one is unique. A country’s Constitution is influenced by historical, political, economical, geographical, ethnic, cultural and the prevalent regional and international atmosphere. The Indian Constitution is unique in its content and spirit. Though borrowed from almost every Constitution of the world, the Constitution of India has several salient features that distinguish it from the Constitutions of other countries. The following are the salient features of the Indian Constitution.

1.6.1 A Lengthy Written Document

In 1950, the Indian Constitution had 395 Articles and 8 Schedules. at present it contains 12 Schedules. It runs nearly into 300 pages. On the other hand, the USA Constitution with just seven Articles barely runs into three pages. But we need to remember one thing. In the USA, all the states have their separate Constitutions. In India, except for the state of Jammu & Kashmir state, there are no separate Constitutions for the states. Moreover, given the diversity of Indian society, the founding fathers wanted to incorporate the necessary safeguards to Minorities, SC's, ST's, etc., In view of the various issues encountered by other countries on enforcing the provisions, our founding fathers drafted the constitutional provisions in detail.

1.6.2 A combination of rigidity and flexibility

Constitutions are living documents. They should be dynamic enough to undergo changes when it is necessary and at the same time rigid enough to prevent from tinkering by the shifting ruling majorities. Too much of rigidity may negate the very purpose of the Constitution. Our founding fathers were pragmatic enough to provide for rigidity and flexibility as the situation demands. Article 368 provides the details of the amendment procedure.

- (i) Some of the provisions, like, admission of new states (eg: Telangana), provisions relating to citizenship, salaries and allowances of the members of Constitutional bodies, Viz., President, Vice-President, Supreme Court and High Court Judges, etc.,
- (ii) Amendment by two-thirds majority and with the concurrence of half of the states-election of the President, executive powers of the union, states, provisions relating to three lists (Centre, State and Concurrent lists) etc.
- (iii) Other provisions can be amended by a special majority vote in Parliament; ratification by the states is not required, such as amendment to Fundamental Rights, Directive Principles of State Policy, etc.,

1.6.3 Quasi-federal Polity

Given the diversity, uneven development and a constant threat to national integration, the founding fathers of Indian Constitution preferred a strong central government with relatively weak state governments. K.C.Wheare, a well known authority on federalism preferred to call this arrangement as 'quasi federal'. The USA is an example for an ideal federal polity where both national as well as regional governments are independent in their own spheres and they coordinate with each other. We preferred a Canadian model with strong unitary and subsidiary federal features.

1.6.4 Republican Government

Unlike, the colonial master, the UK, India preferred a republican government. Here public offices are open to all eligible citizens and there is no place for hereditary principle. After all, monarchy is antidemocratic.

1.6.5 Parliamentary Government

Indians were familiar with the Parliamentary Government that was started during the colonial era. The Indian Councils Act of 1909 and the Government of India Acts of 1919 and 1935 laid strong foundation for it. Naturally, we preferred the continuation of the same type of government. There is another strong reason for preferring Parliamentary form of government rather than Presidential form of government. In a diversified society like India, it is better to go for Parliamentary form of government which facilitates dispersal of authority among several ministers rather the concentration of authority in a single person like what is practiced in the Presidential form of government. In USA, the principle of judicial supremacy has been accepted. Thus, Indian Parliamentary System combines best features of both American and British Systems.

1.6.6 Fundamental Rights and Fundamental Duties

Part III of the Constitution, Articles 12 to 35, provides for a set of basic human rights to all. They are justiceable and ensure basic freedoms. Fundamental Rights put limitations in the Government and prevent misuse of authority. The 42nd Amendment to the Constitution incorporated the Fundamental Duties in Article 51A under Part-IVA. Though they are not justiceable, yet they put an obligation on the citizens to render certain duties in return for the protection they have been enjoying through Fundamental Rights.

1.6.7 Single Citizenship

Though the Indian Constitution is federal and envisages a dual polity, it provides for only a single citizenship to all those persons who are born in India or who resided in India for a specific period, i.e., citizen of India. In countries like USA, each person is not only a citizen of USA but also a citizen of the particular state to which he belongs. But in India, all citizens irrespective of the state in which they are born, enjoy rights all over the country. No discrimination is made between the citizens excepting in few cases like tribal areas, Jammu and Kashmir etc.

1.6.8 Universal Adult Franchise

The Indian Constitution adopted universal adult franchise on the basis of elections to the central and state legislative assemblies. Every citizen who have completed 18 years of age will enjoy right to vote without any discrimination of caste, race, religion, gender, literacy, wealth and so on. Universal Adult Franchise makes democracy broad based. It enhances the

self respect and prestige of the common people. It upholds the principle of equality and enables minorities to protect their interest and it creates new hopes among weaker sections of the society.

1.6.9 Secular State

Our Constitution stands for a Secular State. It does not uphold any particular religion as the official religion of the Indian State. Meanwhile, the constitution has abolished the old system of communal representation i.e., reservation of seats in the legislatures on the basis of religion. However, it provides for the temporary reservation of seats for Scheduled Castes and Scheduled Tribes to ensure adequate representation to them.

1.6.10 Independent Judiciary

Federal Polity requires an independent judiciary to interpret the constitution and to prevent the encroachment on the part of legislature and executive. Over a period of time, the Supreme Court of India emerged as the most powerful judiciary in the world. It is due to the independent position that the Judges of Supreme Court and High Courts decide the propriety and constitutional validity of the acts and policies of the legislative and executive authorities in the country.

1.6.11 Directive Principles of State Policy

Our Constitution hinted out certain Directive Principles as the policy of the State in Part IV from Articles from 36 to 51. Our Constitution makers borrowed these principles from Irish Constitution. These principles reflect the welfare state concept. They are the directions to be followed by the various governments. Equal pay for equal work, provision of employment opportunities, fair distribution of wealth, old age pension, protection of ill health, provision of leisure for workers, conservation of wildlife, prohibition of arrack, protection of women and children and old age people etc are some examples of these principles. Though these principles are non-justiciable, no responsible government can afford to ignore them.

1.6.12 Bicameralism

The constitution of India introduced bicameralism at the national level. Accordingly, the Indian Parliament consists of two Houses namely, Lok Sabha (Lower House) and Rajya Sabha (Upper House). While the Lok Sabha represents the people, the Rajya Sabha represents the interests of the states. The makers of Indian Constitution adopted the British and American type of Bicameralism in this regard.

1.6.13 Panchayati Raj and Nagar Palikas Acts

Originally the Indian Constitution, like any other federal Constitutions provided for a dual polity and contained provisions with regard to the organization and powers of the centre and states. Later the 73rd and 74th Constitutional Amendment Acts gave constitutional recognition to the Panchayats and the Nagar Palikas (i.e., urban and rural local governments) have added which has not found in any other Constitutions in the world.

Summary

People who belong to a territory organise themselves into a State. All the states need a particular set of laws, depending on the nation psyche to manage things. These laws form the constitution of a state. Thus, the Constitution is a supreme document which can be either written or unwritten that regulates the relationship between the people and the government. The Constitution apart from establishing the relationship between the people and the government also discusses the structure of gove and its limitations. The goals and aspirations of the society that the Constitution represents and also reflects its aspirations and goals and same is true of the Indian Constitution.

After the Government of India Act of 1858, the administration of colonial India was taken over by the British government and a series of Acts like the Indian Council Acts of 1892, 1882 and 1909 and the Government of India Act of 1919 and 1935 laid a strong foundation for a parliamentary type of government in India. And after India attained independence in 1947 there was need to draw a Constitution for the country. The Constitution of India was passed and adopted by the Constituent Assembly on November 26, 1949 and was inagurated on January 26, 1950.

The Constitution at its inception had 365 Articles and 8 Schedules. Apart from the British Constitution, the Indian Constitution generously borrowed ideas from the constitution of other countries like U.S.A, Ireland, Canada, Germany and South Africa etc. The constitution has a preamble which reflects the aims and aspirations of the people of India and it has features which are unique to the Indian Constitution. Hence this chapter presents a brief picture and an outline of various issues pertaining to the Indian Constitution which enable the student, being the future citizen of India not only to aquire knowledge but also appreciate the importance and greatness of Indian Constitution.

QUESTIONS

I. Long Answer Questions

1. What is constitution? Explain the historical background of the Indian Constitution.
2. Explain in brief the salient features of Indian Constitution.

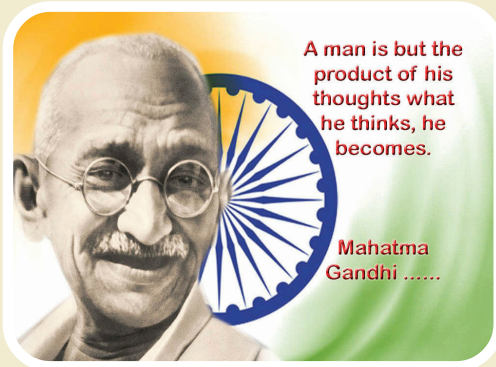
II. Short Answer Questions

1. Write briefly the elements of the Constitution.
2. Write about the making of Indian Constitution
3. Write a note on the sources of Indian Constitution.
4. Explain any three salient features of Indian Constitution.
5. “The Preamble is the soul of the constitution”. Explain.

III. Very Short Answer Questions

1. Written Constitution.
2. Rigid Constitution.
3. Parliamentary form of Government.
4. Fundamental Rights and Duties.
5. Secular state.
6. Universal Adult Franchise.
7. Bicameralism.
8. Directive Principles of State Policy.
9. Independence of Judiciary.
10. Preamble.

CHAPTER 2



Fundamental Rights and Directive Principles of State Policy

2.0 Introduction

2.1 Fundamental Rights

2.2 Directive Principles of State Policy

2.3 Fundamental Duties

Summary

Questions

2.0 Introduction

Fundamental Rights are incorporated in Part-III from Articles 12 to 35 Indian Constitution. In this context the makers of Indian Constitution derived inspiration from the Constitution of USA. Part-III of the Indian Constitution is rightly described as the 'Magna Carta of India'. It contains a very long and comprehensive list of justiciable Fundamental Rights. Fundamental Rights in fact are more elaborate than those found in the constitution of any other country in the world.

2.1 Fundamental Rights

Fundamental Rights are an important feature of Indian Constitution. They are meant for Indian citizens realising the ideal of political democracy. These rights are assigned to the Indian Citizens. They enable the citizens to realise their personality.

Fundamental Rights will act as a means for leading a happy and honorable life by the citizens. They render strength and succor to the citizens. They serve as the main source for realising the ideals of political democracy in India.

2.1.1 Evolution of Fundamental Rights

The makers of Indian Constitution have incorporated Fundamental Rights in Articles 12-35 in Part III of the constitution. They were inspired by the 'Bill of Rights' mentioned in American Constitution while including them in our Constitution. Fundamental Rights enable the Indian citizens to develop their personality to the fullest extent possible. They provide strength and succor to independent India. They form the basis of our political system. Eminent leaders like Dadabhai Nauroji during the Indian National Movement demanded the British Government for the provisions of various freedoms to India. It is in this context that they suggested for the provision of some Fundamental Rights for Indians. Their demands for Fundamental Rights have been intensified after the establishment of Indian National Congress in 1885. Lala Lajapath Roy, Bala Gangadhar Tilak and Bipinchandra Pal, the renowned extremists of Indian National Congress, enunciated that 'Swaraj' is the birth right of Indians and Britain must voluntarily leave India. The Motilal Nehru Committee Report (1928) reiterated this for the psychological progress of Indians. The Karachi Session of Indian National Congress (1931) prepared a report comprising the rights and duties required for Indians. The Sapru Committee (1945) hinted out the inclusion of a list of Fundamental Rights in the future Indian Constitution.

The Sub-Committee on Fundamental Rights under Rajendra Prasad was set up by the Constituent Assembly during the freedom struggle. It criticized the British Government's negligence in not providing Fundamental Rights to Indians. On the whole, this Sub-Committee suggested for the inclusion of seven Fundamental Rights of Indian citizens in our Constitution. The Constituent Assembly approved this suggestion and conferred seven Fundamental Rights for Indian citizens.

2.1.2 Characteristic Features of Fundamental Rights

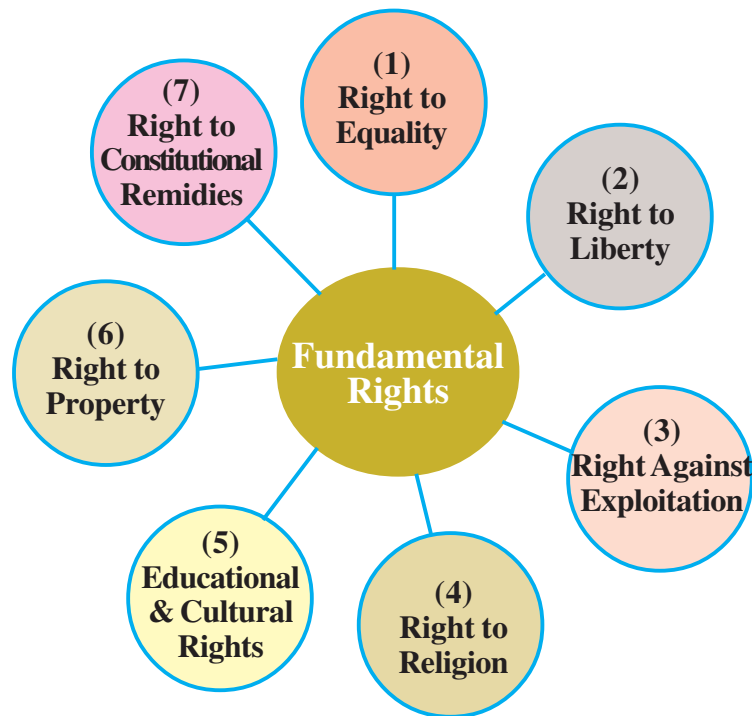
Fundamental Rights have the following characteristic features:

1. Some of the Fundamental Rights are granted to the 'citizens' alone. For example, equality of opportunity in matters of public employment, protection against discrimination on any ground; freedom of speech, assembly, association etc and cultural and educational rights of the minorities. On the other hand, some of the Fundamental Rights are available to any person living in the country whether Indian or foreign. For example, equality before law and its equal protection, protection of life, freedom of religion etc.

2. Some of the Fundamental Rights are positive in nature. They provide scope for the citizens to enjoy some types of freedom. On the other hand, some of the Fundamental Rights are negative in nature. They impose some restrictions upon the activities of the State.
3. Fundamental Rights are not absolute. In this sense the State can impose reasonable restrictions on their utilisation and enjoyment in the interest of public order, morality and friendly relations with foreign states.
4. State may impose some restrictions on all or some of the Fundamental Rights of the citizens during the emergency. The President of India can suspend all the Fundamental Rights except Article 21 (Right to Life) during the national emergency. However, the freedoms guaranteed can't be restricted by any body.
5. Fundamental Rights are a component of the Indian Constitution. So they can't be altered through ordinary laws.
6. Fundamental Rights are comprehensive, integrative and detailed in nature. Some restraints have also been imposed against the utilization of these rights under specific conditions.
7. Fundamental Rights are protected by the judicial organizations in the country. Especially the Supreme Court and State High Courts play a crucial role in this regard. They ensure justice to those whose rights are infringed or confiscated by others including the State authorities. They issue several writs for the protection of Fundamental Rights.
8. Fundamental Rights serve as the main means for proper utilization of the capacities and intelligence hidden among the Indian citizens.
9. Though the Constitution guarantees six categories of Fundamental Rights, all are not of equal weight. That is, there can be discovered a hierarchy of values. It becomes evident when Justice M. Hidayatullah in the Golaknath Case ruled that right to property is the 'weakest of all rights'

2.1.3 Analysis of Fundamental Rights

In the beginning Indian citizens are provided with seven Fundamental Rights. These rights are mentioned in Articles 12 to 35 in part III of our constitution. These rights are analysed as follows.



1. Right to Equality (Articles 14 – 18)
2. Right to Freedom (Articles 19 – 22)
3. Right Against Exploitation (Articles 23 - 24)
4. Right to Freedom of Religion (Articles 25 – 28)
5. Educational and Cultural Rights (Articles 29 – 30)
6. Right to Property (Article 31)
7. Right to Constitutional Remedies (Article 32)

Of the above, the Right to Property was abolished from the list of Fundamental Rights by the (Forty Fourth) Constitutional Amendment Act in 1978. It is made a legal right under Article 300A. On the whole, at present, there are only six Fundamental Rights. The above fundamental rights may be analysed in the following pages:

1. Right to Equality

According to Article 14, the State shall not deny any person equality before law or equal protection of laws within the territory of India. The word ‘equality before law’ was taken from the Constitution of UK and the word ‘equal protection of laws’ was incorporated from Constitution of the USA. ‘Equality before law’ means that all persons shall be subject to

the identical laws, courts and procedures. The term 'equal protection of law' means equal treatment of all persons in similar circumstances.

Article 15 prohibited discrimination between individuals on the basis of religion, race, caste, gender or place of birth. It provided for equal access to public places like shops, hotels, places of entertainment, wells, bathing ghats and places of worship. It also prohibits any discrimination in public employment on any of the above mentioned basis. However, this Article will not be an obstacle against the State for taking steps for protecting the interests and well being of women and children.

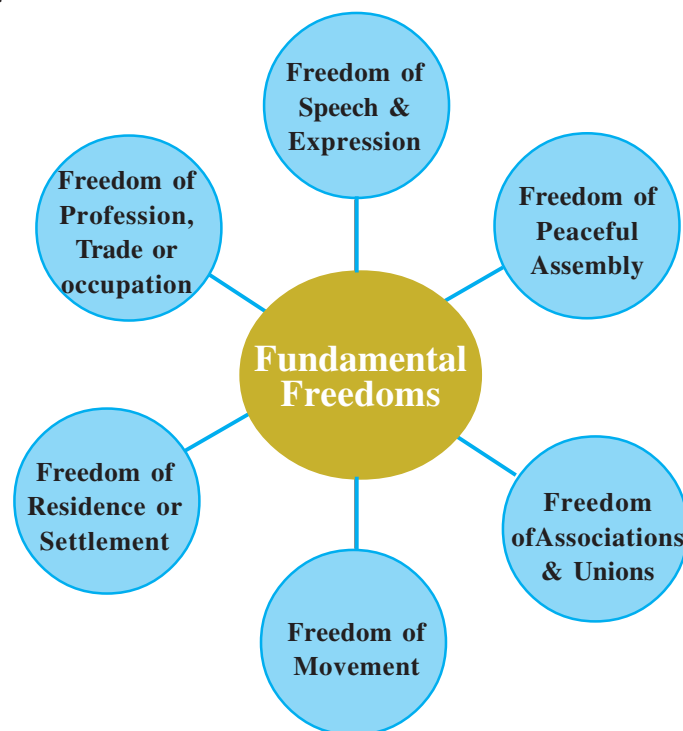
Article 16 guarantees equality of opportunity in matters of public employment. It is further provided that in respect of public employment, the State can make no discrimination on grounds of religion, race, and caste, and gender, place of birth or residence. However, this Article will not be an obstacle to the State for prescribing certain conditions to the citizens in matters of employment in local, State, Union and Union Territories. The State may allow reservations to the backward classes if it feels that the backward classes are not provided with sufficient reservations. The (Eighty First) Constitution Amendment Act 2000 specified that filling up of the offices in reserved category, if not completed in a specified year, the same will be done even after exceeding 50% thereby ignoring the prevailing rules and regulations. Again above said that allowed reservations facilities to the Scheduled Castes and Scheduled Tribes in the promotional aspects of public services.

Article 17 abolished untouchability and prohibited its practice in any form. It empowered the Parliament to formulate laws in this regard. Accordingly, Indian Parliament formulated the Untouchability Offence Act in 1955. That Act has been termed as Civil Rights Preservation of Atrocities Act since 1976. Later the Parliament in 1989 approved the Scheduled Castes and Scheduled Tribes Act for imposing penalty and punishment extending from six to seven years. In this regard, the Supreme Court held that the right under Article 17 is available against private individuals and it is the constitutional obligation of the State to take necessary action to ensure that this right is not violated.

Article 18 prohibits the State to confer any title, other than military or academic distinction on the citizens. It prohibits the citizens to accept any title from foreign states without the consent of the Indian President. It also prohibits the citizens to accept an office of profit or trust from other States. However, it allows the State to confer certain titles like Padmasri, Padma Vibhushan, Bharat Ratna etc. in social and educational matters, Paramaveerachakra, Mahaveerchakra etc to military personnel basing on outstanding performances.

2. Right to Freedom

Right to freedom is another fundamental right conferred to Indian citizens. It comprises a) Freedom of speech and expression, b) Freedom of peaceful assembly without arms, c) Freedom of form associations and unions, d) Freedom of free movement throughout the territory of India, e) Freedom of residence and settlement in any part of the territory of India, and f) Freedom of practice any profession, occupation, trade or business. Originally, Article 19 contained seven freedoms. But Article 19(1)(f) denoting freedom to acquire, hold and dispose of property was deleted by the constitution (Forty Fourth Amendment) Act of 1978. As a result at present there are only six freedoms. Various types of freedom are given in the following diagram.



The makers of Indian Constitution felt that these freedoms would facilitate the progress of Indian citizens in social, political and economic spheres. These freedoms are not absolute. It may be noted that the State may, if necessary, impose certain reasonable restrictions on the enjoyment of the above freedoms by the Indian citizens. These restrictions relate to the maintenance and safeguarding of the independence, sovereignty, integrity, law and order, relation with other States, morality, defiance of courts and loss of dignity etc. Similarly the State can impose certain specific restraints against the above freedoms for safeguarding the interests of common masses or Scheduled Castes and Scheduled Tribes.

- (i) ***Protection of Life and Personal Liberty:*** Article 20 deals with personal life and liberty that provides for the protection in respect of conviction for certain offences. It prohibits the promulgation of ‘ex-post facto laws’, or laws having retrospective effects. It also says that, no citizen can be denied his or her life except by procedure as lay down under the law. Similarly, no one can be denied his or her personal liberty. That means no one can be detained without reasons for such an arrest. If a person is arrested, then he or she has the right to defend himself by an advocate of his choice. Also, it is mandatory for the police authorities to produce that person to the nearest magistrate within 24 hours. The magistrate, who is not part of the police department, will decide whether the arrest is justified or not.

Various judgments of Supreme Court have expanded the scope of this right. The Supreme Court has ruled out that this right also includes right to live with human dignity, free from exploitation. The Supreme Court has held that right to shelter and livelihood must be included in the right to life because no person can live without any means of livelihood.

Article 21 specifies that no person shall be deprived of his life or personal liberty, except, according to the procedure established by law. It should be noted that the rights granted under Articles 20 and 21 cannot be suspended even during the emergencies.

- (ii) ***Preventive Detention in certain cases:*** Ordinarily, a person would be arrested after he or she has reportedly committed some offence. However, there are exceptions to this. Sometimes a person can be detained simply out of an apprehension that he or she is likely to engage in unlawful activity and imprisoned for some time without following the above mentioned procedure. This is known as preventive detention. It means that if the government feels that a person can be a threat to law and order or to the peace and security of the nation, it can detain or arrest that person. This preventive detention can be extended only for three months. After three months such a case is brought before an advisory board for review.

- (iii) ***Recent Amendment to Article 21 :*** Recently the constitution (Eighty Sixth) Amendment Act, 2002 through Article 21A made it mandatory for the State to provide free and compulsory education to all children of six to fourteen years. This Amendment was made mandatory in August 2009 with the assent of the Indian

President after the concurrence of a special bill by the Parliament. Later, the Act came into existence on April 2010.

After various judgments of the Supreme Court, the following rights have become an integral part of Article 21. (a) Right to honorable life (b) Right to environmental safety (c) Right to health, (d) Right to seek free legal aid, (e) Right to visit foreign countries, (f) Right to opposed lockup deaths, and (g) Right to information.

(iv) Rights of accused: Our Constitution ensures that persons accused of various offences would also get sufficient grounds to exercise their rights. We often tend to believe that anyone who is charged with some offence is guilty. However, no one is guilty unless the court has found that person guilty of an offence. It is also necessary that a person accused of any crime should get adequate opportunity to defend herself or himself. To ensure a fair trial in courts, the Constitution has provided three rights:

1. No person shall be punished for the same offence more than once
2. No law shall declare any action as illegal from a backdate, and
3. No person shall be asked to give evidence against him or her.

3. Right against Exploitation

In our country, there are millions of people who are underprivileged and deprived. They are subjected to exploitation by their fellow human beings. One such form of exploitation is 'begar' or 'forced labour' without payment. Another closely related form of exploitation is trafficking of human beings and using them as slaves. Both are prohibited under Article 23 of our constitution.

Article 24 of the Indian Constitution forbids all forms of child labour below the age of 14 years in factories, mines and other hazardous industries. However, the State has the authority to prescribe compulsory military service for public purposes without any discrimination. Thus, this right against exploitation has become more meaningful.

4. Right to Freedom of Religion

This right denotes the secular nature of Indian political system. It aims at transforming India into a secular state. Both the citizens and aliens of India enjoy this right.

Article 25 empowers every person to profess, practice and propagate a religion of his liking. However, the State can make a law regulating the activities of religious publicity or

propaganda by the individuals in the larger national interests. Individuals, while enjoying or popularizing religious rights, must consider public order, morality and public health of others in the country. This means that the freedom of religion is not an unlimited right. The government can interfere in religious matters for rooting out certain social evils. For example, the government has taken steps banning practices like 'Sati' bigamy or human sacrifice. Such restrictions can't be opposed in the name of interference in right to freedom of religion. It is to be noted that the constitution does not allow forcible conversions. It only gives us the right to spread information about our religion and thus attract others to it.

Article 26 guarantees the following rights to every person

1. To establish and maintain religious and charitable institutions.
2. To manage his/her religious affairs.
3. To own and acquire moveable and immovable properties, and,
4. To maintain such properties in accordance with the provision of the law.

Article 27 prohibits the State to impose or collect taxes from individuals purely on religious grounds. It also prohibits the State to impose and collect taxes for the benefit and maintenance of any particular religion or religious denominations.

Article 28 bans religious instructions in educational institutions wholly or partly maintained by the State funds. No person admitted to any educational institutions, recognized by the State or receiving State fund, shall be required to take part in any religious instruction imparted in such institutions.

5. Educational and Cultural Rights

Indian Constitution provided several cultural and educational opportunities for Indian citizens through this right. Article 29 enables every citizen to preserve and protect his own language and culture irrespective of one's religion, language or region. It also entitles the minorities to preserve their language and culture. No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on the grounds of religion, race, caste and language or any of them.

Article 30 prohibits special treatment to any citizen in the admission into educational institutions either wholly or partly funded by the State on the grounds of caste, religion, region, colour, language or sect. However, it allowed the minorities some special facilities for preserving and promoting their language and culture. The State can grant financial assistance

to them in this regard. This right allows the minorities to enjoy identical religious, educational and cultural rights on par with the majority people.

6. *Right to Property*

This right was granted to the Indian citizens under Article 19 (1)(f) and Article 31. Article 19(1)(f) provides freedom to the citizens to acquire, possess, enjoy and dispose of their property according to their wishes. Article 31 prescribes that the State shall not take over the properties of citizens against the provisions of existing laws. However, many limitations have been imposed on this right through the addition of sections A, B, C and D to Article 31.

As per Article 31(A) the State can take over the private properties in public interests. Article 31(B) provides protection to Land Reform Acts of state governments by including them in the Ninth Schedule of the constitution. Article 31(C) declared that all laws seeking to implement Article 39(B) and Article 39(C) referring Directive Principles of State Policy shall be valid. Article 39(B) and Article 39(C) which were added through the constitution (Forty Second Amendment) Act, 1976 remain valid even though they are against the Articles 14 and 15. The judicial organizations are deprived of their power of enquiring the cases declaring judgments in this regard. Finally the constitution (Forty Fourth Amendment) Act, 1978 completely deleted right to property from the list of Fundamental Rights. Since then this right remained as a mere legal right under Article 300(A).

7. *Right to Constitutional Remedies*

This right is the most significant of all the Fundamental Rights. It extends protection and relief to those whose Fundamental Rights were abridged, confiscated or infringed by others including, the public authorities. Dr.B.R. Ambedkar rightly described this right as ‘heart and soul of the Constitution’. As this right gives a citizen the right to approach a High Court under Article 226 or the Supreme Court under Article 32 to get any of the Fundamental Rights restored in case of their violation, the Supreme Court and the High Courts can issue orders and give directions to the governments for the enforcement of the above rights. The courts can issue various writs like Habeas Corpus, Mandamus, Prohibition, Quo warrant and Certiorari.

2.1.4 *Restrictions on Fundamental Rights*

Fundamental Rights are meant for the overall development of Indian citizens. They serve as the best device for the expression and realization of the views of Indian citizens. Indian citizens must exhibit wisdom, reason, rationality and positive outlook while utilizing these rights. They have to keep in mind self development and social progress. In this context,

we must know that the following restrictions have been imposed by the Constitution on the Fundamental Rights.

1. Under Clause (2) to Clause (5) of Article 19, the State can impose reasonable restrictions on the enjoyment of six fundamental freedoms in the interests of public order, morality, friendly relations with foreign states, public health etc.
2. Under Article 352 the President of India can declare national emergency during which period he can suspend all the Fundamental Rights except Articles 20 and 21.
3. The Parliament can impose some restraints on Clause (4), (5), (6) and Clause (7) of Article 22. Accordingly, the Parliament enacted several laws in this connection such as Preventive Detention Act, 1950, Maintenance of Internal Security Act (MISA) 1971, National Security Act 1980 (NSA); Prevention of Black Marketing, Maintenance of Essential Commodities Act, 1980, Terrorist Armed Disruption Act (TADA), 1985 etc. The various state governments also formulated Prevention Detention Acts within their jurisdiction.

2.1.5 Significance of Fundamental Rights

Fundamental Rights are significant in the following respects.

1. The Fundamental Rights constitute the bed-rock of democratic system
2. They provide necessary conditions for the material and moral progress of citizens.
3. They serve as a formidable bulwark of individual liberty.
4. They facilitate the establishment of Rule of Law.
5. They protect the interests of weaker sections and minorities.
6. They strengthen the secular fabric of the Indian State.
7. They check the despotic tendencies of the government.

2.2 Directive Principles of State Policy

Directive Principles of State Policy are enumerated in Article 36 to 51 in Part-IV of the Indian Constitution. They are borrowed from the Irish Constitution. They help in realizing the objectives mentioned in the Preamble. Dr.B.R.Ambedkar described these Principles as “novel feature of the Indian Constitution”. These principles are similar to the Instrument of Instructions of the Government of India Act, 1935. These principles apply to the executive, legislative and local self authorities functioning at Union, State and local levels.

Directive Principles serve as the best means for ensuring social, economic and political justice and freedoms for all Indians. The survival and future of the various political parties and governments depend to a large extent upon the progress achieved through the implementation of these principles.

2.2.1 Evolution of Directive Principles

The origin of Directive Principles can be traced back to the Roman Empire. Later they were adopted by Spain and Ireland. Many States like former Czechoslovakia, Yugoslavia and the present China adopted these principles. There was a reference of these principles in the Weimar Constitution of Germany.

In regard to India, the makers of our Constitution felt that these principles would achieve social welfare and nation's prosperity. They have taken into consideration the desires, aspirations and interests of ordinary people. They aim at transforming India into a welfare state. Several efforts are made for realizing the democratic ideals in social, economic and political spheres.

The makers of Indian Constitution considered several elements while including these principles in the Constitution. They adopted some of the principles from the Karachi Congress Resolution (1931), Universal Human Rights Declaration (1948), Gandhian principles, Socialist principles etc. *G.N.Joshi* described that these principles are the comprehensive programme of political, economic and social nature.

2.2.2 Characteristic Features of Directive Principles of State Policy:

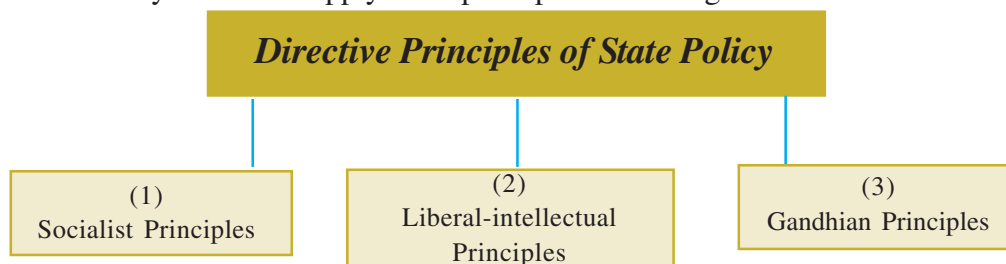
The following are the characteristic features of the Directive Principles of State Policy:

1. Directive Principles of State Policy are fundamental in the governance of the country.
2. They are in the form of Directives or Instructions issued to the successive governments in India.
3. They are positive in nature as they extend the jurisdiction of the governments at various levels in India.
4. Enforcement of these principles depends upon the availability of financial resources of the State.
5. They are popular in nature as they aim at the establishment of egalitarian society.
6. They have to be implemented by any party in power irrespective of its political ideology.

7. Failure to implement these principles is not considered as a breach of law.
8. They are non-justiciable in nature as no one can force the government to implement them immediately. The governments have discretion in implementing these principles.
9. They aim at realizing political democracy, economic equality and social justice in the country.
10. Social welfare, instead of individual progress, is the main theme of these principles.

2.2.3 Types of Directive Principles of State Policy

The Constitution of India does not contain any classification of Directive Principles. However, on the basis of their content and direction they can be classified into three broad categories viz., socialistic, liberal-intellectual and Gandhian principles. Article 36 defines the term 'State'. Article 37 declares that the Directive Principles shall not be enforceable by any court. However, these principles are fundamental in the governance of the country and it shall be the duty of State to apply these principles in making laws.



1. *Socialist Principles*

Socialist Principles reflect the ideology of democratic and socialistic State. They aim at providing social and economic justice. Articles 38, 39, 41, 42, 43, 46 and 47 explain about the socialist ideology of the Directive Principles of State policy.

1. Article 38 provides that the State shall strive to promote the welfare of the people by securing and protecting a social order in which justice (social, economic and political) shall be ensured to all the people.
2. Article 39 has laid down that the State shall direct its policy in securing:
 - i) Adequate means of livelihood for all citizens;
 - ii) Equitable distribution of wealth for sub-serving the common good;
 - iii) Equal pay for equal work for all;
 - iv) Protection of adult and child labour;

- v) Decentralization of nation's wealth;
 - vi) Preserving the health and strength of workers, men and women;
 - vii) Protecting childhood and youth against exploitation;
3. To secure right to work and education for all people, relief in the case of unemployment; old age, sickness and disablement and in other cases of underserved want. (Article 41);
 4. To make provision for just and human conditions of work and maternity relief (Article 42);
 5. To secure living wage and decent standard of life so as to ensure to the workers sufficient leisure and enjoyment of social and cultural opportunities.(Article 43);
 6. Raising the level of nutrition and standard of living of the people and the improvement of public health. (Article 47);

2. *Liberal-intellectual Principles*

The principles represent the ideology of liberalism and certain objectives like provision of basic education, uniform civil code, independent judiciary and international peace. They are incorporated in Articles 44, 45, 50 and 51 of the Constitution.

1. The State shall secure for the citizens uniform civil code throughout the country. (Article 44)
2. The State shall provide free and compulsory education for all the children below 14 years of age. The Constitution (Eighty Sixth Amendment) Act, 2002 substituted the following words in Article 45. "The State shall endeavor to provide early childhood care and education for all children until they complete the age of six years." (Article 45)
3. The state organize agriculture and animal husbandry on modern and scientific lines (Article 48)
4. The state protect monuments which are declared to be of national importance (Article 49)
5. The state protect and improve the environment and to safeguard forests and wild life (Article 48A)
6. The State shall take steps to separate judiciary from executive in public services of the State. (Article 50)

7. The State shall (a) promote international peace, justice and security. (b) Maintain just and honorable relations with other nations (c) protection of monuments and place of historical and cultural interest (d) respect for international laws and treaty obligations; and (d) encourage settlement of international dispute by arbitration. (Article 51)

3. Gandhian Principles

These Principles are based on gandhian ideology. They represent the programme of reconstruction enunciated by Mahatma Gandhi during the national movement. These principles provide ideal rule in India. They are reflected in Articles 40, 43, 46 and 47. They may be enumerated as under:

1. The State shall organize village Panchayats and endow them with adequate powers and authority so as to enable them to function as the units of self-government. (Article 40)
2. The State shall strive for the promotion of cottage industries on individual or cooperative basis in rural areas. (Article 43)
3. The State shall promote the educational and economic interests of the SCs, STs and BCs of society with special care. (Article 46)
4. The State shall endeavour to bring about prohibition of intoxicating drinks and of drugs which are injurious to health (Article 47)

Other Principles

The Constitution (Forty Second and Forty Fourth Amendment) Acts of 1976 and 1978 added a few more subjects to the list of Directive Principles. While the the Constitutio (Forty Second Amendment) Act inserted Articles 39A, 43A and 48A, the Constitution (Forty Fourth Amendment)Act included Article 39 Clause (2). They comprise the following provisions.

1. Providing opportunities for healthy development of children.
2. Promotion of equal justice and legal aid to the poor
3. Securing participation of workers in the management of industries
4. Protecting the environment, forests and wild animals

2.2.4 Significance of Directive Principles of State Policy

Directive Principles of State Policy are considered as the most significant feature of the Indian Constitution. The makers of Indian Constitution left the implementation of these principles to the discretion of the future governments. Granville Austin has described the Directive Principles and Fundamental Rights as ‘the conscience of the constitution’. Dr.B.R.Ambedkar, the Chairman of Drafting Committee, narrated these Principles a ‘novel feature’ of Indian constitution. This part of the Constitution should be regarded as the sister part of all that we have seen in the list of Directive Principles of State Policy. As such, Part-III and Part-IV of our constitution are integral parts of the original law of the land.

Directive Principles are to be implemented by any party in power. Hence they serve as guide lines to the legislative and executive branches of the government. They create a congenial atmosphere for the people for enjoying their rights. They provide a roadmap of reforms to the government. They ensure stability and continuity of the policies of the future governments.

Eminent Constitutional experts like Ivor Jennings, Prof. Srinivasan, G.N.Joshi, Prof.K.T.Shah, K.C.Wheare, T.T.Krishnamachari and Nasiruddin Ahmed considered the Directive Principles of State Policy as hallow promises, showcase Articles and solemn resolutions that are mere ornamental in nature. Ivor Jennings felt that these principles have no uniform doctrine. *Prof.K.T.Shah* described them as ‘the cheque payable by a bank at its convenience’. *Nasiruddin Ahmed* criticized that these principles are like New Year wishes which are ignored on the next day.

2.2.5 Differences between Fundamental Rights and Directive Principles of State Policy

Fundamental Rights and Directive Principles of State Policy are two important features of the Indian Constitution. Both are important from the social perspective. They differ from one another as under:

2.2.6 Relationship between Fundamental Rights and Directive Principles of State Policy

Fundamental Rights	Directive Principles of State Policy
1. Fundamental Rights are derived from the Bill of Rights of the Constitution of the USA	1. Directive Principles of State Policy are drawn on the model of the Constitution of Ireland.
2. They are incorporated in Part-III of the Indian Constitution from Articles 12 to 35.	2. They are embodied in Part-IV of the Indian Constitution from Articles 36 to 51.
3. They are justiciable rights. It means that they are enforceable by a court of law.	3. They are non-justiciable rights. It means that they are not enforceable by law.
4. They are legal in nature.	4. They are social in nature.
5. They are guaranteed by the Constitution.	5. They are not guaranteed by the Constitution.
6. They are negative in nature as they restrict the sphere of State activity. It means it presents the government from doing certain things.	6. They are positive in nature as they extend the sphere of State activity. They exhort the government to do certain things.
7. They are individual – oriented.	7. They are social welfare-oriented.
8. They are imperative as they do not allow others to interfere in one’s rights.	8. They are not imperative as they do not entitle a person to file a petition in a court of law for their enforcement.
9. They are meant for the citizens	9. They are meant to the society at large
10. They are enforceable without a separated legislation.	10. They can be implemented only by making a relevant legislation.
11. These rights help in transforming India into a democratic State in political sphere.	11. They enable the State to achieve social and economic democracy in India.
12. The significance of these rights is legal.	12. The significance of these rights is moral rather than legal

It is possible to see that both Fundamental Rights and Directive Principles are complementary to each other while Fundamental Rights restrain the government from doing certain things, Directive Principles exert the government to do certain things. While Fundamental Rights mainly protect the rights of individuals Directive Principles ensure the well-being of the entire society.

However, when government intends to implement Directive Principles of State Policy, there arises a conflict with the Fundamental Rights of the citizens.

2.2.7 Changing Relationship between Fundamental Rights and Directive Principles

Although a distinction is made between Fundamental Rights and Directive Principles of state policy by way of justiciable and non-justiciable nature. Yet over the years, Directive Principles of state policy have become politically important and the relation between the two has undergone several changes.

Now the debatable question is what would happen in case of a conflict between Fundamental Rights which denote the interests of the individuals, and the Directive Principles of the state policy, which stand for the welfare of the society. This conflict has become a political issue. The socialist-oriented Congress Party which remained in power at the centre for longer period, sought to implement its socialist policies through Parliamentary legislation which came into direct conflict with the basic freedoms of the people as enshrined in Part-III of the Constitution.

The Supreme Court consistently held the opinion that the Directive Principles of State Policy should be subsidiary to the Fundamental Rights. Judgments in various disputes like *Sajjan Singh Vs the State of Rajasthan*, *Qureshi Vs the State of Bihar* and *Golaknath Vs State of Punjab*, the Supreme Court confirmed its stand and reiterated that it is the duty of Parliament to enforce the Directive Principles without tampering the Fundamental Rights.

As a result of the invalidation of certain laws like the Nationalization of Banks, Abolition of Privy Purses, the Parliament enacted the (Twenty Fifth Amendment) Constitution Act in 1971 which declared that the enforcement of the Directive Principles of State policy shall not be invalidated by any court on the ground that it violates the Fundamental Rights in Articles 14, 19 and 31 of the Constitution.

Again the (Forty Second Amendment) Constitution Act passed by Parliament in 1976 declared that no law, giving effect to any or all Directive Principles, shall be invalid on the ground that it infringes on Fundamental Rights. However, in the *Minerva Mills* case, the

Supreme Court restricted the original supremacy and sanctity of the Fundamental Rights over the Directive Principles of State Policy. Thus, the Fundamental Rights have primacy over the Directive Principles.

In the case of *Keshavananda Bharati Vs State of Kerala*, the Supreme Court held that the Parliament cannot amend the basic structure of the Constitution. By implication the Supreme Court considered Fundamental Rights as a part of the basic structure of the Constitution.

2.2.8 Implementation of Directive Principles of State Policy

Keeping in view the fact, Directive Principles of State Policy are fundamental in the governance of the country. The Union as well as the State Governments, since 1950, have been continuously taking various steps to implement them from time to time. These are mentioned below:

1. Abolition of Zamindari, Jagirdari and Inamdari systems
2. Introduction of Land Ceiling Acts.
3. Abolition of Privy Purses.
4. Nationalization of 14 leading commercial banks
5. Establishment of Khadi and Village Industries Board etc
6. Organization of Village Panchayats.
7. Reservation of seats are reserved for SCs and STs in educational institutions and representative bodies
8. Enactment of Ancient and Historical Monuments and Archeological Sites Remains Act 1951.
9. Separating criminal procedure code from the executive
10. Prohibition of cow slaughter, calves and bullocks in some States
11. Establishment of primary health centers and hospitals throughout the country
12. Implementation of Non-Alignment and Panchasheel Principles
13. Initiation of old age pension schemes
14. Introduction of unemployment schemes
15. Enactment of Minimum Wages Act
16. Enactment of Wild Life Act

2.3 Fundamental Duties

Fundamental Duties are a significant feature of Indian Constitution. These duties are incorporated in the Constitution of erstwhile USSR. They were not included at a place in our Constitution in the beginning. However, Sriman Narain Agarwal in his 'Gandhian Constitution for Free India' (1946) cited some of the Fundamental Duties. After independence many changes have taken place in the political and Constitutional affairs in India. The Union Government during (1975-1977) contemplated the idea of incorporating some Fundamental Duties in the Constitution.

After considering the Universal Declaration of Human Rights (1948) and Soviet Model of Fundamental Duties, the central government appointed Sardar Swaransingh Committee (1976) for incorporating the Fundamental Duties in our Constitution. The committee examined the duties mentioned in various world Constitutions and suggested for the inclusion of eight Fundamental Duties in Indian Constitution. Accordingly, the party in power introduced the (Forty Second Amendment) Constitution Bill 1976 in the Parliament and approved ten Fundamental Duties. They are included in Article 51-A under Part-IVA of our Constitution. Later one more duty was added to the above list through the constitution (Eighty Sixth Amendment) Act, 2002. As a result, at present, the Indian Citizens are endowed with eleven Fundamental Duties. According to Article 51A of the Indian Constitution, they are:

1. To abide by the Constitution and respect its ideals and institutions, the National Flag and National Anthem;
2. To cherish and follow the noble ideals which inspired our national struggle for freedom;
3. To uphold and protect the sovereignty, unity and integrity of the nation;
4. To defend the country and render national service when called upon to do so;
5. To promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities, and to renounce practices derogatory to the dignity of women;
6. To value and pressure the rich heritage of our composite culture;
7. To protect and improve the natural environment including forests, lakes, rivers and wild life and have compassion for living creatures;
8. To develop scientific temper, humanism and the spirit of inequity and reform;
9. To safeguard public property and to abjure violence;

10. To strive towards excellence in all spheres of individual and collective activity, so that the nation constantly rises to higher levels of endeavour and achievement, and
11. To provide educational opportunities by the parent or guardian to his child or ward between the age of six and fourteen years.

While the first ten Fundamental Duties came into force with effect from January 3, 1977, the eleventh Fundamental Duty came into force with effect from December 12, 2002.

2.3.1 Relevance of Fundamental Duties

Sardar Swaran Singh Committee of Indian National Congress suggested criminal proceedings against those who neglect the Fundamental Duties. However, the Union Government left this matter to the discretion of the citizens. The Supreme Court in *Bijoe Emanuel Vs State of Kerala* (1986) made it clear that not showing respect to the national anthem is not a crime. Justice Ranganatha Mishra in this context urged the Supreme Court to modify such a decision basing the Supreme Court instructions to the Union Government. Consequently, the Union Government set up a committee in July 1998 under the chairmanship of Justice J.S.Varma. It made the following suggestions in 1999.

1. Observing January 3rd every year as Fundamental Duties day.
2. Setting up of a national agency for bringing awareness among the people.
3. Broadcasting and telecasting Fundamental Duties through All India Radio and Television channels.
4. Display of notice boards denoting Fundamental Duties in all public places and government offices.
5. Setting up of an independent mechanism on the model of Ombudsman.
6. Inclusion of Fundamental Duties in petty booklets understandable to the ordinary people.
7. Regulations upon the cinemas and television channels against unethical and anti-family oriented programmes.
8. Introducing N.C.C. activities in all type of educational institutions, etc.

Some Constitutional experts, administrators and legal luminaries felt that Fundamental Duties cannot be enforced due to their inclusion in part IVA under Article 51A. It does not mean that governments should not be indifferent in their implementation. For instance the Supreme Court in a petition filed by the retired Chief Justice, Ranganath Mishra instructed the

Union Government in August 2007 for enforcing the certain laws for implementing Fundamental Duties. But the Supreme Court cautioned that the various governments shall be vigilant depending upon the situation.

The list of Fundamental Duties is not exhaustive as it does not cover other important duties like casting vote, paying taxes, family planning and so on. In fact, duty to pay taxes was recommended by the Sardar Swaransingh Committee. Some of the Fundamental Duties are vague, ambiguous and difficult to understand by the common man. For example different interpretations can be given to the phrases like noble ideals, scientific temper and so on.

2.3.2 Significance of Fundamental Duties

Fundamental Duties are aim at making Indian citizen socially conscious and responsible. They are in consonance with the Universal Declaration of Human Rights approved by the UN General Assembly in 1948 December 10.

Fundamental Duties are considered most significant from the following view points.

1. The Fundamental Duties act as a reminder to the Citizens that while enjoying their rights, they should also be conscious of duties they owe to their country, their society and to their fellow citizen.
2. They serve as warning against anti national and anti social activities.
3. They serve as the source of inspiration for the citizens and promote sense of discipline and commitment among them.
4. They help the courts in examining and determining the Constitutional validity of a law.

Summary

Fundamental Rights, Directive Principles and Fundamental Duties are the most significant features of Indian Constitution. While Fundamental Rights and Fundamental Duties are meant for Indian Citizens, Directive Principles are intended for the various governments in India. Fundamental Rights provide several opportunities for the citizens for developing their personality. They expand individual's activities to the entire human life. No one, including the State in normal conditions, is allowed to interfere or confiscate Fundamental Rights of the citizens. The judiciary protects the Fundamental Rights by the means of 'Judicial Review'. Hence, Fundamental Rights form on the basis of human existence in India.

Directive Principles are quite opposite to the Fundamental Rights. These principles extend the activities of the State in social, economic and political spheres. The various governments undertake several welfare measures for the overall progress of various sections, especially economically backward people, disadvantaged, disabled and unfortunate persons in society. Directive Principles, when implemented sincerely, will transform India into a Welfare, Socialist and Gandhian State.

Fundamental Duties aim at making individuals responsible, rational and reasonable in their day-to-day life. They ensure peace, order and stability in the country. They avoid tensions and conflicts among individuals. They make the citizens duty conscious and cooperative in their interaction with fellow citizens.

QUESTIONS

I. Long Answer Questions

1. Explain the characteristic features of Fundamental Rights.
2. Explain the various types of Directive Principles of State Policy mentioned in Indian Constitution.
3. Describe the Fundamental Duties incorporated in Indian Constitution.
4. Explain the differences between Fundamental Rights and Directive Principles of State Policy.

II. Short Answer Questions

1. Write a note on the changing relationship between Fundamental Rights and Directive Principles of State Policy.
2. Explain any three fundamental rights of a citizen
3. Describe the six freedoms of a citizen.
4. Write briefly on the Right to Constitutional Remedies.
5. Explain any five differences between Fundamental Rights and Directive Principles of State Policy.
6. Explain the important characteristics of Directive Principles of State policy.
7. Examine the implementation of Directive Principles of State Policy.
8. Explain the significance of Directive Principles of State Policy.

III. Very Short Answer Questions

1. Fundamental Rights
2. Types of Directive Principles
3. Habeas Corpus
4. Mandamus
5. Cultural and Educational Rights
6. Gandhian Ideas of Directive Principles of State Policy
7. Significance of Fundamental Duties
8. Mention any three liberal principles
9. Quo-warranto
10. Right to Religion
11. Right against Exploitation

CHAPTER 3



The Union Executive

3.0 Introduction

3.1 Union Executive

3.2 The President of India

3.3 The Vice- President of India

3.4 The Prime Minister of India

3.5 Union Council of Ministers

Summary

Questions

3.0 Introduction

Legislature, Executive and Judiciary are the three organs of the government. Together they perform the functions of the government such as maintaining law and order and looking after the welfare of the people etc. It is upon the government that the name, fame and progress of the country depend to a great extent. The Constitution ensures that they work in coordination with each other and maintain a balance among themselves. The Union Government takes decisions and acts according to the wishes and aspirations of the people. The matters concerning Union Government are dealt in Articles 52 to 147 in Part-V of our Constitution.

Union Government comprises (i) Union Executive (ii) Union Legislature and (iii) Union Judiciary. These three organs exercise authority and fulfill their obligations with cooperation, coordination and cohesion. In this chapter, we will discuss the composition, structure and functions of the union executive.

