

Features of the Indian Constitution

The constitution of any country is its fundamental law, under which all other laws are made. Today, there are around 200 sovereign countries in the world, and each has its own constitution.

Written Constitution

Constitutions are of various types, primarily classified as written and unwritten. England's constitution is considered the only unwritten constitution in the world. All others fall under the written category. Unwritten does not mean that nothing is written; it means the laws are not compiled into a single document arranged by article numbers. For instance, the English constitution has accumulated laws over centuries, unlike a written constitution that codifies laws systematically.

The first written laws were introduced by the Romans in ancient times. The timeline is divided into: Ancient Era (up to the 5th century CE), Medieval Era (5th to 15th century CE), and Modern Era (post-15th century). Greek city-states did not feel the need for written laws due to their small size, but the Roman Empire spread across Europe, Africa, and Asia and needed uniform laws, which led to the development of written law.

Largest Constitution in the World

The U.S. Constitution is the first modern written constitution and is also the shortest, containing only seven articles. In contrast, India's Constitution is the longest written constitution in the world, with over 450 articles, though the last article number is 395. Article 368 provides for constitutional amendments, allowing addition, removal, or modification of articles. New articles are added using alphanumeric numbers like 5A, 5B, etc., without altering the original numbering. For example, the Right to Education was added as Article 21A.

The large size of India's constitution is due to detailed provisions regarding the Election Commission, administration, and judiciary.

Partly Rigid, Mostly Flexible Constitution

Constitutions are classified as rigid or flexible based on how difficult they are to amend. The U.S. Constitution is considered the most rigid; even minor amendments can take years. On the other hand, the U.K. Constitution is highly flexible, allowing changes by a simple majority in Parliament.

India's Constitution is partly rigid and mostly flexible. Article 368 outlines three types of amendments:

1. By simple majority in Parliament
2. By special majority in Parliament

3. By special majority in Parliament plus ratification by half of the state legislatures

For instance, reducing the voting age from 21 to 18 required a special majority and state ratification, taking about two years. In contrast, creating new states like Chhattisgarh, Uttarakhand, and Jharkhand in 2000 required only a simple majority.

Fundamental Rights

Fundamental Rights are another key feature. Some rights are exclusively for citizens; others are available to foreigners too. The concept was inspired by the U.S. Constitution, which itself drew from the British Bill of Rights.

India grants six fundamental rights:

1. Right to Equality
2. Right to Freedom
3. Right against Exploitation
4. Right to Freedom of Religion
5. Cultural and Educational Rights
6. Right to Constitutional Remedies

Unlike ordinary rights, violations of fundamental rights allow citizens to approach High Courts or the Supreme Court directly. Initially, there were seven rights, but the Right to Property was removed in 1978 (44th Amendment) and is now a legal right under Article 300A.

Directive Principles of State Policy

Part IV of the Constitution contains the Directive Principles of State Policy, inspired by the Irish Constitution. Unlike fundamental rights, they are not enforceable by courts but guide the government. Examples include free education, nutritional food for all, uniform civil code, and promotion of international peace.

Fundamental Duties

The 42nd Amendment in 1976 introduced Fundamental Duties. These include respecting the National Anthem and Flag, scientific temper, and readiness to serve the country. These duties were added during the Emergency period (1975-1977) under Prime Minister Indira Gandhi.

Parliamentary System

India follows the parliamentary democracy model, derived from the British system. Ancient Greek city-states had direct democracy, where citizens participated directly. As states grew in size, indirect (representative) democracy evolved. In the parliamentary system, the executive is derived from and accountable to the legislature. Unlike the U.S. presidential system based on the separation of powers, the Indian model ensures legislative control over the executive.

Federal Structure

India has a federal structure, meaning power is divided between a central government and individual states. This model is suited for large, diverse countries. The Constitution outlines division of powers using three lists: Union List, State List, and Concurrent List.

India has one army, one currency, and one foreign policy, but each state can have its own educational policy and is responsible for internal law and order. Disputes between states or between states and the centre can be directly taken to the Supreme Court, which has original jurisdiction in such matters.

Secularism

India has no official religion. All religions are treated equally, and minorities receive special protection. This concept differs from the Western model, where secularism emerged to separate religion and politics, especially in Christian-dominated medieval Europe. In India, secularism means equal respect and protection for all religions.

Other Key Features:

- Single citizenship
- Independent judiciary
- Election Commission for conducting free and fair elections
- 73rd and 74th Amendments for local self-governance

Constituent Assembly of India

India's Constitution was drafted by the Constituent Assembly, established on 6 December 1946. Dr. Rajendra Prasad was its President. Dr. B. R. Ambedkar was the Chairman of the Drafting Committee and is known as the Architect of the Indian Constitution.

Initially, the Assembly had 389 members (292 from provinces, 93 from princely states, and 4 from Chief Commissioners' provinces). After the 3 June 1947 Mountbatten Plan and the creation of Pakistan, 90 members left, reducing the number to 299.

The Assembly held 11 sessions over 165 days in 2 years, 11 months, and 18 days. The Constitution was adopted on 26 November 1949 and came into effect on 26 January 1950.

Legacy of the Constituent Assembly:

- Provided the foundation of Indian democracy
- Constituent Assembly Debates remain a key interpretative source
- It exemplified consensus, vision, and dedication to nation-building

The Indian Constituent Assembly – A Detailed Overview

1. Historical Background

- The **demand for a Constituent Assembly** was first made in **1934** by **M. N. Roy**, a pioneer of the Communist movement in India.
 - The **Indian National Congress (INC)** officially took up the demand in **1935**, asserting that Indians should frame their own constitution.
 - The idea was finally accepted by the British Government in the **August Offer of 1940**, and later reaffirmed in the **Cabinet Mission Plan of 1946**.
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2. Formation of the Constituent Assembly

- The **Cabinet Mission Plan (1946)** provided for the formation of the Constituent Assembly.
- The **elections were held in July 1946**, not through direct elections, but by **indirect elections by provincial assemblies**.
- **Total strength of the Assembly** was fixed at **389**:
 - **292** from British Indian provinces
 - **93** from princely states
 - **4** from chief commissioner's provinces

However, due to the **Partition of India**, the final number of members came down to **299** after August 15, 1947. 90 members were removed, as they belonged to newly formed Pakistan.

3. Composition and Characteristics

- The Assembly was not based on universal adult suffrage.
- It was **partially elected and partially nominated**.
- Despite British initiation, the Assembly came to represent **the sovereign will of the Indian people**.
- It was dominated by the **Indian National Congress**, which had a **two-thirds majority**.

Key Members:

Name	Role
Dr. Rajendra Prasad	President of the Constituent Assembly
Dr. B. R. Ambedkar	Chairman, Drafting Committee
Jawaharlal Nehru	Proposed the Objectives Resolution
Sardar Vallabhbhai Patel	Worked on integration of princely states
Alladi Krishnaswamy Iyer	Member of Drafting Committee
T. T. Krishnamachari	Contributed to debates on federalism
Maulana Abul Kalam Azad	Eminent Muslim leader and educationist

4. Working and Committees

- The Assembly had **22 Committees**, including:
 - **Drafting Committee** (Dr. Ambedkar)
 - **Union Powers Committee**
 - **Fundamental Rights Sub-Committee**

- **Provincial Constitution Committee**
- The **Drafting Committee** prepared the first draft by **October 1947**, and the second draft by **February 1948**.

Major Milestones:

Date	Event
9 December 1946	First meeting of the Assembly
13 December 1946	Nehru introduced the Objectives Resolution
22 January 1947	Objectives Resolution adopted
29 August 1947	Drafting Committee formed
26 November 1949	Constitution adopted
26 January 1950	Constitution came into effect (Republic Day)

5. Objectives Resolution

- Proposed by **Jawaharlal Nehru**.
- It laid the **philosophical foundation** of the Constitution:
 - Sovereignty
 - Democracy
 - Justice (social, economic, political)
 - Equality
 - Liberty
 - Promotion of fraternity

This resolution later became the **Preamble of the Constitution**.

6. Features and Achievements

- Drafted the **longest written constitution** of any sovereign country.
- Ensured **democratic values** and **fundamental rights**.
- Created a **federal system with a strong centre**.
- Integrated **princely states** into the Indian Union.
- Laid the foundation for a **secular and socialist republic**.
- The process was **inclusive, transparent, and deliberative** with **165 sittings** over nearly **3 years (2 years, 11 months, and 18 days)**.
- Not elected by universal adult franchise.
- Over-representation of Congress.
- Muslim League absence post-partition reduced pluralism.
- Dominance of lawyers and elites over peasants and labour voices.

its legitimacy was accepted, and the Constitution has stood the test of time with over **100 amendments** yet retaining its core spirit.

8. Legacy and Significance

- The Constituent Assembly laid the **democratic foundation of India**.
 - Its debates (available as "**Constituent Assembly Debates**") remain a **valuable reference for constitutional interpretation**.
 - Celebrated for **vision, consensus-building, and commitment to justice**.
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