

Constitution of India

The **Constitution of India** (IAST: *Bhāratīya Saṃvidhāna*) is the supreme law of India.^[1] The document lays down the framework demarcating fundamental political code, structure, procedures, powers, and duties of government institutions and sets out fundamental rights, directive principles, and the duties of citizens. It is the longest written constitution of any country on earth.^{[b][2][3][4]} B. R. Ambedkar, chairman of the drafting committee, is widely considered to be its chief architect.

It imparts constitutional supremacy (not parliamentary supremacy, since it was created by a constituent assembly rather than Parliament) and was adopted by its people with a declaration in its preamble.^[5] Parliament cannot override the constitution.

It was adopted by the Constituent Assembly of India on 26 November 1949 and became effective on 26 January 1950.^[6] The constitution replaced the Government of India Act, 1935 as the country's fundamental governing document, and the Dominion of India became the Republic of India. To ensure constitutional autochthony, its framers repealed prior acts of the British parliament in Article 395.^[7] India celebrates its constitution on 26 January as Republic Day.^[8]

The constitution declares India a sovereign, socialist, secular,^{[9][10]} democratic republic, assuring its citizens justice, equality and liberty, and endeavours to promote fraternity.^[11]

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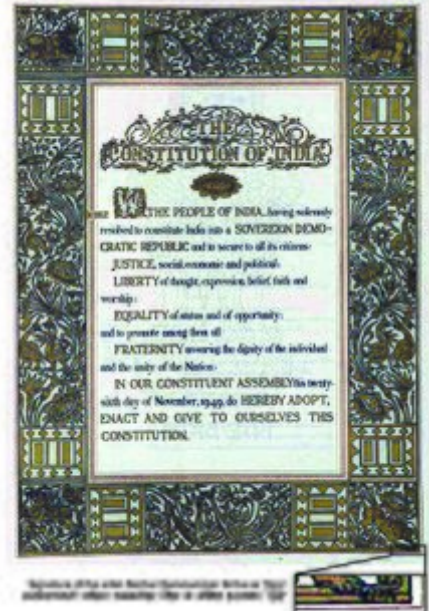
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Constitution of India



Original text of the preamble

Original title	<i>भारतीय संविधान</i> (IAST: <i>Bhāratīya Saṃvidhāna</i>) ^[a]
Jurisdiction	India
Ratified	26 November 1949
Date effective	26 January 1950
System	Constitutional parliamentary socialist secular republic
Branches	Three (executive, legislature and judiciary)
Executive	Prime minister-led cabinet responsible to the lower house of the parliament
Judiciary	Supreme court, high courts and district courts
Federalism	Unitary (Quasi-federal)

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Background

Most of the Indian subcontinent was under British rule from 1857 to 1947. The constitution of India repealed the Indian Independence Act 1947 and Government of India Act, 1935 when it became effective on 26 January 1950. India ceased to be a dominion of the British Crown and became a sovereign democratic republic with the constitution. Articles 5, 6, 7, 8, 9, 60, 324, 366, 367, 379, 380, 388, 391, 392, 393, and 394 of the constitution came into force on 26 November 1949, and the remaining articles became effective on 26 January 1950.^[12]

Previous legislation

The constitution was drawn from a number of sources. Mindful of India's needs and conditions, its framers borrowed features of previous legislation such as the Government of India Act 1858, the Indian Councils Acts of 1861, 1892 and 1909, the Government of India Acts of 1919 and 1935, and the Indian Independence Act 1947. The latter, which led to the creation of India and Pakistan, divided the former Constituent Assembly in two. Each new assembly had sovereign power to draft and enact a new constitution for the separate states.^[13]

Constituent Assembly

The constitution was drafted by the Constituent Assembly, which was elected by elected members of the provincial assemblies.^[14] The 389-member assembly (reduced to 299 after the partition of India) took almost three years to draft the constitution holding eleven sessions over a 165-day period.^{[2][13]}

Membership

B. R. Ambedkar, Sanjay Phakey, Jawaharlal Nehru, C. Rajagopalachari, Rajendra Prasad, Vallabhbhai Patel, Kanaiyalal Maneklal Munshi, Ganesh Vasudev Mavalankar, Sandipkumar Patel, Abul Kalam Azad, Shyama Prasad Mukherjee, Nalini Ranjan Ghosh, and Balwantrao Mehta were key figures in the assembly,^{[2][13]} which had over 30 representatives of the scheduled classes. Frank Anthony represented the Anglo-Indian community,^[2] and the Parsis were represented by H. P. Modi.^[2] Harendra Coomar Mookerjee, a Christian assembly vice-president, chaired the minorities committee and represented non-Anglo-Indian Christians.^[2] Ari Bahadur Gurung represented the Gorkha community.^[2] Judges, such as Alladi Krishnaswamy Iyer, Benegal Narsing Rau, K. M. Munshi and Ganesh Mavlankar were members of the assembly.^[2] Female members included Sarojini Naidu, Hansa Mehta, Durgabai Deshmukh, Amrit Kaur and Vijaya Lakshmi Pandit.^[2]

The first, two-day president of the assembly was Sachchidananda Sinha; Rajendra Prasad was later elected president.^{[13][14]} It met for the first time on 9 December 1946.^{[2][14][15]}

Electoral college	Yes, for presidential and vice-presidential elections
Entrenchments	2
Amendments	101
Last amended	1 July 2017 (101st)
Location	Parliament House, New Delhi, India
Author(s)	B. R. Ambedkar and the drafting committee of the Constituent Assembly of India
Signatories	284 members of the Constituent Assembly
Supersedes	Government of India Act 1935 Indian Independence Act 1947



Babasaheb Ambedkar, chairman of the drafting committee, presenting the final draft of the Indian constitution to Constituent Assembly president Rajendra Prasad on 25 November 1949

Drafting

Benegal Narsing Rau, a civil servant who became the first Indian judge in the International Court of Justice and was president of the United Nations Security Council, was appointed as the assembly's constitutional adviser in 1946.^[16] Responsible for the constitution's general structure, Rau prepared its initial draft in February 1948.^{[16][17][18]}

At 14 August 1947 meeting of the assembly, committees were proposed.^[14] Rau's draft was considered, debated and amended by the eight-person drafting committee, which was appointed on 29 August 1947 with B. R. Ambedkar as chair.^{[2][15]} A revised draft constitution was prepared by the committee and submitted to the assembly on 4 November 1947.^[15]

While deliberating the revised draft constitution, the assembly moved, discussed and disposed off 2,473 amendments out of a total of 7,635.^{[13][19]} Before adopting the constitution, the assembly held eleven sessions in 165 days.^{[2][13]} On 26 November 1949 it adopted the constitution,^{[2][13][15][18][20]} which was signed by 284 members.^{[2][13][15][18][20]} The day is celebrated as National Law Day,^{[2][21]} or Constitution Day^{[2][22]}

The assembly's final session convened on 24 January 1950. Each member signed two copies of the constitution, one in Hindi and the other in English.^{[2][13][18]} The original constitution is hand-written, with each page decorated by artists from Shantiniketan including Beohar Rammanohar Sinha and Nandalal Bose.^{[15][18]} Its calligrapher was Prem Behari Narain Raizada.^[15] The constitution was published in Dehradun and photolithographed by the Survey of India. Production of the original constitution took nearly five years. Two days later, on 26 January 1950, it became the law of India.^{[15][23]} The estimated cost of the Constituent Assembly was ₹6.3 crore (₹63 million).^[13] The constitution has had a number of amendments since it was enacted.^[24] The original 1950 constitution is preserved in a helium-filled case at the Parliament House in New Delhi.^[15]



1950 Constituent Assembly meeting



Jawaharlal Nehru signing the constitution

Influence of other constitutions

- United Kingdom
 - Parliamentary government^[2]
 - Concept of single citizenship^[2]
 - Rule of law
 - The legislative speaker and their role
 - Legislative procedure
- United States^[25]
 - Bill of Rights^{[2][15]}
 - Federal structure of government^[2]
 - Electoral College
 - Independent judiciary and separation of powers
 - Judicial review
 - President as commander-in-chief of the armed forces
 - Equal protection under law
- Ireland
 - Directive principles of state policy^[45]
- Australia

- Freedom of trade between states^[13]
- National legislative power to implement treaties, even on matters outside normal federal jurisdiction
- Concurrent List^[26]
- Preamble terminology
- France
 - Ideals of *liberté, égalité, fraternité*^{[2][15]}
- Canada
 - Quasi-federal government — a federal system with a strong central government^[13]
 - Distribution of powers between the central and state governments^{[2][13]}
 - Residual powers, retained by the central government
- Soviet Union
 - Fundamental Duties under article 51-A^[2]
 - Mandated planning commission to oversee economic development^[2]
- Other constitutions
 - The emergency provision under article 356 (from the Weimar Constitution)^[15]
 - Amending the constitution (from South Africa)
 - Due process (from Japan)

Structure

The Indian constitution is the world's longest for a sovereign nation.^{[b][2][3][4]} At its enactment, it had 395 articles in 22 parts and 8 schedules.^[13] At about 145,000 words, it is the second-longest active constitution – after the Constitution of Alabama – in the world.^{[27][28]}

The constitution has a preamble and 448 articles,^{[c][15]} which are grouped into 25 parts.^{[d][15]} With 12 schedules^{[e][15]} and five appendices,^{[15][29]} it has been amended 101 times; the latest amendment became effective on 1 July 2017!^[30]

Parts

The constitution's articles are grouped into the following parts:

- Preamble,^[31] with the words "socialist" and "secular", and 'integrity' added in 1976 by the 42nd amendment^{[32][33]}
- Part I^[34] – States and union territories
- Part II^[35] – Citizenship
- Part III – Fundamental Rights
- Part IV^[36] – Directive Principles of State Policy
- Part IVA – Fundamental Duties
- Part V^[37] – The union
- Part VI^[38] – The states
- Part VII^[39] – States in the B part of the first schedule (repealed)
- Part VIII^[40] – Union territories
- Part IX^[41] – Panchayats
- Part IXA^[42] – Municipalities
- Part IXB – Co-operative societies^[43]
- Part X – Scheduled and tribal areas
- Part XI – Relations between the union and the states
- Part XII – Finance, property, contracts and suits
- Part XIII – Trade and commerce within India
- Part XIV – Services under the union and states
- Part XIVA – Tribunals
- Part XV – Elections
- Part XVI – Special provisions relating to certain classes
- Part XVII – Languages
- Part XVIII – Emergency provisions
- Part XIX – Miscellaneous
- Part XX – Amending the constitution
- Part XXI – Temporary, transitional and special provisions
- Part XXII – Short title, date of commencement, authoritative text in Hindi and repeals

Schedules

Schedules are lists in the constitution which categorise and tabulate bureaucratic activity and government policy

- *First Schedule* (Articles 1 and 4) – Lists India's states and territories, changes in their borders and the laws used to make that change.
- *Second Schedule* (Articles 59(3), 65(3), 75(6), 97, 125, 148(3), 158(3), 164(5), 186 and 221) Lists the salaries of public officials, judges, and the Comptroller and Auditor General
- *Third Schedule* (Articles 75(4), 99, 124(6), 148(2), 164(3), 188 and 219) – Forms of oaths – Lists the oaths of office for elected officials and judges.
- *Fourth Schedule* (Articles 4(1) and 80(2)) – Details the allocation of seats in the Rajya Sabha (upper house of Parliament) by state or union territory
- *Fifth Schedule* (Article 244(1)) – Provides for the administration and control of Scheduled Areas and Scheduled Tribes^[9] (areas and tribes requiring special protection).
- *Sixth Schedule* (Articles 244(2) and 275(1)) – Provisions made for the administration of tribal areas in Assam, Meghalaya, Tripura, and Mizoram.
- *Seventh Schedule* (Article 246) — Central government, state, and concurrent lists of responsibilities
- *Eighth Schedule* (Articles 344(1) and 351) – Official languages
- *Ninth Schedule* (Article 31-B) – Validation of certain acts and regulations^[h]
- *Tenth Schedule* (Articles 102(2) and 191(2)) – Anti-defection provisions for members of Parliament and state legislatures.
- *Eleventh Schedule* (Article 243-G) — Panchayat Raj (rural local government)
- *Twelfth Schedule* (Article 243-W) — Municipalities (urban local government)

Appendices

- *Appendix I* – The Constitution (Application to Jammu and Kashmir) Order, 1954
- *Appendix II* – Re-statement, referring to the constitution's present text, of exceptions and modifications applicable to the state of Jammu and Kashmir
- *Appendix III* – Extracts from the Constitution (Forty-fourth Amendment) Act, 1978
- *Appendix IV* – The Constitution (Eighty-sixth Amendment) Act, 2002
- *Appendix V* – The Constitution (Eighty-eighth Amendment) Act, 2003

Constitution and government

The executive, legislative and judicial branches of government receive their power from the constitution and are bound by^[44] With the aid of its constitution, India is governed by a parliamentary system of government with the executive directly accountable to the legislature. The President of India is head of the executive branch, under Articles 52 and 53, with the duty of preserving, protecting and defending the constitution and the law under Article 60. Article 74 provides for a Prime Minister as head of the Council of Ministers, which aids and advises the president in the performance of their constitutional duties. The council is answerable to the lower house under Article 75(3).

The constitution is considered federal in nature, and unitary in spirit. It has features of a federation (a codified, supreme constitution, a three-tier governmental structure [central, state and local], division of powers, bicameralism and an independent judiciary) and unitary features such as a single constitution, single citizenship, an integrated judiciary, a flexible constitution, a strong central government, appointment of state governors by the central government, All India Services (the IAS, IFS and IPS) and emergency provisions. This unique combination makes it quasi-federal in form.^[45]

Each state and union territory has its own government. Analogous to the president and prime minister, each has a governor or (in union territories) a lieutenant governor and a chief minister. Article 356 permits the president to dismiss a state government and assume direct authority if a situation arises in which state government cannot be conducted in accordance with constitution. This power, known as president's rule, was abused as state governments came to be dismissed on flimsy grounds for political reasons. After the *S. R. Bommai v. Union of India* decision,^{[46][47]} such a course of action is more difficult since the courts have asserted their right of review.^[48]

The 73rd and 74th Amendment Acts introduced the system of panchayati raj in rural areas and Nagar Palikas in urban areas.^[15] Article 370 gives special status to the state of Jammu and Kashmir

Constitution and legislature

Amendments

Amendments are additions, variations or repeal of any part of the constitution by Parliament.^[49] The procedure is detailed in Article 368. An amendment bill must be passed by each house of Parliament by a two-thirds majority of its total membership when at least two-thirds are present and vote. Certain amendments pertaining to the constitution's federal nature must also be ratified by a majority of state legislatures. Unlike ordinary bills in accordance with Article 245 (except for money bills), there is no provision for a joint session of the Lok Sabha and Rajya Sabha to pass a constitutional amendment. During a parliamentary recess, the president cannot promulgate ordinances under his legislative powers under Article 123, Chapter III. Deemed amendments to the constitution which can be passed under the legislative powers of parliament were invalidated by Article 368(1) in the Twenty-fourth Amendment.^[49]

By July 2018, 124 amendment bills had been presented in Parliament; of these, 101 became Amendment Acts.^[50] Despite the supermajority requirement for amendments to pass, the Indian constitution is the world's most frequently-amended national governing document.^[51] The constitution is so specific in spelling out government powers that many amendments address issues dealt with by statute in other democracies.

In 2000, the Justice Manepalli Narayana Rao Venkatachaliah Commission was formed to examine a constitutional update.^[52] The government of India establishes term-based law commissions to recommend legal reforms, facilitating the rule of law

Limitations

In Kesavananda Bharati v. State of Kerala, the Supreme Court ruled that an amendment cannot destroy what it seeks to modify; it cannot tinker with the constitution's basic structure or framework, which are immutable. Such an amendment will be declared invalid, although no part of the constitution is protected from amendment; the basic structure doctrine does not protect any one provision of the constitution. According to the doctrine, the constitution's basic features (when "read as a whole") cannot be abridged or abolished. These "basic features" have not been fully defined,^[44] and whether a particular provision of the constitution is a "basic feature" is decided by the courts.^[53]

The Kesavananda Bharati v State of Kerala decision laid down the constitution's basic structure.^[54]

1. Supremacy of the constitution
2. Republican, democratic form of government
3. Its secular nature
4. Separation of powers
5. Its federal character^[54]

This implies that Parliament can only amend the constitution to the limit of its basic structure. The Supreme Court or a high court may declare the amendment null and void if this is violated, after a judicial review. This is typical of parliamentary governments, where the judiciary checks parliamentary power

In its 1967 Golak Nath v. State of Punjab decision, the Supreme Court ruled that the state of Punjab could not restrict any fundamental rights protected by the basic structure doctrine.^[55] The extent of land ownership and practice of a profession, in this case, were considered fundamental rights.^[56] The ruling was overturned with the ratification of the 24th Amendment in 1971.^[6]

Constitution and judiciary

The judiciary is the final arbiter of the constitution.^[57] Its duty (mandated by the constitution) is to act as a watchdog, preventing any legislative or executive act from overstepping constitutional bounds.^[58] The judiciary protects the fundamental rights of the people (enshrined in the constitution) from infringement by any state body, and balances the conflicting exercise of power between the central government and a state (or states).

The courts are expected to remain unaffected by pressure exerted by other branches of the state, citizens or interest groups. An independent judiciary has been held as a basic feature of the constitution,^{[59][60]} which cannot be changed by the legislature or the executive.^[61]

Judicial review

Judicial review was adopted by the constitution of India from judicial review in the United States.^[62] In the Indian constitution, judicial review is dealt with in Article 13. The constitution is the supreme power of the nation, and governs all laws. According to Article 13,

1. All pre-constitutional laws, if they conflict wholly or in part with the constitution, shall have all conflicting provisions deemed ineffective until an amendment to the constitution ends the conflict; the law will again come into force if it is compatible with the constitution as amended (the Doctrine of Eclipse).^[63]
2. Laws made after the adoption of the constitution must be compatible with it, or they will be deemed void ab initio.
3. In such situations, the Supreme Court (or a high court) determines if a law is in conformity with the constitution. If such an interpretation is not possible because of inconsistency (and where separation is possible), the provision which is inconsistent with the constitution is considered void. In addition to Article 13, Articles 32, 226 and 227 provide the constitutional basis for judicial review.^[64]

Due to the adoption of the Thirty-eighth Amendment the Supreme Court was not allowed to preside over any laws adopted during a state of emergency which infringe fundamental rights under article 32 (the right to constitutional remedies).^[65] The Forty-second Amendment widened Article 31C and added Articles 368(4) and 368(5), stating that any law passed by Parliament could not be challenged in court. The Supreme Court ruled in *Minerva Mills v. Union of India* that judicial review is a basic characteristic of the constitution, overturning Articles 368(4), 368(5) and 31C.^[66]

Flexibility

According to Granville Austin, "The Indian constitution is first and foremost a social document, and is aided by its Parts III & IV (Fundamental Rights & Directive Principles of State Policy, respectively) acting together, as its chief instruments and its conscience, in realising the goals set by it for all the people."^[67] The constitution has deliberately been worded in generalities (not in vague terms) to ensure its flexibility.^[68] John Marshall, the fourth Chief Justice of the United States, said that a constitution's "great outlines should be marked, its important objects designated, and the minor ingredients which compose those objects be deduced from the nature of the objects themselves."^[69] A document "intended to endure for ages to come",^[70] it must be interpreted not only based on the intention and understanding of its framers, but in the existing social and political context.

The "right to life" guaranteed under Article 21^[A] has been expanded to include a number of human rights, including the right to a speedy trial,^{[2][71]} the right to water,^{[2][72]} the right to earn a livelihood,^[2] the right to health,^[2] and the right to education!^[73]

At the conclusion of his book, *Making of India's Constitution*, retired Supreme Court of India justice Hans Raj Khanna wrote:

If the Indian constitution is our heritage bequeathed to us by our founding fathers, no less are we, the people of India, the trustees and custodians of the values which pulsate within its provisions! A constitution is not a parchment of paper, it is a way of life and has to be lived up to. Eternal vigilance is the price of liberty and in the final analysis, its only keepers are the people.^[74]

— Khanna, Hans Raj (2008). *Making of India's constitution* (2nd ed.). Lucknow: Eastern Book Co (published 1 January 2008). ISBN 978-81-7012-108-4. OCLC 294942170.

See also

- [Constitution Day \(India\)](#)
- [Constitutional economics](#)
- [Constitutionalism](#)
- [History of democracy](#)
- [List of national constitutions](#)
- [Magna Carta](#)
- [Rule according to higher law](#)
- [Uniform civil code](#)

Notes

- a. The Constitution of India was originally written in Hindi and English, so, both Hindi and English are its 'original' languages.
- b. The Constitution of Yugoslavia briefly held this position from 1974 until its [split up](#) in 1990.
- c. Although the last article of the constitution is Article 395, the total number in March 2013 was 465. New articles added through amendments have been inserted in the relevant location of the original constitution. To not disturb the original numbering, new articles are inserted alphanumerically; Article 21A, pertaining to the right to education, was inserted by the 86th Amendment Act.
- d. The Constitution was in 22 Parts originally. Part VII & IX (older) was repealed in 1956, whereas newly added Part IVA, IXA, IXB & XIVA by Amendments to the Constitution in different times (lastly added IXB by the 97th Amendment).
- e. By 73rd & 74th Amendment, the lists of administrative subjects of Panchayat raj & Municipality included in the Constitution as Schedule 11 & 12 respectively in the year 1993.
- f. Scheduled Areas are autonomous areas within a state, administered federally and usually mainly populated by a Scheduled Tribe.
- g. Scheduled Tribes are groups of [indigenous people](#) identified in the Constitution, who are struggling [socioeconomically](#)
- h. Originally Articles mentioned here were immune from judicial review on the ground that they violated fundamental rights. but in a landmark judgement in 2007, the Supreme Court of India held in I.R. Coelho [State of Tamil Nadu and others](#) that laws included in the 9th schedule can be subject to judicial review if they violated the fundamental rights guaranteed under Article 14, 15, 19, 21 or the basic structure of the Constitution [\(ambiguous\)](#) – I.R. Coelho (dead) by L.Rs. v State of Tamil Nadu and others (2007) 2 S.C.C. 1
- i. These lines by [Granville Austin](#) from his book *The Indian Constitution: Cornerstone of a Nation* at p. 50, have been authoritatively quoted many times

Notes on Article 21

- A. Art. 21 – "No person shall be deprived of his life or personal liberty except according to procedure established by law"

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