

Sources of Indian Constitution

[UPSC Notes]

What are the Sources of Indian Constitution?

Indian Constitution is the world's lengthiest Constitution that forms the spirit of the Republic of India. Even though the Indian Constitution has borrowed certain provisions from other countries, it is a well-established fact that the Indian Constitution is the world's most detailed constitution that originally consisted of 395 Articles (Note- The number of Articles has been increased to 448 to date). The Indian Constitution is a peculiar set of documents that is unique in terms of its spirit and content and depicts the geographical diversity of India, the historical perspective of Indian freedom fighters' struggles, traditions, and other traits.

When was the Indian constitution adopted?

Indian Constitution was framed after three years of hard work by the members of the constitutional assembly that acts as an umbrella of rights accountable for maintaining a fair society for its citizens. The Indian Constitution draws its features from the Government of India Act 1935 and the constitution of the other nations. It came into existence on 26 November 1949, i.e., it was adopted by the Constituent Assembly in 1949, providing the state's executive, Judiciary, and Legislative powers. However, on 26 January 1950, the Indian Constitution came into effect.

Dr. B.R. Ambedkar was the chairman of the drafting committee and is known as the chief Architect of the Indian Constitution.

Aspects of the Constitution of India

Few important aspects of the Indian Constitution are as under-

- It is the world's lengthiest Constitution.
- Indian Constitution draws its features from different sources.
- It has unitary features and adopts the federal system.
- It favors the parliamentary form of government.
- It has provisions to balance Judicial Supremacy and Parliamentary Sovereignty.
- It supports India's Integrated and independent form of the Judicial System
- It has provisions for the directive principles.
- It has a unique combination of flexibility and rigidity.

Original form of Indian Constitution

The Indian Constitution was adopted in the final session of the Assembly on 24th January 1950. The final session of the Assembly on 24 January 1950. It took 5 years to publish the Indian Constitution for the first time. Every member of the Assembly signed two copies of the Indian Constitution. The original form of the Indian constitution was hand-written on the pages decorated by Shantiniketan artists. These include- Nandalal Bose and Beohar Rammanohar Sinha, and the calligrapher of the Original form of the Indian Constitution was Prem Behari Narain Raizada.

Important Sources of Indian Constitution

Here is a table showing the different sources of Indian Constitution-

Countries	Features Borrowed
French Constitution	Provisions for Republic and the introduction of ideals of equality, fraternity, and liberty
Constitution of South Africa	Election of members of Rajya Sabha and Procedure for amendment in the Indian Constitution
Constitution of Germany (Weimar)	Suspension of Fundamental Rights during emergency
Constitution of US	Post of vice-president, Removal of Supreme Court and High Court judges, Impeachment of the president, Judicial review, Independence of judiciary, and Fundamental rights
Constitution of UK	Legislative procedure, Cabinet system, Parliamentary government, Rule of Law, Bicameralism, Bicameralism, Parliamentary privileges, and Prerogative writs
Constitution of Soviet Union (USSR) (now, Russia)	Ideals of justice (social, economic, and political) in the Preamble and Fundamental duties
Constitution of Ireland	Method of the election of the President, Nomination of members to Rajya Sabha, Directive Principles of State Policy,
Constitution of Japan	Procedure Established by law
Australian Constitution	Freedom of commerce, trade and intercourse, Concurrent list, and a joint sitting of the two Houses of Parliament

Government of India Act, 1935

The Government of India act is a historical act (longest act among all) that was passed by the Government of British. It had 321 sections and 10 schedules. Most of the Indian Constitution draws its features from the Government of India Act, 1935. The features adopted from the Government of India Act, 1935 include-

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

Constitution of France

France has gained a lot of popularity in terms of policy stability after the French Revolution. The Indian constitution adopted the ideals of Fraternity, Equality, and liberty in the Preamble from the French Constitution. After adopting such principles, the Indian constitution was recognized as the Republic of India.

Constitution of the United Kingdom

It is true that the Indian Constitution had its roots in the constitution of the United Kingdom. A few features and concepts borrowed from Great Britain are under-

- **The Parliamentary form of government-** In India, the parliamentary system of government is adopted. According to this form of government, the nation is run by the Ministers (cabinet of ministers). This cabinet is led by the head of the country, the Prime Minister, while President is the head of the state.
- **Rule of Law-** According to the rule of law, it is the law that governs a nation instead of the people or their representatives. Everyone is equal in the name of the law, codified in Article 14 of the Indian Constitution.
- **Writs-** The power of issuing writs is available to the high courts and supreme court in India so that the Right to Constitutional Remedies is available to all Indian Citizens. There are five writs- Mandamus, Certiorari, Prohibition, Habeas Corpus, and Quo-Warranto.
- **Single citizenship-** According to the idea of single citizenship, all the individuals that are born in India or are migrated to the country, then they can have the benefit of enjoying civil and political rights in India only, i.e, no two countries at the same time interval.

Constitution of the United States of America-

The features that are re-borrowed from the constitution of the United States of America are as follows-

- **Judicial Review:** The judiciary has the right to interpret the Indian Constitution. It means that the Judiciary can nullify the order made by the executive or the legislature (only if there is a conflict between that order with the Indian Constitution).
- **Fundamental Rights-** The fundamental rights of a citizen are incorporated in Article 12 to Article 32 of the Constitution of India. It includes the 6 fundamental rights- Right to Freedom, Right to Equality, Right to Freedom of Religion, Cultural and Educational Rights, Right against Exploitation, and Right to Constitutional Remedies.
- **Removal of Judges and Impeachment of the President-** According to Article 124(4) of the Indian Constitution, judges can be removed from office under the Judges Inquiry Act of 1968. The impeachment of the Indian President is provisioned under Article 61 of the constitution of India.

Constitution of Canada

Indian Constitution has adopted the following four major features from the Canadian constitution-

- Appointment of state governors by the Center
- Federation with a strong Center
- Advisory jurisdiction of the Supreme Court
- Vesting of residuary powers in the Center

Constitution of Australia

Indian Constitution lent the provisions for the Freedom of trade and commerce from the Constitution of Australia. Article 301 to 307 has provisions for the Freedom of trade and commerce between the states and within the country. Along with the Freedom of trade and commerce, provisions of the Concurrent list are also adopted from the Australian Constitution.

Constitution of Ireland

Directive Principles of State Policy (DPSP) is adapted from the Constitution of Ireland. It is listed in Part 4 of the Constitution of India. According to this, the state has to perform the duty of applying all the principles that are responsible for the law-making process. These principles are subdivided into three major categories-

- Liberal Intellectual Directives
- Gandhian Directives
- Socialist Directives

Constitution of South Africa and Germany

The provision for elections of the Rajya Sabha members and the procedure of amendment are borrowed from the South African Constitution, while the provision of suspension of fundamental rights during an emergency is adopted from the Constitution of Germany.