

- LAW - GENERAL  
- CONSTITUTION OF  
INDIA

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# Contents of this Presentation

- Indian legal system: salient features of the Indian Constitution, fundamental rights, directive principles of state policy
- Government: executive, legislature and judiciary



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# Why Do we need the Constitution

In General-

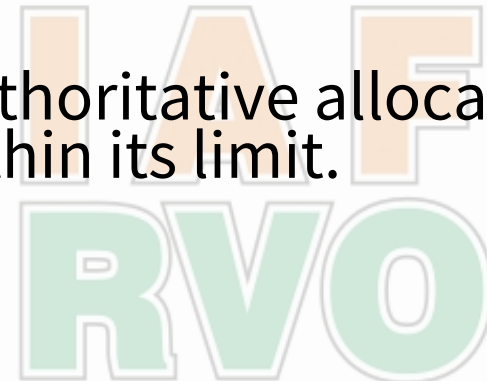
I. We need a constitution to govern a country properly.

II. The constitution defines the nature of political system of a country.

III. sometimes we feel strongly about an issue that might go against our larger interests and the constitution helps us guard against this.

IV. All the 3 organs of government (executive, legislature and judiciary) functions within the constitution. All the 3 organs of government, including ordinary citizens, derive their power and authority (i.e. Fundamental Right) from the constitution. If they act against it, it is unconstitutional and unlawful.

So constitution is required to have authoritative allocation of power and function, and also to restrict them within its limit.

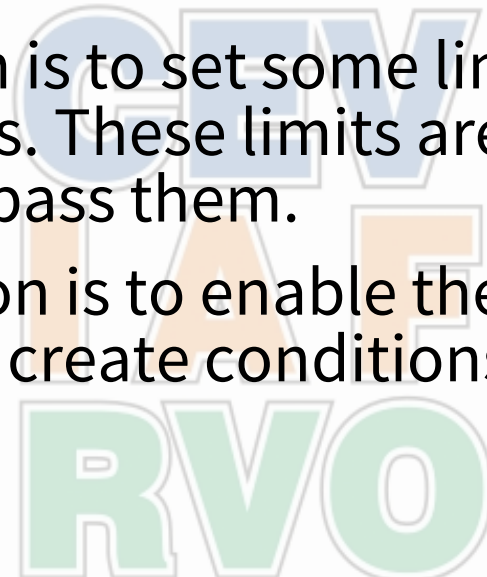




# Why Do we need the Constitution

To perform following Functions we need Constitution-

- I. The first function of a constitution is to provide a set of basic rules that allow for minimal coordination amongst members of a society.
- II. The second function of a constitution is to specify who has the power to make decisions in a society. It decides how the government will be constituted.
- III. The third function of a constitution is to set some limits on what a government can impose on its citizens. These limits are fundamental in the sense that government may ever trespass them.
- IV. The fourth function of a constitution is to enable the government to fulfill the separations of a society and create conditions for a just society.



# ○ Salient Features of the Indian Constitution

- Written and detailed Constitution
- Self Made & Enacted Constitution
- Preamble – Democratic, Socialist, Secular, Republic
- India is a Union of States – Mixture of Federalism and Unilaterism
- Fundamental Rights
- Fundamental Duties
- Directive Principles of State Policy
- Division of Powers: Executive, Legislature & Judiciary
- Amendable

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# Preamble

The Preamble to the Constitution of India is a brief introductory statement that sets out the guiding purpose and principles of the document.

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.**







# Preamble – Key Words

## 1. Sovereign

The term 'Sovereign' which is proclaimed by the Preamble means that India has its own independent authority and it is not a dominion of any other external power. In the country, the legislature has the power to make laws which is subjected to certain limitations.

## 2. Socialist

The term 'Socialist' was added in the Preamble by 42nd Amendment, 1976 which means the achievement of socialist ends through democratic means. It is basically a 'Democratic Socialism' that holds faith in a mixed economy where both private and public sectors co-exist side by side.

## 3. Secular

The term 'Secular' was incorporated in the Preamble by 42nd Constitutional Amendment, 1976 which means that all the religions in India get equal respect, protection and support from the state.

## 4. Democratic

The term 'Democratic' implies that the Constitution of India has an established form of Constitution which gets its authority from the will of the people expressed in an election.

## 5. Republic

The term 'Republic' indicates that the head of the state is elected by the people directly or indirectly. In India, the President is the head of the state and he is elected indirectly by the people.





# Fundamental Rights

- Article 14 - 18 • Right to equality
- Article 19 - 22 • Right to freedom
- Article 23 - 24 • Right against exploitation
- Article 25 - 28 • Right to freedom of religion
- Article 29 - 30 • Cultural & educational rights
- Article 32 - 35 • Right to constitutional Remedies







# Right to Equality (14-18)

## 1. Equality before law

It means 'any person shall not be given any specific rights and common law will be applied to all individuals.'

Each state has to recognize certain exception of principle of equality before law due to political and international reasons.

## 2. Equal protection of law

The law will treat uniformly to all individuals in equal circumstances. All individuals are equal in the eyes of law and therefore, there shall not be any kinds. There should be no discrimination between one person and another if, as regards the subject matter of the legislation, their position is same.

3. Prohibition of discrimination on ground only of religion, race, caste, sex or place of birth (Article 15).

4. Equality of opportunity in matters of public employment (Article 16).

5. Abolition of untouchability (Article 17).

` (Article 18).

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# Right to Freedom (19-22)

1. Freedom of speech and expression (Articles 19 (1)(a) and (2))
2. Freedom of assembly (Article 19 (1)(b) and (3))
3. Freedom to form associations or unions.
4. Freedom to move freely throughout India.
5. Freedom to reside and settle in any part of India.
6. Freedom to acquire, hold and dispose of properties (omitted).
7. Freedom to practice any profession

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# ○ PROTECTION IN RESPECT OF CONVICTION FOR OFFENCES (ARTICLE 20)

## 1. Protection against ex-post facto laws (Article 20(1))

The definition of an ex post facto law is a law that applies to crimes that happened before the law was passed.

## 2. Protection against double jeopardy (Article 20(2))

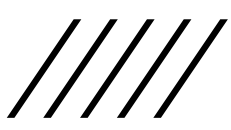
The Fifth Amendment to the Constitution states that no person shall “be subject for the same offense to be twice put in jeopardy of life or limb.” The double jeopardy clause bars second prosecutions after either acquittal or conviction, and prohibits multiple punishments for the same offense.

## 3. Protection against self-incriminations (Article 20(3))

This article states that where a person has been accused under a criminal offense, he shall not be compelled to vouch against himself.

... And that the accused shall have immunity against self incrimination.

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# Right against exploitation (23-24)

1. Prohibition of traffic in human beings and forced labor [Art. 23].
2. Prohibition of employment of children in hazardous employment [Art. 24].



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# Right to Freedom of Religion (25-28)

1. Freedom of conscience and free profession of religion (Article 25)
2. Freedom to manage religious affairs (Article 26)
3. Freedom from payment of taxes for promotion of any particular religion (Article 27)
4. Freedom to attend religious instructions in certain educational institutions (Article 28)

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# Cultural & Educational Rights (29-30)

1. Protection of language, script or culture of minorities.(Article 29)
2. Right of minorities to establish and administer educational institutions (Article 30)



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# Right to Constitutional Remedies (32-35)

Right to constitutional remedies [Article 32 to 35] empowers the citizens to move to a court of law in case of any denial of the fundamental rights. For instance, in case of imprisonment, any citizen can ask the court to see if it is according to the provisions of the law of the country by lodging a PIL.

Writs:

1. Habeas Corpus “You should have the body” (Personal Liberty)
2. Mandamus “to command” (Abstain from illegal act)
3. Prohibition “to forbid or to stop” (Stay Order)
4. Certiorari ‘to inform’ (Jurisdiction, Natural Justice, Error of Law)
5. Quo – Warranto “ by what warrant’ (Public Office)






# Directive principles of state policy





## DIRECTIVE PRINCIPLES OF STATE POLICY

### Socialist Principles

- i) Equal distribution of wealth and material resources among all classes of people so as to prevent its concentration in a few hands. (Art. 38 and 39)
  - ii) Provision of adequate means of livelihood to all the citizens. (Art. 43)
  - iii) Equal pay for equal similar work for both men and women. (Art. 39)
  - iv) Right to work, education and public assistance (Art. 41)
- 





# Socialist Principles

42. Humane conditions of work and maternity relief

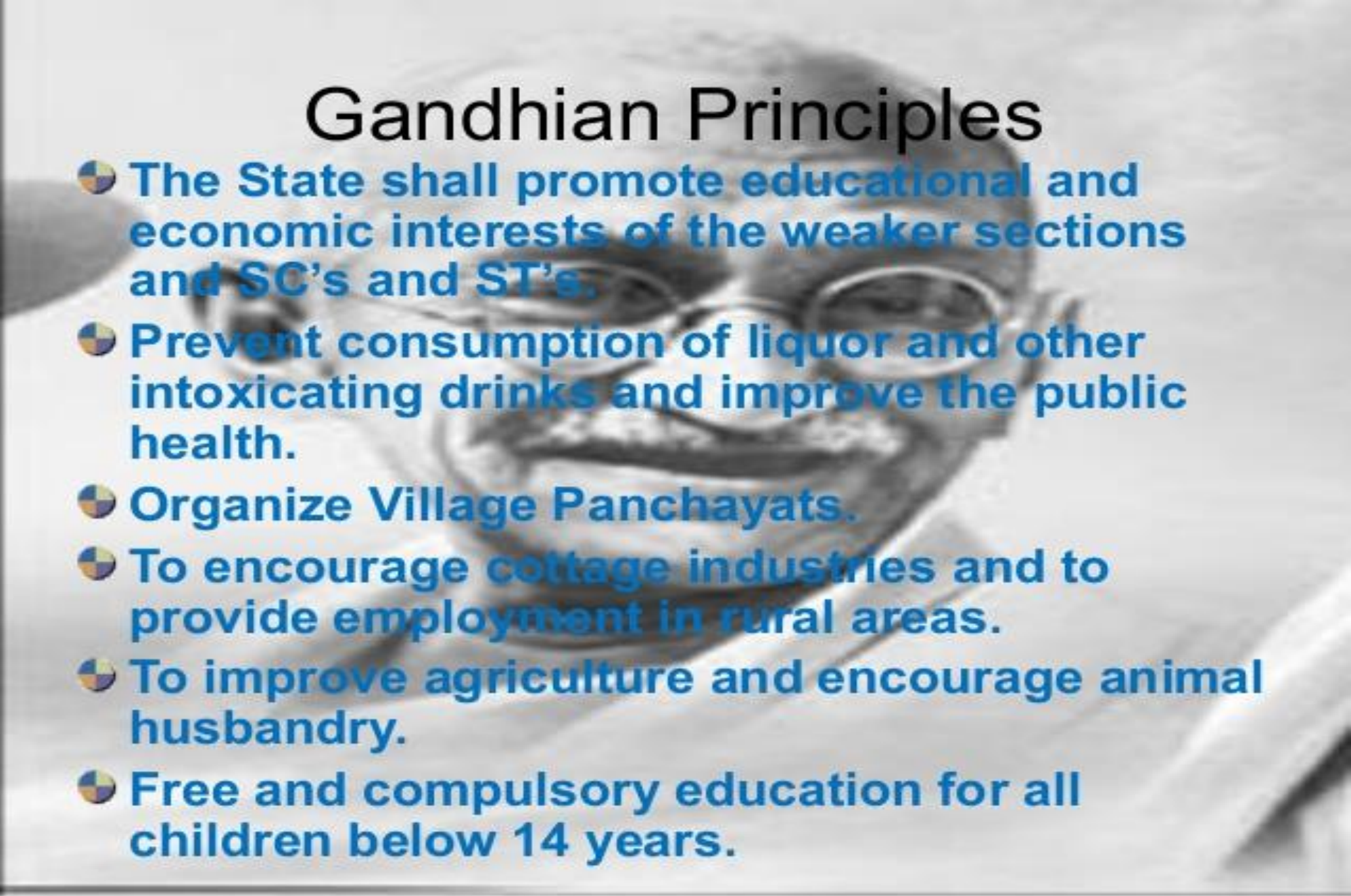
43. Living wage and decent standard of life

43A: Secure the participation of workers in the management of industries

47: Nutrition and public health

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# Gandhian Principles

- **The State shall promote educational and economic interests of the weaker sections and SC's and ST's.**
- **Prevent consumption of liquor and other intoxicating drinks and improve the public health.**
- **Organize Village Panchayats.**
- **To encourage cottage industries and to provide employment in rural areas.**
- **To improve agriculture and encourage animal husbandry.**
- **Free and compulsory education for all children below 14 years.**



# LIBERAL PRINCIPLES

44

UNIFORM  
CIVIL CODE

45

FREE AND  
COMPULSORY  
EDUCATION TO ALL  
CHILDREN - <14 YRS

48

ORGANISE  
- ANIMAL HUSBANDRY ON  
MODERN AND SCIENTIFIC  
BASIS  
PROHIBIT  
- SLAUGHTER OF COWS

48 A

PROTECT AND IMPROVE  
ENVIRONMENT  
  
IMPROVE AND SAFEGUARD  
FOREST AND WILDLIFE OF  
THE COUNTRY

49

PROTECT  
MONUMENTS +  
PLACES AND OBJECTS  
OF NATIONAL  
IMPORTANCE

50

SEPARATION OF  
JUDICIARY FROM THE  
EXECUTIVE

51

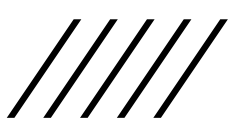
- PROMOTE INTERNATIONAL  
PEACE AND SECURITY  
- MAINTAIN GOOD RELATIONS  
WITH DIFFERENT STATES  
- RESPECT INTERNATIONAL  
TREATIES  
- SETTLE DISPUTES BY  
ARBITRATION



# ○ Fundamental Rights Vs. Directive Principles

Fundamental Rights are justifiable and enforceable rights while directive principles are non-justifiable and cannot override fundamental rights. Fundamental rights provide political rights whereas social and economic rights are provided through DPSP. Fundamental Rights are mentioned in the articles from 12 to 35 while directive principles are mentioned from article 36 to 51.

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# Fundamental Rights Vs. Directive Principles

S.N.	Fundamental Rights	Directive Principles
1	These are negative as they prohibit the state from doing certain things.	These are positive as they requires the state to do certain things
2	These are justifiable, that is they are legally enforceable by the courts in the case of their violation.	These are non justifiable i.e. they are not enforceable by the courts for their violation.
3	They aim at establishing political democracy in the country.	They aim at establishing social and economic democracy in the country.
4	These have legal sanctions	These have legal and political sanctions.
5	They promote the welfare of the individual. Hence they are personal and individualistic.	They promote the welfare of the community. Hence they are societarian and socialistic.
6	They do not require any legislation for their implementation. They are automatically enforced.	They require legislation for their implementation. They are not automatically enforced.
7	The courts are bound to declare a law violative of any of the fundamental rights as unconstitutional and invalid.	The court can not declare a law violative of any of the directive principles as unconstitutional and invalid. However, they can uphold the validity of a law on the ground that it was enacted to give effect to a directive.





# executive vs legislative vs judicial

“Power corrupts, absolute power corrupts absolutely”

The modern democratic setup nowadays is generally based on the concept of the “Doctrine of Separation of Powers”. Earlier all the powers were vested in only one authority, i.e the King. Concentration of all the powers in one particular authority led to abuse of power as the decision taken by the authority was whimsical and arbitrary on several occasions. A french lawyer and Political thinker Montesquieu proposed the “Doctrine of Separation of Powers” in his book “ De l'esprit des lois” also known as the “Spirit of Laws”. This theory suggested formation of three separate authorities for separate functions.

- Legislature to Legislate,
- Executive to implement,
- Judiciary to adjudicate,

Therefore, every ideal democratic state has three basic organs. The Legislature, the Executive and the Judiciary.

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# The Legislature

The Legislature: It is the law and policy making body. Generally, new laws or policies are introduced in the Parliament/ State Legislature in the form of Bills. These Bills once passed by the Legislature are sent to the President for assent. Once the passed bill gets the assent of the President, it becomes the law or the policy comes into effect.

Parliament or the State Legislature are the forms of “Legislature”.

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# The Executive

The Executive: The executive is responsible for the effective implementation of the laws/ policies passed by the Legislature. The President, Vice- President along with the Council of Ministers and the Attorney General form the Executive branch of the at Center, whereas Governor is the Executive at the State level along with the council of Ministers.

The Bureaucrats and civil servants are also parts of the executive as they are responsible for effective implementation of the law and policies at local level.

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# The Judiciary

The Judiciary: It is the most important feature of democracy. It is responsible for safeguarding the interests and the fundamental rights of the people. Judiciary consists of the Hon'ble Supreme Court, Hon'ble High Court and other lower courts. Judiciary keeps a tab on the activities of the government and plays an important role in the event of violation of Fundamental Rights of the people of the country. Judiciary also has the authority to examine the validity of the Laws enacted by the Parliament on the constitutional parameters.

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## Questions?

- Please feel free to
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