

## The Indian Constitution: A tumbler both half full and half empty

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### Abstract

*The Indian Constitution, a remarkable document that has withstood the test of time, is often debated in terms of its effectiveness in realizing its foundational objectives. At seventy-three years since its adoption, the Constitution continues to shape the nation's democratic and legal framework, yet significant challenges persist. While its survival defied early predictions of failure, mere endurance is not the sole measure of a constitution's success. The real test lies in its ability to uphold justice, liberty, and equality while adapting to the evolving socio-political landscape of India. This paper critically examines the extent to which the Constitution has achieved its intended goals and highlights areas where it has fallen short. It discusses social movements such as labor, Dalit, environmental, and women's rights movements that have continuously shaped constitutional discourse, often exposing gaps in the system. The paper also explores structural issues, including the excessive length and complexity of the Constitution, ineffective implementation of Directive Principles of State Policy, outdated provisions inherited from colonial-era laws, and the need for reforms in reservations and economic policies.*

*A key concern raised is whether the Constitution truly reflects the will of the people or if it has become a tool for political maneuvering. The discussion extends to the need for clearer constitutional morality, a more participatory democracy, and a stronger alignment between fundamental rights and directive principles. Issues such as judicial review, religious and caste-based privileges, and evolving governance challenges are also analysed. The study concludes that while the Constitution remains a robust framework for governance, critical reforms are necessary to ensure its continued relevance in addressing modern socio-economic realities. India's constitutional journey is thus a paradox—both a success and a work in progress.*

**Keywords:** Indian Constitution, Democracy, Governance, Social Movements, Constitutional Morality

### Introduction

Over seventy years have passed since India embraced the constitution. However, during its commencement, barely any individuals from the Constituent Assembly made any predictions that this constitution would not endure and soon will be a finished failure. By discrediting the predictions, the constitution endured. Survivability of the constitution albeit treasured, isn't the sole trial of a viable constitution. In actuality, the legitimate test requires the considerable acknowledgment of established objectives, compares the transactions of numerous factors and disentangles the underpinnings of the constitution in general and the constitutionalism specifically. In addition to this, arranging it inside the social, monetary, and real political factors of the separate states. At last, translate a reasonable and utilitarian established plan to yield intrinsically wanted results. For people, the age of seventy-three is quite old. It implies that the greatest periods of their lives are maybe behind them. In the event that they are in sensible wellbeing, they can hope to have a functioning existence for maybe ten years or more. From that point forward, the inescapable decrease begins. For

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countries, however, seventy-three years isn't even middle age. While various countries age in an unexpected way, a significant number of them pretty much start to find their sweet spot after the initial fifty years or so. Positively, this is valid for India. From the time India won independence from the British guideline and praised its first autonomy day — on 15 August 1947 — to the finish of its constitution and its proper appropriation on 26 January 1950, the country was basically in a progress stage. The genuine work of country building began solely after the constitution got settled, the new frameworks started being set up, and the establishments acquired by the principal Indian government from its British archetype started being reoriented to serve the requirements of the recently conceived nation. Our early pioneers were pulled in by the communist philosophy and the following forty years were spent attempting to get this philosophy to work. Social developments allude aggregate activity including rebellion, renewal or insurgency in the current social request. This work makes an unobtrusive endeavour to contend that social developments and common freedoms that are firmly connected and all friendly developments raise, straightforwardly or in a roundabout way; all this inquiries of fundamental basic liberties. The conspicuous developments that India saw including worker developments, ancestral developments, Dalit developments, ladies' developments, Naxalite developments, biological and ecological developments, common freedoms developments, among others were examined here. Here it is shown that the social developments in India have raised the issues of infringement of right to life, hardship of occupations, social separation and social avoidance, ecological corruption, etc. Indian states obliged or co-selected developments that are reformatory in nature while it tries to smash those developments looking for an extremist rebuilding of Indian social request (like the Naxalite development) energetically. The People are then the superior subject of common unrests, and thusly the creator of constitutions is generally perceived as the one genuine constituent subject. Most messages require a creator. A book as definitive as the constitution can't manage without one. Each constitution, including the Indian one, should accordingly incorporate some type of the explanatory distinguishing proof of "We, the People" as the creator of the content. The instance of the missing explanation, consequently upset inevitably prompts that connected secret of authorial identity. Following one of the biggest mass battles ever, India accomplished its autonomy without a progressive crack.<sup>2</sup>

### **The Endurance of the Indian Constitution**

Today, in the 21st century, would we be able to say that the genuine ability to oversee this nation is vested in its kin? However, the inquiry that regularly emerges is that the constitution in evident terms express the desire of individuals or has it quite recently become an apparatus in the possession of some ravenous lawmakers? Are individuals of India in genuine terms guaranteed justice, freedom, equity and crew? Is the ordinary person today getting equity? Does equity truly win? Is Liberty being practiced by all today? In the wake of the changing occasions in the Indian culture an established audit is exceptionally required. The constitution, however an exceptionally noteworthy piece, has fizzled in certain regards. Furthermore, in this article, I wish to communicate my assessment on the need of an update in our constitution. The preface says that we are a Democratic Republic. What's the significance here to us all? To characterize it in a layman's language that Democracy implies the power is in the possession of individuals to choose how and by whom the nation is run. In any case, today does the genuine power lie in the possession of individuals as it was meant to be when the constitution was applied? It is no more 'by and for individuals'. Presently, it is pretty much a table game and the players are the lawmakers with individual benefits as

<sup>2</sup> Madabhushi Sridha, 'Evolution and Philosophy behind the Indian Constitution' (mcrrdi.gov.in) accessed 2 April 2021.

the triumphant sum. I additionally accept that our constitution is an acquired constitution. At the point when the drafting board drafted it, they received a significant piece of it from the Government of India Act 1935<sup>3</sup> with few changes to a great extent. Other than this, we have acquired numerous arrangements from different constitutions of the world. The Parliamentary System has been taken from the British Constitution and Judicial Review and federalism from the US Constitution. We can't say it's a piece of curiosity or innovation. Numerous arrangements should be revised as they were embraced from the 1935 Act<sup>1</sup> and perhaps would have been apt for that time period, but in the present time, they have gotten outdated.

Probably the greatest defect of our constitution is its ceaseless length and the intense language wherein it has been drafted. Being the sovereign archive of our country it ought to have been drafted in a language effectively comprehensible by the residents. However, lamentably the lawful language utilized can scarcely be unravelled by the average person. With that length, the parliament today won't ever get an opportunity to adjust and improve upon it yet I feel this is something which ought to have been remembered at its beginning hour. To the extent the order standards of the state strategy are concerned, they are as well not up to the mark since no exacting execution is practiced. These are those standards which the state needs to remember while making any approaches or laws. For instance, the equivalent dissemination of material assets is to keep assets from being gathered in one or less hands. However, in all actuality we have at any rate 60% of the populace actually living beneath the destitution line.<sup>4</sup>

A unique arrangement ought to be made with respect to populace control. In an agricultural country like India it is vital to have populace control. In the current circumstance, the inventory of everything is too low in contrast with the precarious expansion sought after. Landmass stays as before yet the occupants are expanding at an exponential rate. Right to training should be given the greatest significance. Despite the fact that necessary schooling has been authorized till the age of fourteen, lion's share of Indians stay ignorant. Non-public schools are excessively costly for a helpless man, and the public authority schools' principles are crumbling step by step. The lone wellspring of nearly free training to every one of the kids are government schools and they should be revamped to furnish a better climate and with instructors having better capabilities so that even a family having a place with the working class or high society doesn't spare a moment to send their kids to an administration school. These are a couple of glaring instances of a portion of our enactments that need competency and are incapable in the present quick world.. However, what is significant is that these changes should begin right away. Fleeing from these issues will just make them heap on each other and make them considerably greater. India is yet a non-industrial country and assuming we need to move on from the agrarian economy we are today, it is time that we receive the reformatory methodology and make the enactments more powerful in nature. We need more cooperation of the residents in achieving these progressions as opposed to leaving the change to the childish legislators, some of whom can scarcely profess to be instructed. Alongside the above protected responsibility which is just patent and unequivocal in nature, there is another approach to channelize the utilitarian part of the constitution. For example, by consolidating sacred morality. Both Rajendra Prasad and Dr. B.R. Ambedkar

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<sup>3</sup> Government of India Act 1935

<sup>4</sup> Geeta Ramaseshan, 'Property under socialism' The Hindu (20 February 2016) Geeta Ramaseshan reviews The Indian Constitution and Social Revolution - The Hindu. (Last visited at Jan. 10, 2023)

focused on its importance. Sacred ethical quality is an idle part of responsibility. It exudes from the established standards. For social change, the established constructions or apparatus ought to act naturally administrative. Sacred profound quality, as a moral component, requests vital veneration to the protected standards, putting to the side party governmental issues and unreasonable social convictions. Satisfaction of sacred ethical quality, nonetheless, is a testing task. It must be supported by the State and permeated to the citizenry. Even the public's inner voice of the common society requests resurgence. Failure of the land changes, presence of social imbalance, sexual orientation separation, and defilement among others are the results of the shortfall of sacred responsibility. This incorporates execution of Directive Principles of State Policy as Fundamental Rights. This additionally incorporates making Fundamental Duties enforceable by law.

Minimum age to run for races as MPs or MLAs, however no maximum age. Article 26 offers right to strict associations to be framed, oversee them, get steady resources. This has prompted the express that a ton of states are in. On the off chance that they were permitted, their observing and guideline ought to be hosted by a third gathering. They should've been burdened more readily. Mandate to set up time bound commissions to check the situation with booked clans and standings. To make a move of expulsion of specific clans and standings who appear to have acquired different opposite ranks and tribes. Article 30. For a constitution that is common, we appear to have given an excessive amount of inclusion to religion and such a large number of forces to strict foundations. Uniformity doesn't mean total equivalent treatment to all. The balance ensures likeness of treatment and not indistinguishable treatment. The idea of balance as revered in Article 14, grants objective or segregating separation, for example allowing separation under differential conditions. Conferment of uncommon advantages or assurance or rights to a specific gathering of residents for objective reasons is imagined under Article 14. Furthermore, it is under this premises that booking has been conceded to certain gatherings dependent on their distraught status. We as a whole concur that Caste framework has been a plague to Indian Society and a few gatherings undoubtedly have been in a bad condition because of this unfair framework. The arrangement of reservation was intended to be brief and address these verifiable predispositions. At that point in the third instance of *State of Madras v. Champakaran Dorairajan*<sup>5</sup> the Constitution Bench of Seven Judges took a view that the Fundamental Rights under Articles 14 and 15 read with Article 29(2) didn't allow the booking to be made for Scheduled Castes, Scheduled Tribes and Other Backward Classes. of the Constitution discusses the privilege to balance and approach insurance according to law. This very Article of the Constitution guarantees law and order as the actual substance of the Constitution. Alongside Article 14, the Constitution gives a few different Articles too which have assumed a critical part in bringing social change. It isn't only the basic rights that the Constitution gives yet in addition a bunch of rules that are to be trailed by the State to direct the social changes occurring in the country. Still friendly issues like destitution, separation, constrained work, unapproachability have been profoundly pull in Indian culture for quite a while and Article 14 has not acted the hero for these issues. After the Constitution was authorized, these social issues were taken into the worry to be settled and it is without a doubt evident that India has not defeated a few social issues influencing individuals and the country on the loose. The Indian Constitution significantly didn't bring any harmony between singular opportunity and proclamation of social equity in the country. It very well may be said that on the whole Part III and Part IV of the Constitution together has not been a main impetus to get a social insurgency in the country and hence it very well may be said that still India has been enduring with numerous cultural issues. My own inclination is that

<sup>5</sup> The State of Madras vs Srimathi Champakam 1951 AIR 226, 1951 SCR 525

this framework was at first effective, offering freedom to the discouraged classes and increasing their living expectation and expanding their admittance to assets. However, the framework has from that point forward been 'seized' by the 'first class' among the SC/STs. These very gatherings are currently misusing this framework, while dominant part is yet languishing. A child/little girl of a SC/ST IAS official by no means can be delegated having a place with a discouraged class. It is my view too that the framework must be assessed now, and reservations must be exclusively based on monetary status. In any case, this isn't the disappointment of Constitution however that of the governing body.

The assurance under Article 19(1)(a) of Freedom of discourse and Expression was immense to the point that it ensured everything with the exception of what relates to the security of the country and regardless of whether an individual actuates others to submit murder or compensation a conflict against the outside nationals, the equivalent was not saved by the special case and in *A.K. Gopalan v. Province of Madras*<sup>6</sup>, where an issue in regards to preventive confinement emerged. Article 19 notices limitations to guarantee Sovereignty and Integrity of India, public order, friendly relations with an unfamiliar state and so forth. Every one of these limitations are dependent upon Judicial Review and the Supreme Court as they can pronounce any Union/State Law as unlawful in the event that it feels that law is disregarding Right to Freedom.<sup>7</sup> What additionally helped was that every one of the three egalitarian gatherings was distinctively hopeful about its political fortunes—assuming not at the government level, in any event in the states. Gandhians accepted that by far most of Indians who lived in the towns would underwrite their extreme localist agenda. Any number socialists could be excused for imagining that the generally helpless populace would support communism in the surveys. Social patriots, with their Hindu–Hindi majoritarian plan, probably felt that they would have the help of enough citizens for triumph in a first-past-the-post discretionary framework. They were so certain that Dhulekar even ridiculed the cosmopolitan safeguards in the language banter: "Are they scared of democracy?" The popularity based idealism of every one of these gatherings would have been convoluted, albeit not totally disappointed, by the extreme variety of India's electorate. At the hour of the constitution's outlining, India had never attended surveys based on all-inclusive grown-up establishment. Nobody truly understood what lay available for them strategically, so the arbitrators in the get together can be said to have been working behind a sort of Rawlsian cover of ignorance. This may even propose that, had the gathering been chosen on such establishment, a few gatherings may have been more astute, and perhaps more die-hard, if their lacklustre showing had cleared out their majority rule idealism before the constitution was received. There may even be an overall exercise here: that making constituent gatherings through depiction of direct champ brings home all the glory races, may really be something awful for popular government. This thought likewise proposes a potential capability to the pertinence of the contention of this article to other established settings: mandate standards are probably going to be adequate comfort just to those disagreeing bunches which accept they have the possibilities of winning some political force in the putative state (or, at any rate, in a portion of its government units), bunches that can would like to draw upon the protected orders to help their questionable political plan.

### **The Path Forward: Reforming the Constitution for a changing India**

<sup>6</sup> A.K. Gopalan vs The State Of Madras 1950 AIR 27, 1950 SCR 88

<sup>7</sup> N.M.Varchaswini, 'INDIAN CONSTITUTION — A SOCIAL REVOLUTION' (Medium, 15 June 2019) <<https://medium.com/@varchaswini.444>> accessed 15 March 2021>



The subtleties of how these expectations and fears were borne out is a matter for another article. Briefly, however, the Congress Party would turn considerably more communist for ten years or so under Indira Gandhi during the 1970s. Restricted provincial decentralization would happen in the mid 1990s, yet went with ensured political cooperation for the lower ranks and ladies in nearby government. That equivalent period would observe the start of the finish of state communism, and monetary progression would turn into the predominant state strategy. Social patriots would turn out to be politically amazing (and even structure governments at the administrative level) from the last part of the 1990s ahead and well into the present. Restricted execution of the mandates identifying with cow butcher and liquor preclusion would occur in a few states. Despite the fact that parts of strict individual laws would be changed steadily, India doesn't yet have a uniform common code. The majority of the challenged orders remain incredibly polarizing to this date, and especially on the political plan. As to the uncontested orders, the Congress-drove government would put the fundamentals of a government assistance state set up longer than ten years beginning 2004, at last carrying out a portion of the social orders concerning food security, training, and work through rights-based legislation.<sup>8</sup>

It appears to be that the acknowledgment of orders by the disagreeing bunches wasn't really, from their sectarian perspective, a misstep. To put the point in an unexpected way, protesters under the DC might not have been washouts under the constitution that was at last received. Via cutting out a circle for genuine legislative issues over their (contained) plans, the dissidents were given a huge concession. What is clear is that order standards obliged unique, even commonly contradictory, voices inside the established structure. This is vital on the grounds that we need a more clear image of our future. We could say that India at seventy-three is a glass both half full and half unfilled.

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<sup>8</sup> Berihun Adugna Gebeye, 'The Potential of Directive Principles of State Policy for the Judicial Enforcement of Socio-Economic Rights' ([icl-journal.com](http://icl-journal.com)) accessed 3 April 2021