

II. THE CONSTITUTION OF INDIA : SALIENT FEATURES

In several respects, the Constitution of India is a unique constitution —its voluminous size, the mixture of federalism-unitarianism and flexibility and rigidity. The attempt of the constitution-makers was to give to the nation a workable constitution capable of securing the unity and stability of the nation and initiating the process of nation-building and socio-economic reconstruction. Speaking in the Constituent Assembly, Dr. Ambedkar observed :

“I feel it (Constitution) is workable, it is flexible and it is strong to hold the country together both in peace time and in war time. Indeed if I may say so, if things go wrong under the Constitution, the reason will not be that we had a bad constitution, what we will have to say is that man was vile.”

IIA. THE MAJOR FEATURES OF THE CONSTITUTION OF INDIA

(1) Written and Detailed Constitution. The Constitution is a wholly written document. It incorporates constitutional law of India. It was drafted, debated and enacted by the Constitution Assembly of India. It took the Assembly 2 years, 11 months and 17 days to write and enact the Constitution.

Indian Constitution is a written and detailed constitution. It consists of 395 Articles divided into 22 Parts with 12 Schedules and 102 constitutional amendments. The 102nd Amendment, which gave a constitutional statutes to National Commission for Scheduled Castes and National Commission for Scheduled Tribes became incorporated in the constitution in August 2018. **Jennings** describes it as "*the largest written constitution in the world.*" This is needed much bigger than the US Constitution with its 7 Articles and 27 Amendments, the Japanese Constitution with its 103 Articles, the French Constitution with its 89 Articles and the Swiss Constitution with its 196 Articles.

Why the constitutions is so lengthy ? The Constitution framers did not want to leave things to chance because they were conscious of the socio-economic-politico problems being faced by the country in the post-independence period. The incorporation of several unique features—The Directive Principles of State Policy, Emergency Provisions, Language Provisions, Provision regarding protection of interests of Scheduled Castes and Scheduled Tribes and Other Backward Classes, Provisions regarding special constitutional bodies like the Election Commission, the UPSC and State Public Service Commissions etc., naturally made the constitution quite lengthy. Further, the decision to have a common constitution for the Union and the States made the constitution bulky. Added to it, the decision to write in detail such provisions like the Fundamental Rights, Centre-State Relations, the Schedules of the Constitution and some others. gave additional weight to the constitution. The constitutional amendments have not lagged behind in increasing its size. All this has resulted in making the constitution a large book of more than 400 pages.

(2) Self-made and Enacted Constitution. Indian Constitution has been a constitution made by the people of India through their duly elected and representative body—the Constituent Assembly. It was organised in December 1946 under the Cabinet Mission Plan. Its first session was held on 9th December, 1946. It passed the Objectives Resolution on 22 January, 1947. Thereafter, it initiated the process of constitution-making in the right earnest and was in a position to finally pass and adopt the constitution on 26th November, 1949. It is thus a self-made and duly enacted constitution.

(3) Preamble of the Constitution. The Preamble to the Constitution of India is a well drafted document which states the philosophy of the constitution. It declares India to be a Sovereign, Socialist, Secular, Democratic, Republic and a Welfare state committed to secure justice, liberty and equality for the people for promoting fraternity, dignity of the individual, and unity and integrity of the nation. The Preamble is the key to the Constitution. It states in nutshell the nature of Indian state and the objectives it is committed to secure for the people. Initially, the Preamble was not regarded as a part of the constitution but since the Supreme Court judgement in the *Kesvananda Bharati* case, it stands accepted as a part of the constitution. It was amended by the 42nd Amendment (1976) when the words 'Socialist', 'Secular' and 'Integrity' were added to it.

(4) **India is a Sovereign, Socialist, Secular, Democratic, Republic.** The Preamble declares India to be a Sovereign, Socialist, Secular, Democratic, Republic. All these five terms signify five major features of the Indian polity.

(i) India is a sovereign state. Such a proclamation was essential to denote the end of British rule over India. It testifies to the fact that India is no longer the dependency or colony or possession of British Crown. It also affirms the end of the dominion status that India technically got after the end of British rule on 15th August, 1947. With the adoption of the constitution by the Constituent Assembly, this status ended and India emerged a fully sovereign independent state. The Preamble proclaims the result of the freedom struggle and affirms that India is free internally and externally to take her own decisions and implement these in the whole of India.

(ii) Although, right from the beginning, the Indian Constitution epitomised the spirit of Socialism which stood writ large on its pages, it was only in 1976 that the Preamble was amended to include the term 'Socialism'. It is now regarded as a prime feature of the State in India. It reflects the fact that India is committed to secure justice—social, economic and political, to all its people by ending all forms of exploitation and by securing equitable distribution of income, resources and wealth. This has, however, to be secured not by the Marxist/Revolutionary means but by peaceful, constitutional and democratic, means. The term, India is a socialist State, really means that India is a Democratic Socialist State. It signifies the commitment to socio-economic justice which is to be secured by the state through the democratic process and organised planning. Now the goal of socialism means socio-economic development of the country and is being secured by making the Indian economic system liberalised and competitive.

(iii) By the 42nd Amendment, the term 'Secular' was incorporated in the Preamble. Its inclusion simply made the secular nature of Indian Constitution more explicit. As a state, India gives special status to no religion. There is no such thing as a state religion of India. This makes it different from theocratic polities like the Islamic Republic of Pakistan and other Islamic countries. Positively, India adopts Secularism by guaranteeing equal freedom to all religions. Under Articles 25 to 28, the Constitution grants the Right to Religious Freedom to all the citizens. It provides for equal rights to all the citizens without any discrimination, rule of law and special protection to minorities. The State does not interfere with the religious freedom of the citizens and prohibits the levying of taxes for religious purposes.

(iv) India has been and continues to be a Democratic State. The Constitution of India provides for a democratic system. The authority of the government rests upon the sovereignty of the people. The people enjoy equal political rights : universal adult franchise, right to contest elections, right to hold public offices, right to form associations and right to criticise and oppose the policies of the government. It is on the basis of these rights that the people participate in the process of politics. They elect their government. Elections are held after regular intervals or as and when these are considered essential (Mid term Polls and By- elections). These are free, fair and impartial, and are based on universal adult franchise, secret ballot, single member constituencies, and simple majority vote victory system. For all its acts, the government is responsible before the people. The people can change their government through elections. No government can remain in power which does not enjoy the confidence of the majority of the representatives of the people (Members of Lok Sabha).

The government enjoys a limited tenure and defined and limited powers. It always acts under the Constitution which represents the supreme will of the people. The representative, responsible and accountable character of the government symbolises the self-rule of the people. They are sovereign and they enjoy the fundamental rights and freedoms which stand granted and guaranteed by their Constitution.

(v) India is a Republic. India is a Republic. Negatively, this means that India is not ruled by a monarch or a nominated head of state. Positively, it means that India has an elected head of state who wields power for a fixed term.

The Republican status of India is in no way in conflict with the Indian membership of the Commonwealth. The question raised by a former Australian PM Sir Robert Menzies : "How a state can be a Republic and still be a member of the Commonwealth which accepts the British King/Queen as its head ?", has little substance. India is a Sovereign Republic. Membership of the Commonwealth of Nations is a voluntary act. It is a courtesy arrangement whereby India has decided to maintain her traditional friendship and links with other members of the Commonwealth who happened to be ex-colonies of British Empire but which were now sovereign independent states. The Commonwealth is a friendly association like the UNO and headship of British King/Queen has only a symbolic significance. The British King has no place in the Indian Constitution. President of India is the sovereign head of the state who is indirectly elected by the people for a fixed term of 5 years. Hence India is a Republic.

(5) India is a Union of States. Article I of the Constitution declares, "*India that is Bharat shall be a Union of States.*" It does not describe India either as a federation or a unitary state. This expression indicates two important facts : "first that Indian union is not the result of voluntary agreement among sovereign states as was the case in USA, and that the constituent units of India have no right to secede from the union." India as such is a union of states.

At the time of Independence there were 29 states in the Indian Union. These stood divided into Part A, Part B, Part C and Part D States. After the 1956 Reorganisation of States these were reorganised into 16 States and 3 Union Territories. Gradually, through several changes and through the admission of Sikkim (1975) into the Union, the number of States and Union Territories has been changing. India has now 29 States and seven Union Territories. In 2014 the state of Telangna was carved out Andhra Pradesh. It become 29th state of India. *Now some leaders and parties want the creation of some more states out of Uttar Pradesh and the creation of the states of Vidharba, Gorkhaland and some more.*

(6) Federal Structure and a Unitarian Spirit. While describing India as a Union of States, the constitution provides for a federal structure with a unitary spirit. Scholars describe India as a 'Quasi Federation' (K.C. Wheare) or a federation with a unitary bias or even as a unitarian federation. Like a federation, the Constitution of India provides for (i) a division of powers between the centre and states, (ii) a written and rigid constitution, (iii) supremacy of the Constitution, (iv) independent judiciary with the power to decide Central-State disputes over division of powers, and (v) bicameralism. However, by providing a very strong centre, common constitution, single citizenship, emergency provisions, common Election Commission, common All India Services etc. The Constitution clearly reflects the unitary spirit. The mixture of federalism-unitarianism has been done

keeping in view both the pluralistic nature of Indian society and presence of regional diversities, and the need for securing unity and integrity of the nation. The former feature has compelled a decision in favour of Federalism while the latter has necessitated unitarianism. Hence, the Constitution of India is neither federal nor unitary but a mixture of the two.

(7) Mixture of Rigidity and Flexibility. The Constitution of India is rigid in parts. Some of its provisions can be amended in a difficult way while others can be amended very easily. In some cases, the Union Parliament can amend some parts of the Constitution by passing a law. For example, the formation of new states, increase or decrease in the territories of the states, rules regarding citizenship, provisions regarding the creation or abolition of (Vidhan Parishad) Legislative Council in a state and some others, can be amended by this simple method. Even Rajya Sabha alone can make changes in two features of the Constitution by passing a resolution supported by a two-third majority. Under Art 249 it can declare a state subject as a subject of national importance and thereby place it for one year within the law-making jurisdiction of the Union Parliament. Likewise, under Article 312 it can establish or abolish any All India Service by this mechanism. These features reflect the flexibility of the constitution.

Two Special Methods of Amendment under Article 368.

(i) Most of the provisions of the constitution can be amended by the Union Parliament by passing the Amendment Bill by a majority of total membership and the 2/3rd majority of members present and voting in each of its two houses.

(ii) For the amendment of several specified provisions, a very rigid method has been provided. Under it, first the Union Parliament passes the Amendment Bill by a majority of total membership and 2/3rd majority of members present and voting in each house individually and then it goes to the State Legislatures for ratification. The Amendment gets passed only when it is approved by not less than one half of the several States of the Union. (A) Only some features of the constitution can be amended by this rigid method. {Eg. (i) the manner of election of the President ; (ii) The extent of the executive power of the Union ; (iii) The extent of the executive power of a State ; (iv) Provisions dealing with the Union Judiciary ; (v) Provisions dealing with High Courts in the State ; (vi) The distribution of legislative powers; (vii) The representation of states in the Parliament ; (viii) The procedure of amendment of the constitution ; and (ix) the Seventh schedule of the constitution. }

102 Amendments have been so far made in the Constitution.

(8) Fundamental Rights. Under its Part III, Articles 12-35, the Constitution of India grants and guarantees Fundamental Rights to its citizens. Initially 7 Fundamental Rights were granted but by the deletion of the Right to Property [Art. 19 (1) (6) and Art. 31] from the category of the Fundamental Rights (44th Amendment Act 1979) their number has come down to six.

(i) Right to Equality (Arts. 14—18). It provides for Equality before Law, End of Discrimination, Equality of Opportunity, Abolition of Untouchability and Abolition of Titles.

(ii) Right to Freedom (Arts. 19—22). It incorporates six fundamental freedoms under Art. 19—freedom of speech and expression, freedom to form associations, freedom to assemble peace fully without arms, freedom to move freely in India, freedom of residence in any part, and freedom of adopting any profession or trade or occupation. Art. 20 deals with personal freedom and protection in

respect of conviction for certain offences. Article 21 lays down that the freedom of life and liberty cannot be deprived except in accordance with procedure established by law. By 86th Amendment, Article 21A was added which provided for Right to Education for children of the age group 6—14. Art. 22 guarantees protection against arbitrary arrest and detention. In January 2004, the Supreme Court ruled that under Art 19 [1(a)] the citizens of India have the fundamental right to hoist the national flag.

Further the Supreme Court of India gave a Judgement in 2018 where in it held that the Right to Privacy of the citizens is a Fundamental Right under Art 21.

By 97th Amendment (2012) the citizens have been granted the Fundamental Right to organize and manage their cooperative securities, associations and organizations.

(iii) Right against Exploitation (Arts. 23—24). The Fundamental Right prohibits traffic in human beings, forced labour (begaar) and employment of children in hazardous jobs.

(iv) Right to Freedom of Religion (Arts. 25—28). The grant of this right involves the freedom of conscience, religion and worship. It gives to all religious sects freedom to establish and maintain their religious institutions. Under Art. 27, it holds that no person can be compelled to pay any tax for the propagation of any religion. The state cannot levy a tax for any religion and it cannot discriminate on grounds of religion, while giving grants. Article 28 prohibits the imparting of religious instructions in schools and colleges.

(v) Cultural and Educational Rights (Arts. 29—30). Under this category the Constitution guarantees the rights of the minorities to maintain and develop their languages and cultures. It also confers upon them the right to establish, maintain and administer their educational institutions.

The Right to Property stands deleted from the list of Fundamental Rights. It is now a legal right under Article 300A (42nd Amendment 1976).

(vi) Right to Constitutional Remedies (Art. 32). This fundamental right is the soul of the entire Bill of Rights. It provides for the enforcement and protection of Fundamental Rights by the courts. It empowers the Supreme Court to issue orders, directions and writs (*Habeas Corpus*, *Mandamus*, *Prohibition*, *Quo Warranto* and *Certiorari*) for the enforcement of these rights.

These are the Fundamental Rights of the Indian Citizen.

While granting and guaranteeing Fundamental Rights, the constitution also describes several limitations upon these. These limitations have been imposed in the interest of public order, morality, and decency, security of state and sovereignty, and territorial integrity of India. Further these rights can be amended in accordance with the procedure laid down in Article 368.

(9) The National Human Rights Commission (NHRC), State Human Rights Commissions and Protection of Human Rights of the people. With a view to protect better the democratic and human rights of the people of India, the Protection of Human Rights Act. 1993 was passed by the Union Parliament. Under it the National Human Rights Commission, headed by a retired Chief Justice of India was established. It is now acting as an independent commission with a status of a civil court for preventing the violations of human rights of the people, and in cases of proved violations of human rights for ordering compensation for the victims. Most of the Indian states have established

their own Human Rights Commissions for this purpose. The system of public interest litigation has also been acting as an important instrument for securing the rights and interests of the public in general.

(10) Fundamental Duties of the Citizen. The Constitution under its Part IVA-Article 51 A (Incorporated by 42nd Amendment 1976) enumerates the following Fundamental Duties of the Citizen :

1. Respect the Constitution, the national flag and the national anthem.
2. Cherish the noble ideals of the freedom struggle.
3. Uphold and protect the sovereignty, unity and integrity of India.
4. Defend the country and render national service when called.
5. Promote the common brotherhood of all the people of India and renounce any practice derogatory to the dignity of women.
6. Preserve the rich heritage of the nation's composite culture.
7. Protect the natural environment and have compassion for living creatures.
8. Develop scientific temper, humanism and spirit of inquiry and reform.
9. Safeguard public property and abjure violence.
10. Strive for excellence in all individual and collective activity.
11. By the 86th Amendment, the fundamental duty of the parents to provide education to their children has been added to this list.

It has been made a fundamental duty of the parents to send their children to schools for getting educated.

The Fundamental Duties are, however, not enforceable by the Courts. Like Directive Principles these also form a part of constitutional morality.

(11) Directive Principles of State Policy. Part IV (Articles 36—51), of the Constitution dealing with the 'Directive Principles of State Policy' provides one of the most striking features of Indian Constitution. In writing this part the constitution makers were influenced most by the Constitution of the Irish Republic and the ideologies of Gandhism and Fabian Socialism.

The Directive Principles are instructions to the State for securing socio-economic developmental objectives through its policies. These are both for the Union as well as the States. The Directive Principles, direct the Indian State to secure for the people: adequate means of livelihood, fairer distribution of wealth, equal pay for equal work, protection of children, women, labour and youth, old age pension, social security, local self-government, protection of the interests of the weaker sections of society etc., and work for the promotion of cottage industries, rural development, international peace, friendship and co-operation with other states of the world.

"Direct Principles constitute a very comprehensive political, social and economic programme for a modern democratic State."—J.N. Joshi

(12) Bi-Cameral Union Parliament. The Constitution provides for a Bicameral Legislature at the Union level and designates it as the Union Parliament. Its two houses are : the Lok Sabha and the Rajya Sabha.

(i) The Lok Sabha is the lower, popular, directly elected House of the Parliament. It represents the people of India. Its present strength is 545—543 elected by the people of India and 2 nominated members from Anglo-Indian community. The people of each state elect representatives in proportion to their number. U.P. has 80 seats in the Lok Sabha, Punjab 13, Andhra 25, Telangna 17, WB 42, Maharashtra 48, Bihar 40, Odisha 21 and similarly all others states. Elections to the Lok Sabha are held on the principles of (1) direct election (2) secret ballot (3) one voter one vote (4) simple majority vote victory system (5) universal adult franchise (qualifying voting age for men and women being 18 (Previously it was 21 years). All persons of 25 years of age or above are eligible to contest elections to the Lok Sabha (It is now proposed to lower this age to 21 years). The President nominates two members of Anglo-Indian Community to the Lok Sabha. The tenure of the Lok Sabha is 5 years. But acting under the advice of Prime Minister, the President can dissolve it earlier also. Till today the people of India have elected 16 Lok Sabhas. The 16th Lok Sabha was elected in April-May 2014.

(ii) The Rajya Sabha is the upper and indirectly elected House which represents the states. Its present membership is 245. Out of these 233 members are elected by all the State Legislative Assemblies through a system of proportional representation and 12 are nominated by the President from amongst eminent persons from the fields of Arts, Science and Literature. Rajya Sabha is a quasi-permanent house. It is never dissolved as a whole. Its 1/3rd members retire after every two years. Each member has a term of six years.

The Union Parliament is not a sovereign legislature. It is constituted under the Constitution and it exercises only those powers which the constitution vests in it.

Of the two Houses Lok Sabha is the more powerful than the Rajya Sabha. It alone has financial powers and it alone can remove the union cabinet from office. The Council of Ministers is collectively responsible before the Lok Sabha.

Each state has its own legislature but it can be either Unicameral or Bicameral in its organization. Now seven states (Andhra Pradesh, Telangna, Bihar, J & K, Karnataka, Maharashtra and UP) have bi-cameral state legislatures while all others have unicameral legislatures. Each bicameral state legislature consists of Legislative Council as the upper house and Legislative Assembly as the lower house. Each unicameral state legislature has only one house i.e. Legislative Assembly. Two Union territories – Delhi and Pudducherry have their own unicameral legislatures. In each state the legislative powers are really in the hands of the State Legislative Assembly,

(13) Parliamentary Form of Government. The Constitution of India provides for a parliamentary system of government at the centre as well as in every state. It is modeled on the British pattern of parliamentary form of government. The President of India is the constitutional head of state with nominal powers. The Union Council of Ministers headed by the Prime Minister constitutes the real executive. Ministers are essentially the members of the Union Parliament. The Council of Ministers is collectively responsible, for all its acts before the Lok Sabha. The Lok Sabha can remove the Ministry by passing a vote of no-confidence and the Ministry (PM) has the power to get the Lok Sabha dissolved by the President. Likewise, in every state also a parliamentary government, on similar lines is at work.

(14) Universal Adult-Suffrage. Another feature of the constitution is the introduction of universal adult suffrage. "The introduction of adult suffrage," writes Prof. Srinivasan, "without any

qualifications of any kind is one of the boldest steps taken by the Constituent Assembly and is an act of faith." Under the Government of India Act 1935, only 14 per cent of the total population secured franchise and women constituted just a negligible proportion of the total franchise. Under the new constitution both men and women enjoy a equal right to vote. Now the qualifying voting age stands lowered from 21 to 18 years. All men and women above the age of 18 years are eligible to vote in elections. However it is compulsory that their names must figure in the electoral lists, only then can the voters cast their votes in elections.

(15) Single Citizenship. Another characteristic of the constitution is the integration of the Indian states with the rest of India.

"Our new constitution is not an alliance between democracies and dynasties, but a real union of the Indian people built on the basic concept of the sovereignty of the people, as equal citizens of India. All citizens enjoy a common uniform citizenship which entitles them all to equal rights and freedoms, and equal protection of the state."

(16) Single Integrated Judiciary. Though the constitution provides for a federal structure, it establishes a single integrated judicial system common for the Union and the States. Unlike the U.S. Constitution, which provides for Federal Judiciary and leaves the establishment of State Judiciary to the Constitution of each state, the constitution of India provides for a single judicial system with the Supreme Court at the apex, High Courts at the state level and other subordinate courts under the High Courts. The Supreme Court is the highest Court of the land. It controls and runs the judicial administration in India.

(17) Independence of the Judiciary. The Indian Constitution makes judiciary truly independent. It is clear from the following facts : (a) Judges are appointed by the President, (b) Only persons with high legal qualifications and experience are appointed as judges, (c) Judges of the Supreme Court cannot be removed from office except through an extremely difficult process, (d) The salaries of the judges and the staff are charged on the Consolidated Fund of India and are not subject to the vote of the legislature, (e) The Supreme Court is authorised to have its own establishment to maintain independence, (f) All appointments of the officers, and servants of the Supreme Court are made by the Chief Justice or by any other judge or officer whom he may direct for the purpose. Government now proposes to appoint a Judicial commission for further streamlining the process of recruitment of Judges.

(18) Judicial Review power of the Supreme Court and High Courts. The Constitution is the supreme law of the land. The Supreme Court acts as the guardian protector and interpreter of the constitution. It is also the guardian of the Fundamental Rights of the people. For this purpose, it exercises the power of judicial review. By it, the Supreme Court determines the constitutional validity of all acts of the legislatures and the executive. It can strike down the laws of the Parliament or the acts of the executive if these are challenged before it, and are found by it to be unconstitutional. For the past five decades the Supreme Court has been using this power and it has given several historical decisions in various constitutional cases—Golak Nath Case, Kesavnanda Bharati Case, Minerva Mills Case and several others. The High Courts also exercise this power.

(19) Judicial Activism. Currently, Indian judiciary has been becoming more and more active towards the performance of its social obligations. Through public interest litigation system as well as

through a more active and judicious exercise of its powers, the Indian judiciary is now very actively getting involved in securing the public interest vis-à-vis the government. Under the Public Interest Litigation (PIL) system the judges can act *suo moto* to secure general interest. In May 1995, it called upon the state to work for securing a uniform civil code for the whole of India and for all the Indians as stands directed under Article 44 of the Constitution. Indian judiciary has been becoming more and more active for safeguarding the rights and freedoms of the people and the demands of public interest. Judicial Activism is a new feature of the Indian Judicial system.

(20) Emergency Provisions (Part XVIII Articles 352 to 362). Like the Constitution of the Weimer Republic (Germany), the Constitution of India also contains provisions for dealing with emergencies Part XVIII of the constitution describes the Emergency provisions of the constitution. It vests in the President of India the power to deal with these. That is why these provisions are usually referred to as the Emergency Powers of the President.

The Constitution stipulates three types of emergencies :

(1) National Emergency (Article 352) *i.e.* emergency resulting from war or external aggression or threat of external aggressions against India or from armed rebellion within India or in any of its part ;

(2) Constitutional Emergency in a State or some states (Article 356) *i.e.* emergency resulting from the failure of constitutional machinery in any state ; and

(3) Financial Emergency (Article 360) *i.e.* emergency resulting from a threat to financial stability of India.

The President of India has been empowered to take appropriate steps for dealing with these emergencies.

During an emergency, the powers of the President, actually of the PM and the Cabinet, increase in big way. In case of national emergency, the system becomes virtually unitary and the President can suspend the fundamental freedoms contained in Art. 19 and their enforcement under Articles 32 and 226 of the Constitution. However, there are certain set rules for using this power as well as there are several limitations upon the exercise of the emergency powers. The President can declare an emergency only on the advice of the Prime Minister and the Council of Ministers. In case of a National Emergency, the President can act only on the written advice of the Union Cabinet (Incorporated by 44th Amendment). Every emergency proclamation has to be got approved from the Parliament within a fixed period. Since 1952, the President has exercised the Emergency powers (National Emergency and Constitutional Emergency) on several occasions.

The aim of the emergency provisions is to protect the people and the state and hence on that account these cannot be opposed. However, these contain the possibility of misuse of powers on the part of the Union executive for political purposes. In particular, the provisions of Art 356 can be misused by the Centre. The declaration of emergency due to 'internal causes' in 1975 involved an authoritarian exercise of power by Mrs. Indira Gandhi and for this act the people punished her and her Congress party by squarely defeating it in March 1977 elections.

Likewise, the use of Constitutional Emergency (under Act. 356) provisions by the Union Government has also been, in several cases, authoritarian and unjustified. As such the emergency

provisions can be, despite constitutional safeguards, misused. Nevertheless, the inclusion of these provisions cannot be described as an unworthy and undemocratic act of the Constituent Assembly. These were incorporated in the interest of national security, peace and stability. What is needed is not their elimination but their judicious and sparing use by the Union Government.

(21) Special Provisions Relating to Scheduled Castes and Scheduled Tribes. With a view to protect the interests of people belonging to Scheduled Castes and Scheduled Tribes, the Constitution in its Part XVI specifies certain special provisions. Art 330 provides for reservation of seats for Scheduled Castes and Scheduled Tribes in the Lok Sabha in proportion (as near as possible) to their population. Further, the President can nominate in Lok Sabha not more than two members of the Anglo-Indian Community in case he is of the opinion that this community is not adequately represented in the House (Art. 331).

Similar provisions for reservation of the seats for Scheduled Castes and Scheduled Tribes, and Anglo-Indian Community in the State legislatures have also been incorporated under Articles 331 and 332 respectively. These reservations have been now extended upto the year 2020. The reservation benefits have also been extended to Other Backward Classes (OBCs). The Supreme Court has, however ruled that in no case more than 50 per cent jobs should be reserved for all categories of the people entitled to the benefits under the reservation policy.

Not only in respect of legislative seats, in respect of jobs in Government service and admission in various universities and professional institutions, jobs and seats are reserved for the people of Scheduled Castes and Scheduled Tribes. Several commissions like National Commission for SCs, National Commission for STs, National Minorities Commission, National Commission on OBCs and National Commission for Women have been monitoring the conditions of the weaker sections of society. Now the National Human Rights Commission (NHRC) can also look into the complaints involving the violation of the rights of the people belonging to Scheduled Castes and Scheduled Tribes. Some reservation benefits have been also given to people belonging to Other Backward Classes.

Now the system of reservations has been extended for 10 more years i.e. till the year 2020.

(22) Provisions Regarding Language. The Constitution lays down special provisions for defining the Language of the Union, Regional Languages, and Language of the Supreme Court and High Courts. Art. 343 states that the official language of the Union shall be Hindi in Devanagiri script. But along with this, it also provides for the continuance of English Language. A state legislature can adopt the language of the province as its official language. English continues to be the language of the Supreme Court and the High Courts. Under Article 351, the Constitution gives a directive to the Union to develop Hindi and popularise its use. In its Eighth Schedule, the Constitution now recognises 22 major Indian Languages—Assamese, Bengali, Gujarati, Hindi, Kannada, Kashmiri, Malayalam, Marathi, Oriya, Punjabi, Nepali, Manipuri, Konkani, Sanskrit, Sindhi, Tamil, Telugu, Urdu, Bodo, Santhali, Mathili and Dogri (Last 4 languages were included in 8th schedule by the 92nd Amendment Act 2003).

(23) A Constitution Drawn from Several Sources. In formulating the Constitution of India, the founding fathers used several sources. The values and ideals of the National Movement guided their path. The National Movement influenced them to adopt secularism. Some provisions of Government

of India Act 1935 were used by them and several features of foreign constitutions influenced them and were adopted by them. In adopting Parliamentary system and Bicameralism, the British Constitution influenced them. The US Constitution influenced them in favour of Republicanism, Independence of Judiciary, Judicial Review and Bill of Rights. The progress of the (former) USSR after the 1917 Socialist Revolution influenced them to adopt socialism as a goal. Likewise while writing several provisions of the constitution they were also influenced by the constitutions of Canada, Australia, Weimar Republic (Germany) and Ireland.

SOLVE THE FOLLOWING QUESTIONS

1. Discuss any six features of Indian Constitution.
2. What is judicial activism?
3. Discuss the three types of emergencies.
4. Write a note on parliamentary form of government.