

Constitution of India: Unveiling the Indigenous Inspiration Behind the Indian Constitution.

-SUBMITTED BY -

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CHAPTER I:

INTRODUCTION

*"The Constitution is not merely a collection of articles, but an expression of a nation's own ideas and aspirations."*¹

-by Dr. B.R. Ambedkar.

In a constitutional democracy like India, the Constitution is the supreme law of the land. It lays down the fundamental legal framework that governs the nation, ensuring that democratic principles are followed and the rights of the people are protected. However, the Indian Constitution has often been criticised for being a “borrowed document”, since it incorporates several provisions from other countries’ constitutions. Critics have labeled it a “hotch-potch” or a “bag of borrowings”, citing the influences of multiple foreign models in its creation. While this critique is widespread, it overlooks the deeper purpose behind such borrowings and the creative adaptations made by India's framers. In reality, the Indian Constitution is not simply a mimicry of other legal frameworks but a unique synthesis of global constitutional ideas, adapted to India's distinct social, political, and cultural context.

The Government of India Act, 1935 (GOI Act) was a key British law that laid the foundation for India's federal structure and much of its political governance. When the framers of the Indian Constitution drafted the document, they did not ignore this crucial piece of legislative history. Many of the structural elements of the Constitution, including the federal system, the role of the Governor, and the organisation of the judiciary, were directly inspired by the GOI Act of 1935. This Act introduced certain elements of federalism, such as a division of powers between the central and provincial governments, which became the blueprint for the Union-State relations in the Indian Constitution.²

The federal nature of the Indian system, with a strong central government and a bifurcated division of powers, finds its roots in this Act. However, India's Constitution did not simply replicate the British model; it was modified to reflect India's unique realities. For example, the unitary bias of the

¹ Constitution As A Living Document, Chp 9, NCERT. <https://ncert.nic.in/textbook/pdf/keps209.pdf>

² Granville Austin – "The Indian Constitution: Cornerstone of a Nation" (Oxford University Press, 1966)

GOI Act was revised in India's Constitution to ensure that the central government would be strong, particularly in times of national emergency.

Another significant influence on India's Constitution is the British Westminster model of government. Elements such as the cabinet system, the parliamentary form of government, and the rule of law were borrowed directly from the British system. The British parliamentary system of governance is based on the idea of collective responsibility and the dual leadership of the Prime Minister and the Council of Ministers. India adopted this model, but with certain modifications suited to its context.³

For instance, the Constitution of India emphasises the role of the President as a constitutional head of state, who remains largely ceremonial, while real executive power rests with the Prime Minister and the Council of Ministers. The cabinet system of governance is based on the idea that the executive should be drawn from the legislature, allowing for greater responsibility and accountability of the government to the people.

While the Westminster system is often seen as inherently centralised, the Indian Constitution introduced checks and balances that ensure accountability to the people through mechanisms like the Parliament and the judiciary.

“The Westminster system is an important legacy we have inherited, but our Constitution has redefined it to reflect the aspirations of a diverse society.” Justice M. Hidayatullah:

When it comes to the philosophical underpinnings of the Indian Constitution, the influences of American and Irish constitutions are evident. Fundamental Rights and Directive Principles of State Policy (DPSPs) are two key components that were inspired by the American Bill of Rights and the Irish Constitution. These elements emphasise the protection of individual rights and social justice, ensuring equality and fairness for all citizens.

For instance, the Fundamental Rights section of the Indian Constitution mirrors several rights guaranteed by the U.S. Bill of Rights, such as the rights to freedom of speech, assembly, religion, and protection from arbitrary arrest. Similarly, the Directive Principles of State Policy borrow from the Irish Constitution, which includes provisions aimed at promoting social justice, economic

³ The idea that the Indian constitution was borrowed is fiction, as it is more inspired, ONLY IAS Dec 5, 2023. <https://pwnonlyias.com/mains-answer-writing/the-idea-that-the-indian-constitution-was-borrowed-is-fiction-as-it-is-more-inspired-discuss-150-words-10-marks-additional/>

welfare, and the well-being of the citizens. The DPSPs guide the government in ensuring that social and economic inequalities are minimised, a vision that was distinctly Indian and rooted in its Gandhian ideals.

“While the American and Irish models inspired us, the Directive Principles reflect India’s unique vision of inclusive development and social justice.” Justice P. N. Bhagwati⁴

Another powerful influence came from the French Revolution and its central ideals: liberty, equality, and fraternity. These principles were not only revolutionary in France but became part of the broader global democratic ethos. In India, these ideals found expression in the Preamble to the Constitution, which declares India to be a sovereign, socialist, secular, and democratic republic, committed to justice, liberty, and equality.

India’s commitment to equality is reflected in provisions such as Article 14, which guarantees equality before the law, and Article 15, which prohibits discrimination on the grounds of religion, race, caste, sex, or place of birth. Liberty is safeguarded through Fundamental Rights such as freedom of speech and expression, and the fraternity aspect ensures that the nation works towards unity and integration.

“The Indian Constitution combines the best of all systems, but at the same time, it has its own soul, shaped by our needs and vision.” Dr. B.R. Ambedkar⁵

The South African Constitution served as an inspiration for some aspects of constitutional amendments in India, particularly concerning equality and the protection of rights. The detailed provisions in the South African Constitution regarding equality, anti-discrimination laws, and social justice were influential in the drafting of India’s Constitution. India, like South Africa, faces multi-ethnic and multicultural challenges, and therefore, the provisions of its Constitution regarding affirmative action, reservation of seats, and protection of minority rights were inspired by similar provisions in the South African model.

4 Justice P. N. Bhagwati. https://brill.com/display/book/9789004479982/B9789004479982_s015.xml

5 B.R. Ambedkar – "Thoughts on Linguistic States" and "The Problem of the Rupee"

The Indian Constitution's reservations for Scheduled Castes, Scheduled Tribes, and Other Backward Classes are designed to ensure that historically marginalised groups are represented in both the legislature and in education, creating an equitable society.⁶

"The Constitution has borrowed wisely from global systems but has evolved its own approach to ensure equality and justice for every Indian." Justice D.Y. Chandrachud⁷

6 <https://www.constitutionofindia.net/>

7 Justice D.Y. Chandrachud – Constitutional Interpretation and Rights.

CHAPTER : II

COMPARISON OF THE FEATURES.

The Indian Constitution is often blamed to be a copied one. For the purpose of clarification of this myth it is necessary to analyse the features as to understand the way they were implemented in other countries and the way it has been implemented in India. While the Indian Constitution undoubtedly draws from various sources, it is important to understand that these borrowings were not a mere copy-paste exercise. Instead, the Constituent Assembly made modifications to ensure that the Constitution reflected India's unique cultural, political, and social realities. For instance, the concept of secularism was reinterpreted: While secularism in the West often means a strict separation of state and religion, the Indian Constitution envisions a state that treats all religions equally, reflecting India's pluralistic society.

1. FUNDAMENTAL RIGHTS

In September 1946, B.N. Rau, the Constitutional Adviser, issued a set of notes regarding the subject matter of Fundamental Rights in the context of the Indian Constitution. These notes offered a comprehensive outline of the nature and scope of Fundamental Rights, while analysing the challenges faced by other countries' constitutions. Rau also compared how the Indian Constitution was designed to address these challenges differently, particularly in terms of ensuring individual rights and equality. The notes highlighted the significance of constitutional provisions in ensuring protection for citizens, with an emphasis on learning from other nations while maintaining the distinctiveness of India's approach. In December 1946, K.T. Shah, a prominent jurist, sent additional notes on the same subject to the President of India, offering further insights into the matter. The analysis of these notes sheds light on the nuances of various constitutional provisions, especially when comparing the Indian Constitution with others, such as the U.S. Constitution, in terms of equality, protection of rights, and judicial processes.

A significant element of this comparison arises from the United States Constitution, specifically the Fourteenth Amendment, which was enacted in 1868. The Fourteenth Amendment holds a prominent place in the American legal landscape, as it guarantees the principle of equality before the law. The Amendment states that "no State shall deny to any person within its jurisdiction the equal protection

of the laws."⁸ On the surface, this may appear as a simple and clear guarantee of equality,

suggesting that all individuals, irrespective of their background, are entitled to the same legal protection. However, when one delves into the application of this principle, it becomes evident that there are certain exceptions and special provisions in the American system that complicate the straightforward interpretation of this equality guarantee.⁹

For example, although the Fourteenth Amendment aims to protect equality, the laws of the United States have made specific exemptions for certain groups. Children below the age of seven years are exempted from criminal liability. Similarly, laws have been enacted to provide special protections to women and children, recognising their distinct vulnerabilities and needs. These exemptions create a legal framework where the principle of equality is, in practice, not entirely uniform for all individuals. These nuances in the American legal system demonstrate that even with an ostensibly clear commitment to equality, the practical application of this principle can vary depending on societal needs and legal interpretations.

This brings us to a comparison with the Indian Constitution, particularly Article 14, which addresses equality before the law and equal protection of the law within the territory of India. Article 14, much like the Fourteenth Amendment of the U.S. Constitution, guarantees that "the state shall not deny any person equality before the law or the equal protection of laws within the territory

of India."¹⁰ However, Article 14 has a broader and more flexible approach than its American

counterpart. It contains both a negative and a positive aspect. The phrase "equality before the law" reflects a negative concept, implying that the law should not discriminate against individuals arbitrarily. On the other hand, "equal protection of the laws" is a positive concept, which aims to ensure that laws are not only equally applied but also that they provide protection to all individuals in a way that recognises their specific needs.

Article 14 also allows for certain exceptions, which make it distinct from the U.S. constitutional clause. In India, the provisions for equality can accommodate special measures for the benefit of certain groups, including women, children, and other disadvantaged sections of society. This flexibility enables the Indian legal system to adopt a more context-sensitive approach to equality, taking into account the diversity and complexity of Indian society. For instance, while the U.S.

⁸ B. Shiva Rao THE FRAMING OF INDIA'S CONSTITUTION 23,(Vol. 2, 2004)

⁹ Supra 19.

¹⁰ Article 14, The Constitution Of India 1949.

Constitution may exempt certain individuals from certain legal protections based on their age or gender, India's Constitution allows for the adoption of laws that are designed to uplift marginalised groups without violating the principle of equality.

One of the notable provisions in the Indian Constitution is Article 15, which further extends the guarantee of equality. Article 15 prohibits discrimination on the grounds of religion, race, caste, sex, or place of birth. This provision reflects the Indian state's commitment to eliminating discrimination in all its forms, which aligns with the broader vision of social justice. Unlike the American legal system, which has had to evolve over time to address issues of racial segregation and gender inequality, the Indian Constitution explicitly addresses these issues in its foundational text, providing a solid basis for combating discrimination from the outset.

Moreover, the Indian Constitution also incorporates a specific provision for the special protection of women and children, much like certain provisions in the U.S. legal system. For example, while the U.S. Constitution grants equal protection under the law, it does so without explicitly focusing on ensuring equal educational opportunities for all citizens, irrespective of their race. In contrast, Article 15 of the Indian Constitution ensures that there is no discrimination in educational institutions on the basis of race, religion, caste, or sex, and makes special provisions for the benefit of women and children, including the right to free and compulsory education for children under the age of 14.

Turning to another fundamental right, the U.S. Constitution's Fourteenth Amendment originally sought to protect individuals from being deprived of life, liberty, or property without due process of law. This concept was rooted in the

English Magna Carta, which laid the groundwork for the 'due process' doctrine.¹¹ The principle of "due process" has since evolved in the U.S. to form the basis of numerous judicial review cases, which examine whether the state has acted within its legal authority when depriving an individual of fundamental rights.

The Indian Constitution's approach to due process is reflected in Article 21, which guarantees that no person shall be deprived of their life or personal liberty except in accordance with the procedure established by law. This clause is similar to the American due process clause but incorporates a key difference. In the U.S., the "due process" clause has been interpreted as requiring that certain legal procedures must be followed before depriving an individual of their rights. In India, however,

¹¹ Missouri vs. Gaines, 305 US 337 (1938).

Article 21 allows for the possibility of depriving a person of their life or liberty under certain circumstances, such as during a national emergency. This distinction highlights the different ways in which both countries balance individual rights with the state's need for legal flexibility in times of crisis or emergency.

While the U.S. and Indian Constitutions share certain similarities, such as their commitment to equality and the protection of fundamental rights, the Indian Constitution reflects a more flexible, context-sensitive approach to these issues. By making provisions for affirmative action, special protections for vulnerable groups, and exceptions to the equality principle, the Indian legal system is better equipped to address the complex realities of its diverse society. The comparative analysis of the constitutional provisions of both countries underscores the importance of tailoring legal frameworks to the unique needs and challenges faced by each nation. Through this comparison, it is evident that the Indian Constitution has crafted a distinctive path, balancing individual rights and social justice in a way that is uniquely suited to India's socio-political landscape.

2. PARLIAMENTARY GOVERNMENT

A system of government in which the cabinet holds the real power is a hallmark of the parliamentary system, where the executive is directly responsible to the legislature. In such a system, the legislature is composed of elected representatives who create laws, and the executive, which is the cabinet, is tasked with implementing those laws. This structure is a defining characteristic of a democratic system, where the people, through their elected representatives, are responsible for governance. In this system, the executive is drawn from the legislature, and the government functions as a collective body rather than being led by a single individual. Both houses of the legislature, typically a lower and an upper house, are part of the democratic framework that ensures broad representation and accountability in governance.

Critics often argue that India, upon gaining independence, borrowed or even "cheated" the model of the parliamentary system of government from England. This assertion is based on the fact that India's parliamentary system closely mirrors that of the United Kingdom, with similar structures and mechanisms. The Indian Parliament is composed of two houses—the Lok Sabha (House of the People) and the Rajya Sabha (Council of States)—much like the British Parliament, which consists of the House of Commons and the House of Lords. Moreover, the position of the Prime Minister and the Cabinet in India, responsible for the day-to-day running of the government, also resembles the British system.

However, while there are evident similarities between the two systems, a closer examination reveals that there are significant distinctions between the British and Indian parliamentary systems. These differences arise not only due to the unique historical, social, and political contexts in which each system operates but also due to the practical realities of governance in both countries. The similarities are superficial, and when one looks deeper, the variations in the functioning of the parliamentary system in India become apparent.

One of the key differences lies in the structure of the legislature and the political landscape. In the United Kingdom, the

House of Commons holds the dominant legislative power, while the House of Lords, made up of appointed and hereditary members, plays a more consultative and revisory role. The British system has evolved over centuries to allow for gradual reforms, and while the House of Lords does have a significant role in reviewing laws, its powers are ultimately limited. The political landscape of the UK has also evolved to accommodate a two-party system, with Labour and the Conservatives being the primary political forces, despite the existence of smaller parties.

Contrasting to India's parliamentary system operates in a different socio-political environment. India's Parliament has two houses, the Lok Sabha and the Rajya Sabha, but the Rajya Sabha is made up of members who are elected indirectly by the states and Union Territories, unlike the British House of Lords. The Lok Sabha, which is the directly elected lower house, holds more legislative power, just like the British House of Commons. However, India's political landscape is characterised by a multi-party system, where coalition politics often play a central role. The fragmentation of political parties in India results in complex coalitions, leading to the formation of minority governments or governments dependent on alliances with other parties for legislative support. This contrasts with the more stable, two-party system in the UK, where majority rule is more common.

Another important distinction is the relationship between the executive and legislature in both systems. In India, the Prime Minister and Cabinet are responsible to the Lok Sabha, and they can be removed by a vote of no confidence in the lower house of Parliament. This mechanism of accountability is similar to the British system, where the government must maintain the confidence of the House of Commons. However, the nature of political stability in India often leads to frequent changes in government and coalition agreements, resulting in a more fluid and unpredictable political environment. In contrast, the British system is characterised by more political stability due to the dominance of major political parties, which tend to command a majority in the House of Commons.

Another key difference lies in the role of the President. While the British system operates under a constitutional monarchy with the monarch as the ceremonial head of state, India adopted a republican model. The President of India, as the ceremonial head of state, holds certain constitutional powers, but they are largely exercised on the advice of the Prime Minister and Cabinet. The British monarch's powers, although ceremonial, still carry historical weight, and their role, while largely symbolic, is integrated into the cultural and political life of the country. In India, the President's role is more strictly defined by the Constitution and is largely non-interventionist, with the exception of specific situations such as the dissolution of the Lok Sabha or the imposition of a national emergency.

The functioning of the judiciary in India further distinguishes it from the British system. India has a strong and independent judiciary, enshrined by the Constitution, which ensures the protection of Fundamental Rights and the separation of powers between the executive, legislature, and judiciary. The British legal system, while also based on common law principles, does not have a written constitution and instead relies on statutes and conventions that evolve over time. The judicial review process in India allows the judiciary to scrutinise legislative and executive actions, ensuring that they comply with constitutional provisions. The British system, while having judicial review, places more emphasis on parliamentary sovereignty, meaning that Parliament can, in theory, pass laws that may override judicial decisions.

Ultimately, while India's parliamentary system is undoubtedly inspired by the British model, it is not a mere copy of it. Both systems share fundamental principles, such as the cabinet system of government and the idea of an executive accountable to the legislature. However, the Indian system has adapted and evolved in ways that reflect the unique political, social, and historical realities of the country. India's political system is shaped by its diverse society, multi-party system, and republican model of governance, distinguishing it from the British system. The Indian parliamentary system, while drawing from the British example, is inherently different in its functioning and operation, reflecting the specific needs and challenges of the Indian context. Therefore, it is not accurate to say that India merely "borrowed" the British model; rather, it has developed a parliamentary system that is distinctly its own, tailored to suit the unique characteristics of Indian democracy.

2.1 ENGLAND AND INDIA.

The roots of the legislative system in India can be traced back to the era of the East India Company. During British colonial rule, a nascent form of governance began to take shape, albeit one that was very much under the control of the British. The origins of the legislative system in India were influenced by British structures, but it wasn't until much later, through a series of struggles and demands for greater representation, that a true system of representative governance emerged. Initially, the British model of the parliamentary system served as a model, but over time, the Indian version evolved in ways that made it distinctly different and suited to the needs of an independent, diverse, and democratic nation.

The British parliamentary system consists of three essential components: the Queen, the House of Lords, and the House of Commons. For any piece of legislation to pass, it requires the agreement of all three.¹² While the process may seem rigid, it operates within the context of an unwritten or flexible constitution that allows Parliament considerable latitude. One of the most significant characteristics of the British system is that there are no legal restraints from a written constitution. This means that the British Parliament can, in theory, make or change any law it sees fit. The Queen, who is the head of state, acts on the advice of her ministers, and the government is formed in the name of Her Majesty, under the governance of Her Majesty's Government.¹³

In contrast, the Indian parliamentary system is a reflection of the British model but with important modifications. While the core structure remains similar, India has made distinct changes to suit its needs and values. The Indian Parliament consists of three main elements: the Prime Minister, the Lok Sabha (the Lower House), and the Rajya Sabha (the Upper House). Unlike the British system, where the Queen plays a central role as the head of state, the Indian system places the President as the ceremonial head of state, with significant powers exercised on the advice of the Prime Minister and Council of Ministers.

The Prime Minister of India is appointed by the President, but the appointment is based on the majority party in the Lok Sabha. The President acts on the advice of the Prime Minister and his

¹² M.V. Pylee SELECT CONSTITUTIONS OF THE WORLD 796,(4th ed. 2016)

¹³ Ibid, 795

council, a provision clearly defined in India's written Constitution. The key difference here is that while the British system is guided by tradition and the monarchy, India operates within a carefully crafted legal framework that is outlined in its Constitution. This written Constitution in India provides a clear set of rules for governance and legislation, whereas the British system, though it has a blend of statutory laws, conventions, and common law, does not operate from a single written document.

In India, the Parliament has the power to make laws and amend them based on the prevailing political and social context. However, it is important to note that changes cannot be made arbitrarily, as there are limits defined by the Constitution. For instance, while Parliament can amend laws, there are safeguards like the "Basic Structure Doctrine," which ensures that certain fundamental features of the Constitution cannot be altered. This is a distinctive feature of the Indian system, which contrasts with the British system, where Parliament, being sovereign, can alter or modify laws without the same level of constitutional restraint.

Another crucial difference between the two systems is the form of government. The British system operates under a constitutional monarchy, where the monarch's role is largely symbolic, and the government is headed by the Prime Minister, who is the leader of the majority party in the House of Commons. The British system is often described as a blend of written, unwritten, and conventional elements, with the monarch's role as a ceremonial figurehead and the real political power resting with Parliament and the Prime Minister.

India, on the other hand, is a federal republic and a democratic parliamentary system. The country adopted a republican model with the President serving as the head of state. Unlike Britain, where the monarch plays a ceremonial role, the Indian President, though largely ceremonial, plays a role defined by the Constitution. India is also a federal state, which means that there is a division of powers between the central government and the states, something that is not a part of the British system, where power is more centralised.

The Indian Parliament, like its British counterpart, consists of two houses—the Lok Sabha and the Rajya Sabha. However, the way these houses function is different. In the British system, the House of Lords (the upper house) is not an elected body, as its members are appointed or inherit their positions. This gives the House of Lords a different dynamic, as it is not directly accountable to the electorate. In contrast, the Rajya Sabha in India, while not directly elected by the people, represents

states and Union Territories, and its members are elected indirectly by the members of state legislative assemblies. This system reflects India's federal structure and ensures that the interests of states are represented in the central legislative process.

Another significant difference lies in the management of economic affairs. In the British system, the First Lord of the Treasury, who is traditionally the Prime Minister, plays a role in managing the finances of the country. In India, the responsibility for economic governance and the management of public finances lies primarily with the Ministry of Finance. The Finance Minister of India, currently Piyush Goyal, plays a crucial role in shaping the country's economic policies, presenting the annual budget, and overseeing the financial aspects of governance. In both countries, however, the economic policies are largely determined by the government and must be approved by Parliament.

The decision-making processes in both systems also reflect some important distinctions. In the British system, the Cabinet operates on the principle of collective responsibility. This means that Cabinet ministers must act unanimously on any decision, even if there is dissent within the Cabinet.¹⁴ This principle ensures that the government speaks with one voice and maintains political stability. In India, however, while the Cabinet also operates under the principle of collective responsibility, the process of decision-making can be more complex. In India, legislative proposals, such as bills, often require negotiations and consensus-building among the ministers, as well as support from various political factions. Given India's multi-party system, which involves coalitions and alliances, this process can be more time-consuming and intricate.

The most significant change between the British and Indian parliamentary systems came with the drafting of the Indian Constitution. While the British system was based on traditions and conventions, the Indian system is grounded in a written Constitution that reflects the diverse needs of its people. India's Constitution, drafted in 1949, was designed to ensure that all citizens, irrespective of their religion, caste, or ethnicity, would be given equal rights and opportunities. It aimed to create a democratic republic that would reflect the country's commitment to justice, liberty, and equality.

The Indian Constitution also incorporates elements that are tailored to India's diverse cultural, social, and geographical needs. For example, while the British system allows for greater flexibility,

¹⁴ Supra 20, pg. 798.

India's written Constitution ensures that governance structures and processes are set in stone, with clearly defined roles for each branch of government. Moreover, the federal nature of India's polity ensures that there is a balance of power between the central government and the states, reflecting the country's vast size and diversity.

In conclusion, while India's parliamentary system may have been inspired by the British model, it has evolved significantly to cater to the unique challenges and requirements of an independent and diverse nation. The Indian parliamentary system incorporates key elements from the British system but adapts them to a federal republic framework with a written Constitution. The differences between the two systems—ranging from the structure of Parliament and the role of the head of state to the functioning of government and decision-making processes—demonstrate how India has successfully crafted a parliamentary form of government that reflects its democratic values,

diversity, and federalism. Through this careful adaptation, India's parliamentary system not only preserves the core principles of democracy but also ensures that the needs of its diverse population are met.

3. DOCTRINE OF SEPARATION OF POWER.

The doctrine of the separation of powers is crucial when discussing constitutional governance today. While many countries embrace this principle, implementing a strict and absolute separation of powers, where each organ operates completely independently without any overlap, can be both impractical and undesirable. The famous French political philosopher Montesquieu, who first proposed this doctrine, warned against the concentration of power in the hands of a single person or a small group, as it inevitably leads to tyranny. His argument was clear: power must be decentralised and distributed among three distinct branches of government—executive, legislative, and judiciary. According to Montesquieu, each of these branches should operate independently, ensuring that no one branch interferes with the functions of the others. This principle aims to maintain balance and prevent any single entity from gaining too much control over the government.

3.1 Comparison of India and England.

The Constitution of India adheres to the doctrine of separation of powers, dividing authority among three key branches of government: the legislative, executive, and judiciary. Ideally, each branch should function independently, according to this doctrine. However, in practice, this separation is not absolute in India. The judiciary often interacts with both the legislature and the executive. For example, if the legislature passes a law that is inconsistent with the Indian Constitution, the judiciary has the authority to challenge such laws. Similarly, the judiciary plays a role in resolving disputes between the legislature and the executive.¹⁵

In contrast, the United Kingdom does not have a single written constitution, but this does not mean that the concept of separation of powers is absent. While it is present, the separation of powers in the UK is less clear-cut, and the roles of the three branches often overlap. The executive in the UK consists of the Crown and the government, including the Prime Minister and the Council of Ministers. The government can be dismissed by Parliament, and a new government formed. The legislative body in the UK comprises the Monarch, the House of Commons, and the House of Lords. The Monarch's powers are largely ceremonial, and they act on the advice of the Prime Minister. The House of Commons is made up of elected members, while the House of Lords includes unelected hereditary peers. Parliament has the authority to make and amend laws and scrutinise the government. The judiciary, the third branch, is responsible for hearing cases and resolving legal matters. In the UK, the judiciary also has a unique role in law-making through judicial decisions.¹⁶

Although Montesquieu's idea of separation of powers was inspired by the British system, it is not as strict in practice. In the UK, one branch often seems to dominate the others. For instance, the executive can dominate the legislative process when the Prime Minister, having won the most seats in the House of Commons, exerts significant influence. Additionally, the judiciary is also influenced by the executive, as senior judges are appointed by the Lord Chancellor. Thus, while the separation of powers is present in both India and the UK, it is not absolute. In India, the judiciary's role is particularly important, as it helps curb corruption and maintain checks and balances in the system, especially in a country where corruption can often permeate at various levels of government.¹⁷

4. FEDERALISM

4.1 EVOLUTION.

¹⁵ https://www.legalservicesindia.com/#google_vignette.

¹⁶ UK Parliament, <https://www.parliament.uk/>.

¹⁷ Baron de Montesquieu, Charles-Louis de Secondat, Stanford Encyclopedia of Philosophy, <https://plato.stanford.edu/index.html>.

In 1863, Pierre-Joseph Proudhon, a French political thinker, made a prophetic statement about the future of federalism: “the twentieth century will open the age of federation, or else humanity will undergo another purgatory of a thousand years.”¹⁸ His words highlighted the growing importance of federalism as a model of governance. Fast forward nearly a hundred years, and in 1964, William Ritter revisited the idea of federalism, which by then had gained substantial traction and had become the basis for the political organisation of many countries. The idea that power should be divided between a central government and various regional governments became more popular, especially in nations with diverse populations, as it offered a mechanism for maintaining unity without sacrificing regional autonomy.

In the case of India, the concept of federalism has deep historical roots. It is not a new idea that emerged with the adoption of the Indian Constitution in 1950, but one that dates back much earlier, to the times of the Delhi Sultanate, the Mughal Empire, and even the British colonial era. Although various features of federalism were present in these periods, the country did not experience a full-fledged federal structure until the 20th century. At the time, India’s political system was largely unitary, with power concentrated in the hands of a central authority, but the idea of regional autonomy and the need for decentralised governance was always present.

One of the most significant milestones in India’s journey toward federalism came with the Government of India Act of 1935. This Act introduced the concept of the All India Federation, which aimed to unite British India Provinces and Indian States under a single federal system. However, this was not the federalism that we are familiar with today. The Act of 1935 provided a framework for the federation, but it was incomplete. The Indian States were required to sign an Instrument of Accession, which meant that the rulers of these princely states had to agree to surrender a certain amount of their authority to the central federation. However, many of these rulers were reluctant to give up their power, and as a result, the proposed federation never materialised. The Indian states did not provide their consent, and the Act of 1935 ultimately collapsed without bringing federalism into full force in India.

It is important to note that the failure of the All India Federation did not mark the end of the idea of federalism in India. The concept continued to be debated and evolved over time. Even in the aftermath of the collapse of the 1935 Act, the idea of a federal structure continued to shape the

¹⁸ Mokbul Ali Laskar DYNAMICS OF INDIAN FEDERALISM See- Chapter 1, Federalism- The Conceptual Interpretation.

discussions surrounding India’s future governance. The framers of the Indian Constitution, who were tasked with creating a new system of government for the newly independent country, understood the need for a federal system that could accommodate the vast diversity of the nation.

Dr. B.R. Ambedkar, the Chairman of the Drafting Committee of the Indian Constitution, acknowledged the complexity of India’s political landscape. He stated, “I think it is agreed that our Constitution notwithstanding the many provisions which are contained in it whereby the Centre has been given powers to override the Provinces (States) nonetheless, is a

Federal Constitution.”¹⁹ Ambedkar's statement reflects the delicate balance that the framers sought to strike between a strong central government and the autonomy of states. While the Indian Constitution provides the central government with the authority to overrule states in certain situations, it also recognises the importance of a federal structure. The division of powers between the central and state governments, as laid out in the Constitution, was intended to ensure that regional interests were represented while also maintaining the unity and integrity of the nation.

The historical context surrounding the emergence of federalism in India is crucial to understanding how it took shape in the Indian Constitution. The legacy of British colonialism, the diverse cultural and linguistic groups within the country, and the struggles for independence all influenced the creation of India's federal system. The framers of the Constitution were aware of the challenges posed by such a diverse country and sought to create a system of government that could accommodate this diversity while also ensuring that India remained unified as a nation. The adoption of a federal system in the Indian Constitution was, therefore, a product of both historical circumstances and forward-thinking governance.

Federalism, as enshrined in the Indian Constitution, marked a turning point in the country's political evolution. It was a recognition that India's vast and diverse population required a system of government that could allow for local autonomy and self-governance, while also ensuring that national unity and the interests of the central government were preserved. This was not a straightforward path, as the failure of the 1935 Act demonstrated, but it was ultimately achieved when the Indian Constitution came into force in 1950.

In conclusion, the roots of federalism in India stretch far beyond the drafting of the Constitution in 1950. From the time of the Delhi Sultanate and the Mughals to the British colonial period, the idea

¹⁹ Constituent Assembly Debate, Vol 4, p. 133.

of dividing power between a central authority and regional entities has been present in various forms. The Government of India Act of 1935 was a key attempt to implement federalism, but it failed due to resistance from the princely states. However, the idea of federalism did not die with this failure. Instead, it continued to evolve, and the framers of the Indian Constitution succeeded in establishing a federal structure that balanced the needs for regional autonomy with the necessity of national unity. The Constitution of India, therefore, represents the culmination of centuries of thought, struggle, and negotiation around the idea of federalism. As Dr. Ambedkar's statement suggests, India's Constitution, despite its centralising provisions, is fundamentally federal in nature, and this structure continues to guide the nation to this day.

4.2 CONTRAST BETWEEN INDIAN AND CANADIAN FEDERALISM.

The concept of federalism in India is largely influenced by the Canadian federal system, but it does not follow the same strict principles of federalism as Canada. While Canada operates with a clear-cut federal model, India adopts a more flexible approach. Given India's vast socio-economic diversity and its large geographical size, it has been necessary to incorporate both federal and unitary features into its system of governance. This hybrid structure allows India to address its unique challenges while maintaining a balance between central authority and regional autonomy.

India's federal constitution encompasses several key characteristics that define its federal structure:

1. Distribution of Powers: In India, powers are shared between the central government and the state governments, allowing both to make laws within their respective areas. This distribution is governed and controlled by the Constitution, which outlines the responsibilities of each level of government. The distribution of powers is one of the most important elements of India's federal system.

2. Supremacy of the Constitution: The foundation of federalism in India lies in its Constitution, which is the supreme law of the land. No law or authority can override the Constitution. All governmental powers, whether

executive, legislative, or judicial, are derived from the Constitution and must operate within its framework.

3. A Written Constitution: A defining feature of federalism is the existence of a written Constitution. India, with its written Constitution, ensures that the principles of governance and the division of powers between the centre and the states are clearly documented. This written form of governance is essential for upholding the supremacy of the Constitution, as it provides clarity and prevents ambiguity.

4. Rigidity: A federal Constitution must be rigid, meaning that amendments cannot be easily made. In India, the procedure for amending the Constitution is complicated and not as flexible as in a unitary system. This rigidity ensures that constitutional changes are not made based on political whims or election promises, but rather through a formal and structured process.

5. Authority of the Courts: An independent judiciary plays a vital role in a federal system. In India, the judiciary is free from political influence and holds the final authority in interpreting the Constitution. Courts are tasked with ensuring that the powers of the central and state governments are properly divided and that any disputes are resolved fairly. Article 32 of the Indian Constitution provides citizens the right to approach the Supreme Court for the enforcement of their fundamental rights.

However, India's federal system is not without modifications that reflect its unique political landscape:

1. Appointment of the Governor: In India, the President appoints the Governor of each state, who acts as the head of the state government. The Governor holds office at the pleasure of the President, which gives the central government significant influence over the state's governance.

2. Emergency Provisions: Articles 352 to 360 of the Indian Constitution grant the central government the authority to assume greater control in times of emergency. During an emergency, the state governments must comply with directives issued by the central government. The Parliament can also make laws on subjects from the State List. Furthermore, under Article 356, the President has the power to dissolve the state legislature, dismiss the state government, and take over the governance of the state if it fails to comply with constitutional provisions.

While Canada follows a strict federal model, India's federalism is characterised by a blend of both federal and unitary elements. Therefore, it is often referred to as "quasi-federal." This means that India's federal system is not purely federal in the traditional sense, as it allows for central control in certain situations. The Indian Constitution incorporates federal principles, but it also includes provisions that give the central government significant power over the states, especially in times of crisis or emergency.

India's federalism is a unique system that combines the strengths of both federal and unitary governance. While it is inspired by the Canadian model, it incorporates features that allow for central intervention when necessary. This hybrid approach is particularly suited to India's complex social and political landscape, allowing for a system that balances unity with diversity. As a result, Indian federalism is best described as "quasi-federal," acknowledging both the federal structure and the centralising elements that are inherent in the system.²⁰

²⁰ WHETHER CONSTITUTION OF INDIA IS BORROWED OR NOT Ananya Rai, <https://ijcrt.org/papers/IJCRT1893215.pdf>.

CHAPTER III:

COUNTERING THE MYTH OF A BORROWED CONSTITUTION.

While the Indian Constitution undoubtedly draws from various sources, it is important to understand that these borrowings were not a mere copy-paste exercise. Instead, the Constituent Assembly made modifications to ensure that the Constitution reflected India's unique cultural, political, and social realities. For instance, the concept of secularism

was reinterpreted, while secularism in the West often means a strict separation of state and religion, the Indian Constitution envisions a state that treats all religions equally, reflecting India's pluralistic society.

Moreover, the Indian Constitution is not static; it is a living document that has the flexibility to evolve with time. Amendments such as the Right to Privacy and the Panchayati Raj system are examples of how the Constitution has adapted to meet the changing needs of Indian society.

*"All constitutions, in their main provisions, must look similar. Variations have been made to remove the faults and accommodate the needs of the country."*²¹

-by Dr. B.R. Ambedkar.

The Indian Constitution is often critiqued for being a **"borrowed" document**, but this view fails to capture its creative adaptation and the vision behind it. While India's Constitution certainly draws inspiration from other constitutions, it **evolved** to meet India's **distinct needs**. The framers were guided by a desire to create a **just, inclusive, and democratic** society, and they shaped the document in accordance with **Indian values and aspirations**. The Constitution's ability to adapt to India's changing needs makes it a living, evolving document. As jurist Justice P. N. Bhagwati aptly put it: "The Indian Constitution is a synthesis of global ideas, shaped by India's unique history, culture, and aspirations."²²

Separation of Powers

²¹ V.Krishna, In defence of the Constitution, 18th April 2024, <https://www.constitutionofindia.net/blog/b-r-ambedkars-defence-of-constitutional-borrowing/>

²² R.De & O.Shani, Assembling India's Constitution: Towards a New History, Past & Present, Volume 263, Issue 1, May 2024, Pages 205–248, 02 May 2023, <https://academic.oup.com/past/article/263/1/205/7147824>.

Many constitutions, including the U.S. Constitution (1787), feature the separation of powers into three distinct branches of government: **executive, legislative, and judicial**. This principle was influenced by the works of Montesquieu, a French political philosopher, who argued that power should be divided to prevent any one branch from becoming too powerful. The **U.S. Constitution** established the clear division of powers among the three branches, a model that was later adopted in various forms by other countries, such as India and many Latin American nations.

Fundamental Rights

A number of constitutions borrow the idea of a **Bill of Rights** or **Fundamental Rights**, which is a list of guaranteed individual freedoms and protections. This concept was borrowed from the **English Bill of Rights (1689)** and the **U.S. Bill of Rights (1791)**, ensuring that basic human rights are protected by law and cannot be easily overridden by the government. **India's Constitution** (1950) borrowed the idea of a "Fundamental Rights" section from the U.S. Bill of Rights, which guarantees certain freedoms like freedom of speech, the right to life, and protection against discrimination.

Federalism

Federalism, or the division of powers between a central government and regional governments (states or provinces), is another concept that is borrowed from existing models. The **U.S. Constitution** (1787) laid the foundation for federalism, which later influenced constitutions in countries like Canada, Germany, and India. **India's Constitution** adopted a federal system with a strong central government, similar to the U.S. model but adapted to its unique context. Other countries like **Germany** and **Australia** also feature similar federal structures.

Judicial Review

The power of courts to review the constitutionality of laws and government actions is a critical feature borrowed from the U.S. Constitution. This principle was established through the landmark

Marbury v. Madison²³ decision in 1803 and has since been incorporated in various other

constitutional frameworks. The **Indian Constitution** adopted judicial review in 1950, empowering the judiciary to strike down laws that conflict with the Constitution, much like the U.S. system.

²³ M.Urofsky, *Marbury v. Madison*, Encyclopedia of Britannica, 17th Feb 2025, <https://www.britannica.com/event/Marbury-v-Madison>.

Parliamentary System

Many countries, particularly those that were once part of the British Empire, have adopted the **parliamentary system of government**. This system is where the executive branch is drawn from and accountable to the legislature (parliament), and the head of government is typically the prime minister. **India's Constitution** borrows heavily from the **British system**,²⁴ with a parliamentary structure that features a Prime Minister and Cabinet who are accountable to Parliament. Other nations like **Canada, Australia**, and many Commonwealth countries use this model.

Universal Suffrage

The principle of **universal suffrage**, or the right of all adult citizens to vote, has become a standard feature in most modern constitutions. While earlier constitutions often restricted voting rights to certain groups (e.g., landowners, men), this idea has evolved to include all citizens, regardless of race, gender, or wealth. The **U.S. Constitution** has been amended several times to expand suffrage, such as through the **15th Amendment** (1870) granting African American men the right to vote, the **19th Amendment** (1920) granting women the right to vote, and the **26th Amendment** (1971) lowering the voting age to 18. Many other countries, such as **France** and **South Africa**, also adopted universal suffrage in the 20th century.

Direct Democracy Mechanisms

Some constitutions have borrowed mechanisms for **direct democracy**, such as the ability for citizens to propose laws (initiative), amend the constitution, or recall elected officials. **Switzerland** is a key example where direct democracy is a feature of its constitution. The U.S. states of **California** and **Oregon** have also incorporated direct democracy elements like referendums and initiatives, inspired by earlier practices in Europe. The principle of creating an **independent body to oversee elections** is borrowed from the idea of fair and free electoral processes, where the government or political parties do not interfere with the integrity of elections. Many countries, such as **India, Kenya**, and **South Africa**, have established independent electoral commissions to manage elections and ensure transparency and fairness.²⁵

²⁴ E.May, The Commonwealth Parliamentary Association, <https://erskinemay.parliament.uk/section/4525/the-commonwealth-parliamentary-association>.

²⁵ T.Schiller, Direct Democracy, <https://www.britannica.com/topic/direct-democracy/Countries-and-developmental-background>.

Amendment Process

Most modern constitutions have borrowed the idea of an **amendment process**, allowing the constitution to evolve over time while ensuring a careful balance between stability and adaptability. This prevents arbitrary changes while allowing for necessary reforms as societal needs change. The

U.S. Constitution allows for amendments (e.g., through a two-thirds majority vote in Congress and ratification by the states), and many countries like **Germany**, **South Africa**, and **Brazil** have incorporated similar processes in their constitutions.²⁶

Protection of Minority Rights

Many constitutions borrow the concept of protecting the rights of minorities, ensuring they are not oppressed by the majority. This concept was influenced by earlier democratic revolutions and is integral to modern liberal democracies.

India's Constitution has various provisions for the protection of religious, linguistic, and cultural minorities, reflecting similar principles found in other democratic constitutions like the **U.S. Constitution** and **South Africa's Constitution**. In essence, modern constitutions are a patchwork of ideas borrowed from each other, shaped by history, culture, and the political needs of the time. These features represent the evolution of democratic and legal principles, with countries borrowing from the experiences and lessons of their predecessors. Several scholars and political thinkers have criticised the **Indian Constitution** for being "borrowed" or overly influenced by foreign models, particularly the constitutions of countries like **Britain**, the **United States**, and **Ireland**. These criticisms generally revolve around the argument that the Indian Constitution was a product of external influences rather than an entirely indigenous creation, and that it reflects a "mimicry" of Western democratic principles. Below are some of the prominent writers and thinkers who criticised the Indian Constitution for its "borrowed" nature.²⁷

²⁶ N.U.Khan & K.Nag, COMPARATIVE STUDY OF THE AMENDMENT PROCEDURE IN INDIA, SWITZERLAND,CANADA, USA, FRANCE AND GERMANY, <https://www.ijrar.org/papers/IJRARTH00136.pdf>.

²⁷ S. Kaur, Minority Rights, 26th June 2022, <https://blog.ipleaders.in/minority-rights/>.

THINKERS

*"The only new things, if there can be any, in a Constitution framed so late in the day are the variations made to remove the faults and to accommodate it to the needs of the country. The charge of producing a blind copy of the Constitutions of other countries is based, I am sure, on an inadequate study of the Constitution. I have shown what is new in the Draft Constitution and I am sure that those who have studied other Constitutions and who are prepared to consider the matter dispassionately will agree that the Drafting Committee in performing its duty has not been guilty of such blind and slavish imitation as it is represented to be."*²⁸

-B.R.AMBEDKAR.

Although Ambedkar who was the **chief architect** of the Indian Constitution and played a central role in its framing, he himself **acknowledged** that the Constitution borrowed heavily from foreign sources. He defended these borrowings as necessary, given India's complex society, but also pointed out that certain aspects of the Constitution might not fit perfectly with the Indian context. Ambedkar was particularly concerned about how **British colonial systems** (like the parliamentary system) had been inherited and whether they could truly serve a diverse, post-colonial society. Ambedkar viewed the **British parliamentary system** and its hierarchical structure as unsuitable for India, which he believed required a more decentralised and robust democratic system. Despite his deep engagement in drafting the Constitution, Ambedkar's critique suggested that the British- influenced nature of the Constitution might lead to **centralised power** rather than equitable decentralisation.

Gandhi, although not directly involved in the drafting of the Constitution, was an outspoken critic of many aspects of modern Western democracy, which he felt were imposed on India through the Constitution. He viewed much of the structure as **alien to Indian traditions** and criticised its emphasis on a **Western-style legal and political system**. Gandhi criticised the Constitution's focus on **individual rights** and **Western notions of governance**. He believed that India needed a **revolution in values** that would reflect its own traditional notions of **self-governance** (e.g., **Gram Swaraj**)²⁹ and **collective welfare**, rather than merely imitating the frameworks of Western

²⁸ V.Krishna, B.R. Ambedkar's Defence of Constitutional Borrowing, Constitution of India, 18th April 2024 <https://www.constitutionofindia.net/blog/b-r-ambedkars-defence-of-constitutional-borrowing/>.

²⁹ Dr.B.K.Kakati, Gram Swaraj: Its relevance in present context, M.Gandhi org, <https://www.mk Gandhi.org/articles/gram-swaraj-its-relevance-in-present-context.php>.

democracies. Gandhi also expressed concern that the adoption of Western-style parliamentary democracy might lead to the **exploitation of the weak**.

The first **President of India, Rajendra Prasad**, although generally supportive of the Indian Constitution, also had reservations regarding its **foreign origins**. He argued that while it was a product of the needs of post-colonial India, there was an essential **disconnect** between its **Western influences** and India's **traditional political structure**. Rajendra Prasad's criticism focused on how the Constitution incorporated elements from Western systems, like **judicial review** and the **parliamentary system**, without giving enough regard to India's **unique cultural and social structure**. He warned that the Indian Constitution might not always be suited for India's **agrarian society** and that it might overemphasise the **rights of individuals** without enough emphasis on **communal values**.

Lala Lajpat Rai, a prominent freedom fighter, expressed reservations about the **constitutional framework** that emerged after independence. While he was not part of the drafting process, he believed that the **Indian elites**, in the post-independence period, had taken on a Westernised outlook, which was reflected in the Constitution. Lajpat Rai was critical of the **overemphasis on individual rights** and **secularism**, which he felt were not in tune with India's **cultural and spiritual roots**. He believed that India's **true democracy** should be based on a system of **caste-based representation** and **communal harmony** rather than following the **individual-centric liberal democracy** of the West.

K.K. Aziz, a historian, criticised the **adoption of foreign models** without a thorough consideration of India's unique needs. He argued that the **centralised state structure** created by the Constitution mirrored colonial administrative practices, leading to **continuity** with the British system, rather than a break from it. Aziz emphasised that **centralisation** of power in India, although necessary in some ways for administrative efficiency, would perpetuate **bureaucratic control** and hinder the development of more **local democratic practices**. He felt that **local self-governance** and **federation** should have been given more importance.

C. N. Annadurai, the **former Chief Minister of Tamil Nadu**, was a vocal critic of the Indian Constitution's imposition of a **centralised state** and its **borrowing of British colonial structures**, particularly the **parliamentary system**. As a strong advocate of **state rights** and **regional autonomy**, he believed that the Indian Constitution was not sufficiently **federal** and did not take into account the cultural and linguistic diversity of the country. Annadurai argued that the Constitution was too **centralised**, which, in his view, suppressed the autonomy of **regional identities** like Tamil Nadu. His criticism was particularly directed at the **unitary nature of the Indian state** and the centralisation of powers in the hands of the **Prime Minister and Parliament**.

CHAPTER IV:

UNVEILING THE INDIGENOUS INSPIRATIONS.

INTRODUCTION

The purpose to demonstrate this chapter like this is to revive that the legal and sociological developments are seen with the growth of the society. They cannot be borrowed from some where or some set up of the society. The administrative procedures are a effect of the thought process of the society. The thinkers discussed below are of the Medieval India who have set a stepping stone for the upcoming administrators of the country. The fight of Shivaji Maharaja is an fantastic example of the struggle against the despotic rulers. Also it resonated the ideas of people's rule, freedom of thought any many other principles which are of great importance in today's politics.

ADMINISTRATION OF CHATTARAPATI SHIVAJI MAHARAAJ.

Shivaji Maharaj's Maratha Empire extended from Maharashtra to Tamil Nadu. His dominion was divided into Swaraj (own kingdom) and territories that paid Chauth but were not directly under his rule. He abolished the Jagirdari system, paid officials in cash, and granted land for schools and temples. Hereditary occupation of posts and the Zamindari system were not supported.³⁰

Administration

Shivaji ensured equality by employing people from all castes, assigning specific responsibilities to ministers, and prioritizing civil officers over military ones. His government followed the **Ashta Pradhan system**, with eight key ministers:

- **Peshwa** (Prime Minister)
- **Amatya/Majumdar** (Finance)
- **Waq-i-Nawis** (Home)
- **Dabir/Sumant** (Foreign affairs)
- **Sachiv** (Correspondence)

³⁰ <https://unacademy.com/content/upsc/study-material/medieval-india/maratha-empire-administration-under-shivaji/>

- **Pandit Rao** (Religious affairs)
- **Sar-i-Naubat** (Military)
- **Nyayadhish** (Justice)

Each minister had an eight-member staff, and 18 departments functioned under the king's supervision. Swaraj was divided into three provinces, each overseen by a viceroy. Judiciary followed ancient Hindu laws, with **Panchayats** handling local disputes.³¹

Military Administration

Shivaji's army was well-trained, disciplined, and patriotic. Key reforms:

- **Regular Army:** Soldiers served year-round.
- **Cash Payments:** Except for top military commanders.
- **Merit-Based Recruitment**
- **Fort Maintenance:** 280 forts served as cantonments.
- **Inclusivity:** Included 700 Muslim soldiers.

The army had six divisions: cavalry, infantry, camel & elephant battalions, artillery, and navy. The cavalry (40,000 troops) was the main force.

Revenue & Taxation

Shivaji replaced the Jagirdari system with the **Ryotwari system**, collecting revenue directly from farmers. He introduced two key taxes:

- **Chauth:** 25% of total revenue, paid for protection.
- **Sardeshmukhi:** 10% tax from territories outside his kingdom, recognizing him as the top Deshmukh.

³¹ Ashta Pradhan Marathi council, Britannica, Written and fact checked by Editor of Encyclopaedia of Britannica, <https://www.britannica.com/topic/Ashta-Pradhan>.

AKBAR'S ADMINISTRATIVE SYSTEM AND POLICIES. 32

1. Central Administration

- **Wazir (Diwan-i-Ala):** Managed revenue, income, and expenditures; controlled Khalisa (royal land), Jagir (granted to mansabdars), and Inam (given to learned men).
- **Mir Bakshi:** Headed military administration, oversaw appointments, intelligence, and war equipment.

- Mir Saman: Managed the imperial household and production in Karkhanas (workshops).
- Sadr-us-Sudur: Headed religious and charity affairs, overseeing cash (Wazifa) and land grants.
- Intelligence Officers (Barids) & Ahadis: Ensured information flow and maintained the emperor's security.

2. Provincial Administration

- Empire Division: 12 provinces (subas), each with a Subedar (Governor), Diwan (Revenue Head), Bakshi (Military), Sadr (Religious & Judicial Affairs), and Qazi (Justice).
- Subdivisions: Sarkars (Districts) with Faujdar (Law & Order), Parganas with Shiqdar (Executive), Villages with Muqaddam (Headman) & Patwari (Revenue).³³

3. Land Revenue System

- Assessment (Jama) & Collection (Hasil): Standardized by Raja Todar Mal (Dahsala System, 1580 AD).
- Revenue Classification: Zabt (fixed share), Batai (crop-sharing), Kankut (land measurement), Hast-o-bud (yield estimation), Nasaq (previous assessment).

³² <https://pwonlyias.com/udaan/akbar-administrative-system-mughal-empire/>

³³ Supra 42. Pg 11

- Land Categories: Polaj (yearly cultivated), Parati (uncultivated), Chachar (fallow 2-3 years), Banjar (fallow 5+ years).³⁴

4. Mansabdari System

- Mansabdars: Ranked officials (10-7,000) with defined Zat (rank/salary) and Sawar (military obligation).
- Jagirs (Revenue Assignments): Non-hereditary, periodically transferred, collected by servants while mansabdars served elsewhere.

5. Rajput Policy

- Conciliatory approach: Formed matrimonial alliances, granted high court positions (e.g., marriage to Harkha Bai of Amber).

ASHOKA AND HIS EMPIRE.

Ashoka, the third Mauryan king, ascended the throne around 269 B.C. His empire spanned from Afghanistan to Bangladesh. After the Kalinga War (261 B.C.), which caused massive destruction, he embraced Buddhism and adopted the policy of Dhamma—a moral code promoting tolerance, non-violence, and welfare.³⁵

Kalinga War and Its Impact

- Fought against the independent kingdom of Kalinga (present-day Odisha & Andhra Pradesh).
- Resulted in immense casualties (Rock Edict XIII).
- Led Ashoka to abandon expansion through war, replacing it with cultural conquest (Dhamma).
- Sent peace emissaries to Greek kingdoms.

34 *ibid.*

35 <https://vajiramandravi.com/upsc-exam/ashoka/#:~:text=Administration%20under%20Ashoka,-There%20was%20a&text=Ashoka%20was%20at%20the%20helm,Danda%20Samahara%20and%20Vyavahara%20Samahara>.

Policy of Dhamma

- Not a religious doctrine but a social policy promoting harmony, tolerance, respect for all sects, and welfare measures.
- Special officers, Dhamma Mahamattas, were appointed to implement it.
- Propagated through edicts inscribed on rocks and pillars.

Ashokan Edicts

Rock Edicts (14 Major & Minor Edicts)

- Spread across India, written in Prakrit, Aramaic, and Greek using Brahmi and Kharosthi scripts.
- Covered animal welfare, social norms, tolerance, and administration.
- Rock Edict XIII records the horrors of Kalinga War and shift to Dhamma.

Pillar Edicts (7 Major & Minor Edicts)³⁶

- Located mainly in the Gangetic plains.
- Addressed compassion, governance, and non-violence.
- Kanganahalli inscription (Karnataka) first explicitly mentions "Ranyo Ashoka" (King Ashoka).

Administration Under Ashoka

- Centralized governance with Ashoka as the supreme authority.
- Council of Ministers (Rock Edicts III & IV).
- Legal Reforms: Introduced Danda Samahara (legal punishments) and Vyavahara Samahara (judicial procedures).
- Provincial Division: Retained traditional divisions but added Aharas/Vishyas (districts).

³⁶ <https://smarthistory.org/the-pillars-of-ashoka/>.

- Officials:
 - Dhamma Mahamattas – Oversaw moral well-being.
 - Rajukas – Implemented welfare policies.
 - Nagar Mahattas – Managed cities.
 - Anta Mahattas – Administered frontier regions.

Society & Religion

- Promoted tolerance: Gave patronage to Brahmins, Ajivikas, and Buddhists.
- **Spread of Buddhism:**
 - Built stupas and monasteries (e.g., Sanchi, Bharhut).
 - Sent missionaries to Sri Lanka (son Mahendra, daughter Sanghamitra), Burma, and Central Asia.
 - Third Buddhist Council (250 B.C.) was convened to unify Buddhism.³⁷

Economy Under Ashoka

- Land Tax: Main source of revenue, collected by Samaharta.
- Trade & Commerce: Flourished due to well-organized markets and roads, including the Northern Trade Route (Uttarapatha).
- Guilds (Sreni): Merchants and artisans were organized for efficiency.
- Urban Economy: Rapid urbanization due to trade expansion.

³⁷ Ashoka, Emperor of India, Britannica, 11th feb 2025, <https://www.britannica.com/biography/Ashoka>.

COUNTRY	PROVISION BORROWED	INDIGENOUS INSPIRATION
Constitution of the United States.	<ul style="list-style-type: none"> • Preamble • Fundamental Rights • Federal Structure of Government. • Electoral College • Separation of Power. • Equal Protection Under Law 	Referring to the Administrative principle of Chattrapati Shivaji Maharaj, he incorporated Fundamental Rights, Federal Structure of Govt. Separation of Power and other principles.
British Constitution	<ul style="list-style-type: none"> • Parliamentary Form • Single Citizenship • Rule of Law • Writs • Law making process 	Similar to the Parliamentary form we can trace Diwan-e- Aam & Diwan-e-khaas in Akbar’s Administration.
Canadian Constitution	<ul style="list-style-type: none"> • Quasi Federal form of govt. • Centre Strong 	Seen in administration of prominent rulers like Chattrapati Shivaji Maharaj & Akbar.

Irish Constitution	<ul style="list-style-type: none"> Directive Principles of State policy. 	Ashoka mentioned in his Rock Edicts III & IV the responsibilities of Rajyukas.
French Constitution	Republic and the idea of Liberty, Equality and Fraternity in the Preamble	Shivaji Maharaj Recruited all his personals based on VA-vaya(age) SHI- shikshan (qualification) LA-layaki (merit)
Australian Constitution	<ul style="list-style-type: none"> Freedom of trade & commerce Concurrent List 	Samsthadyaksha was appointed to look after the market to check the unfair practices by traders, in the reign of Ashoka.
Constitution of USSR	<ul style="list-style-type: none"> Fundamental Duties u/a 51- A Constitutionally mandated Commission to oversee the development of Economy. 	Duties of citizens was levied upon by Ashoka in his inscriptions as well as by Shivaji Maharaj in the idea of Swaraj. Economic commissions were also set up by prominent rulers.
Constitution of Germany	<ul style="list-style-type: none"> Emergency powers to be enjoyed by the union Suspension of Fundamental Rights During Emergency. 	During times of war, rulers would mobilize armies, issue decrees for resource allocation, and implement martial law in affected areas. This mobilisation policy is seen in Mauryan Empire Explicitly.
Constitution of Japan	Procedure established by law	Procedure established by law was strictly used by one instance of this is Sher Shah Suri punishing his own family member under a civil litigation.

CHAPTER V:

CONCLUSION.

The Indian Constitution was designed to address the incredible diversity of India, including its linguistic, cultural, religious, and ethnic diversity. While it adopted principles from other countries, it tailored these ideas to fit the specific needs of a newly independent nation. India’s Directive Principles of State Policy, for instance, reflect Gandhian ideals of social justice, economic welfare, and rural development, which are not part of Western democratic traditions but were based on India’s own vision of governance. The Indian Constitution is a hybrid document that incorporates elements from multiple sources, rather than borrowing from a single model. It was shaped by British constitutional traditions, American ideas of federalism, Irish provisions on the President, Australian elements of trade and commerce, and French influences on secularism. But these influences were combined in a way that suited India’s realities, creating a unique document. The Indian federal system combines the idea of a strong centre (influenced by the British system) with a decentralised approach inspired by the U.S. federal model. However, it is tailored to India’s specific need for both unity and diversity. Gandhian Ideals: One of the most significant ways the Indian Constitution is inspired, rather than

borrowed, is in its embrace of Gandhian principles, which were central to the Indian independence movement. These principles are reflected in the Directive Principles of State Policy, emphasising social justice, self-reliance, and rural empowerment. These elements were not found in Western constitutions but were rooted in the Indian context. Gandhi's emphasis on decentralised governance and the idea of "Gram Swaraj" (village self-rule) influenced the Constitution's provisions for local self-government (Articles 40-42).

The Indian Constitution is deeply rooted in the Indian independence struggle and the vision of Indian nationalism. The freedom movement was about breaking away from British colonial rule, and the framers of the Constitution sought to create a document that reflected India's distinct identity, aspirations, and the lessons learned from colonial experiences. The Constitution's emphasis on fundamental rights and equality was directly influenced by the Indian struggle for justice and self-determination, in contrast to the colonial British laws that had discriminated against Indians.

One of the key objectives of the Indian Constitution is to eradicate social inequalities and create an egalitarian society, a goal that was not central to many Western constitutions when they were first enacted. The abolition of untouchability (Article 17) and the provision of affirmative action for Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes (OBCs) are distinct features that stem from India's own social realities, influenced by Ambedkar's vision for social justice and empowerment of marginalised groups. Secularism in India is different from the Western model. In many Western countries, secularism means a complete separation of religion from the state, but in India, it means that the state must treat all religions equally without favoring any particular one. This concept of plural secularism was inspired by India's own religious diversity, where multiple faiths coexist. India's Constitution guarantees freedom of religion (Article 25-28), but also allows for the state's intervention in religious matters for the public good, such as reforms in Hindu personal laws.

The Fundamental Duties (Part IVA of the Constitution) are another unique feature of the Indian Constitution, and they were introduced by the 42nd Amendment in 1976, reflecting an Indian perspective on civic responsibility. They are inspired by the USSR's Constitution, but are based on Indian traditions of collective responsibility and social duty. These duties include respecting the Constitution, promoting harmony, and protecting the environment, reflecting a holistic approach to citizenship and public welfare that goes beyond individual rights. While federalism was borrowed from the U.S., the Indian Constitution gives special emphasis to the unity and integrity of India as a core principle, reflecting a concern for national cohesion in a newly independent country. The Indian Union is indivisible (Article 1), emphasising the strong central authority that has been necessary for maintaining national unity in a country with such immense regional diversity.

The Indian Constitution reflects India's sovereign status in a post-colonial context, drawing on global ideas of democracy and republicanism, but with a unique understanding of sovereignty in a decolonized world. The Preamble reflects India's commitment to building a sovereign republic. India's Constitution explicitly asserts that India is a sovereign nation (Article 1), which was a critical shift from the colonial era and represents the country's new place on the global stage. The principle of judicial review was borrowed from the U.S. Constitution, where the courts have the power to review laws and government actions for constitutionality. However, India has shaped this principle with its own judicial activism and has empowered the courts to address public interest matters, thereby enhancing the scope of justice beyond traditional legal boundaries. The right to constitutional remedies (Article 32) allows citizens to directly approach the Supreme Court to protect their rights, something that is uniquely aligned with the Indian experience of social justice and civil rights.

While the Indian Constitution undeniably incorporates ideas from various foreign sources, it is not merely borrowed—it is inspired by the best elements of those models but is deeply adapted to India's unique social, cultural, and political realities. The Constitution reflects the values of Indian nationalism, Gandhian thought, and the country's diverse traditions, making it a distinctively Indian document that represents both modern democratic ideals and ancient cultural principles.

Thus, the Indian Constitution should be viewed as a synthesis of global ideas shaped by India's unique circumstances, rather than as a mere act of imitation.