Endurance of India's Constitution

Why in News?

India’s Constitution, though criticized for being lengthy, derivative, and non-Indian, has lasted 75 years under review.

What are the leaders say?

- Dr. B. R Ambedkar's defence of its originality and the need for constitutional morality.
- Benjamin Franklin emphasizes citizens' and leaders' responsibility to uphold the Constitution.

What is the Journey of Indian Constitution?

India’s Constitutional Journey	
1946	Cabinet mission is dispatched to India to discuss modalities for transfer of power
9 Dec 1946	Constituent assembly convenes for the first time.
29 Aug 1947	Establishment of drafting committee.
4 Nov 1949	Draft is finalized and submitted.
26 Nov 1949	Constituent Assembly adopts final draft making it official.
26 Jan 1950	Entry into force of the new constitution.

> *The Constituent Assembly took 2 years, 11 months and 17 days to complete drafting the Constitution for Independent India. During this period, it held 11 sessions covering a total of 165 days.*

What is the supremacy of the Indian Constitution?

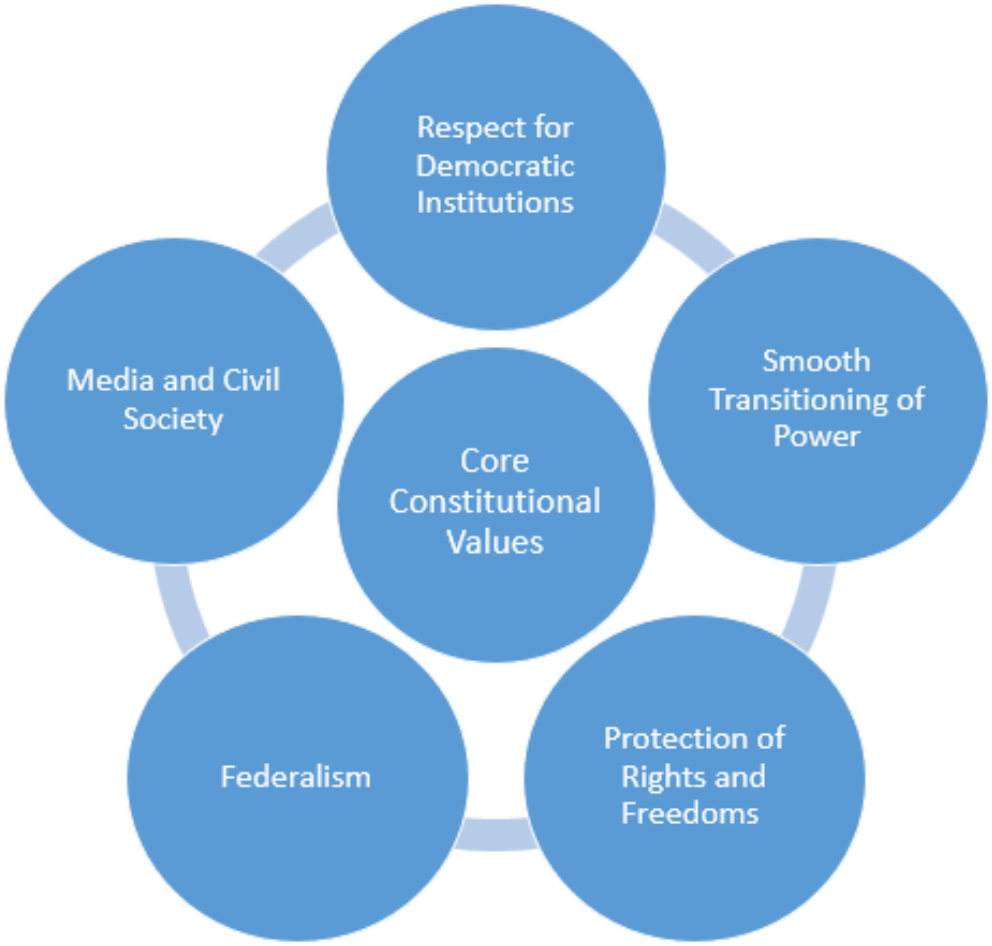
- **Fundamental Law -** A constitution is the fundamental law of a nation.
- It outlines the basic principles and laws that determine the powers and duties of the government and guarantee certain rights to the people.
- **Supreme Legal Authority -** Serves as the supreme legal document, against which all other laws are measured.
- **Expression of Sovereignty -**Reflects the sovereign will of the people, often established through a constituent assembly or similar body.
- **Living Document** - While foundational, constitutions often include provisions for amendments to adapt to changing societal needs.

What is Constitutional Government?

- **Limited Government -** A constitutional government operates under a constitution that limits the powers of political authorities, ensuring they act within established legal frameworks.
- **Rule of Law -** Emphasizes that all individuals and institutions, including the government, are

subject to the law.

- **Separation of Powers -** Distributes governmental powers among separate branches to prevent abuse and provide checks and balances.
- **Protection of Fundamental Rights -** Guarantees individual liberties and rights, safeguarding citizens against government overreach.
- **Democratic Principles** - Often incorporates democratic processes, allowing for representation and participation of the people in governance.
- **Judicial Review** - Courts have the power to interpret and review laws to ensure they follow the Constitution.



What is Constitutional Morality?

- The term was taken from George Grote's study of ***Athenian democracy.***
- **Adherence to Constitutional Values** - Dr. B.R. Ambedkar emphasized that governance must follow constitutional principles, not personal beliefs.
- **Supporting democracy -** It involves supporting a democratic political process that serves both individual and collective interests.
- **Respecting rights -** It involves respecting and protecting the fundamental rights guaranteed by the constitution.
- **Balancing freedom and restraint -** It involves citizens submitting to constitutional authorities while also having the freedom to criticize those in power.
- **Judicial Interpretation -**Courts use it to safeguard democratic principles.
    - **Example** - In the Navtej Singh Johar Case (2018), the Supreme Court decriminalized homosexuality (Section 377), citing constitutional morality.

Why Does India Need Constitutional Morality?

- **To Prevent Majoritarian Rule -** Ensures democracy functions beyond electoral politics.
- **Protection of Minority Rights** -Reservations (Articles 15 & 16) protect marginalized communities.
- **Role of Institutions -**Ensures institutions function independently and impartially.
- **Example -** The Sabarimala Temple Case (2018) upheld women's entry, enforcing constitutional morality over religious practices.

What are the Challenges to Indian Constitution?

- **Communalism and Religious Conflicts** - Religious tensions challenge the secular Constitution.
- **Example** -Ram Janmabhoomi Babri Masjid dispute caused legal battles and violence.
- **Caste based discrimination** - persists despite Article 15 & 16 reservations.
- **Example**- Dalit atrocities and honor killings under SC/ST Prevention of Atrocities Act, 1989
- **Corruption in Public Institutions** - Corruption undermines governance and citizens' rights
- **Example**- Lokpal and Lokayuktas Act, 2013 aims to reduce corruption
- **Threats to Secularism** - Rising religious intolerance impacts harmony and pluralism
- **Example**- Hate speech and mob lynching incidents raise Article 25 concerns
- **Misuse of Laws for Political Gains** - Laws like UAPA are criticized for limiting dissent and free speech
- **Example**- Sedition cases filed against journalists and activists
- **Growing Economic Inequality** - Rich poor gap has widened despite economic growth
- **Example-** Multidimensional Poverty Index indicates economic inequalities
- **Unemployment and Job Creation Issues** - Job creation remains difficult despite schemes like PMEGP
- **Example** - Unemployment rate rose during COVID• 19 lockdown
- **Agrarian Crisis and Farmers' Protests** - Issues like low MSP, water shortages, and land acquisition unresolved.
- **Climate Change and Environmental Degradation-** Environmental issues often conflict with economic development.

What are the Reasons for the Indian Constitution's Survival for 75+ Years?

Strong Democratic Institutions

- **Independent Judiciary-** Protects constitutional rights.
- **Example**- Basic Structure Doctrine (Kesavananda Bharati Case, 1973).
- **Election Commission –** It's role in free and fair elections.
- **Example**: Introduction of EVMs, VVPAT for transparency.
- **Media and Civil Society-** Keep the government accountable.
- **Example**: Right to Information Act (2005) empowers citizens.

Constitutional Adaptability

- **Flexible Amendments** - Keep it relevant.
- **Example-** 73rd & 74th Amendments (Panchayati Raj, 1992).
- **Judicial Activism and PILs** - Expand constitutional rights.
- **Example -Vishaka Case (1997)** led to sexual harassment laws.

Socio-Political Stability

- **Federalism -** Balances Centre-State relations.

- **Example-** GST Council ensures cooperative federalism.
- **Secularism -** Maintains religious harmony
- **Example**-Special Marriage Act, 1954 allows interfaith marriages.
- **Welfare Policies -** Reduce inequalities.
- **Example-**Mahatma Gandhi National Rural Employment Guarantee Act **(MGNREGA).**
- **Robust Defense** - Rights through NHRC and SC.
- **Example-Decriminalization of Triple Talaq (2019).**
- **People's Faith in Democracy -** Sustains the Constitution.
- **Example -** High voter turnout in Lok Sabha elections.

What Lies ahead?

- The Indian Constitution has survived over 75 years due to strong democratic institutions, adaptability through amendments, and socio-political stability.
- Key factors include an independent judiciary, a robust election process, media accountability, and citizens' faith in democracy evidenced by high voter turnout.

To Solve Mains question – Click here

Reference

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