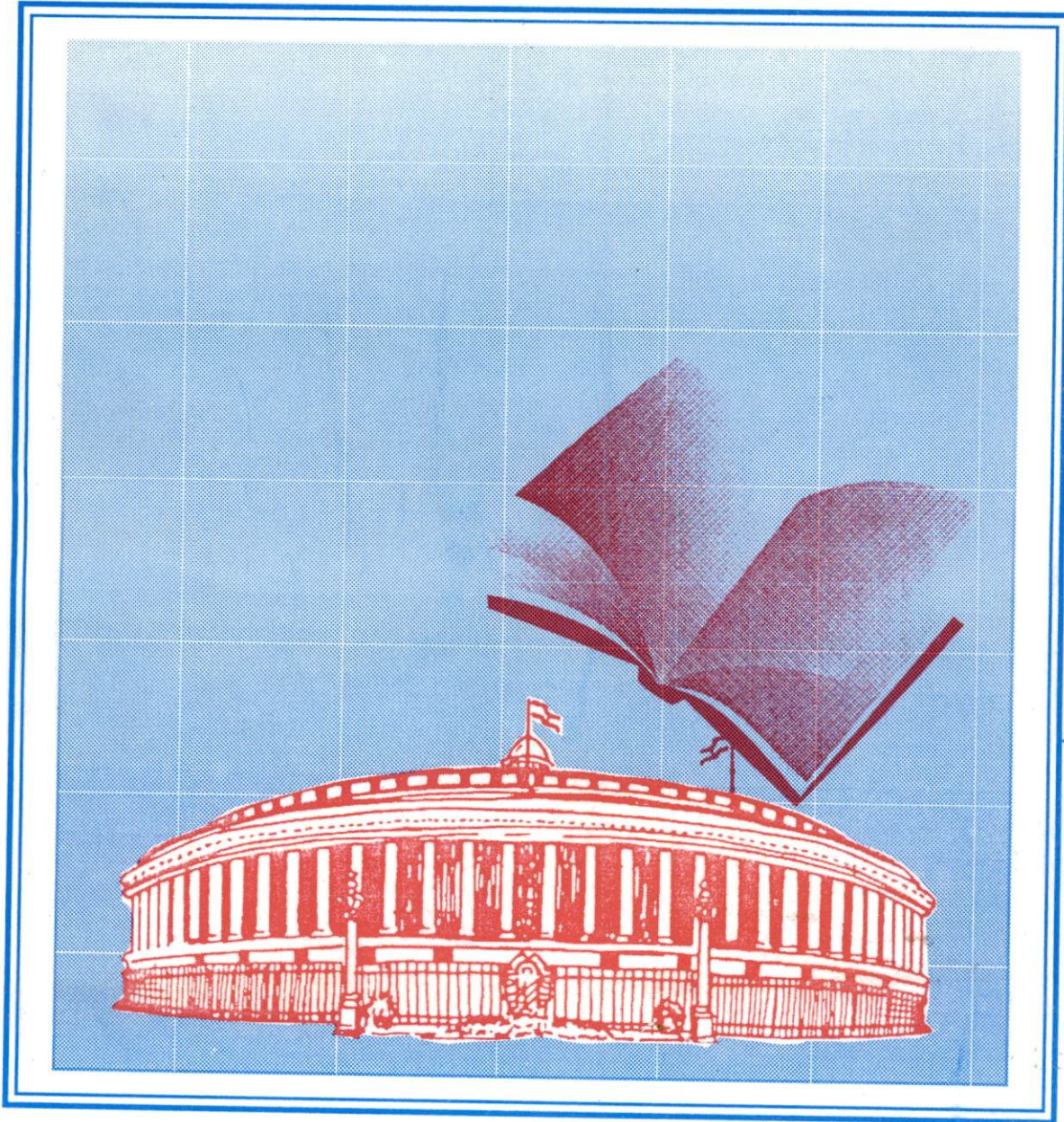




**POLITICAL SCIENCE
MA [PREVIOUS]
Course III**

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KARNATAKA STATE OPEN UNIVERSITY
Manasagangothri, Mysore - 570 006

Block - 1

ಉನ್ನತ ಶಿಕ್ಷಣಕ್ಕಾಗಿ ಇರುವ ಅವಕಾಶಗಳನ್ನು ಹೆಚ್ಚಿಸುವುದಕ್ಕೆ ಮತ್ತು ಶಿಕ್ಷಣವನ್ನು ಪ್ರಜಾತಂತ್ರೀಕರಿಸುವುದಕ್ಕೆ ಮುಕ್ತ ವಿಶ್ವವಿದ್ಯಾನಿಲಯ ವ್ಯವಸ್ಥೆಯನ್ನು ಆರಂಭಿಸಲಾಗಿದೆ.

ರಾಷ್ಟ್ರೀಯ ಶಿಕ್ಷಣ ನೀತಿ 1986

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National Education Policy 1986

ಮುಕ್ತ ವಿಶ್ವವಿದ್ಯಾನಿಲಯವು ದೂರಶಿಕ್ಷಣ ಪದ್ಧತಿಯಲ್ಲಿ ಬಹುಮಾಧ್ಯಮಗಳನ್ನು ಉಪಯೋಗಿಸುತ್ತದೆ.
.....ವಿದ್ಯಾಕಾಂಕ್ಷಿಗಳನ್ನು ಜ್ಞಾನ ಸಂಪಾದನೆಗಾಗಿ ಕಲಿಕಾ ಕೇಂದ್ರಕ್ಕೆ ಕೊಂಡೊಯ್ಯುವ ಬದಲು, ಜ್ಞಾನ ಸಂಪತ್ತನ್ನು ವಿದ್ಯೆ ಕಲಿಯುವವರ ಬಳಿ ಕೊಂಡೊಯ್ಯುವ ವಾಹಕವಾಗಿದೆ.

ಡಾ. ಕುಳಂದೈಸ್ವಾಮಿ

*"The Open University system makes use of Multimedia in distance education system.
..... it is vehicle which transports knowledge to the place of learners rather than transport to the place of learning.*

Dr. Kulandai Swamy

ವಿಶ್ವಮಾನವ ಸಂದೇಶ

ಪ್ರತಿಯೊಂದು ಮಗುವು ಹುಟ್ಟುತ್ತಲೇ - ವಿಶ್ವಮಾನವ. ಬೆಳೆಯುತ್ತಾ ನಾವು ಅದನ್ನು 'ಅಲ್ಪ ಮಾನವ'ನನ್ನಾಗಿ ಮಾಡುತ್ತೇವೆ. ಮತ್ತೆ ಅದನ್ನು 'ವಿಶ್ವಮಾನವ'ನನ್ನಾಗಿ ಮಾಡುವುದೇ ವಿದ್ಯೆಯ ಕರ್ತವ್ಯವಾಗಬೇಕು.

ಮನುಜ ಮತ, ವಿಶ್ವ ಪಥ, ಸರ್ವೋದಯ, ಸಮನ್ವಯ, ಪೂರ್ಣದೃಷ್ಟಿ ಈ ಪಂಚಮಂತ್ರ ಇನ್ನು ಮುಂದಿನ ದೃಷ್ಟಿಯಾಗಬೇಕಾಗಿದೆ. ಅಂದರೆ, ನಮಗೆ ಇನ್ನು ಬೇಕಾದುದು ಆ ಮತ ಈ ಮತ ಅಲ್ಲ; ಮನುಜ ಮತ. ಆ ಪಥ ಈ ಪಥ ಅಲ್ಲ; ವಿಶ್ವ ಪಥ. ಆ ಒಬ್ಬರ ಉದಯ ಮಾತ್ರವಲ್ಲ; ಸರ್ವರ ಸರ್ವಸ್ವರದ ಉದಯ. ಪರಸ್ಪರ ವಿಮುಖವಾಗಿ ಸಿಡಿದು ಹೋಗುವುದಲ್ಲ; ಸಮನ್ವಯಗೊಳ್ಳುವುದು. ಸಂಕುಚಿತ ಮತದ ಆಂಶಿಕ ದೃಷ್ಟಿ ಅಲ್ಲ; ಭೌತಿಕ ಪಾರಮಾರ್ಥಿಕ ಎಂಬ ಭಿನ್ನದೃಷ್ಟಿ ಅಲ್ಲ; ಎಲ್ಲವನ್ನು ಭಗವದ್ ದೃಷ್ಟಿಯಿಂದ ಕಾಣುವ ಪೂರ್ಣದೃಷ್ಟಿ.

ಕುವೆಂಪು

Gospel of Universal Man

Every Child, at birth, is the universal man. But, as it grows, we turn it into "a petty man". It should be the function of education to turn it again into the enlightened "universal man".

The Religion of Humanity, the Universal Path, the Welfare of All, Reconciliation, the Integral Vision- these *five mantras* should become View of the Future. In other words, what we want henceforth is not this religion or that religion, but the Religion of Humanity ; not this path or that path, but the Universal Path ; not the well-being of this individual or that individual, but the Welfare of All ; not turning away and breaking off from one another, but reconciling and uniting in concord and harmony ; and, above all, not the partial view of a narrow creed, not the dual outlook of the material and the spiritual, but the Integral Vision of seeing all things with the eye of the Divine.

Kuvempu



**Karnataka State
Open University**

**Political Science
Course III**

Block

1

Introduction

Unit 1

The Constituent Assembly and framing of the Indian Constitution

1 to 14

Unit 2

The Philosophy of the Constitution

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Reorganization of States

41 to 55

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Course Introduction

Course - III

Political Process and Politics in India Since 1950

Dear Student,

In your First Year M.A Degree you have to study Five papers. This is the III paper or Course.

In this Course, the Student will be enlightened with the Indian Constitution and its working. Indian Constitution was prepared by a Constituent Assembly which was represented by great statesmen, lawyers and those who fought for the freedom of the nation. They struggled hard continuously for 3 years from 1946 to 1949 to prepare the Indian Constitution which was inaugurated on 26th January 1950, the day on which our country became a Republic. Our country is not only a Republic, but also a Democratic, Sovereign, Secular and Socialistic. Constitution is nothing but a document which expresses the ambitions, interests, goals and ideals of the people. These are expressed in the Preamble of the constitution and in the Directive Principles of State Policy which ought to be realised by the Government.

The democratic government in India is built by the meaningful ideals like economic, social and political justice. If realised there is no doubt in attaining the welfare of all. Therefore, it is imperative to have the knowledge of the Constitution which guides and governs the people. In this perspective the Department of Political Science has designed the syllabus pertaining to Indian Constitution and government, which will be of immense use for all those interested in pursuing the Constitution of India. Each one of us in general and as a student of political science in particular must have the knowledge of our constitution.

The whole course has been divided into 7 blocks. Further each block has been subdivided into units. Each block deals with different aspects of the Indian Constitution.

-Block I

Block I has 4 units from 1 to 4. unit 1 explains the background which made Indians to demand the formation of the Constituent Assembly. Then it also deals with the actual formation to frame our constitution. Block 2 explains the Philosophy of our constitution, which is the aim and objective of our administration. Block 3 examines the outstanding features of our constitution and also the criticisms levelled against them. Lastly Block 4 deals with the history of re-organisation of the states and reasons for the re-organisation.

BLOCK : I

Unit 1. The Constituent Assembly and framing of the Indian Constitution

STRUCTURE

- 1.0 Objectives
- 1.1 The Historical Background
 - 1.1.1. Unity of Historical Retrospect
 - 1.1.2 Government of India Act; 1858
 - 1.1.3. Indian Council Act, 1861
 - 1.1.4. Indian Council Act, 1892
 - 1.1.5. Morley – Minto Reforma
 - 1.1.6. Indian Council
 - 1.1.7. Government of India Act, 1935
 - 1.1.8. Indian Independent Act, 1947
- 1.2. The Making of the Constitution
 - 1.2.1. Demand for Constitution framed by a Constituent Assembly
 - 1.2.2. Constituent Assembly of India
 - 1.2.3. Working of Constituent Assembly
 - 1.2.4. The working process of Constituent Assembly – its salient feature
 - 1.2.5. Criticism of the Constituent Assembly
- 1.3. Let us sum up
- 1.4. Key words
- 1.5. Suggested readings
- 1.6. Answers to Check your Progress Exercise

1.0. Objective:

After going through this Unit, you will be able to

- * understand the background for the demand to the Constituent Assembly
- * know the formation of the Constituent Assembly and
- * understand the criticisms levelled against the Constituent Assembly

1.1 Introduction

1.1.1. Utility of Historical Retrospect

The Constitution of the Indian Republic is the product not of a political revolution but of the research and deliberations of a body of eminent representative of the people (who sought to improve upon the then existing system of administration). This very fact makes a retrospect of the constitutional development indispensable for a proper understanding of this Constitution.

1.1.2. Government of India Act; 1858.

The British Crown assumed sovereignty over India in 1858 and Parliament enacted the first statute for the governance of India under the direct rule of the British Government. By this Act, the powers of Crown were to be exercised by the Secretary of State for India assisted by a Council of fifteen members. The Secretary of State, who was responsible to the British Parliament, governed India through the Governor – General, assisted by an Executive Council.

1.1.3. Indian Council Act 1861

The Indian Council Act of 1861 introduced a grain of popular element as it provided that the Governor General's Executive Council should include certain additional non-official members. The Act transact legislative business as a Legislative Council. But this Council was neither representative nor deliberative in any sense.

1.1.4. Indian Council Act 1892

The Indian Council Act 1892 introduced two improvement namely (a) that the non-official members of the Indian Legislative Council were henceforth to be nominated by the Bengal Chamber of Commerce and the Provincial Council were to be nominated by certain local bodies such as universities, district boards, municipalities; (b) the Councils were to

have the power of discussing the annual statement of revenue and expenditure, i.e. the Budget and of addressing questions to the Executive. But the Act retained the majority of official members.

1.1.5. Morley – Minto Reforms

The first attempt of introducing a representative and popular element was made by Morley-Minto Reforms which were implemented by the Indian Council Act, 1909. The size of Provincial Legislative Councils was enlarged by including elected non-official members so that the - member of official majority had gone up. An element of election was also introduced in the Legislative Council at the Centre but the official majority was maintained. The deliberative functions of the Legislative Councils were also increased by giving them the opportunity of influencing the policy of administration and on any matter of public interest except certain specified subjects, such as the Armed Forces, Foreign Affairs and the Indian States.

The positive vice of the Act of 1909 was that it provided for the first time for separate representation of Muslim Community and thus sowed the seeds of separatism.

1.1.6. Indian Council 's Act of 1919

The next landmark in the Constitutional development of India is the Montagu – Chelmsford Report which led to the enactment of Government of India Act, 1919. The Indian National Congress became more active during the first World War and started its campaign for self-government. In response to this popular demand the British Government made a declaration on August 20, 1917 that the policy of British Government was that of increasing association of Indians in every branch of administration and the gradual development of self governing institutions.

The then Secretary of State for India (Montagu) and the Governor – General (Chelmsford) entrusted the task and gave a legal shape to their recommendations as Government of India Act 1919.

The main features of the system introduced by this Act were as follows:

a) Dyarchy in the Provinces

Responsible government in the Provinces was sought to be introduced for the administration of the Province, by resorting to device known as ‘Dyarchy’ or dual

government. The subjects of administration were to be divided into two categories – Central and Provincial. The Central subjects were those which were exclusively kept under the control of the Central Government. The Provincial subjects were sub divided into ‘transferred’ and ‘reserved’ subjects. The transferred subjects were to be administered by the Governor with the aid of Ministers responsible to Legislative Council. The reserved subjects were to be administered by the Governor and his Executive Council without any responsibility to the Legislature.

b) Relaxation of Central control over the Provinces

Broadly speaking subjects, of all India importance were brought under the category of ‘Central’ while matters primarily relating to the administration of the provinces were classified as ‘Provincial’ and thus made a separation of the subjects. This meant a relaxation of previous central control over the provinces not only in administrative but also in legislative and financial matters.

This devolution of power to the Provinces should not be mistaken for a federal distribution of powers. But provinces got power by way of delegation from the Centre.

c) The Indian Legislature was made more representative

The Indian Legislature was made more representative and for the first time, bi-cameral. It was to consist of an Upper House, named the Council of State, composed of 60 members of whom 34 were elected, about 144 members of whom 104 were elected.

But there were also certain shortcomings of the 1919 Act. Firstly the structure still remained unitary and centralized ‘with the governor-general in Council as the keystone of the whole constitutional edifice; and it is through the governor-general in Council that the Secretary of State and ultimately, Parliament discharged their responsibilities for peace, order and good government of India. Secondly the great dissatisfaction was the working of Dyarchy in the provincial sphere. The Governor came to dominate ministerial policy by means of his overriding financial powers and control over the official block in the Legislature. The main defect of the system from the Indian standpoint was the control of the purse.

1.1.7. Government of India Act 1935

The failure of the Statutory Commission (Simon Commission) and the Round Table Conference led to the enactment of the Government of India Act 1935. The main features

of the governmental system prescribed by the Act of 1935 were as follows:

a) Federation and Provincial Autonomy

The Act of 1935 prescribed a federation taking the provinces and the Indian states as units. But through the part relating to the federation never took effect, the part relating to Provincial Autonomy was given effect. The Act divided legislative powers between the Provincial and Central Legislatures, and within its defined sphere, the provinces were no longer delegates of the Central Government, but were autonomous units of administration.

b) Dyarchy at the Centre

The executive authority of the centre was vested in the Governor-General whose functions were divided into two groups:

i) The administration of defense, external affairs, ecclesiastical affairs and of tribal areas was to be made by Governor-General in his discretion with the help of 'Counselors' appointed by him. They were not responsible to the Legislature or with regard to matters other than the above reserved subjects, the Ministers' who were responsible to Legislature.

ii) The Legislature

The Central Legislature was bi-cameral consisting of the Federal Assembly and the Council of States. The legislative powers of both the Central and Provincial Legislatures were subject to various limitations and neither could be said to have possessed the features of a sovereign Legislature.

c) Distribution of legislative powers between the Centre and the Provinces.

The Federal provision of Government of India Act 1935 were in fact applied as between the Central Government and the Provinces. A three-fold divisions was made in the Act – a) There was a Federal list over which Federal Legislature had exclusive powers of legislation. b) There was a provincial list of matters over which the Provincial Legislature had exclusive jurisdiction c) There was a Concurrent list of matters over which both Federal and Provincial Legislatures had competence. The Governor-general was empowered to authorize either the Federal or the Provincial Legislature to enact a law with respect to any matter which was not enumerated in the Legislative lists (i.e. residuary powers).

It should be pointed out that this Act went another step forward in perpetuating the communal divide between the Muslims and the non-Muslim communities. The Act provided separate representation not only for the Muslims, but also for the Sikhs, the Europeans, Indian Christians and thus created a serious hurdle in the way of the building up of national unity.

1.1.8. Indian Independence Act 1947

After the agreement on the Mountbatten Plan the British Parliament lost no time to draft the Indian Independence Act 1947.

The main features of the Act were as follows:

a) Abolition of the Sovereignty and Responsibility of British Parliament

The Governor-general of India and Provincial Governors remained substantially under the direct control of the Secretary of State until the Indian Independence Act 1947. But the Independence Act 1947 altered this from the 15th August, 1947. India ceased to be a Dependency and the suzerainty of the British Crown over Indian States.

b) The Crown was no longer the source of authority

So long as India remained a Dependency of the British Crown the Government of India was carried on in the name of this Majesty. But under the Act 1947, neither of the two Dominions of India and Pakistan derived its authority from the British Isles.

c) Sovereignty of the Dominion Legislature

From the appointed day and until the constituent Assemblies of the two Dominions were able to frame their new Constitutions and new Legislatures were constituted thereunder – it was Constituent Assembly itself, which was to function also as the Central Legislature of the Dominion to which it belonged. In other words, the Constituent Assembly was to have a dual function, i.e. of ‘Constituent’ as well as ‘Legislative’.

1.2. The Making of the Constitution

1.2.1. Demand for Constitution framed by a Constituent Assembly

A constituent assembly is considered to be a democratic device for formulating and adopting a new constitution or for bringing about some fundamental changes in the existing Constitution by a free people. This implies the right of the people to determine their own

future and the nature of their polity. This idea of Constituent Assembly had its origin in the West, and the earliest ones are the Philadelphia Convention of 1787 which framed the Constitution of the United States of America and the National Assembly of France (1789-91) which were an outcome of revolutions and demand for change breaking the past.

The fathers of Indian Constitution considered and conceived the Constituent Assembly not merely as a body of representatives but as a “nation on a move”. It intended producing a Constitution for the country, throwing away the past political and possibly the past social structure and producing a government of its own kind.

A Constituent Assembly comes into existence as Sir Ivor Jennings puts forth, in three different situations

- a) when there is a great social revolution
- b) when the nation throws off its foreign yoke
- c) when the nation is created by the fusion of smaller political units.

In the Indian context, the Constituent assembly came into existence in the second situation. Its task was mainly to end the British rule and establish a free India. The demand for a constituent assembly in India was in a sense implied in the demand for national freedom. As early as in December, 1918, the 33rd session of the Indian National Congress held at Delhi unanimously adopted a resolution demanding that “the principles of self determination should be applied” to India. Mahatma Gandhi, had also put forward the same notion. In 1922 in ‘Young India’ he said that Swaraj of his conception would not be free gift of the British Parliament but a declaration of India’s self expression, the will of the people of India expressed “through her freely chosen representatives”. The same sentiment reflected in Nehru Report of 1928 which was the first attempt by Indians to frame a Constitution. In 1938 Pt. Nehru formulated his demand for a Constituent Assembly stating that the Constitution of free India must be framed without outside interference, by a Constituent Assembly elected on the basis of adult franchise. The demand was repeated at the Haripura Session (1938) and Ramgarh Session of Congress (1940).

a) **Cripps Mission**

The demand for a constituent assembly was for the first time authoritatively conceded by British Government in what is known as the ‘August Offer’ of 1940. In March, 1942 British Government sent Sir Stafford Cripps a member of the Cabinet, with a draft declaration

on the proposals of the British Government which were to be adopted at the end of Second World War. The Mission outlined a concrete scheme for giving effect to the demand for a constituent assembly. However, the constitution making body envisaged in the plan failed to materialize because the proposals were unacceptable to Congress and Muslim League.

b) Cabinet Mission Plan

After, the rejection of the Cripps Proposals, (followed by the dynamic 'Quit India' campaign launched by Congress), various attempts to reconcile the two parties were made including the Simla Conference held at the instance of the Governor-general, Lord Wavell. Having failed then, the British Cabinet sent three of its own members including Cripps himself to make another serious attempt. The Cabinet Mission, too, failed in making the two major parties come to any agreement and were, accordingly, obliged to put forward their own proposals, which were known as the 'Cabinet Mission Plan'. The Mission emphasized that their main object was not "to lay out the details of a constitution" for India but to set in motion, a machinery where by a Constitution could be "settled by Indians for Indians".

The Cabinet Delegation definitely rejected the claim for separate Constituent Assembly and Separate state for the Muslims. The Plan envisaged a confederation consisting of three groups of autonomous states vesting the powers of three departments – Defense, External Affairs and Communication – in Central Government. All residuary powers would belong to the Provinces and the States. The Cabinet Mission Plan laid down in some details the procedure to be followed by the Constitution making body. A curious situation, however, arose after the election for forming the Constituent Assembly was held. The League joined the election and its candidates were returned. A difference of opinion had in the meantime arisen between Congress and the League. The British Government intervened and acknowledged for the first time the possibility of two Constituent Assemblies and two States. As a result the League members did not attend the first meeting of the Constituent Assembly on December 9, 1946. The British Government next sent Lord Mountbatten to India. He prepared a plan for partition of India. As a result Governor-general announced the setting up of a separate Constituent Assembly for Pakistan. British Parliament drafted Indian Independence Act 1947 upon the basis of the above plan according to which there would be set up two independent Dominions, India and Pakistan and the Constituent Assembly of each Dominion was to have unlimited power to frame their Constitution.

1.2.2. Constituent Assembly of India

The Constituent Assembly, which had been elected for undivided India (According to Cabinet Mission Plan), and held its first sitting on the 9th December, 1946, reassembled on 14th August, 1947, as the Sovereign Constituent Assembly for the Dominion of India.

As to its composition, it should be remembered, that it had been elected by indirect election by the members of the Provincial Legislative Assemblies (Lower Houses only), according to the scheme recommended by Cabinet Mission. The essentials of this scheme were as follows:

- a) Each province and each Indian state or group of states were allotted the total number of seats proportional to their respective populations. Total number of seats in the proposed Constituent Assembly was fixed at 389. As a result the Provinces were to elect 292 members while Indian States were allotted 93 seats and Chief Commissioner's Provinces 4 seats.
- b) The seats in each community in the Provincial Legislative Assembly elected their own representative by the method of proportional representation with single transferable vote.
- c) The method of election in the case of representative of Indian States was to be determined by consultation.

As a result of partition, representatives of Pakistan ceased to be members of the Constituent Assembly of India. When the Constituent Assembly reassembled on the 31st October, 1947, the membership of the House was reduced to 299. (in which Congress had majority of 82 percent). Of these, 284 were actually present on 26 November 1949 and appended their signatures to the Constitution as finally passed.

1.2.3. Working of Constituent Assembly

The Constituent Assembly which had been elected for undivided India held its first sitting on the 9th December, 1946. During its first sitting on December 9 to December 13 the Assembly was involved with matters like the presentation of credentials and signing of the register, electing the permanent Chairman etc. As a result of partition plan, the membership was reduced to 299 and the Assembly started framing Constitution for India.

The Assembly met in its second plenary session from 20-26 January, 1947 and adopted the 'Objective Resolution' moved by Nehru. The salient principle of the proposed

Constitution had been outlined by various committees. The Assembly had a total of more than fifteen committees. After a general discussion of the reports of these committees, the Assembly appointed a Drafting Committee on 29th August, 1947 under the Chairmanship of Dr. Ambedkar and it had six other members i.e. Sir Krishnaswami Ayyangar, N. Gopalaswami Ayyangar, K.M. Munshi, Saiyed Mohd. Sadulla, Sir B.L. Mittar and D.P. Khaitan. After the first meeting Sir B.L. Mittar ceased to be member and in his place N. Madhava Rao was nominated by the President. The Drafting Committee under the Chairmanship of Dr. Ambedkar included the decision of the Assembly with alternative and additional proposals in the form of a Draft Constitution of India. It published a 'Draft Constitution of India' in February, 1948. The Assembly next met in November, 1948 to consider the provisions of the Draft, clause by clause. It completed this second reading on 17 October 1949. Again Constituent Assembly sat on 14.11.1949 for the third reading and finished it on the 26th November, 1949. On the same day the Constitution received the signature of the President of the Assembly and was declared as passed. In all it held 11 sessions covering 1965 days out of which 114 days were devoted to consideration of the draft constitution.

The provisions relating to citizenship, elections, provisional parliament, temporary and transitional provisions were given immediate effect i.e. from November 26, 1949. The rest of the Constitution came into force on the 26th January 1950 and this date is referred to in the Constitution as the 'Date of its Commencement'

1.2.4. The Working process of Constituent Assembly – Its Salient feature

It has been considered that, the Constitution is successful when it is framed by whom it is applicable. Hence according to Granville Austin, the Constitution of India is bound to be successful for it is framed by Indians following an excellent framing process. We did borrow certain provisions, but these provisions were skillfully selected and modified to suit the Indian context. Thus according to Austin the prominent features of the working process of the Constituent Assembly are.

- a) Decision making by Consensus – whereby each provision was subjected to frank, open and searching discussion before its final approval.
- b) The principle of accommodation has been another feature which would be traced in the reconciliation of federal and unitary system, membership of Commonwealth, Republican

status of the Government, provisions for Panchayati Raj and a need for a strong centre.

- c) The Art of Selection and Modification has been very effectively used professionally when provisions from other Constitutions were borrowed.

1.2.5. Criticism of the Constituent Assembly

The working procedure, composition and status of Constituent Assembly has been criticized on the following grounds.

a) Congress Domination

The Assembly was a one party body. The Assembly was dominated by Congress and the Congress was India. The Congress had a built – in – majority of 69 per cent which jumped to 82 percent after partition. It was criticized that the Congress Party dominated the Scene and the Constitution had very much suffered from it.

The Congress majority in Assembly resulted from the December 1945 Provincial Legislature elections. Provinces elected some of the non-congressmen like A.K. Ayyar, Dr.Ambedkar, K. Santhnam and K.M. Munshi. In the words of K. Santhanam, “There was hardly any shade of public opinion not represented in the Assembly”.

b) Was it a Sovereign Assembly ?

The Constituent Assembly was meeting with the permission of the British Government and a fourth of the nations was represented at the Assembly’s deliberations. Had such a body any power or authority of its own? Was it sovereign?

Maulana Azad, Nehru and Rajendra Prasad believed that it was sovereign because the Assembly authority came from the people of India although they recognized that the Cabinet Mission Plan placed certain limitations on its activities. The Indian Independence Act, 1947 passed by the British Parliament made it “the Sovereign Constituent Assembly for India. The Cabinet Mission Plan became outmoded, and the Constituent Assembly settled down to draft free India’s Constitution.

c) A Hindu Dominated Body

Although the Constituent Assembly enjoyed the confidence of a vast majority of people of India, yet some uncharitable critics dubbed it as the most unrepresentative of Constituent Assembly ever created in any democratic country of the world. British leaders like Churchill and Lord Simon named it as a Hindu Body representing the interests of the Hindus alone.

Dr. Rajendra Prasad condemned this charge as baseless and irrational . He pointed out that except the representatives of Muslim League, the Constituent Assembly of India represented all the communities and interests. The Indian Christians had 7 representatives in the Assembly, the Anglo-Indian 3, the Parsis 3, and so on. After partition, when the composition of the Assembly had been settled, the minorities came to have 88 of the 235 seats allotted to the Provinces.

d) An Unrepresentative Body

Another charge generally leveled against the Constituent Assembly was that it had not been directly elected by the people on the basis of universal adult franchise. As such, it did not reflect the aspiration of the masses. Socialist and communist leaders of India attached the unrepresentative character of the Constituent Assembly on this accord.

Leaders of the Congress Party while refuting this criticism pointed out that the election of Assembly on the basis of universal adult franchise would have been a up till task under the special circumstances created by the partition. National elections in a big country like India was an impossible task. Any delay in framing a suitable constitution for India would have created un-formidable problem for new India.

The representative character of the Assembly is further proved by the fact that it included all the prominent leaders of major political parties of India, like Dr. Ambedkar representing depressed classes, Hansa Mehta from All India Women Conference, Maharaja Darbhanga from the landlords and Dr. Shayma Prasad, Mukerji representing Hindu Mahasabha. Moreover, if the father of the Indian Constituent Assembly opposed its election through universal suffrage, it was more due to the practical difficulties than any theoretical consideration.

e) Dominated by the Legal Luminaries

Another criticism which is made against the Constituent Assembly is that it was an Assembly which was dominated only by the politicians and lawyers. According to some critics the Constitution of India is a Lowyer's paradise.

The fact remains that the Constituent Assembly was guided and directed by the top leaders of the Congress. Stalwarts like Nehru, Patel, Prasad, Azad and Munshi dominated the scene. Although indirectly elected and therefore not responsible to the mass of Indians, the Constituent Assembly was a highly representative body.

Check Your Progress - 1

Note: 1) Use the space given below for your answer.

2) Also check your answer with the clue given at the end of the Unit.

1. Explain the historical background of establishing the Constituent Assembly.

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2. Discuss the making of the Constitution.

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3. Critically evaluate the establishment of Constituent Assembly.

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1.3. Let us sum up

The Constituent Assembly was able to conclude its task within a period of less than three years – 2 years, 11 months and 17 days, to be exact. On the 26th November, 1949, it

could proudly declare on behalf of the people of India that “We do hereby adopt, enact and give to ourselves this Constitution”.

In a sense, the Indian Constituent Assembly occupied a peculiar position. It was created by agreement with the British Government, yet it was also an embodiment of revolutionary spirit of India; although it was not fully representative of the people, yet it represented all important parties and communities of India. It was not, in the beginning, legally sovereign, yet it enjoyed sovereignty for all practical purposes, and though, it was to create a new independent Republic with a new constitution, yet it relied heavily on the provisions of the Government of India Act, 1935.

1.4. Key words

Dyarchy	- dual government
Provinces	- the name of the units of the National government under 1935 Act.
Delegation	- deputation
Residuary Power	- remaining power
Adult franchise	- right to vote to adults given by the government
Sovereign	- supreme; independent

1.5. Suggested Readings

Government of India (Publication)	- The Constitution of India.
B.L.Fadia	- Indian Government and Politics
Granville Austin	- The Indian Constitution : Corner stone of a Nation
Subhash Kashyap	- Our Parliament
Basu D.D.	- Introduction to the Constitution of India – 19 th Ed. 2001.
Pylee M.V.	- Constitutional Government in India (2000)
J.C.Johari	- Indian Government and Politics.

1.6 Answers to check your progress exercises

Check Your Progress - 1

1. See section 1.1 and sub sections
2. See section 1.2 and sub sections 1.2.1 and 1.2.2
3. See section 1.2.3, 1.2.4 and 1.2.5.

Unit 2. The Philosophy of the Constitution

STRUCTURE

- 2.0. Objectives
- 2.1. Introduction
- 2.2. Philosophy of the Constitution
 - 2.2.1. Independent and Sovereign
 - 2.2.2. Republic
 - 2.2.3. Sovereignty not inconsistent with membership of the Commonwealth
 - 2.2.4. Promotion of International Peace
 - 2.2.5. Democracy
 - 2.2.6. Economic Justice
 - 2.2.7. Social Justice
 - 2.2.8. Liberty, equality and fraternity
 - 2.2.9. From a Socialistic Pattern of Society to Socialism
 - 2.2.10. 42nd Amendment, 1976
 - 2.2.11. Need for Unit and Integrity of the Nation
 - 2.2.12. A Secular State, Guaranteeing Freedom of Religion to all
 - 2.2.13. Dignity of the Individual
 - 2.2.14. Fundamental Duties
- 2.3. Let us sum up
- 2.4. Key words
- 2.5. Suggested Readings
- 2.6. Answers to Check your Progress exercise

2.0. Objectives:

After going through this unit, the student can

- * understand the Philosophy of our Constitution
- * the principles, aims and objectives enshrined in the Constitution

2.1 Introduction:

Every Constitution has a philosophy of its own. For the philosophy underlying our Constitution we could trace it in the historic Objectives Resolution of Pandit Nehru which adopted by the Constituent Assembly on January 22, 1947, and which inspired the shaping of the Constitution through all its subsequent stages. It will be seen that ideal embodied in the Resolution is faithfully reflected in the Preamble to the Constitution, which, as amended in 1976, summarizes the aims and objects of the Constitution.

2.2 Philosophy of the Constitution

“WE THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens;

JUSTICE, social economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity; and to promote among them all;

FRATERNITY assuring the dignity of the individual and the unit and integrity of the Nation:

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION”.

The Preamble to our Constitution serves, two purposes:

- a) it indicates the source from which the Constitution derives its authority;
- b) it also states the objects which the Constitution seeks to establish and promote.

2.2.1. Independent and Sovereign

The Constitution of India, unlike the preceding Government of India Acts, is not a gift of the British Parliament. It is ordained by the people of India through their representatives assembled in a sovereign Constituent Assembly which was competent to

determine the political future of the country in any manner it liked. The words – ‘We, the people of India Adopt, enact and give to ourselves this Constitution’, thus, declare the ultimate sovereignty of the people of India and that the Constitution rests on their authority.

Sovereignty means the independent authority of a State. It means that it has the power to legislate on any subject; and that it is not subject to the control of any other State or external power.

2.2.2. Republic

The Preamble declares, therefore, in unequivocal terms that the source of all authority under the Constitution is the people of India and that there is no subordination to any external authority. While Pakistan remained a British Dominion until 1956, India ceased to be a Dominion and declared herself a ‘Republic’ since the making of the Constitution in 1949. It means a government by the people and for the people.

We have an elected President at the head of our State, and all office including that of the President will be open to all citizens.

2.2.3. Sovereignty not inconsistent with membership of the Commonwealth.

Right since 26th January, 1950, when the Constitution came into force, the Crown of England ceased to have any legal or constitutional authority over India and no citizen of India was to have any allegiance to the British Crown. But though India declared herself a Republic, she did not break all ties with the British Commonwealth as did Eire, by enacting the Republic of Ireland Act, 1948.

In the fact, the conception of the Commonwealth itself had undergone a change owing to India’s decision to adhere to the Commonwealth, without acknowledging allegiance to the Crown which was the symbol of unity of the Old British Empire and also of its successor, the ‘British Commonwealth of Nations’, - a relic of imperialism, - into a free association of independent nations under the honorable name of the ‘Commonwealth of Nations’. This historic decision took place at the prime Ministers’ Conference at London on April 27, 1949, where, our Prime Minister, Pandit Nehru, declared that notwithstanding her becoming a sovereign independent Republic, India will continue – “her full membership of the Commonwealth of Nations and her acceptance of the King as the symbol of the free association of the independent nations and as such the Head of the Commonwealth.”

This declaration is extra-legal and there is no mention of it in the Constitution of India. It is a voluntary declaration and indicates a free association and no obligation. It only expresses the desire of India not to sever her friendly relations with the English people even through the tie of political subjugation was severed. The new association was an honorable association between independent States. It accepts the Crown of England only as a symbolic head of the Commonwealth and having no claim to the allegiance of the citizens of India. Even if the King or Queen of England visits India, he or she will not be entitled to any precedence over the President of India. India has a right to be represented on Commonwealth conferences, decisions at Commonwealth conferences will not be binding on her and no treaty with foreign power or declaration of war by any member of the Commonwealth will be binding on her, without her express consent. Hence, this voluntary association of India with the Commonwealth does not affect her sovereignty to any extent and it would be open to India to cut off that association at any time she finds it not to be honourable or useful.

2.2.4. Promotion of International Peace

India's pledge to contribute 'to the promotion of world peace' which is reiterated in Art 51 of the Constitution:

"The State shall endeavour to –

- a) promote international peace and security
- b) maintain just and honourable relations between nations
- c) foster respect for international law and treaty obligations in the dealings of organized people with one another; and
- d) encourage settlement of international disputes by arbitration".

The fraternity which is professed in the Preamble is thus not confined within the bounds of the national territory; it is ready to overflow them to reach the loftier ideal of universal brotherhood.

Thus, though India declares her sovereignty to manage her own affairs, in no unmistakable terms, the Constitution does not support isolationism or 'Jingoism'. Indian sovereignty is consistent with the concept of 'one world', 'international peace and amity.

2.2.5. Democracy

The picture of a 'democratic republic' which the Preamble envisages is democratic

not only from the political but also from the social standpoint; in other words, it envisages not only a democratic form of government but also a democratic society, infused with the spirit of 'justice, liberty, equity and fraternity'.

A Representative Democracy

a) As a form of government, the democracy which is envisaged is, of course, a representative democracy and there are in our Constitution no agencies of direct control by the people such as 'referendum, or 'initiative'. The people of India are to exercise their sovereignty through the Parliament at the Centre and Legislature in each State, which is to be elected on adult franchise and to which the real Executive, namely, the Council of Ministers, shall be responsible. Though there shall be an elected President at the head of the Union and a Governor nominated by the President at the head of each State, neither of them can exercise any political function without the advice of the Council of Ministers which is collectively responsible to the people's representatives in the respective Legislatures. The Constitution holds out equality to all the citizens in the matters of choice of their representatives, who are to run the governmental machinery.

Political Justice

b) The ideal of a democratic republic enshrined in the Preamble of the Constitution can be best explained with reference to the adoption of universal suffrage and the complete equality between the sexes not only before the law but also in the political sphere. Political Justice means the absence of any arbitrary distinction between man and man in the political sphere. In order to ensure the 'political' justice held out by the Preamble, it was essential that every person in the territory of India, irrespective of his proprietary or educational qualifications, should be allowed to participate in the political system like any other person. Universal adult suffrage was adopted with this object in view. This means that every five years, the members of the Legislatures of the Union and of each State shall be elected by the vote of the entire adult population, according to the principles – 'one man, one vote'.

c) The offering of equal opportunity to men and women, irrespective of their caste and creed, in the matter of public employment also implements this democratic ideal. The treatment of the minority, even apart from the constitutional safeguards, clearly brings out that the philosophy underlying the Constitution has not been overlooked by those in power.

The fact that members of the Muslim and Christian communities are as a rule being included in the Council of Ministers of the Union as well as the States, in the Supreme Court, and even in Diplomatic Missions, without any constitutional reservation in that behalf, shows that those who are working the Constitution have not missed its true spirit, namely, that every citizen must feel that this country is his own.

A Democratic Society

d) This democratic Republic stands for the good of all the people is embodied in the concept of a 'Welfare State' which inspires the Directive Principles of State Policy. The 'economic justice' assured by the Preamble can hardly be achieved if the democracy envisaged by the Constitution were confined to a 'political democracy.

The Indian Constitution promises not only political but also social democracy, as explained by Dr. Ambedkar in his concluding speech in the Constituent Assembly:

"Political democracy cannot last unless there lies at the base of it social democracy. What does social democracy mean? It means a way of life which recognizes liberty, equality and fraternity which are not to be treated as separate items in a trinity. They form a union of trinity in the sense that to divorce one from the other is to defeat the very purpose of democracy. Liberty cannot be divorced from equality, equality cannot be divorced from liberty. Nor can liberty and equality be divorced from fraternity".

The State in a democratic society derives its strength from the cooperative and dispassionate will of all its free and equal citizens. Social and economic democracy is the foundation on which political democracy would be a way of life in the Indian polity.

2.2.6. Economic Justice

The removal of poverty, not by expropriation of those who have, but by the multiplication of the national wealth and resources and an equitable distribution thereof amongst all who contribute towards its production, is the aim of the State envisaged by the Directive Principles. Economic democracy will be installed in our sub-continent to the extent that this goal is reached. In short, economic justice aims at establishing economic democracy and a 'Welfare State'.

The ideal of economic justice is to make equality of status meaningful and life worth living at its best removing inequality of opportunity and of status – social, economic and political.

2.2.7. Social Justice

Social justice is a fundamental right. Social justice means to remove social imbalance by law harmonizing the rival claims or the interests of different groups and/or sections in the social structure or individuals by means of which alone it would be possible to build up a welfare State.

2.2.8. Liberty, equality and fraternity

The three have to be secured and protected with social justice and economic empowerment and political justice to all the citizens under the rule of law.

Liberty

Democracy, in any sense, cannot be established unless some minimum rights, which are essential for a free and civilized existence, are assured to every member of the community. The Preamble mentions these essential individual rights as 'freedom of thought, expression, belief, faith and worship' and these are guaranteed against all the authorities of the State by Part III of the Constitution (Vide Arts. 19, 25-28), subject, of course, to the implementation of the Directive Principles, for the common good (Art. 31C) and the 'fundamental duties', introduced (Art. 51A), by the 42nd Amendment, 1976.

Equality

Guaranteeing some rights to each individual would be meaningless unless all inequality is banished from the social structure and each individual is assured of equality of status and opportunity for the development of the best in him and the means for the enforcement of the rights guaranteed to him. This object is secured by making illegal all discriminations by the State between citizen and citizen, simply on the ground of religion, race, caste, sex or place of birth (Art. 15); by throwing open 'public places' to all citizens (Art.15(2)); by abolishing untouchability (Art.17); by abolishing titles of honor (Art.18); by offering equality of opportunity in matters relating to employment under the State (Art. 16); by guaranteeing equality before the law and equal protection of the laws, as justiciable rights (Art.14).

Besides to ensure civic equality the Constitution seeks to achieve political equality by providing for universal adult franchise (Art.326) and by reiterating that no person shall be either excluded from the general electoral roll or allowed to be included in any general or

special electoral roll, only on the ground of his religion, race, caste or sex (Art.325).

There are also certain special provisions in the Directive Principles (Part IV) which enjoin the State to place the two sexes on an equal footing in the economic sphere, by securing to men and women equal rights to work and equal pay for equal work (Art.39 Cls. (a),(d)).

2.2.9. From a Socialistic Pattern of Society to Socialism

So many objectives would certainly mean an expansion of the functions of the State. The goal envisaged by the Constitution, therefore, is that of a 'Welfare State' and the establishment of a 'socialist state'. At the Avadi session in 1965, Congress adopted this objective as establishing a 'socialistic pattern of society'.

2.2.10. 42nd Amendment, 1976

The goal of the Indian polity is socialism which was ensured by inserting the word 'socialist' in the Preamble, by the Constitution (42nd Amendment) Act, 1976. It has been inserted "to spell out expressly the high ideals of socialism". It is to be noted, however, that the 'socialism' envisaged by the Indian Constitution is not the usual scheme of State socialism which involves 'nationalisation' of all means of production, and the abolition of private property.

Though the word 'Socialism' is vague, our Supreme Court has observed that its principal aim is to eliminate inequality of income and status and standards of life, and to provide a decent standard of life to the working people. The India Constitution, therefore, does not seek to abolish private property altogether but seeks to put it under restraints so that it may be used in the interests of the nation, which includes the upliftment of the poor. Instead of a total nationalisation of all property and industry, it envisages a 'mixed economy', but aims at offering 'equal opportunity' to all, and the abolition of 'vested interests'. From 1992 onwards the trend is now away from socialism to privatisation. This is in keeping with the worldwide trend after the collapse of socialism in the U.S.S.R., and East European countries. But the constitutional obligation to pay compensation to the private owner for State acquisition has been taken away by repealing Art. 31, by the Constitution (44th Amendment) Act, 1978.

2.2.11. Need for Unity and Integrity of the Nation

Unity amongst the inhabitants of this vast nation, torn asunder by a multitude of problems and fissiparous forces, was the first requisite for maintaining the independence of the country as well as to make the experiment of democracy successful. The ideal of unity has been buttressed by adding the words 'and integrity' of the Nation, in the Preamble, by the Constitution (42nd Amendment) Act, 1976. But neither there by the integration of the people nor a democratic political system could be ensured without infusing a spirit of brotherhood amongst the heterogeneous population, belonging to different races, religions and cultures.

2.2.12. A Secular State, Guaranteeing Freedom of Religion to all

The Unity and fraternity of the people of India, professing numerous Faiths, has been sought to be achieved by enshrining the ideal of a 'secular State', which means that the State protects all religions equally and does not itself uphold any religion as the State religion. The question of Secularism is not one of sentiments, but one of law. The secular objective of the State has been specifically expressed by inserting the word 'secular' in the Preamble by the Constitution (42nd Amendment) Act, 1976. Secularism is a part of the basic structure of the Constitution. There is no provision in the Constitution making any religion the 'established Church' as some other Constitutions do. On the other hand, the liberty of 'belief, faith and worship' promised in the Preamble is implemented by incorporating the fundamental rights of all citizens relating to 'freedom of religion' in Arts, 25-29 which guarantee to each individual freedom to profess, practice and propagate religion, assure strict impartiality on the part of the State and its institutions towards all religions.

2.2.13. Dignity of the Individual

A fraternity cannot, however, be installed unless the dignity of each of its members is maintained. The Preamble, therefore, says that the State, in India, will assure the dignity of the Individual. The Constitution seeks to achieve this object by guaranteeing equal fundamental rights to each individual, so that he can enforce his minimal rights, if invaded by anybody, in a court of law. Seeing that these justiciable rights may not been enough to maintain the dignity of an individual if he is not free from wants and misery, a number of Directives have been included in Part IV of the Constitution, exhorting the State so to shape its social and economic policies that, inter alia, "all citizens, men and women equally, have the right to an

adequate means of livelihood” (Art 39(a)), “just and humane conditions of work” (Art 42), and “a decent standard of life and full enjoyment of leisure and social and cultural opportunities” (Art 43). Our Supreme Court has come to hold that the right to dignity is a fundamental right.

In order to remove poverty and to bring about a socio-economic revolution, the list of Directives was widened by the Constitution (42nd Amendment) Act, 1976, and it was provided that, - in order that such welfare measures for the benefit of the masses may not be defeated, - any measure for the implementation of any of the Directives shall be immune from any attack in the Courts on the ground that such measure contravenes any person’s fundamental rights under Art. 14 or 19.

2.2.14. Fundamental Duties

The philosophy contained in the Preamble, as explained in the foregoing pages, has been further highlighted by emphasizing that each individual shall not only have the fundamental rights in Part III of the Constitution to ensure his liberty of expression, faith and worship, equality of opportunity and the like, but also a corresponding fundamental duty, such as to uphold the sovereignty, unity and integrity of the nation, to maintain secularism and the common brotherhood amongst all the people of India. This has been done by inserting Art 51A, laying down ten “Fundamental Duties”, by the Constitution (42nd Amendment) Act, 1976.

Combining the ideals of political, social and economic democracy with that of equality and fraternity, the Preamble seeks to establish what Mahatma Gandhi described as “*the India of My Dreams*”

Check Your Progress - 1

Note: 1) Use the space given below for your answer.

2) Also check your answer with the clue given at the end of the Unit.

1. Explain the Philosophy of the Indian Constitution.

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2.3. Let us sum up

The Preamble of the Indian Constitution as we have seen totally reflects the philosophy of our Constitution. Hence it is the heart and soul – a most precious part of our Constitution. It expresses the political, moral religious values which our Constitution promotes. In fact, historically it reflects the philosophy of two revolutions i.e. the French revolution from which the concepts of liberty, equality and fraternity have been taken, while the Russian revolution gave us the concept of social economic and political justice. The Preamble which reflects the philosophy of our Constitution is unique as it enables us to understand our Constitution.

2.4. Key words

Preamble	-	An Introduction / Preface
Sovereign	-	Autonomous
Subjugation	-	to keep / bring under control
Endeavor	-	make efforts
Arbitration	-	Settlement of Dispute
Isolationism	-	Complete separation

2.5. Suggested Readings

Government of India (Publication)	-	The Constitution of India.
B.L.Fadia	-	Indian Government and Politics
Granville Austin	-	The Indian Constitution :Corner stone of a Nation
Subhash Kashyap	-	Our Parliament
Basu D.D.	-	Introduction to the Constitution of India – 19 th Ed. 2001.
Pylee M.V.	-	Constitutional Government in India (2000)
J.C.Johari	-	Indian Government and Politics

2.6 Answers to check your progress exercises

Check Your Progress - 1

1. See section 2.2 and sub sections

NOTES

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Unit 3. Outstanding features of the Indian Constitution

STRUCTURE

- 3.0 Objectives
- 3.1. Introduction
- 3.2. Outstanding Features
 - 3.2.1. A written Constitution
 - 3.2.2. The Longest known Constitution
 - 3.2.3. Drawn from different sources
 - 3.2.4. Batch Rigid and Flexible
 - 3.2.5. Popular Sovereignty
 - 3.2.6. Sovereign Democratic Republic
 - 3.2.7. Secular State
 - 3.2.8. Role of Conventions
 - 3.2.9. Social Equality
 - 3.2.10. Federal System with unitary Bias
 - 3.2.11. Parliamentary Government combined with an elected President at the Head
 - 3.2.12. Compromise between Judicial Review & Parliamentary Supremacy.
Fundamental Rights & Constitutional Remedies
 - 3.2.13 Fundamental Rights subject to reasonable regulation by Legislature.
 - 3.2.14 Fundamental Duties
 - 3.2.15 Directive Principles of State Policy
 - 3.2.16 Universal Franchise without Communal Representation
 - 3.2.17 Single Citizenship
 - 3.2.18 Independence of Judiciary
 - 3.2.19 Integration of Indian States
- 3.3. Criticisms of Indian Constitution
 - 3.3.1. The elephantine size of the Constitution
 - 3.3.2. Carbon copy of the Act of 1935
 - 3.3.3. Paradise of the Lawyers
 - 3.3.4. Un Gandhian Constitution
 - 3.3.5. A borrowed Constitution
 - 3.3.6. Centre has been made too strong
- 2.3.1. Un Indian
- 3.4. Let us sum up
- 3.5. Key words
- 3.6. Suggested readings
- 3.7. Answers to Check Your Progress Exercise

3.0. Objectives.

The Indian Constitution is considered to be an ideal/model Constitution and even the critics have appreciated it. It has been an ideal or set a model due to its outstanding features. The Constitution not only reflects the values, beliefs and interests of the society, but also is instrumental for social change as well as necessary stability. Therefore after studying this unit, you will be able to

- * understand the outstanding features
- * know the reasons why all these features were incorporated and
- * understand the criticisms levelled against these features

3.1. Introduction:

The Constitution of a country, in simple terms, is a collection of legal rules providing the framework for the government of the country. It reflects the dominant beliefs and interests or some compromise between conflicting beliefs and interests, which are characteristic of the society at the time it was framed and adopted.

No Constitution is perfect and Constitution of India is no exception to this general rule. The Constitution we adopted was intended to be not merely a means of establishing a governmental machinery but also an effective instrument for orderly social change. The strength and stability of a constitution depends legally on its ability to sustain a healthy and peaceful social system and when occasion demands, facilitate the peaceful transformation of its economic and social order. From this point of view the Constitution has set an ideal which not even its severest critic would characterize as outmoded a reactionary.

3.2. Outstanding Features

3.2.1. A Written Constitution

The Republic of India has a written and enacted Constitution, The original Constitution contains 395 articles, 8 schedules and 3 Appendices. Like the Constitution of the U.S.A., Canada and France, India too has a written Constitution, though it differs from those documents in many respects.

3.2.2. The Longest known Constitution

The Constitution of India has the distinction of being the most lengthy and detailed constitutional document the world has so far produced. The original Constitution contained

as many as 395 Articles and 8 Schedules. Even after the repeal of several provisions it still (in 2000) contains 442 Articles and 12 Schedules.

This extra ordinary bulk of the Constitution is due to several reasons: (which are as follows)

- a) The framers sought to incorporate the accumulated experience gathered from the working of all the known Constitutions and to avoid all defects and loopholes thereof.
- b) Not contented with merely laying down the fundamental principles of governance the authors of the Indian Constitution followed and reproduced the Government of India Act, 1935, in providing matters of administrative detail not only because the people were accustomed to the detailed provisions of the Act, but also because the authors had the apprehension that in the present conditions of the country, the Constitution might be perverted unless the form of administration was also included in it.
- c) The vastness of the country and the peculiar problems to be solved have also contributed towards the bulk of the Constitution. Thus there is one entire Part (Part XVI) relating to the Scheduled Castes and Tribes, one Part (Part XVIII) relating to Official Language.
- d) While the U.S. Constitution deals only with the Federal Government and leaves the States to draw up their own Constitution the Indian Constitution provides the Constitutions of both the Union and the Units (i.e. the States) with the same fullness and precision.

Even after the inauguration of the Constitution, special provisions have been inserted to meet the regional problems and demands in certain states, such as Nagaland, Assam, Manipur, Maharashtra, Gujrat, Sikkim, Mozoram etc.

- e) Not only are the provisions relating to Units elaborately given, the relations between the Federation and the Units and the Units inter se, whether legislative or administrative, are also exhaustively codified, so as to eliminate conflicts as far as possible.
- f) The Constitution carries not only an elaborate chapter on Fundamental Rights, accompanied by a detailed statement of restrictions but also a part (Part IV) containing Directive Principles of State Policy. A new chapter of Fundamental Duties of Citizens is also added by 42nd Amendment.

3.2.3. Drawn from different sources

The Constitution of India is remarkable for many outstanding features which will

distinguish it from other Constitutions even though it has been prepared after, ransacking all the known Constitutions of the world and most of its provisions are substantially borrowed from others.

So though our Constitution may be said to be a 'borrowed' Constitution the credit of its framers lies in gathering the best features of each of the existing Constitutions and in modifying them with a view to avoiding the faults that have been disclosed in their working and to adopting them to the existing conditions and needs of this country. So if it is a 'patch work', it is a 'beautiful patchwork'.

3.2.4. Both Rigid and Flexible

Another distinctive feature of the Indian Constitution is that it seeks to give flexibility to a written Federal Constitution. The provision to amend, i.e. to bring about necessary changes in certain areas of the Constitution without effecting the basic framework of the Constitution is a very important provision in the Constitution. Without this provision, we would not be able to develop our society by bringing about necessary changes in the Constitution. Thus within the Constitution, we do have a procedure laid down for amendment. The Constitution is partly rigid and partly flexible. The procedure laid down by the Constitution for its amendments is neither very easy, as in England, nor very rigid as in the U.S. The Constitution of India strikes a golden mean, thereby avoiding the extreme flexibility of the English Constitution and the extreme rigidity of the American Constitution.

It is only the amendment of a few of the provisions of the Constitution that requires ratification by State Legislatures and even then ratification by only $\frac{1}{2}$ of them would be suffice. The rest of the Constitution may be amended by a special majority of the Union Parliament, i.e. a majority of not less than $\frac{2}{3}$ of the members of each House present and voting which again must be majority of the total membership of the House.

On the other hand Parliament has been given the power to alter or modify many of the provisions of the Constitution by a simple majority as is required for general legislation, by laying down in the Constitution that such changes "shall not be deemed to be 'amendments' of the Constitution.

Yet another evidence of this flexibility is the power given by the Constitution itself to Parliament to supplement the provisions of the Constitution by legislation. The obvious advantage of this scheme is that the law made by Parliament may be modified according to

the exigencies for the time being, without having to resort to a Constitutional amendment. Hence the Constitution of India seems to be more flexible than rigid.

3.2.5. Popular Sovereignty

The Constitution proclaims the sovereignty of the people in its opening words. The Preamble begins with the words, "We the people of India, having solemnly resolved to constitute India into Sovereign, Socialist. Secular Democratic Republic". The idea is reaffirmed in several places in the Constitution, particularly in the chapter dealing with elections. Article 326 declares that "the elections to the House of people and to the Legislative Assembly of every state shall be on the basis of adult suffrage"

As a result, the Governments at the Centre and in the States derive their authority from the people who choose their representatives for Parliament and the State Legislatures at regular intervals. Thus, in ultimately and this is the principle of popular sovereignty.

3.2.6. Sovereign Democratic Republic

The Dominion States of India, established, under the Independence Act, of 1947, has been terminated and India is now full fledged state with all the characteristics of sovereignty. The word 'Democratic signifies that the real power flows from the people. The Constitution introduces universal right to elect their representative for the Union Parliament and word 'Republic' is used to denote that the state is headed not by a permanent head like the Queen of Britain but by a President indirectly elected by the people.

3.2.7. Secular State

According to Professor. Alexandowicz, "India as a secular state guarantees, constitutionally, freedom of religion to all persons and does not assign a special position to any particular religion." The state has no official religion. No discrimination can be made on the basis of religion, faith caste, color, and sex. It guarantees to religious minorities – the right to maintain their own language and to establish educational institutions of their choice. An important manifestations of secularism in India is the abolition of communal electorates and the adoption of the provision that elections are to be held on the basis of universal franchise.

3.2.8. Role of Conventions

It is also remarkable that though the framers of the Constitution attempted to make

an exhaustive code of organic law, room has been left for the growth of conventions to supplement the Constitution embodied the doctrine of Cabinet responsibility in Art. 75, it was not possible to codify the numerous conventions which answer the problems as they may arise in England, from time to time, in the working of the Cabinet system. Take for instance, the question whether the Ministry should resign whenever there is an adverse note against it in the House of the people, or whether it is at liberty to regard an accidental defeat on a particular measure as a 'Snap Vote'.

3.2.9. Social Equality

The Chapter on Fundamental Rights in the Indian Constitution aims at securing not merely political or legal equality, but social equality as well. Thus the Constitution includes a prohibition of 'untouchability, in any form and lays down that no citizen may be deprived of access to any public place, of enjoyment of any public amenity or privilege, only on the ground of religion, race, caste sex or place of birth. (We can hardly overlook in this context that under the Constitution of U.S.A., racial discrimination persists even to-day, notwithstanding recent judicial pronouncement to the contrary.)

3.2.10. Federal System with unitary Bias

Perhaps the most remarkable achievement of the Indian Constitution is to confer upon a federal system the strength of a unitary government. Though normally the system of government is federal, the Constitution enables the federation to transform itself into a unitary State. Such a combination of federal and unitary system in the same Constitution is unique in the world. For instance, after distributing the legislative powers in three lists, residual subjects are left with the Union. Even in matters of concurrent list, the union government has the final say. The heads of States, i.e. Governors are appointed by the President and are his agents in the States.

3.2.11. Parliamentary Government combined with an elected President at the Head.

The form of government introduced by our Constitution both at the Union and the States is the Parliamentary Government of the British type. A primary reason for the choice of this system of government was that the people had a long experience of this system under the Government of India Acts, through the British were very slow in importing its features to the fullest length.

But though the British model of Parliamentary or Cabinet form of government was adopted, a hereditary monarch or ruler at the head could not be installed because India had declared herself a 'Republic'. Instead of a monarch, therefore, an elected President was to be at the head of the Parliamentary system.

As in the Constitution of Eire, the Indian Constitution superimposes an elected President upon the Parliamentary system of responsible government. But though an elected President is the executive head of the Union, he is to act on the advice of his ministers, although whether he so acts according to the advice of his ministers is not questionable in the courts and there is no mode, short of impeachment, to remove the President if he acts contrary to the Constitution.

But our Constitution is not an exact replica of the Irish model either. The Constitution of Eire lays down that the constitutional powers of the President can only be exercised by him on the advice of Ministers, except those which are left to his discretion by the Constitution itself. But in the Indian Constitution there is no provision authorizing the President to act "in his discretion" on any matter. On the other hand by amending Art 74 (1), the 42nd Amendment Act has explicitly codified the proposition which the Supreme court had already laid down in several decisions, that the President "shall in the exercise of his functions, act in accordance with such advice, i.e. the advice tendered by the Council of Ministers.

The Unity and collective responsibility of the Cabinet are achieved through the Prime Minister, who is the key-stone of the Cabinet arch. The real merit always being watched. The moment it proves unequal to the task or it goes by a successful vote of no-confidence.

3.2.12. Compromise between Judicial Review and Parliamentary Supremacy.

The harmonization which our Constitution has effected between Parliamentary Sovereignty and a written Constitution with a provision for Judicial Review is a unique achievement of the framers of our Constitution. The Indian Constitution wonderfully adopts the via media between the American system of Judicial Supremacy and the English principle of Parliamentary Supremacy, by endowing the Judiciary with the power declaring a law as unconstitutional if it is beyond the competence of the Legislature according to the distribution of powers provided by the Constitution or if it is in contravention of the fundamental rights guaranteed by the Constitution but the wisdom of legislative policy. Thus it avoided

expressions like 'due process', and made fundamental rights such as that of liberty and property subject to regulation by the Legislatures. Further the major portion of the Constitution is liable to be amended by the Union Parliament by a special majority, if in any case the Judiciary proves too obtrusive. The theory underlying the Indian Constitution in this respect can hardly be better expressed than in the words of Pandit Nehru:

"No Supreme Court, no Judiciary, can stand in judgement over the sovereign will of Parliament, representing the will of the entire community. It can pull up that sovereign will if it goes wrong, but, in the ultimate analysis, where the future of the community is concerned, no Judiciary can come in the way.... Ultimately, the fact remains that the Legislature must be Supreme and must not be interfered with, by the Courts of Law in such measures as social reform".

3.2.13. Fundamental Rights & Constitutional Remedies

In the balancing between supremacy of the Constitution and sovereignty of the Legislature is illustrated by the novel declaration of Fundamental Rights. The idea of incorporating in the Constitution a 'Bill of Rights' has been taken from the Constitution of the U.S.A. These rights are justifiable and inviolable.

The Fundamental Rights are so enforceable at the instance of any person whose fundamental rights has been infringed by any action of the State – executive or legislature and the remedies for enforcing these rights, namely, the writs of Habeas corpus, mandamus, prohibition, quo-warranto and certiorari, are also guaranteed by the Constitution. Any law or executive order which offends against a fundamental right is liable to be declared void by Supreme Court or the High Court.

3.2.14. Fundamental Rights subject to reasonable regulation by Legislature

The Constitution of India guarantees fundamental rights to all the citizens. But the guarantee of individual rights in our Constitution has been very carefully balanced with the need for the security of the State itself.

American experience demonstrates that a written guarantee of fundamental rights has a tendency to engender an atomistic view towards society and the State which may prove at times to be dangerous to the common welfare. Of course, America has been saved from the dangers of such a situation by reason of her Judiciary propounding the doctrine of 'Police Power'.

Instead of leaving the matter to the off-chance of judicial protections in particular cases, the Indian Constitution makes each of the fundamental right subject to legislative control under the terms of the Constitution itself, apart from those exceptional cases where the interests of national security, integrity or welfare should exclude the application of fundamental rights altogether.

3.2.15. Fundamental Duties

Another feature, which was not in the original Constitution has been introduced by the 42nd Amendment, 1976, by introducing Art. 51A as Part IV-A of the Constitution. This Act introduced Fundamental Duties to circumscribe the Fundamental Rights, even though the Duties, as such, cannot be judicially enforced. The incorporation of fundamental duties was thus an attempt to balance the individuals civil 'freedom' with his civil obligations and thus, to fill a serious gap in the Constitution.

3.2.16. Directive Principles of State Policy

There is not only a Bill of Rights but also a part IV containing Directive Principles which confer no justiciable rights upon the individual but are nevertheless to be regarded as 'fundamental in the governance of the country', - being in the nature of 'Principles of Social Policy' as contained in the Constitution of Eire. It was considered by the makers of our Constitution that though they could not, owing to their very nature, be made legally enforceable, it was well worth to incorporate in the Constitution. Some basic non-justiciable rights which would serve as moral restrains upon future governments and thus prevent the policy from being torn away from the idea which inspired the makers of the organize law.

Taken together, they inscribe the objectives of a modern welfare state and as distinguished from a merely regulatory a negative state. They lay down the social and economic principles which the framers of the Constitution wanted free India to follow and "Constitute a very comprehensive political social and economic programme for a modern democratic state". If the Fundamental Rights of citizens lay the foundations of political democracy in India, the Directive Principles spell out the norms of social and economic democracy in the country. The only difference between Fundamental Rights and Directive principles of State policy is the former is enforceable by law and the latter is not.

3.2.17. Universal Franchise without Communal Representation

The adoption of universal adult suffrage (Art 326), without any qualification either of sex, property, taxation, or the like, is a 'bold experiment' in India, having regard to the vast extent of the country and its population, with over whelming illiteracy. The suffrage in India is wider than that in England or United States. The concept of popular sovereignty, which underlines the declaration in the preamble that the Constitution is adopted and given by the 'people of India', unto themselves, could indeed have been hollow unless the franchise – the only effective medium of popular sovereignty in a modern democracy – were extended to the entire adult population which was capable of exercising the right and an independent electoral machinery was set to ensure the free exercise of its.

No less creditable for the framers of the Constitution is the abolition of communal representation, which in its trail had brought in the bloody and lamentable partition of India. In the new Constitution there was no reservation of seats except for the Scheduled Castes and Scheduled Tribes and for the Anglo Indians, and that only for a temporary period.

3.2.18. Single Citizenship

Although India has a federal government yet double citizenship as provided for in the U.S.A., has not been provided for. All the Indians irrespective of their domicile, enjoy a single citizenship where as in U.S. all the citizens enjoy the right of double citizenship as citizens of State as well as citizens of the U.S.A. as whole. The principle of single citizenship was provided for in the Indian Constitution in order to foster strong bond of social and political unity among the people of India, who are hitherto divided on account of racial discrimination, variety of languages and multiplicity of religious and cultural background.

3.2.19. Independence of Judiciary

The framers of the Constitution were aware that democratic freedoms were meaningless in the absence of an independent machinery to safeguard them. No subordinate or agent of the Government could be trusted to be just and impartial in judging the merits of a conflict in which the Government itself was a party. Similarly, a judiciary subordinate either to the Centre or the States could not be trusted as an impartial areas of conflicts and controversies between the Centre and the States. These were the compelling reasons for the creation of an independent judiciary as an integral part of the Constitution and for the adoption of judicial independence as a basic principle of the Constitution.

In its bid to establish complete independence of the judiciary, the Constitution has first erected wall of separation between the executive and the judiciary. It has created conditions that are conducive to making the judiciary independent like rigid qualifications for the appointment of judges, provision for compulsory consultation of the Chief Justice of India in appointment every judge of Supreme Court and the High Courts. They can be removed from office only for proved misbehavior for which Parliament will have to pass resolution by two-thirds majority of those who sit and vote.

3.2.20. Integration of Indian States:

No less an outstanding feature of the new Constitution is the union of some 552 Indian States with the rest of India under the Constitution. Thus, the problem that baffled the framers of the Government of India Act, 1935, and ultimately led to the failure of its federal scheme was solved by the framers of the Constitution with unique success. The entire sub-continent of India has been unified and consolidated into a compact State in a manner which is unprecedented in the history of this country. The Indian States before independence thus lost their identity and became part of one uniform political organization embodied in the Constitution of India. The process of reorganization is continuing still and the recent trend is towards conceding the demands of smaller units.

3.3. Criticisms of Indian Constitution

The main criticisms leveled against the Constitution are following:

1) The elephantine size of the Constitution

The Constitution of India is being criticised on the ground that it is the most lengthy and detailed Constitution document. In the words of Ivor Jennings, the provisions borrowed were not always well selected and that the Constitution, generally speaking, was too long and complicated.

2) Carbon copy of the Act of 1935

The Constitution of India is called as the carbon copy of the Act of 1935. The fathers of the Constitution have borrowed a large number of provisions from the Act of 1935 and made them part of the new Constitution. Making a specific reference to this aspect of Dr. Ambedkar said in the Constituent Assembly, "As to the accuracy that the Draft Constitution has reproduced a good part of the provisions of Government of India Act, 1935, I make no

apologies. There is nothing to be assumed in borrowing. It involves no plagiarism. What I am sorry about is that the provisions taken from the Government of India Act, 1935, relate mostly to the details of administration”.

3) **Paradise of the Lawyers.**

One of the frequent criticisms of the Constitution was that it is ‘a lawyers paradise’. It is true that the Constitution is a complex document. The language in which it was drafted is that which is familiar only in Courts of Law. A striking feature of the Constitution in this context is the numerous exception, qualification and explanations that one finds along with almost every provision. Only an experienced lawyer can understand the implications the legal language.

4) **Un Gandhian Constitution**

The Constitution has been criticized by a small but vocal section on the ground that it is un Gandhian. The Constitution did not embody the principles for which Mahatma Gandhi stood. Others thought that it should have been raised and built upon village Panchayats and district Panchayats.

5) **A borrowed Constitution**

It is said that the Indian Constitution is a bag of borrowing and it is a more paper and scissors work. However the credit of its framers lies in gathering the best features of each of the existing Constitution and in modifying and adopting them to the existing conditions and needs of this country.

6) **Centre has been made too strong**

According to some critics, the centre has been made too strong. There is too much centralization and that the states have been reduced to municipalities.

7) **Un Indian**

The new Constitution is called as Un-Indian or anti Indian that no part of the Constitution represents the orient polity of India, its genius and the sprit of its hallowed and glorious traditions. “We wanted the music of Veena or Sitar”, lamented an Assembly member, “but here we have the music of an English band”. The ideas on which this Constitution is framed have no manifest relation to the fundamental spirit of India.

Check Your Progress - 1

Note: 1) Use the space given below for your answer.

2) Also check your answer with the clue given at the end of the Unit.

1. Write short notes on following outstanding features of the Indian Constitution.

- a) Longest known Constitution**
- b) Rigid and Flexible Constitution**
- c) Judicial Review & Parliaentary Supremacy**
- d) Directive Principles of State Policy**

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2. Discuss the important/outstanding features of Indian Constitution.

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3.4. Let us sum up

The principles of polity and the institutions of Government, established by the Constitution on the framework of the British Raj, have taken root in the Indian soil. Although transplanted they are today no longer regarded as foreign imports. They have gained legitimacy and widespread acceptance by political parties across the ideological spectrum. Their meaning and operation have been adopted to the Indian environment, and they are still taking form.

3.5. Key Words

doctrine	-	Principles / beliefs
Sovereignty	-	Supreme power / authority
residual	-	remaining
Impeachment	-	to accuse & remove from position

3.6. Suggested Readings

Government of India (Publication)	-	The Constitution of India.
B.L.Fadia	-	Indian Government and Politics
Granville Austin	-	The Indian Constitution : Corner stone of a Nation.
Subhash Kashyap	-	Our Parliament
Basu D.D.	-	Introduction to the Constitution of India – 19 th Ed.2001.
Pylee M.V.	-	Constitutional Government in India (2000)
J.C.Johari	-	Indian Government and Politics.

3.7 Answers to check your progress exercises

Check Your Progress - 1

- See subsection 3.2.2
 - See subsection 3.2.2
 - See subsection 3.2.2
 - See subsection 3.2.2
- See section 3.2.(Choose some important features)

Unit 4. Reorganization of States

STRUCTURE

- 4.0. Objectives
- 4.1. Introduction
- 4.2. Demand for Re-organization of States
- 4.3. The States Reorganization Commission
 - 4.3.1. Criticism of the SRC Report
- 4.4. The States Reorganization Act, 1956
- 4.5. Formation of the State of Maharashtra and Gujrat
- 4.6. The Creation of the State of Nagaland
- 4.7. Bifurcation of Punjab
- 4.8. Reorganization of Assam
- 4.9. Accession of Sikkim as the Twenty-second State
- 4.10. Arunachal as the Twenty-fourth State
- 4.11. Goa as the Twenty-fifth State
- 4.12. Chhatisgarh as the Twenty-sixth State
- 4.13. Uttaranchal as the Twenty-seventh State
- 4.14. Jharkhand as the Twenty-eighth State
- 4.15. Separate Statehood Demand in other parts of India.
- 4.16. Arguments in favor of Linguistic States.
 - 4.16.1. Arguments against Linguistic States
- 4.17. Let us sum up
- 4.18. Key words
- 4.19. Suggested readings
- 4.20. Answers to Check Your Progress Exercise

4.0. Objectives:

After going through this unit you will be able to

- * know why there was demand for re-organisation of states.
- * understand the basis of re-organisation
- * know arguments for and against re-organisation

4.1. Introduction:

Today India is a Union of 28 states and seven Union Territories. The federal polity has been a consequence of a long period of development and has been continuously changing. It was right since the British period, that regions were called 'Provinces'. Before 1773 we have had three 'Presidencies', namely the Presidency of Fort William in Bengal, the Presidency of Fort St. George in Madras and Presidency of Bombay. The Presidency Fort William being largest and hence it was to be divided into two a) Presidency of Fort William in Lower province in Bengal and b) Presidency of Agra which was postponed and instead of Agra, North West Provinces under Lt. Governor was set up on 1836.

Beside this there were six Chief Commissioner's provinces, viz., British Baluchistan, Delhi, Armer-Marwara, Coorg, Andaman and Nichobar Island and Panth Piploda. After India's partition in 1947, both the North Western Frontier Province and Sind became part of Pakistan, while Punjab and Bengal were divided between the two countries. Baluchistan was also given to Pakistan.

Independent India thus comprised nine Governor's Provinces: Chennai, Mumbai, West Bengal, the United Provinces, Bihar, East Punjab, the Central Provinces, Assam and Orissa and five Chief Commissioner's Provinces: Delhi, Ajmer-Merwara, Panth Piploda, Coorg and Andaman-Nicobar Islands.

After partition, India faced the problems of consolidation, the integration of the Princely states and the framing of a Constitution. Once the Princely states acceded to India, the process of integration began. Smaller states were merged with neighbouring provinces. Others were consolidated as Centrally administered areas. States of another class, because of their affinity, were consolidated as new federal units. These included Rajasthan, Saurashtra, and Travancore-Cochin, Mysore, Hyderabad, and, in separate class, the State of Jammu and Kashmir retained their integrity as separate States of the Indian Union.

In 1950, when the new Constitution came into existence, the units of the Indian Union thus found themselves classified into Part A, Part B, Part C and part D States.

State set-up at the Commencement of the Constitution.

Part A		Part B		Part C		Part D	
1. Assam	10	Hyderabad	19.	Ajmer	29.	The Andaman & Nicobar	
2. Bihar	11	Jammu & Kashmir	20.	Bhopal			
3. Mumbai	12	Madhya Pradesh	21.	Bilaspur			
4. Madhya Pradesh	13	Mysore	22.	Cooch-Behar			
5. Chennai	14	Patiala & East Punjab States Union	23.	Coorg			
6. Orissa	15	Rajasthan	24.	Delhi			
7. Punjab	16	Saurashtra	25.	Himachal Pradesh			
8. The United Provinces	17	Travancore Cochin	26.	Kutch			
9. West Bengal	18	Vindhya Pradesh	27.	Manipur			
			28.	Tripura			

Demand for Re-organization of States.

The demand for a redrawing of the State boundaries in India is long-standing, dating back to the year 1903 when Sir Herbert Risley, Home Secretary in the Central Government, wrote to Bengal proposing the historic partition of that provinces, effected in 1905. The authors of the report on Indian Constitutional Reforms were well disposed towards provincial re-organization for three principal reasons – first, the provinces as they existed bore an artificial character; second, if these units were made smaller in size and more homogeneous in character; the business of Government was to become simplified and third, the linguistic provinces were to lend themselves to the adoption of regional language for purposes of transaction of Governmental business which was to attract to public affairs persons not

acquainted with English and thus to broad base Indian politics. Mahatma Gandhi wanted that the provincial units of the Congress Party should be organized on a linguistic basis. Accordingly, in 1921 the Congress Party gave effect to the linguistic principle. The Nehru Report (1928) approached the question of formation of provinces on the basis of linguistic affinities. According to this Report, partly geographical and partly economic but two main considerations were the popular wishes and the linguistic unit of the area.

The Simon Commission Report, submitted in 1930, gave qualified support to the proposal of linguistic provinces. The Congress Party adopted a resolution in 1927, 1937 and 1938 to re-carve the provinces on the same basis. In its election manifesto of 1945, it pledged to set up linguistic provinces. When the Constituent Assembly of India was drafting the Constitution, the demands of formation of linguistic states became intensely live on its floor. Therefore, in June 1948 the Assembly announced the setting up of the Linguistic Provinces Commission, under the Chairmanship of S.K.Dar.

The Dar Commission warned that linguistically homogeneous provinces would threaten national unity and that in any case each state would have minorities. The report was received with general disappointment. The Congress Party also did not like the Dar prescription and announced its own Committee to consider the question of linguistic provinces. The Linguistic Provinces Committee consisted of three members, namely, Jawaharlal Nehru, Vallabhbhai Patel and Pattabhi Sitaramayya. The JVP Committee, fundamentally concerned with the problem of national unity reaffirmed the position of the Dar Commission. It however, concerned that a strong case might be made for the formation of Andhra from the Telugu speaking region of Madras, and that if Public sentiment was "insistent and overwhelming," this and other cases might be given further consideration. This was the opening wedge for the bitter struggle over states reorganization which was to dominate Indian politics from 1953 to 1956.

The demand for a separate state of Andhra had deep roots among the Telugu people. Rajagopalachari's Ministry in Madras after the first General elections had differences with T.Prakasam, popularly known as 'Andhra Kesari', accentuated the clash between the Tamils and the Telugu-speaking Andhras. The Andhras revived their demand that the Madras (Chennai) state, as formed by the British be carved into two separate i.e. Tamil and Telugu-speaking states. This movement got a big fillip when a respected leader, Potti Sriramulu, undertook a

fast unto death. Nehru told his cabinet colleagues he would not be intimidated by these tactics. But when the fasting leader died and the tragedy was followed by widespread riots and destruction, Nehru yielded and in 1953 the State of Andhra Pradesh was created.

4.3. The States Reorganization Commission.

The creation of Andhra state was the signal for a demand for Kannad speaking state comprising old Mysore state and including areas then part of erstwhile Bombay (Mumbai) and Hyderabad states. Nehru and his cabinet and the Congress High Command decided to resist all attempt at further division of the states according to language. However, when Nehru was greeted with black flags at Belgaum, he sensed the danger to his position as the idol of the people and announced the formation of a Commission (December 29, 1953) to study the question of reorganization of states on a linguistic basis under the Chairmanship of Fazal Ali, a judge of the Supreme Court. The other two members of the Commission were H.N.Kunzru and K.M.Panikkar.

The States Reorganization Commission struck a 'balance' between regional sentiment and national interest. The Unity of India, the Report concluded, should be regarded as the primary consideration in any redrawing of the country's political units. The Commission rejected the theory of 'one language one state', but recognized linguistic homogeneity as an important factor conducive to administrative convenience and efficiency. The Commission recommended that the political divisions of the Union be redrawn generally in accordance with linguistic demands. It recommended that the constituent units of the Indian Union be the following sixteen States and three Centrally administered areas. 1. Chennai 2. Kerala 3. Mysore 4. Hyderabad 5. Andhra Pradesh 6. Mumbai 7. Vidarbha 8. Madhya Pradesh 9. Rajasthan 10. Punjab 11. Uttar Pradesh 12. Bihar 13. West Bengal 14. Assam 15. Orissa 16. Jammu & Kashmir. 17. Delhi 18. Manipur 19. Andaman & Nicobar Islands.

The Commission recommended that the classification of the States in four categories (A, B, C and D) as envisaged in the Constitution should be done away with and all the States be given an equal status. It did not find any ground for the formation of separate states of Punjabi Suba, Haryana and Maru Pradesh. It recommended the continuation of Mumbai as a bilingual state. The demands for separate tribal states, including Jharkhand and Nagaland were also rejected.

4.3.1. Criticism of the SRC Report.

The SRC report was strongly criticized by the New York Times, The Hindustan Times, C. Rajagopalachari and the Chief Minister of Bengal and Bihar as "linguistic madness" and suggested 5-6 zonal administrative units.

4.4. The States Reorganization Act, 1956.

On January 16, 1956 the Government announced its decisions on the Report, which may be summarized as follows: The Government accepted the Commission's recommendations regarding the formation of the new states of Kerala, Karnataka (which was to be named Mysore) and Madhya Pradesh and regarding the continuance of the states of Chennai, Rajasthan, Uttar Pradesh, Bihar, West Bengal, Assam and Orissa, broadly on the basis proposed by the Commission. In other words: (a) Uttar Pradesh was to continue in its existing form; (b) Madhya Pradesh, Rajasthan and Orissa were to be as proposed by the Commission; (c) Chennai, Kerala, Karnataka (Mysore), Bihar and West Bengal were to continue as wished by the Commission, subject, of course, to minor boundary adjustments; (d) Assam was to be as desired by the Commission except that Tripura was not to be included in its territory; (e) Maharashtra was to consist of the Marathi speaking areas of Mumbai, Madhya Pradesh, Hyderabad and Gujrat of Saurashtra, Kutch and the Gujarati speaking areas of Mumbai; (f) the existing constitutional disparity between the different categories of states was to disappear. This meant that Part B states were to be equated with Part A states by deleting Article 371 of the Constitution and abolishing the institution of Rajpramukh and Part C states were to disappear altogether as a separate cluster of states and such of the existing Part C states as could not be merged in adjoining states were to be directly administered by the Central Government; (g) Tripura was to remain as a Centrally administered area; (h) The Central Government had under consideration the Commission's recommendation about the formation of (i) a Punjab state comprising the territories of the existing states of Punjab, PEPSU and Himachal Pradesh, and (ii) a residuary Hyderabad state, or alternatively a larger Andhra state).

The States Reorganization Bill was introduced in April 1956. It was finally passed in July 1956 and came into force in November 1956. The Act did away the four categories of states as provided under the original Constitution, and instead classified them into two

categories – the States and the Union Territories. Although the States Reorganization Commission had recommended the creation of 16 States and 3 Centrally administered areas, the Act provided for the creation of 14 States and 6 Union territories as under: States 1. Andhra Pradesh 2. Assam 3. Bihar 4. Mumbai 5. Jammu and Kashmir 6. Kerala 7. Madhya Pradesh 8. Chennai 9. Mysore 10. Orissa 11. Punjab 12. Rajasthan 13. Uttar Pradesh 14. West Bengal.

Union Territories. 1. Andaman and Nicobar Islands 2. Delhi 3. Himachal Pradesh 4. Lacadive Minocoy and Amindivi Islands 5. Manipur 6. Tripura.

4.5. Formation of the State of Maharashtra and Gujrat.

The SRC opposed the division of Mumbai into Marathi and Gujarati states largely because of the critical question of Mumbai City. Marathi speakers constituted its largest language group, but the city was dominated by Gujarati wealth. In the Marathi speaking districts of Mumbai state widespread rioting broke out and eighty people were killed in police firing. Under pressure the Centre offered, but then withdrew a proposal that the state be divided but that the city of Mumbai be administered as separate state. Mumbai politics polarized linguistically; two broadly based language front organizations, the Samyukta Maharashtra Samiti and the Mahagujarat Janata Parishad were formed. In the 1957 elections, the Congress majority in Bombay was seriously threatened. Agitation continued and in 1960 the Congress gave way to the demand for reorganization. Gujrat and Maharashtra were constituted as separate linguistic states with the city of Bombay included as part of Maharashtra.

4.6. The Creation of the State of Nagaland.

In 1961 yet another new state was created when Nagaland (Territorial Provisions) Regulations were promulgated by the President; the areas comprised of Naga Hills and Tuensang Area assumed the name of Nagaland and was given the status of the sixteenth state of the Indian Union. The Nagas were finally released from Assamese administration and in 1963 the state of Nagaland came into being.

Bifurcation of Punjab.

The Punjabi speaking people of the State of Punjab, mainly Sikhs, under the leadership of the Akali Dal demanded a separate Punjabi speaking state. The Hindus, on the other hand,

under the leadership of the Jan Sangh, Hindu Mahasabha and the Arya Samaj urged the union of Punjab, Himachal Pradesh and Patiala and East Punjab States Union into a 'greater Punjab' containing a Hindu majority. Both sides resorted to agitation, violence, strikes, demonstrations and fasts – sometimes 'fasts unto death'. The Centre did not concede their demands. Sant Fateh Singh, leader of one of the two factions of the Akali Dal, held out a threat that if by September 25, 1966 the demand for Punjabi speaking Suba was not conceded he would burn himself to death. The situation in Punjab became very tense. Apprehending a danger to the integrity and security of the country, the Centre decided on 1st November, 1966 to divide Punjab on linguistic lines. The Punjabi speaking districts formed the state of Punjab, seven Hindi speaking districts formed the new state of Haryana, and the Hindi speaking hilly areas of Punjab contiguous of Himachal Pradesh were transferred to Himachal Pradesh. It was decided to make Chandigarh a Union territory. The number of states now went up to seventeen.

Similarly in January 1971, Himachal Pradesh, a Union Territory, was elevated to the level of a state.

4.8. Reorganization of Assam.

In April, 1970, a separate autonomous State of Meghalaya was created within Assam. This was an autonomous state within Assam, and was provided with its own Legislature and Council of Ministers. But this did not satisfy the aspirations of the people, and on 30th September, 1970, the Meghalaya Assembly unanimously resolved to request the Union Government to convert the autonomous state into a full fledged state. This demand was eventually conceded in January 1972 and this raised the number of states to nineteen. The Parliament, in fact passed the North Eastern Areas (Reorganization) Act, 1971 which came into force in January 1972. As visualized under this Act, Meghalaya, Manipura and Tripura emerged as three separate states and Arunachal Pradesh and Mizoram as Union Territories.

4.9. Accession of Sikkim as the Twenty-second State.

On 7th September, 1974, the Parliament passed an Act extending to Sikkim the status of an 'associate state'. The associate status lasted for less than a year, and on 26th April, 1975 Sikkim formally became the twenty-second state of the Indian Union. Mizoram as the Twenty-third State.

Under the British administration, Mizoram was known as Lushai Hills District. In 1954, by an Act of Parliament the name was changed to Mizo Hills District. In 1972, when it was made into a Union Territory, it was named Mozoram.

With independence, Mizoram became a district of Assam. Because of neglect by the authorities the Mizos felt that it was a bad bargain for them to continue as part of India and started agitation's in 1966. It was declared a disturbed area. Armed Forces (Special Powers) Act also was invoked. On June 30, 1986, the historic Mizoram Peace Accord was signed between the Government of India and the Mizo National Front ending the two-decade old insurgency. Consequently, constitution (53rd Amendment) Act, 1986, inserted a new Article 371-G conferring full statehood on Mizoram.

4.10. Arunachal as the Twenty-fourth State.

Arunachal, originally known as the North-East Frontier Agency (NEFA), was placed under the administration of the Union Government under the name of Arunachal Pradesh on January 20, 1972. It became a full-fledged State of the Union in December 1986.

4.11. Goa as the Twenty-fifth State.

Till August 12, 1987, Goa was part of the Union Territory of Goa, Daman and Diu. Goa became the twenty-fifth state in the Indian Union by an Act of Parliament on August, 12, 1987. While Daman and Diu formed a Union Territory, administered by the Governor of Goa who simultaneously holds office as the Lt. Governor of Daman and Diu.

4.12. Chhattisgarh as the Twenty-sixth State.

On November 1, 2000 a new state to be known as the state of Chhattisgarh came into existence. Chhattisgarh became a reality without anyone really wanting it. Chhattisgarh did not even experience a mass movement. The B.J.P. adopted the demand because it thought that after the 1998 Assembly elections it would be in a majority in the Chhattisgarh region; the Congress played along because it was afraid of losing its hold over the region.

4.13. Uttaranchal as the Twenty-seventh State.

On November 9, 2000 a new state to be known as Uttaranchal came in to existence.

4.14. Jharkhand as the Twenty-eighth State.

On November 15, 2000 a new state to be known as Jharkhand came into existence.

4.15. Separate Statehood Demand in other parts of India.

Demands for separate statehood were made in several other parts of the country. The demand for the creation of Jharkhand out of the Chhota Nagpur region of Southern Bihar and the contiguous tribal districts of Orissa was a product of the increasing self-consciousness of the six million members of the Scheduled tribes in the area. The people of Teleangana raised voices throughout of Telengana should be created. The people of the former princely state of Mysore demanded separation from the Karnataka districts. The hilly region of Kumaon and Tehri-Garhwal in Uttar Pradesh aspired for a state of their own. In west Bengal, the Gorkhaland National Liberation Front (GNLF) has demanded, occasionally by violent means, a separate state of Gorkhaland in Darjeeling district. There was a clamour for a separate state of Chhattisgarh.

The Bodo agitation is led by the Assam Bodo Student Union (ABSU), which is demanding a separate state and has resorted to wide scale violence and a series of crippling bandhs to pursue their demand.

The Buddhists of Ladakh had been carrying on an agitation, which at times turned violent, in support of their demand for grant of Union Territory status since the existing set-up in the State of Jammu and Kashmir had not provided them fair and just-treatment.

On the basis of the recommendations of the Committee on Reorganization of Delhi set-up, the Constitution (Sixty-ninth) Amendment Act, 1991 have been enacted for establishment of a Legislative Assembly and a Council of Ministers for the National Capital Territory of Delhi.

4.16. Arguments in favor of Linguistic States.

India is perhaps the only country where the states are divided primarily on a linguistic basis, and in most of the cases the state and linguistic boundaries coincided. Even though such reorganization was often not favoured by the leaders in the government, they were eventually forced to divide the country on a linguistic basis for the following reasons.

1. The territories originally annexed by the British had been formed without regard to any rational, scientific or linguistic considerations.

2. The presence of two or more linguistic blocks in the same state makes for inefficiency, friction and political economic penalization of the minority group.
3. The idea of linguistic states had a mass appeal, and hence the opposition parties, especially the Communists, adopted this idea as a tactic to arouse opposition against the ruling Congress Party in order to gain control of its legislative programme.
4. States reorganization is best regarded as clearing the ground for national integration.

4.16.1. Argument against Linguistic States.

In spite of these strong arguments in favour of forming linguistic states, there was strong opposition to the linguistic re-division of India. Both Nehru and Patel felt that the linguistic re-division should be postponed in favour of other more pressing and important matters. Dr. B.R. Ambedkar had warned against the adoption of the linguistic principle and said: "The creation of linguistic provinces would be fatal to the maintenance of the necessary administrative relations between the Centre and States".

The arguments against linguistic states are as follows:

1. The reorganization of states on linguistic basis created artificial walls between states and gave rise to numerous inter-state disputes.
2. Linguistic states create a certain danger to national unity since they develop a feeling of regionalism, hinder economic cooperation between the states and disturb the peaceful environment of the nation.
3. The formation of linguistic states has retarded much of planned economic development because local sentiment within the State often resents the utilization of that state's resources for the benefit of other states.
4. The creation of linguistic states has reinforced regionalism and has stirred demands for increased state autonomy.
5. Disputes over the boundaries between linguistic states have also stirred violence, as in the case of the continuing conflict between Maharashtra and Karnataka over the district of Belgaum.
6. Parochial feelings roused over adjoining areas found a fresh outlet over sharing of the waters of the rivers which flowed through different states e.g. Narmada and Kaveri disputes.

7. Every state wants due recognition of right. Every state clamours for seats of its men in the Union cabinet.
8. Linguistic majorities in the states assume airs of superiority and often deny to the linguistic minorities their legitimate rights.

Check Your Progress - 1

Note: 1) Use the space given below for your answer.

2) Also check your answer with the clue given at the end of the Unit.

1. Explain the historical background of reorganization of states in India.

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2. Write a note of demand for reorganization of states in India.

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3. Write an essay on States Reorganization Commission.

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4. Discuss the State Reorganization Act of 1956.

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5. Elaborate on the formation of Maharashtra and the State of Gujrat.

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6. Discuss the reorganisation of states after 1971.

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4.17. Let us sum up.

Reorganization gave the states a political identity congruent with their culture and language. It brought state politics closer to the people, and made it easier for traditional leaders and influential regional groups to capture control or at least exercise much influence over the use of power. Thus, in a sense, reorganization made state politics more democratic, but less western in style. It meant for one thing, that state politics would be increasingly

conducted in the regional language rather than English. Thus, power was now open to other than the small English speaking elite.

Although the number of states has increased from fourteen in 1956 to twenty-eight in 2000, many of them are still quite large sized – larger, indeed, than many sovereign states in the world. The formation of new states cannot be ruled out, but the argument for smaller, more administratively viable states is countered by concern that the smaller state may be more easily dominated by vested interests. The creation of more and more states meant more Governors, more Chief Ministers, more Ministers and more MLA's and these were what the politician in India cared for. The narrow and sectarian instincts of the ignorant masses were at times stirred up by the professional politicians to serve their own narrow ends, sometimes in the name of language and very often in the name of their region or state.

4.18. Key words

Linguistic	-	Language
Provinces	-	Region
Bilingual	-	A region where two language are used
Accord	-	agreement / Treaty.

4.19. Suggested readings

Government of India (Publication)	-	The Constitution of India.
B.L.Fadia	-	Indian Government and Politics
Granville Austin	-	The Indian Constitution : Corner stone of a Nation.
Subhash Kashyap	-	Our Parliament
Basu D.D.	-	Introduction to the Constitution of India – 19 th Ed. 2001.
Pylee M.V.	-	Constitutional Government in India (2000)
J.C.Johari	-	Indian Government and Politics.

4.20 Answers to check your progress exercises

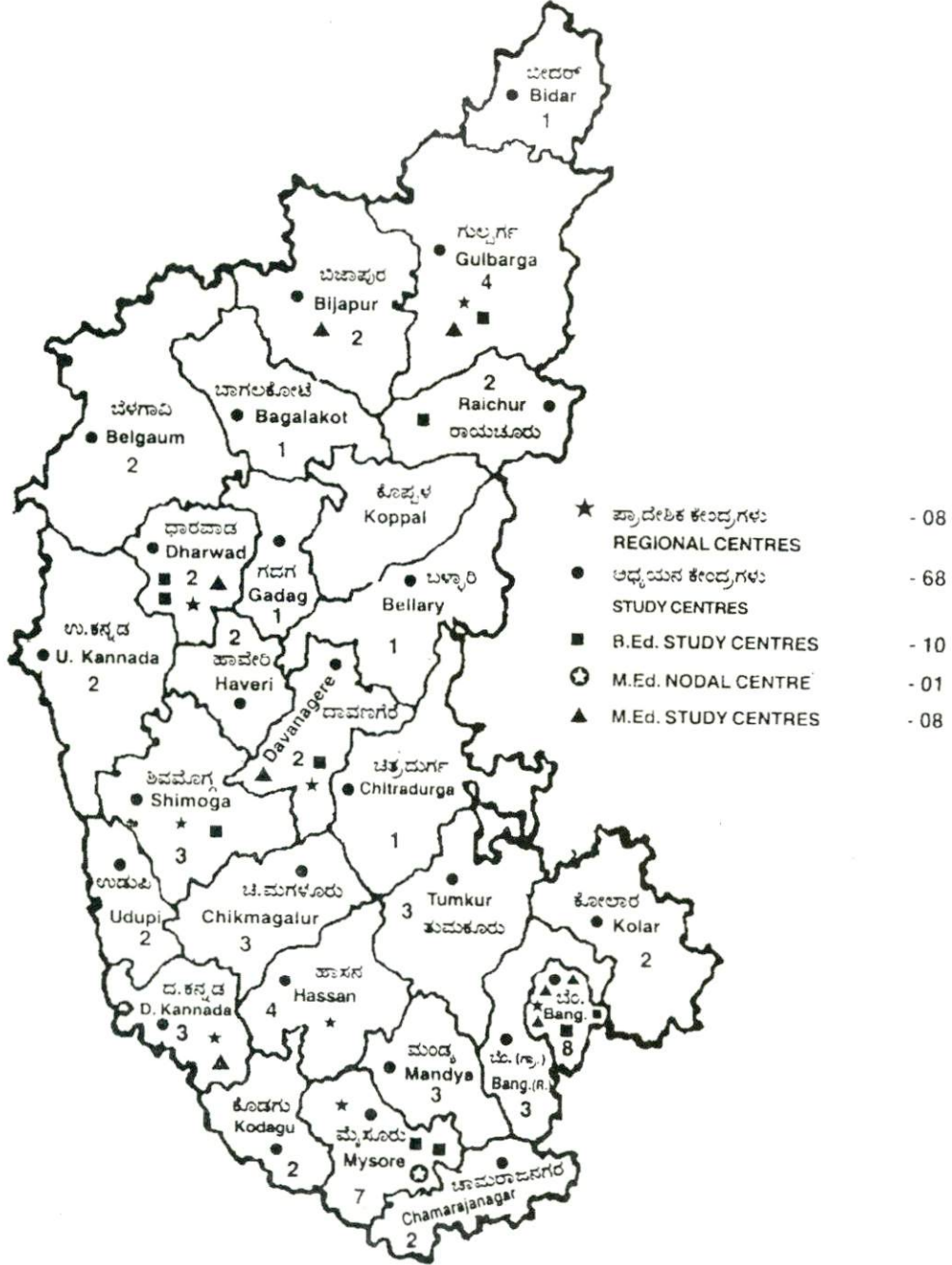
Check Your Progress - 1

1. See subsection 4.1 and 4.2
2. See subsection 4.1(brief) & 4.2 (detail)
3. See subsection 4.3 & subsection 4.3.1
4. See subsection 4.4
5. See subsection 4.6
6. See section 4.8, 4.9, 4.10, 4.11, 4.12, 4.13, & 4.14
7. See section 4.15, 4.16, & 4.17

NOTES

A series of horizontal dotted lines for writing notes, spanning the width of the page.

ಕರ್ನಾಟಕ ರಾಜ್ಯ ಮುಕ್ತ ವಿಶ್ವವಿದ್ಯಾಲಯದ ಪ್ರಾದೇಶಿಕ ಹಾಗೂ ಅಧ್ಯಯನ ಕೇಂದ್ರಗಳು
Regional and Study Centres of Karnataka State Open University



(ಸಮೂಹಿಸಿರುವ ಅಂಕಿ - ಜಿಲ್ಲೆಯಲ್ಲಿರುವ ಒಟ್ಟು ಅಧ್ಯಯನ ಕೇಂದ್ರಗಳ ಸಂಖ್ಯೆಯನ್ನು ಸೂಚಿಸುತ್ತದೆ.)
(The Number indicate the total number of study Centres existing in that districts.)

