

Sansad TV Perspective: Constitution Day

In the series Sansad TV Perspective, we bring you an analysis of the discussion featured on the insightful programme 'Perspective' on Sansad TV, on various important topics affecting India and also the world. This analysis will help you immensely for the [IAS exam](#), especially the mains exam, where a well-rounded understanding of topics is a prerequisite for writing answers that fetch good marks.

In this article, we feature the discussion on the topic: Constitution Day.

Video Link: - <https://youtu.be/18zQqJKdr6k>

Anchor: Vishal Dahiya

Participants:

1. Vivek K. Tankha, MP, INC, Rajya Sabha
2. Pinky Anand, Former ASG & Senior Advocate, Supreme Court

Context:

Turning the pages of history takes us back to the year 1949 when the Constituent Assembly adopted, enacted and gave to the entire nation the [Indian Constitution](#).

In order to enliven the fascinating tales of framing of the Constitution of a free and sovereign India, every 26th day of November is commemorated as the Constitution Day which is also referred to as the National Law Day. The Constitution was drafted with a dynamic approach that addressed the changing demands of the nation and encouraged suggestions from all the committees of the Constituent Assembly. Therefore, the Indian Constitution is the supreme law of the land that stood firm in protecting the rights of the people amidst the darkest phase of our past and continues to protect our rights from the tyranny of the executive. The year 2021 witnessed the celebration of the 72nd Constitution Day.

The Constituent Assembly:

- In 1934 M.N Roy proposed the idea to set up a constituent assembly followed by which the Indian National Congress aimed at framing of the Constitution by the [Constituent Assembly](#).
- In 1938 Jawaharlal Nehru declared the need to frame the Constitution of free India.
- In the August Offer of 1940 the British Government accepted the demand for the Indian Constitution.
- Under the [Cabinet Mission Plan](#), the Constituent Assembly was set up in 1946.
- The assembly was composed of important committees such as Major committees, Minor committees and the Drafting committee.

The Drafting Committee:

- This was the committee responsible for preparing the draft of the Indian Constitution. It was chaired by Dr B R Ambedkar.
- It was open to the suggestions of the other committees.

- In February 1948, the first draft of the Constitution was ready and left to the people of India to suggest amendments. People of India were given eight months to decide.
- The final draft was introduced into the Constituent Assembly by [Dr. B R Ambedkar](#) in November 1948 and underwent three readings followed by which the Constitution was adopted and enacted on the 26th of November 1949.

Where is the Original Constitution?

- There are three original copies of the Constitution preserved in the central library of the Parliament.
- The original Constitution is a 251-page manuscript consisting of sheets of parchment paper.
- A helium-filled case is used to preserve the original Constitution. Helium gas is inert and non-reactive. Therefore it doesn't allow any pollutants or microorganisms to spoil the original document.

Understanding the Constitution better:

- The Constitution was futuristic in its vision and dealt with every facet of governance that was associated with social, economic and political aspirations of every section of this diverse population that resides in the Indian subcontinent.
- This living document is the world's longest written constitution with an elephantine size which was configured to align with the doctrine of limited government. The doctrine of limited government forms the bedrock of our democracy.
- The lofty goals of the Constitution that are echoed through the provisions guaranteed by the Fundamental Rights, the Directive Principles of State Policy and Fundamental Duties achieved a concrete shape through the [Preamble](#).
- With the creative pen of the judiciary the scope of various provisions of the Constitution has been broadened over a period of time in the larger interest of the public.

Parliamentary Sovereignty Or Judicial Supremacy?

- The Constitution of India favours a beautiful synthesis of Parliamentary sovereignty and Judicial supremacy unlike the British principle of Parliamentary sovereignty and American principle of Judicial Supremacy.
- This adds on to the uniqueness of our Constitution despite the inclusion of excerpts from various Constitutions of the world. Know more about the [borrowed features of the Indian Constitution](#) in the link.
- In India the judiciary has the constitutional authority to declare any law passed by the Parliament as unconstitutional.
- On the other hand Parliament has the power to amend major parts of the Constitution.
- Therefore the Indian Constitution leans towards neither Parliamentary sovereignty nor Judicial supremacy but it offers a beautiful blend of both.

Also read: [Separation of Powers in the Indian Constitution](#)

Parliamentary Form of Government in the Indian Context:

- The Parliamentary framework of India is based on the principle of coordination and cooperation between the legislative and executive arms of the government.
- There exists the presence of nominal and real executives.
- The executive is collectively responsible to the legislature.
- Executives are drawn from the legislature. The Ministers are members of the legislature.
- Leadership of the Prime Minister and Chief Minister.
- The lower house of the Parliament is subject to dissolution.

The Federal System with a Unitary Bias:

- The Constitutional experts often indulge in the famous discussion surrounding the grey area of the Indian Constitution to favour the federal system or a unitary form of government.
- Even though federalism is a part of the [Basic Structure](#) of the Constitution it is argued that there are instances which determine the unitary bias of the Constitution. For example Article – 3 of the constitution empowers the Parliament to Reorganise a state of the Union by a simple majority and shall not be deemed as a constitutional amendment under the purview of Article – 368.

Read More about [Article – 3](#) in the given link

- This is why some constitutional experts like K.C.Wheare call it quasi-federal, bargaining federalism coined by Granville Austin.
- Indian federalism has been termed as sui generis by Alexandrowicz in his work 'Constitutional Development in India' which means unique in character. Therefore the Constitution adopts an amphibian characteristic at certain times which confirms that India is neither a federal polity in the absolute sense nor is it unitary.

The approach required in the upcoming days:

- It was rightly pointed out by the expert that the Judiciary needs to be reformed in order to establish a sustainable balance between judicial creativity and [judicial overreach](#). Besides, the pendency in the judiciary is a major crisis that needs attention to revive the spirit of our Constitution.
 - For instance the landmark judgement of the Supreme Court in the case of [Keshavananda Bharati vs State of Kerala](#) in 1973 has been exemplified as judicial overreach by the critic.
- Therefore a consensus between the judiciary and the legislative organs of government is recommended to take the progress of our vibrant democracy further.
- This Constitution Day accentuated the concept of [constitutional morality](#) that must pave the way to uphold the Constitution for the development of every section of the society, thus this living document shall continue to enjoy special legal sanctity.

Read more summaries of [Perspective](#) in the link.