

The Vision of the Constitution

Justice Roshan Dalvi (Retd.)

The Text

- 14600 words
- 378 Articles
- 100 Amendments
- 9 Schedules
- 3 Appendices

- *Too long, too rigid, too prolix* - Sir Ivor Jennings
- *Eastminster Model*, the Constitutions of the Commonwealth
- The critique of Sir Ivor Jennings, Judge, Madras High court -
Enduring Constitution - The 3 denunciations of Sir Ivor Jennings are stated to be the reasons for the permanence of the Indian Constitution.
- The Constitution of Ceylon lasted 7 years.
- The Constitution of India is now 67 years old.

The Constitution is not merely a lawyer's document;
It is a vehicle for life.

Dr. B.R. Ambedkar

The Preamble

- We, the People.....
- SOVREIGN, SOCIALIST, SECULAR, DEMOCRATIC REPUBLIC
- To secure –
 - JUSTICE, Social, Economic & Political;
 - LIBERTY of thought, expression, belief, faith & worship;
 - EQUALITY of status & opportunity;
- And to promote –
 - FRATERNITY.....

Liberty does not descend upon a people;

A people must rise to Liberty.

It is a blessing which must be earned before it is enjoyed.

(Carved in stone on the Rashtrapati Bhavan)

The Spirit

- The spirit
 - of Persuasion,
 - of Accommodation,
 - of Tolerance

The forces that can never be ignored

– Fali Nariman, Jurist.

- Equality - Formal, Proportional & Egalitarian
 - Prof. Dr. Madhava Menon
- *Constitutional Legality & Constitutional Morality*

Fundamental Rights – Part III

ARTICLES

- 14
- 15
- 16
- 19
- 21
- 21A

PARTICULARS

- Equality
- No Discrimination
- Equal Opportunity
- Speech & Expression
- Life and Liberty
- Education

Fundamental Rights – Part III (Contd..)

ARTICLES

- 23
- 24
- 25
- 26

PARTICULARS

- No trafficking
- No child labour
- Religion
- Minorities

**A right is not what someone gives you;
It is what no one can take away from you
Ramsay Clark**

Directive Principles – Part IV

ARTICLES

- 38
- 39A
- 40
- 41
- 42

- 43
- 43A
- 43B
- 44
- 45

PARTICULARS

- Welfare State
- Equal Justice & Free Legal Aid
- Village Panchayats
- Right to Work, Education
- Just and humane conditions of work and maternity relief
- Living Wage
- Worker Participation in management
- Promotion of Co-operative Societies
- Uniform Civil Code
- Free & Compulsory Education

Directive Principles – Part IV (Contd...)

ARTICLES

- 46
- 47
- 48
- 48A
- 49
- 50
- 51

PARTICULARS

- Promotion of SC/ST
- Nutrition & Health
- Agriculture & animal husbandry
- Environment & wild life
- Monuments
- Separation of Judiciary from Executive
- International Peace & Security

People everywhere can have
3 meals a day for their bodies

Education and culture
for their minds

And

Dignity, Equality &
Freedom for their spirits

Martin Luther King Jr.

Fundamental Duties – Part IV A

- **ARTICLE 51A**

- (a) Abide by the Constitution, respect National flag & Anthem
- (b) Ideals of freedom
- (c) Sovereignty, unity & integrity of India
- (d) National service
- (e) Brotherhood & dignity of women
- (f) Heritage & culture
- (g) Environment & wild life
- (h) Scientific temper, humanism, inquiry and reform
- (i) Public property / Violence
- (j) Excellence in endeavour & achievement

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However bad a Constitution may be, it is sure to turn out to be good if those who are called upon to work it happen to be a good lot.

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Amendment of the Constitution

- Palkhivala opposed “Tinkering” with the Constitution even for the sake of expediency.
- Constitution should reflect stability, but not stagnation.
- Hence, Amendments permitted.
- Yet the Basic Structure cannot be amended.
- (*Keshavananda Bharati vs. State of Kerala AIR 1973 SC 1461*)

The Ground Reality

- Democracy - 1 man , 1 vote / 1 man, 1 value ?
 - Democracy in India is only a top dressing on an Indian soil which is essentially undemocratic". - Dr. B. R. Ambedkar
 - Democracy manifests itself in 2 ways - The form & the content.
 - Hence grassroots level activism is required.
- Equality - by social movements (for the victimised or marginalised).
- Justice - by Judicial Activism

The Indian Constitution is modern world's first post-colonial constitution that combines four concepts: governance, social development, pursuit of rights and justice. - Prof. Upendra Baxi

Judges' Oath

To work –

Without fear or favour

Affection or ill-will

And

To uphold the Constitution and the Laws