

# **CONSTITUTION OF INDIA**



**Justice M. S. Sonak**  
**High Court of Bombay**

# Constitution

A constitution is the set of the most important rules and common understandings in any given country that regulate the relations among that country's governing institutions and also the relationship between those governing institutions and the people of that country.

- **A King**

Originally an English transplant with Anglo - Saxon roots, the legal system in India has grown over the years, nourished in Indian soil: what was intended to be an English oak has turned into a large, sprawling Indian Banyan, whose serial roots have descended to the ground to become new trunks.

- **Fali S Nariman**

# What is the constitution

- A living organ, not a fossil
- Source of legislation, not a product
- A fundamental norm
- Touchstone with which to test other laws
- Documents aspirations, social values, commitments
- Political philosophy, path to future
- Stable yet flexible





**The New York Times.**  
THE WAR IN EUROPE IS ENDED!  
SURRENDER IS UNCONDITIONAL;  
V-E WILL BE PROCLAIMED TODAY;  
OUR TROOPS ON OKINAWA GAIN

**BLIND-WIDE DRIVE**  
The following is a list of the names of the blind who have been accepted for admission to the New York State School for the Blind, at the State University of New York at Cortland, for the coming year. The names are listed in alphabetical order.

**COMMUNICATE ON ALL FRONTS**  
American, Russian and French Generals  
Accept Surrender in Eastman  
Headquarters, a Photo Show

**ARMED GREAT OF GREAT RACES FOR ROBERT**  
Security Guard at Military Force of Germany  
Surrendered to Soviet in France, in the  
Soviet and French in Paris, Italy

# Victory Day

**EXTRA THE DEMOCRAT V-E Edition**  
**WAR IN EUROPE ENDS!**  
**Nazis Surrender Unconditionally**  
Capitulation Terms Signed at Reims

**The Rise And Fall Of Nazi Germany**

**Reims, France—(AP)—Germany has**  
surrendered unconditionally to the western Allies and Russia at 2:45 p. m. French time today.

**Capitulation Terms Signed at Reims**

The surrender was signed at a time when the Allies were closing in on Berlin. The German High Command had no choice but to accept the terms of the Allies. The surrender was signed at Reims, France, in the presence of the Allied Commanders-in-Chief and the German High Command.

**Daily Mirror**  
**BRITAIN'S DAY OF REJOICING**

**Cheering their "Winnie"**

**Minute past midnight**

More than 100,000 people gathered in the streets of London to celebrate the end of the war. The crowd was estimated to be the largest in the city's history. The celebration was held in the city of London, where the war had been fought for many years.

# 8th May 1945 V day

**8th MAY 1945**  
**VICTORY DAY**  
WITH LOVING MEMORY  
TO ALL THE FALLEN  
AND ALL THE ALLIED HEROES  
WHO RESISTED

A black and white photograph showing a large crowd of people celebrating Victory Day. In the foreground, a man in a military uniform is embracing a woman. The background is filled with people, some in uniform and some in civilian clothes, all appearing to be in a state of joy and celebration.



**17<sup>th</sup> July 1945  
to  
2<sup>nd</sup> August 1945**

**Potsdam Conference**



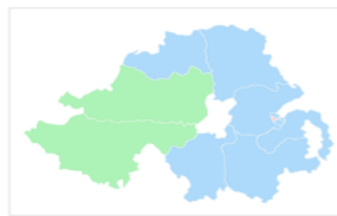
5<sup>th</sup> July 1945

1945 U K Election

To

26<sup>th</sup> July 1945

1945 General Election



Universities:

- Belfast
- Cambridge
- London
- Oxford
- Wales
- Combined English
- Combined Scottish

Key:

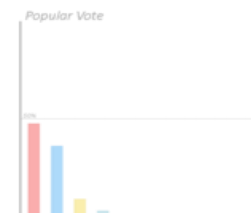
- Labour
- Conservative
- Liberal
- National Liberal
- National
- Common Wealth
- Communist
- Nationalist
- Independent Labour
- Labour Independent
- Conservative Independent
- Progressive Independent
- Liberal Independent
- Independent



Clement Atlee, Labour PM 1945 - 1951



Winston Churchill, Conservative PM  
1940 - 1945; 1951 - 1955



**6<sup>th</sup> Aug 1945 : Hiroshima**

**9<sup>th</sup> Aug 1945 : Nagasaki**

**15<sup>th</sup> Aug 1945 : World War II ends**





# Clement Atlee - Election promise to grant independence to colonies



**Aug 1945: Lord Wavell, Viceroy of India submits report to British Cabinet**

- ❖ Britain ravaged by War, militarily and economically weak
- ❖ Differences between Muslim League and Congress
- ❖ Difficult to maintain Law and Order



**March 1946**

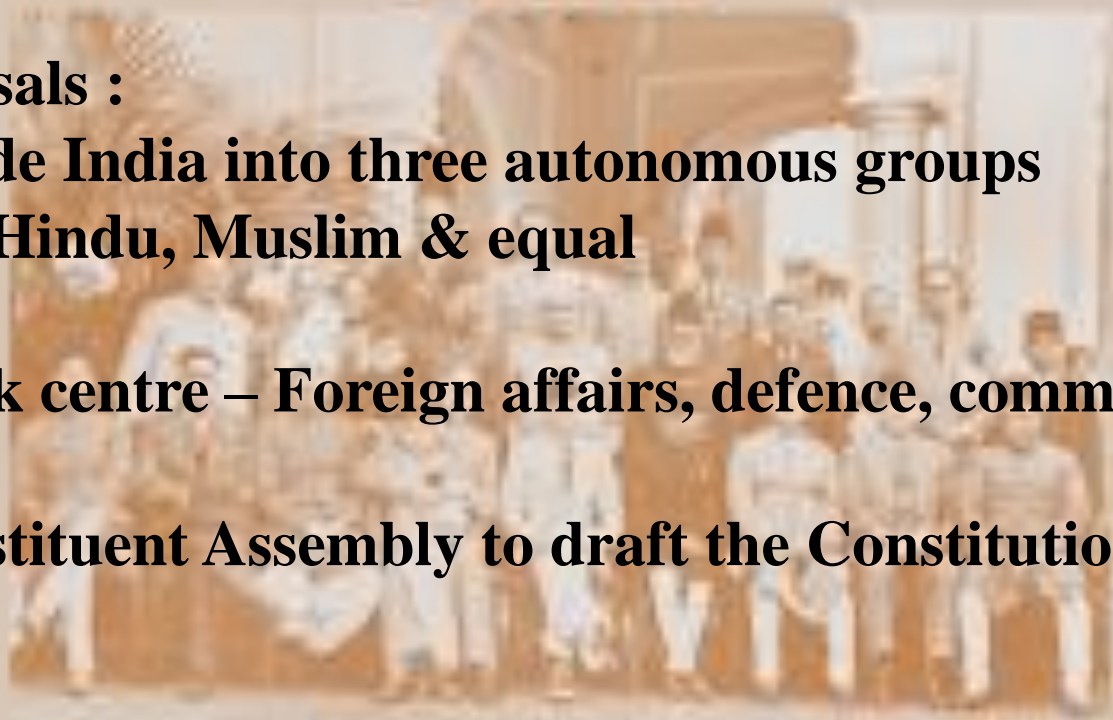
- **Cabinet Mission Plan (CMP)**
- **Cripps, P. Lawrence & Alexander**

## **1946 Cabinet Mission to India**

**16<sup>th</sup> May 1946**

**Proposals :**

- **Divide India into three autonomous groups**
  - **Hindu, Muslim & equal**
- **Weak centre – Foreign affairs, defence, communications**
- **Constituent Assembly to draft the Constitution.**

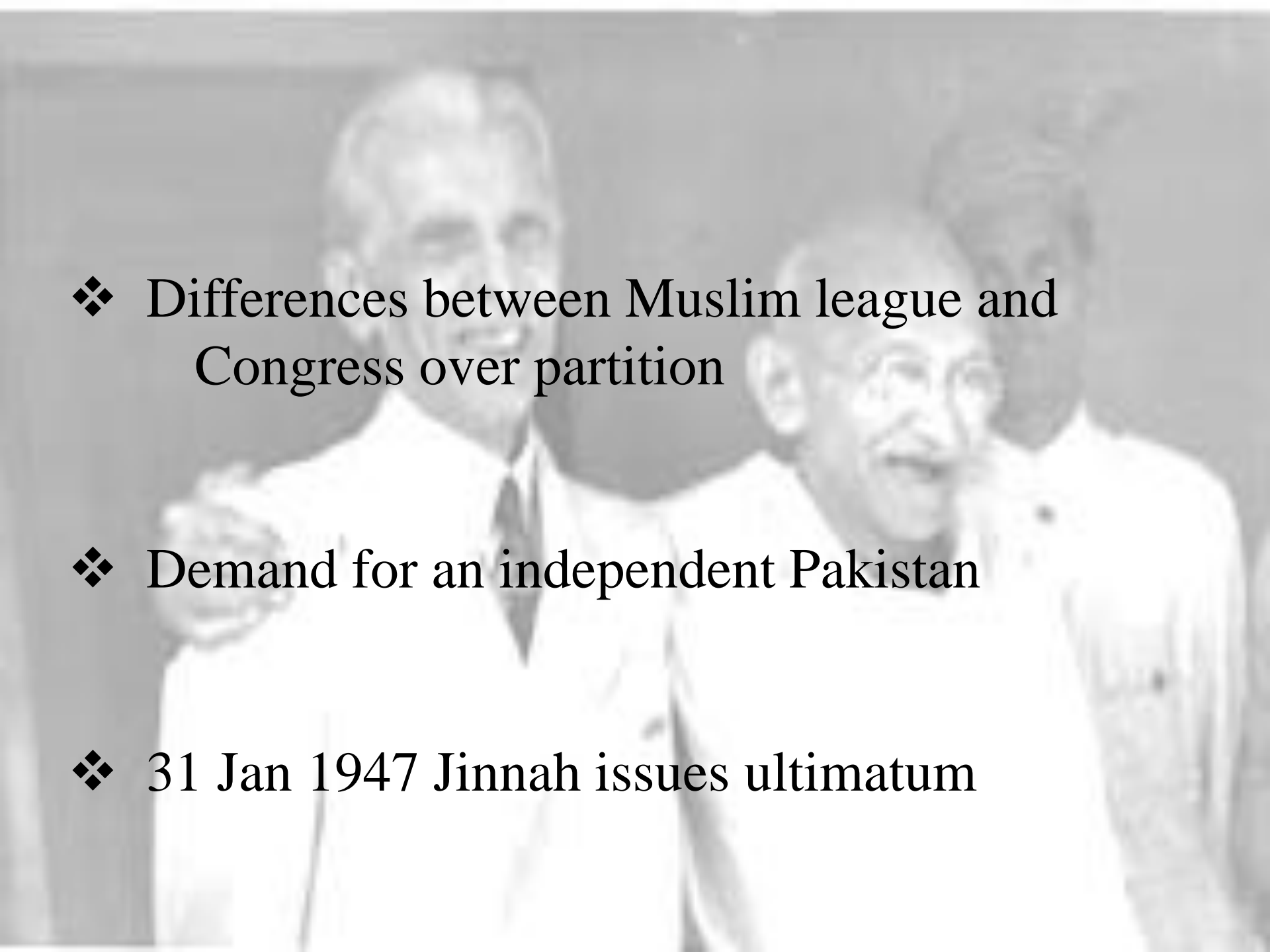




## 29<sup>th</sup> July 1946

- Constituent Assembly meets for the first time (preliminary)
- Muslim League boycotts
- 217 members elected through the provincial legislatures
- 6<sup>th</sup> Schedule to Government of India Act
- No universal adult franchise
- 28.5% of population eligible to vote
- Matriculates, Taxpayers and landed property owners



- 
- ❖ Differences between Muslim league and Congress over partition
  - ❖ Demand for an independent Pakistan
  - ❖ 31 Jan 1947 Jinnah issues ultimatum



**20 Feb 1947**

- ❖ Atlee makes statement in house of commons
- ❖ Transfer of power latest by Jan 1948

**22<sup>nd</sup> March 1947**

- **Mountbatten replaces Wavell**

Atlee : Keep India united if you can.

If not, save something from the wreck

In any case, get Britain out



**3<sup>rd</sup> June 1947**

❖ **Mountbatten plan**

- **Partition of India**
- **Independence by 15<sup>th</sup> August 1947.**



# Indian Independence Act

- ❖ Two independent States from 15<sup>th</sup> August 1947
- ❖ Partition of Bengal and Punjab
- ❖ Two separate Constituent Assemblies, which shall become the legislatures of the two independent Nations
- ❖ This marked the end of British Rule on Indian subcontinent and birth of two sovereign Nations – India and Pakistan.

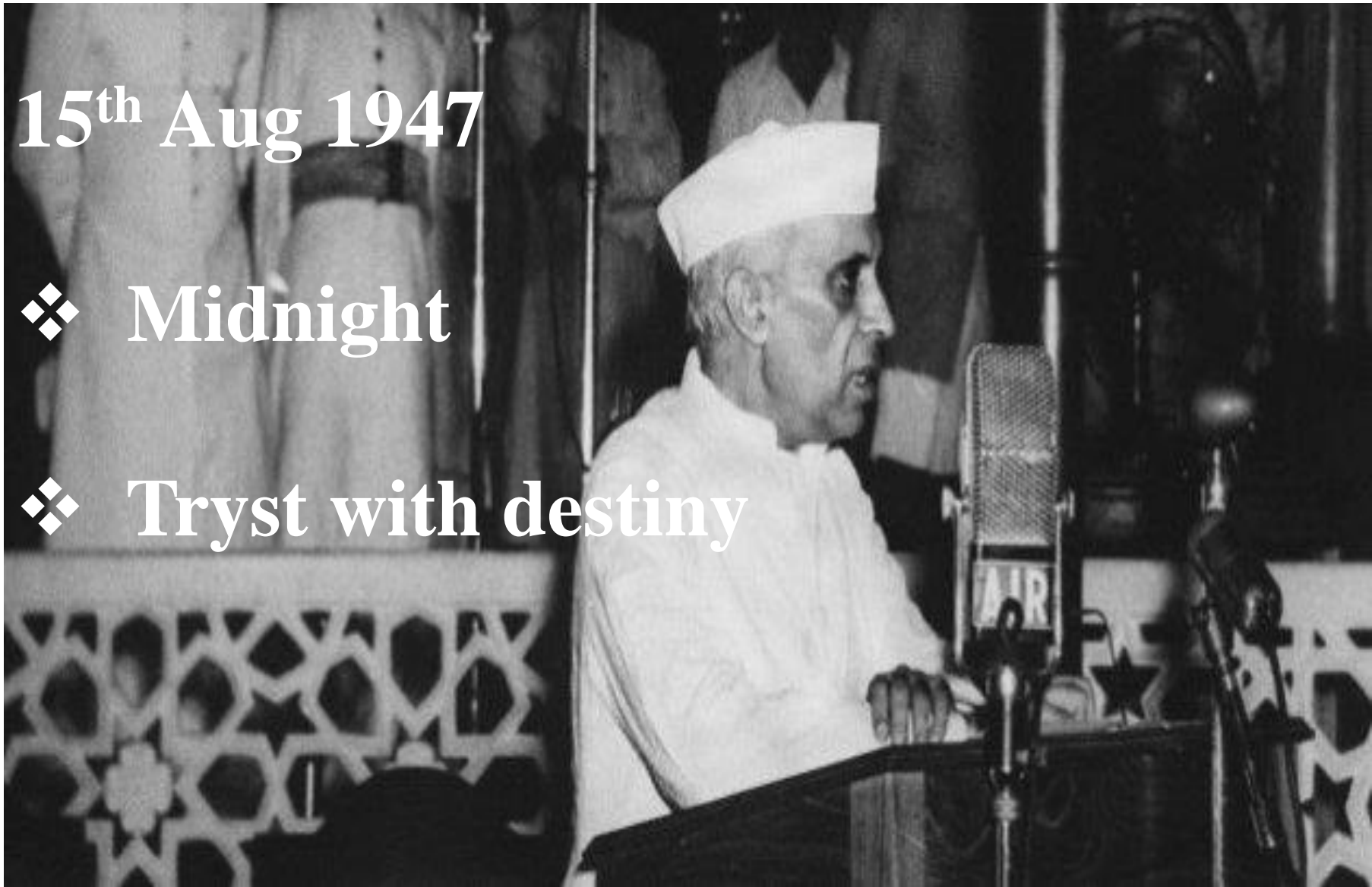




15<sup>th</sup> Aug 1947

❖ Midnight

❖ Tryst with destiny



**October 1947: Draft Constitution prepared by Dr B N Rau Reddy**



**Feb 1948: Draft Constitution approved by Dr B R Ambedkar committee**

**Oct 1948 to Oct 1949: For 11 months CA in session**

**Clause by clause consideration of Draft Constitution**

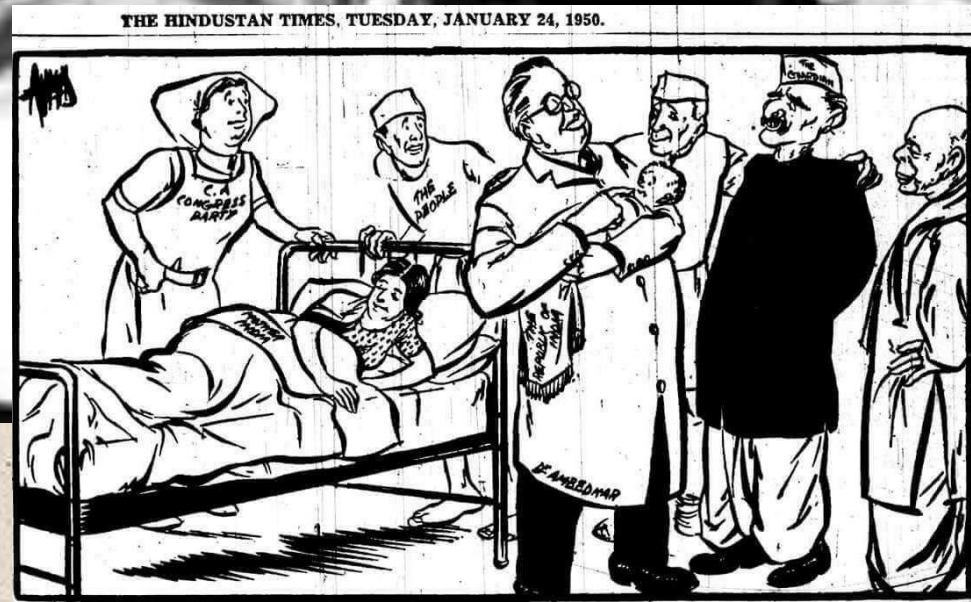
- **No separate electorate for minorities**
- **Special protection of SC/ST**
- **Distribution of power between Centre and State**
- **Draft revised Constitution – 395 Articles and 8 Schedules**



17<sup>th</sup> Nov 1949 : Dr. Ambedkar moves resolutions for adoption of the Constitution

26<sup>th</sup> Nov 1949: Constitution is adopted by Dr. Rajendra Prasad

26<sup>th</sup> Jan 1950  
Date of commencement of the Constitution  
(Article 394)





## Constituent Assembly :

- Statesmen and visionaries
- Conscious that they were representing hardly 28.5% of the population
- Constitution has to reflect best in the **past** traditions of the nation
- Constitution has to provide considered response to the needs of the **present**
- Constitution has to possess enough resilience to cope with demands of the **future**





**No generation can claim monopoly over wisdom or put fetters on future generations.**

**“Each generation must be considered as a distinct nation, with a right of the will of the majority to bind themselves, but none to bind the succeeding generations more than the inhabitants of another country”.**

**-Jefferson**





**A Constitution states, or ought to state, not the rules of passing hour, but the principles for an expanding future.**  
**- Chief Justice John Marshall**

MAGNA  
CARTA

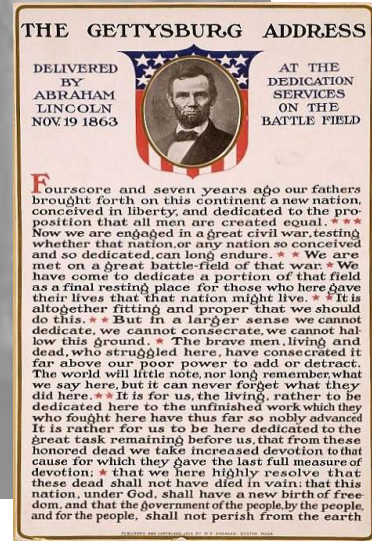
The Foundation of Freedom  
1215-2015



- Constitution represents the will of the people
- The real sovereign in a democracy is the people
- Democracy is nothing but the government by the consent of the people

**Democracy is government of the people, by the people and for the people.**

**- Abraham Lincoln**





- ❖ People have inalienable rights.
- ❖ However, in order that such rights can be effectively enjoyed, there is necessity of some form of government, which not only recognizes such rights, but, if need be, enforces such rights.
- ❖ Order without liberty and liberty without order are mutually destructive - Ted Roosevelt
- ❖ Freedom without boundaries is like river without banks.



# Impact of

- **Great traditions of this great nation**
- **National freedom struggle**
- **Social and economic divisions**
- **Magna Carta : 1215**
- **French revolution: 1789 – 1799**
- **U S Constitution : 1787**
- **Bill of rights: 1791**
- **Montesquieu theory of separation of powers :**



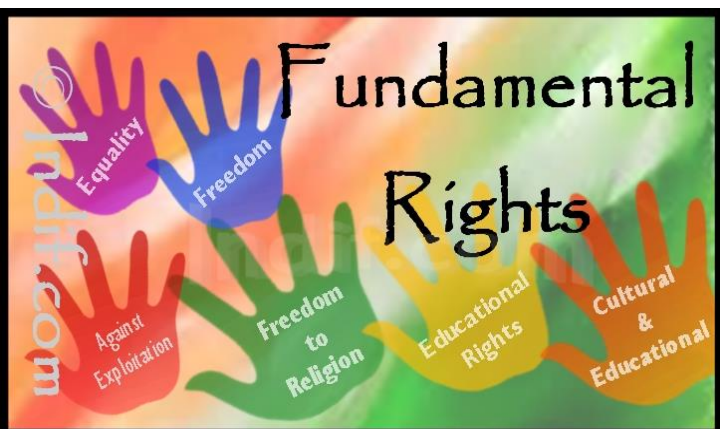



## **Impacts of**

- **British North America Act, 1861 (Canada)**
- **The Commonwealths of Australia Act, 1900**
- **Government of India Act, 1935**
- **Constitution of Free State of Ireland**
- **Constitution of Japan**

- ❖ **Part III Fundamental rights**
- ❖ **Part IV Directive Principles of State Policy**
- ❖ **Delicate balance between idealism (Part IV) and practicalities (Part III)**

FUNDAMENTAL RIGHTS &  
DIRECTIVE PRINCIPLES OF STATE  
POLICY



 Directive principles of state policy in India



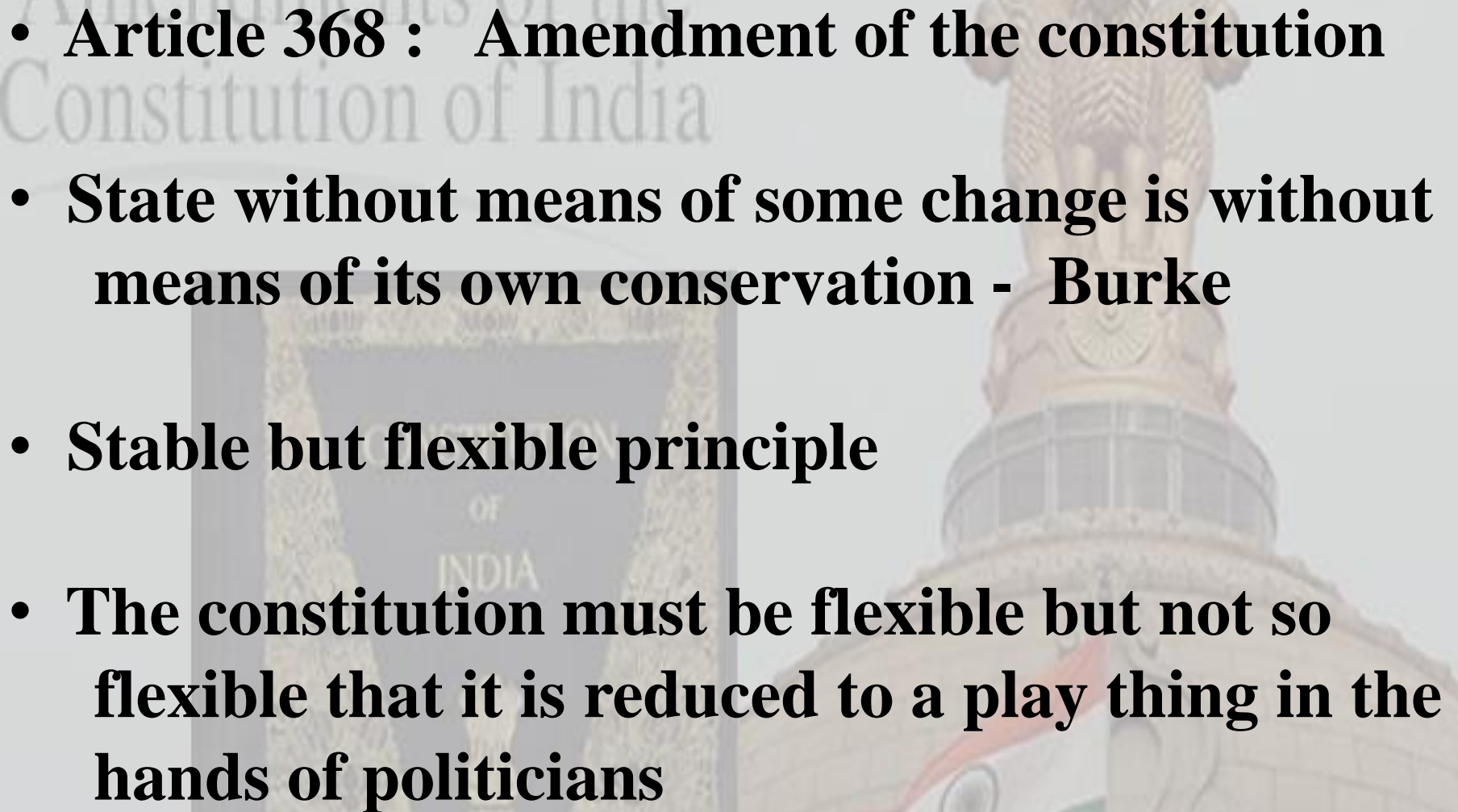
**Directive Principles of State Policy**



सत्यमेव जयते





- 
- **Article 368 : Amendment of the constitution**
  - **State without means of some change is without means of its own conservation - Burke**
  - **Stable but flexible principle**
  - **The constitution must be flexible but not so flexible that it is reduced to a play thing in the hands of politicians**

**Liberty means responsibilities.  
That is why most men dread it.**

**- G B Shaw**

