

SPIRIT OF THE INDIAN CONSTITUTION - POLITY

NEWS: Recently, Lok Sabha Speaker Om Birla addressed the “**Parliamentary Action for Social Development and Justice**” at the historic **150th Assembly of Inter-Parliamentary Union (IPU)** at Tashkent, Uzbekistan.

- He highlighted “**the spirit of the Indian Constitution** is to treat all citizens equally, provide them with equal opportunities, and **integrate the marginalized and backward sections** of society into the ‘**mainstream of progress.**”

Spirit of the Indian Constitution

- The **Indian Constitution** is not just a legal document but embodies the **values, aspirations, and ideals** of the nation.

“The Constitution is not a mere lawyers’ document, it is a vehicle of Life, and its spirit is always the spirit of Age.” – B R Ambedkar

- It reflects the **philosophy of justice, liberty, equality, and fraternity** as enshrined in the **Preamble**.
- The **spirit of the Constitution** lies in its **inclusive, welfarist, and democratic nature**, ensuring **equal opportunities** for all citizens.

Key Principles of the Constitution’s Spirit

- **Sovereign, Socialist, Secular, Democratic, Republic**
 - **Sovereign:** India is free from external control and has supreme authority over its governance.
 - **Socialist:** Commitment to reducing inequalities (added by the **42nd Amendment, 1976**).
 - **Secular:** No state religion; equal respect for all faiths (added by the **42nd Amendment, 1976**).
 - **Democratic:** Power rests with the people through elected representatives.
 - **Republic:** Head of state (President) is elected, not hereditary.
- **Justice (Social, Economic, Political)**
 - **Social Justice:** Removal of discrimination (e.g., **abolition of untouchability** under **Article 17**).

- **Economic Justice:** Reducing wealth disparities (e.g., **Directive Principles of State Policy – DPSPs**).
- **Political Justice:** Equal voting rights (**Universal Adult Franchise**).
- **Liberty (Thought, Expression, Belief, Faith, Worship)**
 - Guaranteed under **Fundamental Rights (Articles 19-22)**.
 - Ensures **freedom of speech, religion, and movement**.
- **Equality (Status & Opportunity)**
 - **Article 14:** Equality before law.
 - **Article 15:** Prohibition of discrimination.
 - **Article 16:** Equal opportunity in public employment.
- **Fraternity (Unity & Integrity of the Nation)**
 - Promotes **national integration** and **dignity of the individual**.
 - **Fundamental Duties (Article 51A)** reinforce this spirit.

Inter-Parliamentary Union (IPU)

- The IPU, established in **1889**, is the **global organization of national parliaments**.
- **Vision:** A world where every voice counts, and where parliaments serve the people for peace and development.
- **Mission:** To promote **democratic governance, institutions, and values** by:
 - Working with **parliaments and parliamentarians**
 - Responding to the **needs and aspirations** of people
- **Headquarters:** Geneva, Switzerland
 - **Offices:** New York (USA) and Vienna (Austria)
- **Members:** 182 National Parliaments
 - **Associate Members:** 15
 - **India:** Founding member

- **Financing:** Primarily funded by **Member Parliaments** through **public funds**

Constitutional Provisions Reflecting the Spirit

- **Fundamental Rights (Part III):** Protect individual freedoms (e.g., **Right to Equality, Freedom of Speech**).
 - **Article 32:** Right to Constitutional Remedies (“**Heart & Soul of the Constitution**” – Dr. B.R. Ambedkar).
- **Directive Principles of State Policy (Part IV):** Welfare state principles (e.g., **equal pay for equal work, free legal aid**).
 - **Article 39A:** Free legal aid for the poor.
- **Fundamental Duties (Part IV-A)**
 - **Article 51A:** Duties like respecting the Constitution, promoting harmony.
- **Parliamentary Democracy & Federalism: Balanced Centre-State relations with independent judiciary** as arbiter.
 - **Judicial Review** ensures constitutional supremacy.
- **Inclusive Growth & Social Justice: Reservation policies (Articles 15(4), 16(4))** for SCs/STs/OBCs.
 - **Rights of Persons with Disabilities Act, 2016 & Transgender Persons Act, 2019.**

Instances of history when Indian constitutional values has been let down

- **The Emergency (1975–77) – Breakdown of Constitutional Morality**
 - **Indira Gandhi’s government** imposed **Emergency** under Article 352, suspending **Article 21 (Right to Life & Liberty)** and **Article 19 (Freedom of Speech)**.
 - Civil liberties were suspended, press was censored, and opposition leaders were jailed.
- **Shah Bano Case and Aftermath (1985–86) – Undermining Equality and Secularism**
 - Shah Bano, a Muslim woman, was granted alimony under **Section 125 of CrPC**.

- Supreme Court upheld her right, but the government overturned the judgment by enacting the **Muslim Women (Protection of Rights on Divorce) Act, 1986** under political pressure.
- **Caste-Based Violence and Discrimination: Melavalavu Massacre (1997, Tamil Nadu)**
 - Elected Dalit panchayat president and five others were **brutally murdered by upper-caste individuals**.
 - The incident symbolized **deep-rooted caste hatred** and the **failure of the State to protect Dalit representation** in democratic institutions.
- **Section 66A of the IT Act (2000) – A Blow to Freedom of Speech**
 - **Section 66A of the IT Act** criminalized vague online speech, leading to arbitrary arrests and stifling dissent.
 - It was struck down in *Shreya Singhal v. Union of India (2015)* for violating **Article 19(1)(a)** of the Constitution.

Judicial Interpretations Strengthening the Spirit of the Indian Constitution

- **Basic Structure Doctrine**
 - **Kesavananda Bharati v. State of Kerala (1973)**: Parliament can amend the Constitution, but **cannot alter its “basic structure”**.
 - Basic structure includes: **Supremacy of the Constitution, Rule of Law, Separation of Powers, Judicial Review, and Fundamental Rights**.
 - This ruling is a **safeguard against authoritarianism** and arbitrary power.
 - **Preserves the integrity and spirit of the Constitution.**
- **Expanded Interpretation of Article 21 – Right to Life**
 - **Maneka Gandhi v. Union of India (1978)**: Interpreted Article 21 to include **procedural due process**.
 - Right to life = not mere animal existence, but **dignified living**.
 - **Francis Coralie Mullin Case (1981)**: Right to life includes **shelter, livelihood, health, education, and dignity**.

- Transformed Article 21 into a **reservoir of human rights**.
- **Equality & Social Justice**
 - **Indra Sawhney v. Union of India (Mandal Case) (1992):** Upheld **reservations for OBCs** under Article 16(4).
 - Introduced the **creamy layer** concept to protect true beneficiaries.
 - **State of Tamil Nadu v. K. Shyam Sunder (2011):** Upheld **uniform quality of education** as part of equality (Article 14).
 - Aimed to **bridge social and educational disparities**.
 - Emphasizes **inclusive development and affirmative action**.
- **Public Interest Litigation (PIL) – A Social Revolution**
 - **S.P. Gupta v. Union of India (1981):** Relaxed the doctrine of locus standi, enabling **PILs**.
 - **Bandhua Mukti Morcha v. Union of India (1984):** Enforced **rights of bonded laborers** under Article 21.
 - **Vishaka v. State of Rajasthan (1997):** Laid down **guidelines against sexual harassment** at the workplace.
 - PILs empowered courts to become **guardians of the voiceless and marginalized**.
- **Environmental Justice**
 - **MC Mehta series of cases:** Introduced **polluter pays principle** and **precautionary principle**.
 - Connected **right to a clean environment** with **Article 21**.
 - Reflected the spirit of **intergenerational equity and sustainable development**.
- **Judicial Review and Constitutional Supremacy**
 - **Minerva Mills v. Union of India (1980):** Reinforced the balance between **Fundamental Rights and Directive Principles**.
 - Struck down parts of the 42nd Amendment as **violating the basic structure**.

- **I.R. Coelho v. State of Tamil Nadu (2007):** Judicial review extended to laws placed under the **9th Schedule** if they violate fundamental rights.
- Ensures **rule of law and supremacy of the Constitution** over legislative overreach.
- **Gender and LGBTQ Rights**
 - **Navtej Singh Johar v. Union of India (2018): Decriminalized homosexuality** (struck down Section 377 IPC).
 - Upheld **dignity, equality, and privacy**.
 - **Joseph Shine v. Union of India (2018):** Struck down **Section 497 IPC** (adultery) as unconstitutional.
 - Reinforced **individual rights, dignity, and progressive values**.
- **Right to Privacy as Fundamental Right**
 - **K.S. Puttaswamy v. Union of India (2017):** Declared **Right to Privacy** as part of **Article 21**.
 - Foundation for **data protection and informational autonomy**.
 - Evolved the Constitution to deal with **21st-century digital challenges**.
- **Secularism and Religious Freedom**
 - **Shayara Bano v. Union of India (2017):** Declared **Triple Talaq** unconstitutional.
 - Upheld **gender justice and equality** within the framework of religious freedom.
 - Balanced **secularism, rights of minorities, and women's empowerment**.
- **Judiciary as Sentinel on the Qui Vive (Watchful Guardian)**
 - The **Supreme Court in multiple cases** has stepped in where executive or legislative actions failed to uphold:
 - **Social Justice**
 - **Accountability**
 - **Constitutional Governance**
 - Justice Bhagwati: **“Judges must be judicial statesmen with a social vision and commitment to the Constitution.”**

Recent Legislative & Policy Measures Reflecting Constitutional Spirit

- **Bharatiya Nyaya Sanhita (BNS), 2023 – Criminal Law Reforms**
 - **Replaces the colonial Indian Penal Code (IPC), 1860.**
 - Focuses on: **Justice-oriented framework** over punishment-centric law.
 - Defines terrorism, organized crime, and hate crimes.
 - Includes **victim-centric provisions** like zero FIR and mandatory forensic investigation.
 - **Strengthens justice delivery**, promotes **rule of law**, aligns with **constitutional morality**.
- **Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023**
 - **Replaces the Criminal Procedure Code (CrPC), 1973.**
 - **Key Reforms:**
 - **Mandatory forensic investigation** for crimes punishable by 7+ years.
 - **Digital FIRs & Zero FIR** to improve accessibility.
 - **Time-bound trials** (judgment within 45 days after arguments).
 - **Constitutional Link:** Ensures **speedy justice (Article 21)** and **police accountability**.
- **Bharatiya Sakshya Adhinyam (BSA), 2023**
 - **Replaces the Indian Evidence Act, 1872.**
 - **Key Changes: Electronic records (emails, digital contracts) as primary evidence.**
 - **Expands admissibility of digital evidence** (e.g., CCTV, social media posts).
 - **Strengthens fair trial rights (Article 20, 21).**
- **Transgender Persons (Protection of Rights) Act, 2019**
 - **Prohibits discrimination** in education, employment, healthcare.
 - **Mandates welfare measures** (e.g., rescue, rehabilitation).
 - Upholds **dignity (Preamble) & equality (Articles 14-18)**.

- **Hamara Samvidhan, Hamara Samman Campaign (2024)**
 - **Promotes constitutional awareness** (e.g., Preamble reading, legal literacy).
 - **Sub-campaigns:**
 - **Sabko Nyay, Har Ghar Nyay** (access to justice).
 - **Vidhi Jagriti Abhiyan** (legal rights awareness).
 - **Constitutional Link: Citizen empowerment (Preamble, Article 51A).**
- **Nari Shakti Vandan Adhiniyam (106th Constitutional Amendment), 2023**
 - Reserves **33% seats for women** in Lok Sabha and State Assemblies.
 - Seen as a major step toward **gender justice** and **political empowerment**.
- **Ayushman Bharat – PM-JAY**
 - Provides **free health insurance** up to ₹5 lakhs to the bottom **40% of India's population**.
 - Targets **universal health care** and inclusion of vulnerable populations.
- **Rights of Persons with Disabilities Act, 2016**
 - Expands definition of disability to include **21 conditions**.
 - Provides for **non-discrimination, accessibility, education, and employment opportunities**.
 - Mandates **reservation in education and jobs**.
- **Transgender Persons (Protection of Rights) Act, 2019**
 - Recognizes **transgender identity** and prohibits **discrimination**.
 - Mandates the government to ensure **welfare measures**, education, and healthcare access.

Reflecting Constitutional Ideals through Parliamentary Committees

- **Principle of Separation of Powers:** While the doctrine is not rigidly applied in India, Committees play a key role in maintaining **functional boundaries** between the legislature and executive.
 - Through **oversight functions**, they ensure the **executive remains answerable to the legislature**, preserving institutional checks and balances.

- **Example:** Public Accounts Committee (PAC) audits government expenditure using CAG reports, ensuring financial discipline.
- **Rule of Law:** Committees scrutinize laws and executive actions, reinforcing that all actions must conform to the **Constitution and legal norms**.
 - Their **non-partisan, evidence-based** approach helps prevent arbitrary law-making and promotes **legislative integrity**.
 - **Example:** Standing Committees often send Bills back with legal and constitutional concerns, leading to revisions or withdrawal.
- **Democratic Ideals: Representation and Participation:** Committees include members from **across parties and states**, ensuring broad-based **representation** and reducing majoritarian dominance.
 - Provide a forum for **in-depth debate**, deliberation, and consultation, promoting **participative democracy**.
 - **Example:** Deliberation in the Committee on Food, Consumer Affairs and Public Distribution often involves civil society stakeholders and NGOs.
- **Social Justice and Equality:** Committees review **schemes and bills** targeting weaker sections—SCs, STs, OBCs, women, minorities—aligning with the **constitutional mandate of justice** (social, economic, political).
 - Ensure **equitable allocation** of resources and scrutinize **affirmative action policies**.
 - **Example:** Committee on the Welfare of Scheduled Castes and Scheduled Tribes investigates implementation gaps in welfare schemes.
- **Federalism:** With members drawn from across states, Committees allow **regional concerns** to be voiced in national policy-making.
 - Acts as a **bridge** between Centre and States in legislative matters, particularly in Union-State subjects.
 - **Example:** Department-related committees bring together MPs from all states to discuss centrally sponsored schemes, ensuring a federal lens.
- **Transparency and Accountability:** Committees foster **institutional accountability** by reviewing the functioning of ministries and departments.
 - Their reports are laid before Parliament and are often debated, thus promoting **transparency in governance**.
 - **Example:** The Committee on Public Undertakings evaluates efficiency and integrity of PSUs.

- **Constitutional Morality and Ethical Governance:** Encourage adherence to **constitutional values** like fraternity, secularism, and probity in public life.
 - Through **privileges committees** and **ethics panels**, they ensure that public representatives uphold the dignity of Parliament and public trust.

Challenges to the Constitutional Spirit

- **Executive Dominance over Legislature**
 - **Parliamentary Committees sidelined:** A declining trend in referring Bills to committees undermines detailed scrutiny and deliberation.
 - In the **17th Lok Sabha (2019–2024)**, **less than 16%** of bills were referred to committees.
 - **Ordinance route:** Frequent use of ordinances bypasses legislative debate, diluting parliamentary sovereignty (Article 123 misuse).
 - **Whip culture:** Stifles independent thought and reduces MPs to rubber stamps, contrary to the idea of **free and reasoned debate**.
- **Politicization and Partisanship**
 - Committees often face **political bias in appointments** and functioning, limiting objective analysis.
 - Deliberations sometimes reflect **party lines** instead of public interest, weakening the **non-partisan ideal** of committees.
- **Lack of Binding Authority**
 - Committee **recommendations are advisory**, not binding.
 - The **executive may ignore suggestions**, especially if politically inconvenient, reducing committees to symbolic relevance.
- **Poor Attendance and Lack of Debate**
 - Many MPs **skip committee meetings**, and discussions are not always substantive.
 - Affects the quality of reports and violates the principle of **effective legislative participation**.
- **Judicial Overreach and Activism**
 - At times, courts are accused of encroaching into legislative and executive domains (e.g. guidelines issued in the absence of laws).

- This **disturbs the separation of powers** (a basic structure of the Constitution) and reflects **judicial adventurism**.
- However, judicial intervention is sometimes necessary when other branches fail to act (e.g. Vishaka Guidelines, 1997).
- **Weakening of Federalism**
 - Centralization of power (especially in fiscal matters post-GST and with central agencies) erodes **cooperative federalism**.
 - States often lack a significant say in national policy decisions, which contradicts the **federal structure envisaged in the Constitution**.
- **Inadequate Empowerment of Committees**
 - Parliamentary Committees **lack expert staff** and technical resources.
 - Many committee reports are **delayed** or **lack follow-up action**, undermining **accountability mechanisms**.
- **Undermining Institutional Ethics**
 - As per **ADR (2024)**, over **44% of MPs** in the current Lok Sabha face criminal charges, undermining institutional integrity.
 - The **Ethics Committees** have limited enforcement powers, impacting the commitment to **constitutional morality**.
- **Public Apathy and Awareness Deficit**
 - Citizens often lack awareness about **committee proceedings or their significance**.
 - This reduces **external pressure on the system** to maintain high standards of accountability and performance.
- **Legislative Vacuum and Judicial Compensations**
 - In several areas (e.g., data protection, hate speech), **delay in legislative action** has led to the judiciary stepping in.
 - Despite multiple SC observations (e.g., **criminal candidates, electoral bonds**), the **Parliament has not acted adequately**, leaving the judiciary to fill policy gaps.

Way Forward for Preserving the Constitutional Spirit

- **Strengthen Committee Systems Statutorily:** Provide **legal backing** to Parliamentary Committees to ensure mandatory referral of major Bills and implementation tracking of recommendations.
 - **Legal backing for mandatory scrutiny** (e.g., UK’s House of Commons Standing Orders mandate committee review for all Bills).
- **Promote Deliberative Democracy:** Ensure **mandatory debate** on key committee reports in Parliament; improve **public consultations** and expert inputs in committee processes.
 - **Mandatory debate** on key reports (e.g., Sweden’s Riksdag debates all committee findings).
- **Balance Institutional Powers:** Enforce **institutional discipline** to maintain separation of powers; judiciary must exercise **self-restraint**, and executive must uphold **parliamentary accountability**.
 - Follow UK’s Ministerial Code, where ministers resign for misleading Parliament.
- **Enhance Transparency and Public Access:** **Live telecast or digital publication** of important committee proceedings can boost awareness and public pressure for ethical governance.
 - An example of **enhancing transparency is India’s Sansad TV**, which broadcasts live parliamentary proceedings and committee meetings to the public.
- **Curb Politicization and Ensure Ethical Oversight:** Appoint **neutral chairpersons**, empower Ethics Committees, and crack down on **conflict of interest and absenteeism** among MPs.
 - Adopt Germany’s Bundestag model, where senior MPs chair committees impartially.
- **Revive Federal Balance:** Strengthen **Inter-State Council** and **GST Council**, ensure states’ participation in national decision-making, especially during crises.
 - **GST Council’s consensus model** worked well initially—expand it to health/education policies.
- **Empower Citizens and Civil Society:** Encourage **citizen-led audits, RTI activism, and PILs** to hold institutions accountable, ensuring constitutional ideals percolate to the grassroots.
 - **SC’s Shreya Singhal (2015)** struck down Section 66A IT Act due to PILs—more such interventions needed.

Conclusion

The **spirit of the Indian Constitution** lies in its vision of a **just, democratic, and inclusive society**. To preserve this spirit, institutions must function within their constitutional limits while remaining responsive to the aspirations of the people they serve.

Source: <https://www.thehindu.com/news/national/in-recent-years-parliament-has-passed-several-laws-that-promote-social-justice-inclusion-lok-sabha-speaker/article69419682.ece>