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# Indian Constitution as a Document of Charitable Trust: A Jurisprudential Analysis of Fiduciary Governance, Constitutional Objectives, and the Doctrine of Basic Structure

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## Abstract

*The Constitution of India is traditionally regarded as the supreme legal instrument governing the political, administrative, and judicial framework of the Republic. Constitutional jurisprudence generally analyses it through concepts such as constitutional supremacy, separation of powers, federalism, judicial review, and the rule of law. This article advances a complementary theoretical framework by interpreting the Constitution through the principles of charitable trust law. While the Constitution is not legally a trust instrument, its structure, objectives, and operational philosophy display several characteristics that resemble the legal relationship between a charitable trust, its trustees, and its beneficiaries. The article argues that the Constitution may be understood as a document of trust established by the sovereign people of India for securing justice, liberty, equality, and fraternity. Within this conceptual framework, the Constitution functions as the trust deed; the people of India constitute the beneficiaries; the Government acts as the trustee entrusted with constitutional authority; the Preamble represents the charitable objects of the trust; Fundamental Rights correspond to the enforceable rights of beneficiaries; and the Directive Principles of State Policy embody the fiduciary obligations of the trustee towards society. The paper further proposes that the Doctrine of Basic Structure bears a functional resemblance to the equitable doctrine of cy-près, as both seek to preserve the foundational purpose of an institution while permitting necessary adaptation to changing circumstances. The study adopts doctrinal legal research supported by constitutional provisions, judicial precedents, trust law principles, the Constituent Assembly Debates, and scholarly literature. It does not contend that the Constitution is legally equivalent to a charitable trust; rather, it presents the trust analogy as an interpretative framework for understanding constitutional governance in fiduciary terms. Such a perspective highlights that governmental power is exercised not as an incident of*

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*ownership but as a public responsibility held on behalf of the people. The analogy also reinforces constitutional accountability, democratic legitimacy, judicial oversight, and the welfare-oriented nature of the Indian State. The article concludes that interpreting the Constitution through the jurisprudence of charitable trusts offers an intellectually coherent and normatively valuable perspective on constitutional governance. It demonstrates that constitutional institutions derive legitimacy from the people, remain bound by constitutional objectives, and exercise authority under continuing obligations of fidelity, transparency, and public welfare.*

***Keywords:*** *Constitution of India, Charitable Trust, Trustee, Beneficiaries, Constitutional Governance, Fiduciary Duty, Preamble, Fundamental Rights, Directive Principles, Basic Structure*

## I. INTRODUCTION

The Constitution of India occupies a unique position in modern constitutional jurisprudence. It is not merely a legal document defining the structure of government; it is the foundational charter through which the sovereign people of India established the institutions of governance and prescribed the principles upon which political authority must be exercised. Since its commencement on 26 January 1950, the Constitution has functioned simultaneously as a legal instrument, a political compact, and a social manifesto intended to transform Indian society through constitutional means.[1]

Constitutional interpretation in India has traditionally been influenced by theories of popular sovereignty, constitutional supremacy, democratic governance, separation of powers, federalism, constitutional morality, and the rule of law. These approaches explain how constitutional institutions function and how governmental powers are limited. Another equally significant jurisprudential perspective, however, remains comparatively underexplored: the relationship between constitutional governance and fiduciary obligations.

The concept of fiduciary responsibility occupies an important place in private law. Trust law, company law, agency law, and guardianship all impose obligations requiring one person to exercise authority for the benefit of another. Trustees do not own trust property for their personal advantage. Instead, they administer it solely to achieve the objectives established by the settlor and for the benefit of the beneficiaries.[2] The law therefore restrains the arbitrary exercise of power and insists upon loyalty, prudence, impartiality, accountability, and good faith.

[1] GRANVILLE AUSTIN, THE INDIAN CONSTITUTION: CORNERSTONE OF A NATION (1966).
[2] The Indian Trusts Act, No. 2 of 1882, INDIA CODE (1882), § 3.

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Remarkably, constitutional governance reflects similar characteristics. Government does not possess sovereign authority as private property. Constitutional power is conferred by the people and must always be exercised within constitutional limitations. Public offices exist not to advance individual interests but to promote collective welfare. Every constitutional institution derives legitimacy from the Constitution, and the Constitution itself derives legitimacy from "We, the People of India."[3]

This article therefore explores whether constitutional governance may be understood through the conceptual language of charitable trust law. Such an approach does not suggest that the Constitution is legally a trust created under the Indian Trusts Act, 1882, or under any legislation governing charitable and religious endowments.[4] Rather, the proposed analogy is theoretical and jurisprudential. It seeks to illuminate constitutional relationships by employing concepts familiar to trust law.

The analogy rests upon several identifiable constitutional correspondences. The Constitution resembles a trust deed establishing a comprehensive framework for administration. The Preamble performs a function analogous to the objects clause of a charitable trust by declaring the purposes for which governmental authority exists. The people constitute the beneficiaries because constitutional institutions are established exclusively for their welfare. Government functions as trustee because it administers constitutional powers that ultimately belong to the people. Fundamental Rights become the enforceable rights of beneficiaries against misuse of trust powers. Directive Principles operate as fiduciary obligations directing trustees towards social and economic justice. Judicial review resembles equitable supervision ensuring faithful administration of the constitutional trust.

Perhaps the most intriguing comparison concerns constitutional amendment. In trust law, the equitable doctrine of *cy-près* allows courts to modify the administration of charitable trusts where literal compliance with the original purpose becomes impossible or impracticable, while preserving the settlor's fundamental intention.[5] Likewise, the Supreme Court's Basic Structure Doctrine permits constitutional amendment but prohibits destruction of the Constitution's essential identity.[6] Although these doctrines arise in different legal contexts and should not be equated doctrinally, they share a common concern with preserving foundational purposes while accommodating institutional evolution.

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[3] INDIA CONST. pmbl.

[4] The Indian Trusts Act, *supra* note 2, § 1 (the Act does not apply to public or private religious or charitable endowments).

[5] SNELL'S EQUITY (John McGhee & Steven Elliott eds., 34th ed. 2020).

[6] *Kesavananda Bharati v. State of Kerala*, AIR 1973 SC 1461, (1973) 4 SCC 225 (India).

The significance of this inquiry extends beyond theoretical interest. Modern constitutional democracies increasingly recognise that public power carries fiduciary responsibilities.[7] Constitutional governance requires integrity, accountability, transparency, and loyalty to constitutional values. Viewing governmental institutions as trustees reinforces these obligations and emphasises that constitutional authority exists solely for public benefit.

The study therefore seeks to demonstrate that trust law provides a valuable analytical vocabulary for understanding constitutional governance. By interpreting constitutional institutions through fiduciary principles, the article offers a coherent framework that integrates constitutional morality, democratic accountability, judicial review, welfare governance, and constitutional continuity into a unified jurisprudential model.

## II. Research methodology

This study adopts a doctrinal method of legal research. The primary objective is to analyse existing constitutional principles through the conceptual framework of charitable trust jurisprudence. The research relies principally upon primary legal materials, including the Constitution of India, constitutional amendments, decisions of the Supreme Court of India, the Constituent Assembly Debates, and statutory provisions relating to trust law. These primary sources are supplemented by leading constitutional treatises, scholarly monographs, peer-reviewed journal articles, comparative constitutional scholarship, and classical works on equity and trust law.

The research is analytical rather than empirical. It does not attempt to establish a statutory identity between constitutional law and trust law. Instead, it examines whether concepts developed within one branch of jurisprudence can illuminate the operation of another. Accordingly, the study employs comparative legal reasoning, purposive interpretation, and jurisprudential analysis to identify structural similarities between constitutional governance and charitable trusts.

The paper also adopts an interdisciplinary approach by integrating principles from constitutional law, equity, fiduciary jurisprudence, political theory, and public law. This methodology enables a broader understanding of constitutional institutions beyond conventional doctrinal boundaries and facilitates the development of a coherent fiduciary model of constitutional governance.

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[7] Evan Fox-Decent, Sovereignty's Promise: The State as Fiduciary (2011).

A conscious effort has been made to distinguish between legal equivalence and conceptual analogy. The Constitution is not treated as a trust instrument in the technical statutory sense. Rather, trust law is employed as an interpretative framework that assists in explaining constitutional relationships, institutional responsibilities, and democratic accountability. Wherever analogies are drawn, the corresponding doctrinal differences are also identified in order to preserve analytical precision.

## III. CONCEPT AND JURISPRUDENCE OF CHARITABLE TRUST

### A. Meaning and nature of a charitable trust

The institution of the trust represents one of the most significant contributions of equity to modern jurisprudence. Originating in English equity, the concept of a trust was developed to ensure that property dedicated to a specific purpose would be administered honestly, fairly, and exclusively for the benefit of designated beneficiaries or for the advancement of public purposes. A trust therefore creates a fiduciary relationship in which the legal ownership of property is separated from its beneficial enjoyment.[8] The trustee possesses legal title, but such ownership is never absolute. Instead, it is burdened with legal obligations requiring the trustee to administer the trust faithfully in accordance with the intention of the settlor and the purposes expressed in the trust instrument.

Unlike contractual relationships, which primarily create reciprocal rights and obligations between parties, a trust establishes continuing obligations founded upon confidence, loyalty, and accountability. The trustee cannot exercise powers arbitrarily or for personal advantage. Every decision must further the objects of the trust and protect the interests of those for whom the trust exists. Equity therefore regards trustees as fiduciaries whose authority is inseparable from responsibility.

The Indian legal system recognises this fiduciary conception through both statutory law and judicial decisions. Although the Indian Trusts Act, 1882 primarily governs private trusts, public religious and charitable trusts have historically been regulated through principles of equity, judicial precedent, and special legislation enacted by different States.[9] Consequently, the jurisprudence governing charitable trusts extends beyond the statutory provisions contained in

[8] LEWIN ON TRUSTS (Lynton Tucker, Nicholas Le Poidevin & James Brightwell eds., 20th ed. 2020); The Indian Trusts Act, *supra* note 2, § 3 (defining a trust as an obligation annexed to the ownership of property, arising out of a confidence reposed in and accepted by the owner for the benefit of another).

[9] The Indian Trusts Act, *supra* note 2, § 1; B.K. MUKHERJEA, THE HINDU LAW OF RELIGIOUS AND CHARITABLE TRUSTS (A.C. Sen ed., 5th ed. 1983); D.F. MULLA, PRINCIPLES OF MAHOMEDAN LAW (24th ed. 2025); *Ratilal Panachand Gandhi v. State of Bombay*, AIR 1954 SC 388 (India) (Bombay Public Trusts Act, 1950).

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the Indian Trusts Act and reflects broader equitable principles developed by courts over several centuries.

A charitable trust differs fundamentally from a private trust. In a private trust, identifiable beneficiaries enjoy beneficial interests in the trust property. In a charitable trust, however, the beneficiaries are either the public at large or a sufficiently large section of the public.[10] The object is not private enrichment but public welfare. Property dedicated to charity cannot ordinarily revert to the settlor merely because circumstances change. Instead, courts seek to preserve the charitable purpose and ensure that the trust continues to serve society.

This public character of charitable trusts provides an important conceptual foundation for understanding constitutional governance. Like a charitable trust, constitutional authority exists not for private benefit but for public welfare. Public power is entrusted to constitutional institutions with the expectation that it will be exercised honestly, fairly, and exclusively for the benefit of the people.

**B. Essential elements of a charitable trust**

The law relating to charitable trusts identifies several essential components that collectively create the fiduciary structure of the institution. These components provide a useful analytical framework for understanding the constitutional analogy developed in this article.

**i. Settlor**

Every trust originates with a settlor who voluntarily dedicates property to a lawful purpose. The settlor determines the objectives of the trust and expresses the principles according to which it shall be administered.

In the constitutional context, the sovereign people of India collectively occupy a position analogous to that of the settlor. The opening words of the Preamble, "We, the People of India", affirm that constitutional authority originates from the people themselves.[11] The Constitution is therefore not granted by a monarch or an external sovereign but established by the people acting through the Constituent Assembly.

The people thus determine the constitutional objectives that governmental institutions are expected to pursue.

[10] *Morice v. Bishop of Durham* (1805) 10 Ves. Jr. 522, 32 Eng. Rep. 947; *Mahant Ram Saroop Dasji v. S.P. Sahi*, AIR 1959 SC 951 (India) (distinguishing public from private religious trusts).
[11] INDIA CONST. pmbl.

 

**ii. Trust property**

Every trust requires identifiable trust property. Such property may consist of movable or immovable assets, money, securities, intellectual property, or any transferable legal interest recognised by law. Constitutional governance does not involve trust property in the conventional proprietary sense. Nevertheless, governmental authority, legislative competence, executive power, judicial authority, public finances, natural resources, and constitutional offices collectively constitute public powers entrusted for administration within a territorial jurisdiction. These constitutional powers resemble trust property because they are held not in private ownership but for public benefit. The Government does not own sovereign authority. Rather, it administers constitutional powers that ultimately belong to the people.

**iii. Trustee**

The trustee occupies the central position within every trust. Equity imposes stringent duties upon trustees because they exercise powers capable of affecting the interests of others. The trustee must act honestly; exercise reasonable care and prudence; avoid conflicts of interest; maintain impartiality; preserve the trust property; administer the trust according to its objects; and remain accountable before the courts.[12] Failure to discharge these obligations may constitute a breach of trust.

Similarly, constitutional authorities exercise public power under continuing legal limitations imposed by the Constitution. Ministers, legislators, civil servants, constitutional authorities, and public institutions cannot legitimately employ constitutional powers for personal advantage. Their authority remains fiduciary in character because it exists exclusively to advance public welfare.

**iv. Beneficiaries**

Beneficiaries constitute the ultimate purpose of every trust. Without beneficiaries, fiduciary obligations lose their practical significance. In charitable trusts, beneficiaries may not always be individually identifiable. The benefit frequently extends to the public generally or to a sufficiently large section of society. The Constitution displays an analogous structure. Every constitutional institution ultimately exists for the benefit of the people of India. Government derives legitimacy from public consent and remains answerable to citizens through elections, constitutional remedies, judicial review, and democratic accountability. The people therefore resemble the beneficiaries of the constitutional trust.

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[12] The Indian Trusts Act, *supra* note 2, §§ 11–19, 51; LEWIN ON TRUSTS, *supra* note 8.

### v. Charitable object

Every charitable trust must pursue lawful charitable purposes. Traditionally, these include the relief of poverty, the advancement of education, the advancement of religion, the protection of public health, and other purposes beneficial to society.[13] The constitutional equivalent of charitable objects is found in the Preamble.[14] Justice, liberty, equality, fraternity, democracy, secularism, socialism, and national unity collectively define the constitutional objectives that governmental institutions are expected to realise. Thus, both charitable trusts and constitutional governance are organised around clearly defined public purposes.

## C. Fiduciary obligations in trust law

The distinguishing feature of trust law is the fiduciary obligation imposed upon trustees. Fiduciary relationships require one person to exercise discretionary authority exclusively for the benefit of another. The law therefore subjects fiduciaries to standards significantly higher than those applicable to ordinary contractual relationships.[15] The principal fiduciary obligations include loyalty, honesty, prudence, impartiality, accountability, confidentiality, and good faith. Trustees must avoid self-dealing, conflicts of interest, and misuse of trust property.[16] Even where trustees possess broad discretionary authority, such discretion must always be exercised consistently with the purposes of the trust.

These equitable principles possess striking constitutional significance. Constitutional authorities routinely exercise broad discretionary powers affecting millions of citizens. Executive decisions determine the allocation of public resources, the implementation of welfare programmes, the appointment of public officials, the regulation of economic activity, and the protection of civil liberties. Legislative bodies enact laws affecting every aspect of social life. Courts interpret constitutional provisions and resolve disputes involving competing public interests. The legitimacy of these decisions depends not merely upon legality but also upon fidelity to constitutional purposes. Constitutional power therefore resembles fiduciary authority rather than proprietary ownership.

## D. Public trust and constitutional governance

Modern public law increasingly recognises that governmental authority possesses fiduciary characteristics. Public offices are therefore regarded as public trusts requiring integrity, transparency, and accountability. Indian constitutional jurisprudence reflects this understanding

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[13] *Commissioner of Income Tax v. Surat Art Silk Cloth Manufacturers Association*, (1980) 2 SCC 31 (India).
[14] INDIA CONST. pmbl.
[15] SNELL'S EQUITY, *supra* note 5.
[16] The Indian Trusts Act, *supra* note 2, §§ 51–53, 88.

 

in several contexts. The Supreme Court has repeatedly emphasised that holders of public office are accountable to constitutional norms and cannot exercise public authority arbitrarily.[17] The doctrine of constitutional morality, the principle of the rule of law, judicial review, and the Public Trust Doctrine collectively reinforce this fiduciary conception of governance.[18]

The Public Trust Doctrine, developed principally in environmental jurisprudence, provides that certain natural resources, such as rivers, forests, seashores, lakes, and ecological assets, are preserved for public use and cannot be alienated for purely private interests.[19] Although originally applied to environmental resources, the underlying principle possesses broader constitutional significance. It recognises that public authorities administer common resources in trust for present and future generations.[20] This reasoning extends naturally to constitutional governance itself. Public offices, legislative authority, executive powers, public finances, and constitutional institutions may all be viewed as powers held in trust for the people.

**E. Constitutionalism and fiduciary theory**

Constitutionalism seeks to prevent arbitrary government by limiting political power through legal institutions.[21] Trust law pursues a comparable objective by limiting discretionary authority through fiduciary obligations. Both systems reject absolute power. Constitutional supremacy ensures that every public authority remains subordinate to the Constitution. Similarly, trust law ensures that every trustee remains subordinate to the trust instrument.

Judicial review performs a function analogous to the equitable supervision of trusts.[22] Courts ensure that governmental authorities remain within constitutional limits, just as courts exercising equitable jurisdiction compel trustees to administer trusts according to law. Likewise, the constitutional remedies under Articles 32 and 226 permit the beneficiaries, the people, to seek judicial protection against misuse of governmental powers.[23] This constitutional structure resembles the equitable jurisdiction that protects beneficiaries against breach of trust.

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[17] *Vineet Narain v. Union of India*, (1998) 1 SCC 226 (India).
[18] *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1 (India); *Government of NCT of Delhi v. Union of India*, (2018) 8 SCC 501 (India).
[19] *M.C. Mehta v. Kamal Nath*, (1997) 1 SCC 388 (India); Joseph L. Sax, *The Public Trust Doctrine in Natural Resource Law: Effective Judicial Intervention*, 68 MICH. L. REV. 471 (1970), https://repository.law.umich.edu/mlr/vol68/iss3/3.
[20] *Fomento Resorts and Hotels Ltd. v. Minguel Martins*, (2009) 3 SCC 571 (India).
[21] A.V. DICEY, INTRODUCTION TO THE STUDY OF THE LAW OF THE CONSTITUTION (10th ed. 1959).
[22] *L. Chandra Kumar v. Union of India*, (1997) 3 SCC 261 (India).
[23] INDIA CONST. arts. 32, 226.

## IV. The Indian Constitution as a document of charitable trust

### A. A jurisprudential analogy

The Constitution of India is ordinarily described as the supreme law of the land. It establishes governmental institutions, distributes legislative and executive authority, protects individual rights, and provides procedures for constitutional amendment. Beyond these conventional descriptions, however, lies a broader jurisprudential possibility. The Constitution may also be understood as a public charter establishing a continuing fiduciary relationship between the State and the people.

This article does not contend that the Constitution constitutes a trust deed in the technical statutory sense recognised by the Indian Trusts Act, 1882. Constitutional law and trust law remain distinct branches of jurisprudence governed by different legal principles. Nevertheless, conceptual analogies frequently enrich legal understanding by illuminating common structural features shared by different legal institutions.

The constitutional analogy developed here rests upon functional similarities rather than formal legal identity. In both systems, authority is exercised subject to binding obligations; powers are conferred for defined purposes; beneficiaries possess enforceable interests; and independent courts supervise faithful administration. Viewed from this perspective, the Constitution resembles a document creating a continuing public trust dedicated to securing justice, liberty, equality, fraternity, and human dignity.

### B. The Constitution as the foundational instrument

Every trust originates from an instrument that records the intention of the settlor and establishes the legal framework governing administration. Similarly, the Constitution establishes the institutional framework through which public authority is exercised in India. It creates Parliament, the Executive, the Judiciary, constitutional bodies, federal institutions, and local governments. It allocates powers among these institutions while simultaneously imposing limitations upon their authority. Like a trust deed, therefore, the Constitution identifies the purposes of governance, defines institutional powers, prescribes procedures for administration, and establishes mechanisms to prevent misuse of authority.

Unlike ordinary legislation, which derives its validity from the Constitution, the Constitution itself represents the supreme normative source from which every public institution obtains legal existence. In this respect, it performs a foundational function analogous to that of the trust instrument in fiduciary jurisprudence.

 

### C. Sovereignty and the constitutional trust

Perhaps the strongest support for the trust analogy lies in the doctrine of popular sovereignty. The Constitution expressly declares that it is adopted, enacted, and given by "We, the People of India."[24] This declaration signifies that constitutional authority originates in the collective will of the people rather than in hereditary sovereignty or governmental institutions. Consequently, governmental powers cannot be regarded as proprietary rights belonging to rulers. They are constitutional responsibilities entrusted to public authorities for the welfare of the people. Every election renews this fiduciary relationship by temporarily authorising representatives to exercise public powers on behalf of the citizenry.[25] The Government therefore functions not as the owner of sovereignty but as its constitutional trustee.

## V. The Preamble as the object of the constitutional trust

### A. The Preamble: the constitutional vision

Every charitable trust is created for one or more lawful objects. These objects are the soul of the trust because they determine the purpose for which the trust property is dedicated and guide every action of the trustee. Courts have consistently held that trustees cannot administer a trust contrary to its declared objects.[26] Whenever uncertainty arises regarding the exercise of fiduciary powers, the trust deed and its objects provide the controlling standard for judicial interpretation.

A similar principle operates within the constitutional framework of India. The Preamble is not merely an ornamental introduction or a political declaration. It embodies the philosophical foundation of the Constitution and identifies the ideals that every constitutional institution is expected to pursue. Although the Preamble is not an independent source of governmental power, it performs an interpretative function by illuminating the objectives that underlie the Constitution as a whole.[27] Consequently, constitutional provisions must be understood in harmony with the values proclaimed in the Preamble.

When viewed through the jurisprudence of charitable trusts, the Preamble performs a role analogous to the objects clause of a trust deed. It specifies the purposes for which constitutional authority has been entrusted to governmental institutions and provides the normative standard against which constitutional action may be assessed. The opening declaration, "We, the People of India", also reinforces the fiduciary character of constitutional governance. In trust law, the

[24] INDIA CONST. pmbl.
[25] PHILIP PETTIT, ON THE PEOPLE'S TERMS: A REPUBLICAN THEORY AND MODEL OF DEMOCRACY (2012).
[26] The Indian Trusts Act, *supra* note 2, § 11.
[27] *Kesavananda Bharati*, *supra* note 6; M.P. JAIN, INDIAN CONSTITUTIONAL LAW (8th ed. 2018).

settlor voluntarily dedicates property to a defined purpose. In constitutional theory, the people establish institutions of government to secure common constitutional objectives. Thus, governmental authority originates in a public act of constitutional dedication rather than in proprietary ownership.

**B. Justice as the primary object of the constitutional trust**

The Preamble places justice at the forefront of constitutional objectives by recognising social, economic, and political justice as foundational constitutional commitments.[28] This ordering is significant because justice functions as the governing principle through which all other constitutional values are realised.[29]

From the perspective of trust law, trustees must administer the trust fairly and impartially so that no beneficiary is subjected to arbitrary discrimination or unequal treatment. Equity has always insisted that trustees exercise their discretion honestly, reasonably, and consistently with the purposes of the trust.

Similarly, constitutional governance requires every organ of the State to administer public power in a manner that advances justice throughout society. Legislative policies, executive decisions, and judicial interpretations must all contribute to reducing social inequalities, promoting economic opportunity, and protecting political participation. Justice therefore represents the foremost object of the constitutional trust, directing governmental action towards the creation of a fair social order.

**C. Liberty as a constitutional objective**

Liberty occupies a central position within constitutional democracy. The Constitution guarantees liberty of thought, expression, belief, faith, and worship,[30] recognising that human dignity cannot flourish without personal autonomy.

The trustee analogy is instructive in this regard. Trustees must respect the legal rights of beneficiaries and cannot interfere with those rights except in accordance with the governing instrument and applicable law. Likewise, the Government cannot arbitrarily curtail individual liberty merely because it possesses constitutional authority. Every restriction upon liberty must satisfy constitutional standards of legality, reasonableness, and proportionality.[31] Consequently, liberty constitutes another fundamental object of the constitutional trust. Governmental

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[28] INDIA CONST. pmbl.
[29] JOHN RAWLS, A THEORY OF JUSTICE 3 (1971).
[30] INDIA CONST. pmbl.
[31] *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248 (India); *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1 (India).

institutions exist not to dominate citizens but to secure the conditions within which individual freedom may meaningfully develop.

**D. Equality as the guiding principle of administration**

Equality occupies a position comparable to the equitable principle requiring trustees to treat beneficiaries impartially. Trustees cannot favour one beneficiary at the expense of another unless the trust instrument expressly authorises differential treatment. Fairness and impartiality therefore lie at the heart of fiduciary administration. The Constitution similarly guarantees equality before the law and the equal protection of the laws.[32] Constitutional equality extends beyond formal equality and includes substantive measures intended to remedy the historical disadvantages suffered by vulnerable communities.[33]

Reservation policies, affirmative action, and welfare legislation illustrate this commitment to substantive equality. Rather than contradicting equality, these measures seek to achieve the constitutional objective of creating genuinely equal opportunities for all members of society. Viewed through trust law, such measures resemble equitable administration designed to secure the intended benefit for all beneficiaries.

**E. Fraternity and national unity**

Unlike many constitutions, the Indian Constitution expressly recognises fraternity as one of its foundational objectives.[34] Fraternity promotes mutual respect, social harmony, and the dignity of every individual. It seeks to create a community united not merely by territorial boundaries but by shared constitutional values.

A charitable trust similarly exists for the collective welfare of its beneficiaries. Trustees cannot administer the trust in ways that divide beneficiaries or undermine the common purpose for which the trust was established.

Governmental institutions therefore bear a continuing obligation to preserve social cohesion while respecting cultural diversity. Policies that promote communal harmony, inclusive development, and equal citizenship reflect the constitutional commitment to fraternity.

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[32] INDIA CONST. art. 14.
[33] INDIA CONST. arts. 15(4), 16(4).
[34] INDIA CONST. pmbl.; CONSTITUENT ASSEMBLY DEBATES, Vol. XI (Nov. 25, 1949) (statement of Dr. B.R. Ambedkar).

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### F. Constitutional interpretation in light of the Preamble

The Supreme Court of India has repeatedly relied upon the Preamble while interpreting constitutional provisions.[35] Although the Preamble does not independently confer legislative or executive powers, it identifies the constitutional philosophy that informs the interpretation of the entire constitutional text. This interpretative role resembles the function performed by the objects clause of a charitable trust. Where uncertainty exists concerning the scope of trustee powers, courts interpret those powers consistently with the charitable purposes declared by the settlor.

Likewise, constitutional interpretation seeks to preserve fidelity to the values of justice, liberty, equality, fraternity, secularism, democracy, and the rule of law. These values collectively define the objectives of the constitutional trust and therefore provide guidance whenever constitutional ambiguity arises. Accordingly, the Preamble may properly be regarded as the constitutional equivalent of the charitable objects clause governing the administration of the trust.

## VI. GOVERNMENT AS TRUSTEE OF THE CONSTITUTIONAL TRUST

### A. The fiduciary character of government

One of the defining characteristics of a trust is the existence of a trustee who administers property for the benefit of others. The trustee does not become the owner of the trust in an unrestricted sense. Rather, legal ownership is accompanied by continuing fiduciary obligations enforceable by courts of equity. The constitutional position of the Government exhibits similar characteristics. Public power is conferred upon constitutional authorities to enable them to administer the affairs of the State. These powers, however, are not exercised for personal benefit or political ownership. They are exercised on behalf of the people and remain subject to constitutional limitations.

The Government therefore occupies a position analogous to that of a trustee. It administers constitutional authority entrusted to it by the sovereign people and remains accountable for the manner in which that authority is exercised. This fiduciary understanding is consistent with democratic constitutionalism, which rejects arbitrary government and insists that every exercise of public power must be justified by constitutional principles.[36]

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[35] *Kesavananda Bharati*, *supra* note 6; *S.R. Bommai v. Union of India*, (1994) 3 SCC 1 (India).
[36] RONALD DWORKIN, LAW'S EMPIRE (1986).

**B. Fiduciary duties of the constitutional trustee**

Trust law imposes numerous duties upon trustees, each designed to ensure faithful administration of the trust. Many of these duties possess constitutional counterparts.

**i. Duty of loyalty**

A trustee must always act exclusively for the benefit of the beneficiaries. Personal interests cannot influence fiduciary decision-making.[37] Similarly, constitutional authorities must exercise governmental powers solely in the public interest. Abuse of office for personal enrichment, corruption, nepotism, or partisan advantage constitutes a breach of constitutional responsibility.

**ii. Duty of good faith**

Trustees are required to exercise their powers honestly and for proper purposes.[38] The Government likewise must act in good faith while exercising executive discretion, enacting legislation, and implementing public policies.

**iii. Duty of prudence**

Equity requires trustees to administer trust property with reasonable care, diligence, and skill.[39] Public administration similarly requires careful management of public finances, natural resources, welfare programmes, and governmental institutions. Fiscal responsibility, administrative competence, and evidence-based policymaking are constitutional expressions of fiduciary prudence.

**iv. Duty of impartiality**

Trustees must administer trusts fairly, without unjustified discrimination among beneficiaries.[40] Governmental institutions are bound by Articles 14, 15, and 16 of the Constitution, which require equality before the law and prohibit arbitrary discrimination.[41] Public administration therefore reflects the fiduciary obligation of impartial treatment.

**v. Duty of accountability**

Every trustee remains accountable before the courts for breach of trust.[42] Likewise, constitutional authorities are accountable through judicial review, legislative oversight,

[37] The Indian Trusts Act, *supra* note 2, §§ 51, 88.
[38] LEWIN ON TRUSTS, *supra* note 8.
[39] The Indian Trusts Act, *supra* note 2, § 15.
[40] The Indian Trusts Act, *supra* note 2, § 17.
[41] INDIA CONST. arts. 14–16.
[42] The Indian Trusts Act, *supra* note 2, § 19.

constitutional bodies, independent auditing institutions, elections, and public scrutiny. Accountability transforms political authority into constitutional responsibility.

### C. Constitutional limitations upon trustee powers

Trustees cannot exceed the authority conferred upon them by the trust instrument. Any act beyond the scope of the trust may be declared invalid by a court exercising equitable jurisdiction. The Constitution imposes similar limitations upon governmental authority. Parliament, the State Legislatures, the Executive, and administrative agencies possess only those powers authorised by the Constitution and the laws enacted under it.

Legislative competence is distributed through the Union List, the State List, and the Concurrent List.[43] Executive authority is limited by constitutional provisions, statutory law, and judicial review. Even constitutional amendments remain subject to the Basic Structure Doctrine.[44] Thus, governmental authority, like fiduciary authority, is limited rather than absolute.

### D. Judicial review as equitable supervision

Courts occupy a central place in both trust law and constitutional law. In trust jurisprudence, courts supervise trustees to ensure faithful administration of the trust. They may compel performance of fiduciary duties, restrain breaches of trust, remove trustees in appropriate cases, and direct proper administration.[45] The Supreme Court and the High Courts perform a comparable constitutional function through judicial review. They examine the validity of legislation, executive action, and administrative decisions to ensure conformity with constitutional requirements.

Articles 32 and 226 empower the constitutional courts to protect citizens against unconstitutional governmental action.[46] Judicial review therefore resembles the equitable supervision exercised over trustees, ensuring that constitutional authority continues to be administered consistently with the purposes for which it was entrusted. This supervisory role strengthens the analogy between constitutional governance and fiduciary administration, demonstrating that constitutional institutions remain continuously accountable to the Constitution and, ultimately, to the people themselves.

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[43] INDIA CONST. art. 246 & sched. VII.
[44] *Kesavananda Bharati*, *supra* note 6; *Minerva Mills Ltd. v. Union of India*, (1980) 3 SCC 625 (India).
[45] The Indian Trusts Act, *supra* note 2, §§ 60–61, 74.
[46] INDIA CONST. arts. 32, 226; *L. Chandra Kumar*, *supra* note 22.

## VII. The people of India as beneficiaries of the constitutional trust

### A. The constitutional position of the people

Every trust exists for the benefit of one or more beneficiaries. The trustee possesses legal authority only because that authority is intended to advance the interests of the beneficiaries. If the trustee administers the trust for personal advantage or for purposes inconsistent with the objects of the trust, equity intervenes to protect the beneficiaries. The constitutional framework of India reflects a similar philosophy. The Constitution repeatedly affirms that sovereignty ultimately belongs to the people. Unlike colonial constitutions or monarchical systems in which authority flows from the Crown, the Constitution of India expressly derives its legitimacy from "We, the People of India."[47] This declaration is not merely symbolic; it is the constitutional foundation of democratic governance. Every organ of the State derives its authority from the Constitution, and the Constitution derives its authority from the people.

When analysed through the jurisprudence of charitable trusts, the people occupy a position analogous to that of beneficiaries. Governmental institutions are not established for their own preservation or aggrandisement; they are established to secure the welfare, liberty, dignity, and prosperity of the people. Consequently, every exercise of constitutional power must ultimately be justified by reference to public welfare. Unlike the beneficiaries of a private trust, the beneficiaries of the constitutional trust comprise the entire political community. Every citizen possesses an equal constitutional status irrespective of religion, caste, language, gender, economic condition, or political affiliation. The Constitution therefore creates a universal class of beneficiaries whose interests must guide every branch of government.

### B. Beneficial interest under the Constitution

The concept of beneficial interest is central to trust law. While trustees hold legal title to the trust property, the real advantage belongs to the beneficiaries. Trustees cannot convert trust property into their own assets because beneficial ownership remains elsewhere. A comparable distinction exists within constitutional governance. Parliament enacts laws, the Executive administers public affairs, and the Judiciary interprets the Constitution, yet none of these institutions owns constitutional power. Public authority exists solely for the benefit of the people.

Public revenue illustrates this distinction clearly. Taxes are collected by the Government, but governmental institutions cannot spend public money according to personal preference.

[47] India Const. pmbl.

Constitutional provisions require expenditure to serve public purposes through legally authorised procedures.[48] Likewise, public resources, natural wealth, educational institutions, welfare schemes, and development programmes are intended to benefit society rather than those temporarily occupying public office.[49] This fiduciary conception reinforces democratic accountability by emphasising that political authority is a constitutional responsibility rather than a proprietary entitlement.

### C. Constitutional remedies available to beneficiaries

One of the defining characteristics of a trust is the right of beneficiaries to seek judicial protection whenever trustees violate their obligations. Equity empowers beneficiaries to compel proper administration, restrain misuse of trust property, and seek appropriate remedies against breach of trust. The Constitution establishes similar mechanisms for protecting citizens against unconstitutional governmental action. Article 32 guarantees the right to approach the Supreme Court for the enforcement of Fundamental Rights, while Article 226 confers broad writ jurisdiction upon the High Courts.[50] These provisions transform constitutional rights into enforceable legal guarantees rather than mere political aspirations.

The availability of judicial remedies distinguishes constitutional democracy from systems founded solely upon political discretion. Government cannot determine the extent of citizens' rights according to administrative convenience. The constitutional courts possess the authority to invalidate governmental action that violates constitutional guarantees.[51] In the fiduciary framework proposed in this article, Articles 32 and 226 perform functions analogous to the equitable remedies available to beneficiaries against trustees. They ensure that constitutional obligations remain legally enforceable and that governmental authority remains accountable to the people.

### D. Popular sovereignty and democratic participation

The beneficiaries of the constitutional trust are not passive recipients of governmental action. Democratic governance requires continuous participation by the people in constitutional administration through elections, public debate, civil society, and constitutional institutions. Universal adult suffrage enables citizens to determine who will administer governmental powers on their behalf.[52] Elections therefore resemble the periodic renewal of fiduciary

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[48] INDIA CONST. arts. 265, 266(3).
[49] *Centre for Public Interest Litigation v. Union of India*, (2012) 3 SCC 1 (India).
[50] INDIA CONST. arts. 32, 226.
[51] INDIA CONST. art. 13(2).
[52] INDIA CONST. art. 326.

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authority. Representatives are entrusted with public responsibilities for limited constitutional terms and remain politically accountable to the electorate.

Democratic participation extends beyond elections. Freedom of speech, freedom of association, peaceful assembly, public interest litigation, social movements, and an independent press all enable beneficiaries to supervise the constitutional trustees.[53] Through these mechanisms, citizens influence governmental policy and ensure that constitutional administration remains responsive to public needs. This participatory dimension distinguishes the constitutional trust from ordinary private trusts. The beneficiaries themselves continuously shape the manner in which the constitutional trust is administered.

## VIII. Fundamental Rights as the rights of constitutional beneficiaries

### A. Fundamental Rights within the constitutional framework

The Constitution guarantees Fundamental Rights under Part III to protect individual liberty, equality, and dignity against arbitrary governmental action.[54] These rights are enforceable by the constitutional courts and constitute one of the defining features of Indian constitutionalism. From the perspective of trust law, Fundamental Rights resemble the enforceable rights possessed by beneficiaries against trustees. Trustees cannot disregard the legitimate interests of beneficiaries merely because they possess administrative authority. Likewise, governmental institutions cannot disregard constitutional rights simply because they exercise sovereign power. The relationship between the State and citizens therefore reflects an important fiduciary principle: authority exists to protect rights rather than to extinguish them.

### B. Right to equality

Articles 14 to 18 establish the constitutional guarantee of equality.[55] Equality before the law and the equal protection of the laws ensure that governmental discretion remains subject to constitutional limitations. In trust law, trustees must administer the trust impartially and avoid unjustified discrimination among beneficiaries. Although different beneficiaries may possess distinct legal interests, trustees cannot arbitrarily prefer one beneficiary over another.

Similarly, constitutional equality prohibits arbitrary State action. Classification is permissible only when founded upon an intelligible differentia bearing a rational relationship to the

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[53] *People's Union for Civil Liberties v. Union of India*, (2003) 4 SCC 399 (India).
[54] INDIA CONST. pt. III.
[55] INDIA CONST. arts. 14–18.

legislative objective.[56] Equality therefore functions as a constitutional limitation upon governmental discretion. Affirmative action also reflects fiduciary principles. Where historical disadvantages prevent certain beneficiaries from enjoying equal opportunities, trustees may be required to administer the trust in ways that ensure genuine fairness. Reservation policies similarly seek to realise substantive rather than merely formal equality.[57]

### C. Right to freedom

Articles 19 to 22 protect various dimensions of personal liberty, including freedom of speech and expression, peaceful assembly, association, movement, residence, and profession, together with protection against arbitrary arrest.[58] Freedom is indispensable to constitutional democracy because beneficiaries cannot effectively supervise trustees unless they possess the liberty to criticise governmental action. Freedom of expression enables citizens to expose corruption, challenge unconstitutional policies, and participate in democratic decision-making.

From the fiduciary perspective, restrictions upon freedom require careful constitutional justification. Trustees cannot interfere with beneficiary rights except where authorised by the trust instrument and necessary to achieve legitimate objectives. Likewise, constitutional restrictions upon fundamental freedoms must satisfy the tests of legality, reasonableness, proportionality, and public interest.[59]

### D. Right to life and human dignity

Article 21 has evolved into one of the broadest guarantees within Indian constitutional law. Judicial interpretation has recognised that the right to life includes dignity, privacy, education, livelihood, a clean environment, legal aid, shelter, healthcare, and numerous other conditions necessary for a meaningful human existence.[60] The expansive interpretation of Article 21 strongly supports the constitutional trust analogy. A trustee is expected not merely to preserve trust property but also to promote the welfare of the beneficiaries. Constitutional governance similarly requires positive action directed towards improving the quality of human life. The State therefore bears fiduciary responsibilities extending beyond non-interference. It must

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[56] V.N. SHUKLA, CONSTITUTION OF INDIA (M.P. Singh ed., 13th ed. 2017).

[57] INDIA CONST. arts. 15(4), 16(4).

[58] INDIA CONST. arts. 19–22.

[59] INDIA CONST. art. 19(2)–(6); *K.S. Puttaswamy*, *supra* note 31.

[60] INDIA CONST. art. 21; *Maneka Gandhi*, *supra* note 31; *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, (1981) 1 SCC 608 (India) (dignity); *Olga Tellis v. Bombay Municipal Corporation*, (1985) 3 SCC 545 (India) (livelihood and shelter); *Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161 (India) (life with human dignity); *Mohini Jain v. State of Karnataka*, (1992) 3 SCC 666 (India) (education); *Unni Krishnan v. State of Andhra Pradesh*, (1993) 1 SCC 645 (India) (education); *K.S. Puttaswamy*, *supra* note 31 (privacy); *People's Union for Civil Liberties v. Union of India*, (2001) 5 SCC 463 (India).

create the conditions that enable beneficiaries to enjoy substantive freedom, security, and dignity.

### E. Religious freedom and cultural rights

The Constitution protects freedom of conscience, religious practice, cultural identity, and the educational rights of minorities.[61] These guarantees recognise India's pluralistic social structure and preserve the diversity that characterises constitutional democracy. Trustees administering charitable institutions must respect the purposes for which the trusts are established and cannot arbitrarily interfere with lawful beneficiary interests. Likewise, the Government must respect religious liberty and cultural diversity while maintaining constitutional secularism. This balance reflects fiduciary neutrality rather than governmental indifference. The constitutional trustee must administer public affairs impartially, without favouring one religion or culture over another, while ensuring equal protection for all communities.

### F. Constitutional remedies: enforcement of beneficiary rights

Dr. B.R. Ambedkar described Article 32 as "the very soul of the Constitution and the very heart of it" because it guarantees the judicial enforcement of Fundamental Rights.[62] Without effective remedies, constitutional rights would remain merely declaratory. In trust law, beneficiaries possess legal standing to challenge breaches of trust before competent courts. The availability of judicial supervision ensures that fiduciary obligations remain meaningful.

Similarly, constitutional remedies empower citizens to seek the writs of habeas corpus, mandamus, prohibition, certiorari, and quo warranto whenever governmental authorities violate constitutional rights.[63] The Judiciary therefore performs a role comparable to that of a court exercising equitable jurisdiction over trustees. It protects the interests of beneficiaries by ensuring faithful administration of constitutional power.

### G. Fundamental Rights as limits upon trustee authority

Perhaps the strongest similarity between trust law and constitutional governance lies in the relationship between rights and power. Trustees possess extensive administrative authority, yet every power remains limited by the rights of beneficiaries. Fiduciary discretion cannot be exercised arbitrarily. Likewise, governmental institutions possess broad legislative and executive powers, but those powers remain subject to the constitutional rights guaranteed under Part III. Parliament cannot enact laws destroying the essential content of Fundamental Rights

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[61] INDIA CONST. arts. 25–30.
[62] CONSTITUENT ASSEMBLY DEBATES, Vol. VII (Dec. 9, 1948) (statement of Dr. B.R. Ambedkar).
[63] INDIA CONST. art. 32(2).

without constitutional justification.[64] Executive authorities cannot exercise administrative discretion inconsistently with constitutional guarantees.

Fundamental Rights therefore perform a dual function. They protect individual liberty while simultaneously defining the constitutional limits within which governmental trustees must operate. The fiduciary model developed in this article demonstrates that constitutional rights are not obstacles to governance; rather, they are the legal expression of the relationship between constitutional trustees and constitutional beneficiaries. They ensure that public authority remains permanently directed towards the welfare, dignity, and freedom of the people, who remain the ultimate beneficiaries of the constitutional trust.

## IX. Directive Principles of State Policy as the duties of the constitutional trustee

### A. Introduction

The relationship between rights and duties constitutes one of the fundamental principles of constitutional governance. While Part III of the Constitution guarantees Fundamental Rights to individuals, Part IV prescribes the Directive Principles of State Policy, which establish the constitutional obligations of the State. Although these principles are expressly declared to be non-justiciable under Article 37, they are nevertheless fundamental in the governance of the country, and it is the duty of the State to apply them in making laws.[65]

When interpreted through the jurisprudence of charitable trusts, the Directive Principles closely resemble the fiduciary duties imposed upon trustees. In trust law, a trustee is not merely prohibited from committing breaches of trust; the trustee is also under a positive obligation to administer the trust so as to achieve its declared objects. Likewise, the Constitution requires the Government not only to respect Fundamental Rights but also to pursue social and economic justice actively through legislative and executive action. This dual structure demonstrates that constitutional governance involves both negative obligations (not to violate rights) and positive obligations (to promote public welfare). The Directive Principles therefore represent the affirmative duties of the constitutional trustee.

### B. Nature and constitutional significance of the Directive Principles

The framers of the Constitution consciously incorporated the Directive Principles to establish the social and economic philosophy of the Indian State. Inspired by the Irish Constitution and

[64] *I.R. Coelho v. State of Tamil Nadu*, (2007) 2 SCC 1 (India); INDIA CONST. art. 13(2).
[65] INDIA CONST. art. 37.

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influenced by the principles of social democracy, the Directive Principles seek to transform India into a welfare State committed to justice, equality, and human dignity.[66] Unlike Fundamental Rights, which are enforceable through the courts, the Directive Principles operate primarily as constitutional directives to the Legislature and the Executive. Their non-justiciable character does not diminish their constitutional importance. Rather, they provide guidance for policymaking and ensure that governmental discretion remains directed towards public welfare.

Within the fiduciary framework proposed in this article, the Directive Principles resemble the administrative obligations contained in a trust deed. While beneficiaries may not always be able to compel every aspect of trust administration, trustees nevertheless remain legally and morally obliged to pursue the purposes for which the trust was created. Similarly, governments are constitutionally expected to formulate policies consistent with the Directive Principles, even where immediate judicial enforcement is unavailable.

**C. Social justice as the primary fiduciary duty**

The Constitution repeatedly affirms the importance of social justice.[67] Articles 38 and 39 require the State to minimise inequalities, secure an adequate means of livelihood, prevent the concentration of wealth, protect workers, and ensure equal pay for equal work.[68] These provisions reflect one of the central obligations of a trustee: the duty to administer the trust for the benefit of all beneficiaries rather than allowing disproportionate advantages to accrue to a privileged few.

In charitable trust law, trustees cannot permit trust resources to be diverted to purposes inconsistent with the charitable object. Likewise, constitutional trustees must ensure that public resources are utilised to promote inclusive development rather than to perpetuate structural inequalities. The obligation to reduce economic disparity demonstrates that constitutional governance extends beyond the maintenance of public order. It requires affirmative efforts to secure distributive justice.

**D. Protection of human dignity**

The Directive Principles contain several provisions designed to protect human dignity. These include securing humane conditions of work, maternity relief, education, nutrition, public health, and assistance for vulnerable groups.[69] Trustees administering charitable institutions concerned with education, healthcare, or poverty alleviation are expected to take positive

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[66] AUSTIN, *supra* note 1; JAIN, *supra* note 27.
[67] *Dalmia Cement (Bharat) Ltd. v. Union of India*, (1996) 10 SCC 104 (India).
[68] INDIA CONST. arts. 38, 39.
[69] INDIA CONST. arts. 41, 42, 45, 47; *Bandhua Mukti Morcha*, *supra* note 60.

measures to advance these objectives. Their responsibilities extend beyond preserving trust assets; they must actively employ those assets to fulfil the charitable purpose.

Similarly, constitutional governance requires the State to establish educational institutions, public healthcare systems, welfare programmes, labour protections, and social security mechanisms. Viewed through the fiduciary model, these constitutional obligations represent continuing duties owed by governmental trustees to constitutional beneficiaries.

**E. Protection of children and vulnerable sections**

Articles 39, 41, 45, and 46 emphasise the protection of children, the Scheduled Castes, the Scheduled Tribes, socially and educationally backward classes, persons with disabilities, and economically disadvantaged groups.[70] Equity has long recognised that trustees owe special responsibilities towards vulnerable beneficiaries who are incapable of protecting their own interests. The law therefore imposes heightened standards of care whenever minors or disadvantaged persons are involved.

The Constitution reflects a similar philosophy by directing governmental institutions to protect those sections of society that have historically experienced discrimination, exclusion, or deprivation. Reservation policies, educational assistance, social welfare programmes, and legal aid initiatives illustrate the constitutional trustee's obligation to ensure that every beneficiary enjoys meaningful access to constitutional opportunities.

**F. Environmental protection as a fiduciary duty**

Article 48A directs the State to protect and improve the environment and to safeguard the forests and wildlife of the country.[71] This constitutional obligation has acquired increasing significance through judicial interpretation and the development of the Public Trust Doctrine.[72] Environmental protection is inherently fiduciary because natural resources are preserved not only for present beneficiaries but also for future generations. Trustees administering charitable trusts must preserve trust property for succeeding beneficiaries and cannot exhaust or destroy trust assets through irresponsible administration.

Likewise, constitutional trustees must ensure sustainable development so that future citizens inherit environmental resources capable of supporting human life and ecological balance. This intergenerational responsibility reinforces the trust analogy by demonstrating that constitutional duties extend beyond the immediate political interests of the government of the day.

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[70] INDIA CONST. arts. 39(e)–(f), 41, 45, 46.
[71] INDIA CONST. art. 48A.
[72] *M.C. Mehta v. Kamal Nath*, *supra* note 19; *Fomento Resorts*, *supra* note 20.

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### G. Harmonious construction of Fundamental Rights and Directive Principles

Initially, constitutional jurisprudence tended to regard Fundamental Rights and Directive Principles as competing constitutional values.[73] Subsequent judicial decisions, however, have recognised that the two Parts of the Constitution are complementary rather than contradictory.[74] Within the fiduciary framework, this harmony becomes readily understandable.

Fundamental Rights define the minimum rights that beneficiaries may enforce against trustees. Directive Principles define the affirmative duties that trustees must perform for the benefit of those beneficiaries. A trustee who merely refrains from violating beneficiary rights but neglects the purposes of the trust cannot be regarded as faithfully administering the trust. Similarly, a government that merely avoids unconstitutional conduct without pursuing social welfare fails to discharge its constitutional obligations. The Constitution therefore requires both the protection of rights and the promotion of welfare.

## X. Doctrine of Basic Structure and the doctrine of cy-près: a comparative jurisprudential analysis

### A. Introduction

Among the most influential principles of modern Indian constitutional law is the Doctrine of Basic Structure. Developed by the Supreme Court in *Kesavananda Bharati v. State of Kerala* (1973), the doctrine limits Parliament's constituent power by prohibiting amendments that destroy or damage the essential identity of the Constitution.[75] In trust law, the equitable doctrine of *cy-près* performs a different but conceptually comparable function. Where the original charitable purpose of a trust becomes impossible, impracticable, or obsolete, courts may modify the administration of the trust in a manner that preserves the settlor's general charitable intention.[76]

Although these doctrines arise within distinct branches of law and serve different immediate purposes, both seek to preserve foundational purposes while permitting institutional adaptation.

### B. The doctrine of cy-près in trust law

The expression *cy-près* derives from the Norman French phrase meaning "as near as possible."[77] The doctrine developed within English equity to prevent charitable trusts from

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[73] *State of Madras v. Champakam Dorairajan*, AIR 1951 SC 226 (India).
[74] *Minerva Mills*, *supra* note 44; *Pathumma v. State of Kerala*, (1978) 2 SCC 1 (India); *Unni Krishnan*, *supra* note 60.
[75] *Kesavananda Bharati*, *supra* note 6.
[76] Snell's Equity, *supra* note 5.
[77] Snell's Equity, *supra* note 5; Lewin on Trusts, *supra* note 8.

failing merely because literal compliance with the settlor's instructions had become impossible. For example, if property was dedicated to establishing a hospital in a particular locality that later ceased to exist, a court exercising equitable jurisdiction could direct that the property be applied to establish a similar hospital elsewhere, thereby preserving the settlor's charitable intention. The doctrine does not authorise courts to disregard the settlor's wishes. On the contrary, its purpose is to give effect to those wishes as nearly as circumstances permit. Thus, *cy-près* balances continuity with flexibility. It protects the underlying object of the trust while permitting changes in its administration.

**C. Doctrine of Basic Structure**

Article 368 empowers Parliament to amend the Constitution.[78] The Supreme Court held in *Kesavananda Bharati*, however, that this amending power is not unlimited.[79] Parliament may amend constitutional provisions, but it cannot destroy the Constitution's basic structure or essential identity. Subsequent decisions have recognised several elements of the basic structure, including the supremacy of the Constitution; the rule of law; judicial review; separation of powers; federalism; secularism; democracy; the republican form of government; free and fair elections; the independence of the judiciary; the protection of Fundamental Rights; and constitutional morality.[80] The precise content of the basic structure remains open to judicial development, reflecting the dynamic nature of constitutional interpretation.

**D. Functional similarities between the two doctrines**

Despite operating in different legal fields, the Basic Structure Doctrine and the doctrine of *cy-près* exhibit several significant functional similarities.

**i. Preservation of foundational purpose**

Both doctrines seek to preserve the essential purpose underlying a legal institution. The doctrine of *cy-près* preserves the charitable intention of the settlor. The Basic Structure Doctrine preserves the constitutional identity established by the people. In each case, institutional continuity takes precedence over literal adherence in changed circumstances.

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[78] INDIA CONST. art. 368; H.M. SEERVAI, CONSTITUTIONAL LAW OF INDIA: A CRITICAL COMMENTARY (4th ed. 1991).

[79] *Kesavananda Bharati*, *supra* note 6.

[80] *Indira Nehru Gandhi v. Raj Narain*, 1975 Supp SCC 1 (India) (free and fair elections; rule of law); *Minerva Mills*, *supra* note 44 (judicial review; limited amending power); *Waman Rao v. Union of India*, (1981) 2 SCC 362 (India); *S.R. Bommai*, *supra* note 35 (secularism; federalism); *I.R. Coelho*, *supra* note 64 (Fundamental Rights; judicial review); *L. Chandra Kumar*, *supra* note 22 (judicial review); *Supreme Court Advocates-on-Record Association v. Union of India*, (2016) 5 SCC 1 (India) (independence of the judiciary).

 

**ii. Controlled adaptation**

Neither doctrine prohibits change. The doctrine of *cy-près* permits modification of trust administration where necessary. The Basic Structure Doctrine permits constitutional amendments that do not destroy essential constitutional features. Accordingly, both doctrines recognise that legal institutions must adapt while remaining faithful to their foundational objectives.

**iii. Judicial supervision**

Both doctrines are administered by courts. Courts exercising equitable jurisdiction supervise charitable trusts.[81] Constitutional courts supervise constitutional amendments.[82] Judicial oversight therefore serves as the institutional mechanism through which continuity is preserved.

**E. Important doctrinal differences**

The analogy developed in this article should not obscure the important differences between the two doctrines.

The doctrine of *cy-près* applies only to charitable trusts and concerns the modification of charitable purposes when original compliance becomes impossible or impracticable. The Basic Structure Doctrine applies to constitutional amendments enacted under Article 368 and limits Parliament's constituent power even where amendment remains entirely possible.

Moreover, *cy-près* generally expands judicial flexibility in order to preserve charitable objectives, whereas the Basic Structure Doctrine primarily restrains constitutional amendment in order to preserve constitutional identity. Accordingly, the relationship between the two doctrines is conceptual rather than doctrinal.

**F. The Basic Structure Doctrine as a constitutional fiduciary principle**

Within the constitutional trust model proposed in this article, the Basic Structure Doctrine may be understood as protecting the essential purposes for which the constitutional trust was created. The sovereign people established the Constitution to secure justice, liberty, equality, fraternity, democracy, secularism, and the rule of law. Parliament possesses the authority to amend constitutional provisions, but it cannot fundamentally alter the constitutional settlement established by the people.[83]

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[81] SNELL'S EQUITY, *supra* note 5; LEWIN ON TRUSTS, *supra* note 8; *Attorney-General v. Brown* (1849) 4 Ex. 187; *Attorney-General v. Webster* (1875) LR 20 Eq. 483.
[82] *L. Chandra Kumar*, *supra* note 22; *Supreme Court Advocates-on-Record Association*, *supra* note 80.
[83] *Minerva Mills*, *supra* note 44.

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In this respect, the Judiciary performs a role comparable to that of an equitable court supervising trustees. It ensures that constitutional evolution remains faithful to the original constitutional commitment while permitting necessary institutional development. The Basic Structure Doctrine therefore reinforces the fiduciary nature of constitutional governance. It affirms that constitutional authority is exercised under continuing obligations of fidelity to the constitutional purposes declared by "We, the People of India." This interpretation completes an important element of the constitutional trust analogy by demonstrating that constitutional change, like trust administration, must remain consistent with the foundational objectives established by the creators of the institution.

## XI. Public Trust Doctrine, constitutional morality, and good governance

### A. Introduction

The idea that public authority is held in trust for the benefit of society has gradually become an important principle of modern constitutional governance. The State is not merely an organisation possessing coercive power; it is an institution created to serve collective interests. Public officials exercise authority on behalf of citizens and are therefore expected to act with responsibility, transparency, and accountability.[84] This understanding closely corresponds with the philosophy of charitable trusts. In a charitable trust, the trustee does not possess unrestricted ownership of the trust property. The trustee holds and manages the property for a specific public purpose and must ensure that the benefits reach the intended beneficiaries. Similarly, governmental institutions hold constitutional powers for the welfare of the people and must exercise those powers consistently with constitutional objectives.

The Public Trust Doctrine, constitutional morality, and the principles of good governance strengthen this fiduciary understanding of the State. Together, they demonstrate that governmental authority is not a privilege of rulers but a responsibility entrusted by the people.

### B. Public Trust Doctrine in Indian jurisprudence

The Public Trust Doctrine has its origins in Roman law and later developed through the English common law.[85] The doctrine recognises that certain resources and interests are so important to society that the State holds them in trust for public benefit. Government authorities are therefore trustees rather than absolute owners of such resources. In India, the Supreme Court has applied the doctrine particularly in cases concerning environmental protection and natural resources.

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[84] FOX-DECENT, *supra* note 7.

[85] *M.C. Mehta v. Kamal Nath*, *supra* note 19; Sax, *supra* note 19.

In *M.C. Mehta v. Kamal Nath*, the Supreme Court recognised that natural resources such as rivers, forests, lakes, and other ecological assets are held by the State in trust for the public and cannot be transferred for purely private purposes.[86] The Court observed that the State has a legal obligation to protect natural resources because they represent the common assets of the community.

Although the Public Trust Doctrine initially developed in relation to environmental resources, its underlying philosophy has wider constitutional relevance. It establishes the principle that certain powers and resources belong collectively to society and must be administered for public benefit. This principle directly supports the constitutional trust analogy. The Government, like a trustee, holds important powers and resources not in personal ownership but for the benefit of present and future generations.

**C. Public office as a fiduciary position**

A trustee's authority is always accompanied by responsibility. The greater the power entrusted to a person, the greater the obligation to exercise that power carefully and honestly. Public offices involve some of the most extensive powers recognised by law. Legislators create binding laws; executives administer public resources; judges interpret constitutional principles. Because these powers affect millions of people, constitutional systems impose strict standards of accountability.[87]

Public officials therefore occupy positions comparable to those of fiduciaries. They must act within constitutional limits; avoid misuse of authority; protect public resources; maintain transparency; respect individual rights; and place the public interest above personal or political advantage. This fiduciary understanding explains why constitutional law permits judicial review of administrative action, legislative restrictions on executive power, and accountability mechanisms against public authorities.

**D. Constitutional morality as the standard of trustee conduct**

The concept of constitutional morality has gained considerable importance in Indian constitutional interpretation. It refers to adherence not merely to the text of the Constitution but also to its underlying values, including dignity, equality, liberty, fraternity, and the rule of law.[88] In a trust relationship, trustees must follow not only the literal terms of the trust deed but also

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[86] *M.C. Mehta v. Kamal Nath*, *supra* note 19.
[87] *Vineet Narain*, *supra* note 17.
[88] *Navtej Singh Johar*, *supra* note 18; *Government of NCT of Delhi*, *supra* note 18; CONSTITUENT ASSEMBLY DEBATES, Vol. VII (Nov. 4, 1948) (statement of Dr. B.R. Ambedkar).

the equitable principles governing faithful administration. A trustee who exploits technical powers to defeat the purpose of the trust commits a breach of fiduciary responsibility.

Similarly, constitutional authorities cannot rely merely upon formal legality while acting contrary to constitutional values. A law or governmental action may require examination not only for procedural validity but also for consistency with constitutional morality. The constitutional trustee must therefore administer public power in a manner that preserves the spirit as well as the letter of the Constitution.

### E. Good governance as faithful administration of the constitutional trust

Good governance represents the practical expression of fiduciary responsibility. It requires governmental institutions to operate according to the principles of effectiveness, accountability, participation, transparency, and responsiveness.

In trust law, effective administration requires trustees to manage trust assets efficiently and to ensure that beneficiaries receive the intended benefits. Similarly, governments must ensure that public policies actually improve the lives of citizens. Good governance requires:

1. **Transparency.** Public decisions must be open to scrutiny because government functions using authority entrusted by citizens.
2. **Accountability.** Public officials must answer for decisions affecting public welfare.
3. **Participation.** Citizens must have opportunities to influence governmental processes.
4. **Rule of law.** Government itself must remain subject to legal limitations.[89]
5. **Efficiency and effectiveness.** Public resources must be utilised responsibly.

These principles correspond closely with the fiduciary obligations imposed upon trustees.

## XII. CRITICAL EVALUATION OF THE CONSTITUTIONAL TRUST THEORY

### A. Strengths of the analogy

The interpretation of the Constitution as a charitable trust provides several valuable insights into constitutional governance.

First, it reinforces the idea that governmental power is entrusted rather than possessed. Political authorities frequently change through elections, but constitutional responsibilities continue.[90] The trust analogy explains why every government remains bound by constitutional objectives regardless of political ideology.

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[89] DICEY, *supra* note 21.
[90] GRANVILLE AUSTIN, WORKING A DEMOCRATIC CONSTITUTION: THE INDIAN EXPERIENCE (1999).

 

Second, the analogy highlights accountability. Trustees are accountable because they administer property belonging beneficially to others. Similarly, governments are accountable because they exercise authority belonging ultimately to the people.

Third, the trust perspective strengthens the understanding of welfare constitutionalism. The Constitution does not merely restrict government; it also directs government to create the conditions necessary for human development. The Directive Principles demonstrate this positive obligation.

Fourth, the analogy provides a theoretical connection between rights and duties. Fundamental Rights protect beneficiaries from misuse of power, while Directive Principles require trustees actively to promote social welfare.

**B. Relevance in contemporary constitutional governance**

The constitutional trust perspective has particular relevance in contemporary governance, where questions of corruption, misuse of public resources, environmental destruction, administrative arbitrariness, and inequality frequently arise.

Viewing government as trustee strengthens the argument that public resources must be preserved for society; that constitutional rights cannot be sacrificed for temporary political interests; that welfare obligations remain continuous; that constitutional institutions require independence and integrity; and that future generations possess legitimate interests in present governmental decisions. The trust perspective therefore provides a powerful ethical and legal framework for strengthening constitutional accountability.

## XIII. CONCLUSION

The Constitution of India represents one of the most comprehensive constitutional experiments in modern history. It establishes democratic institutions, protects fundamental liberties, promotes social justice, and creates mechanisms for accountable governance. While traditionally analysed through constitutional doctrines such as separation of powers, judicial review, and the rule of law, the Constitution may also be meaningfully understood through the conceptual framework of charitable trust jurisprudence.

The analogy developed in this article demonstrates that several structural similarities exist between a charitable trust and constitutional governance. The Constitution functions like a foundational trust instrument establishing the purposes and mechanisms of administration. The people of India constitute the ultimate beneficiaries and the source of constitutional authority. The Government acts as trustee by exercising public power on behalf of citizens. The Preamble defines the objectives of the constitutional trust by declaring commitments to justice, liberty, equality, and fraternity. Fundamental Rights represent the enforceable rights of beneficiaries against misuse of governmental authority. Directive Principles establish the affirmative duties of the trustee to promote social and economic welfare.

The comparison between the Doctrine of Basic Structure and the doctrine of *cy-près* further demonstrates how constitutional systems preserve foundational purposes while allowing necessary adaptation. Although the two doctrines are not legally identical, both express a common jurisprudential concern: institutions must evolve without abandoning their essential objectives. The constitutional trust perspective ultimately reinforces the idea that government is a fiduciary institution. Political power is not an instrument of personal authority but a responsibility entrusted for public benefit. Constitutional offices exist to serve citizens, protect rights, promote welfare, and preserve the values declared in the Preamble.

Therefore, the Constitution may be understood as establishing a continuing public charitable trust dedicated to human dignity and collective welfare. This interpretation does not replace conventional constitutional theory but enriches it by emphasising accountability, responsibility, and fidelity to constitutional purposes. In a democratic constitutional order, the highest duty of the trustee is to remain faithful to the beneficiaries. The Indian constitutional experience demonstrates that the State derives its legitimacy from the people and must continuously justify its existence through service to them. The Constitution is therefore not merely an instrument of governance; it is a solemn public commitment through which the people entrust power to institutions for the achievement of the common welfare.

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