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## CONSTITUTION AND CONSTITUTIONALISM

### *Abstract:-*

A state is a political unit with a predetermined territory, population, form of government, and level of sovereignty. The state carries out a wide range of tasks, from upholding law and order to defending against outside attack to carrying out contemporary welfare responsibilities. The State must have some fundamental organs through which these activities are carried out in order to be able to perform such a vast range of duties. A legal framework is required to establish the fundamental organs, including their composition, organization, and functions. The requirement of a Constitution stems from the need for some fundamental organs to perform State tasks.

### *What is Constitution?*

The Constitution establishes the fundamental rules of governance and serves as the foundation for all other State agencies. In general, laws fall into two categories: those that control the State (public law) and those that the State uses to regulate its citizens (private law).

A nation's constitution is a foundational text that aims to define the essential or fundamental branches of government and outlines their composition, powers, and guiding ideas. It also establishes how these organs relate to one another and controls how they interact with humans. People and the government typically have a relationship characterized by specific rights. Some essential rights that the nation's citizens must have against the State are highly stressed in modern constitutions. The Constitution is the source of authority and legitimacy for all state legislation and authorities. Any State action that goes against this is considered to be beyond the scope of the Constitution. The State's goals are shaped and its structure is defined by the Constitution for many years to come. It forms the cornerstone of the country's core political, economic, and religious beliefs.

In *Minerva Mills v. Union of India*, AIR 1980 SC 1789, the Supreme Court noted that the Constitution has established a system of checks and balances that places restrictions on the authority of each authority and instrumentality.

### ***What is Constitutionalism?***

The concept of “limited governance” refers to constitutionalism, which should be reflected in a democratic state’s constitutional law. The Indian Constitution is a body of law that incorporates constitutionalism. Such constitutionalism is reflected in the enumerated fundamental rights and guaranteed remedies, as well as in the establishment of the court as an unbiased arbiter with all independent powers save a broad based legislative check on the executive. The principles of judicial review, the rule of law, the division of powers, the universal franchise, the transparent administration, the fundamental right to equality, and the quality of life evolved and were solidified from these central figures. Constitutionalism, in the words of Professor K.C. Wheare, “means government according to rule as opposed to arbitrary government.” It refers to government that is constrained by the provisions of the Constitution rather than just by the aspirations and qualifications of people in positions of authority. In addition to granting authority, a constitution should aim to limit that authority. While acknowledging the necessity of government, constitutionalism also demands that powers be limited. It has safeguards against abuse. It’s been stated that a nation may or may not be constitutionally constituted. Put another way, constitutionalism is fundamentally the opposite of arbitrary power and implies restrained government.

The concept of constitutionalism is an ideology, which is sometimes linked to John Locke’s political theories, which holds that the government’s authority and legitimacy are dependent on its ability to uphold legal limits on its powers. In its broadest sense, constitutionalism refers to the belief that the government’s authority is contingent upon adhering to powers that are either appropriate or permissible.

### ***Conclusion :-***

The concept of “limited governance” refers to Constitutionalism, which should be reflected in a democratic state’s constitutional Law. The Indian Constitution is a body of law that incorporates constitutionalism. Such constitutionalism is reflected in the enumerated fundamental rights and

guaranteed remedies, as well as in the establishment of the court as an unbiased arbiter with all independent powers save a broad based legislative check on the executive. The principles of judicial review, the rule of law, the division of powers, the universal franchise, the transparent administration, the fundamental right to equality, and the quality of life evolved and were solidified from these central figures.