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Indian Constitution is a 'transformative Constitution'. Discuss.

- The Constituent Assembly might have owed its legal existence to the colonial regime, but the Constitution of India asserted the sovereign status of the country. Like many other Constitutions, Indian Constitution is a 'power-map' signifying powers of its governments and its organs and various institutions. However, the Indian Constitution goes a step ahead and adds a transformative dimension.
- First and foremost, **Gautam Bhatia** writes how the Indian Constitution transformed the legal relationship between the individual and the State. It replaced the colonial logic of governing and administering a population with the democratic logic of popular sovereignty, public participation, limited government and granting full citizenship.
- Further, not just political but Constitution also becomes a means of social transformation. **Uday Mehta** points out, for all the surface similarities with the colonial past, there was much in the Constitution that was a radical departure- UAF, equal citizenship, secular ethos, breaking of discrimination and social hierarchies and provide fundamental rights making it a social charter by transforming society.
- Another major transformation pointed out by Bhatia provided by Constitution was the breakage of multi-layered oppressive structures encountered in India' traditional society such as casteism, untouchability, entrenched patriarchy, religion as an avenue of power and social evils, suppressed research and knowledge, by means of granting horizontal rights in chapter III to enable creation of a modern society.
- **Indira Jaisingh** notes how key elements of the Indian Constitution based on the concepts of liberty, equality, fraternity, justice provide for transformative constitutionalism. Two key aspects of the term Transformative Constitutionalism emerge:
 - ✓ It envisages **attainment of substantial equality** by recognising and eliminating all forms of discrimination as they may have existed or may develop in the future- as provided in articles 14-18 and affirmative action;
 - ✓ It calls for a realisation of **full human potential within positive social relationships** - the use of the term "positive social relationships" instead of limiting it to an individual's interactions with the state is indicative of the pervasive nature of Transformative Constitutionalism in the private sphere as well as provided by articles 19 and 21.
- Another key point of transformation to be noted is unlike the ancient, medieval or colonial India, through the Constitution, **State assumes an active role** in ensuring liberty, equality, freedom and other ideals enshrined, as envisaged in the Preamble, Fundamental rights or DPSPs.
- In *Navtej Johar v. Union of India*, the court held that Transformative Constitutionalism is considered to be one of the objectives of adopting a Constitution itself. The purpose of it is to have a Constitution that guides the **nation of transforming itself** from a medieval and hierarchical society to an egalitarian democracy to embrace the ideals enshrined in the Preamble to the Constitution.