

Indian Polity

MAKING OF THE CONSTITUENT ASSEMBLY

- The Indian National Congress had officially, for the first time, demanded a Constituent Assembly in 1935, the idea was the brainchild of **M. N. Roy**.
- The British government accepted the demand in the '**August Offer**' of 1940 and finally '**the Cripps Proposal**' on the framing of Constitution came out in 1942.
- Under the '**Cabinet Mission Plan**' the Constituent Assembly came into existence in November, 1946.

Its main features were:

1. Total strength=389.
Out of these 296 were allotted to British-India and 93 to Princely states.
 2. Every province and Princely state was allotted seats in proportion to their population.
 3. The seats for British were divided among Muslims, Sikhs and General.
 4. The representatives from each community were elected by voting in the provincial legislative assembly.
 5. The heads of Princely states nominated their members. The elections were held in July-August, 1946.
- The **first meeting** was held on December 9, 1946 with only 211 members (Muslim league boycotted).
 - Princely states decided to stay away so their seats remained vacant.

However, after the acceptance of **Mountbatten plan** on June 3, 1947 most of the Princely states joined. The other significant changes were declaring the assembly to be a fully sovereign body and also a legislative body.

Functions

The Constituent Assembly drafted the Constitution and also:

- Ratified India's membership of the Commonwealth in May 1949.
- Adopted the **National Flag** on **July 22, 1947**. It was designed by **Pingali Venkiah**.
- Adopted the **National song** on **January 24, 1950**.
- Adopted the **National anthem** on **January 24, 1950**.
- Elected **Dr. Rajendra Prasad** as the **first President of India** on January 24, 1950.

Drafting Committee

- The **Constituent Assembly** contained many committees for various purposes such as House committee, Rules of

Procedure committee etc. but the most important of these was the Drafting Committee.

- It was set up on August 29, 1947 and was tasked with preparing a draft of the new Constitution.

The seven members of the Committee were:

1. Dr. B R Ambedkar (Chairman)
2. N Gopalaswamy Ayyangar
3. Dr. K M Munshi
4. T. T. Krishnamachari
5. Syed Mohammad Sadullah
6. N. Madhav Rau
7. Alladi Krishnaswamy Ayyar

- The first draft of the Constitution was published in February, 1948. The people had eight months to discuss the draft. After discussions, suggestions and proposed amendments were considered and a second draft was prepared by the Assembly. The second draft was published in October, 1948. The Drafting Committee met for a total of **141 days** and took less than six months to prepare its draft.

Enactment of Constitution

- Enactment and enforcement of the Constitution took place on **November 26, 1949 and January 26, 1950**, respectively. However, some parts had come into force on 26 November, 1949 itself with the passing of the motion 'the Constitution as settled by the Assembly be passed'.
- In all 284 of the Assembly signed the official copies of the Indian Constitution which came into effect on Jan 26, 1950.
- The Constitution adopted on **Nov. 26, 1949**, contained a **Preamble, 395 Articles and 8 Schedules**.
- The Constituent Assembly took **2 years 11 months and 18 days** to complete the Constitution.

The Preamble

- The Preamble to Indian Constitution is **based on "Objective Resolution"** of Nehru. Jawaharlal Nehru introduced an objective resolution on December 13, 1947 and it was adopted by Constituent Assembly on 22 January, 1947.
- The Drafting Committee of the Assembly in formulating the Preamble in the light of "Objective Resolution" felt that the Preamble should be restricted to defining the essential features of the new state and its basic socio-political objectives

and that the other matters dealt with Resolution could be provided in the substantive parts of the Constitution.

- The Committee adopted the expression 'Sovereign Democratic Republic' in place of 'Sovereign Independent Republic' as used in the "Objective Resolution".
- The Committee added the word **Fraternity** which was not present in the Objective Resolution. The Committee felt that the need for fraternal concord and goodwill in India was never greater than now.
- The term '**Preamble**' means the introduction to a statute. It is the introductory part of the Constitution.
- Initially, the Preamble was drafted by **Sh. B. N. Rau** in his memorandum of May 30, 1947 and was later reproduced in the Draft of October 7, 1947. In the context of the deliberations by the Constituent Assembly, the Preamble was reformulated.
- The Preamble does not grant any power but it gives a direction and purpose to the Constitution.
- It outlines the objectives of the whole Constitution. The Preamble contains the fundamentals of the Constitution. The Preamble to an Act sets out the main objectives which the legislation is intended to achieve.

THE PREAMBLE READS

"WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN, SOCIALIST, SECULAR, DEMOCRATIC, REPUBLIC and to secure to all its citizen:

JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity; and to promote among them all

FRATERNITY assuring the dignity of the individual and the unity and integrity of the nation:

IN OUR CONSTITUENT ASSEMBLY, this 26th day of November 1949, do hereby ADOPT, ENACT and GIVE TO OURSELVES THIS CONSTITUTION.

- **The word socialist and secular have been added to the Preamble by 42nd amendment Act 1976.** Also unity of nation was amended to read unity and integrity of the nation.

Salient Features

- **Originally** our Constitution contained **395 Articles divided in 22 Parts and 8 Schedules.**
- Our Constitution is the most comprehensive constitution in the world.
- The Constitution, in **its current form**, consists of a **Preamble, 24 Parts containing 448 articles, 12 schedules.**
- It is designed to work as **Federal Government in normal times and as a Unitary Government in an emergency.**
- It establishes a **Parliamentary System** of Government in India.
- It introduces **adult franchise.**
- **India is a union of 29 States and 7 Union Territories.**

- It abolishes **untouchability** in India.
- It guarantees **Fundamental Rights** to all citizens of India.
- It lays down Directive Principles of State Policy for the guidance of Legislature and the Executive of the country.
- It establishes independence of judiciary from the executive.
- It declares Hindi as the official language of India which would replace English as early as possible.
- Provision has been made for amending the Constitution.

Sources of Indian Constitution

Indian Constitution has borrowed its provisions from following sources.

| Country | Provisions Borrowed |
|--------------------------------|---|
| Government of India Act, 1935 | Federal scheme Declaration of emergency powers Ordinance defining the power of the President and Governors Office of the Governor Power of federal judiciary Administration at the centre and state level |
| United Kingdom | Parliamentary system Bicameral parliament Prime minister Council of ministers Single citizenship Office of CAG Writ jurisdiction of courts Rule of law |
| USA | Written constitution Fundamental rights Supreme Court President as executive head of the state Impeachment of the president, removal of SC and HC judges Vice President as chairman of Rajya Sabha Judicial review, independence of judiciary |
| Australia | Concurrent list Cooperative federalism Centre State relationship Joint sitting of two houses of parliament |
| USSR | Fundamental duties |
| Weimar Constitution of Germany | Suspension of fundamental rights during emergency Ballot system |
| Canada | Federal system Residuary powers Appointment of Governor Advisory jurisdiction of S.C |
| South Africa | Procedure of constitutional amendment Electing member to Rajya Sabha |
| Ireland | Concept of Directive Principles of State Policy Nomination of members to Rajya Sabha by the President Presidential election |

IMPORTANT ARTICLES OF INDIAN CONSTITUTION

Part 1 – Art. 1 to Art. 4

- Article 1- Name and territory of the Union, (i.e. India)
- Article 2 – Admission and Establishment of the new state.
- Article 3 – Formation of new states and alteration of areas, boundaries, and name of existing states.

Part 2 – Art. 5 to Art. 11

- Article 5 – **Citizenship** at the commencement of the Constitution.
- Article 6- Rights of citizenship of certain person who have migrated to India from Pakistan.
- Article 10- continuance of rights of citizenship.
- Article 11- Parliament to regulate the right of citizenship by law.

Part 3 – Art.12 to Art.35

- Article 12- Definition of the state
- Article 13 Laws inconsistent with or in derogation of the Fundamental Rights.
- Originally, Constitution provided for 7 basic Fundamental Rights, now there is only six rights, one Right to Property U/A 31 was deleted from the list of Fundamental Rights by 44th Amendment Act 1978. It made a legal right U/A 300-A in Part XII of the Constitution.

Some important Fundamental Rights are as:

Right to Equality: Art. 14 to Art. 18

- Article 14- Equality before the law.
- Article 15- Prohibition of discrimination on the grounds of religion, race, caste, sex or place of birth.
- Article 16- Equality of opportunity in matters of public employment.
- Article 17- Abolition of the untouchability.
- Article 18- Abolition of titles

Right to Freedom: Art. 19 to art. 22

- Art.19 guarantees to all the citizens the six rights :
 1. Right to freedom of speech and expression.
 2. Right to assemble peacefully and without arms.
 3. Right to form associations or unions.
 4. Right to move freely throughout the territory of India.
 5. Right to reside and settle in any part of the territory of India.
 6. Right to practise any profession or to carry on any occupation, trade, and business.
- Article 20- Protection in respect of conviction for offences.
- Article 21- Protection of life and personal liberty.
- Article 22- Protection against arrest and detention in certain cases.

Right against Exploitation: Art.23 & Art. 24

- Article 23- Prohibition of traffic in human beings and forced labour.
- Article 24- Prohibition of employment of children in factories and mines under age of 14.

Right to Freedom of Religion: Art.25 to Art. 28

- Article 25- Freedom of conscience and free profession, practice and propagation of religion.
- Article 26- Freedom to manage religious affairs.
- Article 27- Freedom as to pay taxes for promotion of any particular religion.
- Article 28- Freedom from attending religious instruction.

Cultural and Educational Rights: Art. 29 & Art. 30

- Article 29- Protection of interest of minorities.
- Article 30- Right of minorities to establish and administer educational institutions.
- Article 32- Remedies for enforcement of Fundamental Rights.

Part 4-Directive Principles of States Policy: Art 36 to Art. 51

- Article 36- Definition
- Article 37- Application of DPSP
- Article 39A- Equal justice and free legal aid.
- Article 40- Organisation of Village Panchayat.
- Article 41- Right to work, to education, and to public assistance in certain cases.
- Article 43- Living Wages, etc. for workers.
- Article 43A- Participation of workers in management of industries.
- Article 44- Uniform Civil Code. (applicable in Goa only).
- Article 45- Provision for free and compulsory education for children.
- Article 46- Promotion of educational and economic interest of Scheduled Castes, ST, and OBC.
- Article 47-Duty of the State to raise the level of nutrition and the standard of living and to improve public health.
- Article 48-Organisation of agriculture and animal husbandry.
- Article 49- Protection of monuments and places and objects of natural importance.
- Article 50- Separation of judiciary from executive.
- Article 51- Promotion of international peace and security.

Part IV-A- Fundamental Duties: Art 51A

- It contained, originally 10 duties, now it contains 11 duties by **86th amendments Act 2002**.

Part 5 – Union (52-151)

- Article 52- The President of India.
- Article 53- Executive Power of the Union.
- Article 54- Election of President.
- Article 61- Procedure for Impeachment of the President.
- Article 63- The Vice-President of India.
- Article 64- The Vice-President to be ex-officio chairman of the Council of States (Rajya sabha)
- Article 66- Election of Vice-President.
- Article 72- Pardoning powers of President.
- Article 74- Council of Minister to aid and advice President.
- Article 76- Attorney-General for India.
- Article 79- Constitution of Parliament.
- Article 80- Composition of Rajya Sabha.
- Article 81- Composition of Lok Sabha.
- Article 83- Duration of Houses of Parliament.
- Article 93- The speakers and Deputy Speakers of the House of the People.
- Article 105- Powers, Privileges, etc. of the House of Parliament.
- Article 109- Special procedure in respects of Money Bills.
- Article 110- Definition of “Money Bills”.
- Article 112- Annual Financial Budget.

- Article 114- Appropriation Bills.
- Article 123- Powers of the President to promulgate Ordinances during recess of parliament.
- Article 124- Establishment of Supreme Court.
- Article 125- Salaries of Judges.
- Article 129- Supreme Court to be Court of Record.
- Article 130- Seat of the Supreme Court.
- Article 136- Special leaves for appeal to the Supreme Court.
- Article 137- Review of judgement or orders by the Supreme Court.
- Article 141- Decision of the Supreme Court binding on all the courts.
- Article 148- Comptroller and Auditor- General of India.
- Article 149- Duties and Powers of CAG.

Part 6 – States (152-237)

- Article 153- Governors of State.
- Article 154- Executive Powers of Governor.
- Article 161- Pardoning powers of the Governor.
- Article 165- Advocate-General of the State.
- Article 213- Power of Governor to promulgate ordinances.
- Article 214- High Courts for states.
- Article 215- High Courts to be Court of Record.
- Article 226- Power of High Courts to issue certain writs.
- Article 233- Appointment of District judges.
- Article 235- Control over Sub-ordinate Courts.

Part 7 – 238 – Repealed

Part 8 – 239-242 – Union Territories

Part 9 – 243-243 O – Panchayats

- Article 243A- Gram Sabha.
- Article 243B- Constitution of Panchayats.

Part 9A – 243 P-243 ZG – Municipalities

Part 10 : Scheduled and Tribal Areas (-244)

Part 11 : Center- State Relations (Arts 245 – 263)

Part 12 : Finance, Property, Contracts and Suits (264 – 300A)

- Article 266- Consolidated Fund and Public Accounts Fund.
- Article 267- Contingency Fund of India
- Article 280- Finance Commission.
- Article 300-A- Right to property.

Part 13 : Trade, Commerce and Intercourse within the territories of India (301-307)

- Article 301-Freedom to trade, commerce, and intercourse.
- Article 302- Power of Parliament to impose restrictions on trade, commerce, and intercourse.

Part 14 : Services Under Centre and State (308-323)

- Article 312- All- India-Service.
- Article 315- Public Service Commissions for the Union and for the States.
- Article 320- Functions of Public Service Commission.

Part 14A : Tribunals (323 A – 323 B)

- Article 323A- Administrative Tribunals.

Part 15 : Elections (324 – 329)

- Article 324- Superintendence, direction and control of elections to be vested in an Election Commission.
- Article 325- No person to be ineligible for inclusion in or to claim to be included in a special, electoral roll on grounds of religion, race, caste, or sex.

- Article 326- Elections to the house of the people and to the legislative assemblies of states to be on the basis of adult suffrage.

Part 16 : Special Provisions to SC, ST, OBC, Minorities etc. (330 -342)

- Article 338- National Commission for the SC, & ST.
- Article 340- Appointment of a commission to investigate the conditions of backward classes.

Part 17 : Official Language (343- 351)

- Article 343- Official languages of the Union.
- Article 345- Official language or languages of a state.
- Article 348- Languages to be used in the Supreme Court and in the High Courts.
- Article 351-Directive for development of the Hindi languages.

Part 18 : Emergency (352-360)

- Article 352- Proclamation of emergency (National Emergency).
- Article 356- State Emergency (President's Rule).
- Article 360- Financial Emergency.

Part 19 : Miscellaneous (361-367)

- Article 361- Protection of President and Governors.

Part 20 : Amendment of Constitution (368)

- Article 368- Powers of Parliament to amend the Constitution.

Part 21 : Special, Transitional and Temporary Provisions (369 – 392)

- Article 370 – Special provision of J&K.
- Article 371A – Special provision with respect to the State of Nagaland.
- Article 371-J: Special Status for Hyderabad-Karnataka region.

Part 22 : Short Text, Commencement, Authoritative Text in Hindi and Repeals (392 – 395)

- Article 393 – Short title – This Constitution may be called the Constitution of India.

Right to Education (Article 21-A)

- The Constitution (**Eighty-sixth Amendment**) Act, 2002 inserted Article 21-A in the Constitution of India to provide free and compulsory education of all children in the age group of six to fourteen years as a Fundamental Right in such a manner as the State may, by law, determine.

The Union & Its Territory

- **Article 1** stipulates that **India, that is Bharat, shall be Union of states.**
- The country is described as 'Union 'because it is **indestructible.**
- The 'territory of India' includes the entire area over which the Sovereignty of India extends.
- Under Articles 2 & 3, Parliament has the power to establish new States, form a new State from the territory of any State or by uniting two or more States, increase or decrease the area of any State, or after the boundaries or the name of any State.

- **First Linguistic State – Andhra Pradesh.**

States Reorganisation Act 1956

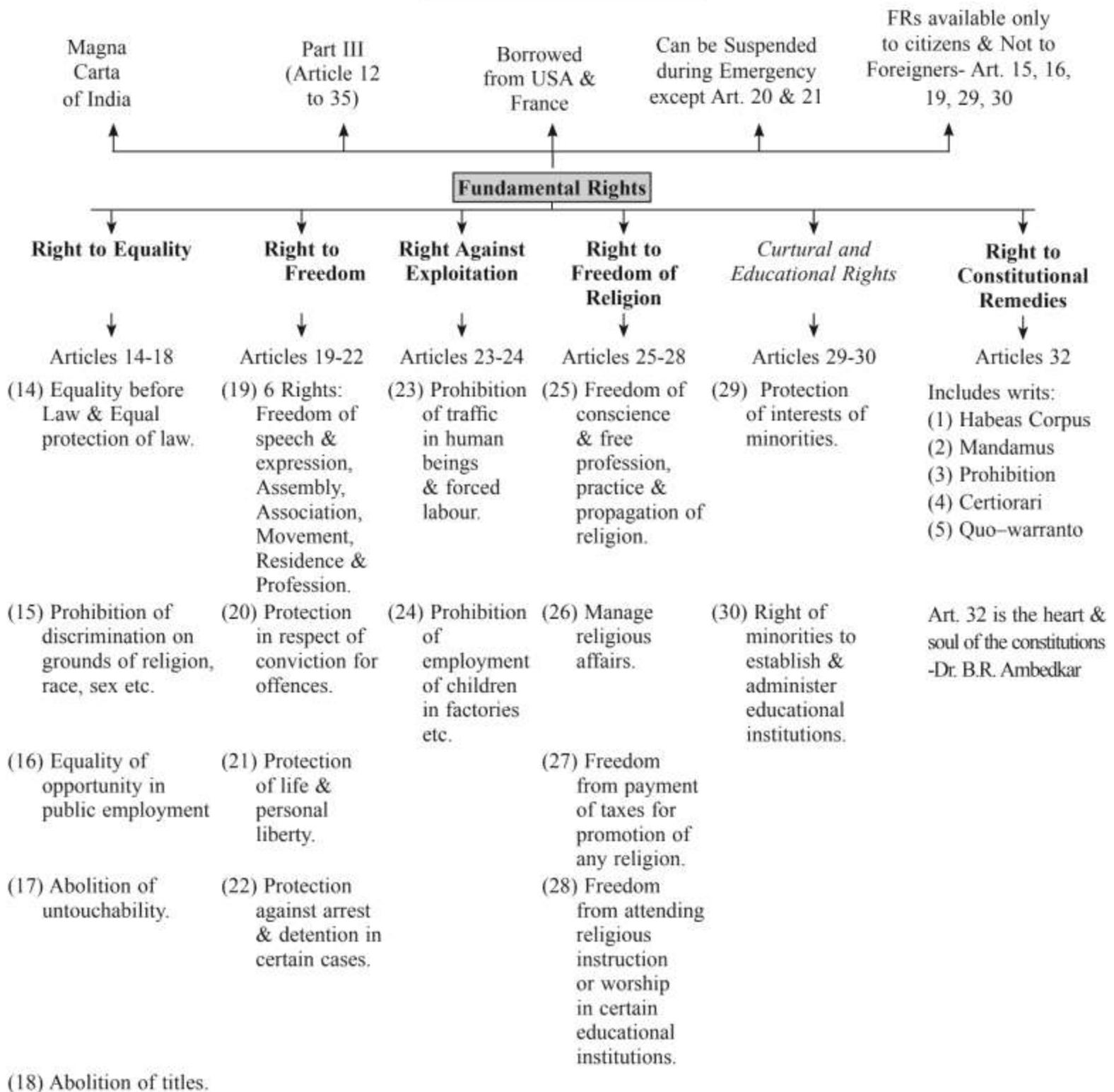
States Reorganisation Act 1956 was adopted by the Govt. of India that resulted in the formation of new states & UTs.

**LIST OF NEW STATES & UTS
CREATED AFTER 1956**

| STATES/UTs | YEAR |
|--------------------------|------|
| 1. Maharashtra & Gujarat | 1960 |
| 2. Dadra & Nagar Haveli | 1961 |
| 3. Goa, Daman & Diu | 1962 |
| 4. Goa (Statehood) | 1987 |
| 5. Puducherry | 1962 |

| | |
|---|------|
| 6. Nagaland | 1963 |
| 7. Haryana, Chandigarh | 1966 |
| 8. Himachal Pradesh (Statehood) | 1971 |
| 9. Manipur, Tripura & Meghalaya (Statehood) | 1972 |
| 10. Sikkim (full – fledged State) | 1975 |
| 11. Arunachal Pradesh & Mizoram | 1987 |
| 12. Chhattisgarh, Uttarakhand & Jharkhand | 2000 |
| 13. Telangana | 2014 |

Fundamental Rights



- In case of any one of the Fundamental Rights being deprived or denied to the resident of the country, the individual or the party has the right to present their case in a court. In this case, the court has the flexibility to assign writs to the public in the form of *habeas corpus*, *mandamus*, *prohibition*, *quo-warranto* and *certiorari*.
- In the case of a national emergency, the Government has the flexibility to append or repeal the right of the citizen. According to Article 32, Indian citizens can stand up and fight for their fundamental rights if they are breached.

Types of Writs

| Writs | Meaning | Purpose |
|----------------------|--|---|
| Habeas Corpus | The Latin word means to have a body | It is a remedy to a common man when he is imprisoned without legal sanction. |
| Mandamus | The Latin word, means 'we order' or 'We command' | It is a remedy in which an order is passed on from a superior institution to a supplementary, subordinate court or authority that prohibits the court or government official from performing a certain act under the nature of statutory obligation. |
| Prohibition | Forbid | Prohibition is writ issued by the High Court or the Supreme Court to the local courts to prevent them from proceeding with a case which does not fall under its jurisdiction. When a subordinate court (Ex. Tribunals) exceeds its jurisdiction, Prohibition issued by Supreme Court or High Courts before the trial of the Courts. |
| Certiorari | Means 'to be informed' of | This writ orders issued to a subordinate court transfer a suit to a superior court. It is issued before a trial, when a lower court acts without jurisdiction. |
| Qua-Warranto | Means what is your Authority | Issued by the court to enquire into the legality of claim which a person asserts to a public office. |

FUNDAMENTAL DUTIES

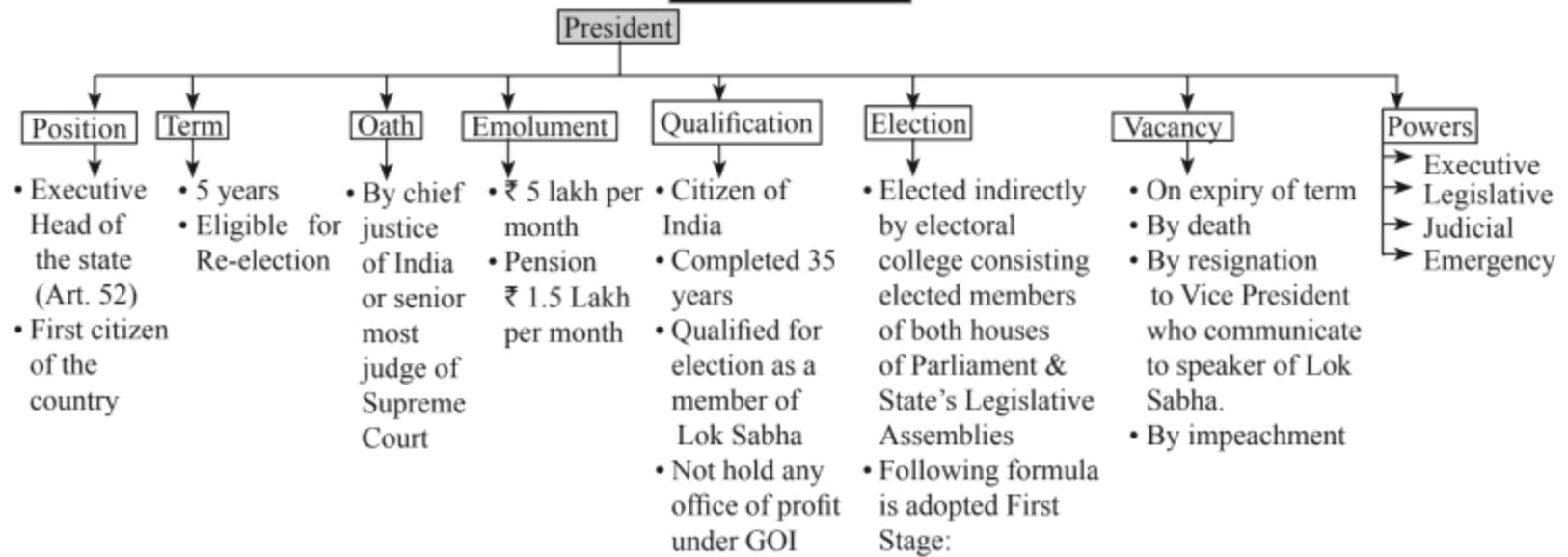
Part IV-A–Article 51-A, added by 42nd Amendment, 1976

It says that it shall be the duty of every citizen of India (originally there were 10 duties, now eleven such duties, after the 86th Constitution Amendment Act, 2002):

- (i) To abide by the Constitution and respect its ideals and institutions, the National Flag and National Anthem,
- (ii) To cherish and follow the noble ideals which inspired our national struggle for freedom,
- (iii) To uphold and protect the sovereignty, unity and integrity of India,
- (vi) To defend the country and render national service when called upon to do so,
- (v) To promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities: to renounce practices derogatory to the dignity of women,
- (vi) To value and preserve the rich heritage of our composite culture,
- (vii) To protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures,
- (viii) To develop the scientific temper, humanism and the spirit of inquiry and reform,
- (ix) To safeguard public property and to abjure violence,
- (x) To strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievements,
- (xi) Who is parent or guardian, to provide opportunities for education to his child or ward between the age 6 and 14 years (inserted by the **86th Constitutional Amendment Act 2002.**)

THE UNION (ARTICLE 51-151)

President



$$\text{Value of vote of an MLA} = \frac{\text{Total population of State}}{\text{Total no. of elected members in the State Legislative Assembly}} \times \frac{1}{1000}$$

$$\text{Value of vote of an MP} = \frac{\text{Total value of votes of all MLAs of all States}}{\text{Total no. of elected MPs}}$$

- At second stage, a complex system of calculating Quota of individual candidate is used which is based on the order of preference of candidates.

Powers and Functions

Executive Powers - Article 53

All executive powers of the Union are vested in him. The Supreme Command of the Defence Force is vested on the President.

Power of Appointment :

- President appoints the Prime Minister and other ministers; and they hold office during his pleasure.
- He appoints the **Attorney General of India, Comptroller and Auditor General of India, the Chief Election Commissioner** and other Election Commissioners, the Chairman and Members of the UPSC, the Governors of the states, the Chairman and the members of the Finance Commissions, etc.
- The President can appoint a commission to investigate into the conditions of SCs, STs and OBCs.

The Legislative Powers

- The President can summon or end a session of the Parliament and dissolve the Lok Sabha.
- He can address the Parliament at the commencement of the first session after the general election and the first session of each year.
- He can also summon a joint sitting of both the houses of Parliament which is presided over by the Speaker of the Lok Sabha.
- The President can appoint a member of the Lok Sabha to preside over its proceedings when the office of Speaker as well as Deputy Speaker are vacant.

- He also can appoint any member of the Rajya Sabha to preside over its proceeding when both the Chairman's and Deputy Chairman's office fall vacant.
- He can **nominate 12 members to the Rajya Sabha** with extraordinary accomplishments and **two members to the Lok Sabha** from the Anglo-Indian Community.
- His prior permission is needed for introducing Money and Financial bills only in the Lok Sabha.
- When a bill is sent to the President after it has been passed by the Parliament, he can give his assent to the bill or withhold his assent to the bill or return the bill (if it is not a **Money Bill** or a **Constitutional Amendment Bill**) for reconsideration of the Parliament.
- When a bill is passed by a State legislature is reserved by the Governor for consideration of the President, the President can give his assent to the bill, or withhold his assent to the bill or direct the Governor to return the bill (if it is not a **Money bill**) for reconsideration of the State Legislature.
- President can promulgate **ordinances** when both the Houses of the Parliament are not in session. These ordinances must be approved by the Parliament within the **six weeks** of its reassembly. The ordinance can be effective for a maximum period of **six months** and **six weeks** – Article 123.

Emergency Powers

- The President can declare three types of emergencies:

National Emergency (Art. 352)

- National emergency is caused by **war, external aggression** or **armed rebellion** in the whole of India or a part of its territory.
- President can declare national emergency **only on a written request** by the **Cabinet Ministers headed by the Prime Minister** and the proclamation must be approved by the **Parliament** within **one month**.
- It can be imposed for six months. It can be extended by six months by repeated parliamentary approval, up to a maximum of **three years**.
- Under national emergency, Fundamental Rights of Indian citizens can be suspended.
- The **Right to Life** and **Personal Liberty** cannot be suspended.
Such an emergency has been invoked at three instances:
- 1962 (Indo-China war)
- 1971 (Indo-Pakistan war)
- 1975 to 1977 (declared by Indira Gandhi on account of “internal disturbance”).

State Emergency or President’s Rule (Art. 356)

A State Emergency can be imposed via the following:

1. If that State failed to run Constitutionally, i.e. constitutional machinery has failed - Article 356
 2. If that State is not working according to the given direction of the Union Government – Article 365
 3. Such an emergency must be approved by the **Parliament** within a period of **two months**.
- It can be imposed from **six months** to a maximum period of **three years** with repeated parliamentary approval every six months.
 - If needed, the emergency can be extended for **more than three years**, by a constitutional amendment, for example in the case of **Punjab** and **Jammu and Kashmir**.
 - During such an emergency, the Governor administers the State in the name of the President. The Legislative Assembly can be dissolved or may remain in suspended animation. The **Parliament** makes laws on the **66 subjects** of the **State List**. All **money bills** have to be referred to the Parliament for approval.

Financial Emergency Art - 360

- President can proclaim a Financial Emergency if financial stability or credit of India or any part thereof is threatened.
- This proclamation must be approved by the **Parliament** within **two months**.
- This type of Emergency has not been declared so far.

Financial Powers

- A **money and Financial bills** can be introduced in the Parliament only with the President’s recommendation.
- The President lays the Annual Financial Statement, i.e. the Union budget before the Parliament.
- President can make advances out of the Contingency Fund of India to meet unforeseen expenses.
- The President constitutes a **Finance Commission** after every five years to recommend the distribution of the taxes between the Centre and the States.

Diplomatic Powers

- International **treaties** and **agreements** are signed on behalf of the President. However, they are subject to approval of the **Parliament**.
- The President represents India in international forums and affairs and may send and receive diplomats like ambassadors, high commissioners, etc.

Military Powers

- The President is the **supreme commander of the defence forces** of India.
- The President can declare **war** and conclude **peace**, subject to **Parliament’s approval**.
- The President appoints the chiefs of Army, Navy and Air Force.

Judicial Powers

- The President appoints the Chief Justice of the Union Judiciary and other judges on the recommendation of Supreme Court’s Collegium (5 Sr. most Judges including CJI).
- The President dismisses the judges if and only if the two Houses of the Parliament pass resolutions to that effect by two-thirds majority of the members present.
- **Under Article 72** the President has the right to grant pardon.
- The President enjoys the judicial immunity.
- No criminal proceedings can be initiated against the President during his term in office.
- The President is not answerable for the exercise of his/her duties.

Veto Powers

The President of India is vested with three—absolute veto, suspensive veto and pocket veto.

Absolute Veto

- It refers to the power of the President to withhold his assent to a bill passed by the Parliament. The bill then ends and does not become an act.

1. **In 1954, President Dr Rajendra Prasad** withheld his assent to the PEPSU Appropriation Bill. The bill was passed by the Parliament when the President’s Rule was in operation in the state of PEPSU.
2. **Again in 1991, President R Venkataraman** withheld his assent to the Salary, Allowances and Pension of Members of Parliament (Amendment) Bill. The bill was passed by the Parliament (on the last day before dissolution of Lok Sabha) without obtaining the previous recommendation of the President.

Suspensive Veto

Sending the bill back to the Parliament for reconsideration and which can be over ridden by the Legislature with an ordinary majority.

Pocket Veto

- In this case, the President neither signs nor rejects nor returns the bill, but simply keeps the bill pending for an indefinite period.

- In 1986, President Zail Singh exercised the pocket veto with respect to the Indian Post Office (Amendment) Bill.

The 24th Constitutional Amendment Act of 1971 made it obligatory for the President to give his assent to a Constitutional Amendment bill.

The Vice-President

Part V Article (63-73)

- Article 63 of the Indian Constitution says that there should be a Vice-President of India.
- The Vice-President shall be the ex-officio Chairman of Rajya Sabha (Article 64).
- The Vice-President can be removed from office by a resolution of the Council of States (Rajya Sabha), passed by a majority of its members at that time and agreed to by the House of the People (Lok Sabha). (Article 67)
- Vice President is entitled to a salary of Rs. 4 Lakh per month.
- **Dr. S Radhakrishnan** (13-May-52 to 12-May-62) was the first Vice-President of India.

Council of Ministers

- **Art 74 (1):** It provides that, "There shall be a Council of Ministers with the Prime Minister as its head to aid and advise the President who shall in exercise of his/her functions act in accordance with such advice.
- **Article 75** stipulates that the Prime Minister shall be appointed by the President. Other ministers shall be appointed by the President on the advice of the Prime Minister (Article 75 (i)).
- The Ministers hold office during the pleasure of the President, but they cannot be removed so long as they have the support of the majority in the Lok Sabha, in fact, according to the Constitution, Ministers are **collectively responsible** to the Lok Sabha.
- If the Lok Sabha passes a '**no-confidence motion**', the entire Council of Ministers including PM has to resign. A **no-confidence motion** is a legislative motion brought by the members of the Lok Sabha, expressing lack of trust in the Council of Ministers. That is why, it is said that the **Ministers swim and sink together**.
- Regarding the functions of the Council of Ministers, these are the same as those of the Prime Minister. The proceedings of the Cabinet or Council of Ministers are kept secret. The Council of Ministers is a large body of Ministers. We have seen during recent years, the top category, known as the Ministers of Cabinet rank are about 20 to 25 and they hold the charge of important ministries.
- Then there is a group of ministers, called **Ministers of State**, some of them hold independent charges of ministries while others are attached to Cabinet Ministers. **Deputy Ministers** are attached to **Cabinet Ministers** or Ministers of State. The Cabinet meeting is attended only by the Ministers of Cabinet rank, but if need be the Ministers of State also may be invited to attend such meetings.
- Ministers may be taken from members of either House and minister who is member of one House has the right to speak and take part in the proceedings of the other House but cannot vote in the House of which he is not member (Art.88).

- A person who is not a member of either House can also become a minister for more than **6 months** unless he secures a seat in either House of Parliament (by election or nomination) in the mean time (Art 75 (5)).
- **The Council of Ministers shall be collectively responsible to Parliament. (Art. 75 (3))**
- **Art 75(2) envisages principle of individual responsibility which says that a minister shall hold office during the pleasure of the President.**

The Prime Minister

Prime Minister is the real executive of Government of India.

- **Art 74 (1):** It provides that, "There shall be a Council of Ministers with the Prime Minister as its head to aid and advise the President who shall in exercise of his functions act in accordance with such advice.
- The Prime Minister holds pre-eminent position, second only to the President.
- He is principal advisor to the President and holds enormous powers.
- He presides over the meeting of Council of Ministers.
- He allocates & reshuffles various portfolios among the Ministers.
- He guides, directs, controls & coordinates the activities of the Ministers.
- Along with other ministers he is also responsible to Lok Sabha and individually responsible to the President.
- He is the link between President and the Cabinet.
- **Art. 78** envisages duties of Prime Minister in respect of furnishing information to the President.
- Prime Minister is the key link between the Cabinet and the Parliament and keystone of Cabinet architecture.

- Present Prime Minister of India 2014: **Narendra Damodardas Modi**
- First female Prime Minister of India: **Indira Gandhi**
- **Jawaharlal Nehru** was the first Prime Minister and the longest serving.
- **Gulzarilal Nanda** is the first and the only acting Prime Minister of India.
- **Lal Bahadur Shastri** was the first PM who died abroad while in office in Tashkent. Gulzarilal Nanda has acted twice as the Prime Minister.
- **Chaudhary Charan Singh** the only PM never faced Parliament while being in office.
- **Morarji Desai** was the oldest PM and **Rajeev Gandhi** was the youngest PM.
- **Atal Bihari Vajpayee** (May 1996-June 1996) government had the shortest tenure 13 days.

Union Legislature

- **Part V** of the Constitution deals with Parliament. According to **Article 79**, there shall be a Parliament for the Union, which shall consist of:
- **President of India.**
- Two houses consist of Council of States (**Rajya Sabha** or Upper House of the people and **Lok Sabha** or Lower House).

- It is important to appreciate that making the President a part of the Parliament is in conformity with the principles and traditions of the parliamentary form of government.
- The **business of Parliament** is transacted either in **Hindi** or in **English**. However, the members are permitted to address the House in their **mother tongue**.

Rajya Sabha (Council of States)

- The **Upper House of Parliament** known as the Rajya Sabha held its **first sitting on April 3, 1952**.
- **Article 80** of the Constitution lays down the **maximum strength** of Rajya Sabha as **250**, out of which **12** members are nominated by the President, **238** are representatives of the States and of the two Union Territories.
- The **present** strength of Rajya Sabha, however, is **245**, out of which **233** are representatives of the States and Union Territories of Delhi and Puducherry and **12** are nominated by the President.
- The members nominated by the President are persons having special knowledge or practical experience in respect of such matters as **literature, science, art and social service**.
- The **Fourth Schedule** to the Constitution provides for allocation of seats to the States and Union Territories in Rajya Sabha.
- The allocation of seats is made on the basis of the **population** of each State.
- The Rajya Sabha is not subject to dissolution. **The members of the Rajya Sabha are elected for 6 years. One-third of the members retire every two years and new members are elected.**
- The retiring member can be **re-elected**. To be eligible to be a member of the Rajya Sabha, a person must (a) be a citizen of India, and (b) be at least **30** years of age.
- Other qualifications are the same as those for the members of the Lok Sabha.
- There should not be a gap of more than **six months** between the **two sessions**. The President summons and has the right to prorogue the sessions of the Parliament.
- **Lok Sabha can be dissolved by the President but not the Rajya Sabha, as it is a permanent house of the Parliament.**

Lok Sabha (People's House)

- Lok Sabha is known as the **Lower or House of People**.
- The Lok Sabha is the popular House of the Parliament because its members are directly elected.
- Its **first sitting** took place on **May 13, 1952**
- Normally, **three Sessions** of the Lok Sabha are held in a year, namely, the **Budget Session**, the **Monsoon Session** and the **Winter Session**.
- The **Budget Session** is the most important and the longest of the three Sessions, usually commencing sometime in the third week of **February** and ending by the middle of **May**.

- **The Monsoon Session** normally commences sometime in the middle of **July** and lasts till the third week of **August**.
- **The Winter Session** generally begins in the middle of **November** and comes to an end sometime in the last week of **December**.
- All the members of the Parliament are popularly elected, except not more than **two** members of the **Anglo-Indian** community, who are nominated by the President.
- **In the Constitution, the strength of the Lok Sabha was provisioned to be not more than 552 : 530 from the States, 20 from the Union Territories and 2 nominated from the Anglo-Indian community (Art. 81).**
- It is composed of representatives of the people from **543** constituencies, chosen by direct election on the basis of **adult suffrage**, and meets in the Lok Sabha Chambers of the Sansad Bhavan in New Delhi.
- Under the current laws, the strength of Lok Sabha is 545, including the two seats reserved for members of the Anglo-Indian community.
- A total of 131 seats (18.42%) are reserved for representatives of **Scheduled Castes (84) and Scheduled Tribes (47)**.
- The Bharatiya Janata Party (of the NDA) achieved an absolute majority with 282 seats out of 543 in the 16th Lok Sabha held in 2014.
- But the Constitution empowers the Lok Sabha to re-adjust the strength.
- The party with largest member after ruling party and having at least **1/10th** (54 MPs) of the strength of Lok Sabha is recognised as **Opposition Party**.
- Presently Uttar Pradesh tops the list followed by Maharashtra and West Bengal respectively. UP-80, Maharashtra- 48, West Bengal-42, Andhra Pradesh-42, Tamil Nadu- 39.
- **Election:** Lok Sabha members are directly elected by the people of the states on the basis of adult suffrage. However, **in case of Sikkim** its sole representative in the House of the People is elected by the member of its **Legislative Assembly** (Article 371 F(e)).
- **Qualifications** Article 84 states about the eligibility for membership of Parliament. Accordingly:
 - He should be a citizen of India.
 - He should **not be less than of 25** years of age.
 - He should be a **registered voter** in any of the Parliamentary Constituencies in India.
 - He should not hold any **office of profit**.

Constitutional Amendment Bills

- Art. 368 deals with the power of the Parliament to amend the Constitution, and the procedure thereof.
- A Bill for this can be introduced in either House (the Lok Sabha or the Rajya Sabha) of the Parliament.
- A Constitution Amendment Bill is not treated as a Money Bill even if all its provisions attract Art. 110 (1) for the reason that such amendment are governed by Art. 368 which over rides Art. 110(1).

SPEAKER OF THE LOK SABHA

- After formation of a new Lok Sabha the President appoints a **Speaker pro-tem** who is the senior most member of the House.
- A Deputy Speaker is also elected to officiate in the absence of the Speaker.
- **The Speaker is the Chief Presiding Officer of the Lok Sabha.**
- The two officers are elected from amongst the Members of the Lok Sabha after a new Lok Sabha is constituted.
- The Speaker presides over the meetings of the House and his rulings on the proceedings of the House are final.
- He has the responsibility to uphold the dignity and the privileges of the House.
- In the absence of the Speaker, the Deputy Speaker performs the Speaker's duties.
- The Speaker continues to hold office even after the Lok Sabha is dissolved till the newly elected Lok Sabha is constituted.
- The Speaker and the Deputy Speaker may be **removed from their offices by a resolution passed by the House with an effective majority of the House after a prior notice of 14 days to them.**

Meira Kumar is the first woman Speaker of the Lok Sabha (2009-2014)

GMC Balyogi is the first speaker to die in the office (1998-2002)

Dr Balram Jakhar was the longest serving Speaker (1980-1989)

M A Ayyangar was the first Deputy Speaker (1952-1956)

GV Mavlankar was the first Speaker of the Lok Sabha (1952-1956)

Sumitra Mahajan is the present Speaker of 16th Lok Sabha since June, 2014.

Joint Session of the House

- **Art 108** provides that when a bill is passed by one house is sent to the other. The other house may:
 - Reject the bill altogether.
 - Disagrees on it and returns it with some amendments which are not ultimately considered by the originating house.
 - Takes no action and more than 6 months time has passed.
 - The President in such a case may summon a **joint sitting** of both the houses.
- At a **joint sitting of two houses**, the Speaker of the Lok Sabha and in his absence, the Deputy Speaker, or if he is also absent, Deputy Chairman of the Council of States and if he is also absent, such person as may be determined by the members present in the sitting presides. Lok Sabha by its numerical majority prevails over the joint sitting.
- This provision does not apply to money bill.

- There cannot be a joint sitting for **Constitution Amendment bills**. Nor do such bills require previous sanction of the President.
- President cannot summon a joint sitting if the bill has lapsed by reason of a dissolution of Lok Sabha.

THE SUPREME COURT

- The Supreme Court of India is the highest judicial forum and final court of appeal under the Constitution of India with the power of constitutional review.
- **It comprises the Chief Justice of India and 30 other judges.**
- It has original, appellate and advisory jurisdictions.
- A Division Bench comprises two to three justices and a Constitutional Art. 131 Bench comprises five or more judges.

Tenure and Qualification and Salary

- Judges of Supreme Court are appointed by the President of India, as per the recommendation of Supreme Court Collegium.
- The qualifications are:
 - A citizen of India who has been a judge of one high court or more (continuously), for at least five years, or
 - an advocate there, for at least ten years, or
 - a distinguished jurist, in the opinion of the President/ SC. Collegium
- **Supreme Court judges retire** at the age of 65 which is 3 years more than the retirement age of a judge of the High Court. Hence a judge at the Supreme Court who has been elevated from a High Court serves at the Supreme Court for at least more than 3 years.
- **Article 125** of the Indian Constitution empowers the Indian Parliament to determine the salary, other allowances, of the Supreme Court judges.
- However, the Parliament cannot alter any of these privileges and rights to the judge's disadvantage after his appointment.

Impeachment

- A judge of the Supreme Court can be removed under the Constitution only on grounds of proven misconduct or incapacity and by an order of the President of India, after a notice signed by at least 100 members of the Lok Sabha (House of the People) or 50 members of the Rajya Sabha (Council of the States) is passed by a two-third majority in each House of the Parliament.

Jurisdiction

- **Original Jurisdiction**
- The Supreme Court has exclusive original jurisdiction on all cases between the Government of India and the States of India or between Government of India and states on one side and one or more states on other side or cases between different states.

- In addition, **Article 32** of the Constitution of India grants original jurisdiction to the Supreme Court on all cases involving the enforcement of **fundamental rights** of citizens.
- **Appellate Jurisdiction: Article 132** deals with Appellate Jurisdiction. The **Supreme Court is the highest court of appeal in the country**. Constitutional cases, civil cases and criminal cases, fall within this jurisdiction.

- The first woman judge of the Supreme Court was **Justice Fatima Beebi** in 1987.
- The second woman justice was **Gyan Sudha Mishra** in 2010
- The first Chief Justice of India was **HJ Kania** (1950-50)
- The shortest tenure so far is of **KN Singh** (Nov. 25-1991-Dec. 12, 1991.)

Advisory Jurisdiction

- The Supreme Court has special advisory jurisdiction in matters which may specifically be referred to it by the President of India under **Article 143** of the Constitution.
- The Supreme Court is a court of record (**Article 129**).
- According to Article 139 (A) (inserted by the 44th Amendment, the Supreme Court may transfer from one or more High Court if these questions involve a significant question of law.

Part VI

THE STATES (ARTICLE 152-237)

The Governor (Article 153-162)

- The **Governor of a State is appointed by the President of India** (Article 155).
- The same Governor can act as Governor of more than one State (Article 153-162).
- According to Article 156 the Governor of the State holds office during the pleasure of the President.

Qualifications

- must be a citizen of India,
 - must be at least 35 years old, and
 - should not hold any office of profit during his/her tenure.
- The Governor like the President can grant pardons, reprieves, remission of punishment to persons convicted under the state Law.
 - **Under Article 163 the Governor enjoys discretionary powers.** The courts cannot question his discretion.
 - According to Article 171 the Governor can nominate some members from amongst those distinguished in literature, science, arts, cooperative movement and social services to state legislature.
 - **The Governor is empowered to issue ordinances.**

Legislative Assembly (Vidhan Sabha)

- It is the lower and popular house of the State. Members are chosen by direct election on the basis of adult suffrage from territorial Constituencies (Article 170).
- Their number of members varies between 60 and 500.

However certain States like Sikkim, Goa, Mizoram and Arunachal Pradesh have less than 60 members.

- The Governor may **nominate one Anglo-Indian to it**.
- The reservation of seats has been provided for SCs and STs on the basis of their population.
- According to Article 172, duration of Assembly is normally **5 years**. But it may be dissolved earlier by the Governor.
- Its term may also be extended by one year at a time by **Parliament** during national emergency, though this can in no case be extended beyond 6 months after the proclamation has ceased to operate.

Legislative Council (Article 169)

- It is the upper house.
- **Parliament** may by law create or abolish Legislative Council.
- It can be created, if the Legislative Assembly of the State passes a resolution to the effect by special majority.
- It is not an Amendment to the Constitution and therefore it can be passed like an ordinary piece of legislation.
- Article 171 contains various categories of members. According to this:
 - 1/3rd of its members are elected by Legislative Assembly.
 - 1/3rd by local bodies.
 - 1/6th nominated by the Governor.
 - 1/12th are elected by teachers.
 - 1/5th by university graduates.
- The maximum strength of Legislative Council can be 1/3rd of the total membership of Legislative Assembly, but in no case less than 40.
- Parliament has the final power to decide about its composition.
- It is not subject to dissolution. But 1/3rd of its members retire on the expiry of every **2nd year**.

High Courts (Article 214-232)

- The High Courts stand at the head of the judiciary in a State.
- There shall be a High Court for each State Article-214.
- The Judiciary in the states consist of a High Court and subordinate courts.
- The Parliament can, however, establish by law, a common High Court for one or more states and one or more territory (Article 215).
- **There are 24 High Courts in India.**
- The **Calcutta High Court** is the **oldest** of all which was established in **1862**. The Bombay and Madras High Courts were established in the same year.
- Chhatisgarh, Uttarakhand (Nainital) and Jharkhand (Ranchi) High Courts were established in the year 2000.

The Panchayati Raj (Article 243-O)

- Rajasthan is the first state in India, where Panchayati Raj was implemented by the 73rd Amendment Act, 1992.
- It gave Constitutional status to Panchayati Raj system.
- After Amendment Panchayati Raj added to the 11th Schedule of the Constitution
- 29 items related to Panchayats are there in Article 243(G).

The Three Tire System of Local Governance

- Gram Panchayat at Village Level
- Panchayat Samiti at Block Level

- Zila Parishad at District Level
- The Panchayat system has been established in all the states except Nagaland, Meghalaya and Mizoram.
- It also exists in all Union Territories except Delhi.
- Panchayat: system is provided for all States having a population more than 2 million.
- Every Panchayat can continue for five years from the date of its first meetings.

Committees to Study Panchayat System

| Name | Established | Recommendation |
|------------------|-------------|---|
| Balwantrai Mehta | 1957 | Establish local bodies, devolve power and authority, basic unit of decentralised government to be Block/Samiti. Conceptualised PRIs as 3-tier system. |
| K Santhanam | 1963 | Panchayats to have powers to levy tax on land revenue, etc. Panchayati Raj Finance Corporation to be set up. |
| Ashok Mehta | 1978 | District to be a viable administrative unit for planning. PRIs as two -tier system with Mandal Panchayat and Zila Parishad. |
| GVK Rao | 1985 | PRIs to be activated and supported, Block Development Office (BDO) to be central to rural development. |
| LM Singhvi | 1986 | Local self-governments to be Constitutionally recognized, non-involvement of political parties. |

The Municipalities (Article 243P-243 ZG)

- PART IX A added by 74th Amendment Act 1992, gives a constitutional foundation to the local self government units in urban area.
- Most provisions for municipalities are similar to those contained in PART IX, e.g., structure, reservation of seats, functions, source of income, etc.
- Nagar Panchayat, is for an area being transformed from a rural area to an urban.
- Municipal Council is for a smaller urban area.
- Municipal Corporation is for a larger urban area. The Municipal Corporation is the topmost urban local government.
- The members of a Municipality are generally elected by direct election.
- The legislature of a state can provide for representation in municipalities of:
 - Persons having special knowledge or experience in municipal administration.

Municipal Governance in India was first introduced in Madras in 1688. The Bombay and Calcutta Corporations were established in 1726.

UNION AND STATE RELATIONS

(Article 245-263)

- Legislative Relations
- Administrative Relations
- Financial Relations

Article 262 Adjudication of disputes relating to waters of inter-state rivers or river valleys.

Article 263 Inter-State Council

Inter States Council

Inter-State Council is one of the important extra judicial bodies formed in 1990 on the recommendation of Sarkaria Commission. The Article 263 of Constitution empowers the President to appoint or establish an Inter-States Council for (1) enquiring into & advising upon inter-states disputes. (2) investigate & discuss on subjects in which States alone or States & Union have common interest.

The Council is headed by the Prime Minister & its members include 6 Cabinet Ministers & Chief Ministers of States.

Zonal Council

Zonal Councils were constituted on the recommendation of States Reorganization Commission 1956. In 1956, five zonal councils were established – North, South, East, West & Central. In 1971, the 6th Zonal Council was established, i.e. North-east Zonal Council. Its objectives are:-

- (a) To promote collective approach & sorting out common problems of the member States.
- (b) For providing cooperation for the implementation of development plans & progress.

Composition : The Union Home Minister is the ex-officio chairman of all the Zonal Councils. Each Zonal Council includes the Chief Ministers of the member States & the Administrators

of the Union Territories. The Chief Secretaries of the member states are also included.

Finance, Property, Contracts and Suits (Article 264-300A)

Article 266 Consolidated Fund of India

Article 267 Contingency Fund of India

Part XIII

Inter-State Trade and Commerce

(Article 301-307)

Article 301: Freedom of trade, commerce and intercourse.

Article 302: Power of Parliament to impose restrictions on trade, commerce and intercourse.

Article 303: Restrictions on the legislative powers of the Union and of the States with regard to trade and commerce.

Article 304: Restrictions on trade, commerce and intercourse among states.

Article 305: Saving of existing laws providing for state monopolies.

Article 306: Power of certain States in Part B of the First Schedule to impose restrictions on trade and commerce (Repealed).

Article 307: Appointment of Authority for carrying out the purposes of Articles 301 to 304.

Part XIV

Services under the Union and the States

Article 308-323

- **Article 312: All India Services.**
- **Article 315: Public Services Commissions for the Union and for the States.**
- On the recommendation of the **Lee Commission** in the year 1926 the first Public Service Commission was set up.
- **1935 Government of India Act** provided for the establishment of a Federal Public Service Commission and Provincial Public Services Commission.
- **The Chairman and other members of the UPSC are appointed by the President of India.**
- At least half of the members are civil servants with at least 10 years experience in central or state services.
- **The tenure of each member is six years** or upto the age of 65, whichever is earlier.
- Members of the UPSC can be removed by the President on the charges of misbehaviour, if these charges are upheld by the Supreme Court.

Election Commission

(Article 324-329)

Article 324 says that the superintendence, direction and control of elections shall be vested in the Election Commission.

Article 325 provides for a single electoral roll for every constituency. No person shall be eligible or ineligible for inclusion in electoral rolls on the basis of race, religion, caste or sex.

Article 326 stipulates that elections shall be held on the basis of adult suffrage.

Political Parties

- As per the provisions of the Peoples Representation Act, 1951 political parties are registered with the Election Commission of India.
- The **Anti-defection law**, passed in 1985, prevents the MPs or the MLAs elected as candidates from one party forming or joining a new party, unless they comprise more than one-third of the original party, in the Legislature.

Recognition and Reservation of Symbols

- A party registered with the Election Commission may be granted recognition as a National or a State party on the basis of its performance in polls.

Meaning : Group of persons who agree on some ideology & seek to capture the power & form the government on the basis of collective leadership.

Type of Party System in India : Multi Party System :

Functions

- (i) Representation
- (ii) Elite Formation & Recruitment
- (iii) Goal Formulation
- (iv) Interest Articulation & Aggregation
- (v) Socialization & Mobilization
- (vi) Organization of Government.

IMPORTANT PARLIAMENTARY TERMS

- **Calling Attention:** Moved to call the attention of a Minister to matters of public importance. The 'Calling Attention' procedure does not exist in the Rajya Sabha, which has, instead the '**Motion of Papers**'
- **Floor Crossing:** The practice of floor crossing refers to the defection of a Member of Parliament from the party he/she was elected to another political party. The practice of defection indicates the lack of ideological hold of the party over its members and it leads to instability in the Government or disregard to the people's mandate.
- **Hung Parliament:** When in a General election no political party or coalition of the political parties is in a position to form a majority Government, such a Parliament is called a Hung Parliament.
- **Interim Government:** This Government is formed during the transitional phase of the history of the country. It is a full-fledged Government and can take any policy decisions. In India, the interim Government came to power with the Independence of India Act on 15th August and lasted till March, 1952.
- **Minority Government:** A form of Government which does not enjoy the confidence of the Lok Sabha on its own and survives on support of other political parties from outside the Government. For example, the Chandrashekar Government in 1990 – 1991, the Deve Gowda and the I. K. Gujral Governments during 1996 – 1997 survived on the Congress support from outside.

- **Ordinance:** An ordinance is a law promulgated by the head of the State in a situation of urgency when the Legislature cannot frame the law because either it is not in session or it is dissolved. An ordinance has the same effect as a law made by the Legislature. However, it is a temporary measure and has to be approved by the Legislature within a prescribed period, otherwise it ceases to be in operation.
- **Question Hour:** The first one hour period (usually 11: 00 a. m. to 12: 00 a. m.) each day during the meetings of the Parliament is allotted for asking the questions by the members to be replied by the Ministers, is called the Question Hour. A ten days prior notice is required for asking questions in the Parliament by its members.
- **Quorum:** It refers to the required presence of the minimum member of members of a body to hold its meetings and conduct its business. For example, the presence of members (quorum of) is required to hold the meetings of the Parliament. In the absence of the quorum, the meeting is adjourned and no business is conducted.
- **Whip:** This is an official appointed by a political party to regulate and monitor the behaviour of its members in the Legislature. The violation of whip invites the disciplinary action against the erring party members.
- **Zero Hour:** It is a period which follows after the Question Hour when the members raise any issue of public importance on very short or even without any notice. **The procedure is not recognised under the Rules and Procedures of the Parliament, but has become conventional since 1970's.**

Union Public Service Commission

- The Union Public Service Commission consists of a **Chairman and other** members appointed by the President and they hold office for a **period of 6 years** from the date of their appointment.
- It conducts examinations for appointment to the Services of the Union.
- Age of retirement for a member of UPSC is **65 years** and for a member of PSC of a State or a Joint Commission is **62 years**.

NITI Aayog

- NITI Aayog or **National Institution for Transforming India Aayog** is a policy think-tank of Government of India that replaces **Planning Commission** and aims to involve the States in economic policy-making in India.
- It will be providing strategic and technical advice to the Central and the State Governments. **The Prime Minister heads the Aayog as its chairperson.**
- Prime Minister has constituted three sub-groups of Chief Ministers within National Institution for Transforming India (NITI) Aayog.
- *First sub-group-* It will study the 66 centrally-sponsored schemes and recommend which schemes should continue,

which should be transferred to States, and which to discontinue.

- *Second sub-group-* It will focus on skill development and creation of skilled manpower within states.
- *Third sub-group-* It will decide on the institutional mechanisms to be evolved for Swachh Bharat Abhiyaan, so that cleanliness becomes a part of life in perpetuity.

National Development Council (NDC)

- The National Development Council **was formed in 1952**, to associate the States in the formulation of the plans.
- All members of the Union Cabinet, Chief Minister of States, the Administrators of the Union Territories and members of NITI Aayog are members of the NDC.

Functions of the NDC are:

- Review working of National Plan.
- Recommend measures to meet targets of national plan.
- It is an **extra Constitutional** and extra legal body.
- **The PM is the ex-officio chairman** of NDC.

Finance Commission

- As per **Article 280** of the Constitution of India the Finance Commission is established.
- It is a **quasi-judicial** body.
- It consists of a chairman and four other members.
- The President shall after the expiry of every **five years** by order constitute a finance commission.
- It shall be the duty of the Commission to make recommendation to the President with respect to:
 - The distribution between the Union and the States of **taxes** which are to be divided between them.
 - The principles which should govern the **grants-in-aid** of the revenues of the States out of the Consolidated Fund of India.
- Dr. N. K. Singh is the chairman of 14th Finance Commission of India.

Official Language

Article 343-351

- The Official Language of the Union shall be Hindi in Devanagari Script but the form of numerals to be used for the official purposes of Union shall be the international form of Indian numerals [Article 343 (1)].
- Art. 343 says that English language shall continue to be used for all official purposes of the Union.
- The Official Language of the Union shall be the official language for communication between one State and other and between a State and the Union [Article 346].
- Article 345 provides that the Legislature of a State may by law adopt any one or more of the languages in use in the State.
- Article 344 provides for the appointment of a Commission on official language.

Lokpal

In India, the institution of **Ombudsman** (Swedish word meaning **Commissioner**) has given the name of Lokpal & use it as an anti-corruption institution. The Dictionary defines the Ombudsman as 'an official to investigate complaints by individual against maladministration by public authorities. Lokpal is visualised as the country's watch dog. **The idea of creating Lokpal was first conceptualized in 1968 in 4th Lok Sabha.** Thereafter in 1971, 1977, 1985, 1989, 1996, 1998 & 2001 efforts were made

to enact legislation to create the institution of Lokpal. **The Bill received Parliaments assent on 1st Jan 2013.**

The Bill as passed by Parliament creates a Lokpal at the Centre which shall consist of a **chairperson & upto 8 members**. Half of these members should have **higher judicial experience & other half** should have experience in **public administration, finance, insurance & banking laws, anti corruption & vigilance**. It also provides that half the members of Lokpal shall be from amongst SCs, STs, OBCs, minority & women.

The chairperson & members of Lokpal shall be appointed by a **Selection Committee** consisting of PM, **Speaker of Lok Sabha, Leader of Opposition in Lok Sabha, Chief Justice of India & an eminent jurist** to be nominated by the President based on the recommendations of the other members of the Selection Committee.

The jurisdiction of Lokpal extends to the PM, Ministers, Current & former MPs & members of legislative assemblies, government employees & employees of companies funded or controlled by the central or state government.

It specifies a time limit of **60 days** for completion of inquiry & 6 months for completion of investigation by CBI.

Lokayukta

The anti-corruption institution of Lokayukta is set up at the **state level**. He is appointed by the Governor of the State. In most of the States, the term of office fixed for Lokayukta is of **5 years duration or 65 years of age**, whichever is earlier.

Advocate General

Each State shall have an Advocate General. He is the State's counter part of the Attorney General of India. He is appointed by the Governor of the State who holds office during the pleasure of the Governor. A person qualified to be a **High Court Judge** can be appointed Advocate-General. He has the **right to address & take part in the proceedings of the House of the State Legislature**. But **he has no right to vote**. His functions are similar to those of the Attorney – General.

Article 370 (J & K)

Under Article 370 of the Indian Constitution, Jammu & Kashmir is granted autonomy. It is a 'temporary provision' that accords special status to the State. All the provisions of the Constitution are not applicable to J&K, unlike other States. Except finance, defence, communications, and foreign affairs, Central Government needs the State Government's consensus for applying all other laws. Because of this article, residents of Kashmir follow separate set of laws in terms of citizenship, property ownership, and other rights.

Article 35A

Article 35A of the Constitution empowers J&K legislature to define state's permanent residents" and their permanent special rights and privileges. It was added to the constitution through a presidential order of 1954 with the then J & K government's concurrence.

Note: An NGO, "We the Citizens", Challenged 35A in S. Court in 2014 on grounds that it was not added to the Constitution through amendments under Art. 368. It was never presented before Parliament, and came into effect immediately, the group argued.

How J&K Different from Other States?

- Directive Principles of State Policy (**DPSP**) are not applied to J&K but applied to other States. Under DPSP = States are required to do some things for the welfare of community.
- President can't declare **financial emergency** (salaries and allowances reduction, etc.) in relation to J&K.
- **High Court of J&K** can issue **writs** only for enforcement of Fundamental Rights.
- **Right to property** is still guaranteed in J&K.
- Permanent residents of J&K have some special fundamental rights.
- Although **Supreme Court, EC and CAG** are applicable to J&K along with all other States.

AMENDMENTS OF CONSTITUTION

There are three types of bills that seek to amend the Constitution (Art. 368):

1. Bills that are passed by Parliament by **Simple Majority**.
2. Bills that have to be passed by Parliament by **Special Majority**.
3. Bills that have to be passed by **Special Majority** and also to be **ratified by not less than one-half of the State Legislatures**.

Important Amendments

- **The first Amendment Act** to the Indian Constitution was made in the year 1951. According to it, Articles 15, 19, 85, 87, 174, 176, 341, 342, 376 were amended and Articles **31A** and **31B** inserted and Ninth Schedule was added.
- **The Constitution (24th Amendment) Act, 1971:** It affirmed the power of the Parliament to amend any part of the Constitution. After this amendment, the President is bound to assent to Constitution Amendment Bill. Education was transferred to the Concurrent List by this amendment.
- **The Constitution (31st Amendment) Act, 1973:** increased the elective strength of the Lok Sabha from 525 to 545. Under the Act, the upper limit of representatives of the States goes up from 500 to 525 and that of the Union Territories decreases from 25 to 20.
- **The Constitution (36th Amendment) Act, 1975:** By this Act, Sikkim became the 22nd State of the Indian Union.
- **The Constitution (37th Amendment) Act, 1975:** was passed by Parliament on April 26, 1975, to provide for a Legislative Assembly and a Council of Ministers to Arunachal Pradesh, the country's north-easternmost Union Territory.
- **The Constitution (39th Amendment) Act, 1975:** The Bill was passed by the Lok Sabha and got Presidential assent on August 9, 1975. The Act places beyond challenge in courts the election to Parliament of a person holding the office of Prime Minister or Speaker and the election of President and Vice-President.
- **The Constitution (42nd Amendment) Act, 1976:** It was enacted during the period of National Emergency. It was passed by Parliament on November 11, 1976 and received Presidential assent on December 18, 1976.
- The Amendment established beyond doubt the supremacy of Parliament over the other wings of Government; gave the Directive Principles precedence over the Fundamental Rights; enumerated for the first time a set of ten Fundamental Duties.

- **The Constitution (43rd Amendment) Act, 1978:** It restores civil liberties by deleting **Article 31D** which gave powers to Parliament to curtail even legitimate trade union activity under the guise of legislation for the prevention of anti-national activities. The Supreme Court will now have power to invalidate State laws, a power taken away by the 42nd Amendment Act.
- **The Constitution (44th Amendment) Act, 1978:** Fundamental Rights guaranteed by Articles 20 and 21 cannot be suspended during a national emergency.
- The Right to Property was deleted from the list of Fundamental Right. It is now only a legal right under the Constitution.
- **The Constitution (45th Amendment) Act, 1980:** The Act extends reservation of seats for the Scheduled Castes and the Scheduled Tribes in Parliament and the State Assemblies and the representation of Anglo-Indians by nomination for a further period of 10 years.
- **The Constitution (55th Amendment) Act, 1987:** It grants Statehood to Arunachal Pradesh which consequently became the **24th State** of the Indian Union.
- **The Constitution (56th Amendment) Act, 1987:** It confers Statehood on Goa and forms a new Union Territory of Daman and Diu. Goa thus became the 25th State of the Indian Republic.
- **The Constitution (61st Amendment) Act, 1989:** It lowered the voting age from 21 to 18.
- **The Constitution (62nd Amendment) Act, 1989:** It provided for the extension by another 10 years of reservation of seats in the Parliament and State Assemblies for the Scheduled Castes and Tribes and reservation for Anglo Indian community by nomination.
- **The Constitution (63rd Amendment) Act, 1989:** It repealed Amendment 59 which empowered the Government to impose emergency in Punjab.
- **The Constitution (64th Amendment) Act, 1990:** It extended the President's rule in Punjab by six months.
- **The Constitution (66th Amendment) Act, 1990:** To bring land reforms within the purview of 9th Schedule of the Constitution.
- **The Constitution (69th Amendment) Act, 1991:** Delhi made National Capital Region. The Act also made provision for Legislative Assembly and a Council of Ministers for Delhi.
- **The Constitution (72nd Amendment) Act, 1992:** To make temporary provision for the determination of the number of seats reserved for the Scheduled Tribes in the State Assembly of Tripura, until the re-adjustment of seats is made on the basis of the first census after the year 2000 under article 170 of the Constitution.
- **The Constitution (73rd Amendment) Act, 1992:** To ensure direct election to all seats in Panchayats; to reserve seats for SCs and STs in proportion to their population; and for reservation of not less than one third of the seats in Panchayats for women.
- **The Constitution (74th Amendment) Act, 1992:** was made to ensure direct election to all seats in Nagarpalikas and Municipalities.
- **The Constitution (78th Amendment) Act, 1995:** It includes land reform laws in the Ninth Schedule so that they cannot be challenged before the courts.
- **The Constitution (79th Amendment) Act, 1999:** It extends the reservation of seats for SC, ST and Anglo-Indians in the Lok Sabha and Legislative Assemblies for next 10 years.
- **The Constitution (82nd Amendment) Act, 2000:** It provides that nothing in the Article 355 shall prevent the State from making any provisions in favour of the members of SC/ST for relaxation in qualifying marks with respect to examination/job/promotion.
- **The Constitution (83rd Amendment) Act, 2000:** The Act Amended Article 243 M to provide that no reservation in Panchayats be made in favour of SC/ST in Arunachal Pradesh where the whole population is tribal.

Schedules in Constitution

| | |
|-------------------|--|
| First Schedule | • List of States & Union Territories |
| Second Schedule | • Salary of President, Governors, Chief Judges, Judges of High Court and Supreme Court, Comptroller and Auditor General |
| Third Schedule | • Forms of Oaths and Affirmations |
| Fourth Schedule | • Allocate seats for each State of India in Rajya Sabha |
| Fifth Schedule | • Administration and control of Scheduled Areas and Tribes |
| Sixth Schedule | • Provisions for administration of Tribal Area in Asom, Meghalaya, Tripura, Mizoram & Arunachal Pradesh |
| Seventh Schedule | • Gives allocation of powers and functions between Union & States. It contains 3 lists 1. Union List (For central Govt.) 100 Subjects. 2. States List (Powers of State Govt.) 66 subjects 3. Concurrent List (Both Union & States) 52 subjects. |
| Eighth Schedule | • List of 22 languages of India recognized by Constitution • Sindhi was added in 1967 by 21 Amendment • Konkani, Manipuri and Nepali were added in 1992 by 71st Amendment Santhali, Maithili, Bodo and Dogri were added in 2003 by 92nd Amendment. |
| Ninth Schedule | • Added by 1st Amendment in 1951. Contains acts & orders related to land tenure, land tax, railways, industries. {Right of property not a fundamental right now} |
| Tenth Schedule | • Added by 52nd Amendment in 1985. Contains provisions of disqualification of grounds of defection |
| Eleventh Schedule | • By 73rd Amendment in 1992. Contains provisions of Panchayati Raj. |
| Twelfth Schedule | • By 74th Amendment in 1992. Contains provisions of Municipal Corporation. |

EXERCISE

- Which article of the Indian constitution provides for Uniform civil code for the citizens?
(a) Article 42 (b) Article 44
(c) Article 46 (d) Article 48
- Which article of the constitution of India deals with the 'Right to constitutional remedies'?
(a) Article 19 (b) Article 14
(c) Article 21 (d) Article 32
- Which part of the Indian constitution deals with centre-state financial relations?
(a) Part XV (b) Part XIV
(c) Part XII (d) Part X
- In the constitution of India, the term 'federal' appears in
(a) The preamble
(b) Part III of the constitution
(c) Article 368
(d) None of the above
- According to the constitution of India, the right to equality does not include
(a) equality before law
(b) absolute equality
(c) equality of opportunity
(d) abolition of untouchability
- How many members of the constituent assembly signed the constitution of India?
(a) 284 (b) 294
(c) 274 (d) 244
- In which year the 73rd constitutional amendment act (1992) was assented by the president?
(a) 1990 (b) 1991
(c) 1993 (d) 1994
- Which of the following articles of the Indian constitution deals with citizenship in India?
(a) Article 333 to 337 (b) Article 17 to 20
(c) Article 05 to 11 (d) Article 01 to 04
- According to the constitution of India, which one of the following rights cannot be taken away during emergency?
(a) Right to speak
(b) Right to freedom of movement
(c) Right to life
(d) Right to organize
- Which of the following amendments had reduced the age of the voters from 21 years to 18 years?
(a) 52nd amendment (b) 60th amendment
(c) 61st amendment (d) 62nd amendment
- Indian federal structure is inspired by which model of the countries below?
(a) USA (b) Canada
(c) Switzerland (d) Russia
- Concept of welfare state in Indian constitution is included in
(a) Fundamental Rights
(b) Directive principles of state policy
(c) Citizenship
(d) Provision of Election commission
- Under which article the president of India can be removed by the process of impeachment
(a) Article 79 (b) Article 76
(c) Article 57 (d) Article 61
- Under which article the parliament of India can legislate on any subject in the state list in national interest?
(a) Article 229 (b) Article 230
(c) Article 247 (d) Article 249
- The phrase equality before law used in Article 14 of Indian constitution has been borrowed from the constitution of
(a) Britain (b) USA
(c) France (d) Canada
- Which term is not used in the preamble of the Indian constitution?
(a) Republic (b) Integrity
(c) Federal (d) Socialist
- Fundamental Duties enshrined in the Indian Constitution do not have any
(a) Legal sanction (b) Political sanction
(c) Social Sanction (d) Moral sanction
- Under which constitutional Amendment has education for children aged 6 to 14 years become Fundamental Right?
(a) 93rd Amendment (b) 86th Amendment
(c) 91st Amendment (d) 92nd Amendment
- The 73rd Amendment was brought into force to give effect to one of the Directive Principles of State Policy mentioned in
(a) Article 45 (b) Article 46
(c) Article 47 (d) Article 40
- The first proclamation of Emergency under Article 352 was made by the President in
(a) 1975 (b) 1971
(c) 1965 (d) 1961
- The Indian constitution is divided into
(a) 16 chapters
(b) 22 chapters
(c) 24 chapters
(d) 25 chapters
- Which one of the following is not a feature of the Indian constitution?
(a) Federal Government
(b) Independence of Judiciary
(c) Parliamentary Government
(d) Dual Citizenship

23. Which of the states of Indian federation has a separate constitution?
 (a) Goa (b) Tamil Nadu
 (c) Jammu & Kashmir (d) Himachal Pradesh
24. In how many articles of Indian constitution, Directive principles of the state policy are mentioned ?
 (a) From Article 36-51 (b) From Article 36-52
 (c) From Article 36-53 (d) From Article 36-54
25. The Constitution of India vests the executive powers of the Indian Union in which of the following ?
 (a) The prime minister (b) The president
 (c) The council of ministers (d) The parliament
26. How many articles are there in the Indian constitution?
 (a) 395 (b) 396
 (c) 398 (d) 399
27. By which name/names is our country mentioned in the constitution?
 (a) India and Bharat
 (b) India and Hindustan
 (c) Bharat Only
 (d) India, Bharat and Hindustan
28. Which provision relating to the fundamental rights is directly related to the exploitation of children?
 (a) Article 17 (b) Article 19
 (c) Article 23 (d) Article 24
29. Acquisition and termination of citizenship are in:
 (a) Part II of the Constitution
 (b) Citizenship Act, 1955
 (c) Schedule I of the Constitution
 (d) Various acts of the Parliament
30. Citizenship Act, 1955 was amended to confer citizenship by birth on those who were born on or after January 26, 1950 but before June 30, 1987. The cut-off date was included as:
 (a) there were refugees from Sri Lanka and Bangladesh
 (b) African nations were expelling Indian settlers
 (c) fake applications were being received
 (d) Indians were migrating from Burma
31. A person is a citizen of India even if born outside India if his/her:
 (a) Father is a citizen of India
 (b) Mother is a citizen of India
 (c) Father is a citizen of India at the time of the person's birth
 (d) Father or mother is a citizen of India at the time of the person's birth
32. To acquire citizenship by registration, a person must have been resident in India for
 (a) six months (b) one year
 (c) three years (d) five years
33. Right to Constitutional Remedies are available to:
 (a) only citizens of India
 (b) all persons in case of infringement of a fundamental right
 (c) any person for enforcing a fundamental rights conferred on all
 (d) an aggrieved individual alone
34. Which writ is called the bulwark of personal freedom?
 (a) Mandamus (b) Habeas corpus
 (c) Quo warranto (d) Prohibition
35. Proclamation of national emergency automatically suspends
 (a) all fundamental rights
 (b) right to freedom
 (c) right to constitutional remedies
 (d) no fundamental right
36. Enforcement of Directive Principles depends on :
 (a) Courts
 (b) Effective opposition in the Parliament
 (c) Resources available to the Government
 (d) Public cooperation
37. Which statement does not indicate the difference between Fundamental Rights and Directive Principles?
 I. Directive Principles aim at promoting social welfare, while Fundamental Rights protect individuals from State encroachment
 II. Fundamental Rights put limitations on State action but Directive Principles are positive instructions to the Government to move towards a just socio-economic order
 III. Fundamental Rights were the unexpi term a year six months at most the period till the date for presidential election is notified included in the original constitution, but Directive Principles were added by the first Amendment
 IV. Fundamental Rights can be amended but Directive Principles cannot be amended
 (a) I and II (b) II and III
 (c) III and IV (d) I, II and III
38. Fundamental Duties were included in the Constitution to:
 (a) Give more importance to the Fundamental Rights
 (b) Stop subversive and un-constitutional activities
 (c) Prevent abuse of Fundamental Rights
 (d) Give more power to the executive
39. Fundamental Duties of a citizen EXCLUDE:
 (a) promoting communal harmony
 (b) developing a scientific temper
 (c) safeguarding public property
 (d) protecting children from hazardous work
40. President holds office for a term of five years from the date:
 (a) of his election
 (b) of his entering the office
 (c) specified in the Constitution
 (d) notified by the Election Commission
41. Vice-president's letter of resignation is addressed to:
 (a) Deputy Chairman of Rajya Sabha
 (b) Chief Justice of India
 (c) President of India
 (d) Speaker of the Lok Sabha

42. The President sends his resignation letter to:
 (a) Chief Justice of India
 (b) Speaker
 (c) Vice-president
 (d) Prime Minister
43. An ordinance can be issued by the President:
 (a) on any subject
 (b) subject to constitutional limitations about legislation by the Parliament
 (c) it is his discretion and also on the advice of the Council of Ministers
 (d) at any time
44. President of India has the power of
 I. absolute veto
 II. suspensive veto
 III. pocket veto
 (a) II only (b) II and III
 (c) I and II (d) I, II and III
45. Military powers of the President EXCLUDES:
 (a) Supreme command of the armed forces
 (b) President's power to declare war or peace is subject to control by the Parliament
 (c) President needs the sanction of Parliament to approve training and maintaining of armed forces
 (d) President is independent of all legislative control
46. President does NOT APPOINT the?
 (a) Finance Commission
 (b) Planning Commission
 (c) Commission on Official Languages
 (d) UPSC
47. Ministers are individually responsible to the:
 (a) President
 (b) Lok Sabha
 (c) Prime Minister
 (d) House of which they are members
48. Prime Minister is:
 (a) Elected by Lok Sabha
 (b) Elected by the Parliament
 (c) Appointed by the President
 (d) Nominated by the party with a majority in the Lok Sabha
49. One-third of the members of Rajya Sabha retire every
 (a) year
 (b) two years
 (c) three years
 (d) six years
50. A joint sitting of the Parliament is called:
 I. during national emergency
 II. to pass a Constitutional Amendment
 III. when financial matters/bill is rejected by the other house
 (a) I and III
 (b) II and III
 (c) I, II and III
 (d) None of these
51. Money Bill:
 (a) cannot be introduced in the Rajya Sabha
 (b) has to be certified by the President
 (c) can be amended by the Council of States
 (d) both (a) and (b)

Hints & Solutions

1. (b) 2. (d) 3. (c) 4. (d) 5. (b) 6. (c)
 7. (c) 8. (c) 9. (c) 10. (c) 11. (b) 12. (b)
 13. (d) 14. (d) 15. (a) 16. (d) 17. (a) 18. (b)
 19. (d) 20. (d) 21. (b) 22. (d) 23. (c) 24. (a)
 25. (b) 26. (a) 27. (a) 28. (d) 29. (b) 30. (a)
 31. (d) 32. (d) 33. (c) 34. (b) 35. (b) 36. (c)
 37. (a) 38. (b) 39. (d) 40. (b) 41. (c) 42. (c)
 43. (b) 44. (d) 45. (d) 46. (b) 47. (a) 48. (d)
 49. (b) 50. (d) 51. (a)