

1) Historical Background

Historical Background- Making of the Constitution- Composition of CA – Committees- Criticism of CA

Constitutional development under -> The Company rule -> The Crown Rule

<p>Regulating Act of 1773</p>	<ul style="list-style-type: none"> ▪ Governor of Bengal as the ‘Governor-General of Bengal’ ▪ Creation of Executive Council of four members to assist him. ▪ Governors of Bombay and Madras presidencies subordinate to the governor-general of Bengal . ▪ Establishment of a Supreme Court at Calcutta (1774) ▪ Prohibited the servants of the Company from engaging in any private trade or accepting presents or bribes ▪ Court of Directors (COD) (governing body of the Company) to report on its revenue, civil, and military affairs in India. <p>Significance</p> <ul style="list-style-type: none"> ○ First step taken by the British Government to control and regulate the affairs of the East India Company in India; ○ It recognised, for the first time, the political and administrative functions of the Company; ○ foundations of central administration in India.
<p>Pitt’s India Act of 1784</p>	<ul style="list-style-type: none"> ○ Distinguished between the commercial and political functions of the Company. ○ Court of Directors to manage the commercial affairs ○ new body called Board of Control to manage the political affairs. <p>=> system of double government.</p> <ul style="list-style-type: none"> ○ Board of Control to supervise and direct all operations of the civil and military government or revenues of the British possessions in India. <p>Significance</p> <ul style="list-style-type: none"> • Company’s territories in India were for the first time called the ‘British possessions in India’; • British Government was given the supreme control over Company’s affairs and its administration in India.
<p>Act of 1786</p>	<p>In 1786, Lord Cornwallis was appointed as the Governor-General of Bengal. He placed two demands to accept that post, viz.,</p> <ol style="list-style-type: none"> 1. He should be given power to override the decision of his council in special cases. 2. He would also be the Commander-in-Chief. <p>Accordingly, the Act of 1786 was enacted to make both the provisions.</p>
<p>Charter Act of 1793</p>	<ul style="list-style-type: none"> ○ extended the overriding power given to Lord Cornwallis over his council, to all future Governor-Generals and Governors of Presidencies. ○ gave the Governor-General more powers and control over the governments of the subordinate Presidencies of Bombay and Madras. ○ extended the trade monopoly of the Company in India for another period of twenty years. ○ Commander-in-Chief was not to be a member of the Governor-General’s council, unless he was so appointed. ○ The members of the Board of Control and their staff were, henceforth, to be paid out of the Indian revenues.
<p>Charter Act of 1813</p>	<ul style="list-style-type: none"> ○ It abolished the trade monopoly of the company in India i.e., the Indian trade was thrown open to all British merchants. However, it continued the monopoly of the company over trade in tea and trade with China. ○ It asserted the sovereignty of the British Crown over the Company’s territories in India. ○ Allowed the Christian missionaries to come to India for the purpose of enlightening the people. ○ spread of western education among the inhabitants of the British territories in India. ○ Authorized the Local Governments in India to impose taxes on persons. They could also punish the persons for not paying taxes.

<p>Charter Act of 1833 : Final step towards centralization in British India.</p>	<ul style="list-style-type: none"> ○ Governor-General of Bengal -> Governor- General of India and vested in him all civil and military powers. First time, Government of India having authority over the entire territorial area possessed by the British in India. Lord William Bentick was the first Governor-General of India. ○ It deprived the Governor of Bombay and Madras of their legislative powers. => The Governor-General of India was given exclusive legislative powers for the entire British India. ○ The laws made under the previous acts were called as Regulations, while laws made under this act were called as Acts. ○ It ended the activities of the East India Company as a commercial body, which became a purely administrative body. ○ It provided that the Company's territories in India were held by it 'in trust for His Majesty, His heirs and successors'. ○ It attempted to introduce a system of open competition for selection of civil servants and stated that the Indians should not be debarred from holding any place, office and employment under the Company. However, this provision was negated after opposition from the Court of Directors.
<p>Charter Act of 1853</p>	<ul style="list-style-type: none"> ○ It separated, for the first time, the legislative and executive functions of the Governor-General's council. ○ It provided for addition of six new members called legislative councillors to the council. In other words, it established a separate Governor-General's legislative council which came to be known as the Indian (Central) Legislative Council. This legislative wing of the council functioned as a mini- Parliament, adopting the same procedures as the British Parliament. Thus, legislation, for the first time, was treated as a special function of the government, requiring special machinery and special process. ○ It introduced an open competition system of selection and recruitment of civil servants. The covenanted civil service was, thus, thrown open to the Indians also. Accordingly, the Macaulay Committee (the Committee on the Indian Civil Service) was appointed in 1854. ○ It extended the Company's rule and allowed it to retain the possession of Indian territories on trust for the British Crown. But, it did not specify any particular period, unlike the previous Charters. This was a clear indication that the Company's rule could be terminated at any time the Parliament liked. ○ It introduced, for the first time, local representation in the Indian (Central) Legislative Council. Of the six new legislative members of the Governor General's council, four members were appointed by the local (provincial) governments of Madras, Bombay, Bengal and Agra.
<p>Government of India Act of 1858 : First War of Independence or the 'sepyo mutiny'</p>	<p>The act known as the Act for the Good Government of India, abolished the East India Company, and transferred the powers of Government, territories and revenues to the British Crown.</p> <ul style="list-style-type: none"> ○ India to be governed by in the name of, Her Majesty. It changed the designation of the Governor-General of India to that of Viceroy of India. He (Viceroy) was the direct representative of the British Crown in India. Lord Canning, thus, became the first Viceroy of India. ○ It ended the system of double Government by abolishing the Board of Control and Court of Directors. ○ It created a new office, Secretary of State for India, vested with complete authority and control over Indian administration. The secretary of state was a member of the British Cabinet and was responsible ultimately to the British Parliament. It established a 15-member council of India to assist the Secretary of State for India. The council was an advisory body. The secretary of state was made the Chairman of the council. ○ It constituted the Secretary of State-in Council as a body corporate, capable of suing and being sued in India and in England. <p>'The Act of 1858 was, however, largely confined to the improvement of the administrative machinery by which the Indian Government was to be supervised and controlled in England. It did not alter in any substantial way the system of Government that prevailed in India .</p>

<p>Indian Councils Act of 1861</p>	<ul style="list-style-type: none"> ○ beginning of the representative institutions by associating Indians with the law-making process. It, thus, provided that the Viceroy should nominate some Indians as non-official members of his expanded council. In 1862, Lord Canning, the then Viceroy, nominated three Indians to his legislative council—the Raja of Benaras, the Maharaja of Patiala and Sir Dinkar Rao. ○ It initiated the process of decentralisation by restoring the legislative powers to the Bombay and Madras Presidencies. It, thus, reversed the centralising tendency that started from the Regulating Act of 1773 and reached its climax under the Charter Act of 1833. This policy of legislative devolution resulted in the grant of almost complete internal autonomy to the provinces in 1937. It also provided for the establishment of new legislative councils for Bengal, North-Western Provinces and Punjab, which were established in 1862, 1886 and 1897, respectively. ○ It empowered the Viceroy to make rules and orders for the more convenient transaction of business in the council. It also gave a recognition to the ‘portfolio’ system, introduced by Lord Canning in 1859. Under this, a member of the Viceroy’s council was made in-charge of one or more departments of the Government and was authorised to issue final orders on behalf of the council on matters of his department(s). ○ It empowered the Viceroy to issue ordinances, without the concurrence of the legislative council, during an emergency. The life of such an ordinance was six months.
<p>Indian Councils Act of 1892</p>	<ol style="list-style-type: none"> 1. It increased the number of additional (non-official) members in the Central and provincial legislative councils, but maintained the official majority in them. 2. It increased the functions of legislative councils and gave them the power of discussing the budget and addressing questions to the executive. 3. It provided for the nomination of some non-official members of the <ol style="list-style-type: none"> (a) Central Legislative Council by the viceroy on the recommendation of the provincial legislative councils and the Bengal Chamber of Commerce, (b) that of the provincial legislative councils by the Governors on the recommendation of the district boards, municipalities, universities, trade associations, zamin-dars and chambers. <p>‘The act made a limited and indirect provision for the use of election in filling up some of the non-official seats both in the Central and provincial legislative councils. The word “election” was, however, not used in the Act. The process was described as nomination made on the recommendation of certain bodies .’</p>
<p>Indian Councils Act of 1909</p>	<p>This Act is also known as Morley-Minto Reforms (Lord Morley was the then Secretary of State for India and Lord Minto was the then Viceroy of India).</p> <p>Features :</p> <ol style="list-style-type: none"> 1. It considerably increased the size of the legislative councils, both Central and provincial. The number of members in the Central legislative council was raised from 16 to 60. The number of members in the provincial legislative councils was not uniform. 2. It retained official majority in the Central legislative council, but allowed the provincial legislative councils to have nonofficial majority. 3. It enlarged the deliberative functions of the legislative councils at both the levels. For example, members were allowed to ask supplementary questions, move resolutions on the budget and so on. 4. It provided (for the first time) for the association of Indians with the executive councils of the Viceroy and Governors. Satyendra Prasad Sinha became the first Indian to join the Viceroy’s executive council. He was appointed as the Law Member. 5. It introduced a system of communal representation for Muslims by accepting the concept of ‘separate electorate’. Under this, the Muslim members were to be elected only by Muslim voters. Thus, the Act ‘legalised communalism’ and Lord Minto came to be known as the Father of Communal Electorate. 6. It also provided for the separate representation of presidency corporations, chambers.

Government of India Act of 1919

On August 20, 1917, the British Government declared, for the first time, that its objective was the gradual introduction of responsible Government in India . The Government of India Act of 1919 was thus enacted, which came into force in 1921. This Act is also known as Montagu- Chelmsford Reforms (Montagu was the Secretary of State for India and Lord Chelmsford was the Viceroy of India).

Features :

1. **Separation of Subjects :** It relaxed the central control over the provinces by demarcating and separating the **central and provincial subjects**. The central and provincial legislatures were authorised to make laws on their respective list of subjects. However, the structure of government continued to be centralised and unitary.
2. **Division of Provincial Subjects :** It further divided the **provincial subjects** into two parts– **transferred and reserved**. The transferred subjects were to be administered by the **Governor** with the aid of Ministers responsible to the legislative council. The reserved subjects, on the other hand, were to be administered by the Governor and his **executive council** without being responsible to the legislative council. This dual scheme of governance was known as 'dyarchy'–which means double rule. However, this experiment was largely unsuccessful.
3. **Introduction of Bicameralism at Centre-** It introduced, for the first time, **bicameralism and direct elections** in the country. Thus, the Indian legislative council was replaced by a bicameral legislature consisting of an Upper House (Council of State) and a Lower House (Legislative Assembly). The majority of members of both the Houses were chosen by direct election.
4. **Composition of Viceroy's executive Council :** It required that the **three of the six members of the Viceroy's executive Council (other than the Commander-in-Chief) were to be Indian.**
5. **Communal Representation :** It extended the principle of **communal representation** by providing separate electorates for **Sikhs, Indian Christians, Anglo-Indians and Europeans.**
6. **Limited Franchise :** It granted franchise to a limited number of people on the basis of **property, tax or education.**
7. It created a new **Office of the High Commissioner for India in London** and transferred to him some of the functions hitherto performed by the Secretary of State for India.
8. It provided for the establishment of a **Public service commission**. Hence, a Central Public Service Commission was set up in **1926** for recruiting civil servants⁸ .
9. **Separation of Budget :** It separated, for the first time, **provincial budgets from the Central budget and authorised the provincial legislatures to enact their budgets.**
10. It provided for the **appointment of a statutory commission** to inquire into and report on its working after ten years of its coming into force.

Simon Commission

In November 1927 itself (i.e., 2 years before the schedule), the British Government announced the appointment a seven-member statutory commission under the chairmanship of Sir John Simon to report on the condition of India under its new Constitution. **Where Everyday Is Exam Day**

- All the members of the commission were British and hence, all the parties boycotted the commission.
- The commission submitted its report in **1930** and recommended the **abolition of dyarchy, extension of responsible Government in the provinces, establishment of a federation of British India and princely states, continuation of communal electorate** and so on.
- To consider the proposals of the commission, the British Government convened three round table conferences of the representatives of the British Government, British India and Indian princely states. On the basis of these discussions, a 'White Paper on Constitutional Reforms' was prepared and submitted for the consideration of the Joint Select Committee of the British Parliament. The recommendations of this committee were incorporated (with certain changes) in the next Government of India Act of 1935.

Simon Commission (1927)

- **Abolition of dyarchy,**
- **Extension of responsible Government in the provinces,**
- **Establishment of a federation of British India and princely states,**
- **Continuation of communal electorate**

<p>Communal Award</p>	<p>What - In August 1932, Ramsay MacDonald, the British Prime Minister, announced a scheme of representation of the minorities, which came to be known as the Communal Award.</p> <p>Provisions - The award not only continued separate electorates for the Muslims, Sikhs, Indian Christians, Anglo-Indians and Europeans but also extended it to the depressed classes (Scheduled Castes).</p> <p>Gandhi- Gandhiji was distressed over this extension of the principle of communal representation to the depressed classes and undertook fast unto death in Yerawada Jail (Poona) to get the award modified.</p> <p>Outcome- At last, there was an agreement between the leaders of the Congress and the depressed classes. The agreement, known as Poona Pact, retained the Hindu joint electorate and gave reserved seats to the depressed classes.</p>
<p>Government of India Act of 1935</p>	<p>The Act marked a second milestone towards a completely responsible government in India. It was a lengthy and detailed document having 321 Sections and 10 Schedules.</p> <p><i>The features of this Act were as follows:</i></p> <ol style="list-style-type: none"> 1. It provided for the establishment of an All-India Federation consisting of provinces and princely states as units. The Act divided the powers between the Centre and units in terms of 3 lists– <ol style="list-style-type: none"> (a) Federal List (for Centre, with 59 items), (b) Provincial List (for provinces, with 54 items) and (c) Concurrent List (for both, with 36 items). <p>** Residuary powers were given to the Viceroy.</p> <p>However, the federation never came into being as the princely states did not join it.</p> 2. It abolished dyarchy in the provinces and introduced 'provincial autonomy' in its place. The provinces were allowed to act as autonomous units of administration in their defined spheres. Moreover, the Act introduced responsible Governments in provinces, that is, the Governor was required to act with the advice of ministers responsible to the provincial legislature. This came into effect in 1937 and was discontinued in 1939. 3. It provided for the adoption of dyarchy at the Centre. Consequently, the federal subjects were divided into reserved subjects and transferred subjects. However, this provision of the Act did not come into operation at all. 4. It introduced bicameralism in six out of eleven provinces. Thus, the legislatures of Bengal, Bombay, Madras, Bihar, Assam and the United Provinces were made bicameral consisting of a legislative council (upper house) and a legislative assembly (lower house). However, many restrictions were placed on them. 5. It further extended the principle of communal representation by providing separate electorates for depressed classes (Scheduled Castes), women and labour (workers). 6. It abolished the Council of India, established by the Government of India Act of 1858. The secretary of state for India was provided with a team of advisors. 7. It extended franchise. About 10 per cent of the total population got the voting right. 8. establishment of <ul style="list-style-type: none"> ✓ a Reserve Bank of India to control the currency and credit of the country. ✓ not only a Federal Public Service Commission, but also a Provincial Public Service Commission and Joint Public Service Commission for two or more provinces. ✓ a Federal Court, which was set up in 1937.
<p>Indian Independence Act of 1947</p>	<ul style="list-style-type: none"> ▪ On February 20, 1947, the British Prime Minister Clement Atlee declared that the British rule in India would end by June 30, 1948; after which the power would be transferred to responsible Indian hands. ▪ This announcement was followed by the agitation by the Muslim League demanding partition of the country. ▪ Again on June 3, 1947, the British Government made it clear that any Constitution framed by the Constituent Assembly of India (formed in 1946) cannot apply to those parts of the country which were unwilling to accept it. On the same day (June 3, 1947), Lord Mountbatten, the Viceroy of India, put forth the partition plan, known as the Mountbatten Plan.

- The plan was accepted by the Congress and the Muslim League. Immediate effect was given to the plan by enacting the Indian Independence Act (1947).

The features of this Act were as follows:

1. It ended the British rule in India and declared India as an independent and sovereign state from August 15, 1947.
2. It provided for the partition of India and creation of two independent dominions of India and Pakistan with the right to secede from the British Commonwealth.
3. It abolished the office of Viceroy and provided, for each dominion, a governor general, who was to be appointed by the British King on the advice of the dominion cabinet. His Majesty's Government in Britain was to have no responsibility with respect to the Government of India or Pakistan.
4. It empowered the Constituent Assemblies of the two dominions to frame and adopt any constitution for their respective nations and to repeal any act of the British Parliament, including the Independence act itself.
5. It empowered the Constituent Assemblies of both the dominions to legislate for their respective territories till the new constitutions were drafted and enforced. No Act of the British Parliament passed after August 15, 1947 was to extend to either of the new dominions unless it was extended thereto by a law of the legislature of the dominion.
6. It abolished the office of the Secretary of State for India and transferred his functions to the Secretary of State for Commonwealth Affairs.
7. It proclaimed the lapse of British paramountcy over the Indian princely states and treaty relations with tribal areas from August 15, 1947.
8. It granted freedom to the Indian princely states either to join the Dominion of India or Dominion of Pakistan or to remain independent.
9. It provided for the governance of each of the dominions and the provinces by the Government of India Act of 1935, till the new Constitutions were framed. The dominions were however authorised to make modifications in the Act.
10. It deprived the British Monarch of his right to veto bills or ask for reservation of certain bills for his approval. But, this right was reserved for the Governor General. The Governor-General would have full power to assent to any bill in the name of His Majesty.
11. It designated the Governor-General of India and the provincial governors as constitutional (nominal) heads of the states. They were made to act on the advice of the respective council of ministers in all matters.
12. It dropped the title of Emperor of India from the royal titles of the King of England.
13. It discontinued the appointment to civil services and reservation of posts by the secretary of state for India. The members of the civil services appointed before August 15, 1947 would continue to enjoy all benefits that they were entitled to till that time.

At the stroke of midnight of 14-15 August, 1947, the British rule came to an end and power was transferred to the two new independent Dominions of India and Pakistan. Lord Mountbatten became the first Governor General of the new Dominion of India. He swore in Jawaharlal Nehru as the first Prime Minister of independent India. The Constituent Assembly of India formed in 1946 became the Parliament of the Indian Dominion.

Interim Government (1946)	First Cabinet of Free India (1947)
1. Jawaharlal Nehru Vice-President of the Council; External Affairs & Commonwealth Relations	1. Jawaharlal Nehru Prime Minister; External Affairs & Commonwealth Relations; Scientific Research
2. Sardar Vallabhbhai Patel : Home, Information & Broadcasting	2. Sardar Vallabhbhai Patel: Home, Information & Broadcasting; States
3. Dr. Rajendra Prasad Food & Agriculture	3. Dr. Rajendra Prasad Food & Agriculture
4. Dr. John Mathai Industries & Supplies	4. Maulana Abul Kalam Azad Education
5. Jagjivan Ram Labour	5. Dr. John Mathai Railways & Transport
6. Sardar Baldev Singh Defence	6. R.K. Shanmugham Chetty : Finance
7. C.H. Bhabha Works, Mines & Power	7. Dr. B.R. Ambedkar Law
8. Liaquat Ali Khan Finance	8. Jagjivan Ram Labour
9. Abdur Rab Nishtar Posts & Air	9. Sardar Baldev Singh Defence
10. Asaf Ali Railways & Transport	10. Raj Kumari Amrit Kaur : Health
11. C. Rajagopalachari Education & Arts	11. C.H. Bhabha Commerce
12. I.I. Chundrigar Commerce	12. Rafi Ahmed Kidwai Communication
13. Ghaznafar Ali Khan Health	13. Dr. Shayama Prasad Mukherji : Industries & Supplies
14. Joginder Nath Mandal Law	14. V.N. Gadgil Works, Mines & Power

2) Making of the Constitution

Time line	<p>1906- 1934- MN Roy 1935- INC official demand 1940- August offer - In principle acceptance 1942- Demand for CA accepted 1946- Cabinet Mission - Scheme for CA - CA constituted as per the Cabinet Mission Plan 9th Dec 1946- 1st meeting – Dr. Sachidanand Sinha(Temporary President- French practice) -> R. Prasad (President) + HC Mukharjee (VP) 13th Dec 1946- Objective Resolution [adopted on Jan 22, 1947] 1947 - IIA 1947 - CA became a sovereign body - Constitution-making body + Legislative body (GV Mavlankar) 26th Nov 1949 - Adopted 26th Jan 1950 - Date of Commencement</p>
Composition of CA	<p>Strength – 389 (British- + Princely State _____) Nature- - Partially nominated & partially elected - Representatives of all sections - M Gandhi was not a member of CA</p>
Committees	<p>- Major committee (8) -> Union Power - J Nehru -> Union Constitution- J Nehru -> Provincial constitution - S Patel -> Drafting Committee - BR Ambedkar Members : 1) NG Ayyangar 2) AK Ayyar 3) KM Munsi 4) SM Saadullah 5) NM Rau (BL Mitter) 6) TT Krishnamachari (D Khaitan) -> Advisory- S Patel -> Rules of procedure- Dr R Prasad -> States - J Nehru -> Steering- Dr R Prasad - Minor committee (15) -> Finance & staff -> Linguistic Province Commission</p>
Criticism of CA	<p>- not a representative body as its members were not elected directly - Not a sovereign body (created by the proposal of British Govt.) - Time consuming - Dominated by -> Congress- -> Lawyers, politicians -> Hindu Community</p>

3. Features of the Constitution

- Intro-Salient features-Criticism-Constitution of India at a Glance-Parts-Subject Matter-Articles-Important Articles of the Constitution-Schedules of the Constitution-Sources of the Constitution

Intro	<ul style="list-style-type: none"> • Indian Constitution – Unique in its contents and spirit • borrowed from almost every Constitution of the world • The original features of the Constitution (as adopted in 1949) have undergone a substantial change, on account of several amendments, particularly the 7th , 42nd , 44th , 73rd , 74th , 97th and 101st Amendments.
Salient features	

Longest Written Constitution		1949	Present
	Article	395	
	Part	22	
	Schedule	8	
	Reason for elephantine size		
	Geographical factors		
	Historical factors		
	Single Constitution		
	Dominance of legal luminaries in CA		
Drawn From Various Sources	Structural		
	Philosophical	FR	
		DPSP	
	political		
Blend of Rigidity and Flexibility	Types of amendment		
	Simple majority		Special majority (Art 368)
Federal System with Unitary Bias	Federal features	Unitary features	
	Indian constitution as		
	'quasi-federal'	K.C. Wheare	
	'bargaining federalism'	Morris Jones	
	'co-operative federalism'	Granville Austin	
	'federation with a centralising tendency'	Ivor Jennings	
Parliamentary Form of Government	Features		
	Presence of nominal and real executives;		
	Majority party rule,		
	Collective responsibility of the executive to the legislature,		
	Membership of the ministers in the legislature,		
	Leadership of the Prime Minister or the Chief Minister,		
Dissolution of the lower House (Lok Sabha or Assembly).			

	Indian Parliament	British Parliament												
Synthesis of Parliamentary Sovereignty and Judicial Supremacy	<ul style="list-style-type: none"> the doctrine of the sovereignty of Parliament – UK principle of judicial supremacy – USA scope of judicial review power of SC in India (procedure established by law) vs USA (due process of law) synthesis between the British principle of parliamentary sovereignty and the American principle of judicial supremacy <ul style="list-style-type: none"> SC- Judicial review Parliament- Constituent power 													
Integrated and Independent Judiciary														
Fundamental Rights	<p>6</p> <table border="1"> <tr> <td>Right to Equality</td> <td>Articles (14–18)</td> </tr> <tr> <td>Right to Freedom</td> <td>(Articles 19–22)</td> </tr> <tr> <td>Right against Exploitation</td> <td>(Articles 23–24)</td> </tr> <tr> <td>Right to Freedom of Religion</td> <td>(Articles 25–28)</td> </tr> <tr> <td>Cultural and Educational Rights</td> <td>(Articles 29–30)</td> </tr> <tr> <td>Right to Constitutional Remedies</td> <td>(Article 32)</td> </tr> </table> <ul style="list-style-type: none"> Meant for promoting the idea of political democracy. They operate as limitations on the tyranny of the executive and arbitrary laws of the legislature. They are justiciable in nature, that is, they are enforceable by the courts for their violation. The aggrieved person can directly go to the Supreme Court which can issue the writs of habeas corpus, mandamus, prohibition, certiorari and quo warranto for the restoration of his rights. However, the Fundamental Rights are not absolute and subject to reasonable restrictions. Further, they are not sacrosanct and can be curtailed or repealed by the Parliament through a Constitutional Amendment Act. They can also be suspended during the operation of a National Emergency except the rights guaranteed by Articles 20 and 21. 		Right to Equality	Articles (14–18)	Right to Freedom	(Articles 19–22)	Right against Exploitation	(Articles 23–24)	Right to Freedom of Religion	(Articles 25–28)	Cultural and Educational Rights	(Articles 29–30)	Right to Constitutional Remedies	(Article 32)
Right to Equality	Articles (14–18)													
Right to Freedom	(Articles 19–22)													
Right against Exploitation	(Articles 23–24)													
Right to Freedom of Religion	(Articles 25–28)													
Cultural and Educational Rights	(Articles 29–30)													
Right to Constitutional Remedies	(Article 32)													
Directive Principles of State Policy	<ul style="list-style-type: none"> 'novel feature' of the Indian Constitution – BR Ambedkar promoting the ideal of social and economic democracy seek to establish a 'welfare state' in India non-justiciable in nature, that is, they are not enforceable by the courts for their violation Constitution itself declares that 'these principles are fundamental in the governance of the country and it shall be the duty of the state to apply these principles in making laws'. they impose a moral obligation on the state authorities for their application. But, the real force (sanction) behind them is political, that is, public opinion. <p>Minerva Mills case12 (1980)- Indian Constitution is founded on the bedrock of the balance between the Fundamental Rights and the Directive Principles'.</p>													
Fundamental Duties	Part IV A 42 nd CAA 1976– 10 86 th CAA 2010 – 1													

A Secular State

42nd CAA	term 'secular' was added to the Preamble
Preamble	secures to all citizens of India liberty of belief, faith and worship
14	State shall not deny to any person equality before the law or equal protection of the laws
15	State shall not discriminate against any citizen on the ground of religion
16	Equality of opportunity for all citizens in matters of public employment
25	All persons are equally entitled to freedom of conscience and the right to freely profess, practice and propagate any religion
26	Every religious denomination or any of its section shall have the right to manage its religious affairs
27	No person shall be compelled to pay any taxes for the promotion of a particular religion
28	No religious instruction shall be provided in any educational institution maintained by the State
29	Any section of the citizens shall have the right to conserve its distinct language, script or culture
30	All minorities shall have the right to establish and administer educational institutions of their choice
44	The State shall endeavour to secure for all the citizens a Uniform Civil Code

Western Secularism	Indian Secularism
a complete separation between the religion (the church) and the state (the politics). This negative concept of secularism is inapplicable in the Indian situation where the society is multireligious.	Indian Constitution embodies the positive concept of secularism , i.e., giving equal respect to all religions or protecting all religions equally.

**Universal Adult Franchise
Single Citizenship**

61st CAA – 21->18 yr

Independent Bodies

ECI	
CAG	
UPSC	
SPSC	

Emergency Provisions

National	Art 352
State	Art 356 Art 365
Financial	Art 360

Three-tier Government

73rd CAA
74th CAA

Co-operative Societies

97th CAA 2011
Art 19
Art 43-B
Part IX-B Art 243-ZH

Criticism	
A Borrowed Constitution	
A Carbon Copy of the 1935 Act	
Un-Indian or Anti-Indian	
An Un-Gandhian Constitution	
Elephantine Size	
Paradise of the Lawyers	

Constitution at glance

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Schedules of the Constitution

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2 nd	Provisions relating to the emoluments, allowances, privileges and so on of 1. The President of India 2. The Governors of States 3. The Speaker and the Deputy Speaker of the Lok Sabha 4. The Chairman and the Deputy Chairman of the Rajya Sabha 5. The Speaker and the Deputy Speaker of the Legislative Assembly in the states 6. The Chairman and the Deputy Chairman of the Legislative Council in the states 7. The Judges of the Supreme Court 8. The Judges of the High Courts 9. The Comptroller and Auditor- General of India	59, 65, 75, 97, 125, 148, 158, 164, 186 and 221
3 rd	1. The Union ministers 2. The candidates for election to the Parliament 3. The members of Parliament 4. The judges of the Supreme Court 5. The Comptroller and Auditor- General of India 6. The state ministers 7. The candidates for election to the state legislature 8. The members of the state legislature 9. The judges of the High Courts	75, 84, 99, 124, 146, 173, 188 and 219
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8 th	Languages recognized by the Constitution. Originally, it had 14 languages but presently there are 22 languages. They are: Assamese, Bengali, Bodo, Dogri (Dongri), Gujarati, Hindi, Kannada,	344 & 351

	<p>Kashmiri, Konkani, Mathili (Maithili), Malayalam, Manipuri, Marathi, Nepali, Odia, Punjabi, Sanskrit, Santhali, Sindhi, Tamil, Telugu and Urdu.</p> <ul style="list-style-type: none"> • Sindhi was added by the 21st CAA of 1967; • Konkani, Manipuri and Nepali were added by the 71st CAA 1992; and • Bodo, Dongri, Maithili and Santhali were added by the 92nd CAA 2003. • Oriya was renamed as 'Odia' by 96th CAA 2011 	
9 th	<p>Acts and Regulations (originally 13 but presently 282)32 of the state legislatures dealing with land reforms and abolition of the zamindari system and of the Parliament dealing with other matters.</p> <p>This schedule was added by the 1st Amendment (1951) to protect the laws included in it from judicial scrutiny on the ground of violation of fundamental rights.</p> <ul style="list-style-type: none"> • However, in 2007, the Supreme Court ruled that the laws included in this schedule after April 24, 1973, are now open to judicial review. 	31-B
10 th	<p>Provisions relating to disqualification of the members of Parliament and State Legislatures on the ground of defection. This schedule was added by the 52nd Amendment Act of 1985, also known as Anti-defection Law.</p>	102 and 191
11 th	<p>Specifies the powers, authority and responsibilities of Panchayats. It has 29 matters. This schedule was added by the 73rd Amendment Act of 1992.</p>	243-G
12 th	<p>Specifies the powers, authority and responsibilities of Municipalities. It has 18 matters. This schedule was added by the 74th Amendment Act of 1992.</p>	243-W

Sources of the Constitution at a Glance

Sources	Features Borrowed
Government of India Act of 1935	Federal Scheme, Office of governor, Judiciary, Public Service Commissions, Emergency provisions and administrative details.
British Constitution	Parliamentary government, Rule of Law, legislative procedure, Single citizenship, Cabinet system, Prerogative writs, Parliamentary privileges and Bicameralism.
US Constitution	Fundamental rights, Independence of judiciary, judicial review, impeachment of the president, removal of Supreme Court and high court judges and post of vice-president.
Irish Constitution	Directive Principles of State Policy, nomination of members to Rajya Sabha and method of election of president.
Canadian Constitution	Federation with a strong Centre, vesting of residuary powers in the Centre, appointment of state governors by the Centre, and advisory jurisdiction of the Supreme Court.
Australian Constitution	Concurrent List, freedom of trade, commerce and inter-course, and joint sitting of the two Houses of Parliament.
Weimar Constitution of Germany	Suspension of Fundamental Rights during Emergency
Soviet Constitution (USSR, now Russia)	Fundamental duties and the ideal of justice (social, economic and political) in the Preamble.
French Constitution	Republic and the ideals of liberty, equality and fraternity in the Preamble.
South African Constitution	Procedure for amendment of the Constitution and election of members of Rajya Sabha
Japanese Constitution	Procedure established by Law

Preamble of the Constitution

Content

- Historical Background- Text of the Preamble- Components- Key Words
- Significance- Major Issues and Judgments Related to the Preamble
- > Is the Preamble a Part of the Constitution of India?
- > Can the Preamble be Amended?

Historical Background

- On **December 13, 1946**, Nehru moved the 'Objective Resolution' in the Constituent Assembly which defined the basic goal or purpose of the Indian Constitution.
- It also acted as the guiding principle for the constituent assembly members in framing the constitution.
- The same resolution was adopted as the Preamble to the Indian Constitution on January 22, 1947.

Text of the Preamble

We, **THE PEOPLE OF INDIA**, having solemnly resolved to constitute India into a **SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC** and to secure to all its citizens:
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.**

Components

Source of authority for the Constitution	Nature of Indian State	Objectives of the Constitution	Date of adoption of the Constitution
Preamble states that the Constitution derives its authority from the people of India.	<ul style="list-style-type: none"> • It declares India to be a Sovereign, Socialist, Secular Democratic, and Republican Polity. 	It specifies Justice, Liberty, Equality, and Fraternity as the objectives.	It stipulates November 26, 1949, as the date of its adoption.

Keywords

“We, the People of India”	<ul style="list-style-type: none"> • The Constitution of India derives its authority and legitimacy from the people of India. • The constitution is not imposed by any external authority but is drafted and adopted by the people themselves, reflecting their collective will and aspirations. • It signifies the power and responsibility vested in the citizens to govern themselves and participate in the democratic process.
Sovereign	<ul style="list-style-type: none"> • India is neither dependent on nor dominated by any other country, but it is a self-governing state. • No authority is above it, and it is free to manage its own external and internal affairs. • Being a sovereign state, India can either acquire a foreign territory or cede a part of its territory in favor of a foreign state.
Socialist	<ul style="list-style-type: none"> • It envisions a socio-economic system where there is an equitable distribution of wealth, resources, and opportunities, aiming to reduce economic inequalities among citizens. • The Indian brand of socialism is a 'democratic socialism' wherein both private and public sectors co-exist side by side.
Secular	<ul style="list-style-type: none"> • It emphasizes the principle of religious neutrality and the separation of religion from the affairs of the state.

	<ul style="list-style-type: none"> Indian Constitution embodies the positive concept of secularism, which means all religions in our country, irrespective of their strength, have the same status and support from the state. This principle fosters social harmony, tolerance, and respect for religious diversity in a pluralistic society like India. 						
Democratic	<ul style="list-style-type: none"> The establishment of a government that is accountable to the people and operates based on the consent of the governed. The Indian Constitution provides for a representative parliamentary democracy under which the executive is responsible to the legislature for all its policies and actions. Universal voting rights for all adults, periodic elections, the supremacy of law, independence of the judiciary, and the absence of discrimination based on certain attributes are signs of the democratic nature of India's political system. The term 'democratic' embraces not only political democracy but also social and economic democracy. 						
Republic	<ul style="list-style-type: none"> A form of government where the head of state is elected by the people or their representatives, rather than being hereditary or appointed based on lineage. It reflects the rejection of monarchy and the establishment of a political system based on democratic principles, where the authority of the government is derived from the consent of the governed. A republic also means two additional things- <ul style="list-style-type: none"> Political sovereignty is vested in the people rather than a single ruler like a king. There is no privileged class, so all public offices are open to every citizen without any discrimination. 						
Justice	The commitment of the Indian state to ensure social, economic, and political justice for all its citizens.						
	<table border="1"> <tr> <td>Social justice</td> <td>equal treatment of all citizens regardless of social distinctions like caste, color, race, religion, gender, etc. It means the absence of privileges for any particular group in society and improving conditions of Backward Classes (SCs, STs, and OBCs) and Women.</td> </tr> <tr> <td>Economic justice</td> <td>Non-discrimination between people based on economic factors. It also involves the elimination of inequalities in income, wealth, and property.</td> </tr> <tr> <td>Political justice</td> <td>All citizens should have equal political rights, equal access to all political offices, and equal voice in the government.</td> </tr> </table>	Social justice	equal treatment of all citizens regardless of social distinctions like caste, color, race, religion, gender, etc. It means the absence of privileges for any particular group in society and improving conditions of Backward Classes (SCs, STs, and OBCs) and Women.	Economic justice	Non-discrimination between people based on economic factors. It also involves the elimination of inequalities in income, wealth, and property.	Political justice	All citizens should have equal political rights, equal access to all political offices, and equal voice in the government.
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	Economic justice	Non-discrimination between people based on economic factors. It also involves the elimination of inequalities in income, wealth, and property.					
Political justice	All citizens should have equal political rights, equal access to all political offices, and equal voice in the government.						
The ideal of justice – social, economic, and political – has been taken from the Russian Revolution.							
Liberty	<ul style="list-style-type: none"> Absence of restraints on the activities of individuals, along with providing opportunities for individual growth and development. The Preamble seeks to secure for all citizens the fundamental rights of liberty of thought, expression, belief, faith, and worship, which are enforceable in a court of law. Liberty, as conceived by the Preamble, is not absolute but qualified. It means that liberty does not mean 'license' to do whatever one likes. Instead, it has to be enjoyed within the limitations mentioned in the Constitution. 						
Equality	absence of special privileges for any section of society and the provision of adequate opportunities for all individuals without any discrimination. The Preamble secures for all citizens of India equality of status and opportunity in three dimensions:						
	<table border="1"> <tr> <td>Civic Equality</td> <td>The Fundamental Rights under the Right to Equality (Article 14-18) seek to ensure civil equality.</td> </tr> <tr> <td>Political Equality</td> <td>The two provisions of the Constitution related to elections, as mentioned in Article 325 and Article 326, seek to ensure political equality.</td> </tr> <tr> <td>Economic Equality</td> <td>The Directive Principles of State Policy, as mentioned in Article 39, directs the state to secure men's and women's equal rights to an adequate means of livelihood along with equal pay for equal work. This seeks to ensure economic equality.</td> </tr> </table>	Civic Equality	The Fundamental Rights under the Right to Equality (Article 14-18) seek to ensure civil equality.	Political Equality	The two provisions of the Constitution related to elections, as mentioned in Article 325 and Article 326, seek to ensure political equality.	Economic Equality	The Directive Principles of State Policy, as mentioned in Article 39, directs the state to secure men's and women's equal rights to an adequate means of livelihood along with equal pay for equal work. This seeks to ensure economic equality.
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Fraternity	<ul style="list-style-type: none"> "The importance of fostering a sense of brotherhood and unity among all citizens " 						

- The Preamble declares that fraternity has to assure two things—the dignity of the individual and the unity and integrity of the nation.
- The phrase ‘dignity of the individual’ signifies that the Constitution ensures material betterment and recognizes every person’s sacred individuality.
- The phrase ‘unity and integrity of the nation’ embraces both the psychological and territorial dimensions of national integration. It aims at overcoming hindrances to national integration like communalism, regionalism, casteism, linguism, secessionism, and so on.

Significance of Preamble of Indian Constitution

- It embodies the basic philosophy and fundamental values on which the Constitution is based.
- As the soul and key to the Constitution, it provides a guiding framework for the interpretation and implementation of the various provisions of the Constitution.
- It serves as the guiding light for governance, providing a moral compass for policymakers and lawmakers. It reminds them of the overarching goals of justice, equality, liberty, and fraternity that they must strive to achieve in their decision-making processes.
- It symbolizes the unity and diversity of India by acknowledging the plurality of its citizens and their diverse backgrounds, languages, cultures, and religions.
- It serves as an inspiration for citizens, reminding them of their rights, duties, and responsibilities towards the nation. It instils a sense of patriotism, civic duty, and commitment to the ideals of justice, equality, and fraternity among the populace.

Major Issues and Judgments Related to the Preamble

Is the Preamble a Part of the Constitution of India?

Berubari Union Case, 1960

- The Preamble is not a part of the Constitution.
- Since the Preamble serves as the key to the minds of our Constitution makers, some assistance in interpreting any ambiguity in the Constitution can be taken from the Preamble.
- Thus, the position of the Preamble after this judgment was that – The Preamble is not a part of the Constitution, though some assistance in the interpretation of the Constitution may be taken from it.

Kesavananda Bharati Case, 1973 – SC reversed its stand on the Preamble and made the following observations-

- **The Preamble of the Indian Constitution will now be considered a part of the Constitution.**
- It will play an important role in the interpretation of statutes and other various provisions of the Constitution.

LIC of India Case, 1995 - The preamble is an integral part of the Constitution, but it cannot be directly enforced in a court of justice in India.

Can the Preamble be Amended?

Whether the Preamble can be amended under Article 368 or not.

Kesavananda Bharati Case, 1973 - Preamble is a part of the Constitution and hence can be amended, subject to the condition that no amendment is done to the ‘Basic Structure’ of the Constitution.

Amendment to the Preamble

The Preamble to the Constitution has been amended only once by the **42nd Constitutional Amendment Act of 1976**. The amendment, which was made based on the recommendations of the **Sardar Swaran Singh Committee**, added three new words – Socialist, Secular, and Integrity – to the existing Preamble.

- ‘Socialist’ and ‘Secular’ were added between ‘Sovereign’ and ‘Democratic’.
- ‘Unity of the Nation’ was changed to ‘Unity and Integrity of the Nation’.

The Preamble of the Indian Constitution serves as a foundational document and guiding light that outlines the objectives of the whole Constitution. It’s a declaration that acts as a fountainhead of wisdom for the Constitution of India. Therefore, while making a law, lawmakers have to examine it on the threshold of the Preamble of the Constitution.

Intro-Union of States-Admission or establishment of New States-Parliament's power to reorganise the States-Exchange of territories with Bangladesh-Evolution of States and UTs

- Integration of Princely States
- Dhar Commission, JVP Committee & Fazal Ali commission
- New States and Union Territories Created After 1956
- Change of Names

[Articles related to Union and its Territory]

Intro

Articles 1 to 4 under Part I

Union of States

Article 1: India, Bharat as a 'Union of States' rather than a 'Federation of States'.

- India - the name of the country;
- 'Union of States' -type of polity

Why 'Union of States' not "Federation of states" ?

1. The Indian Federation is not the result of an agreement among the states like the American Federation;
2. the states have no right to secede from the federation. The federation is a Union because it is indestructible.
- The country is an integral whole and divided into different states only for the convenience of administration.
- Article 1, the territory of India can be classified into 3 categories:
 1. Territories of the states
 2. Union territories
 3. Territories that may be acquired by the Government of India at any time.
- 1st Schedule : The names of states and union territories and their territorial extent are mentioned in the first schedule of the Constitution. At present, there are 28 states and 9 union territories. The provisions of the Constitution pertaining to the states are applicable to all the states in the same manner.

Note-

 - 1) **Special provisions (Part XXI)** - Maharashtra, Gujarat, Nagaland, Assam, Manipur, Andhra Pradesh, Telangana, Sikkim, Mizoram, Arunachal Pradesh, Goa and Karnataka [override the general provisions relating to the states as a class].
 - 2) **5th & 6th Schedules** - separate provisions with respect to the administration of scheduled areas and tribal areas within the states.
 - 3) Expression '**Territory of India**' > '**Union of India**'
 - **Union of India** : only states
 - **Territory of India** -not only the states, but also union territories and territories that may be acquired by the Government of India at any future time.
 - 4) The states are the members of the federal system and share a distribution of powers with the Centre. UTs and acquired territories directly administered by the Central government.
 - 5) **Sovereign State** : India can acquire foreign territories according to the modes recognised by international law, i.e.,
 - o cession (following treaty, purchase, gift, lease or plebiscite),
 - o occupation (hitherto unoccupied by a recognised ruler),
 - o conquest or
 - o subjugation.

[e.g. India acquired several foreign territories such as Dadra and Nagar Haveli; Goa, Daman and Diu; Puducherry; and Sikkim since the commencement of the Constitution]

Admission or establishment of New States

Article 2 grants two powers to the Parliament:

(a) power to admit into the Union of India new states;	the admission of states which are already in existence
(b) the power to establish new states.	establishment of states which were not in existence before.

Notes:

1. Article 2 : admission or establishment of new states that are not part of the Union of India.
2. Article 3: formation of or changes in the existing states of the Union of India.

Parliament's power to reorganise the States

Article 3 authorises the Parliament to:
 (a) form a new state by separation of territory from any state or by uniting two or more states or parts of states or by uniting any territory to a part of any state;
 (b) increase the area of any state;
 (c) diminish the area of any state;
 (d) alter the boundaries of any state; and
 (e) alter the name of any state.

18th CAA of 1966 :
 Parliament to form new states includes the power to form a new state or union territory by uniting a part of any state or union territory to any other state or union territory

Conditions :

- 1) a bill contemplating the above changes can be introduced in the Parliament only with the prior recommendation of the President
- 2) President has to refer the same to the state legislature concerned for expressing its views within a specified period.

Notes :

- President (or Parliament) is not bound by the views of the state legislature and may either accept or reject them, even if the views are received in time.
 - Further, it is not necessary to make a fresh reference to the state legislature every time an amendment to the bill is moved and accepted in Parliament.
 - In case of a union territory, no reference need be made to the concerned legislature to ascertain its views and the Parliament can itself take any action as it deems fit.
- ⇒ Constitution authorises the Parliament to form new states or alter the areas, boundaries or names of the existing states without their consent.
- ⇒ Parliament can redraw the political map of India according to its will.
- ⇒ Territorial integrity or continued existence of any state is not guaranteed by the Constitution.

India - 'an indestructible union of destructible states'

Union Government can destroy the states whereas the state governments cannot destroy the Union. In USA, on the other hand, the territorial integrity or continued existence of a state is guaranteed by the Constitution. The American Federal Government cannot form new states or alter the borders of existing states without the consent of the states concerned. That is why the USA is described as 'an indestructible union of indestructible states.'

Article 4

Laws made for admission or establishment of new states (under Article 2) and formation of new states and alteration of areas, boundaries or names of existing states (under Articles 3) are not to be considered as amendments of the Constitution under Article 368.
 ⇒ such laws can be passed by a simple majority and by the ordinary legislative process.

Does the power of Parliament to diminish the areas of a state (under Article 3) include also the power to cede Indian territory to a foreign country? [1960- Presidential referene]

9 th CAA (1960)	The Supreme Court held that the power of Parliament to diminish the area of a state (under Article 3) does not cover cession of Indian territory to a foreign country. ⇒ Indian territory can be ceded to a foreign state only by amending the Constitution under Article 368. ⇒ Consequently, the 9 th CAA 1960 was enacted to transfer the said territory to Pakistan.	The decision of the Central Government to cede part of a territory known as Berubari Union (West Bengal) to Pakistan led to political agitation and controversy and thereby necessitated the Presidential reference.
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Supreme Court in 1969	settlement of a boundary dispute between India and another country does not require a constitutional amendment. It can be done by executive action as it does not involve cession of Indian territory to a foreign country.
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Exchange of territories with Bangladesh

100th Constitutional Amendment Act (2015) :
 1. to give effect to the acquiring of certain territories by India and transfer of certain other territories to Bangladesh in pursuance of the agreement and its protocol entered into between the Governments of India and Bangladesh.

2. India transferred 111 enclaves to Bangladesh, while Bangladesh transferred 51 enclaves to India.
3. transfer of adverse possessions and the demarcation of a 6.1 km undemarcated border stretch.

For these 3 purposes, the amendment modified the provisions relating to the territories of four states (Assam, West Bengal, Meghalaya and Tripura) in the First Schedule of the Constitution.

Evolution of States and UTs

Integration of Princely States

At the Time of independence :

- British provinces + 552 princely states
- Indian Independence Act (1947) : India and Pakistan
- 3 options to the princely states viz., joining India, joining Pakistan or remaining independent.
- 549 joined India and the remaining 3 (Hyderabad, Junagarh and Kashmir) refused to join India.

Hyderabad	police action
Junagarh	referendum
Kashmir	Instrument of Accession

In 1950 : 4 fold classification of the states and territories of the Indian Union-

Part A (9) states	erstwhile governor's provinces of British India.	Assam, Bihar, Bombay, MP, Madras, Odisha, Punjab, United Provinces, WB
Part B (9) states	nine erstwhile princely states with legislatures.	Hyderabad, J&K, Madhya Bharat, Patiala & east Punjab, Rajasthan, Saurashtra, Travancore-Cochin, Vindhya Pradesh
Part C (10) states	erstwhile chief commissioner's provinces of British India and some of the erstwhile princely states	Ajmer, Bhopal, Bilaspur, Cooch Behar, Coorg, Delhi, HP, Manipur, Tripur
Part D territories	centrally administered	A&N islands

Dhar Commission, JVP Committee & Fazal Ali Commission

June 1948	Dhar Commission (Linguistic Provinces Commission)	reorganisation of states on linguistic basis	reorganisation of states on the basis of administrative convenience rather than linguistic factor.
Dec, 1948	JVP Committee (Linguistic Provinces Committee) 1. Jawaharlal Nehru, 2. Vallabhbhai Patel and 3. Pattabhi Sitaramayya	to examine the whole question of reorganisation of states on linguistic basis	formally rejected language as the basis for reorganisation of states

In October, 1953, the Government of India was forced to create the first linguistic state, known as **Andhra state**, by separating the Telugu speaking areas from the Madras state. This followed a prolonged popular agitation and the death of Potti Sriramulu, a Congress person of standing, after a 56-day hunger strike for the cause.

Dec, 1953	Fazl Ali Commission 1. Fazl Ali 2. K.M. Panikkar 3. H.N. Kunzru.	To examine creation of states on linguistic basis	<ul style="list-style-type: none"> ▪ broadly accepted language as the basis of reorganisation of states. But, it rejected the theory of 'one language-one state'. ▪ unity of India should be regarded as the primary consideration in any redrawing of the country's political units. ▪ 4 major factors that can be taken into account in
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			any scheme of reorganisation of states: (a) Preservation and strengthening of the unity and security of the country. (b) Linguistic and cultural homogeneity. (c) Financial, economic and administrative considerations. (d) Planning and promotion of the welfare of the people in each state as well as of the nation as a whole.
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Fazl Ali Commission	States Reorganisation Act (1956) and the 7th CAA (1956)
<ul style="list-style-type: none"> The commission suggested the abolition of the 4-fold classification of states and territories under the original Constitution and creation of 16 states and 3 centrally administered territories. The Government of India accepted these recommendations with certain minor modifications. 	<ol style="list-style-type: none"> distinction between Part A and Part B states was done away with and Part C states were abolished. Some of them were merged with adjacent states and some other were designated as union territories. As a result, 14 states and 6 union territories were created on November 1, 1956. established the new state of Kerala by merging the Travancore - Cochin State with the Malabar District of Madras state and Kasargode of South Canara (Dakshina Kannada). It merged the Telugu-speaking areas of Hyderabad state with the Andhra state to create the Andhra Pradesh state. it merged the Madhya Bharat state, Vindhya Pradesh state and Bhopal state into the Madhya Pradesh state. Similarly, it merged the Saurashtra state and Kutch state into that of the Bombay state, the Coorg state into that of the Mysore state; the Patiala and East Punjab States Union (Pepsu) into that of Punjab state; and the Ajmer state into that of Rajasthan state. It also created the new union territory of Laccadive, Minicoy and Amindivi Islands from the territory detached from the Madras state.

New States and Union Territories Created After 1956	1960	Maharashtra and Gujarat (15)
	1961	Dadra and Nagar Haveli (UT) 10th CAA 1961
	1961	Goa, Daman and Diu (UTs) 12th CAA 1961 India acquired these three territories from the Portuguese by means of a police action in 1961.
	1962	Puducherry [Puducherry, Karaikal, Mahe and Yanam] UT by 14 th CAA
	1963	Nagaland(16)
	1966	Haryana (17)
	1971	HP (18)
	1972	Manipur (19) Tripura (20) and Meghalaya (21)
	1974	Sikkim (22)
	1987	Mizoram(23) Arunachal Pradesh (24) and

	Goa (25)	
2000	Chhattisgarh (26), Uttarakhand (27)and Jharkhand (28)	
2014	Telangana	
	Andhra State Act (1953)	first linguistic state of India, known as the state of Andhra, by taking out the Telugu speaking areas from the State of Madras (now Tamil Nadu). Kurnool was the capital of Andhra state and the state high court was established at Guntur.
	States Reorganisation Act (1956)	It merged the Teluguspeaking areas of Hyderabad state with the Andhra state to create the enlarged Andhra Pradesh state. The capital of the state was shifted to Hyderabad.
	Andhra Pradesh Reorganisation Act (2014)	It bifurcated the Andhra Pradesh into two separate states, namely, the Andhra Pradesh (residuary) and the Telangana.
2019	Jammu & Kashmir and Ladakh	
	Article 370	own constitution and thus enjoyed a special status
	“The Constitution (Application to Jammu and Kashmir) Order, 2019”	Abolishment of special status extended all the provisions of the Constitution of India to Jammu and Kashmir also.
	Jammu and Kashmir Reorganisation Act, 2019	bifurcated the erstwhile State of Jammu and Kashmir into two separate union territories, namely, the union territory of Jammu & Kashmir and the union territory of Ladakh. The union territory of Jammu and Kashmir comprises all the districts of the erstwhile State of Jammu and Kashmir except the Kargil and Leh districts which have gone to the union territory of Ladakh.
	Thus, the number of states and union territories increased from 14 and 6 in 1956 to 28 and 9 in 2019, respectively .	
2020	Dadra and Nagar Haveli and Daman and Diu were merged into a single territory called Dadra and Nagar Haveli and Daman and Diu. ⇒ Presently there are 28 States and 8 UTs .	

Change of Names

1950	United Provinces was the first state to have a new name. It was renamed 'Uttar Pradesh' .
1969	Madras was renamed 'Tamil Nadu'
1973	⇒ Mysore was renamed 'Karnataka' ⇒ Laccadive, Minicoy and Amindivi Islands were renamed 'Lakshadweep'
1992	Union Territory of Delhi was redesignated as the National Capital Territory of Delhi
2006	⇒ Uttaranchal was renamed as 'Uttarakhand' ⇒ Pondicherry was renamed as 'Puducherry'.
2011	same year, Pondicherry was renamed as 'Puducherry'. In 2011, Orissa was renamed as 'Odisha'.

Articles related to Union and its Territory at a Glance	1	Name and territory of the Union
	2	Admission or establishment of new states
	3	Formation of new states and alteration of areas, boundaries or names of existing states
	4	Laws made under Articles 2 and 3 to provide for the amendment of the First and the Fourth Schedules and supplemental, incidental and consequential matters.

Citizenship

Meaning & Significance-Constitutional Provisions-Citizenship Act , 1956-Acquisition of Citizenship-Loss of Citizenship-Single Citizenship-OCI-NRI vs PIO vs Overseas Citizen of India

Meaning & Significance

Citizen		Aliens	
<ul style="list-style-type: none"> full members of the Indian State and owe allegiance to it enjoy all civil and political rights 		<ul style="list-style-type: none"> citizens of some other state do not enjoy all the civil and political rights 	
rights and privileges by Constitution - citizens of India (and denies the same to aliens)		friendly aliens	Enemy aliens
Art 15	Right against discrimination on grounds of religion, race, caste, sex or place of birth	countries that have cordial relations with India enjoy more rights than the friendly aliens	country that is at war with India enjoy lesser rights than the friendly aliens
Art 16	Right to equality of opportunity in the matter of public employment	Enjoy protection against arrest and detention (Article 22)	Do not enjoy
Art 19	Right to freedom of speech and expression, assembly, association, movement, residence and profession		
Art 29 & 30	Cultural and educational rights		
Right to vote	Lok Sabha and state legislative assembly		
Right to contest	membership of the Parliament and the state legislature		
Right to hold	certain public offices, that is, President, VP, judges SC and HC, Governor of states, AGI and AdGS		

Constitutional Provisions

Part II (Articles 5 to 11)

5	Citizenship at the commencement of the Constitution
6	Rights of citizenship of certain persons who have migrated to India from Pakistan
7	Rights of citizenship of certain migrants to Pakistan
8	Rights of citizenship of certain persons of Indian origin residing outside India
9	Persons voluntarily acquiring citizenship of a foreign State not to be citizens
10	Continuance of the rights of citizenship
11	Parliament to regulate the right of citizenship by law

- ⇒ it contains neither any permanent provisions in this regard.
- ⇒ It only identifies the persons who India at its commencement (i.e., on
- ⇒ It does not deal with the problem of citizenship subsequent to its
- ⇒ It empowers the Parliament to provide for such matters and any to citizenship.
- ⇒ Parliament - Citizenship Act subsequent amendments

Constitution-4 types of persons became the citizens of India at its commencement i.e., on January 26, 1950

Domicile in India	born in India; or if either of his parents was born in India; or if he has been ordinarily resident in India for five years immediately before commencement of Constitution,
Migrated from Pakistan	Grandparent July 19, 1948 Registration (6 month)
Migrated to Pakistan but returned later	March 1, 1947 registration (6 month)
Persons of Indian origin residing outside India	overseas Indians who may want to acquire Indian citizenship

nor any elaborate became citizens of January 26, 1950). of acquisition or loss commencement. enact a law to other matter relating (1955), with

Citizenship Act , 1956

acquisition and loss of citizenship after the commencement of the Constitution.

Acquisition of Citizenship

Citizenship Act of 1955 [5 ways of acquiring citizenship]

Birth [born in India on or after]	January 26, 1950 but before July 1, 1987		
	July 1, 1987		
	December 3, 2004		
	Descent	January 26, 1950 but before July 1, 1987	
		July 1, 1987	
		December 3, 2004	
	Registration	ordinarily resident in India for seven years	
		ordinarily resident in any country or place outside undivided India	
		who is married to a citizen of India and is ordinarily resident in India for seven years	
		minor children of persons who are citizens of India	
a person of full age and capacity whose parents are registered as citizens of India			
Naturalisation	a person of full age and capacity who, or either of his parents, was earlier citizen of independent India, and is ordinarily resident in India for twelve months		
	a person of full age and capacity who has been registered as an overseas citizen of India cardholder for five years, and who is ordinarily resident in India for twelve months		
	renounce the citizenship of that country in the event of his application for Indian citizenship being accepted		
	either resided in India or been in the service of a Government in India or partly the one and partly the other, throughout the period of twelve months		

		<p>during the fourteen years immediately preceding the said period of twelve months, he has either resided in India or been in the service of a Government in India, or partly the one and partly the other, for periods amounting in the aggregate to not less than eleven years;</p> <p>good character</p> <p>he has an adequate knowledge of a language specified in the Eighth Schedule to the Constitution</p> <p>event of a certificate of naturalisation being granted to him, he intends to reside in India, or to enter into or continue in, service under a Government in India or under an international organisation of which India is a member or under a society, company or body of persons established in India</p>	
	Incorporation of Territory	when Pondicherry became a part of India, the Government of India issued the Citizenship (Pondicherry) Order (1962), under the Citizenship Act (1955).	Who When (date)
Citizenship (Amend) Act, 1985	citizenship of persons covered by the Assam Accord (which related to the foreigners' issue)	<p>persons of Indian origin who came to Assam before the January 1, 1966 from Bangladesh and who have been ordinarily residents in Assam since the date of their entry into Assam shall be deemed to be citizens of India as from the January 1, 1966.</p> <p>person of Indian origin who came to Assam on or after the January 1, 1966 but before the March 25, 1971 from Bangladesh and who has been ordinarily resident in Assam since the date of his entry into Assam and who has been detected to be a foreigner shall register himself. Such a registered person shall be deemed to be a citizen of India for all purposes as from the date of expiry of a period of ten years from the date of detection as a foreigner. But, in the intervening period of ten years, he shall have the same rights and obligations as a citizen of India, excepting the right to vote.</p>	
Citizenship amendment Act 2019		to provide Indian citizenship to undocumented immigrants who entered India on or before 31st December 2014. The Act was passed for migrants of six different religions such as Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians from Afghanistan, Bangladesh, and Pakistan.	

Loss of
Citizenship[3]

Renunciation

Declaration of renouncing
War
Minor child

		Attaining 18 years	
	Termination	voluntarily acquires the citizenship of another country	
	Deprivation	compulsory termination of Indian citizenship by the Central government	Fraud
			Disloyalty
			Unlawfully traded or communicated with enemy on War
Imprison in any country for 2 years			
		Ordinarily resident out side India for 7 years continuously	

Single Citizenship	India- Dual polity- citizens in India owe allegiance only to the Union USA , Switzerland – Dual citizenship -> discriminate Exceptions	
	Art 15	Resident as a condition for certain employment
	Art 16	prohibits discrimination against any citizen on grounds of religion, race, caste, sex or place of birth and not on the ground of residence.
	Art 19	the right of outsiders to enter, reside and settle in tribal areas is restricted.
	Constitution (Application to J&K order 2019)	On 5th August 2019, President of India in the exercise of the powers conferred by Clause (1) of Article 370 of the Constitution had issued the Constitution (Application to Jammu and Kashmir) Order, 2019. Through this, Government of India has made modifications in Article 370 itself (not revoked it).

Overseas Citizen of India	Evolution
	Registration
	Conferment of Rights
	Renunciation
	Cancellation of Registration

Overseas Citizen of India	LM Singhvi Committee
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	NRI	PIO	OCI
	An Indian citizen who is ordinarily residing outside India and holds an Indian Passport	A person who or whose any Of ancestors was an Indian national and who is presently holding another country's citizenship / nationality i.e. he/she is holding foreign passport	A person registered as Overseas Citizen of India (OCI) Cardholder under the Citizenship Act, 1955
Does he/she require visa for visiting India ?	No	Yes	Can visit India without visa for life long
How can one acquire Indian citizenship?	He/she is an Indian citizen	Citizenship Act, 1955, he/she has to be ordinarily resident in India for a period of 7 Years before making an application for registration.	Citizenship Act, 1955, a person registered as an OCI cardholder for 5 years and who is ordinarily resident in India for twelve months before making an application for registration is eligible for grant of Indian citizenship.

Fundamental Rights

Topics to be covered

Basic about FR ; Features ; Definition of States ; Judicial Review ; 6 FRs ; Restriction of applicability ; Significance ; Criticism

FR: Background -

- Fundamental Rights - name- guaranteed and protected by the Constitution, which is the fundamental law of the land. ['fundamental' -> most essential for the all-round development (material, intellectual, moral and spiritual) of the individuals]
- Origin- Constitution of USA (i.e., Bill of Rights).
- Part III [Articles 12 to 35] [*Magna Carta* of India]
- *Original 7 FRs. Right to property was deleted by the 44th CAA 1978 made as a legal right under Article 300-A in Part XII of the Constitution. So at present, there are only six Fundamental Rights.*
- It contains a very long and comprehensive list of 'justiciable' Fundamental Rights.
- More elaborate than those found in the Constitution of any other country in the world, including the USA.
- FRs are guaranteed by the Constitution to all persons without any discrimination. They uphold the equality of all individuals, the dignity of the individual, the larger public interest and unity of the nation.

Need of FR –

- The Fundamental Rights are meant for promoting the ideal of political democracy.
- They prevent the establishment of an authoritarian and despotic rule in the country, and protect the liberties and freedoms of the people against the invasion by the State.
- They operate as limitations on the tyranny of the executive and arbitrary laws of the legislature.
- establishing 'a government of laws and not of men'.

Features of FR :

1	available	to the citizens or foreigners & legal persons i.e. companies.
2	against the arbitrary action	All of them are available against the arbitrary action of the state. However, some of them are also available against the action of private individuals.
3	not absolute but qualified.	State can impose reasonable restrictions on them. However, whether such restrictions are reasonable or not is to be decided by the courts. Thus, they strike a balance between the rights of the individual and those of the society as a whole, between individual liberty and social control.
4	Nature	Some of them are negative in character, that is, place limitations on the authority of the State, while others are positive in nature, conferring certain privileges on the persons.
5	justiciable	allowing persons to move the courts for their enforcement, if and when they are violated.
6	defended & guaranteed	by the Supreme Court. Hence, the aggrieved person can directly go to the Supreme Court, not necessarily by way of appeal against the judgement of the high courts.
7	not sacrosanct or permanent.	The Parliament can curtail or repeal them but only by a constitutional amendment act and not by an ordinary act. Moreover, this can be done without affecting the 'basic structure' of the Constitution.
8	Suspension	FRs suspended during the operation of a National Emergency except the rights guaranteed by Articles 20 and 21. Further, the 6 rights guaranteed by Article 19 can be suspended only when emergency is declared on the grounds of war or external aggression (i.e., external emergency) and not on the ground of armed rebellion (i.e., internal emergency).
9	Limitation of Scope	Their scope of operation is limited by Article 31A (saving of laws providing for acquisition of estates, etc.), Article 31B (validation of certain acts and regulations included in the 9th Schedule) and Article 31C (saving of laws giving effect to certain directive principles).
10	Restriction to Armed force	Their application to the members of armed forces, para-military forces, police forces, intelligence agencies and analogous services can be restricted or abrogated by the Parliament (Article 33).
11	Restriction to Martial law	Their application can be restricted while martial law is in force in any area. Martial law means 'military rule' imposed under abnormal circumstances to restore order (Article 34). It is different from the imposition of national emergency.

12	Self-executory	Most of them are directly enforceable (self-executory) while a few of them can be enforced on the basis of a law made for giving effect to them. Such a law can be made only by the Parliament and not by state legislatures so that uniformity throughout the country is maintained (Article 35).
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Article 12: Definition of State Purposes of Part III

- State includes
 - Government and Parliament of India, that is, executive and legislative organs of the Union government.
 - Government and legislature of states, that is, executive and legislative organs of state government.
 - All local authorities, that is, municipalities, panchayats, district boards, improvement trusts, etc.
 - All other authorities, that is statutory or non-statutory authorities like LIC, ONGC, SAIL, etc.
- The state has been defined in a wider sense so as to include all its agencies. It is the actions of these agencies that can be challenged in the courts as violating the Fundamental Rights.
- Supreme Court - even a private body or an agency working as an instrument of the State falls within the meaning of the 'State' under Article 12.

Article 13: laws inconsistent with or in derogation of any of FR shall be void .

- The doctrine of judicial review, the Supreme Court (Article 32) and the high courts (Article 226) can declare a law unconstitutional and invalid on the ground of contravention of any of the Fundamental Rights.
- The term 'law' in Article 13 has been given a wide connotation to include the following:
 - ✓ Permanent laws enacted by the Parliament or the state legislatures;
 - ✓ Temporary laws like ordinances issued by the president or the state governors;
 - ✓ Statutory instruments like delegated legislation (executive legislation) like order, bye-law, rule, regulation or notification; and
 - ✓ Non-legislative sources of law, that is custom or usage having the force of law.
- Thus, not only legislation but any of the above can be challenged in the courts as violating a Fundamental Right and hence, can be declared void.
- Article 13 - a constitutional amendment is not a law and hence cannot be challenged. However SC - *Kesavananda Bharati* case(1973) - a Constitutional amendment can be challenged on the ground that it violates a fundamental right that forms a part of the 'basic structure' of the Constitution and hence, can be declared as void.

Article 14: Equality before the Law and Equal Protection of Laws

Article 14 - The state shall not deny to any person equality before the law or the equal protection of the laws within the territory of India. This provision confers rights on all persons whether citizens or foreigners.

'Equality before law' - British origin	'Equal protection of laws' - American Constitution.
(a) the absence of any special privileges in favor of any person, (b) the equal subjection of all persons to the ordinary law of the land administered by ordinary law courts, and (c) no person (whether rich or poor, high or low, official or non-official) is above the law.	(a) the equality of treatment under equal circumstances, both in the privileges conferred and liabilities imposed by the laws, (b) the similar application of the same laws to all persons who are similarly situated, and (c) the like should be treated alike without any discrimination.
negative concept	positive concept

However, both of them aim to establish equality of legal status, opportunity and justice.

SC-

- Where equals and un-equals are treated differently, Article 14 does not apply.
- While Article 14 forbids class legislation, it permits reasonable classification of persons, objects and transactions by the law. But the classification should not be arbitrary, artificial or evasive. Rather, it should be based on an intelligible differential and substantial distinction.

Rule of Law - the concept of 'equality before law' is an element of the concept of 'Rule of Law' [A.V. Dicey, the British jurist]. 3 elements

(1) Absence of arbitrary power [no man can be punished except for a breach of law]	
(2) Equality before the law [equal subjection of all citizens (rich or poor, high or low, official or non-official) to the ordinary law of the land administered by the ordinary law courts.]	applicable to the Indian System
(3) The primacy of the rights of the individual - constitution is the result of the rights of the individual as defined and enforced by the courts of law	In the Indian System, the constitution is the source of the individual rights
'Rule of Law' as embodied in Article 14 is a 'basic feature' of the constitution. Hence, it cannot be destroyed even by an amendment.	

Exceptions to Equality

The President of India and the Governor of States [Article 361]	Not answerable to any court the exercise and performance of the powers and duties of office.
	No criminal proceedings shall be instituted or continued against the President or the Governor in any court during his term office.
	No process for the arrest or imprisonment of the President or Governor shall be issued from any court during his term of office
	No civil proceedings against the President or the Governor should be instituted during his term of office in any court in respect of act done by him in his capacity, whether before or after he entered upon his office, until the expiration of two months after notice has been delivered to him.
Article 361-A -	No person shall be liable to any civil or criminal proceedings in any court in respect of the publication in a newspaper (or by radio or television) of a substantially true report of any proceedings of either House of Parliament or either House of the Legislature of a State.
Article 105-member of Parliament	No member of Parliament shall be liable to any proceedings in any court in respect of anything said or any vote given by him in Parliament or any committee thereof
Article 194 - member of the Legislature of a state	No member of the Legislature of a state shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the Legislature or any committee thereof
Article 31-C	laws made by the state for implementing the Directive Principles contained in clause (b) or clause (c) of Article 39 cannot be challenged on the ground that they are violative of Article 14. The Supreme Court held that "where Article 31-C comes in, Article 14 goes out".
foreign sovereigns (rulers), ambassadors and diplomats	enjoy immunity from criminal and civil proceedings
UNO and its agencies	enjoy the diplomatic immunity

Art 15-Prohibition of Discrimination on Certain Grounds

<p>The state shall not discriminate against any citizen on grounds only of religion, race, caste, sex or place of birth.</p> <ul style="list-style-type: none"> • 'discrimination'- to make an adverse distinction with regard to or 'to distinguish unfavourably from others • 'only'- discrimination on other grounds is not prohibited 	<p>prohibits discrimination only by the State</p>
<p>no citizen shall be subjected to any disability, liability, restriction or condition on grounds only of religion, race, caste, sex, or place of birth with regard to</p> <p>(a) access to shops, public restaurants, hotels and places of public entertainment; or</p> <p>(b) the use of wells, tanks, bathing ghats, road and places of public resort maintained wholly or partly by State funds or dedicated to the use of general public.</p>	<p>discrimination both by the State and private individuals,</p>

Exceptions :

special provision	For women and children
special provision	For the advancement of any SEBC of citizens or SCs or STs
special provision for the admission to educational institutions [Including private educational institutions, whether aided or unaided by the state, except the minority educational institutions] (93rd CAA 2005)	For the advancement of any SEBC of citizens or SCs or STs
(103rd CAA 2019)	advancement of any EWS of citizens - reservation of up to 10% of seats

Reservation for OBCs in Educational Institutions

93rd CAA 2005	state is empowered to make any special provision for the advancement of any SEBC of citizens or for SCs or STs regarding their <u>admission to educational institutions including private educational institutions, whether aided or unaided by the state, except the minority educational institutions</u>
Central Educational Institutions (Reservation in Admission) Act, 2006 April 2008	quota of 27% for candidates belonging to the Other Backward Classes (OBCs) in all central higher educational institutions including IITs and IIMs
	<p>Supreme Court upheld the validity of both, the Amendment Act and the OBC Quota Act. But the Court directed the central government to exclude the 'creamy layer' (advanced sections) among the OBCs while implementing the law.</p> <p style="text-align: center;"><u>'Creamy layer' among OBCs</u></p> <ul style="list-style-type: none"> - constitutional posts - Group 'A' / Class I and Group 'B' / Class II Officers - rank of colonel and above in the Army and equivalent posts in the Navy, the Air Force and the Paramilitary Forces. - doctors, lawyers, engineers, artists, authors, consultants and so on. - trade, business and industry - agricultural land above a certain limit and vacant land or buildings in urban areas - gross annual income of more than ₹8 lakh or possessing wealth above the exemption limit.

Reservation for EWSs in Educational Institutions

103rd CAA 2019	empowered State to make any special provision for the advancement of any economically weaker sections of citizens. Further, the state is allowed to make a provision for the reservation of up to 10% of seats for such sections in admission to educational institutions including private educational institutions, whether aided or unaided by the state, except the minority educational institutions.
The central government issued an order (in 2019)	10% reservation to EWS in admission to educational institutions.
eligibility criteria	<ol style="list-style-type: none"> 1. Persons whose family has a gross annual income below ₹8 lakh which include income from all sources i.e., salary, agriculture, business, profession etc. and would be income for the financial year before the year of application. 2. Persons whose family owns or possesses any one of the following assets are to be excluded from being identified as EWSs, irrespective of the family income: <ol style="list-style-type: none"> (a) 5 acres of <u>Agricultural land</u> and above. (b) <u>Residential flat</u> of 1000 sq. Ft. and above. (c) <u>Residential plot</u> of 100 sq. Yards and above in notified municipalities. (d) <u>Residential plot</u> of 200 sq. Yards and above in areas other than the notified municipalities.

3. The property held by a family in different locations or different places / cities would be clubbed while applying the land or property holding test to determine EWS status.
4. Family for this purpose would include the person who seeks benefit of reservation, his/her parents and siblings below the age of 18 years as also his/her spouse and children below the age of 18 years.

Article 16 - equality of opportunity for all citizens in matters of employment or appointment to any office under the State

- No citizen can be discriminated against or be ineligible for any employment or office under the State on grounds of only **religion, race, caste, sex, descent, place of birth or residence**.

1) Parliament can prescribe residence as a condition for certain employment or appointment in a state or union territory or local authority or other authority.	Public Employment (Requirement as to Residence) Act of 1957
2) reservation of appointments or posts in favour of any backward class that is not adequately represented in the state services.	Mandal Commission
3) A law can provide that the incumbent of an office related to religious or denominational institution or a member of its governing body should belong to the particular religion or denomination.	
4) reservation of up to 10% of appointments or posts in favour of any economically weaker sections of citizens.	reservation of up to 10% would be in addition to the existing reservation.

Article 17 : Abolition of Untouchability

Article 17- abolishes 'untouchability' and forbids its practice in any form. The enforcement of any disability arising out of untouchability shall be an offence punishable in accordance with law.

-> Untouchability (Offences) Act, 1955 -> Protection of Civil Rights Act, 1955 - defines civil right as any right accruing to a person by reason of the abolition of untouchability by Article 17 of the Constitution

Note- The term 'untouchability' has not been defined either in the Constitution or in the Act.

Mysore High Court	<ul style="list-style-type: none"> Subject matter of Article 17 is not untouchability in its literal or grammatical sense but the 'practice as it had developed historically in the country'. It refers to the social disabilities imposed on certain classes of persons because of their birth in certain cases. Hence, it does not cover social boycott of a few individuals or their exclusion
SC	<ul style="list-style-type: none"> Right under Article 17 is available against private individuals and it is the constitutional obligation of the State to take necessary action to ensure that this right is not violated.

Where Everyday Is Exam Day

Abolition of titles except military and academic (Article 18)

Article 18	Explanation
abolishes titles and makes four provisions in that regard: (a) It prohibits the state from conferring any title (except a military or academic distinction) on anybody, whether a citizen or a foreigner. (b) It prohibits a citizen of India from accepting any title from any foreign state. (c) A foreigner holding any office of profit or trust under the state cannot accept any title from any foreign state without the consent of the president. (d) No citizen or foreigner holding any office of profit or trust under the State	Hereditary titles of nobility like Maharaja, Raj Bahadur, Rai Bahadur, Rai Saheb, Dewan Bahadur, etc, which were conferred by colonial States are banned by Article 18 as these are against the principle of equal status of all. 1996: SC <ul style="list-style-type: none"> upheld the constitutional validity of the National Awards—Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Sri. It ruled that these awards do not amount to 'titles' within the meaning of Article 18 which prohibits only hereditary titles of nobility. Therefore, they are not violative of Article 18 as the theory of equality does not mandate that merit should not be recognised.

is to accept any present, emolument or office from or under any foreign State without the consent of the president.

- However, it also ruled that they should not be used as suffixes or prefixes to the names of awardees. Otherwise, they **should forfeit the awards**.
- These National Awards were instituted in 1954. The Janata Party government headed by Morarji Desai discontinued them in 1977. But they were again revived in 1980 by the Indira Gandhi government.

Right to Freedom [Art 19-22]

Protection of Six Rights [19]

- (i) Right to freedom of speech and expression.
 - (ii) Right to assemble peaceably and without arms.
 - (iii) Right to form associations or unions or co-operative societies.
 - (iv) Right to move freely throughout the territory of India.
 - (v) Right to reside and settle in any part of the territory of India.
 - (vi) Right to practice any profession or to carry on any occupation, trade or business.
- [Originally, 7 but right to acquire, hold and dispose of property deleted by the 44th CAA 1978]**
- ⇒ protected against only state action and not private individuals.
 - ⇒ available only to the citizens and shareholders of a company but not to foreigners or legal persons like companies or corporations, etc.
 - ⇒ The state can impose 'reasonable' restrictions on the enjoyment of these six rights only on the grounds mentioned in Article 19 itself and not on any other grounds.

	Provisions	Reasonable restrictions
Freedom of Speech and Expression (Art 19)	<ul style="list-style-type: none"> • every citizen has the right to express his views, opinions, beliefs and convictions freely by word of mouth, writing, printing, picturing or in any other manner. • Supreme Court: freedom of speech and expression includes : <ul style="list-style-type: none"> (a) Right to propagate one's views as well as the views of others. (b) Freedom of the <u>press</u>. (c) Freedom of <u>commercial advertisements</u>. (d) Right against <u>tapping of telephonic conversation</u>. (e) Right to <u>telecast</u>, that is, government has no monopoly on electronic media. (f) Right against <u>bundh</u> called by a political party or organisation. (g) Right to know about <u>government activities</u>. (h) Freedom of <u>silence</u>. (i) Right against <u>imposition of pre-censorship</u> on a newspaper. (j) Right to <u>demonstration</u> or <u>picketing</u> but not right to strike. 	<ol style="list-style-type: none"> 1. sovereignty and integrity of India, 2. security of the state, 3. friendly relations with foreign states, 4. public order, 5. decency or morality, 6. contempt of court, 7. defamation, and 8. incitement to an offence
Freedom of Assembly	<ul style="list-style-type: none"> • Every citizen has the right to assemble peaceably and without arms. • It includes the <ol style="list-style-type: none"> 1. right to hold public meetings, 2. demonstrations and 3. take-out processions. • can be exercised only on public land and the assembly must be peaceful and unarmed. • This provision does not protect violent, disorderly, riotous assemblies, one that causes a breach of public peace or one that involves arms. • It does not include the right to strike. 	<ol style="list-style-type: none"> 1. sovereignty and integrity of India and 2. public order including the maintenance of traffic in the area concerned

	<p>U/S 144 CrPC</p> <p>A magistrate can restrain an assembly, meeting or procession if there is a risk of obstruction, annoyance or danger to human life, health or safety or a disturbance of the public tranquillity or a riot or any affray.</p>							
	<p>U/S 141 IPC</p> <p>assembly of five or more persons becomes unlawful if the object is</p> <p>(a) to resist the execution of any law or legal process; (b) to forcibly occupy the property of some person; (c) to commit any mischief or criminal trespass; (d) to force some person to do an illegal act; and (e) to threaten the government or its officials on exercising lawful powers.</p>							
Freedom of Association	<ul style="list-style-type: none"> All citizens have the right to form associations or unions or cooperative societies. It includes right to form political parties, companies, partnership firms, societies, clubs, organisations, trade unions or any body of persons. It not only includes the right to start an association or union but also to continue with the association or union as such. Further, it covers the negative right of not to form or join an association or union. <p>SC- trade unions have no guaranteed right to effective bargaining or right to strike or right to declare a lockout. The right to strike can be controlled by an appropriate industrial law.</p>	<ol style="list-style-type: none"> sovereignty and integrity of India, public order and morality <p>Note- Subject to these restrictions, the citizens have complete liberty to form associations or unions for pursuing lawful objectives and purposes. However, the right to obtain recognition of the association is not a fundamental right.</p>						
Freedom of Movement	<p style="text-align: center;">freedom of movement</p> <table border="1" style="width: 100%;"> <tr> <td style="text-align: center;">internal</td> <td style="text-align: center;">external</td> </tr> <tr> <td style="text-align: center;">Right to move inside the country</td> <td style="text-align: center;">right to move out of the country and right to come back to the country</td> </tr> <tr> <td style="text-align: center;">Article 19</td> <td style="text-align: center;">Article 21 (right to life and personal liberty)</td> </tr> </table> <p>Every citizen to move freely throughout the territory of the country. He can move freely from one state to another or from one place to another within a state. This right underlines the idea that India is one unit so far as the citizens are concerned. Thus, the purpose is to promote national feeling and not parochialism.</p> <p>SC- The freedom of movement of prostitutes can be restricted on the grounds of public health and in the interest of public morals. The Bombay High Court validated the restrictions on the movement of persons affected by AIDS.</p>	internal	external	Right to move inside the country	right to move out of the country and right to come back to the country	Article 19	Article 21 (right to life and personal liberty)	<ol style="list-style-type: none"> interests of the general public and protection of interests of any scheduled tribe <p>Note- The entry of outsiders in tribal areas is restricted to protect the distinctive culture, language, customs and manners of scheduled tribes and to safeguard their traditional vocation and properties against exploitation.</p>
internal	external							
Right to move inside the country	right to move out of the country and right to come back to the country							
Article 19	Article 21 (right to life and personal liberty)							
Freedom of Residence	<p>Every citizen has the right to reside and settle in any part of the territory of the country. 2 parts</p> <table border="1" style="width: 100%;"> <tr> <td style="text-align: center;">the right to reside in any part of the country</td> <td style="text-align: center;">right to settle in any part of the country</td> </tr> <tr> <td style="text-align: center;">stay at any place temporarily</td> <td style="text-align: center;">set up a home or domicile at any place permanently</td> </tr> </table> <ul style="list-style-type: none"> The right of outsiders to reside and settle in tribal areas is restricted <ul style="list-style-type: none"> to protect the distinctive culture, language, customs and manners of STs and to safeguard their traditional vocation and properties against exploitation. 	the right to reside in any part of the country	right to settle in any part of the country	stay at any place temporarily	set up a home or domicile at any place permanently	<ol style="list-style-type: none"> the interest of the general public and protection of the interests of any scheduled tribes <p>Note- right to residence and the right to movement are overlapping to some extent. Both are complementary to each other.</p>		
the right to reside in any part of the country	right to settle in any part of the country							
stay at any place temporarily	set up a home or domicile at any place permanently							

	<ul style="list-style-type: none"> In many parts of the country, the tribals have been permitted to regulate their property rights in accordance with their customary rules and laws. <p>SC- certain areas can be banned for certain kinds of persons like prostitutes and habitual offenders.</p>	
Freedom of Profession, etc	<ul style="list-style-type: none"> All citizens are given the right to practise any profession or to carry on any occupation, trade or business. This right is very wide as it covers all the means of earning one's livelihood. State is empowered to: <ol style="list-style-type: none"> prescribe professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business; and carry on by itself any trade, business, industry or service whether to the exclusion (complete or partial) of citizens or otherwise. Monopoly- no objection can be made when the State carries on a trade, business, industry or service either as a monopoly (complete or partial) to the exclusion of citizens (all or some only) or in competition with any citizen. The State is not required to justify its monopoly. Licensing: This right does not include the right to carry on a profession or business or trade or occupation that is immoral (trafficking in women or children) or dangerous (harmful drugs or explosives, etc.). The State can absolutely prohibit these or regulate them through licencing. 	1. interest of the general public.

Article 20: Protection in Respect of Conviction for Offences

Article 20 - grants protection against arbitrary and excessive punishment to an accused person, whether a citizen or foreigner or legal person like a company or a corporation. 3 provisions

<p>1- No ex-post-facto law <i>Ex-post-facto law-one that imposes penalties retrospectively i.e., upon acts already done or which increases the penalties for such acts.</i></p>	<p>No person shall be (i) convicted of any offence <u>except for violation of a law in force at the time of the commission of the act</u>, nor (ii) subjected to a penalty <u>greater than that prescribed by the law in force at the time of the commission of the act.</u></p>	<ul style="list-style-type: none"> limitation is imposed only on criminal laws and not on civil laws or tax laws . civil liability or a tax can be imposed retrospectively. Further, this provision prohibits only conviction or sentence under an ex-post-facto criminal law and not the trial thereof. Finally, the protection (immunity) under this provision cannot be claimed in case of preventive detention or demanding security from a person.
<p>2- No double jeopardy:</p>	<p>No person shall be prosecuted and punished for the same offence more than once.</p>	<ul style="list-style-type: none"> available only in proceedings before a court of law or a judicial tribunal. not available in proceedings before departmental or administrative authorities as they are not of judicial nature.
<p>3- No self-incrimination:</p>	<p>No person accused of any offence shall be compelled to be a witness against himself.</p>	<ul style="list-style-type: none"> protection extends to both oral evidence and documentary evidence. However, it does not extend to <ol style="list-style-type: none"> compulsory production of material objects, compulsion to give thumb impression, specimen signature, blood specimens, and compulsory exhibition of the body. extends only to criminal proceedings and not to civil proceedings or proceedings which are not of criminal nature.

Article 21 : Protection of Life and Personal Liberty

- no person shall be deprived of his life or personal liberty except according to procedure established by law.
 - available to both citizens and non-citizens.

Gopalan case (1950)	Menaka case(1978),
'procedure established by law'	'due process of law'.
1) protection under Article 21 is available only against arbitrary executive action and not from arbitrary legislative action. [State can deprive the right to life and personal liberty of a person based on a law]	1) protection under Article 21 should be available not only against arbitrary executive action but also against arbitrary legislative action.
validity of a law that has prescribed a procedure cannot be questioned on the ground that the law is unreasonable, unfair or unjust.	right to life and personal liberty of a person can be deprived by a law provided the procedure prescribed by that law is reasonable, fair and just.
'personal liberty' means only liberty relating to the person or body of the individual.	'right to life' as embodied in Article 21 is not merely confined to animal existence or survival but it includes within its ambit the right to live with human dignity and all those aspects of life which go to make a man's life meaningful, complete and worth living.
Narrow interpretation	Wider interpretation [covers a variety of rights that go to constitute the personal liberties of a man] Right to live with human dignity , decent environment including pollution free water and air and protection against hazardous industries , livelihood , to privacy , to shelter , health , to free education up to 14 years of age, to free legal aid, against solitary confinement , to speedy trial, against handcuffing, against inhuman treatment , against delayed execution , to travel abroad , against bonded labour , against custodial harassment , to emergency medical aid , to timely medical treatment in government hospital , not to be driven out of a state , to fair trial , of prisoner to have necessities of life. , of women to be treated with decency and dignity , against public hanging , to road in hilly areas , to information, to reputation , of appeal from a judgement of conviction , to family pension , to social and economic justice and empowerment , against bar fetters , to appropriate life insurance policy , to sleep , to freedom from noise pollution , to sustainable development , to opportunity

Article 21-A: Right to Education

- State shall provide free and compulsory education to all children of the age of six to fourteen years in such a manner as the State may determine. Thus, this provision makes only elementary education a Fundamental Right and not higher or professional education.

- added by the **86th CAA 2002**

- ✓ a major milestone in the country's aim to achieve 'Education for All'.
- ✓ 'the dawn of the second revolution in the chapter of citizens' rights'.
- ✓ It added/modified following provisions

FR 21 A	DPSP Art 45	FD Article 51A
State shall provide free and compulsory education to all children of the age of 6 to 14 years in such a manner as the State may determine.	The state shall endeavour to provide early childhood care and education for all children until they complete the age of 6 years.'	'It shall be the duty of every citizen of India to provide opportunities for education to his child or ward between the age of 6 and 14 years'.
1992 SC	there was a fundamental right to education up to any level including professional education like medicine and engineering	
1993 SC	Supreme Court recognised a Fundamental Right to primary education in the right to life under Article 21. It held that	

	every child or citizen of this country has a right to free education until he completes the age of 14 years. Thereafter, his right to education is subject to the limits of economic capacity and development of the state.
Right of Children to Free and Compulsory Education (RTE) Act, 2009	seeks to provide that every child has a right to be provided full time elementary education of satisfactory and equitable quality in a formal school which satisfies certain essential norms and standards. This legislation is anchored in the belief that the values of equality, social justice and democracy and the creation of a just and humane society can be achieved only through provision of inclusive elementary education to all.

Article 22: Protection Against Arrest and Detention

- grants protection to persons who are arrested or detained.

- 2 Types of detention

punitive	preventive
to punish a person for an offence committed by him after trial and conviction in a court.	detention of a person without trial and conviction by a court.
	purpose is not to punish a person for a past offence but to prevent him from committing an offence in the near future.
	only a precautionary measure and based on suspicion

2 parts

1st Part	rights on a person who is arrested or detained under an ordinary law: (i) Right to be informed of the grounds of arrest. (ii) Right to consult and be defended by a legal practitioner. (iii) Right to be produced before a magistrate within 24 hour including the journey time. (iv) Right to be released after 24 hours unless the magistrate authorises further detention.	<ul style="list-style-type: none"> ○ These safeguards are not available to an enemy alien or a person arrested or detained under a preventive detention law. ○ do not cover arrest under the orders of a court, civil arrest, arrest on failure to pay the income tax, and deportation of an alien. ○ apply only to an act of a criminal or quasi-criminal nature or some activity prejudicial to public interest.
2nd part	Protection to persons who are arrested or detained under a preventive detention law. This protection is available to both citizens as well as aliens and includes (i) The detention of a person cannot exceed 3 months unless advisory board reports sufficient cause for extended detention . The board is to consist of judges of a high court. <i>[44th CAA 1978 - reduced the period of detention without obtaining the opinion of an advisory board from 3 to 2 months. However, this provision has not yet been brought into force, hence, the original period of 3 months still continues]</i> (ii) The grounds of detention should be communicated to the detention. However, the facts considered to be against the public interest need not be disclosed. (iii) The detenu should be afforded an opportunity to make representation against the detention order.	Article 22 also authorises the Parliament to prescribe (a) the circumstances and the classes of cases in which a person can be detained for more than three months under a preventive detention law without obtaining the opinion of an advisory board; (b) the maximum period for which a person can be detained in any classes of cases under a preventive detention law; and (c) the procedure to be followed by an advisory board in an inquiry.

legislative power with regard to preventive detention

Parliament	State legislatures
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<p>Exclusive authority</p> <ol style="list-style-type: none"> 1. defence, 2. foreign affairs and 3. security of India 	<p>Both the Parliament as well as the state legislatures</p> <p>–</p> <ol style="list-style-type: none"> 1. Security of a state, 2. maintenance of public order and 3. maintenance of supplies & services essential to the community.
<p>(a) Preventive Detention Act, 1950. Expired in 1969.</p> <p>(b) Maintenance of Internal Security Act (MISA), 1971. Repealed in 1978.</p> <p>(c) Conservation of Foreign Exchange and Prevention of Smuggling Activities Act (COFEPOSA), 1974.</p> <p>(d) National Security Act (NASA), 1980.</p> <p>(e) Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Act (PBMSECA), 1980.</p> <p>(f) Terrorist and Disruptive Activities (Prevention) Act (TADA), 1985. Repealed in 1995.</p> <p>(g) Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act (PITNDPSA), 1988.</p> <p>(h) Prevention of Terrorism Act (POTA), 2002. Repealed in 2004.</p> <p>(i) Unlawful Activities (Prevention) Act (UAPA), 1967, as amended in 2004, 2008, 2012 and 2019.</p>	

Note- no democratic country in the world has made preventive detention as an integral part of the Constitution as has been done in India.

- It is unknown in USA.
- Britain only during first and second world war time.
- In India- existed even during the British rule. e.g. the Bengal State Prisoners Regulation of 1818 and the Defence of India Act of 1939 provided for preventive detention.

Right against Exploitation	(a) Prohibition of traffic in human beings and forced labour (Article 23). (b) Prohibition of employment of children in factories, etc. (Article 24).	
Prohibition of Traffic in Human Beings and Forced Labour [Article 23]	Article 23 prohibits traffic in human beings, <i>begar</i> (forced labour) and other similar forms of forced labour. Any contravention of this provision shall be an offence punishable in accordance with law. - It is available to both citizens and non-citizens. - It protects the individual not only against the State but also against private persons.	
	'traffic in human beings'	(a) selling and buying of men, women and children like goods; (b) immoral traffic in women and children, including prostitution; (c) <i>devadasis</i> ; and (d) slavery.
	'begar'	compulsory work without remuneration. It was a peculiar Indian system under which the local zamin-dars sometimes used to force their tenants to render services without any payment.
	'forced labour' ['bonded labour']	compelling a person to work against his will. The word 'force' includes not only physical or legal force but also force arising from the compulsion of economic circumstances, that is, working for less than the minimum wage.
		1-Bonded Labour System (Abolition) Act, 1976; 2-Minimum Wages Act, 1948; 3-Contract Labour Act, 1970 and 4-Equal Remuneration Act, 1976

	Exception : Article 23 – permits the State to impose compulsory service for public purposes, as for example, military service or social service, for which it is not bound to pay. However, in imposing such service, the State is not permitted to make any discrimination on grounds only of religion, race, caste or class.	
Prohibition of Employment of Children in Factories, etc. [Article 24]	Article 24 prohibits the employment of children below the age of 14 years in any factory, mine or other hazardous activities like construction work or railway. But it does not prohibit their employment in any harmless or innocent work.	
	Child Labour (Prohibition and Regulation) Act, 1986	prohibit the employment of children below certain age.
	Employment of Children Act, 1938	
	Factories Act, 1948	
	Mines Act, 1952	
	Merchant Shipping Act, 1958	
	Plantation Labour Act, 1951	
	Motor Transport Workers Act, 1951	
Apprentices Act, 1961; Bidi and Cigar Workers Act, 1966		
Child Labour Rehabilitation Welfare Fund	[1996 – SC]	<ul style="list-style-type: none"> offending employer should deposit a fine of ₹20,000 for each child employed by him. improvement of education, health and nutrition of children.
Commissions for Protection of Child Rights Act, 2005		<ul style="list-style-type: none"> establishment of a National Commission and State Commissions for Protection of Child Rights and Children’s Courts for providing speedy trial of offences against children or of violation of child rights.
2006 Govt Banned		<ul style="list-style-type: none"> employment of children as domestic servants or workers in business establishments like hotels, dhabas, restaurants, shops, factories, resorts, spas, tea-shops and so on. It warned that anyone employing children below 14 years of age would be liable for prosecution and penal action.
Child Labour (Prohibition and Regulation) Amendment Act, 2016,		<ul style="list-style-type: none"> amended the Child Labour (Prohibition and Regulation) Act, 1986. renamed the Principal Act as the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986.

Right to form Religion	(a) Freedom of conscience and free profession, practice and propagation of religion (Article 25) (b) Freedom to manage religious affairs (Article 26) (c) Freedom from payment of taxes for promotion of any religion (Article 27) (d) Freedom from attending religious instruction or worship in certain educational institutions (Article 28)	
Freedom of Conscience and Free Profession, Practice and Propagation of Religion [Article 25]	<ul style="list-style-type: none"> all persons are equally entitled to freedom of conscience and the right to freely profess, practice and propagate religion. The implications of these are: 	
	(a) Freedom of conscience:	Inner freedom of an individual to mould his relation with God or Creatures in whatever way he desires.
	(b) Right to profess:	Declaration of one’s religious beliefs and faith openly and freely.
	(c) Right to practice	Performance of religious worship, rituals, ceremonies and exhibition of beliefs and ideas.
	(d) Right to propagate	Transmission and dissemination of one’s religious beliefs to others or exposition of the tenets of one’s religion. But, it does not include a right to convert another person

to one's own religion. Forcible conversions impinge on the 'freedom of conscience' guaranteed to all the persons alike.

- covers not only religious beliefs (doctrines) but also religious practices (rituals).
- available to all persons—citizens as well as noncitizens.
- **subject to** public order, morality, health and other provisions relating to fundamental rights .
- State is permitted to:
 - (a) regulate or restrict any economic, financial, political or other secular activity associated with religious practice; and
 - (b) provide for social welfare and reform or throw open Hindu religious institutions of a public character to all classes and sections of Hindus.
- It also contains two explanations:
 1. wearing and carrying of kirpans is to be included in the profession of the Sikh religion; and
 2. Hindus, in this context, include Sikhs, Jains and Buddhists.

every religious denomination or any of its section shall have the following rights:

- (a) Right to establish and maintain institutions for religious and charitable purposes;
- (b) Right to manage its own affairs in matters of religion;
- (c) Right to own and acquire movable and immovable property; and
- (d) Right to administer such property in accordance with law.

Freedom to Manage Religious Affairs
[Article 26]

Article 25	Article 26
Guarantees rights of individuals	Rights of religious denominations or their sections. [collective freedom of religion]
subject to public order, morality, health and other provisions relating to fundamental rights .	subject to public order, morality and health but not subject to other provisions relating to the Fundamental Rights.

SC : a religious denomination must satisfy 3 conditions:

- (a) It should be a collection of individuals who have a system of beliefs (doctrines) which they regard as conducive to their spiritual well-being;
- (b) It should have a common organisation; and
- (c) It should be designated by a distinctive name.

Under the above criteria, Sc-

1. 'Ramakrishna Mission' and 'Ananda Marga' are religious denominations within the Hindu religion.
2. Aurobindo Society is not a religious denomination.

Freedom from Taxation for Promotion of a Religion
[Article 27]

Article 27	Explanation
No person shall be compelled to pay any taxes for the promotion or maintenance of any particular religion or religious denomination.	State should not spend the public money collected by way of tax for the promotion or maintenance of any particular religion.
prohibits the State from favouring, patronising and supporting one religion over the other.	taxes can be used for the promotion or maintenance of all religions.
prohibits only levy of a tax and not a fee	purpose of a fee is to control secular administration of religious institutions and not to promote or maintain religion. Thus, a fee can be levied on pilgrims to provide them some special service or safety measures. Similarly, a fee can be levied on religious endowments for meeting the regulation expenditure.

Freedom from Attending Religious Instruction [Article 28]	Article 28	Explanation
	no religious instruction shall be provided in any educational institution wholly maintained out of State funds.	not apply to an educational institution administered by the State but established under any endowment or trust, requiring imparting of religious instruction in such institution.
no person attending any educational institution recognised by the State or receiving aid out of State funds shall be required to attend any religious instruction or worship in that institution without his consent.	In case of a minor, the consent of his guardian is needed.	

Article 28 distinguishes between 4 types of educational institutions		religious instruction
1- wholly maintained	by State	is completely prohibited
2- administered	by State but established under any endowment or trust.	permitted
3- recognised	by State.	permitted on a voluntary basis
4- receiving aid	from the State.	

Cultural & educational rights
 (a) Protection of language, script and culture of minorities (Article 29).
 (b) Right of minorities to establish and administer educational institutions (Article 30).

Protection of Interests of Minorities [Article 29]	Article 29	Explanation
	Any section of the citizens residing in any part of India having a distinct language, script or culture of its own, shall have the right to conserve the same.	protects the right of a group
	No citizen shall be denied admission into any educational institution maintained by State or receiving aid out of State funds on grounds only of religion, race, caste, or language.	guarantees the right of a citizen as an individual irrespective of the community to which he belongs.
	grants protection to both religious minorities as well as linguistic minorities.	SC- Scope of this article is not necessarily restricted to minorities only, as it is commonly assumed to be. ['section of citizens']

SC- right to conserve the language includes the right to agitate for the protection of the language. Hence, the political speeches or promises made for the conservation of the language of a section of the citizens does not amount to corrupt practice under the RPA, 1951.

Right of Minorities to Establish and Administer Educational Institutions [Article 30]	Article 30 [rights to minorities, whether religious or linguistic:]	
	All minorities shall have the right to establish and administer educational institutions of their choice.	Note- 1) protection under Article 30 is confined only to minorities (religious or linguistic) and does not extend to any section of citizens (as under Article 29).
	The compensation amount fixed by the State for the compulsory acquisition of any property of a minority educational institution	2) 'minority' has not been

shall not restrict or abrogate the right guaranteed to them. [44 th CAA 1978]	defined anywhere in the Constitution.
In granting aid, the State shall not discriminate against any educational institution managed by a minority.	
right of a minority to impart education to its children in its own language.	

3 types Minority educational institutions

Institutions that seek recognition as well as aid from the State	subject to the regulatory power of the state with regard to syllabus prescription, academic standards, discipline, sanitation, employment of teaching staff and so on.
Institutions that seek only recognition from the State and not aid	
Institutions that neither seek recognition nor aid from the State	free to administer their affairs but subject to operation of general laws like contract law, labour law, industrial law, tax law, economic regulations, and so on.

[Secretary of Malankara Syrian Catholic College case (2007), the Supreme Court has summarized the general principles relating to establishment and administration of minority educational institutions – Refer Book]

Rights to Constitutional remedies [Article 32]

Significance

- borrowed from English law where they are known as ‘prerogative writs’ which were issued in the exercise of the prerogative of the King who was, and is still, described as the ‘fountain of justice’.
- Can be issued by both SC & HC .
- Parliament (under Article 32) can empower any other court to issue these writs. [No such provision made so far]

writ jurisdiction of SC Article 32	writ jurisdiction of HC Article 226
can issue writs only for the enforcement of fundamental rights [WJ- Narrower than HC]	not only for the enforcement of FR but also for any other purpose [enforcement of an ordinary legal right] . [WJ-Broader than SC]
can issue writs against a person or government throughout the territory of India [Wider territorial jurisdiction]	can issue writs against a person residing or against a government or authority located within its territorial jurisdiction only or outside its territorial jurisdiction only if the cause of action arises within its territorial jurisdiction. [Narrow territorial jurisdiction]
SC may not refuse to exercise its writ jurisdiction [WJ-Mandatory i.e. A remedy under Article 32 is in itself a Fundamental Right]	HC may refuse to exercise its writ jurisdiction [WJ- discretionary]

Hence SC is thus constituted as a defender and guarantor of the fundamental rights.

Writs	Meaning	Can be issued	Can not be issued
Habeas Corpus [‘to have the body of’]	order issued by the court to a person who has detained another person, to produce the body of the latter before it. The court then examines the cause and legality of detention. It would set the detained person free, if the detention is found to be illegal.	against both public authorities as well as private individuals.	where the (a) detention is lawful, (b) the proceeding is for contempt of a legislature or a court, (c) detention is by a competent court, and (d) detention is outside the jurisdiction of the court.

	-> HbC is the bulwark of individual liberty against arbitrary detention.		
Mandamus ['we command']	command issued by the court to a public official asking him to perform his official duties that he has failed or refused to perform.	against any public body, a corporation, an inferior court, a tribunal or government for the same purpose.	(a) against a private individual or body; (b) to enforce departmental instruction that does not possess statutory force; (c) when the duty is discretionary and not mandatory; (d) to enforce a contractual obligation; (e) against the president of India or the state governors; and (f) against the chief justice of a high court acting in judicial capacity.
Prohibition ['to forbid']	issued by a higher court to a lower court or tribunal to prevent the latter from exceeding its jurisdiction or usurping a jurisdiction that it does not possess. ○ <i>mandamus</i> -directs activity, ○ prohibition directs inactivity.	only against judicial and quasi judicial authorities.	1- against administrative authorities, 2- legislative bodies, and 3- private individuals or bodies.
Certiorari ['to be certified' or 'to be informed']	issued by a higher court to a lower court or tribunal either to transfer a case pending with the latter to itself or to squash the order of the latter in a case. It is issued on the grounds of excess of jurisdiction or lack of jurisdiction or error of law. Thus, unlike prohibition, which is only preventive, certiorari is both preventive as well as curative.	Only against judicial and quasi-judicial authorities and not against administrative authorities [till 1991] + even against administrative authorities affecting rights of individuals. [SC- 1991]	1- against legislative bodies and 2- private individuals or bodies
Quo-Warranto ['by what authority or warrant']	Issued by the court to enquire into the legality of claim of a person to a public office -> it prevents illegal usurpation of public office by a person. Note- can be sought by any interested person and not necessarily by the aggrieved person	only in case of a substantive public office of a permanent character created by a statute or by the Constitution.	in cases of ministerial office or private office.

Criticism of FR

Excessive Limitations	<ul style="list-style-type: none"> subjected to innumerable exceptions, restrictions, qualifications and explanations.
No Social and Economic Rights	<ul style="list-style-type: none"> not comprehensive as it mainly consists of political rights.
No Clarity	<ul style="list-style-type: none"> various phrases and words used in the chapter like 'public order', 'minorities', 'reasonable restriction', 'public interest' and so on are not clearly defined. language used to describe them is very complicated and beyond the comprehension of the common man.

No Permanency	▪ 'doctrine of basic structure' is the only limitation on the authority of Parliament to curtail or abolish the fundamental right.
Suspension During Emergency	▪ It cuts at the roots of democratic system in the country by placing the rights of the millions of innocent people in continuous jeopardy. According to the critics, the Fundamental Rights should be enjoyable in all situations—Emergency or no Emergency.
Expensive Remedy	▪ judicial process is too expensive and hinders the common man from getting his rights enforced through the courts.
Preventive Detention	▪ Constitution of India deals more with the rights of the State against the individual than with the rights of the individual against the State. ▪ No democratic country in the world has made preventive detention as an integral part of their Constitutions as has been made in India.
No Consistent Philosophy	▪ It creates difficulty for the Supreme Court and the high courts in interpreting the fundamental rights.

Significance of FR

constitute the bedrock of democratic system in the country	
provide necessary conditions for the material and moral protection of man	
serve as a formidable bulwark of individual liberty	
facilitate the establishment of rule of law in the country	
protect the interests of minorities and weaker sections of society.	
strengthen the secular fabric of the Indian State	
check the absoluteness of the authority of the government	
lay down the foundation stone of social equality and social justice.	
ensure the dignity and respect of individuals	
facilitate the participation of people in the political and administrative process	

Rights out side Part III : constitutional rights/ legal rights /non-fundamental rights

Article 265 in Part XII	No tax shall be levied or collected except by authority of law
Article 300-A in Part XII	No person shall be deprived of his property save by authority of law
Article 301 in Part XIII	Trade, commerce and intercourse throughout the territory of India shall be free

Features	Justiciable	In case of violation of a Fundamental Right
Fundamental rights	Yes	aggrieved person can directly move the Supreme Court for its enforcement under Article 32, which is in itself a fundamental right.
Non-fundamental rights	Yes	aggrieved person cannot avail this constitutional remedy. He can move the High Court by an ordinary suit or under Article 226 (writ jurisdiction of high court).

Directive Principle of State Policy (DPSP)

	Intro, Features , Classifications , New DPSP, Sanction behind PSP, Criticism , Utility, Conflict – FR vs DPSP, Implementation of DPSP , Directives out-side Part IV	
Intro	<ul style="list-style-type: none"> Part IV [Articles 36 to 51] from the Irish Constitution of 1937, which had copied it from the Spanish Constitution. The Directive Principles along with the Fundamental Rights contain the philosophy of the Constitution and is the soul of the Constitution. Dr. B.R. Ambedkar - DPSP as 'novel features' of the Indian Constitution. Granville Austin - Directive Principles and the Fundamental Rights as the 'Conscience of the Constitution' . 	
Features	ideals	<ul style="list-style-type: none"> ✓ State should keep in mind while formulating policies and enacting laws. ✓ DPSPs are constitutional instructions or recommendations to the State in legislative, executive and administrative matters.
	Instrument of Instructions [GOI act 1935]	<ul style="list-style-type: none"> ✓ B.R. Ambedkar – Directive Principles are like the instrument of instructions, which were issued to the Governor-General

		<p>and to the Governors of the colonies of India by the British Government under the GOI Act of 1935.</p> <ul style="list-style-type: none"> ✓ Directive Principles - merely another name for the instrument of instructions. ✓ The only difference is that they are instructions to the legislature and the executive'.
	comprehensive economic, social and political programme for a modern democratic State	<ul style="list-style-type: none"> ✓ They aim at realising the high ideals of justice, liberty, equality and fraternity as outlined in the Preamble to the Constitution. ✓ They embody the concept of a 'welfare state' and not that of a 'police state', which existed during the colonial era. [seek to establish economic and social democracy in the country]
	non-justiciable	<ul style="list-style-type: none"> ✓ not legally enforceable by the courts for their violation. ✓ government (Central, state and local) cannot be compelled to implement them. ✓ Nevertheless, the Constitution (Article 37) itself says that these principles are fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.
	examining and determining the constitutional validity of a law	<ul style="list-style-type: none"> ✓ SC has ruled many a times that in determining the constitutionality of any law, if a court finds that the law in question seeks to give effect to a Directive Principle, it may consider such law to be 'reasonable' in relation to Article 14 (equality before law) or Article 19 (six freedoms) and thus save such law from unconstitutionality.

Classification of Directive Principles

Socialistic Principles [reflect the ideology of socialism. They lay down framework of a democratic socialist state, aim at providing social and economic justice, & set path towards welfare state]	Gandhian Principles [based on Gandhian ideology. They represent the programme of reconstruction enunciated by Gandhi during national movement]	Liberal-Intellectual Principles [represent the ideology of liberalism]
To promote the welfare of the people by securing a social order permeated by justice—social, economic and political and to minimise inequalities in income, status, facilities and opportunities (Article 38)	To organise village panchayats and endow them with necessary powers and authority to enable them to function as units of self-government (Article 40)	To secure for all citizens a uniform civil code throughout the country (Article 44)
To secure (a) the right to adequate means of livelihood for all citizens; (b) the equitable distribution of material resources of the community for the common good; (c) prevention of concentration of wealth and means of production ; (d) equal pay for equal work for men and women; (e) preservation of the health and strength of workers and children against forcible abuse; and (f) opportunities for healthy development of children (Article 39)	To promote cottage industries on an individual or cooperation basis in rural areas (Article 43)	To provide early childhood care and education for all children until they complete the age of six years (Article 45)
To promote equal justice and to provide free legal aid to the Poor (Article 39 A)	To promote voluntary formation, autonomous functioning, democratic control and professional management of cooperative societies (Article 43B)	To organise agriculture and animal husbandry on modern and scientific lines (Article 48)

To secure the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement (Article 41)	To promote the educational and economic interests of SCs, STs, and other weaker sections of the society and to protect them from social injustice and exploitation (Article 46)	To protect monuments, places and objects of artistic or historic interest which are declared to be of national importance (Article 49)
To make provision for just and humane conditions of work and maternity relief (Article 42)	To prohibit the consumption of intoxicating drinks and drugs which are injurious to health (Article 47)	To separate the judiciary from the executive in the public services of the State (Article 50)
To secure a living wage, a decent standard of life and social and cultural opportunities for all workers (Article 43)	To prohibit the slaughter of cows, calves and other milch and draught cattle and to improve their breeds (Article 48)	To promote international peace and security and maintain just and honourable relations between nations; to foster respect for international law and treaty obligations, and to encourage settlement of international disputes by arbitration (Article 51)
To take steps to secure the participation of workers in the management of industries (Article 43 A)		
To raise the level of nutrition and the standard of living of people and to improve public health (Article 47)		

New DPSPs

42nd CAA 1976	Article 39	To secure opportunities for healthy development of children
	Article 39 A	To promote equal justice and to provide free legal aid to the poor
	Article 43 A	To take steps to secure the participation of workers in the management of industries
	Article 48 A	To protect and improve the environment and to safeguard forests and wild life
44th CAA 1978	Article 38	State to minimise inequalities in income, status, facilities and opportunities
86th CAA 2002	Article 45 [changed the subject-matter]	State to provide early childhood care and education for all children until they complete the age of six years.
97th CAA 2011	Article 43B	state to promote voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies

Sanctions behind DPSPs

The framers of the Constitution made the Directive Principles non-justiciable and legally non-enforceable because:	The country did not possess sufficient financial resources to implement them.
	The presence of vast diversity and backwardness in the country would stand in the way of their implementation.
	The newly born independent Indian State with its many preoccupations might be crushed under the burden unless it was free to decide the order, the time, the place and the mode of fulfilling them.

Criticism of DPSPs

No Legal Force	DPs- 'pious superfluities' and compared them with 'a cheque on a bank, payable only when the resources of the bank permit'- [KT Shah]
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Illogically Arranged	'Directives are neither properly classified nor logically arranged. The declaration mixes up relatively unimportant issues with the most vital economic and social questions. [N Srinivasan,]
Conservative	the Directives are based on the political philosophy of the 19th century England. Directives 'are deemed to be suitable in India in the middle of the twentieth century. The question whether they are suitable for the twenty-first century cannot be answered; but it is quite probable that they will be entirely out moded. [Sir Ivor Jennings]
Constitutional Conflict	<ul style="list-style-type: none"> ✓ Directives lead to a constitutional conflict <ul style="list-style-type: none"> (a) between the Centre and the states, (b) between the President and the Prime Minister, and (c) between the governor and the chief minister. ✓ According to him, the Centre can give directions to the states with regard to the implementation of these principles, and in case of non-compliance, can dismiss the state government. Similarly, when the Prime Minister gets a bill (which violates the Directive Principles) passed by the Parliament, the president may reject the bill on the ground that these principles are fundamental to the governance of the country and hence, the ministry has no right to ignore them. ✓ The same constitutional conflict may occur between the governor and the chief minister at the state level. [K Santhanam]

Utility

'Instrument of Instructions' or general recommendations addressed to all authorities in the Indian Union served as useful beacon-lights to the courts. They have helped the courts in exercising their power of judicial review, form the dominating background to all State action, legislative or executive and also a guide to the courts in some respects. amplify the Preamble, which solemnly resolves to secure to all citizens of India justice, liberty, equality and fraternity. facilitate stability and continuity in domestic and foreign policies in political, economic and social spheres in spite of the changes of the party in power supplementary to the fundamental rights of the citizens. They are intended to fill in the vacuum in Part III by providing for social and economic rights Their implementation creates a favourable atmosphere for the full and proper enjoyment of the fundamental rights by the citizens. Political democracy, without economic democracy, has no meaning. enable the opposition to exercise influence and control over the operations of the government. The Opposition can blame the ruling party on the ground that its activities are opposed to the Directives. serve as a crucial test for the performance of the government. The people can examine the policies and programmes of the government in the light of these constitutional declarations serve as common political manifesto. 'A ruling party, irrespective of its political ideology, has to recognise the fact that these principles are intended to be its guide, philosopher and friend in its legislative and executive acts'

Conflicts between FR and DPSPs

FR vs DPSPs

FR	DPSP
negative as they prohibit the State from doing certain things.	positive as they require the State to do certain things.
justiciable, that is, they are legally enforceable by the courts in case of their violation.	non-justiciable, that is, they are not legally enforceable by the courts for their violation.
aim at establishing political democracy in the country.	aim at establishing social and economic democracy in the country
have legal sanctions	have moral and political sanctions
promote the welfare of the individual. Hence, they are personal and individualistic.	promote the welfare of the community. Hence, they are societarian and socialistic
do not require any legislation for their implementation. They are automatically enforced	require legislation for their implementation. They are not automatically enforced.
courts are bound to declare a law violative of any of the Fundamental Rights as unconstitutional and invalid.	courts cannot declare a law violative of any of the Directive Principles as unconstitutional and invalid. However, they can uphold the validity of a law on the

ground that it was enacted to give effect to a directive

Implementation of DPSPs

securing socioeconomic justice, reducing inequalities of income, status and opportunities	Planning Commission [NITI Aayog]
land reform	(a) abolition of intermediaries like zamindars, jagirdars, inamdars, etc; (b) tenancy reforms like security of tenure, fair rents, etc; (c) imposition of ceilings on land holdings; (d) distribution of surplus land among the landless labourers; and (e) cooperative farming.
Labour	Minimum Wages Act (1948), the Payment of Wages Act (1936), the Payment of Bonus Act (1965), the Contract Labour Regulation and Abolition Act (1970), the Child Labour Prohibition and Regulation Act (1986), the Bonded Labour System Abolition Act (1976), the Trade Unions Act (1926), the Factories Act (1948), the Mines Act (1952), the Industrial Disputes Act (1947), the Workmen's Compensation Act (1923) and so on have been enacted to protect the interests of the labour sections. In 2006, the government banned the child labour. In 2016, the Child Labour Prohibition and Regulation Act (1986) was renamed as the Child and Adolescent Labour Prohibition and Regulation Act, 1986.
2006	Government banned the child labour
2016	Child Labour Prohibition and Regulation Act (1986) was renamed as the Child and Adolescent Labour Prohibition and Regulation Act, 1986.
Gender equity	Maternity Benefit Act (1961) & Equal Remuneration Act (1976)
utilise the financial resources for promoting the common good	nationalisation of life insurance (1956), the nationalisation of fourteen leading commercial banks (1969), nationalisation of general insurance (1971), abolition of Privy Purses (1971)
promoting equal justice	Legal Services Authorities Act (1987)
development of cottage industries in rural areas	Khadi and Village Industries Board, Khadi and Village Industries Commission, Small-Scale Industries Board, National Small Industries Corporation, Handloom Board, Handicrafts Board, Coir Board, Silk Board and so on
raising the standard of living of people	The Community Development Programme (1952), Hill Area Development Programme (1960), Drought-Prone Area Programme (1973), Minimum Needs Programme (1974), Integrated Rural Development Programme (1978), Jawahar Rozgar Yojana (1989), Swarnajayanti Gram Swarozgar Yojana (1999), Sampoorna Grameena Rozgar Yojana (2001), National Rural Employment Guarantee Programme (2006)
Environment	Wildlife (Protection) Act, 1972 and the Forest (Conservation) Act, 1980, have been enacted to safeguard the wildlife and the forests respectively. Further, the Water and Air Acts have provided for the establishment of the Central and State Pollution Control Boards, which are engaged in the protection and improvement of environment. The National Forest Policy (1988) protection, conservation and development of forests
Agriculture	Agriculture has been modernised by providing improved agricultural inputs, seeds, fertilisers and irrigation facilities. Various steps have also been taken to organise animal husbandry on modern and scientific lines.
Gram panchayat	3 tier panchayati raj system (at village, taluka and zila levels) has been introduced to translate into reality Gandhiji's dream of every village being a republic. The 73 rd Amendment Act (1992)

Reservtion	Seats are reserved for SCs, STs and other weaker sections in educational institutions, government services and representative bodies. The Untouchability (Offences) Act, 1955, which was renamed as the Protection of Civil Rights Act in 1976 and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, have been enacted to protect the SCs and STs from social injustice and exploitation. The 65th Constitutional Amendment Act of 1990 established the National Commission for Scheduled Castes and Scheduled Tribes to protect the interests of SCs and STs. Later, the 89th Constitutional Amendment Act of 2003 bifurcated this combined commission into two separate bodies, namely, National Commission for Schedule Castes and National Commission for Schedule Tribes.
to promote and protect the social, educational and economic interests of the weaker sections of the society.	National Commission for Backward Classes (1993), the National Commission for Minorities (1993), the National Commission for Women (1992) and the National Commission for Protection of Child Rights (2007). Further, the 102nd Amendment Act of 2018 conferred a constitutional status on the National Commission for Backward Classes and also enlarged its functions. 103rd Amendment Act of 2019
separated the judiciary from the executive in the public services of the state	Criminal Procedure Code (1973)
to protect the monuments, places and objects of national importance	Ancient and Historical Monument and Archaeological Sites and Remains Act (1951)
to improve the public health	Primary health centres and hospitals have been established throughout the country
Laws to prohibit the slaughter of cows, calves, and bullocks	enacted in some states
old age pension schemes for people above 65 years	Some states
international peace and security	India has been following the policy of non-alignment and panchsheel

Directives outside Part IV

Claims of SCs and STs to Services	Article 335 Part (XVI)	<ul style="list-style-type: none"> ✓ claims of the members of the SCs and STs shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or a State
Instruction in mother tongue	Article 350-A Part (XVII)	<ul style="list-style-type: none"> ✓ state to provide adequate facilities for instruction in the mother tongue at the primary stage of education to children belonging to linguistic minority groups
Development of the Hindi Language	Article 351 Part XVII	<ul style="list-style-type: none"> ✓ duty of the Union to promote the spread of the Hindi language and to develop it so that it may serve as a medium of expression ✓ for all the elements of the composite culture of India

Fundamental Duties

Emergence- Swaransingh Committee – 42nd & 52nd CAA – Art 51 A – Features – Criticism – Significance - Observation

Inspired by the Constitution of erstwhile USSR. Notably, none of the Constitutions of major democratic countries like USA, Canada, France, Germany, Australia and so on specifically contain a list of duties of citizens. Japanese Constitution is, perhaps, the only democratic	The socialist countries, on the contrary, gave equal importance to the fundamental rights and duties of their citizens. Hence, the Constitution of erstwhile USSR declared that the citizen's exercise of their rights and
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Constitution in world which contains a list of duties of citizens.	freedoms was inseparable from the performance of their duties and obligations.
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1976 : Sardar Swaran Singh Committee

Set up by the Congress Party	Recommendations :	Acceptance by Centre & Parliament :
to make recommendations about fundamental duties, the need and necessity of which was felt during the operation of the internal emergency (1975–1977).	Inclusion of a separate chapter on fundamental duties in the Constitution. It stressed that the citizens should become conscious that in addition to the enjoyment of rights, they also have certain duties to perform as well.	The Congress Government at Centre accepted these recommendations and enacted the 42nd Constitutional Amendment Act in 1976. New Part IVA - only one Article, that is, Article 51A which for the first time specified a code of 10 fundamental duties of the citizens. The ruling Congress party declared the non-inclusion of fundamental duties in the Constitution as a historical mistake and claimed that what the framers of the Constitution failed to do was being done now.
	8 FD including 1) Punishment for Non obedience 2) No law imposing such penalty or punishment shall be called in question in any court 3) Duty to pay taxes - FD	10 FD

According to Article 51A, it shall be the duty of every citizen of India:

42nd Constitutional Amendment Act (1976)	86th Constitutional Amendment Act, 2002.
<ol style="list-style-type: none"> 1. to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem; 2. to cherish and follow the noble ideals that inspired the national struggle for freedom; 3. to uphold and protect the sovereignty, unity and integrity of India; 4. to defend the country and render national service when called upon to do so; 5. to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities and to renounce practices derogatory to the dignity of women; 6. to value and preserve the rich heritage of the country's composite culture; 7. to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures; 8. to develop scientific temper, humanism and the spirit of inquiry and reform; 9. to safeguard public property and to abjure violence; 10. to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement; and 	<ol style="list-style-type: none"> 11. to provide opportunities for education to his/her child or ward between the age of 6 and 14 years.

Features	Criticism
<ul style="list-style-type: none"> • Some of them are moral duties while others are civic duties. For instance, cherishing noble ideals of freedom struggle is a moral precept and respecting the Constitution, National Flag and National Anthem is a civic duty. • They refer to such values which have been a part of the Indian tradition, mythology, religions and practices. In other words, they essentially contain just a codification of tasks integral to the Indian way of life. 	<ol style="list-style-type: none"> 1. The list of duties is not exhaustive as it does not cover other important duties like casting vote, paying taxes, family planning and so on. In fact, duty to pay taxes was recommended by the Swaran Singh Committee. 2. Some of the duties are vague, ambiguous and difficult to be understood by the common man. For example, different interpretations can be given to the phrases like 'noble ideals', 'composite culture', 'scientific temper' and so on.

- Unlike some of the Fundamental Rights which extend to all persons whether citizens or foreigners, the Fundamental Duties are confined to citizens only and do not extend to foreigners.
 - Like the Directive Principles, the fundamental duties are also non-justiciable. The Constitution does not provide for their direct enforcement by the courts. Moreover, there is no legal sanction against their violation. However, the Parliament is free to enforce them by suitable legislation.
3. They have been described by the critics as a code of moral precepts due to their non-justiciable character. Interestingly, the Swaran Singh Committee had suggested for penalty or punishment for the non-performance of Fundamental Duties.
4. Their inclusion in the Constitution was described by the critics as superfluous. This is because the duties included in the Constitution as fundamental would be performed by the people even though they were not incorporated in the Constitution.
5. The critics said that the inclusion of fundamental duties as an appendage to Part IV of the Constitution has reduced their value and significance. They should have been added after Part III so as to keep them on par with Fundamental Rights.

Significance

Observations

- They serve as a reminder to the citizens that while enjoying their rights, they should also be conscious of duties they owe to their country, their society and to their fellow citizens.
 - They serve as a warning against the anti-national and antisocial activities like burning the national flag, destroying public property and so on.
 - They serve as a source of inspiration for the citizens and promote a sense of discipline and commitment among them. They create a feeling that the citizens are not mere spectators but active participants in the realisation of national goals.
 - They help the courts in examining and determining the constitutional validity of a law. In *Mohan Kumar Singhania* case(1991), the Supreme Court held that Article 51A (fundamental duties) can be used to interpret ambiguous laws in order to determine their constitutionality. Further,
 - in *Ramlila Maidan Incident* case(2012), the court observed that a common thread runs through 5 Parts III, IV and IVA of the constitution. One Part enumerates the fundamental rights, the second declares the fundamental principles of governance and the third lays down the fundamental duties of the citizens. While interpreting any of these provisions, it shall always be advisable to examine the scope and impact of such interpretation on all the three constitutional aspects emerging from these Parts.
 - They are enforceable by law. Hence, the Parliament can provide for the imposition of appropriate penalty or punishment for failure to fulfil any of them.
- H.R. Gokhale, the then Law Minister, gave the following reason for incorporating the fundamental duties in the Constitution after twenty-six years of its inauguration: 'In post-independent India, particularly on the eve of emergency in June 1975, a section of the people showed no anxiety to fulfil their fundamental obligations of respecting the established legal order the provisions of chapter on fundamental duties would have a sobering effect on these restless spirits who have had a host of anti-national subversive and unconstitutional agitations in the past'.
 - Indira Gandhi, the then Prime Minister, justified the inclusion of fundamental duties in the Constitution and argued that their inclusion would help to strengthen democracy. She said, 'the moral value of fundamental duties would be not to smother rights but to establish a democratic balance by making the people conscious of their duties equally as they are conscious of their rights'.
 - The Opposition in the Parliament strongly opposed the inclusion of fundamental duties in the Constitution by the Congress government. However, the new Janata Government headed by Morarji Desai in the post-emergency period did not annul the Fundamental Duties. Notably, the new government sought to undo many changes introduced in the Constitution by the 42nd Amendment Act (1976) through the 43rd Amendment Act (1977) and the 44th Amendment Act (1978). This shows that there was an eventual consensus on the necessity and desirability of including the Fundamental Duties in the Constitution. This is more clear with the addition of one more Fundamental Duty in 2002 by the 86th Amendment Act.

The **Verma Committee on Fundamental Duties of the Citizens (1999)** identified the existence of legal provisions for the implementation of some of the Fundamental Duties. They are mentioned below:

1.The Prevention of Insults to National Honour Act (1971) prevents disrespect to the Constitution of India, the National Flag and the National Anthem.

2.The various criminal laws in force provide for punishments for encouraging enmity between different sections of people on grounds of language, race, place of birth, religion and so on.

3.The Protection of Civil Rights Act(1955) provides for punishments for offences related to caste and religion.

4.The Indian Penal Code (IPC) declares the imputations and assertions prejudicial to national integration as punishable offences.

5.The Unlawful Activities (Prevention) Act of 1967 provides for the declaration of a communal organisation as an unlawful association.

6.The Representation of People Act (1951) provides for the disqualification of members of the Parliament or a state legislature for indulging in corrupt practice, that is, soliciting votes on the ground of religion or promoting enmity between different sections of people on grounds of caste, race, language, religion and so on.

7.The Wildlife (Protection) Act of 1972 prohibits trade in rare and endangered species.

8.The Forest (Conservation) Act of 1980 checks indiscriminate deforestation and diversion of forest land for non-forest purposes.

Amendment to the Constitution

Article 368 in Part XX of the Constitution deals with the powers of Parliament to amend the Constitution and its procedure. It states that the Parliament may, in exercise of its constituent power, amend by way of addition, variation or repeal any provision of the Constitution in accordance with the procedure laid down for the purpose. However, the Parliament cannot amend those provisions which form the 'basic structure' of the Constitution. This was ruled by the Supreme Court in the *Kesavananda Bharati* case (1973).

Procedure for the amendment of the Constitution as laid down in Article 368 :

1. Only by **introduction of a bill** for the purpose in either House of Parliament and not in the state legislatures.
2. either **by a minister or by a private** member and does not require prior permission of the president.
3. **bill must be passed in each House by a special majority**, that is, a majority of the total membership of the House and a majority of two-thirds of the members of the House present and voting.
4. **Each House must pass the bill separately**. In case of a disagreement between the two Houses, there is **no provision for holding a joint sitting** of the two Houses for the purpose of deliberation and passage of the bill.
5. If the bill seeks to amend the **federal provisions of the Constitution**, it must also be ratified by the **legislatures of half of the states** by a **simple majority**, that is, a **majority of the members of the House present and voting**.
6. After duly passed by **both the Houses of Parliament and ratified by the state legislatures**, where necessary, the bill is presented to the president for assent.
7. The **president must give his/her assent to the bill**. He/she can neither withhold his/her assent to the bill nor return the bill for reconsideration of the Parliament. The 24th Constitutional Amendment Act of 1971 made it obligatory for the President to give his/her assent to a constitutional Amendment Bill.
8. After the president's assent, the bill becomes an Act (i.e., a constitutional amendment act) and the Constitution stands amended in accordance with the terms of the Act.

Article 368 provides for 2 types of amendments, that is, by a special majority of Parliament and also through the ratification of half of the states by a simple majority. But, some other articles provide for the amendment of certain provisions of the Constitution by a **simple majority of Parliament**, that is, a majority of the members of each House present and voting (**similar to the ordinary legislative process**). Notably, these amendments are not deemed to be amendments of the Constitution for the purposes of Article 368. Therefore, the Constitution can be amended in three ways:

1. Amendment by simple majority of the Parliament,
2. Amendment by special majority of the Parliament, and
3. Amendment by special majority of the Parliament and the ratification of half of the state legislatures.

By Simple Majority of Parliament	By Special Majority of Parliament	By Special Majority of Parliament and Consent of States
1. Admission or establishment of new states. 2. Formation of new states and alteration of areas, boundaries or names of existing states. 3. Abolition or creation of legislative councils in states. 4. Second Schedule—emoluments, allowances, privileges and so on of the president, the governors, the Speakers, judges, etc. 5. Quorum in Parliament. 6. Salaries and allowances of the members of Parliament. 7. Rules of procedure in Parliament. 8. Privileges of the Parliament, its members and its committees. 9. Use of English language in Parliament. 10. Number of puisne judges in the Supreme Court. 11. Conferment of more jurisdiction on the Supreme Court. 12. Use of official language. 13. Citizenship—acquisition and termination. 14. Elections to Parliament and state legislatures. 15. Delimitation of constituencies. 16. Union territories. 17. Fifth Schedule—administration of scheduled areas and scheduled tribes. 18. Sixth Schedule—administration of tribal areas.	(i) Fundamental Rights; (ii) Directive Principles of State Policy; and (iii) All other provisions which are not covered by the first and third categories.	1. Election of the President and its manner. 2. Extent of the executive power of the Union and the states. 3. Supreme Court and high courts. 4. Distribution of legislative powers between the Union and the states. 5. Goods and Services Tax Council. 6. Any of the lists in the Seventh Schedule. 7. Representation of states in Parliament. 8. Power of Parliament to amend the Constitution and its procedure (Article 368 itself).

Criticism	Significance
1. There is no provision for a special body like Constitutional Convention (as in USA) or Constitutional Assembly for amending the Constitution. The constituent power is vested in the Parliament and only in few cases, in the state legislatures. 2. The power to initiate an amendment to the Constitution lies with the Parliament. Hence, unlike in USA, the state legislatures cannot initiate any bill or proposal for amending the Constitution except in one case, that is, passing a resolution requesting the Parliament for the creation or abolition of legislative councils in the states. Here also, the Parliament can either approve or disapprove such a resolution or may not take any action on it. 3. Major part of the Constitution can be amended by the Parliament alone either by a special majority or by a simple majority . Only in few cases, the consent of the state legislatures is required and that too, only half of them, while in USA, it is three-fourths of the states. 4. The Constitution does not prescribe the time frame within which the state legislatures should ratify or reject an amendment submitted to them. Also, it is silent on the issue whether the states can withdraw their approval after according the same. 5. There is no provision for holding a joint sitting of both the Houses of Parliament if there is a deadlock over the passage of a constitutional	Despite these defects, it cannot be denied that the process has proved to be simple and easy and has succeeded in meeting the changed needs and conditions. The procedure is not so flexible as to allow the ruling parties to change it according to their whims. Nor is it so rigid as to be incapable of adopting itself to the changing needs. It, as rightly said by K.C. Wheare, 'strikes a good balance between flexibility and rigidity'. In this context, Pandit Jawaharlal Nehru said in the Constituent Assembly, 'While we want this Constitution to be as solid and permanent as we can make it, there is no permanence in a Constitution. There should be a certain flexibility. If you make any Constitution rigid and permanent, you stop the nation's growth, the growth of a living, vital, organic people'. Similarly, Dr. B.R. Ambedkar observed in the Constituent Assembly that, 'The Assembly has not only refrained from putting a seal of finality and infallibility upon this Constitution by denying the people the right to amend the Constitution as in Canada or by making the amendment of the Constitution subject to the fulfilment of extraordinary terms and conditions as in America or Australia, but has provided for a facile procedure for amending the Constitution'.

amendment bill. On the other hand, a provision for a joint sitting is made in the case of an ordinary bill.

6. The process of amendment is **similar to that of a legislative process**. Except for the special majority, the constitutional amendment bills are to be passed by the Parliament in the same way as ordinary bills.

7. The provisions relating to the amendment procedure are too sketchy. Hence, they leave a **wide scope for taking the matters to the judiciary**.

K.C. Wheare has admired the variety of amendment procedures contained in the Constitution of India. He said, 'this variety in the amending process is wise but rarely found'.

Basic structure of the Constitution

Emergence – Elements – Judgements

The question whether Fundamental Rights can be amended by the Parliament under Article 368 came for consideration of the Supreme Court within a year of the Constitution coming into force.

Shankari Prasad case(1951),	Constitutional validity of the 1 st Amendment Act (1951), which 1 curtailed the right to property, was challenged. The Supreme Court ruled that the power of the Parliament to amend the Constitution under Article 368 also includes the power to amend Fundamental Rights. The word 'law' in Article 13 includes only ordinary laws and not the constitutional amendment acts (constituent laws). Therefore, the Parliament can abridge or take away any of the Fundamental Rights by enacting a constitutional amendment act and such a law will not be void under Article 13.	1 st Amendment Act (1951)
Sajjan Singh case(1964),	Supreme Court re-affirmed the above stand. i.e. a constitutional amendment act made under Article 368 is not a law within the meaning of Article 13.	7 th Amendment Act (1964)
Golak Nath case(1967),	Supreme Court reversed its earlier stand. In this case, the constitutional validity of the 7 th Amendment Act (1964), which inserted certain state acts in the Ninth Schedule, was challenged. The Supreme Court ruled that the Fundamental Rights are given a ' transcendental and immutable ' position and hence, the Parliament cannot abridge or take away any of these rights. A constitutional amendment act is also a law within the meaning of Article 13 and hence, would be void for violating any of the Fundamental Rights.	24 th Amendment Act (1971) amended Articles 13 and 368. [Parliament has the power to abridge or take away any of the Fundamental Rights under Article 368 and such an act will not be a law under the meaning of Article 13]
Kesavananda Bharati case(1973),	Supreme Court overruled its judgement in 3 the <i>Golak Nath</i> case (1967). It upheld the validity of the 24 th Amendment Act (1971) and stated that Parliament is empowered to abridge or take away any of the Fundamental Rights. At the same time, it laid down a new doctrine of the 'basic structure' (or 'basic features') of the Constitution. It ruled that the constituent power of Parliament under Article 368 does not enable it to alter the 'basic structure' of the Constitution. This means that the Parliament cannot abridge or take away a Fundamental Right that forms a part of the 'basic structure' of the Constitution.	39 th Amendment Act (1975)
Nehru Gandhi case3a (1975).	The doctrine of basic structure of the constitution was reaffirmed and applied by the Supreme Court . In this case, the Supreme Court invalidated a provision of the 39 th Amendment Act (1975) which kept the election disputes involving the Prime Minister and the Speaker of	42 nd Amendment Act (1976) amended Article 368 and declared that there is no limitation on the constituent power of Parliament and no

	Lok Sabha outside the jurisdiction of all courts. The court said that this provision was beyond the amending power of Parliament as it affected the basic structure of the constitution.	amendment can be questioned in any court on any ground including that of the contravention of any of the Fundamental Rights.
Minerva Mills case(1980)	SC invalidated this provision as it excluded judicial review which is a 'basic feature' of the Constitution. Applying the doctrine of 'basic structure' with respect to Article 368, the court held that: "Since the Constitution had conferred a limited amending power on the Parliament, the Parliament cannot under the exercise of that limited power enlarge that very power into an absolute power. Indeed, a limited amending power is one of the basic features of the Constitution and, therefore, the limitations on that power cannot be destroyed. In other words, Parliament cannot, under article 368, expand its amending power so as to acquire for itself the right to repeal or abrogate the Constitution or to destroy its basic features. The donee of a limited power cannot by the exercise of that power convert the limited power into an unlimited one".	
Waman Rao case(1980)	Supreme Court adhered to the doctrine of the 'basic structure' and further clarified that it would apply to constitutional amendments enacted after April 24, 1973 (i.e., the date of the judgement in the <i>Kesavananda Bharati</i> case).	

Elements of Basic structure

The present position is that the Parliament under Article 368 can amend any part of the Constitution including the Fundamental Rights but without affecting the 'basic structure' of the Constitution. However, the Supreme Court is yet to define or clarify as to what constitutes the 'basic structure' of the Constitution. From the various judgements, the following have emerged as 'basic features' of the Constitution or elements of the 'basic structure' of the constitution:

- Supremacy of the Constitution
- Sovereign, democratic and republican nature of the Indian polity
- Secular character of the Constitution
- Separation of powers between the legislature, the executive and the judiciary
- Federal character of the Constitution
- Unity and integrity of the nation
- Welfare state (socio-economic justice)
- Judicial review
- Freedom and dignity of the individual
- Parliamentary system
- Rule of law
- Harmony and balance between Fundamental Rights and Directive Principles
- Principle of equality
- Free and fair elections
- Independence of Judiciary
- Limited power of Parliament to amend the Constitution
- Effective access to justice
- Principles (or essence) underlying fundamental rights
- Powers of the Supreme Court under Articles 32, 136, 141 and 142
- Powers of the High Courts under Articles 226 and 227

Evolution of the Basic Structure of the Constitution through various Judgements

Judgements	Elements
Kesavananda Bharati Case (1973) (popularly known as the Fundamental Rights Case)	<ol style="list-style-type: none"> 1. Supremacy of the Constitution 2. Separation of powers between the legislature, the executive and the judiciary 3. Republic and democratic form of government 4. Secular character of the constitution 5. Federal character of the constitution 6. Sovereignty and unity of India 7. Freedom and dignity of the individual 8. Mandate to build a welfare state 9. Parliamentary System

Indira Nehru Gandhi Case(1975) (popularly known as the Election Case)	<ol style="list-style-type: none"> 1. India as a sovereign democratic republic 2. Equality of status and opportunity of an individual 3. Secularism and freedom of conscience and religion 4. Government of laws and not of men (i.e., Rule of Law) 5. Judicial review 6. Free and fair elections which is implied in democracy
Minerva Mills Case⁴ (1980)	<ol style="list-style-type: none"> 1. Limited power of Parliament to amend the constitution 2. Judicial review 3. Harmony and balance between fundamental rights and directive principles
Central Coal Fields Ltd. Case (1980)	Effective access to justice
Bhim Singhji Case (1980)	Welfare State (Socio-economic justice)
S.P. Sampath Kumar Case (1986)	<ol style="list-style-type: none"> 1. Rule of law 2. Judicial review
P. Sambamurthy Case (1986)	<ol style="list-style-type: none"> 1. Rule of law 2. Judicial review
Delhi Judicial Service Association Case (1991)	Powers of the Supreme Court under Articles 32, 136, 141 and 142
Indra Sawhney Case(1992) (popularly known as the Mandal Case)	Rule of law
Kumar Padma Prasad Case(1992)	Independence of judiciary
Kihoto Hollohan Case(1992) (popularly known as Defection Case)	<ol style="list-style-type: none"> 1. Free and fair elections 2. Sovereign, democratic, republican structure
Raghunath Rao Case(1993)	<ol style="list-style-type: none"> 1. Principle of equality 2. Unity and integrity of India
S.R. Bommai Case (1994)	<ol style="list-style-type: none"> 1. Federalism 2. Secularism 3. Democracy 4. Unity and integrity of the nation 5. Social justice 6. Judicial review
L. Chandra Kumar Case¹⁸ (1997)	Powers of the High Courts under Articles 226 and 227
Indra Sawhney II Case¹⁹ (1999)	Principle of equality
All India Judge's Association Case²⁰ (2001)	Independent judicial system
Kuldip Nayar Case²¹ (2006)	<ol style="list-style-type: none"> 1. Democracy 2. Free and fair elections
M. Nagaraj Case²² (2006)	Principle of equality
I.R. Coelho Case(2007) (popularly known as 23 IX Schedule Case)	<ol style="list-style-type: none"> 1. Rule of law 2. Separation of powers 3. Principles (or essence) underlying fundamental rights 4. Judicial review 5. Principle of equality
Ram Jethmalani Case²⁴ (2011)	Powers of the Supreme Court under Article 32
Namit Sharma Case²⁵ (2012)	Freedom and dignity of the individual
Madras Bar Association Case²⁶ (2014)	<ol style="list-style-type: none"> 1. Judicial review 2. Powers of the High Courts under Articles 226 and 227

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