



# UPSC – IAS

Civil Services Examinations

Union Public Service Commission

**General Studies**

Paper 2 – Volume 1

**Polity & Constitution**



# UPSC CSE – IAS

## PAPER - 2 VOLUME – 1

# POLITY AND CONSTITUTION

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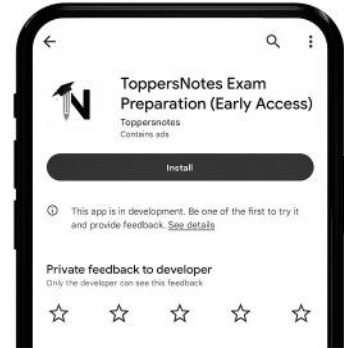
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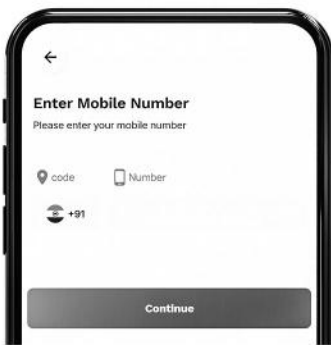
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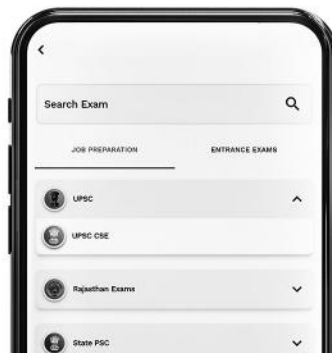
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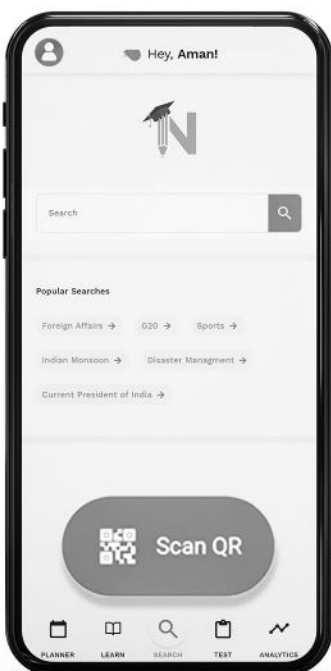
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# 1 CHAPTER

# Basics of Indian Constitution



- A set of **fundamental legal-political rules** that:
  - **binding on everyone** in the state, including law making institutions;
  - concern the **structure and operation** of the institutions of **government**, political principles, and the **rights of citizens**;
  - based on widespread **public legitimacy**;
  - **harder to change than ordinary laws**;
  - recognized **criteria for a democratic system** in terms of **representation and human rights**.

- Declare and **define the nature and authority** of the political community.
- Express the **identity and values** of a national community.
- Declare and **define the rights and duties** of citizens.
- **Establish** legislative, executive, and judicial **branches of government**.
- **Share power between different layers** of government or sub-state communities.
- Declare the **official religious identity of the state**
- Commit states to particular **social, economic, or developmental goals**.

## Functions of a Constitution

- Declare and **define the boundaries** of the political community.

## Evolution of Constitution of India

### Company Rule in India (1773-1858)

Regulating Act, 1773	<ul style="list-style-type: none"> <li>• laid the <b>foundation of Central Administration in India</b>.</li> <li>• <b>Governor of Bengal</b> → <b>Governor-General of Bengal</b>. (Lord Warren Hastings)</li> <li>• <b>Executive Council of 4 members</b> to assist the GGB.</li> <li>• <b>Governors of Madras &amp; Bombay</b> presidencies <b>subordinate</b> to GGB.</li> <li>• Set up the <b>SC of Calcutta</b> with 1 Chief justice and 3 other judges.</li> <li>• <b>Court of Directors</b> of the Company to <b>report the British Government</b> regarding Company's revenue, civil and military affairs in India.</li> </ul>
Act of Settlement, 1781	<ul style="list-style-type: none"> <li>• <b>Safeguarded the GGB and its council</b> from the jurisdiction of the <b>SC</b>.</li> <li>• provided <b>immunity to the servants</b> for their official actions.</li> <li>• <b>Exempted revenue matters of Company</b> from jurisdiction of the <b>SC</b></li> <li>• <b>SC to administer the personal law</b> of the defendant.</li> <li>• <b>GGB to frame regulations</b> for <b>Provincial Courts and Councils</b>.</li> </ul>
Pitt's India Act, 1784	<ul style="list-style-type: none"> <li>• Established a <b>system of Double Government</b>.           <ul style="list-style-type: none"> <li>○ <b>Court of Director</b> to manage Company's <b>commercial affairs</b></li> <li>○ <b>Board of Control</b> to manage its <b>political affairs</b>.</li> </ul> </li> <li>• <b>Board of Control</b> to <b>supervise</b> and direct <b>civil and military operations</b> and <b>revenues of the British possessions</b> in India. (First time acknowledged)</li> </ul>
Charter Act, 1813	<ul style="list-style-type: none"> <li>• <b>Abolished the trade monopoly</b> of the Company in India           <ul style="list-style-type: none"> <li>○ <b>exceptions:</b> trade in tea and trade with China.</li> </ul> </li> <li>• Authorized <b>Local Governments</b> to <b>levy taxes</b></li> </ul>
Charter Act, 1833	<ul style="list-style-type: none"> <li>• <b>GGB = Governor-General of India (Lord William Bentinck)</b> <ul style="list-style-type: none"> <li>○ Vested <b>all civil and military powers</b></li> <li>○ <b>exclusive legislative powers</b> of the entire British India.</li> </ul> </li> <li>• <b>Company</b> ☐ purely <b>administrative body</b>.</li> </ul>





Charter Act, 1853	<ul style="list-style-type: none"> <li>● <b>Separated legislative and executive functions</b> of the GGI's Council.</li> <li>● <b>6 members Indian Legislative Council</b> to function as <b>mini parliament</b>.</li> <li>● open competition system for <b>Indian Civil Services for Indians also</b>.</li> <li>● Introduced <b>local representation in the Indian (Central) Legislative Council</b>. (out of 6 members 4 to be appointed by the local governments of Madras, Bombay, Bengal and Agra)</li> </ul>
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### Crown Rule in India (1858 to 1947)

Government of India Act, 1858	<ul style="list-style-type: none"> <li>● <b>British Government took control over territory of India</b></li> <li>● aka <b>Act of Good Government of India</b>.</li> <li>● <b>GGI = Viceroy of India (Lord Canning)</b> <ul style="list-style-type: none"> <li>○ <b>representative of British Crown</b> in India.</li> </ul> </li> <li>● <b>Board of Control and Court of Directors</b> ceased to exist.</li> <li>● <b>Secretary of State for India</b>, with <b>complete authority and control</b> over Indian administration.</li> <li>● Created a <b>15 member Council of India</b> to assist the SSI.</li> </ul>
Indian Councils Act, 1861	<ul style="list-style-type: none"> <li>● <b>Viceroy to nominate Indians as the non-official members</b> (Lord Canning nominated <b>3 Indians</b>: The <b>Raja of Benaras, the Maharaja of Patiala and Sir Dinkar Rao</b>)</li> <li>● <b>Decentralized legislative powers</b> <ul style="list-style-type: none"> <li>○ Empowered the <b>Bombay and Madras Presidencies</b>.</li> </ul> </li> <li>● established new <b>legislative councils for Bengal, North-Western Provinces and Punjab</b>.</li> <li>● <b>Viceroy to make rules and orders for the Council</b> <ul style="list-style-type: none"> <li>○ <b>members of the council in-charge</b> of and authorized to issue orders regarding their allocated departments</li> </ul> </li> <li>● <b>Viceroy to issue ordinances</b> in emergency with a <b>validity of 6 months</b>.</li> </ul>
Indian Councils Act, 1892	<ul style="list-style-type: none"> <li>● <b>Increased non-official members</b> in Central and Provincial legislative councils.</li> <li>● <b>legislative councils can discuss budget</b> and address questions to the executive.</li> <li>● Provided for the <b>nomination of some non-official members</b> of the:           <ul style="list-style-type: none"> <li>○ <b>CLC by Viceroy</b> based on recommendation of PLCs and Bengal Chamber of Commerce</li> <li>○ <b>PLCs by Governors</b> on the recommendation of district boards, Municipalities, universities, trade associations, zamindars and chambers.</li> </ul> </li> </ul>
Indian Councils Act, 1909	<ul style="list-style-type: none"> <li>● aka <b>Morley-Minto Reforms</b>.</li> <li>● members in the <b>CLC ↑ from 16 to 60</b> and members in the <b>PLCs also increased</b> but not uniformly.</li> <li>● <b>members of LC</b> can ask <b>supplementary questions, move resolutions on the budget</b>, etc.</li> <li>● association of <b>Indians with the executive councils of the Viceroy and Governors</b>. (<b>Satyendra Prasad Sinha</b> as the <b>Law member</b>)</li> <li>● <b>communal representation for Muslims and separate electorate</b>.</li> </ul>
Government of India Act, 1919	<ul style="list-style-type: none"> <li>● aka the <b>Montagu-Chelmsford Reforms</b>.</li> <li>● <b>Separated Central and Provincial subjects</b>.           <ul style="list-style-type: none"> <li>○ <b>Provincial subjects</b>:               <ul style="list-style-type: none"> <li>■ <b>Transferred subjects</b>: governed by the <b>Governor with the aid of ministers of the LC</b></li> <li>■ <b>Reserved subjects</b>: governed by the <b>Governor with his executive council</b>.</li> </ul> </li> </ul> </li> <li>● Introduced <b>bicameralism and direct elections</b> in the country.</li> <li>● <b>3 out of 6 members of the Viceroy's executive council = Indian</b>.</li> <li>● <b>separate electorates for Sikhs, Indian Christians, Anglo-Indians and Europeans</b> also.</li> <li>● <b>Granted franchise</b> to a people <b>based on property, tax or education</b>.</li> <li>● Created <b>office of High Commissioner for India in London</b>.</li> <li>● set up a <b>Central Service Commission</b> for recruiting civil servants.</li> <li>● <b>Separated provincial budgets from the Central budget</b> and authorized the provincial legislatures to enact their budgets.</li> </ul>

Government of India Act, 1935	<ul style="list-style-type: none"> <li>● Established <b>All India Federation</b> = provinces + princely states.</li> <li>● Divided powers into <b>three lists</b>:           <ul style="list-style-type: none"> <li>○ <b>Federal list</b> (for Centre, with <b>59 items</b>),</li> <li>○ <b>Provincial list</b> (for Provinces, with <b>54 items</b>)</li> <li>○ <b>Concurrent list</b> (for both, with <b>36 items</b>).</li> </ul> </li> <li>● <b>Residuary Powers</b>: vested in the <b>Viceroy</b></li> <li>● <b>Abolished dyarchy in the provinces and introduced provincial autonomy.</b> <ul style="list-style-type: none"> <li>○ introduced <b>responsible Governments in provinces</b></li> </ul> </li> <li>● <b>adoption of dyarchy at the Centre</b></li> <li>● <b>Federal subjects</b> were divided into <b>transferred subjects and reserved subjects.</b></li> <li>● Introduced <b>bicameralism</b> in 6 out of 11 provinces (<b>Bengal, Bombay, Madras, Bihar, Assam and the United Provinces</b>).</li> <li>● <b>separate electorates for depressed classes, women and labour.</b></li> <li>● <b>Abolished the Council of India.</b></li> <li>● <b>Established</b> <ul style="list-style-type: none"> <li>○ <b>Reserve Bank of India</b> to control currency and credit of the country.</li> <li>○ <b>Federal Public Service Commission,</b></li> <li>○ Provincial Public Service Commission</li> <li>○ Joint Public Service Commission.</li> <li>○ <b>Federal Court.</b></li> </ul> </li> </ul>
Indian Independence Act, 1947	<ul style="list-style-type: none"> <li>● gave immediate effect to <b>Mountbatten Plan</b></li> <li>● <b>Ended British rule in India</b> <ul style="list-style-type: none"> <li>○ declared India <b>independent and sovereign state</b> from August 15, 1947.</li> </ul> </li> <li>● <b>partitioned of India and Pakistan</b> as two independent dominions with right to secede from the British Commonwealth.</li> <li>● empowered the <b>Constituent Assemblies to frame and adopt any constitution</b> of their respective nations</li> <li>● <b>abolished the office of SSI</b> and transferred his powers to the Secretary of State for Commonwealth Affairs.           <ul style="list-style-type: none"> <li>○ <b>discontinued the appointment</b> of Civil Servants</li> </ul> </li> <li>● dropped the title of <b>Emperor of India</b> of the King of England.           <ul style="list-style-type: none"> <li>○ <b>Crown ceased to be the Source of Authority.</b></li> <li>○ <b>deprived him of his right to veto bills</b> or ask for reservation of certain bills for his approval.</li> </ul> </li> <li>● designated the <b>GGI and provincial governors = constitutional (nominal) heads</b> of the states.</li> </ul>

## Constituent Assembly

**Cabinet Mission Plan** provisioned to **set up a Constituent Assembly of India**:

- **total strength = 389 partly elected and partly nominated**
  - **296 seats** were allotted to **British India**
    - **292 members** from the **11 governors' provinces**
    - **4 from the 4 chief commissioners' provinces**
  - **93 seats** to the **Princely States**.
- **allotted seats in proportion to their respective population.**
- **Seats allocated to each British province** were to be **divided among Muslims, Sikhs and General (others), in proportion to their population.**

- representatives of each community **☒ elected by members of that community by proportional representation using a single transferable vote.**
- representatives of the **princely states** were to be **nominated by the heads of the princely states**
- members were **indirectly elected** by the members of the provincial assemblies.
- **did not present the sentiments of the masses** as the members of provincial assemblies themselves were elected on a limited franchise.
- **election for British Indian Provinces was held in July-August 1946.**
  - **Indian National Congress** won **208 seats**,
  - **Muslim League** won **73 seats**
  - **Independent players** held **15 seats**

- **seats of princely states were not filled** as they refrained from the Assembly
- Assembly had **representatives from every section** of the society
- **Mahatma Gandhi was not a member** of the Constituent Assembly.
- **On April 28, 1947** representatives of the **6 states became part of the assembly**
- after the **Mountbatten Plan of June 3, 1947**, most of the **princely states entered the assembly**.
- Later **Muslim League from the Indian dominion also joined** the assembly.

### Working of the Constituent Assembly

- **first meeting:** December 9, 1946.
  - **Muslim League boycotted** and **demanding a separate state of Pakistan**
    - Only 21 members attended the first meeting.
  - **Dr Sachchidananda Sinha** was elected as the **interim President of the Assembly**, (French practice)
  - **Dr Rajendra Prasad** was elected as the **President of the Assembly**
    - **H.C. Mukherjee** and **V.T. Krishnamachari** ☐ **Vice-President**

### Objective Resolution

- Presented on Dec 13, 1946, by **JL Nehru** in the Constituent Assembly, **unanimously adopted** by the assembly **on January 22, 1947**.
- **Important provisions:**
  - **proclaim India as the Independent Sovereign Republic**
  - **India, shall be a Union** of territories of British India that join it
  - **Boundaries determined by the Constituent Assembly** which shall possess **residuary powers and exercise all powers and functions** of the Government and administration implied in the Union
  - **power and authority** of Independent India **derived from the people**
  - shall **guarantee** to all the people of India
    - **justice**, social, economic and political;

- **equality** of status of opportunity, and before the law;
- **freedom** of thought, expression, belief, faith, worship, association and action
- **adequate safeguards** shall be provided for **minorities, backward and tribal areas and depressed and other backward classes**
- Maintain **integrity of the territory of the Republic and its sovereign rights** on land, sea and air according to justice and the law of civilized nations
- **attains its rightful and honoured place in the world** and makes its full and willing **contribution to the promotion of world peace and the welfare of mankind**.

### Changes after the Indian Independence Act, 1947

- **Assembly** ☐ **fully sovereign body** to frame Constitution
- became the **legislative body**.
  - **responsible to frame the Constitution** and **enact ordinary laws** for the country.
    - **worked as the Constitutional body** ☐ **chaired by Dr Rajendra Prasad**
    - as a **legislative body** ☐ **G.V. Mavlankar** became chairman (till **Nov 26, 1949**).
- **Muslim League withdrew from the assembly**
  - **reduced the total strength** of the assembly to **299** from 389.
  - **strength of Indian provinces** reduced to **229** from 296
  - **princely states** to **70** from 93.

### Other Functions Performed by the Assembly

- **Ratified India's membership of the Commonwealth** in May 1949
- **Adopted National Flag** of India on July 22, 1947
- **Adopted National Anthem** on January 24, 1950
- **Elected Dr Rajendra Prasad as the first President** of India on January 24, 1950
- **On January 24, 1950**, the Constituent Assembly held its **final session** but **continued as the provincial parliament** from January **26, 1950**, till the first general elections in 1951-52 were held.



### Committees of the Constituent Assembly

	Committee	Headed by
Major Committee	Union Powers Committee	J.L. Nehru
	Union Constitution Committee	J.L. Nehru

	Provincial Constitution Committee	Sardar Patel
	Drafting Committee	Dr B.R. Ambedkar
	Advisory Committee on Fundamental Rights, Minorities and Tribal and Excluded Areas	Sardar Patel
	Fundamental Rights Sub-Committee	J.B. Kriplani
	Minorities Sub-Committee	H.C. Mukherjee
	North-East Frontier Tribal Areas and Assam Excluded & Partially Excluded Areas Sub-Committee	Gopinath Bardoloi
	Excluded and Partially Excluded Areas (Other than those in Assam) Sub-Committee	A.V. Thakkar
	North-West Frontier Tribal Areas Sub-Committee	
	Rules of Procedure Committee	Dr Rajendra Prasad
	States Committee (for Negotiation with states)	J.L. Nehru
	Steering Committee	Dr Rajendra Prasad
Minor Committee	Finance and Staff Committee	Dr Rajendra Prasad
	Credentials Committee	A.K. Ayyar
	House Committee	B. Pattabhi Sitaramayya
	Order of Business Committee	Dr K.M. Munshi
	Ad-hoc Committee on National Flag	Dr Rajendra Prasad
	Committee on Functions of the Constituent Assembly	G.V. Mavalankar
	Ad-hoc Committee on the SC	S. Varadachari
	Committee on Chief Commissioners' Provinces	B. Pattabhi Sitaramayya
	Expert Committee on the Financial Provisions of the Union Constitution	Nalini Ranjan Sarkar
	Linguistic Provinces Commission	S.K. Dar
	Special Committee to Examine the Draft Constitution	J.L. Nehru
	Press Gallery Committee	Usha Nath Sen
	Ad-hoc Committee on Citizenship	S. Vallabhachari

### Drafting Committee

- On August 29, 1947, set up to prepare a draft of the new Constitution.
- seven-member committee with
  - Dr B.R. Ambedkar ☑ Chairman
  - N. Gopalaswamy Ayyangar
  - Alladi Krishnaswamy Ayyar
  - Dr K.M. Munshi
  - Syed Mohammad Saadullah
  - N.M. Rau
  - T.T. Krishnamachari
- First draft published in February 1948
- second draft published in October 1948.



### Enactment of the Constitution

- Dr B.R. Ambedkar introduced the final draft on Nov 4, 1948, for first reading.
- Second reading held on November 15, 1948,
- third reading on November 14, 1949.
- draft was passed on November 26, 1949 (Constitution day).

- Constitution as adopted on November 26, 1949, contained
  - Preamble
  - 394 Articles
  - 8 Schedules.
- Provisions of citizenship, elections, provisional parliament, temporary and transitional provisions and short title contained in Article 5, 6, 7, 8, 9, 60, 324, 366, 367, 379, 380, 388, 391, 392 and 393 came into force on November 26, 1949. The remaining provisions came into force on January 26, 1950.
- With the adoption of the Constitution, all the provisions under the Indian Independence Act, 1947 and the Government of India Act, 1935 were repealed.
- Abolition of Privy Council Jurisdiction Act (1949) continued.

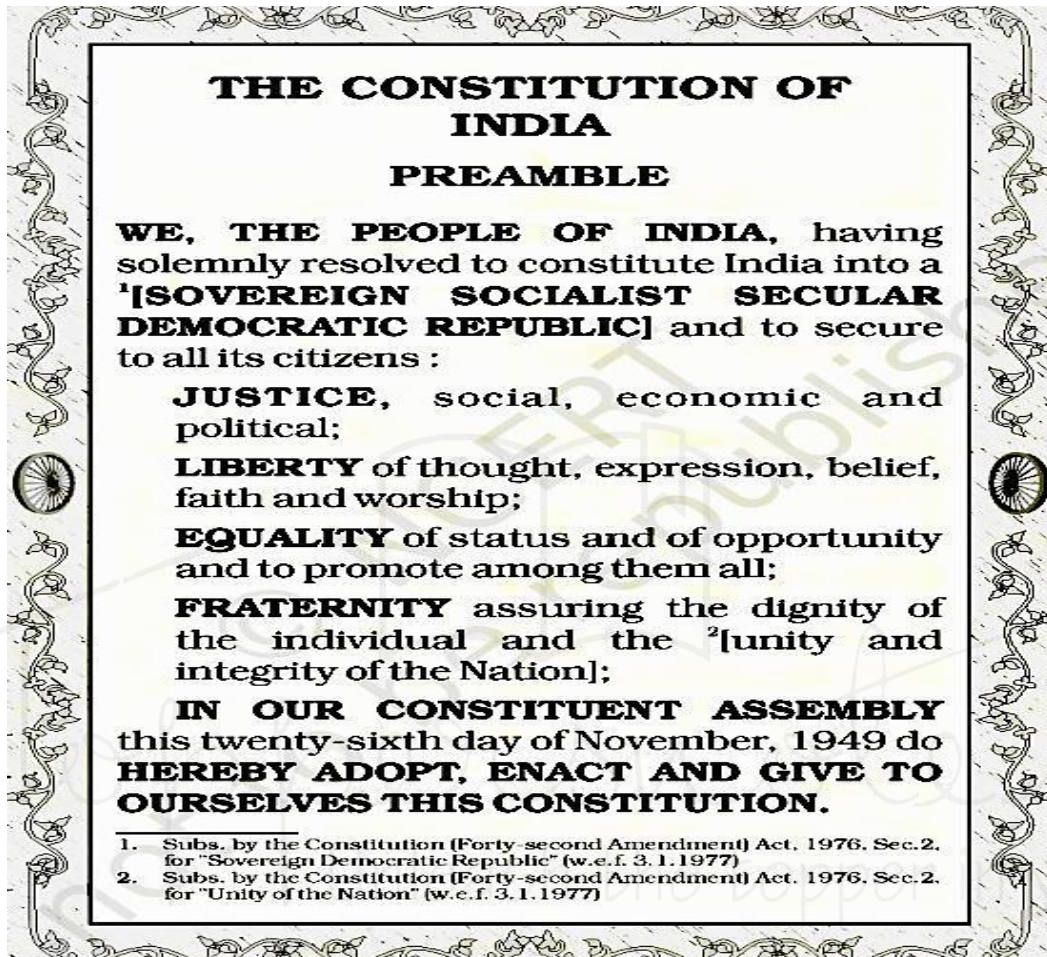
### Criticism to the Constituent Assembly

- Not a Representative Body - did not reflect the mass verdict due to election by the limited franchise.

- **Not a Sovereign body** as it was formed based on the proposals of the British Government and held its meeting with their permission.
- **Took greater time in framing** the Constitution as compared to the American constitution which took only 4 months.

- **Dominated by Congress**
- **Domination of Lawyers and Politicians**
- **Dominated by Hindus**

- **S.N. Mukherjee = chief draftsman** of the constitution
- **Prem Behari Narain Raizada = calligrapher**
  - **handwritten the original text** of the constitution in a **flowing italic style**.
- **beautified and decorated by** artists from **Shanti Niketan including Nand Lal Bose and Beohar Rammanohar Sinha.**
- **calligraphy of the Hindi version = Vasant Krishan Vaidya**
  - **decorated and illuminated = Nand Lal Bose.**
- **elephant = symbol** of the Constituent Assembly.
  - **Elephant figurine carved on the seal of the assembly.**
- Originally, the Constitution of India did **not** make any **provision concerning an authoritative text of the Constitution in the Hindi Language.**
  - made by the **58<sup>th</sup> Constitutional Amendment Act of 1987** which inserted a new Article 394-A in the last part of the constitution.



- Introduction or preface to the Constitution
- Provides guidelines for the Constitution
- embodies basic philosophy and fundamental values as basis for the Constitution
- Reflects dreams and aspirations of founding fathers of the Constitution.
- enacted after the rest of the Constitution was already enacted.
- neither a source of power to the legislature nor a prohibition
- non justiciable not enforceable in Courts of law.
- can be amended without altering the basic structure.

### Ingredients of the Preamble

- Preamble makes **people of India, the ultimate authority**

- declares India as **sovereign, socialist, secular democratic and republican polity.**
- Objectives of the Constitution: **justice, liberty, equality and fraternity**
- Date of adoption of the Constitution: It stipulates **November 26, 1949** as the date.

### Key Terms related to Preamble

- **Sovereignty: absolute Independence** that is a Government which is **not controlled by any other power:** internal or external. A country cannot have its own Constitution without being sovereign. India is a sovereign country. It is free from any external control.
- **Socialist: not part of the original Constitution.**
  - Added by 42nd Amendment act



- used in the context of economic planning.
- commitment to attain ideals like **removal of inequalities, provision of minimum basic necessities to all, equal pay for equal work.**
- **Secularism:** added by **42nd Constitutional Amendment Act 1976.**
  - India is **neither religious nor irreligious nor anti-religious.**
  - **no state religion-** the state **does not support any particular religion**
- **Democratic Republic:** Government is **elected by the people** and is **responsible and accountable to the people.**
  - **democratic provisions:** Universal adult franchise, elections, Fundamental Rights and responsible Government.
  - **Republic:** the **elected head** of the state (President → indirectly elected) not a hereditary ruler as Britain.
- **Justice:** to give people what they are entitled to in terms of basic rights to food, clothing, housing, participation in decision making and living with dignity as human beings.
  - taken from the **Russian Revolution (1917)**
  - three **dimensions of Justice-** social, economic and political.

- **Social justice:** equal treatment of all citizens without any social distinction based on caste, colour, race, religion, sex and so on.
- **Economic justice:** non-discrimination on economic factors.

**Social justice + economic justice = 'distributive justice'**

- **Political justice:** all citizens should have equal political rights, equal access to all political offices and equal voice in the Government.
- **Liberty:** of thought and expression; **absence of restraints** on the activities of individuals, and at the same time, **providing opportunities** for the development of individual personalities.
  - taken from the **French Revolution (1789–1799).**
- **Equality:** **absence of special privileges** to any section of the society, and the provision of adequate opportunities for all individuals without any discrimination.
  - three **dimensions of equality—civic, political and economic.**
- **Fraternity:** sense of brotherhood; promotes the feeling of fraternity by a system of **single citizenship and by article 51A** (Fundamental Duties).

### Preamble as a part of the Constitution

Berubari Union v. Unknown Case, 1960	Kesavananda Bharati v. State of Kerala Case, 1973	Union Government Vs LIC of India Case, 1995
<ul style="list-style-type: none"> <li>● SC stated that 'Preamble is the key to open the mind of the makers' but it <b>cannot be considered as part of the Constitution.</b> Therefore it is <b>not enforceable</b> in a Court of law.</li> </ul>	<ul style="list-style-type: none"> <li>● SC held that "Preamble of the Constitution will now be <b>considered as part of the Constitution.</b> The Preamble is <b>not the supreme power or source</b> of any restriction or prohibition <b>but it plays an important role in the interpretation</b> of statutes and provisions of the Constitution."</li> </ul>	<ul style="list-style-type: none"> <li>● SC held that <b>Preamble is the integral part of the Constitution</b> but is <b>not directly enforceable</b> in a Court of justice in India.</li> </ul>

### Salient Features of the Constitution

- **Longest written constitution:** it contains:
  - **Separate provisions for states and centre** and their inter-relationship.

- **borrowed provisions** from several sources and constitutions of the world.

Countries	Borrowed Features of Indian Constitution
<b>Australia</b>	<ul style="list-style-type: none"> <li>● Concurrent list</li> <li>● Freedom of trade, commerce and intercourse</li> <li>● Joint-sitting of the two Houses of Parliament</li> </ul>
<b>Canada</b>	<ul style="list-style-type: none"> <li>● Federation with a strong Centre</li> <li>● Vesting of residuary powers in the Centre</li> <li>● Appointment of state Governors by the Centre</li> <li>● Advisory jurisdiction of the SC</li> </ul>

<b>Ireland</b>	<ul style="list-style-type: none"> <li>● Directive Principles of State Policy</li> <li>● Nomination of members to Rajya Sabha</li> <li>● Method of election of the President</li> </ul>
<b>Japan</b>	<ul style="list-style-type: none"> <li>● Procedure Established by law</li> </ul>
<b>USSR/Russia</b>	<ul style="list-style-type: none"> <li>● Fundamental Duties</li> <li>● Ideal of justice (social, economic and political) in the Preamble</li> </ul>
<b>UK</b>	<ul style="list-style-type: none"> <li>● Parliamentary Government</li> <li>● Rule of Law</li> <li>● Legislative procedure</li> <li>● Single Citizenship</li> <li>● Cabinet system</li> <li>● Prerogative writs</li> <li>● Parliamentary privileges</li> <li>● Bicameralism</li> <li>● Procedure Established by law</li> </ul>
<b>US</b>	<ul style="list-style-type: none"> <li>● Fundamental Rights</li> <li>● Independence of judiciary</li> <li>● Judicial Review</li> <li>● Impeachment of the President</li> <li>● Removal of SC and HC Judges</li> <li>● Post of vice-President</li> </ul>
<b>Germany (Weimar)</b>	<ul style="list-style-type: none"> <li>● Suspension of Fundamental Rights during emergency</li> </ul>
<b>South Africa</b>	<ul style="list-style-type: none"> <li>● Procedure for Amendment in the Indian Constitution</li> <li>● Election of members of Rajya Sabha</li> </ul>
<b>France</b>	<ul style="list-style-type: none"> <li>● Republic</li> <li>● Ideals of liberty, equality and fraternity in the Preamble</li> </ul>

- separate provisions for SC, ST, women, children, and backward regions.
- detailed list of rights, DPSPs and details of administration procedures
- Originally (1949), had a Preamble, 395 Articles (divided into 22 Parts) and 8 Schedules.
- Presently, it consists of a Preamble, 25 parts, 448 Articles, 12 Schedules, and 104 Amendments till date.
- **Unique blend of rigidity and flexibility:**
  - Some parts can be amended by ordinary law making procedure while certain provisions can be amended by a majority of the total membership of that house and by a majority of not less than two-third of the members of that house present and voting.
  - Some amendments are also required to be ratified by the legislatures of not less than one-half of the states before being presented to the President for assent.
- **India as a sovereign, socialist, secular, democratic and republic:** India is governed by its people through their elected representatives based on universal adult franchise.
  - **Parliamentary System of Government:** Parliament controls the functioning of the CoM
    - **executive is responsible to the legislature** and remains in power as long as it enjoys the confidence of the legislature.
      - **President** of India, who remains in office for five years, is the **nominal, titular or constitutional head (Executive)**.
      - **PM is the real executive and head of the CoM** who is collectively responsible to the lower house (Lok Sabha).
  - **Single Citizenship:** single citizenship provided by the union and recognized by all the states across India.
  - **Universal Adult Franchise:** establishes political equality in India through the method of universal adult franchise which functions on the basis of 'one person one vote'.
    - Every Indian who is **18 years of age or above is entitled to vote** in the elections, irrespective of caste, sex, race, religion or status.
  - **Independent and Integrated Judicial System:** free from the influence of the executive and the legislature.



- SC as the apex court below which HCs and lower courts come
- **Fundamental Rights, Fundamental Duties and DPSPs:**
  - **Fundamental Rights are not absolute** but are **subject to the limitations** defined by the constitution itself and are enforceable in the court of law.
  - **DPSPs are the guidelines** to be followed by the states regarding governance and are not enforceable in the court of law.

- **Fundamental Duties, added by the 42nd Amendment** are moral conscience which ought to be followed by the Citizens.
- **Federation with a strong centralising tendency:** India is an **indestructible Union with destructible states** means it acquires a unitary character during the time of emergency.
- **Balancing Parliamentary supremacy with Judicial Review:** An **independent judiciary with the power of judicial review**



# 3 CHAPTER

## Salient Features of the Constitution

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- **borrowed provisions** from several sources and constitutions of the world.

Countries	Borrowed Features of Indian Constitution
<b>Australia</b>	<ul style="list-style-type: none"> <li>● Concurrent list</li> <li>● Freedom of trade, commerce and intercourse</li> <li>● Joint-sitting of the two Houses of Parliament</li> </ul>
<b>Canada</b>	<ul style="list-style-type: none"> <li>● Federation with a strong Centre</li> <li>● Vesting of residuary powers in the Centre</li> <li>● Appointment of state Governors by the Centre</li> <li>● Advisory jurisdiction of the SC</li> </ul>
<b>Ireland</b>	<ul style="list-style-type: none"> <li>● Directive Principles of State Policy</li> <li>● Nomination of members to Rajya Sabha</li> <li>● Method of election of the President</li> </ul>
<b>Japan</b>	<ul style="list-style-type: none"> <li>● Procedure Established by law</li> </ul>
<b>USSR/Russia</b>	<ul style="list-style-type: none"> <li>● Fundamental Duties</li> <li>● Ideal of justice (social, economic and political) in the Preamble</li> </ul>
<b>UK</b>	<ul style="list-style-type: none"> <li>● Parliamentary Government</li> <li>● Rule of Law</li> <li>● Legislative procedure</li> <li>● Single Citizenship</li> <li>● Cabinet system</li> <li>● Prerogative writs</li> <li>● Parliamentary privileges</li> <li>● Bicameralism</li> <li>● Procedure Established by law</li> </ul>
<b>US</b>	<ul style="list-style-type: none"> <li>● Fundamental Rights</li> <li>● Independence of judiciary</li> <li>● Judicial Review</li> <li>● Impeachment of the President</li> <li>● Removal of SC and HC Judges</li> <li>● Post of vice-President</li> </ul>
<b>Germany (Weimar)</b>	<ul style="list-style-type: none"> <li>● Suspension of Fundamental Rights during emergency</li> </ul>
<b>South Africa</b>	<ul style="list-style-type: none"> <li>● Procedure for Amendment in the Indian Constitution</li> <li>● Election of members of Rajya Sabha</li> </ul>
<b>France</b>	<ul style="list-style-type: none"> <li>● Republic</li> <li>● Ideals of liberty, equality and fraternity in the Preamble</li> </ul>

- **separate provisions for SC, ST, women, children, and backward regions.**
- **detailed list of rights, DPSPs and details of administration procedures**
- **Originally (1949), had a Preamble, 395 Articles** (divided into **22 Parts**) and **8 Schedules**.
- **Presently, it consists of a Preamble, 25 parts, 448 Articles, 12 Schedules, and 104 Amendments** till date.

- **Unique blend of rigidity and flexibility:**
  - **Some parts can be amended by ordinary law making procedure** while certain provisions can be amended by a **majority of the total membership of that house and by a majority of not less than two-third of the members of that house present and voting.**

- Some amendments are also **required to be ratified by the legislatures of not less than one-half of the states** before being presented to the President for assent.
- **India as a sovereign, socialist, secular, democratic and republic:** India is **governed by its people through their elected representatives** based on universal adult franchise.
- **Parliamentary System of Government:** Parliament controls the functioning of the CoM
  - **executive is responsible to the legislature** and remains in power as long as it enjoys the confidence of the legislature.
    - **President** of India, who remains in office for five years, is the **nominal, titular or constitutional head (Executive)**.
    - **PM is the real executive and head of the CoM** who is collectively responsible to the lower house (Lok Sabha).
- **Single Citizenship:** single citizenship **provided by the union and recognized by all the states** across India.
- **Universal Adult Franchise:** establishes political equality in India through the method of universal adult franchise which **functions on the basis of 'one person one vote'**.
- Every Indian who is **18 years of age or above is entitled to vote** in the elections, irrespective of caste, sex, race, religion or status.
- **Independent and Integrated Judicial System: free from the influence of the executive and the legislature.**
  - SC as the apex court below which HCs and lower courts come
- **Fundamental Rights, Fundamental Duties and DPSPs:**
  - **Fundamental Rights are not absolute** but are **subject to the limitations** defined by the constitution itself and are enforceable in the court of law.
  - **DPSPs are the guidelines** to be followed by the states regarding governance and are not enforceable in the court of law.
  - **Fundamental Duties, added by the 42nd Amendment** are moral conscience which ought to be followed by the Citizens.
- **Federation with a strong centralising tendency:** India is an **indestructible Union with destructible states** means it acquires a unitary character during the time of emergency.
- **Balancing Parliamentary supremacy with Judicial Review:** An **independent judiciary with the power of judicial review**

## Parts and Schedules of Indian Constitution

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**Schedules are the lists in the Constitution that categorize and tabulate bureaucratic activity and policy of Government.**

Numbers	Subject Matter
<b>First Schedule</b>	1. Names of the States and their territorial jurisdiction. 2. Names of the Union Territories and their extent.
<b>Second Schedule</b>	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
<b>Third Schedule</b>	Forms of Oaths or Affirmations for: 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
<b>Fourth Schedule</b>	Allocation of seats in the Rajya Sabha to the states and the union territories.
<b>Fifth Schedule</b>	Provisions relating to the administration and control of scheduled areas and scheduled tribes.
<b>Sixth Schedule</b>	Provisions relating to the administration of tribal areas in the states of Assam, Meghalaya, Tripura and Mizoram.
<b>Seventh Schedule</b>	Division of powers between the Union and the States in terms of List I (Union List), List II (State List) and List III (Concurrent List). Presently, the Union List contains 100 subjects (originally 97), the state list contains 61 subjects (originally 66) and the concurrent list contains 52 subjects (originally 47).
<b>Eighth Schedule</b>	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, Kashmiri, Konkani, Mathili (Maithili), Malayalam, Manipuri, Marathi, Nepali, Oriya, Punjabi, Sanskrit, Santhali, Sindhi, Tamil, Telugu and Urdu. Sindhi was added by the 21st Amendment Act of 1967; Konkani, Manipuri and Nepali were added by the 71 st Amendment Act of 1992; and Bodo, Dongri, Maithili and Santhali were added by the 92nd Amendment Act of 2003.
<b>Ninth Schedule</b>	Acts and Regulations (originally 13 but presently 282) 19 of the state legislatures dealing with land reforms and abolition of the zamindari system and of the Parliament dealing with other matters. 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. However, in 2007, the Supreme Court ruled that the laws included in this schedule after April 24, 1973, are now open to Judicial Review.
<b>Tenth Schedule</b>	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.
<b>Eleventh Schedule</b>	Specifies the powers, authority and responsibilities of Panchayats. It has 29 matters. This schedule was added by the 73rd Amendment Act of 1992.
<b>Twelfth Schedule</b>	Specifies the powers, authority and responsibilities of Municipalities. It has 18 matters. This schedule was added by the 74th Amendment Act of 1992.

# 4 CHAPTER

## Union And Its Territory



### Constitutional Provisions

- Articles 1- 4 in Part I of the Indian Constitution

Article	Provisions
1	Name and territory of the union
2	Admission or Establishment of new states
3	Formation of new states and alteration of boundaries or names of existing States
4	Laws made under art. 2 and 3 to amend I and IV Schedules and supplemental, incidental and consequential matters.

### Article 1 : Name and Territory of the Union

- India, that is Bharat, shall be a Union of States.
- States and territories thereof shall be as specified in the First Schedule.
- Territory of India:
  - The territories of the States;
  - The Union territories specified in the First Schedule;
  - Such other territories that may be acquired.

#### Union of India:

- Includes only States enjoying the status of being members of the federal system and sharing a distribution of powers with the Union.
- Union Territories not included.

#### Territory of India:

- Includes States, UTs and such other territories as may be acquired by India.
- States and Territories - specified in the First Schedule of the Constitution.

Dr. B.R. Ambedkar for preferring 'Union of States' to 'Federation of States':

- Indian Federation is not the consequence of agreement among the states like the American Federation
- States have no right to secede from the federation. Union is indestructible.
- Country is a single entity and divided into states for smooth administration.

### Article 2 : Admission or establishment of new States

- New States may be admitted to Union or established by statute on the terms and conditions as Parliament deems appropriate.
- Eg. Parliament has admitted the French settlements of Pondicherry, Karaikal, Mahe and Yanam, the Portuguese settlements of Goa, and Daman, etc., into India.
- admission/ establishment of new states that were/are not part of India.

### Article 3 : Formation of New State and alternation of Areas, boundaries or names of existing States.

- Parliament may by law :
  - 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;
  - Increase the area of any State
  - Diminish the area of any State
  - Alter the boundaries of any State,
  - Alter the name of any State:
- Bill proposing the above changes can be introduced in Parliament only with the prior recommendation of the President.
- Before recommending the bill, the President has to refer it to the concerned state legislature for its views within a specified period.
- Procedure:
  - President before introducing the bill in Parliament, should send the Bill to the State Legislature for its views to be sent within a time frame.
    - If it fails to do so, will be considered that views have been presented.
  - President has the authority to extend the time limit.
  - Parliament is not obligated to accept or act on the opinions of the State Legislature even if it presents them within the prescribed/ extended time frame.