



BPSC

**Assistant Prosecution Officer
(APO)**

Bihar Public Service Commission (BPSC)

Volume - 4

Constitution of India & Others Laws



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CHAPTER

Constitution of India

Important Amendments for Preliminary Exams

1. 1st Amendment (1951)

- ✓ Added **9th Schedule** (immunity to land reform laws).
- ✓ Curtailed **Right to Property (Art. 19(1)(f))**.
- ✓ Introduced **reasonable restrictions** on Art. 19.
- ✓ Inserted Art. 31A & 31B.

2. 7th Amendment (1956)

- ✓ Reorganized States on **linguistic basis** (States Reorganisation Act).
- ✓ Abolished distinction between Part A, B, C, D states.
- ✓ This Amendment created the concept of a **“common Governor”**, i.e., one individual can act as the constitutional head of two or more states simultaneously.
- ✓ This Amendment empowered the Parliament to establish a **common High Court** for two or more states.

3. 21st Amendment, 1967

- ✓ Added **Sindhi**.
- ✓ Total: **15 languages**

4. 24th Amendment (1971)

- ✓ Made clear: **Parliament has power to amend any part of Constitution**, including Fundamental Rights.
- ✓ Article 368 made explicit.
- ✓ Response to *Golaknath v. State of Punjab* (1967).

5. 25th Amendment (1971)

- ✓ Inserted **Art. 31C**: Directive Principles (Art. 39(b), (c)) override Fundamental Rights (Art. 14, 19).

6. 26th Amendment (1971)

- ✓ Abolished **privy purses & privileges** of erstwhile rulers.

7. 31st Amendment (1973)

- ✓ Increased strength of **Lok Sabha** from 525 to 545.

Kesavananda & Emergency Era

7. 42nd Amendment (1976) (*Mini-Constitution*)

- ✓ Added words **“Socialist, Secular, Integrity”** in Preamble.
- ✓ Made **DPSPs** superior to Fundamental Rights (subject to judicial review later).
- ✓ Curtailed judicial review.
- ✓ Gave Parliament primacy in amending Constitution.
- ✓ Extended tenure of Lok Sabha & State Assemblies from 5 to 6 years.

8. 44th Amendment (1978)

- ✓ Reversed Emergency excesses.
- ✓ Restored tenure of Lok Sabha & Assemblies back to **5 years**.
- ✓ Restored power of **judicial review**.
- ✓ Made **Right to Property** (Art. 300A) a **legal right**, no longer a fundamental right.
- ✓ Provided that **Fundamental Rights under Art. 20 & 21** cannot be suspended even during Emergency.

9. 52nd Amendment (1985)

- ✓ Inserted **10th Schedule (Anti-Defection Law)**.

10. 61st Amendment (1989)

- ✓ Reduced **voting age** from **21 to 18 years**.

11. 69th Amendment (1991)

- ✓ Made Delhi **National Capital Territory (NCT)** with Legislative Assembly (Art. 239AA).

12. 71st Amendment, 1992

- ✓ Added **Konkani, Manipuri, Nepali**.
- ✓ Total: **18 languages**.

13. 73rd Amendment (1992)

- ✓ Constitutional status to **Panchayati Raj Institutions**.
- ✓ Added **11th Schedule**.

14. 74th Amendment (1992)

- ✓ Constitutional status to **Urban Local Bodies (Municipalities)**.
- ✓ Added **12th Schedule**.

15. 86th Amendment (2002)

- ✓ Made **Right to Education (Art. 21A)** a Fundamental Right (6–14 years).
- ✓ Changed DPSP: Art. 45 → Early childhood care (0–6 years).

16. 91st Amendment (2003)

- ✓ Limited size of **Council of Ministers** (15% of Legislative strength).
- ✓ Strengthened Anti-Defection Law.

17. 92nd Amendment, 2003 (came into effect in 2004)

- ✓ Added **Bodo, Dogri, Maithili, Santhali**.
- ✓ Total: **22 languages** (current)

18. 97th Amendment (2011)

- ✓ Gave **constitutional status to cooperatives** (Art. 19(1)(c), Part IXB).
- ✓ Later partly struck down by SC in *Union of India v. Rajendra Shah* (2021) for want of state ratification.

19. 101st Amendment (2016)

- ✓ Introduced **Goods and Services Tax (GST)**.
- ✓ Created GST Council (Art. 279A).

20. 102nd Amendment (2018)

- ✓ Granted constitutional status to **National Commission for Backward Classes (NCBC)**.

21. 103rd Amendment (2019)

- ✓ Introduced **10% reservation for Economically Weaker Sections (EWS)**.
- ✓ Added **Art. 15(6), 16(6)**.

22. 104th Amendment (2020)

- ✓ Extended reservation of **SC/ST in Lok Sabha & State Assemblies** till 2030.
- ✓ Abolished reserved seats for **Anglo-Indians** in Lok Sabha & Assemblies.

23. 105th Amendment (2021)

- ✓ Restored power of **States to identify OBCs** for their own list.



List of Cases on Constitutional Doctrines

- 1. Doctrine of Quasi-Federalism** – Indian Constitution is federal with strong unitary bias – *State of West Bengal v. Union of India (1963) SC*.
- 2. Doctrine of Separation of Powers** – No rigid separation, but functional separation between legislature, executive & judiciary – *Indira Nehru Gandhi v. Raj Narain (1975) SC*.
- 3. Doctrine of Rule of Law** – No one is above law; equality before law – *ADM Jabalpur v. Shivkant Shukla (1976) SC* (criticized, later corrected in *Maneka Gandhi (1978)* & *K.S. Puttaswamy (2017)*) SC.
- 4. Doctrine of Judicial Review** – Judiciary has power to strike down unconstitutional laws – *Marbury v. Madison (1803, US) SC of US*; in India – *Kesavananda Bharati v. Union of India (1973) SC*.
- 5. Doctrine of Reasonable Classification** – Equality permits reasonable classification, not class legislation – *State of West Bengal v. Anwar Ali Sarkar (1952) SC*.
- 6. Doctrine of Arbitrariness** – Any law/action arbitrary violates Art. 14 – *E.P. Royappa v. State of Tamil Nadu (1974) SC*; strengthened in *Maneka Gandhi V. Union of India (1978) SC*.
- 7. Doctrine of Manifest Arbitrariness** – A law can be struck down if arbitrary – *Shayara Bano v. Union of India (2017) SC* (Triple Talaq case).
- 8. Doctrine of Pleasure Qualified by Safeguards** – Though Art. 310 gives “pleasure doctrine”, Art. 311 gives safeguards – *Shamsher Singh v. State of Punjab (1974) SC*.
- 9. Doctrine of “Collective Responsibility”** – Cabinet collectively responsible to Lok Sabha – *Shamsher Singh v. State of Punjab (1974) SC*, *Ram Jawaya Kapur v. State of Punjab (1955) SC*.
- 11. Doctrine of Unreasonable Restriction** – Restrictions on FR must be reasonable – *Chintaman Rao v. State of M.P. (1951) SC*.
- 12. Doctrine of Public Interest** – Courts allow restrictions if in larger public interest – *Bennett Coleman v. Union of India (1972) SC*.
- 13. Doctrine of Balancing Fundamental Rights** – When two FRs conflict, balance must be struck – *Bijoe Emmanuel v. State of Kerala (1986) SC*.
- 14. Doctrine of Living Constitution** – Constitution interpreted as evolving with time – *Navtej Singh Johar v. Union of India (2018) SC*.
- 15. Doctrine of Constitutional Morality** – Constitutional values must guide interpretation – *Government of NCT of Delhi v. Union of India (2018)*, *Navtej Johar (2018) SC*.
- 16. Doctrine of Transformative Constitutionalism** – Constitution seen as a tool of social transformation – *Navtej Johar (2018)*, *Joseph Shine (2018) SC*.
- 17. Doctrine of Subsidiarity** – Matters should be handled at lowest effective level – applied in local governance context (*Bommai V. State of Karnataka case 1994 indirectly*).
- 19. Doctrine of “Fruit of the Poisonous Tree”** – Illegally obtained evidence inadmissible – adopted in India cautiously (*Pooran Mal v. Director of Inspection (1974)*) SC.
- 20. Doctrine of Double Jeopardy** – No person tried/punished twice for same offence – *Maqbool Hussain v. State of Bombay (1953) SC*.

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- 24. Doctrine of Escheat** – If a person dies intestate without heirs, property goes to the State – *Art. 296 of Constitution.*
- 25. Doctrine of Bona Vacantia** – Ownerless property goes to State – *Art. 296.*
- 26. Doctrine of Public Trust** – State is trustee of natural resources for public – *M.C. Mehta v. Kamal Nath (1997) SC.*
- 27. Basic Structure Doctrine** – Parliament can amend Constitution but cannot alter its basic features (democracy, federalism, judicial review).
Case: *Kesavananda Bharati v. State of Kerala (1973).*
- 28. Pith and Substance Doctrine** – Legislative competence judged by true subject of law, not incidental encroachment.
Case: *State of Bombay v. F.N. Balsara (1951).*
- 29. Colourable Legislation** – What cannot be done directly, cannot be done indirectly by legislature.
Case: *K.C. Gajapati Narayan Deo v. State of Orissa (1953) SC.*
- 30. Severability Doctrine** – Invalid part of a statute can be severed; rest continues if workable.
Case: *R.M.D. Chamarbaugwala v. Union of India (1957) SC.*
- 31. Eclipse Doctrine** – Pre-constitutional laws inconsistent with FRs are dormant, not void; revive if inconsistency removed.
Case: *Bhikaji Narain Dhakras v. State of M.P. (1955) SC.*
- 32. Waiver Doctrine** – Fundamental Rights cannot be waived as they serve public policy.
Case: *Basheshar Nath v. CIT (1959 SC).*
- 33. Harmonious Construction** – Conflicting provisions should be interpreted to give effect to both.
Case: *M.S.M. Sharma v. Sri Krishna Sinha (1959) SC.*
- 34. Prospective Overruling** – New judicial ruling applies only prospectively, not retrospectively.
Case: *I.C. Golaknath v. State of Punjab (1967) SC.*
- 35. Separation of Powers** – Legislature, executive, judiciary have separate domains; part of basic structure.
Case: *Indira Gandhi v. Raj Narain (1975) SC.*
- 36. Laches Doctrine** – Delay in filing petition can defeat claim (“equity aids the vigilant”).
Case: *State of M.P. v. Bhailal Bhai (1964 SC).*
- 37. Stare Decisis** – Courts must follow precedents; ensures certainty under Art. 141.
Case: *Bengal Immunity Co. v. State of Bihar (1955) SC.*
- 38. Rule of Law** – No one is above law; equality before law is guaranteed.
Case: *ADM Jabalpur v. Shivkant Shukla (1976)* (later corrected in *Maneka Gandhi*).
- 39. Proportionality Doctrine** – Restrictions on rights must be necessary, suitable, least restrictive.
Case: *K.S. Puttaswamy v. Union of India (2017) SC.*
- 40. Territorial Nexus Doctrine** – State law may operate extraterritorially if sufficient nexus exists.
Case: *State of Bombay v. R.M.D.C. (1957) SC.*
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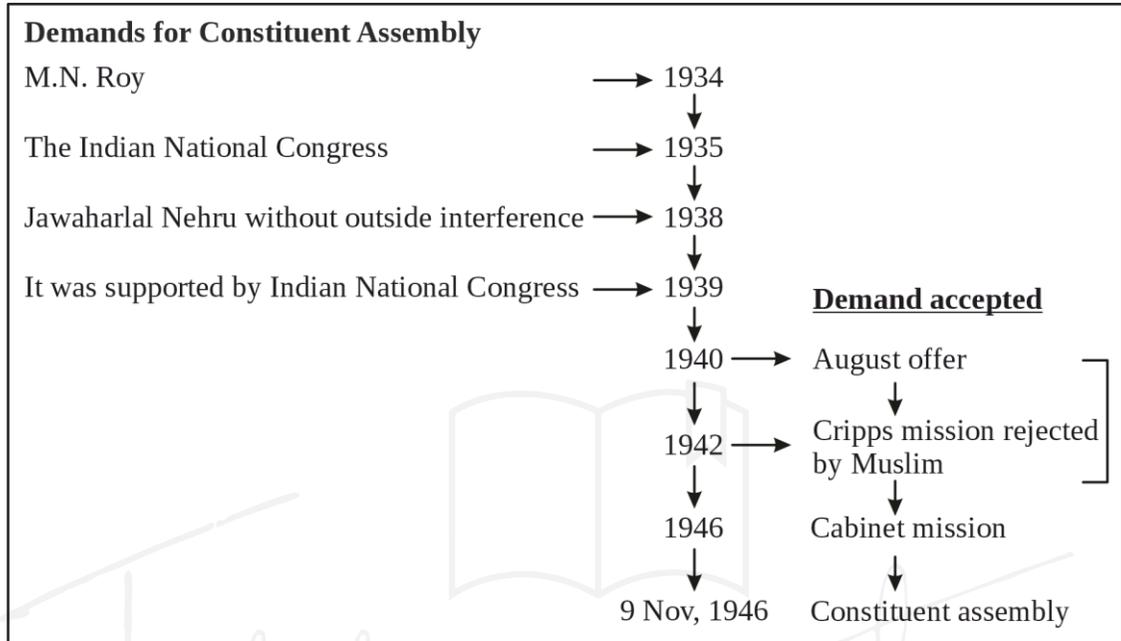
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- 41. Repugnancy Doctrine** – In Concurrent List, Union law prevails over inconsistent State law.
Case: *M. Karunanidhi v. Union of India (1979) SC.*
- 42. Occupied Field Doctrine** – When Union law occupies field, State cannot legislate further.
Case: *Tika Ramji v. State of U.P. (1956) SC.*
- 43. Pleasure Doctrine** – Govt. servants hold office during President's/Governor's pleasure, subject to Art. 311.
Case: *Shamsher Singh v. State of Punjab (1974) SC.*
- 44. Doctrine of Legitimate Expectation** – Citizens can expect consistency in state policy; breach reviewable.
Case: *Navjyoti Coop. Group Housing Society v. Union of India (1992) SC.*



Making of the Indian Constitution

1. Background

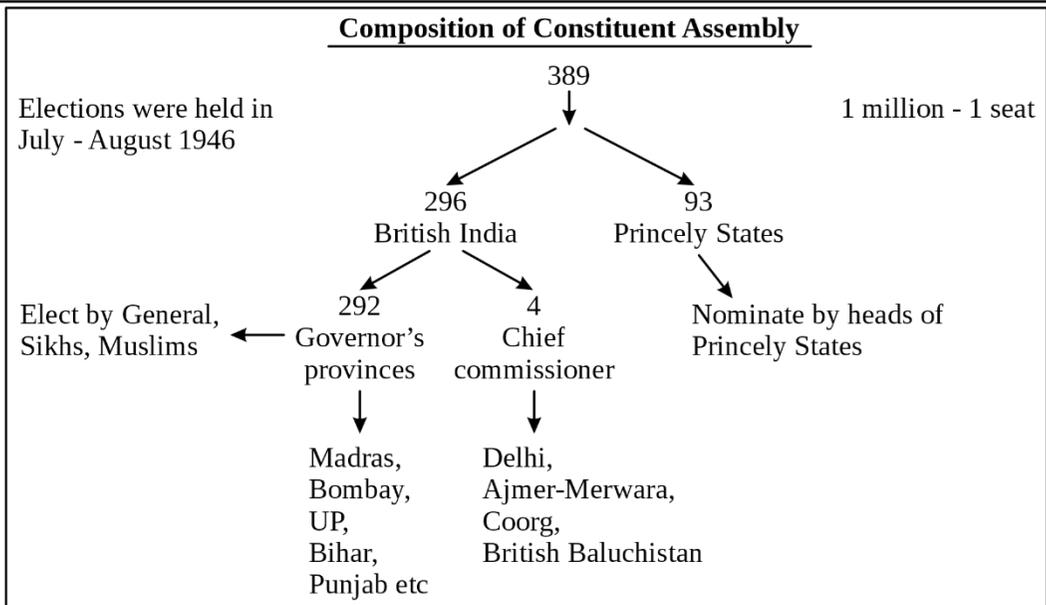
- ✓ **British Rule:** Exposed India to modern constitutional institutions (Govt. of India Acts, 1909–1935).
- ✓ **Demand for Constitution:** Indian National Congress (INC) demanded self-governance & Constituent Assembly since 1934 (M.N. Roy's idea).



- ✓ **August Offer (8 August 1940):** The British promised that after World War II, Indians would get a chance to frame their own Constitution. But Congress rejected it (they wanted full independence), but the Muslim League accepted it.
- ✓ **Cripps Mission (1942):** Proposed Indian dominion with right to frame its own constitution but it was rejected.
- ✓ **Cabinet Mission Plan (1946):** The British Government sent a Cabinet Mission (Pethick-Lawrence, Cripps, A.V. Alexander) to India in 1946 to discuss independence and transfer of power.
- ✓ It rejected the demand for a separate Pakistan but proposed a **Union of India** with provinces and princely states.
- ✓ The Union would control only **foreign affairs, defence, and communications**; provinces retained autonomy.
- ✓ Provinces were grouped into three sections (A: Hindu-majority, B & C: Muslim-majority).
- ✓ It proposed a **Constituent Assembly** to frame the Constitution and an **Interim Government** until full transfer of power.

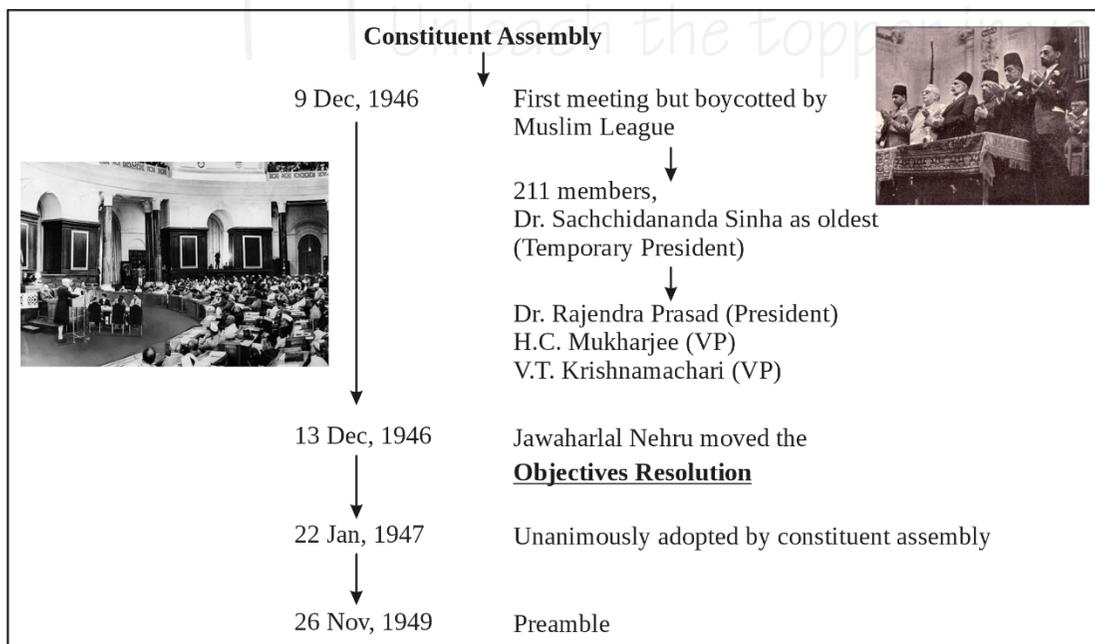
2. Formation of Constituent Assembly

- ✓ **Total Members:** 389 (292 from provinces, 93 from princely states, 4 from Chief Commissioner's provinces).
- ✓ **Method:** Indirect election by Provincial Assemblies on basis of population (1 seat per 10 lakh).
- ✓ **After partition (1947):** 299 members remained (229 provinces, 70 princely states).



3. Imp Dates

- ✓ **9 December 1946:** First meeting of Constituent Assembly.
- ✓ **11 December 1946:** Dr. Rajendra Prasad elected as permanent President.
- ✓ **13 December 1946:** Nehru moved the **Objectives Resolution** (later became the Preamble).
- ✓ **22 January 1947:** Objectives Resolution adopted.
- ✓ **14 August 1947:** Assembly met as sovereign body after Indian Independence Act, 1947.
- ✓ **26 November 1949:** Constitution adopted.
- ✓ **24 January 1950:** Final signing of the Constitution.
- ✓ **26 January 1950:** Constitution came into force (chosen to honour 1930 Purna Swaraj Resolution).



4. Important Committees of Constituent Assembly

(Chaired mostly by B.R. Ambedkar, Alladi Krishnaswami Ayyar, Gopaldaswami Ayyangar, etc.)

- ✓ **Union Powers Committee** – Jawaharlal Nehru.
- ✓ **Union Constitution Committee** – Jawaharlal Nehru.
- ✓ **Provincial Constitution Committee** – Sardar Patel.
- ✓ **Drafting Committee** – Dr. B.R. Ambedkar.
- ✓ **Fundamental Rights & Minorities** – Sardar Patel.
- ✓ **Advisory Committee on Fundamental Rights** – Sardar Patel.
- ✓ **Steering Committee** – Dr. Rajendra Prasad.

5. Drafting Committee (Most Important for exam)

- ✓ **Formed:** 29 August 1947.
- ✓ **Chairman:** Dr. B.R. Ambedkar (Father of Indian Constitution).
- ✓ **Other Members:** K.M. Munshi, Alladi Krishnaswami Ayyar, Mohammad Saadullah, N. Gopaldaswami Ayyangar, B.L. Mitter (later replaced by N. Madhava Rao), D.P. Khaitan (later replaced by T.T. Krishnamachari).

6. Adoption Process

- ✓ Draft debated in Constituent Assembly for **2 years, 11 months, 18 days**.
- ✓ **114 days** were devoted to clause-by-clause discussion.
- ✓ Received **over 7,600 amendments**; ~2,400 were discussed.
- ✓ Final document: **395 Articles, 22 Parts, 8 Schedules (originally)**.

7. Sources of the Constitution

- ✓ **Government of India Act, 1935** → Federal structure, administrative details, judiciary.
- ✓ **British Constitution** → Parliamentary system, Rule of Law, Prerogative writs, single citizenship.
- ✓ **US Constitution** → Fundamental Rights, Judicial Review, Preamble, impeachment of the President, independence of judiciary.
- ✓ **Irish Constitution** → DPSPs, nomination to Rajya Sabha, method of election of President.
- ✓ **Canadian Constitution** → Federation with strong Centre, vesting residuary powers in the centre, advisory jurisdiction of the Supreme court, appointment of the State Governors by the Centre.
- ✓ **Australian Constitution** → Concurrent list, trade & commerce provisions, joint sitting of the two Houses of Parliament.
- ✓ **Weimar (German) Constitution** → Emergency powers.
- ✓ **Soviet Constitution (USSR)** → Fundamental Duties, Socialism.
- ✓ **South African Constitution** → Procedure of amendment, election of Rajya Sabha members.
- ✓ **Japanese Constitution** – Procedure established by law (Article 21).

8. Cost of the Constitution

- ✓ **Total Cost:** ₹64 lakhs (approx.).
- ✓ Printing alone cost ₹1 lakh.

9. Significance

- ✓ World's **largest democracy's foundation document**.
- ✓ Represents a compromise between **rigidity and flexibility**.
- ✓ Introduced **universal adult suffrage** at inception.
- ✓ Embodied ideals of **justice, liberty, equality, fraternity**.
- ✓ Provided mechanisms for **social revolution** (DPSPs, Fundamental Rights, affirmative action).



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;

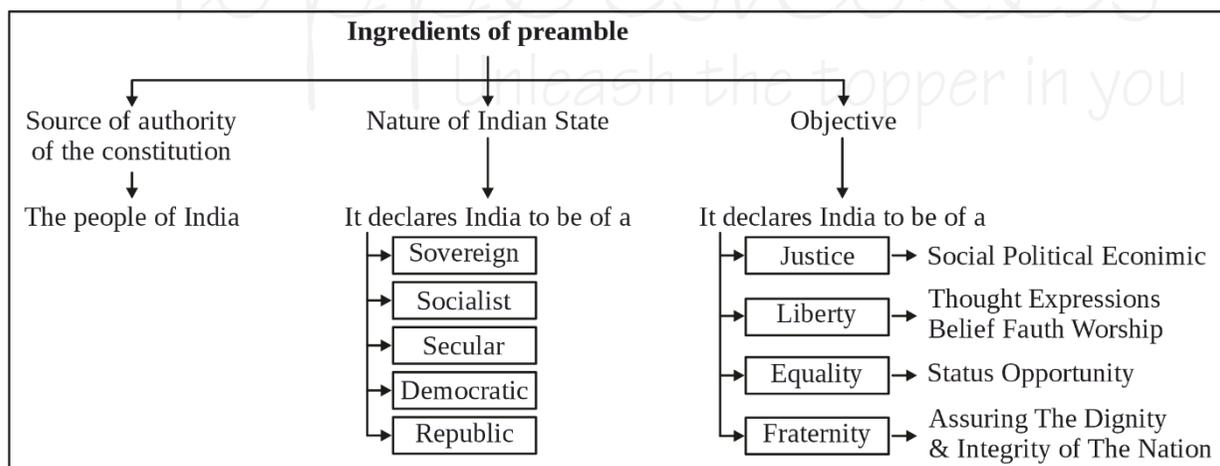
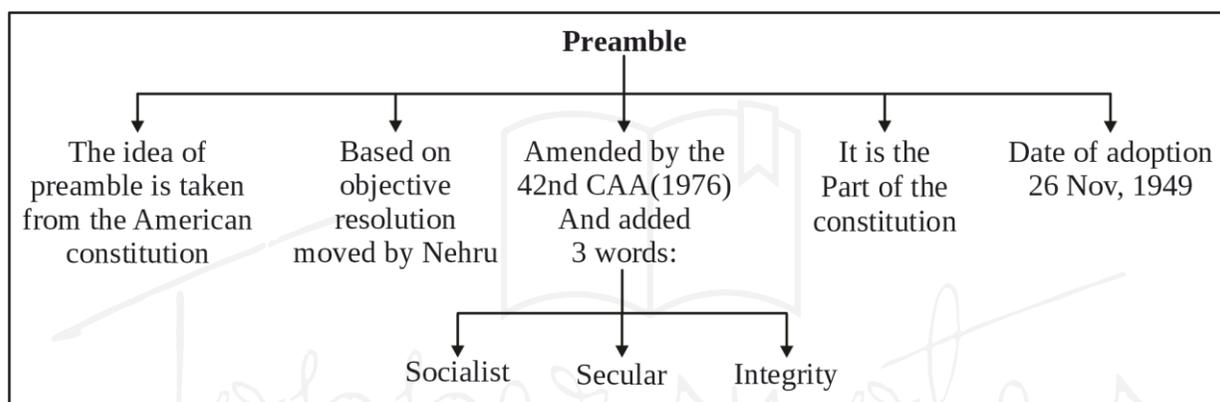
LIBERTY, of thought, expression, belief, faith and worship;

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 twenty-sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION."



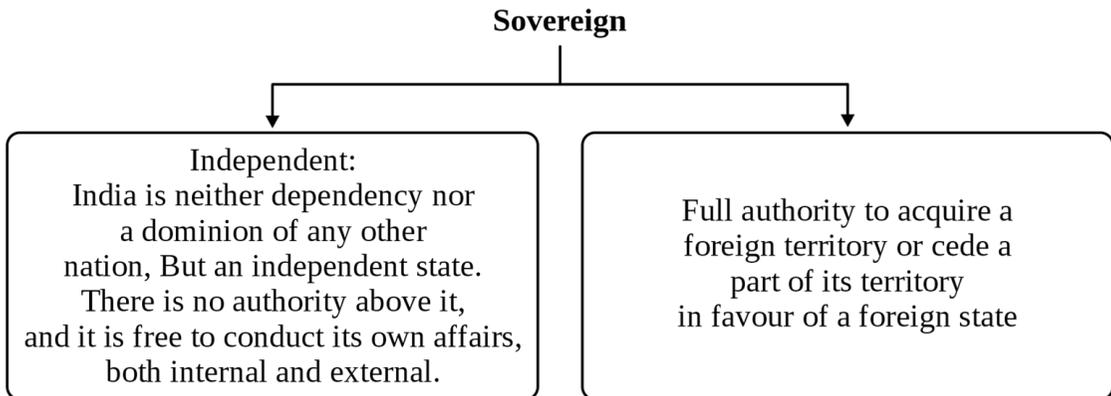
Key Components of the Preamble

1. “We, the People of India”

- ✓ Reflects the idea of **popular sovereignty** — the Constitution derives its authority from the **people**, not from any external source or monarch.
- ✓ Indicates that **ultimate power** lies with the **citizens of India**.

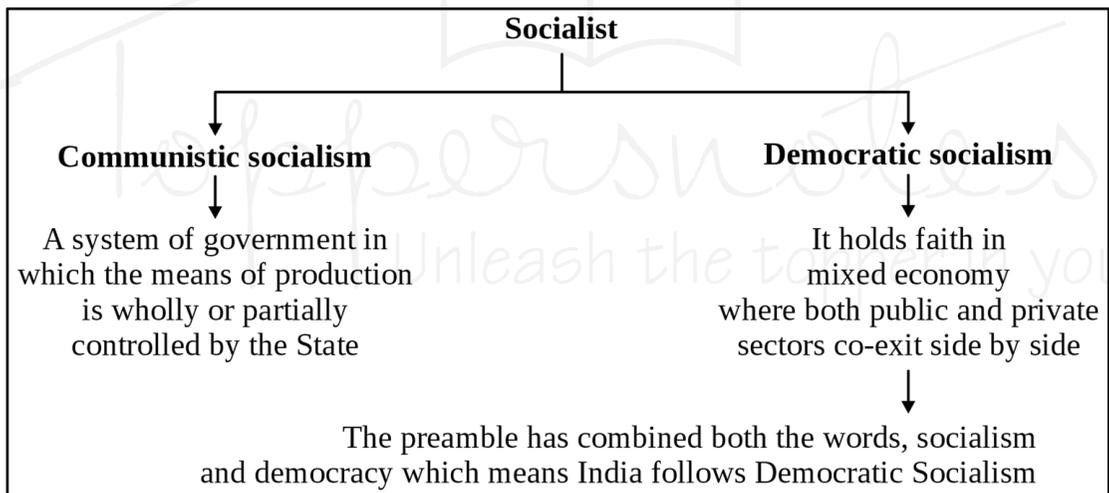
2. “Sovereign”

- ✓ India is **independent** and not subject to control by any external power.
- ✓ It can freely formulate its **internal and external policies**.



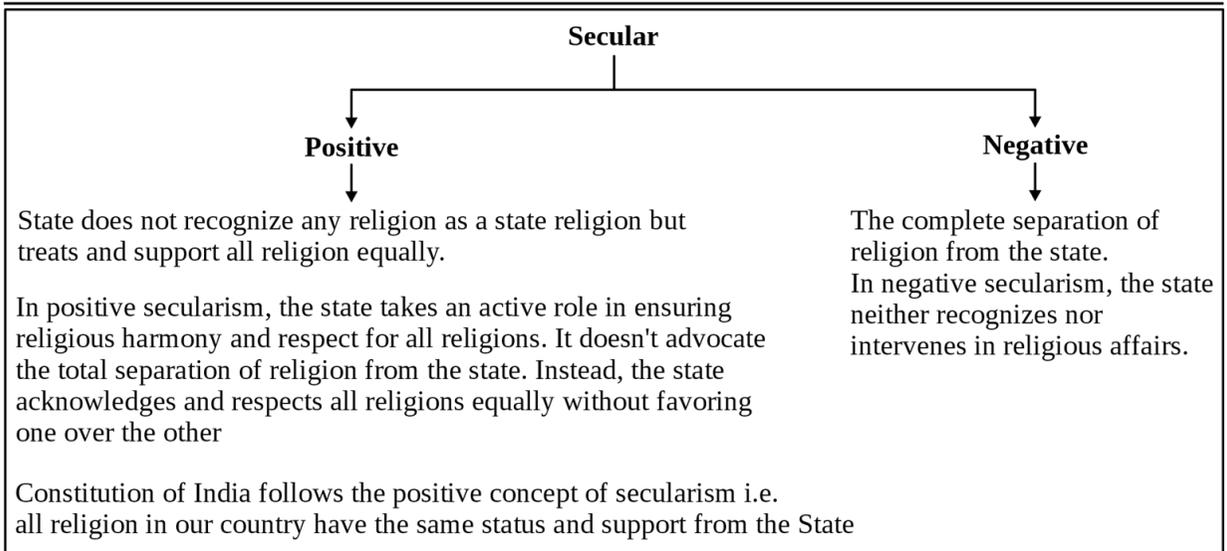
3. “Socialist” (Added by 42nd Amendment, 1976)

- ✓ Reflects **economic justice** and reduction of inequality.
- ✓ It does **not imply communism** but the **mixed economy** model where both public and private sectors co-exist.
- ✓ The state strives for **equal distribution of wealth and welfare of all**.



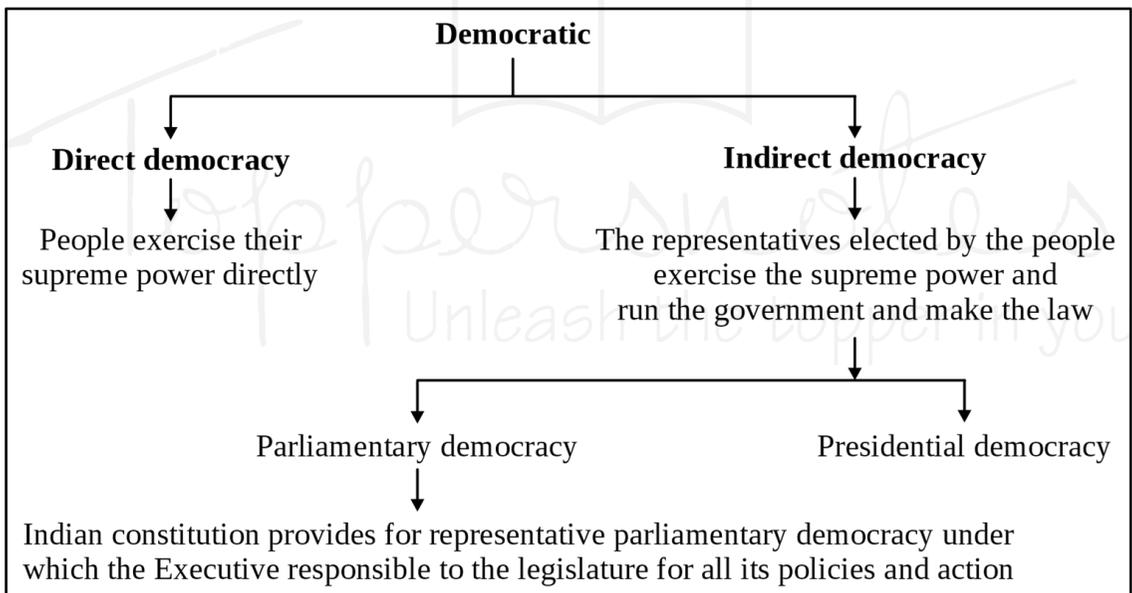
4. “Secular” (Added by 42nd Amendment, 1976)

- ✓ India has **no official religion**.
- ✓ The state treats **all religions equally** and maintains a **principled distance** from religious affairs.
- ✓ Citizens have the **freedom of religion** under Article 25 to 28.



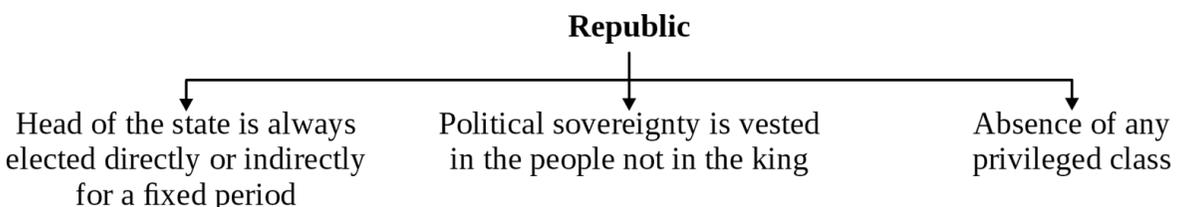
5. “Democratic”

- ✓ Refers to a **system of government by the people**, through their elected representatives.
- ✓ Emphasizes **universal adult suffrage, periodic elections, rule of law, accountability, and civil liberties.**



6. “Republic”

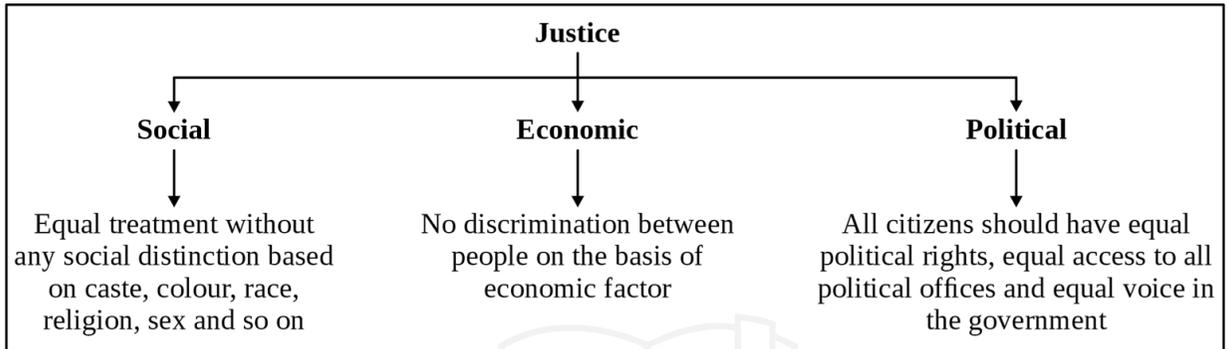
- ✓ The **head of the State (President)** is **elected**, not hereditary.
- ✓ Ensures that **public offices are open to all citizens**, not restricted by birth.



Objectives of the Constitution

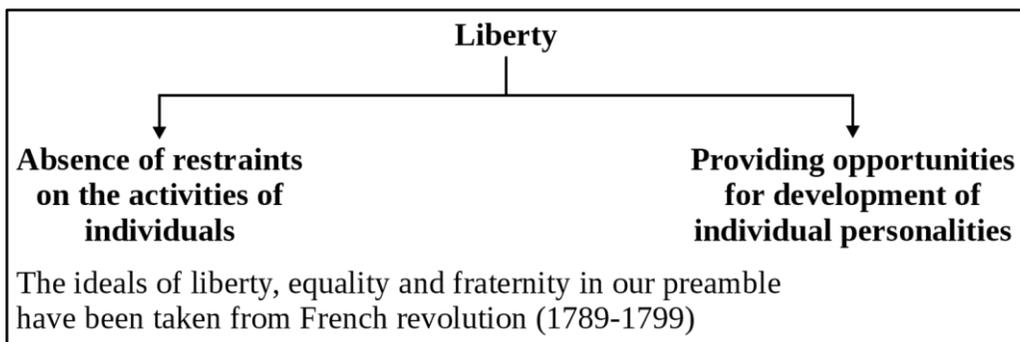
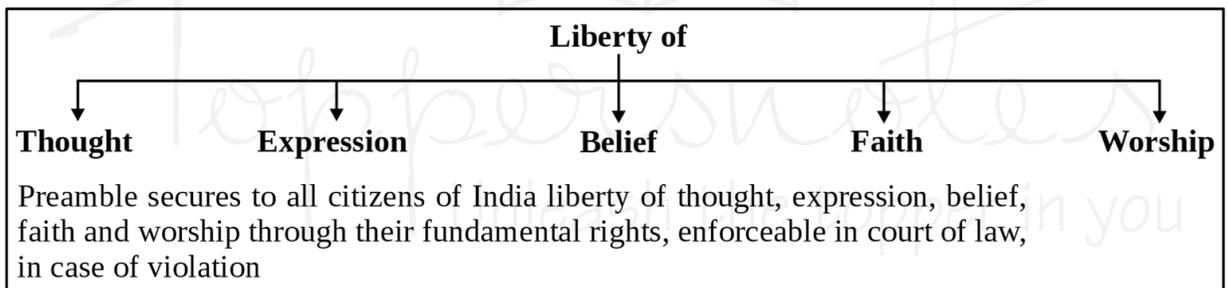
a) Justice – Social, Economic, and Political

- ✓ **Social Justice:** Removes social inequalities, prohibits discrimination (Article 15), and promotes welfare (Directive Principles).
- ✓ **Economic Justice:** Fair distribution of wealth, opportunity, and resources.
- ✓ **Political Justice:** Equal rights to participate in the political process (universal franchise, right to contest).



b) Liberty – of Thought, Expression, Belief, Faith, and Worship

- ✓ Protected under **Articles 19 and 25-28**.
- ✓ Citizens are free to think, express, and follow any religion or belief without fear.



c) Equality – of Status and Opportunity

- ✓ Ensures **equal treatment before law** (Article 14), **prohibits discrimination** (Article 15), and guarantees **equal opportunity** (Article 16).

d) Fraternity – Assuring Dignity of the Individual and Unity and Integrity of the Nation

- ✓ Promotes **brotherhood** among citizens.
- ✓ Upholds the **dignity of each person**.
- ✓ Aims to maintain **national integration** in a diverse country.

