



Jammu & Kashmir

Prosecuting Officer

Jammu and Kashmir Public Services Commission (JKPSC)

Paper – 2 || Volume - 1

General Knowledge, Mental Ability & Reasoning



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1 CHAPTER

Basics of Indian Constitution

Evolution of Constitution of India

Company Rule in India (1773-1858)

Regulating Act, 1773	- Laid the foundation of Central Administration in India. Governor of Bengal → Governor-General of Bengal. (Lord Warren Hastings) Executive Council of 4 members to assist the GGB. Governors of Madras & Bombay presidencies subordinate to GGB. - Set up the SC of Calcutta with 1 Chief justice and 3 other judges. Court of Directors of the Company to report the British Government regarding Company's revenue, civil and military affairs in India.
Pitt's India Act, 1784	- Established a system of Double Government. Court of Director to manage Company's commercial affairs Board of Control to manage its political affairs. Board of Control to supervise and direct civil and military operations and revenues of the British possessions in India. (First time acknowledged)
Charter Act, 1813	Abolished the trade monopoly of the Company in India Exceptions: trade in tea and trade with China. - Authorized Local Governments to levy taxes
Charter Act, 1833	GGB = Governor-General of India (Lord William Bentinck) - Vested all civil and military powers Exclusive legislative powers of entire British India. Company → purely administrative body.
Charter Act, 1853	Separated legislative and executive functions of the GGI's Council. 6 members Indian Legislative Council to function as mini parliament. - Open competition system for Indian Civil Services for Indians also. - Introduced local representation in the Indian (Central) Legislative Council. (Out of 6 members, 4 to be appointed by the local governments of Madras, Bombay, Bengal and Agra)

Crown Rule in India (1858 to 1947)

Government of India Act, 1858	British Government took control over the territory of India - Also known as Act of Good Government of India. GGI = Viceroy of India (Lord Canning) Representative of the British Crown in India. Board of Control and Court of Directors ceased to exist. Secretary of State for India, with complete authority and control over Indian administration. - Created a 15-member Council of India to assist the SSI.
Indian Councils Act, 1861	Viceroy to nominate Indians as the non-official members (Lord Canning nominated 3 Indians: The Raja of Benaras, the Maharaja of Patiala and Sir Dinkar Rao) Decentralized legislative powers - Empowered the Bombay and Madras Presidencies. - Established new legislative councils for Bengal, North-Western Provinces and Punjab. Viceroy to make rules and orders for the Council Members of the council in-charge of and authorized to issue orders regarding their allocated departments Viceroy to issue ordinances in emergency with a validity of 6 months.

Indian Councils Act, 1909	- Also known as Morley-Minto Reforms. - Members in the CLC ↑ from 16 to 60 and members in the PLCs also increased but not uniformly. Members of LC can ask supplementary questions, move resolutions on the budget, etc. - Association of Indians with the executive councils of the Viceroy and Governors. (Satyendra Prasad Sinha as the Law member) Communal representation for Muslims and separate electorate.
Government of India Act, 1919	- Also known as the Montagu-Chelmsford Reforms. Separated Central and Provincial subjects. Provincial subjects: Transferred subjects: governed by the Governor with the aid of ministers of the LC Reserved subjects: governed by the Governor with his executive council. - Introduced bicameralism and direct elections in the country. 3 out of 6 members of the Viceroy's executive council = Indian. Separate electorates for Sikhs, Indian Christians, Anglo-Indians and Europeans also. Granted franchise to a people based on property, tax or education. - Created office of High Commissioner for India in London. - Set up a Central Service Commission for recruiting civil servants. Separated provincial budgets from the Central budget and authorized the provincial legislatures to enact their budgets.
Government of India Act, 1935	- Established All India Federation = provinces + princely states. - Divided powers into three lists: Federal list (for Centre, with 59 items), Provincial list (for Provinces, with 54 items) Concurrent list (for both, with 36 items). Residuary Powers: vested in the Viceroy Abolished dyarchy in the provinces and introduced provincial autonomy. - Introduced responsible Governments in provinces Adoption of dyarchy at the Centre Federal subjects were divided into transferred subjects and reserved subjects. - Introduced bicameralism in 6 out of 11 provinces (Bengal, Bombay, Madras, Bihar, Assam and the United Provinces). Separate electorates for depressed classes, women and labour. Abolished the Council of India. Established Reserve Bank of India to control the currency and credit of the country. Federal Public Service Commission, Provincial Public Service Commission Joint Public Service Commission. Federal Court.
Indian Independence Act, 1947	- Gave immediate effect to Mountbatten Plan Ended British rule in India - Declared India independent and sovereign state from August 15, 1947. Partitioned of India and Pakistan as two independent dominions with right to secede from the British Commonwealth. - Empowered the Constituent Assemblies to frame and adopt any constitution of their respective nations Abolished the office of SSI and transferred powers to Secretary of State for Commonwealth Affairs. Discontinued the appointment of Civil Servants - Dropped the title of Emperor of India of the King of England. Crown ceased to be the Source of Authority. Deprived him of his right to veto bills or ask for a reservation of certain bills for his approval. - Designated the GGI and provincial governors = constitutional (nominal) heads of the states.

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.
- **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
- **Mahatma Gandhi was not a member** of the Constituent Assembly.
- **On April 28, 1947**, representatives of the **six states** became part of the assembly
- After the **Mountbatten Plan of June 3, 1947**, most 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
 - **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 the **integrity of the territory of the Republic and its sovereign rights** on land, sea and air according to justice and the law of civilised nations
 - **Attains its rightful and honoured place in the world** and makes its total 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 the Constitution
- Became the **legislative body**.
 - **Responsible for framing 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 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 the National Flag** of India on July 22, 1947
- **Adopted the 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 Supreme Court	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 the 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 and 8 Schedules.
- Provisions of citizenship, elections, provisional parliament, temporary and transitional provisions and short titles contained in Articles 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 the Privy Council Jurisdiction Act (1949) continued.

- **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 **58th Constitutional Amendment Act of 1987** which inserted a new **Article 394-A** in the last part of the constitution.

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 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."

- **Provides guidelines** for the Constitution
- **Embodies basic philosophy and fundamental values** as the basis for the Constitution
- **Reflects dreams and aspirations** of the 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.

Key Terms related to Preamble

- **Sovereignty: Absolute Independence** 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**.
 - **No state religion-** the state **does not support any particular religion**
- **Democratic Republic:** The 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 society and the provision of adequate opportunities for all individuals without discrimination.
 - Three **dimensions of equality**—civic, political and economic.
- **Fraternity:** the 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
SC stated that 'Preamble is the key to open the mind of the makers' but it cannot be considered as part of the Constitution. Therefore, it is not enforceable in a Court of law.	SC held that "Preamble of the Constitution will now be considered as part of the Constitution. The Preamble is not the supreme power or source of any restriction or prohibition but it plays an important role in the interpretation of statutes and provisions of the Constitution."	SC held that Preamble is the integral part of the Constitution but is not directly enforceable in a Court of justice in India.

Salient Features of the Constitution

- Longest written constitution:** it contains:
 - Originally (1949)**, it had a **Preamble, 395 Articles** (divided into **22 Parts**) and **8 Schedules**.
 - Presently:** a **Preamble, 25 parts, 448 Articles, 12 Schedules**, and **105 Amendments** to date.
 - Borrowed provisions** from several sources and constitutions of the world.

Countries	Borrowed Features of the Indian Constitution
Australia	- Concurrent list - Freedom of trade, commerce and intercourse - Joint-sitting of the two Houses of Parliament
Canada	- Federation with a strong Centre - Vesting of residuary powers in the Centre - Appointment of state Governors by the Centre - Advisory jurisdiction of the SC
Ireland	- Directive Principles of State Policy - Nomination of members to Rajya Sabha. - Method of election of the President
Japan	Procedure Established by law
USSR/Russia	- Fundamental Duties - Ideal of justice (social, economic and political) in the Preamble
UK	- Parliamentary Government - Rule of Law - Legislative procedure - Single Citizenship - Cabinet system - Prerogative writs - Parliamentary privileges - Bicameralism - Procedure Established by law

US	- Fundamental Rights - Independence of judiciary - Judicial Review - Impeachment of the President - Removal of SC and HC Judges - Post of vice-President
Germany (Weimar)	Suspension of Fundamental Rights during emergency
South Africa	- Procedure for Amendment in the Indian Constitution - Election of members of the Rajya Sabha
France	- Republic - Ideals of liberty, equality and fraternity in the Preamble

- Unique blend of rigidity and flexibility:**
 - Some parts can be amended by ordinary law-making procedure** while certain provisions can be amended **by a special majority**
- 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 Council of Ministers
- 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 universal adult franchise.
- Independent and Integrated Judicial System:** **free from the influence of the executive and the legislature.**
- Fundamental Rights, Fundamental Duties and DPSPs**
- Federation with a strong centralizing 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

Parts	Subject Matter	Articles Covered
I	The Union and its territory	1 to 4
II	Citizenship	5 to 11
III	Fundamental Rights	12 to 35
IV	Directive Principles of State Policy	36 to 51
IV-A	Fundamental Duties (Added by 42nd Amendment Act 1976)	51-A
V	The Union Government	52 to 151
	Chapter I - The Executive	52 to 78
	Chapter II - Parliament	79 to 122
	Chapter III - Legislative Powers of the President	123
	Chapter IV - The Union Judiciary	124 to 147
	Chapter V - Comptroller and Auditor-General of India	148 to 151
VI	The State Governments	152 to 237
	Chapter I – General	152
	Chapter II - The Executive	153 to 167
	Chapter III - The State Legislature	168 to 212
	Chapter IV - Legislative Powers of the Governor	213
	Chapter V - The High Courts	214 to 232
	Chapter VI - Subordinate Courts	233 to 237
VII	The state in part B of the first schedule (Deleted by 7th Amendment Act 1956)	238
VIII	The Union Territories	239 to 242
IX	The Panchayats	243 to 243-O
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IX-B	The Co-operative Societies (97 th Amendment Act 2011)	243-ZH to 243-ZT
X	The Scheduled and Tribal Areas	244 to 244-A
XI	Relations between the Union and the States	245 to 263
	Chapter I - Legislative Relations	245 to 255
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XII	Finance, Property, Contracts and Suits	264 to 300-A
	Chapter I - Finance	264 to 291
	Chapter II - Borrowing	292 to 293
	Chapter III - Property, Contracts, Rights, Liabilities, Obligations and Suits	294 to 300
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XIII	Trade, Commerce and Intercourse within the Territory of India	301 to 307
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	Chapter II - Public Service Commissions	315 to 323
XIV-A	Tribunals (42 nd Amendment Act 1976)	323-A to 323-B
XV	Elections	324 to 329-A
XVI	Special Provisions Relating to Certain Classes	330 to 342
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	Chapter II - Regional Languages	345 to 347
	Chapter III - Language of the Supreme Court, High Courts, and so on	348 to 349
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XVIII	Emergency Provisions	352 to 360
XIX	Miscellaneous	361 to 367
XX	Amendment of the Constitution	368
XXI	Temporary, Transitional and Special Provisions	369 to 392
XXII	Short title, Commencement, Authoritative Text in Hindi and Repeals	393 to 395

- Schedules are the lists categorising and tabulating bureaucratic activity and policy of the Government.

Schedule	Subject Matter	Articles covered
First Schedule	- Names of the States and their territorial jurisdiction. 2. Names of the Union Territories and their extent.	1 and 4
Second Schedule	Provisions relating to the emoluments, allowances, privileges and so on of: - President of India - Governors of States - Speaker and the Deputy Speaker of the Lok Sabha - Chairman and the Deputy Chairman of the Rajya Sabha - Speaker and the Deputy Speaker of the Legislative Assembly in the states - Chairman and the Deputy Chairman of the Legislative Council in the states - Judges of the Supreme Court - Judges of the High Courts - Comptroller and Auditor-General of India	59, 65, 75, 97, 125, 148, 158, 164, 186, 221
Third Schedule	Forms of Oaths or Affirmations for: - Union ministers - Candidates for election to the Parliament - Members of Parliament - Judges of the Supreme Court - Comptroller and Auditor-General of India - State ministers - Candidates for election to the state legislature - Members of the state legislature - Judges of the High Courts	75, 84, 99, 124, 146, 173, 188, 219
Fourth Schedule	Allocation of seats in the Rajya Sabha to the states and the union territories.	4 and 80
Fifth Schedule	Provisions relating to the administration and control of scheduled areas and scheduled tribes	244
Sixth Schedule	Provisions relating to the administration of tribal areas in Assam, Meghalaya, Tripura and Mizoram states. (Autonomous district councils)	244 and 275
Seventh Schedule	- 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 → 100 subjects (originally 97), state list → 61 subjects (originally 66), and concurrent list → 52 subjects (originally 47).	246
Eighth Schedule	- Languages recognized by the Constitution. - Originally, it had 14 languages, but presently, there are 22 languages. Original Languages: Assamese, Bengali, Bodo, Dogri (Dongri), Gujarati, Hindi, Kannada, Kashmiri, Konkani, Maithili, Malayalam, Manipuri, Marathi, Nepali, Oriya, Punjabi, Sanskrit, Santhali, Sindhi, Tamil, Telugu and Urdu. Additions: Sindhi → 21st Amendment Act (1967); Konkani, Manipuri and Nepali → 71st Amendment Act (1992); and Bodo, Dongri, Maithili and Santhali → 92nd Amendment Act (2003). Oriya was renamed as "Odia" by 96th amendment act of 2011	344 and 351
Ninth Schedule	- Acts and Regulations (originally 13 but presently 282) of the state legislatures dealing with land reforms and the abolition of the zamindari system. - Added by the 1st Amendment (1951) to protect the laws included in it from judicial scrutiny on the grounds of violating 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.	31-B
Tenth Schedule	- Provisions relating to disqualifying the members of Parliament and State Legislatures on the ground of defection. - Added by the 52nd Amendment Act of 1985 (Anti-defection Law).	102 and 191
Eleventh Schedule	- Specifies the powers, authority and responsibilities of Panchayats. - It has 29 matters. - This schedule was added by the 73rd Amendment Act of 1992.	243-G
Twelfth Schedule	- Specifies the powers, authority and responsibilities of Municipalities. - It has 18 matters. - This schedule was added by the 74th Amendment Act of 1992.	243-W

2 CHAPTER

Constitutional Amendment

- **Article 368 in Part XX** of the Indian Constitution
- **Source:** Constitution of South Africa
- Can be **initiated only in either House of Parliament** and not in the state legislatures.
- Can be **introduced either by a minister or by a private member**, and prior permission of the president is not required.
- After being passed by both Houses of Parliament and ratified by state legislatures - it is presented to **President for assent**.
- **President must give his assent** to the bill.
- He **can neither withhold his assent nor return the bill for reconsideration** by the Parliament.
- **After President's assent**, the bill **becomes a constitutional amendment act** and Constitution stands amended.

Types of Amendment

1. Amendment by Special Majority

- **Simple Majority:** Majority of the **members present and voting**, i.e., more than 50% of members present and voting.
- These provisions include:
 - **Admission or establishment** of new states.
 - **Formation of new states and alteration of areas**, boundaries or names of existing states.
 - **Abolition or creation of legislative councils**.
 - **Second, Fifth and Sixth Schedules**.
 - **Salaries and allowances of MPs**.
 - **Rules of procedure in Parliament**.

- **Privileges of the Parliament**.
- **Use of the English language** in Parliament.
- **Number of puisne judges** in the SC.
- **Conferment of more jurisdiction on the SC**.
- **Use of official language**.
- **Citizenship**—acquisition and termination.
- **Elections to Parliament and state legislatures**.
- **Delimitation of constituencies**.

2. Amendment by the special Majority

- **Special Majority:** Majority of the **total membership of each House and a majority of two-thirds** of the **members of each House present and voting**.
- These provisions include:
 - **Fundamental Rights**;
 - **Directive Principles of State Policy**

3. Amendment by Special Majority and Ratified by States

- Only **ratification of half of the states** is required.
- These provisions include:
 - **Election of the President** and its manner.
 - **Executive power of the Union and the states**.
 - **SC and HCs**.
 - **Distribution of legislative powers** between the Union and the states.
 - **Goods and Services Tax Council**
 - Any of the lists in the **Seventh Schedule**.
 - **Representation of states** in Parliament.
 - **Power of Parliament to amend the Constitution**.

Landmark Cases of Amendment in the Constitution

Shankari Prasad V Union of India 1951

- **Challenged:** Constitution (1st amendment), 1951
- **Claims:** Since Article 13(2) prohibits the enactment of laws abridging fundamental rights, it also prohibits such abridgment through amendment because an amendment is a law.
- **Courts verdict:** Court rejected the claim, holding that Article 368 comprised the ability to modify the constitution, including the fundamental rights, and that the word law in article 13(2) did not include a constitutional amendment made in the exercise of constituent rather than legislative power.
- **Constitutional Amendment lawful even if it restricts or eliminates any fundamental rights.**

Sajjan Singh V State of Rajasthan 1965

- **Challenged:** Constitution (17th Amendment) Act 1964
- **Context:** SC in Shankari Prasad case held that the words amendment of the Constitution means an amendment of all the provisions of the constitution.
- **Claims:** if the constitution makers intended to exclude the fundamental rights from the scope of the amending power they would have made a clear provision on that behalf.
- **Court's Verdict:** Approved its previous decision and held that Fundamental Rights can also be amended.

Golak Nath V State of Punjab 1967

- **Context:** Court decided that the constitution did not provide for a specific power to take away or abridge the fundamental rights enshrined in Part III of the Constitution even by an amendment under Article 368.
- **SC Suggested:** A constituent assembly could be summoned for this purpose by parliament in the exercise of its residuary power contained in entry 97 or of list 1 of the seventh schedule read with article 248 this decision led to the passing of the Constitution 24th Amendment Act 1971 which made significant changes in Article 368.
- **Court's Verdict:** Part III of the Constitution cannot be amended and Parliament cannot abridge the fundamental rights of the citizens.

Important Amendments in the Indian Constitution

Amendments	Changes introduced
1st Amendment Act, 1951	- The state was empowered to make special provisions for developing socially and economically backward classes. 9th Schedule included protecting land reforms and other laws from judicial review. - Articles 31A and 31B added.
7th Amendment Act, 1956	- Implementation of the State Reorganization Act. - Amended 2nd and 7th Schedules of the constitution.
10th Amendment Act, 1961	Nagaland was given the status of a state, and special provisions were made for it.
24th Amendment Act, 1971	- Amendment of Articles 13 and 368 related to the power of Parliament to amend the Constitution and procedure thereof. - The parliament was given the power to amend Fundamental Rights.
25th Amendment Act, 1971	- Article 31C was added to the Constitution related to the relationship between Directive Principles of State Policy and Fundamental Rights. - Article 31C conferred primacy of Articles 39(b) and 39(c) over Articles 14, 19 and 31.
26th Amendment Act, 1971	Privy purses and privileges given to Princely rulers were abolished.
34th Amendment Act, 1974	Land ceiling and land tenure reforms were added to the 9th Schedule of the Constitution.
38th Amendment Act, 1975	- Emergency and Promulgation of Ordinances by the President → non-justiciable. - The President was empowered to declare different proclamations of national emergency on different grounds simultaneously.
42nd Amendment Act, 1976 (Mini Constitution)	Preamble: 'Sovereign Socialist Secular Democratic Republic' was added. Parliament and State Legislatures: The term of the Lok Sabha and State Legislative Assemblies extended to 6 years. Executive: President shall act following the advice of the Council of Ministers in discharging his functions under Article 74. Judiciary: Article 32A- denied the Supreme Court the power to consider the Constitutional validity of the State law. Article 131A- granted the Supreme Court exclusive jurisdiction to determine the Constitutional validity of a central law. Article 144A- the minimum number of judges of the Supreme Court required to decide the Constitutional validity of a Central or State law was fixed to at least seven and required a two-thirds majority of the judges to declare the law unconstitutional. Several restrictions were imposed on the High Court's power to issue writs 'for any other purpose'. Federalism: Article 257A- enabled the Centre to deploy any armed force of the Union to tackle any grave situation of law and order in any State. Fundamental Rights and Directive Principles: Primacy was given to all Directive Principles over the Fundamental Rights contained in Articles 14, 19 or 31. Fundamental Duties: Article 51-A under Part IV-A prescribed Fundamental Duties to the citizens. Emergency: President was authorised to proclaim an emergency.
44th Amendment Act, 1978	- Term of Lok Sabha and State Legislative assemblies was restored to 5 years. - Deletion of the 39th Amendment that deprived the Supreme Court of its jurisdiction to decide disputes concerning the election of the President and the Vice-President Article 74(1)- the council of ministers shall be required to reconsider advice to the President, and he acts following the advice after such reconsideration. Article 257A was removed. Right to Property was removed as a Fundamental Right and became a legal right.
51st Amendment Act, 1984	Provision of reservation of seats in the Lok Sabha for Scheduled Tribes in Meghalaya, Arunachal Pradesh and Mizoram, Nagaland and Meghalaya.

52 Amendment Act, 1985	Prevent defection of Members of Parliament and State Legislatures from one political party to another.
61st Amendment Act, 1989	Reduced voting age from 21 years to 18 years for the Lok Sabha and Assembly elections.
65th Amendment Act, 1990	Amended Article 338 of the Constitution to include a National Commission for Scheduled Castes and Scheduled Tribes .
69th Amendment Act, 1991	Made Delhi as ' National Capital Territory of Delhi ' along with the provision of a 70-member assembly and a 7-member Council of Ministers for Delhi.
73rd Amendment Act, 1992	Panchayati Raj Institutions were included under the Eleventh Schedule that enumerated the powers and functions of Panchayati Raj Institutions. Provisions for a three-tier model of Panchayati Raj, reservation of seats for SCs and STs in proportion to their population and one-third reservation of seats for women were granted.
74th Amendment Act, 1992	The constitutional status given to Urban Local Bodies under the Twelfth Schedule enumerates the powers and functions of urban local bodies.
77th Amendment Act, 1995	Empowered the State to make any provisions for reservation in promotions in Government jobs in favour of SCs and STs.
86th Amendment Act, 2002	Article 21A included the Right to free and compulsory education as a fundamental right for children belonging to groups of 6 to 14 years .
93rd Amendment Act, 2005	Reservation for the socially and educationally backward classes in private unaided educational institutions.
97th Amendment Act, 2012	Part III- "Cooperative Societies" was added. - Under part IV, the creation of Cooperative societies was encouraged.
99th Amendment Act, 2014	The Union government of India established the National Judicial Appointments Commission (NJAC) .
100th Amendment) Act, 2015	Ratification of the land boundary agreement between India and Bangladesh. - Per the 1974 bilateral Land Boundary Agreement, amended the first schedule of the constitution to exchange the disputed territories occupied by both nations.
101 Amendment Act, 2017	Introduction to Goods and Service Tax .
102 Amendment Act, 2018	Provided constitutional status to the National Commission for Backward Classes .
103 Amendment Act, 2019	Under Article 15 , a maximum of 10% Reservation for Economically Weaker Sections (EWSs) of citizens of classes other than the classes.
104 Amendment Act, 2020	Extension of deadline for the cessation of seats for SCs and STs in the Lok Sabha and states assemblies to 80 years. Removal of the reserved seats for the Anglo-Indian community in the Lok Sabha and state assemblies.
105 Amendment Act, 2021	Amended Article 342A and introduced a new clause three and will also amend Articles 366 (26c) and 338B (9). - To restore the power of State governments to identify OBCs after a Supreme Court order in May 2021 empowered only the Centre to do so. - The "state list" will be completely taken out of the ambit of the President and will be notified by the state assembly. - As per the Indian Constitution, Articles 15 (4), 15 (5), and 16 (4) confer power on the State Government to declare and identify the list of socially and educationally backward classes. - As a practice, separate OBC lists are drawn up by the Central Government and each State concerned. - The amendment was thought necessary because the SC, in its order on Maratha reservation, upheld the 102nd Constitutional Amendment Act.

3

CHAPTER

Directive Principles of State Policy

- **Articles 36 - 51 in Part: IV** of the Indian constitution.
- **Sources:** Ireland (who derived them from the Spanish constitution)
- **Dr. B.R. Ambedkar:** 'novel features' of the Indian Constitution.

- **DPSP and FRs** contain the **philosophy** of the Constitution and are the **soul of the Constitution**.
- **Granville Austin:** DPSP and FRs are 'Conscience of the Constitution'.

- **List of DPSPs:**

Article	What it says	Type of Principle
Article 36	Defines State as same as Article 12 unless to context otherwise defines.	
Article 37	Application of the Principles contained in this part.	
Article 38	It authorises the state to secure a social order for the promotion of the welfare of people.	Socialist
Article 39	Certain principles of policies are to be followed by the state.	Socialist
Article 39A	Equal justice and free legal aid.	Socialist
Article 40	The organisation of village panchayats.	Gandhian
Article 41	Right to work, to education and public assistance in some instances.	Socialist
Article 42	Provision for just and humane conditions of work and maternity leaves.	Socialist
Article 43	Living wage etc., for workers.	Socialist
Article 43-A	Participation of workers in the management of industries.	Socialist
Article 43-B	Promotion of cooperative societies.	Gandhian
Article 44	Uniform civil code for the citizens.	Liberal
Article 45	Provision for early childhood care and education to children below the age of six years.	Socialist / Liberal
Article 46	Promotion of education and economic interests of SC, ST and other weaker sections	Gandhian
Article 47	The duty of the state is to raise the level of nutrition and the standard of living and to improve public health.	Socialist / Gandhian / Liberal
Article 48	The organisation of agriculture and animal husbandry.	Gandhian
Article 48-A	Protection and improvement of environment and safeguarding of forests and wildlife.	Liberal
Article 49	Protection of monuments and places, and objects of national importance.	Liberal
Article 50	Separation of judiciary from the executive.	Liberal
Article 51	Promotion of international peace and security.	Liberal

Feature of Directive Principles

- **Instructions to the State** for achieving **socio-economic development**.
- **Not enforceable** in the courts and no one can go to the court for its proper implementation
- **Positive in nature** and increase power and functions of the State
- **Constitute** a very comprehensive **economic, social and political** programme for a Welfare State.
- **Aim** at realising the high ideals of **justice, liberty, equality and fraternity** outlined in the Preamble.

- **Indispensable for socio-economic development** of our country as they formally bestow the responsibility of it on the state which has maximum power and resources at its disposal
- **Great moral value** - constitutes the **conscience of our Constitution**. No responsible government can dare to go against these principles
- **Constitute the mirror of public opinion** reflecting the will of the people.
- **Fundamental in the governance** of the country. The State should follow these principles for progress of the country

- **Non-justiciable** - helps the courts in examining and determining the constitutional validity of a law.
 - of international disputes by arbitration

New Directive Principles Subsequently Added

42nd Amendment Act 1976

- To secure opportunities for the healthy development of children. **(Article 39)**
- Equal opportunity for justice and free legal aid. **(Article 39A)**
- Right of workers to participate in management of industries. **(Article 43A)**
- To protect the environment, forests and wild animals. **(Article 48A)**

44th Amendment Act, 1978

- The State to minimise inequalities in income, status, facilities and opportunities. **(Article 38)**

86 Amendment Act, 2002

- changed the subject-matter of **Article 45** and made elementary education a fundamental right under Article 21 A.
- The amended directive requires the State to provide early childhood care and education for all children until they complete the age of six years

The 97th Amendment Act of 2011

- The state to promote voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies **(Article 43B)**.

Directive Principles Outside Part IV of the constitution

- **Claims of SCs and STs to Services:** 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 **(Article 335 in Part XVI)**.
- **Instruction in mother tongue:** Every state and local government within the state shall make every effort to offer suitable facilities for instruction in the mother tongue at the elementary level of education for children from linguistic minority groups **(Article 350-A in Part XVII)**.
- **Development of the Hindi Language:** It shall be the 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 **(Article 351 in Part XVII)**.

Order of Precedence

1. FR except 14 and 19.
2. DPSP 39(b) and 39(c).
3. FR 14 and 19.
4. DPSP except 39(b) and 39(c).

4 CHAPTER

Fundamental Rights

- **Articles 12 - 35** in **Part III** of the Indian Constitution
- **Source:** Constitution of USA (some provisions from French Constitution too)

Articles	Provisions
Article 12	Definition
Article 13	Laws inconsistent with or in derogation of the fundamental rights.
Article 14-18	Right To Equality
Articles 19-22	Right To Freedom
Articles 23-24	Right Against Exploitation
Articles 25-28	Freedom of Religion
Articles 29-30	Cultural and Educational Rights
Article 31	Right to Property (Omitted)
Articles 32-35	Right to Constitutional Remedies

- **1st Demand:** Constitution of India Bill, in 1895, also known as the Swaraj Bill
- **Inspiration:** England's Bill of Rights (1689), the United States Bill of Rights and France's Declaration of Rights of Man.
- **1st Proposal:** Nehru Commission 1928
- **Adoption:** INC passed **resolutions in 1931** pledging to defend fundamental civil and socio-economic rights.
- **Inclusion in Constitution:** By Drafting Committee

Features of Fundamental Rights

- **Integral Part of Constitution:** Cannot be taken away by an ordinary law
- **Comprehensive and Detailed:** Are very elaborate, each article described with its scope and limitation
- **Lack of Social and Economic Rights:** Guarantees only **civil rights**, Rights like Right to work, right to health are missing.
- **Rights are qualified:** **Not absolute except the right against untouchability**, they are qualified and with limitations and reasonable restrictions.
- **Enforceability of rights:** **Justiciable** rights i.e. means if any of these rights are violated, **an individual has the right to move to the SC.**
- **Fundamental rights are amendable:** **Not sacrosanct or permanent**, they can be amended by the parliament.
- **Provision for the suspension of Rights:** Suspended during an emergency.
- **Constitutional Superiority of Fundamental rights:** Superior **than the ordinary laws and DPSP.**
- **Special Rights for the minorities:** Guarantee some special rights to minorities of various kinds.

- **No natural rights:** constitution does not recognize **natural rights** or unenumerated rights.
- **Right to Property not a fundamental right:** Due to hindrances posed by the right to property in the way of implementing socio- economic reforms it was deleted from fundamental rights.

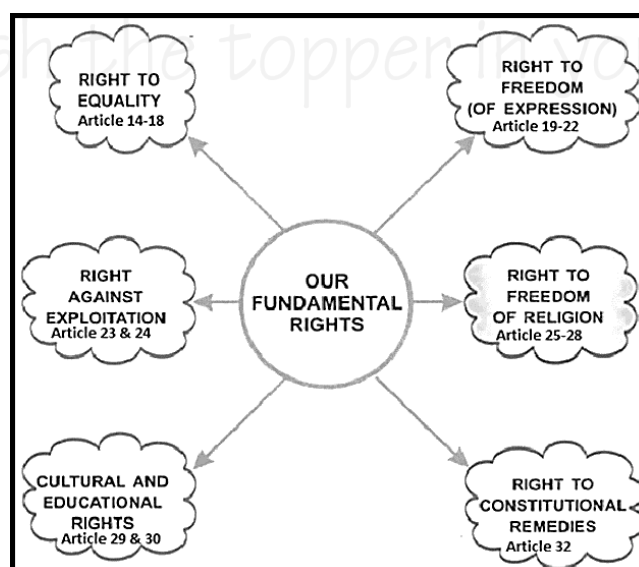
Article 12: Definition of State

- **Article 12 - "The State" includes**
 - The **Government and Parliament of India**
 - The Government and the Legislature of each of the **States**
 - All **local or other authorities within the territory of India or under the control of the Government of India**

Article 13: Laws inconsistent with or in derogation of the fundamental rights

- Article 13 specifies that a **constitutional amendment is not a law and cannot be overturned.**
 - **Kesavananda Bharati case (1973)** - SC concluded that a **constitutional amendment can be challenged on the grounds**
 - If it **violates a fundamental right that is part of the Constitution's 'basic structure,'** it can be declared unconstitutional.

Six Fundamental Rights



1. Right to Equality (Articles 14-18)

- **Article 14:** Equality Before law and Equal protection of laws

Exceptions to the rule of equality

- Immunities to the President and Governors
- Foreign sovereigns and ambassadors.
- **Article 15:** Prohibition on discrimination on certain grounds.
 - **Article 15 (1):** State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth
 - **Article 15 (2):** No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to
 - Access to shops, public restaurants, hotels and places of public entertainment; or
 - use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds.

Exceptions to rule of Non-Discrimination

- Special provision for women and children
- Provisions for the progress of socially and educationally deprived persons

- Special provision for the advancement of any EWSs of citizens
- **Article 16-** Equality of opportunity in public employment

Exceptions to the rule of equality of opportunity in public employment:

- **Parliament can make residency a condition** for specific jobs or appointments in a state, union territory, municipal government, or other body.
- **State may reserve appointments and posts for Backward classes not sufficiently represented** in the state.
- **Holder of a religious or denominational institution's position or a member of its governing body must be of that faith or denomination.**
- State allowed creating a provision of **reservation for up to 10% (in addition to the current reservation)** of appointments or posts to be reserved for **economically disadvantaged persons.**
- **Article 17-** Abolition of Untouchability
- **Article 18:** Abolition of titles

2. Right to Freedom (Article 19-22)

