



NEHRU COLLEGE OF ENGINEERING AND RESEARCH CENTRE
(NAAC Accredited)
(Approved by AICTE, Affiliated to APJ Abdul Kalam Technological University, Kerala)



DEPARTMENT OF MECHATRONICS ENGINEERING
COURSE MATERIALS



MCN 202 CONSTITUTION OF INDIA

VISION OF THE INSTITUTION

To mould true citizens who are millennium leaders and catalysts of change through excellence in education.

MISSION OF THE INSTITUTION

NCERC is committed to transform itself into a center of excellence in Learning and Research in Engineering and Frontier Technology and to impart quality education to mould technically competent citizens with moral integrity, social commitment and ethical values.

We intend to facilitate our students to assimilate the latest technological know-how and to imbibe discipline, culture and spiritually, and to mould them in to technological giants, dedicated research scientists and intellectual leaders of the country who can spread the beams of light and happiness among the poor and the underprivileged.

ABOUT DEPARTMENT

- ◆ Established in: 2013
- ◆ Course offered: B.Tech Mechatronics Engineering
- ◆ Approved by AICTE New Delhi and Accredited by NAAC
- ◆ Affiliated to the University of Dr. A P J Abdul Kalam Technological University.

DEPARTMENT VISION

To develop professionally ethical and socially responsible Mechatronics engineers to serve the humanity through quality professional education.

DEPARTMENT MISSION

- 1) The department is committed to impart the right blend of knowledge and quality education to create professionally ethical and socially responsible graduates.
- 2) The department is committed to impart the awareness to meet the current challenges in technology.
- 3) Establish state-of-the-art laboratories to promote practical knowledge of mechatronics to meet the needs of the society

PROGRAMME EDUCATIONAL OBJECTIVES

- I. Graduates shall have the ability to work in multidisciplinary environment with good professional and commitment.
- II. Graduates shall have the ability to solve the complex engineering problems by applying electrical, mechanical, electronics and computer knowledge and engage in lifelong learning in their profession.
- III. Graduates shall have the ability to lead and contribute in a team with entrepreneur skills, professional, social and ethical responsibilities.
- IV. Graduates shall have ability to acquire scientific and engineering fundamentals necessary

for higher studies and research.

PROGRAM OUTCOME (PO'S)

Engineering Graduates will be able to:

PO 1. Engineering knowledge: Apply the knowledge of mathematics, science, engineering fundamentals, and an engineering specialization to the solution of complex engineering problems.

PO 2. Problem analysis: Identify, formulate, review research literature, and analyze complex engineering problems reaching substantiated conclusions using first principles of mathematics, natural sciences, and engineering sciences.

PO 3. Design/development of solutions: Design solutions for complex engineering problems and design system components or processes that meet the specified needs with appropriate consideration for the public health and safety, and the cultural, societal, and environmental considerations.

PO 4. Conduct investigations of complex problems: Use research-based knowledge and research methods including design of experiments, analysis and interpretation of data, and synthesis of the information to provide valid conclusions.

PO 5. Modern tool usage: Create, select, and apply appropriate techniques, resources, and modern engineering and IT tools including prediction and modeling to complex engineering activities with an understanding of the limitations.

PO 6. The engineer and society: Apply reasoning informed by the contextual knowledge to assess societal, health, safety, legal and cultural issues and the consequent responsibilities relevant to the professional engineering practice.

PO 7. Environment and sustainability: Understand the impact of the professional engineering solutions in societal and environmental contexts, and demonstrate the knowledge of, and need for sustainable development.

PO 8. Ethics: Apply ethical principles and commit to professional ethics and responsibilities and

norms of the engineering practice.

PO 9. Individual and team work: Function effectively as an individual, and as a member or leader in diverse teams, and in multidisciplinary settings.

PO 10. Communication: Communicate effectively on complex engineering activities with the engineering community and with society at large, such as, being able to comprehend and write effective reports and design documentation, make effective presentations, and give and receive clear instructions.

PO 11. Project management and finance: Demonstrate knowledge and understanding of the engineering and management principles and apply these to one's own work, as a member and leader in a team, to manage projects and in multidisciplinary environments.

PO 12. Life-long learning: Recognize the need for, and have the preparation and ability to engage in independent and life-long learning in the broadest context of technological change.

PROGRAM SPECIFIC OUTCOME(PSO'S)

PSO 1: Design and develop Mechatronics systems to solve the complex engineering problem by integrating electronics, mechanical and control systems.

PSO 2: Apply the engineering knowledge to conduct investigations of complex engineering problem related to instrumentation, control, automation, robotics and provide solutions.

COURSE OUTCOME

After the completion of the course the student will be able to

CO 1	Explain the background of the present constitution of India and features.
CO 2	Utilize the fundamental rights and duties.
CO 3	Understand the working of the union executive, parliament and judiciary.
CO 4	Understand the working of the state executive, legislature and judiciary.
CO 5	Understand the working of the state executive, legislature and judiciary.
CO 6	Show national and patriotic spirit as responsible citizens of the country

CO VS PO'S AND PSO'S MAPPING

CO	PO1	PO 2	PO3	PO 4	PO5	PO6	PO7	PO8	PO9	PO10	PO11	PO12	PS0 1	PSO 2
CO 1	-	-	-	-	-	2	2	2	-	2	-	-	-	-
CO 2	-	-	-	-	-	3	3	3	-	3	-	-	-	-
CO 3	-	-	-	-	-	3	2	3	-	3	-	-	-	-
CO 4	-	-	-	-	-	3	2	3	-	3	-	-	-	-
CO 5	-	-	-	-	-	3	2	3	-	3	-	-	-	-
CO 6	-	-	-	-	-	3	3	3	-	2	-	-	-	-

Note: H-Highly correlated=3, M-Medium correlated=2, L-Less correlated=1

SYLLABUS

Course Contents and Lecture Schedule

No	Topic	No. of Lectures
1	Module 1	
1.1	Definition of constitution, historical back ground, salient features of the constitution.	1
1.2	Preamble of the constitution, union and its territory.	1
1.3	Meaning of citizenship, types, termination of citizenship.	2
2	Module 2	
2.1	Definition of state, fundamental rights, general nature, classification, right to equality ,right to freedom , right against exploitation	2

2.2	Right to freedom of religion, cultural and educational rights, right to constitutional remedies. Protection in respect of conviction for offences.	2
2.3	Directive principles of state policy, classification of directives, fundamental duties.	2
3	Module 3	
3.1	The Union executive, the President, the vice President, the council of ministers, the Prime minister, Attorney-General, functions.	2
3.2	The parliament, composition, Rajya sabha, Lok sabha, qualification and disqualification of membership, functions of parliament.	2
3.3	Union judiciary, the supreme court, jurisdiction, appeal by special leave.	1
4	Module 4	
4.1	The State executive, the Governor, the council of ministers, the Chief minister, advocate general, union Territories.	2
4.2	The State Legislature, composition, qualification and disqualification of membership, functions.	2
4.3	The state judiciary, the high court, jurisdiction, writs jurisdiction.	1

5	Module 5	
5.1	Relations between the Union and the States, legislative relation, administrative relation, financial Relations, Inter State council, finance commission.	1
5.2	Emergency provision, freedom of trade commerce and inter course, comptroller and auditor general of India, public Services, public service commission, administrative Tribunals.	2
5.3	Official language, elections, special provisions relating to certain classes, amendment of the Constitution.	2

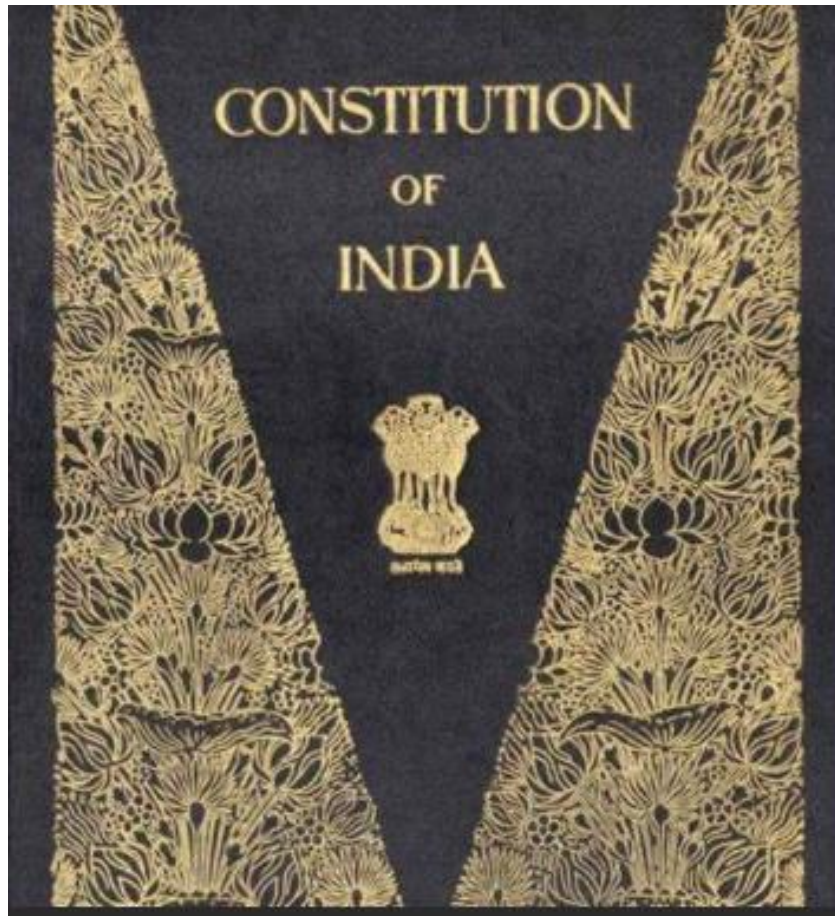
INDIAN CONSTITUTION

INTRODUCTION

The Constitution of India came into force on 26th January, 1950. At the time of its adoption, the Constitution contained 395 Articles and 8 Schedules and was about 145,000 words long, making it the longest national Constitution to ever be adopted. Every Article in the Constitution was debated by the members of the Constituent Assembly, who sat for 11 sessions and 167 days to frame the Constitution, over a period of 2 years and 11 months.

This section contains every Article in the amended Constitution of India (as of 2020), with its corresponding Article in the Draft Constitution of India, 1948. Each Article also contains a summary of the debates on that Article in the Constituent Assembly. The Articles are grouped into 22 different parts, which reflects how they are organized in the text of the Constitution of India, 1950

The Schedules to the Constitution, which are now 12 in number, elaborate on government policy or rules in relation to specific Articles of the Constitution. Each Schedule in this section is tagged with the corresponding Article(s) for ease of understanding.



HISTORY OF INDIAN CONSTITUTION

The Constitution of India holds a unique place in the country's history. This is because it created a sovereign republic that is the modern state of India. The history of the Constitution offers some interesting insights into the state of affairs before Independence. It took persistent efforts for several years to draft and enact our Constitution.

The Indian Constitution is one of the most comprehensive documents of its kind. Apart from being the longest, it is also famous for containing all minute details governing the Indian state.

Before Independence, India consisted of two entities: the British government and the princely states. It is the Constitution which formally ended these two distinctions and created the Union of India.

The Constitution of India is its *lex loci*, i.e. the parent of all laws in India. This basically means that all laws of Parliament and state legislatures derive their authority from the Constitution. Even the three pillars of the Indian state – legislature, executive and judiciary- derive authority from the Constitution.

Without the Constitution, we would not have the administrative machinery which runs India. Even the fundamental rights and duties of the people would not exist without the Constitution.

Historical Evolution of the Indian Constitution

There are various layers in the background of the Indian Constitution:

- Regulating Act 1773
- Pitt's India Act 1784
- Charter Act of 1813
- Charter Act of 1833
- Charter Act of 1853
- Government of India Act 1858
- Indian Councils Act 1861
- India Councils Act 1892
- Morley-Minto Reforms 1909
- Montague-Chelmsford Reforms 1919
- Government of India Act 1935
- Indian Independence Act 1947

These acts were in some way instrumental for the development of the Indian Constitution.

Regulating Act 1773

- First time the British Parliament resorted to regulating the affairs of the East India Company.
- The Governor of Bengal was made the Governor-General of Bengal (Warren Hastings).
- An Executive Council of the Governor-General was created with 4 members.
- Centralised the administration with the Presidencies of Madras and Bombay being made subordinate to the Bengal Presidency.

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- Supreme Court was established at Calcutta as the Apex Court in 1774.
- Prohibited company officials from engaging in private trade and from accepting gifts from Indians.

Pitt's India Act 1784

- Commercial and political functions of the company separated. The Court of Directors managed the commercial activities while the Board of Control managed political affairs.
- The company territories in India were called 'British possession in India'.
- Governor's Councils were set up in Madras and Bombay as well.

Charter Act 1813

- This act ended the East India Company's monopoly over trade with India except in tea and opium. Trade with India was open to all British subjects.

Charter Act 1833

- Governor-General of Bengal was designated the Governor-General of India (Lord William Bentinck).
- The legislative powers of the Bombay and Madras Presidencies were removed.
- This act ended the commercial activities of the company and it was transformed into an

Charter Act 1853

- The legislative and executive powers of the Governor-General's Council were separated.
- A Central Legislative Council was created of 6 members out of which 4 were appointed by the provisional governments of Madras, Bombay, Agra and Bengal.
- The Indian civil service was opened as a means to recruit officers for administration through open competition.

Government of India Act 1858

- After the 1857 revolt, the rule of the company was ended and the British possessions in India came directly under the British Crown.
- The office of the Secretary of State for India was created. He was assisted by a 15-member Council of India.
- The Indian administration was under his authority and the Viceroy was his agent. The

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Governor-General was designated the Viceroy as well (Lord Canning).

- The Court of Directors and the Board of Control were abolished.

Indian Councils Act 1861

- Indians were given representation in the Viceroy's Councils. 3 Indians entered the Legislative Council.
- Provisions were made for the entry of Indians in the Viceroy's Executive council also as non-official members.
- Portfolio system was recognised.
- Decentralisation initiated with the presidencies of Madras and Bombay being restored their legislative powers.

Indian Councils Act 1892

- Indirect elections (nominations) were introduced.
- Legislative Councils expanded. Gave more functions to the legislative councils such as the discussion of budget and questioning the executive.

Indian Councils Act 1909 (Morley-Minto Reforms)

- Direct elections to the legislative councils were introduced for the first time.
- Central Legislative Council became the Imperial Legislative Council.
- The number of members of the legislative council was increased from 16 to 60.
- The concept of the separate communal electorate was accepted.
- For the first time, an Indian was made a member of the Viceroy's Executive Council. (Satyendra Prasad Sinha – Law Member).

Government of India Act 1919 (Montague-Chelmsford Reforms)

- Central and provincial subjects were separated.
- Diarchy was introduced in the provincial governments with executive councillors being in charge of the reserved list and the ministers in charge of the transferred list of subjects.
- The ministers were nominated from among the elected members of the legislative council and were responsible to the legislature.

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- A bicameral legislature was introduced for the first time at the centre. (Legislative council and legislative assembly later to become Rajya Sabha and Lok Sabha respectively).
- It mandated 3 members of the Viceroy's executive council to be Indians.
- This act provided for the first time, the establishment of a public service commission in India.
- This act extended the right to vote and with this, about 10% of the population acquired voting rights.

Government of India Act 1935

- An all-India Federation was proposed which would consist of British India and the princely states. This never materialised though.
- Subjects were divided between the centre and the provinces. Centre was in charge of the Federal List, provinces in charge of the Provincial List and there was a Concurrent List which both catered to.
- Diarchy was abolished at the provincial level and introduced at the centre.
- More autonomy was accorded to the provinces and in 6 out of 11 provinces, the bicameral legislature was introduced.
- A federal court was established and the Indian Council abolished.
- Burma and Aden were severed off from India.
- This act provided for the establishment of the RBI.
- This Act continued until it was replaced by the new Indian Constitution.

Indian Independence Act 1947

- India was declared independent and sovereign.
- The Viceroy and the Governors were made constitutional (nominal) heads.
- Set up responsible governments at the centre and the provinces.
- Assigned both legislative and executive powers to the Constituent Assembly of India.

MAKING OF INDIAN CONSTITUTION

The Constitution of India was not prepared in haste but the process of the evolution of the constitution began many decades before India became independent in 1947.

The process continued unabated since it originated in the freedom struggle till a new constitution was drafted after prolonged debates and discussions in the Constituent Assembly.

The day 26th of January, 1950 was a red-letter day in the history of India. On that day the written constitution of India came into operation.

January 26th was purposefully chosen (as the date on which the constitution became operative) because since 1930, the day has been celebrated as the day of complete independence throughout India by millions of people. It is very befitting to declare such a historic day as the day of operation of the Constitution of Republic of India. The Constitution of India was the longest written constitution having the best elements of all the existing constitutions up to that date.

The Constitution of India is the modern sacred text of the contemporary India. It reflects the new aspirations and values of the people of India and testifies how the people of India are the supreme masters in all matters concerning the welfare of Indians.

A galaxy of learned wise men interested in the longevity of the emerging nation of India framed the constitution in its present form after a thorough debate and discussion of each proposal. The nationalists consciously, popularized the concepts of parliamentary democracy, republicanism, civil liberties, social and economic justice which happen to be the most basic tenets of the constitution.

Bipan Chandra rightly remarks, “When the constitution in 1950 adopted a parliamentary form of government, with a cabinet led by a prime minister it was not, as is commonly supposed, the British parliament that it was emulating. It was formalizing nationalist practices, which the people were already familiar with”. Even the spirit of democracy was familiarized by the national movement. Bipan Chandra correctly points out, “this found expression in widespread mass participation. It ensured a place for adult franchise after independence”.

A view is in circulation that the British initiated a modern responsible constitutional government in India and the constitution was merely the culmination of the series of constitutional initiatives made by them in 1861, 1892, 1909, 1919 and 1935. This view is not totally correct as the British government conceded reluctantly and belatedly only partially the demands of the leaders of the national movement and tried to reduce the intensity of the movement as a last resort from time to time.

Gandhi’s statement made in 1922 proves “Swaraj will not be a free gift of the British Parliament. It will be a declaration of India’s full self-expression. That it will be expressed through an act of

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Parliament is true. Swaraj can never be a free gift by one nation to another. It is a treasure to be purchased with a nation's best blood. It will cease to be a gift when we have paid clearly for it".

This statement of Gandhi clearly proves beyond doubt that the British did introduce constitutional reforms by their voluntary initiative is a myth. No doubt, the British introduced the principle of election in the 1892 Indian Council Act in partial response to a sustained struggle by the press and the Indian nationalists for more than two decades and while the nationalists demanded elections to the councils and elected majorities and greater powers to the non-official members, the British by the Act of 1892 provided for election principle but limited it to minority only.

There was a see-saw battle between the demands of the national movement and the concessions granted through the Acts of 1909, 1919 and 1935. The leaders of the national movement started demanding for grant of responsible government in India from 1890 onwards and by 1916 they began to "espouse the doctrine of self-determination or the right of the Indians to frame their own constitution". Thus, the desire to have a constitution based on self-determination was as old as 1916.

In response to the continuous demand of the national movement, the British government appointed all-white Simon Commission in November 1927 to recommend constitutional changes. The Secretary of State, Lord Borkenhead, challenged the Indians "Let them produce a constitution which carries behind it a fair measure of general agreement among the great peoples of India" in 1925 and reiterated the challenge again in 1927, moving a bill for the appointment of the Simon Commission.

In response the national movement as one man boycotted the Simon Commission in all parts of India and appointed a committee with Motilal Nehru as the Chairman in 1928 "to determine the principles of the constitution for India". The Nehru report was submitted on 10 August, 1928. It was an outline of a draft constitution for India. Most of its features were later included in the Constitution of India. It visualized a parliamentary system with full responsible government and joint electorates with time bound reservation of seats for minorities. The Nehru's report laid special emphasis on securing fundamental human rights for the people of India. Of the nineteen rights listed in the Nehru report, ten were incorporated into the constitution. The Nehru report has recommended that "the redistribution of provinces should take place on a linguistic basis".

This was followed by the declaration of complete independence as their objective and followed with the launching of mass civil disobedience movement in April 1930. In 1934, the Congress Working Committee rejected the white paper presented by the British government on further constitutional reforms and resolved that the "only satisfactory alternative to the white paper is a constitution drawn by a Constituent Assembly elected on the basis of adult suffrage or as near it as possible".

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After 1934 the demand for the Constituent Assembly became very frequent and they included it in the Congress manifesto for the year 1936-37 elections. The Congress won majority of states in 1937 elections and in its Faizpur session demanded the newly elected members of the assemblies to articulate the demand for a Constituent Assembly as soon as possible in the new legislatures.

The demand for the Constituent Assembly become vociferous and in the meanwhile the Second World War broke out in 1939 and in order to secure the cooperation of the Indians in the Second World War, the British for the first time announced in 1940 by August offer that the framing of the new constitution should be primarily the responsibility of the Indians themselves. It also offered to set up, after the end of the war, “a body representative of the principal elements in India’s national life, in order to devise the framework of the new constitution”.

This offer, unfortunately, did not spell out, how the body is going to be constituted, and also the method to be followed in deciding the membership of the body to be constituted. This vague aspect proves that the British reluctantly agreed to this idea of Constituent Assembly and were not serious about its implementation.

Consequently, this offer of 1940 was rejected by all the shades of nationalists and the Congress Party started the Individual Civil Disobedience movement to register their protest. In 1942, the British government appointed Cripps Mission. The Cripps proposals categorically stated that the constitution would be the sole responsibility of the Indians alone.

The idea of the Constituent Assembly was also accepted and they spelt out its modalities and in other respects, it failed. Once again there was confrontation between the Congress and the British, which resulted in the Quit India movement of 9 August, 1942. For the first time openly and vehemently, the nationalists demanded the British to ‘Quit India’ and exhorted the Indians ‘do or die’ in this struggle. The Government of India took all measures to suppress this Quit India struggle and at the end of the war in 1945, they issued a white paper, which was followed by the abortive Simla Conference.

The victory of the Labour Party in England and change in the guard enabled the British government to declare and promise to convene a constitution-making body as soon as possible. The Cabinet Mission was appointed to carry out this purpose and it visited India in 1946, on 24 March. After a lot of deliberation between the Congress and the Muslim League and the British, finally the Constituent Assembly came into existence.

As we know that the constitution is the supreme law of any country, therefore the Constitution of India is the supreme law of India. The document lays down the framework demarcating fundamental political code, structure, procedures, powers, and duties of government institutions and sets out fundamental rights, directive principles, and the duties of citizens. It is the longest written constitution of any country on earth. It imparts constitutional supremacy (not parliamentary supremacy, since it was created by a constituent assembly rather than Parliament)

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and was adopted by its people with a declaration in its preamble. Parliament cannot override the constitution.

The Constituent Assembly

The Constituent Assembly for India was put forward by MN Roy in 1934. After this idea there were many conversations taken place and finally, a Cabinet Mission was sent to India and lastly, the Constituent Assembly was constituted in November 1946 under the scheme formulated by the Cabinet Mission Plan.

Setting up of the Constituent Assembly

The Constituent Assembly, which had been elected for undivided India and held its first sitting on 9th December 1946, reassembled on August 14, 1947, as the sovereign Constituent Assembly for the Dominion of India. It was elected by indirect election by the members of the Provincial Legislative Assembly (Lower House only), according to the scheme recommended by the Cabinet Delegation.

The features of the scheme were:

1. The Provinces elected 292 members while the Indian States were allotted a maximum of 93 seats,
2. The seats in each province were distributed among the three main committees Muslim, Sikh, and General, in proportion to their respective population.
3. Members of each community in the Provincial Legislative Assembly elected their own representatives by the method of proportional representation with a single transferable vote.
4. The representatives of princely states were to be nominated by the heads of the princely states.

The Constituent Assembly formally began its task of framing the Constitution of India on the 13th of December, 1946 with Jawaharlal Nehru moving the Objectives Resolution. The purpose of the resolution was to "... proclaim India as the Independent Sovereign Republic and to draw up for her future governance a Constitution..." The resolution put forth broad principles that would inform the working of the Constituent Assembly. The Constituent Assembly adopted the resolution on 22 January 1947.

The representatives of the princely states gradually joined it. On 28th April 1947, representatives of the six states were part of the Assembly. After the acceptance of the Mountbatten Plan of June 3, 1947 for a partition of the country, the representatives of the most of the other princely states took their seats in the Assembly.

Other Functions of the Constituent Assembly

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In addition to the making of the Constitution and enacting of the ordinary laws, the Constituent Assembly also performed the following functions:

1. It rectified the membership enrolment in the commonwealth in May 1949.
2. It adopted the national flag on July 22, 1947.
3. It adopted the national anthem on January 24, 1950.
4. It adopted the national song on January 24, 1950.
5. It elected Dr Rajendra Prasad as the first President of India on January 24, 1950.

In all, the Constituent Assembly had 11 sessions over two years, 11 months and 18 days. The Constitution-making had gone through the constitutions of about 60 countries, and the Draft Constitution was considered for 114 days. The total expenditure incurred on making the Constitution amounted to Rs 64 lakh. On January 24, 1950, the Constituent Assembly held its final session. It, however, did not end and continued as the provisional parliament of India from January 26, 1950, till the formation of new Parliament after the first general elections in 1951-52.

Committees of the Constituent Assembly

The Constituent Assembly appointed a number of committees to deal with different tasks of constitution-making. Out of these, eight were major committees and the others were minor committees. The Constituent Assembly selected 22 committees to deal with diverse tasks of Constitution-making. Out of these, 10 were on procedural affairs and 12 on substantive affairs.

The names of these committees and their chairmen are given below:

Major Committees	Chairman
Drafting Committee	Dr. B.R. Ambedkar
Steering Committee, Ad hoc Committee on the National flag, Committee on the Rules of Procedure, Finance and Staff Committee	Rajendra Prasad
Advisory Committee on Fundamental Rights, Committee on Minorities and Tribal and Excluded Areas, Provincial Constitution Committee	Vallabhbhai Patel
Committee on the Functions of the Constituent Assembly	G.V. Mavalankar

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Special Committee to Examine the Draft Constitution	Alladi Krishnaswami Ayyar
Excluded and Partially Excluded Areas Sub-Committee	A.V. Thakkar
Fundamental Rights Sub-Committee	J.B. Kripalani
House Committee	B. Pattabhi Sitaramayya
Minorities Sub-Committee	H.C. Mukherjee
North-East Frontier Tribal Areas and Assam, Excluded and Partially Excluded Areas Sub-Committee	Gopinath Bardoloi
Order of Business Committee	K.M. Munshi
Union Constitution Committee, Union Powers Committee, States Committee	Pt. Jawaharlal Nehru

Enactment of the Constitution of India

Dr. BR Ambedkar introduced the final draft of the Constitution in the Assembly on November 4, 1948. The motion on Draft Constitution as passed on November 26, 1949 and received the signatures of the members and the president. This date is mentioned in the Preamble as the date on which the people of India in the Constituent Assembly adopted, enacted and gave to themselves this Constitution. The Constitution as adopted on November 26, 1949, contained a Preamble, 395 Articles and 8 Schedules. The Preamble was enacted after the entire Constitution was already enacted. The remaining provisions of the Constitution came into enforce on January 26, 1950. This day is referred to in the Constitution as the date of its commencement and celebrated as Republic Day.

The constitution was published at Dehradun and the final constitution took almost 5 years to publish. Before adopting the Constitution, the assembly held eleven sessions in 165 days. Since the constitution was adopted on the 26th of November, we also know that day as the National Law Day or Constitution Day. This day is also known as the day where the significance of the constitution is spread through the thoughts of Ambedkar. The cost estimated for the making of the constitution was 6.3 crores!

The 26th of January 1930 was declared as Independence Day by the Congress but India did not get Independence until **1947** and did not become a republic until **1950**. The reason it was considered to become a republic in 1950 was due to the enactment of the Constitution. Even when the country was free from the British Raj still, we used to follow the British monarch

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which was replaced by India's newly adapted constitution and so, India became a Republic.

The Constitution of India is not just a book of laws but it is a living document which carries the guidelines to make the working of the government efficient and also puts down the basic framework that defines fundamental political principles and it also lays down the structure, power, procedures, etc. When the constitution was commenced, it had 395 articles in 22 portions and 8 schedules and consisted of almost 80,000 words.

Sources of the Constitution at a Glance

United Kingdom	Parliamentary government Concept of single citizenship Rule of law The legislative speaker and their role Legislative procedure
United States	Bill of Rights The federal structure of government Electoral College Independent judiciary and separation of powers Judicial review President as commander-in-chief of the armed forces Equal protection under the law

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Ireland	Directive Principles of State Policy The nomination of a member to Rajya Sabha Method of election of President
Australia	Freedom of trade between states National legislative power to implement treaties, even on matters outside normal federal jurisdiction Concurrent List Preamble terminology
France	Idea of liberty, equality, fraternity in the Preamble
Canada	Quasi-federal government-a federal system with a strong central government Distribution of powers between the central and state governments Residual powers, retained by the central government
Soviet Union Soviet Union	Fundamental Duties under article 51-A Mandated planning commission to oversee economic development

Germany Weimar Republic	The emergency provision under article 356
South Africa	Amending the Constitution
Japan	Procedure established by Law

FEATURES OF THE INDIAN CONSTITUTION

The Constitution of India became effective on 26 January 1950. B. R. Ambedkar was the chairman of the drafting committee. It lays down the fundamental political code, structure, procedures, powers, and duties of government institutions. Also, it sets out fundamental rights, directive principles, and the duties of citizens. It is the supreme law of India.

The constitution of India was created by a constituent assembly and not by the Parliament of India. It was adopted by its people with a declaration in its preamble. Thus, the Parliament of India cannot override the Indian constitution.

The features of Indian constitution are:



1. Lengthiest constitution

It is the lengthiest and the longest constitution in the world. It has 395 Articles and 12 Schedules.

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Also, about 90 Articles have been added since 1951 and there have been more than 100 Amendments.

But, as the Articles are not separately added but as a part of an existing Article, the total number of Articles remain the same.

2. Drawn from Different Sources

The basis of the basic structure such as Federal scheme, Judiciary, Governors, Emergency powers, Public Service Commissions, Administrative details, etc. are from the Government of India Act, 1935.

Similarly, the fundamental rights are from the American constitution, Directive Principles from the Irish Constitution and the Cabinet form of government is from the British Constitution.

Also, it adopts various provisions from the Constitutions of Canada, Australia, Germany, USSR, and France.

3. Federal System and Unitary Features

The federal features of governance are a dual system of government i.e. center and states, the division of powers between the executive, judiciary and legislature which are the three organs of the state, Supremacy of the Constitution, independent Judiciary and bicameralism.

The Indian constitution contains all these features. Thus, it is a federal system.

But, it also contains many unitary features such as a strong center, All India Services common to the center and the states, emergency provisions that can modify the Constitution into a unitary one, the appointment of Governors by the President on the advice of the center, etc.

Article 1 of the Indian constitution clearly mentions that India is a “Union of states”.

Therefore, this makes the Indian Constitution a federal system with unitary features.

4. Parliamentary Form of Government

The Indian Constitution chose the Parliamentary form of government. In a Parliamentary form of government executive is part of the legislature and there is a collective responsibility of the council of ministers to the legislature.

Also, there exists majority party rule and the Prime Minister is the leader of the country and the Chief Minister is the leader in the state.

5. Parliamentary Sovereignty and Judicial Supremacy

The Indian Constitution has a proper balance between Parliamentary sovereignty and Judicial

Supremacy. The Supreme Court has the power of judicial review vide Articles 13, 32 and 136.

Thus, it can cancel any Parliamentary law as unconstitutional. On the other hand, the Parliament has the authority to make laws and also amend the major portion of the Constitution vide Article 368.

6. Independent and Integrated Judicial System

As per the Indian constitution, a single system of judiciary prevails in India. The Supreme Court is at the top, the High Courts at the state level and district and other subordinate courts are below and are subject to the supervision of the High Courts.

Also, all the levels of courts have a duty of enforcing central as well as state laws.

7. Directive Principles

The Directive Principles of State Policies in Part IV of the Constitution intends to make India a welfare state. The Directive Principles are not enforceable by the courts for their violation.

However, it is a moral obligation of the state to apply these principles in making laws.

8. Rigid and Flexible

The Indian Constitution is a combination or a blend of rigidity and flexibility.

As per Article 368, some provisions can be amended by a special majority of the Parliament i.e. a 2/3rd majority of the members of each House present and voting and majority which is more than 50 percent of the total membership of each House.

Also, some other provisions can be amended by a special majority of the Parliament and with the ratification by half of the total states.

However, some provisions of the Constitution can be amended by a simple majority of the Parliament in the manner of the ordinary legislative process but these do not fall under the purview of Article 368.

PREAMBLE OF INDIAN CONSTITUTION

Introducing the Indian Constitution – Preamble

For an organization or an institute to function properly, there are a set of rules and regulations. These rules and guidelines are the key essentials that help the head to govern its people.

Further, these rules could include dress code, culture to follow, hierarchy to abide by, etc. Similarly, for a country to function properly, there are a set of such rules.

Therefore, the preamble of the Indian Constitution is a brief statement of the various guidelines and rules that guide the citizens. Moreover, the preamble explains the aspirations and hopes of the people. It is a preface which emphasizes on the entire constitution.

The Constituent Assembly adopts this on 26th November 1949. However, it came into effect on 26th January 1950.

The Preamble and its Initial Articles

The Indian constitution and its preamble describe India as a *sovereign, socialist, secular, democratic and republic*.

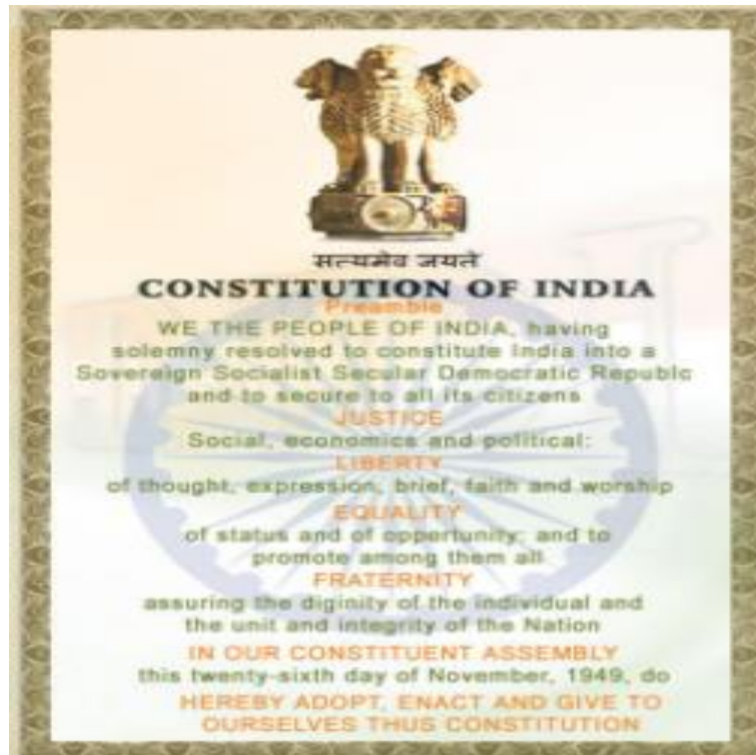
Sovereign refers to the independent authority of a State. It also means that it has the power to legislate on any subject and that the preamble is not subject to the control of any other State or external power.

Secular refers to the relationship between the government and religious groups. The constitution determines the relationship according to the constitution and law. It keeps the power of the state and religion as separate aspects.

Socialist refers to the achievement of socialist goals through democratic, evolutionary and non-violent means.

Democratic refers to the right of the people of India to elect their governments by a system of universal adult franchise, which is also known as “one person one vote”. Every Indian citizen after 18 years of age who is not otherwise debarred by law is entitled to vote. The word ‘democratic’ not only refers to political but also to social and economic democracy.

Republic refers to the aspect wherein the head of state is in power and not a hereditary monarch. Thus, this word denotes a government where no one holds public power as a proprietary right.



It secures to all of its citizen with the following:

- Social, political and economic justice
- Equality of opportunity, equality of status and to promote equality among them all
- Liberty of expression thought, belief, worship, and faith
- Fraternity in the sense of assuring dignity to all citizens along with unity and integrity of the country and its elements.

These italicized terms of the constitution were made to be a part of the preamble after its 42nd amendment in the year 1976. The Indian Constitution and the preamble is one of the best of its kind and it embodies the spirit of the nation and the constitution. Indian preamble focuses on unity and national integrity as well.

PARTS, SCHEDULES AND ARTICLES OF INDIAN CONSTITUTION

Constitution of India contains 395 articles in 22 parts. Additional articles and parts are inserted later through various amendments. There are also 12 schedules in the Indian Constitution.

THE UNION AND ITS TERRITORY: PART I (ARTICLES 1- 4)

Part I of Indian Constitution is titled The Union and its Territory. It includes articles from 1- 4. Part I is a compilation of laws pertaining to the constitution of India as a country and the union of states that it is made of. This part of the constitution contains the law in the establishment, renaming, merging or altering the borders of the states. Articles under Part I were invoked when West Bengal was renamed, and for formation of relatively new states such as Jharkhand,Chattisgarh or Telengana.

ARTICLE 1: NAME AND TERRITORY OF THE UNION

- (1) India, that is Bharat, shall be a Union of States.
- (2) The States and the territories thereof shall be as specified in the First Schedule.
- (3) The territory of India shall comprise –
 - (a) the territories of the States;
 - (b) the Union territories specified in the First Schedule; and
 - (c) such other territories as may be acquired.

ARTICLE 2 : ADMISSION OR ESTABLISHMENT OF NEW STATES

Parliament may by law admit into the Union, or establish, new States on such terms and conditions as it thinks fit.

ARTICLE 2A: SIKKIM TO BE ASSOCIATED WITH THE UNION

ARTICLE 3: FORMATION OF NEW STATES AND ALTERATION OF AREAS, BOUNDARIES OR NAMES OF EXISTING STATES

Parliament may by law –

- (a) form a new State by separation of territory from any State or by uniting two or more States or

parts of States or by uniting any territory to a part of any State;

- (b) increase the area of any State;
- (c) diminish the area of any State;
- (d) alter the boundaries of any State;
- (e) alter the name of any State:

Provided that no Bill for the purpose shall be introduced in either House of Parliament except on the recommendation of the President and unless, where the proposal contained in the Bill affects the area, boundaries or name of any of the States, the Bill has been referred by the President to the Legislature of that State for expressing its views thereon within such period as may be specified in the reference or within such further period as the President may allow and the period so specified or allowed has expired.

Explanation I: In this article, in clauses (a) to (e), “State” includes a Union territory, but in the proviso, “State” does not include a Union territory.

Explanation II: The power conferred on Parliament by clause (a) includes the power to form a new State or Union territory by uniting a part of any other State or Union territory to any other State or Union territory.

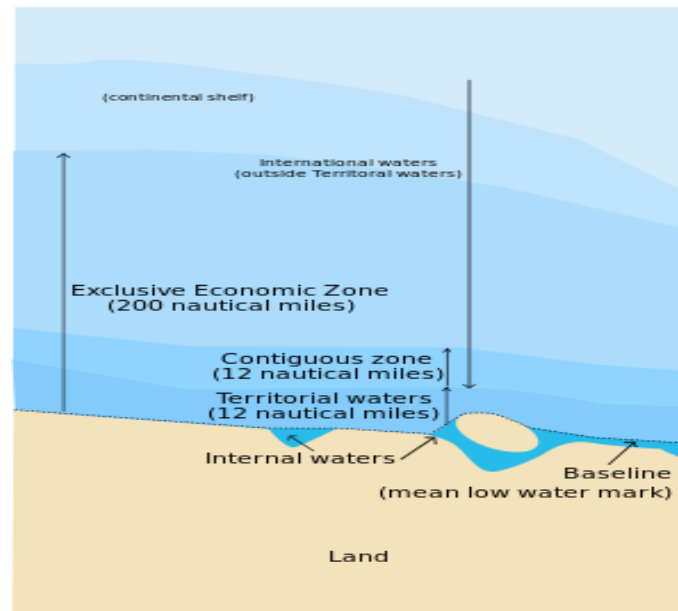
ARTICLE 4 : LAWS MADE UNDER ARTICLES 2 AND 3 TO PROVIDE FOR THE AMENDMENT OF THE FIRST AND THE FOURTH SCHEDULE AND SUPPLEMENTAL, INCIDENTAL AND CONSEQUENTIAL MATTERS

- (1) Any law referred to in article 2 or article 3 shall contain such provisions for the amendment of the First Schedule and the Fourth Schedule as may be necessary to give effect to the provisions of the law and may also contain such supplemental, incidental and consequential provisions (including provisions as to representation in Parliament and in the Legislature or Legislatures of the State or States affected by such law) as Parliament may deem necessary.
- (2) No such law as aforesaid shall be deemed to be in amendment of this Constitution for the purposes of article 368.

Info-bits related to Part I : The Union and the territory (Articles 1- 4)

- 1. Article under which Sikkim was made part of Indian Union : Article 2a.
- 2. Article under which Telangana was made part of Indian Union : Article 3.
- 3. Article 3 original provision was amended by Constitution (fifth amendment) Act, 1955 on 24 December 1955.

4. No where under Part I, it is mentioned that India is a federal state. It rather uses the phrase “Union of States”.
5. The territorial waters and the exclusive economic zones shall also become part of the states or union territories in the absence of any listing of them separately in Schedule 1 and 4 of the constitution.
6. An **economic zone (EEZ)** is a seazone prescribed by the United Nations Convention on the Law of the Sea over which a state has special rights over the exploration and use of marine resources, including energy production from water and wind. It stretches from the baseline out to 200 nautical miles (370 km) from its coast.
7. The difference between the territorial sea and the exclusive economic zone is that the first confers full sovereignty over the waters, whereas the second is merely a “sovereign right” which refers to the coastal state’s rights below the surface of the sea. The surface waters, as can be seen in the map, are international waters.
8. The constitution (40th amendment) act, 1976, substituted a new Article 297 so as to vest in Union of India all lands, minerals, and other things of value underlying the ocean within the territorial waters or continental shelf or exclusive economic zone of India.
9. *The territorial waters, continental shelf, exclusive economic zone and other maritime zones act, 1976* was enacted by the Indian government to notify the sovereign rights on these areas for dealings with other countries.
10. However, it is not clear whether states are debarred from imposing taxes or royalty on the minerals extracted from the territorial waters and the exclusive economic zone (which are still under states jurisdiction) as per serial no. 50 of state list in seventh schedule of the constitution.
11. For creation or destruction of a state the permission from the concerned state is not mandatory under Indian Constitution. But the bill has to referred to the concerned state legislature for expressing its views.
12. Prior recommendation of the President of India is necessary for the state creation/renaming bill. (Article 3). No such provision is mandatory under Article 2 (new states).



Territorial Waters vs International Waters

CITIZENSHIP: PART II : (ARTICLES 5-11)

Part II of the Constitution of India (Articles 5-11) deals with the Citizenship of India.

Article 5 speaks about the citizenship of India at the commencement of the Constitution (Nov 26, 1949). Article 11 gave powers to the Parliament of India to regulate the right of citizenship by law. This provision resulted in the enactment of Citizenship Act 1955 by the Indian Parliament.

ARTICLE 5 : CITIZENSHIP AT THE COMMENCEMENT OF THE CONSTITUTION

At the commencement of this Constitution, every person who has his domicile in the territory of India and –

- (a) who was born in the territory of India; or
- (b) either of whose parents was born in the territory of India; or
- (c) who has been ordinarily resident in the territory of India for not less than five years immediately preceding such commencement, shall be a citizen of India.

ARTICLE 6: RIGHTS OF CITIZENSHIP OF CERTAIN PERSONS WHO HAVE MIGRATED TO INDIA FROM PAKISTAN

Notwithstanding anything in article 5, a person who has migrated to the territory of India from the territory now included in Pakistan shall be deemed to be a citizen of India at the

commencement of this Constitution if –

(a) he or either of his parents or any of his grand-parents was born in India as defined in the Government of India Act, 1935 (as originally enacted); and

(b)(i) in the case where such person has so migrated before the nineteenth day of July, 1948, he has been ordinarily resident in the territory of India since the date of his migration, or
(ii) in the case where such person has so migrated on or after the nineteenth day of July, 1948, he has been registered as a citizen of India by an officer appointed in that behalf by the Government of the Dominion of India on an application made by him therefor to such officer before the commencement of this Constitution in the form and manner prescribed by that Government: Provided that no person shall be so registered unless he has been resident in the territory of India for at least six months immediately preceding the date of his application.

ARTICLE 7: RIGHTS OF CITIZENSHIP OF CERTAIN MIGRANTS TO PAKISTAN

Notwithstanding anything in articles 5 and 6, a person who has after the first day of March 1947, migrated from the territory of India to the territory now included in Pakistan shall not be deemed to be a citizen of India:

Provided that nothing in this article shall apply to a person who, after having so migrated to the territory now included in Pakistan, has returned to the territory of India under a permit for resettlement or permanent return issued by or under the authority of any law and every such person shall for the purposes of clause (b) of Article 6 be deemed to have migrated to the territory of India after the nineteenth day of July, 1948.

ARTICLE 8: RIGHTS OF CITIZENSHIP OF CERTAIN PERSONS OF INDIAN ORIGIN RESIDING OUTSIDE INDIA

Notwithstanding anything in article 5, any person who or either of whose parents or any of whose grandparents was born in India as defined in the Government of India Act, 1935 (as originally enacted), and who is ordinarily residing in any country outside India as so defined shall be deemed to be a citizen of India if he has been registered as a citizen of India by the diplomatic or consular representative of India in the country where he is for the time being residing on an application made by him therefor to such diplomatic or consular representative, whether before or after the commencement of this Constitution, in the form and manner prescribed by the Government of the Dominion of India or the Government of India.

ARTICLE 9: PERSONS VOLUNTARILY ACQUIRING CITIZENSHIP OF A FOREIGN STATE NOT TO BE CITIZENS

No person shall be a citizen of India by virtue of article 5 or be deemed to be a citizen of India by virtue of article 6 or article 8 if he has voluntarily acquired the citizenship of any foreign State.

ARTICLE 10: CONTINUANCE OF THE RIGHTS OF CITIZENSHIP

Every person who is or is deemed to be a citizen of India under any of the foregoing provisions of this Part shall, subject to the provisions of any law that may be made by Parliament, continue to be such citizen.

ARTICLE 11: PARLIAMENT TO REGULATE THE RIGHT OF CITIZENSHIP BY LAW

Nothing in the foregoing provisions of this Part shall derogate from the power of Parliament to make any provision with respect to the acquisition and termination of citizenship and all other matters relating to citizenship.

Info-bits related to Citizenship of India

1. The conferment of a person, as a citizen of India, is governed by Articles 5 to 11 (Part II) of the Indian Constitution.
2. Apart from the above Articles of the Indian Constitution, citizenship is also deeply connected with the **Citizenship Act**, which is passed by the Indian Parliament in 1955.
3. **Citizenship Act 1955** speaks about the **citizenship of India after the commencement of the Constitution**. It is an act to provide for the acquisition and termination of Indian citizenship.
4. The legislation related to this matter is the **Citizenship Act 1955**, which has been amended by the Citizenship (Amendment) Act 1986, the Citizenship (Amendment) Act 1992, the Citizenship (Amendment) Act 2003, the Citizenship (Amendment) Act, 2005, and the Citizenship (Amendment Act, 2019).
5. **Acquisition of Indian Citizenship as per Citizenship Act 1955:** Indian Citizenship can be acquired under the following ways : (1) Citizenship at the commencement of the constitution of India (2) Citizenship by birth: NB – This provision has different clauses for different periods (3) Citizenship by descent (4) Citizenship by registration (5) Citizenship by naturalization.
6. **Termination of Indian Citizenship as per Citizenship Act 1955:** One can lose citizenship of India in three ways – Renunciation, Termination and Deprivation
7. Persons domiciled in the territory of India as on 26 November 1949 automatically became Indian citizens by virtue of the operation of the relevant provisions of the Indian Constitution coming into force. (Citizenship at the commencement of the constitution of India.)

8. Any person born in India on or after 26 January 1950, but prior to the commencement of the 1986 Act on 1 July 1987, is a citizen of India by birth. [Citizenship by birth]
9. A person born in India on or after 1 July 1987 is a citizen of India if either parent was a citizen of India at the time of the birth. [Citizenship by birth]
10. Those born in India on or after 3 December 2004 are considered citizens of India only if both of their parents are citizens of India or if one parent is a citizen of India and the other is not an illegal migrant at the time of their birth. [Citizenship by birth].
11. Indian nationality law largely follows the jus sanguinis (citizenship by right of blood) as opposed to the jus soli (citizenship by right of birth within the territory).
12. Article 9 of Indian Constitution says that a person who voluntarily acquires citizenship of any other country is no longer an Indian citizen. Also, according to The Passports Act, a person has to surrender his Indian passport if he acquire citizenship of another country, it is a punishable offense under the act if he fails to surrender the passport.
13. **Persons of Indian Origin (PIO) Card:** A PIO card applicant has to be a person of Indian origin who is a citizen of any country, other than Pakistan, Bangladesh, Sri Lanka, Bhutan, Afghanistan, China and Nepal; or a person who has held an Indian passport at any time or is the spouse of an Indian citizen or a person of Indian origin;
14. **Overseas Citizen of India (OCI) card:** OCI Card is for foreign nationals who were eligible to become a citizen of India on 26.01.1950 or was a citizen of India on or after that date. Applications from citizens of Bangladesh and Pakistan are not allowed.
15. **Overseas Indian Card:** A new Bill is pending in Parliament [The Citizenship (Amendment) Bill], which seeks to do away with the existing overseas citizen of India (OCI) card and the person of Indian origin (PIO) card, and replace them with a new overseas Indian card.
16. While PIO cardholders do not require a separate visa and can enter India with multiple entry facility for 15 years; the OCI card is multiple entries, multi-purpose lifelong visa for visiting India. OCI card-holders have parity with non-resident Indians in respect of economic, financial and educational matters except in acquiring agricultural land.
17. A PIO cardholder is required to register with local Police authorities for any stay exceeding 180 days in India on any single visit.
18. OCI is not dual citizenship. There are no voting rights for an OCI cardholder.
19. The President of India is termed the first Citizen of India.

FUNDAMENTAL RIGHTS: PART III (ARTICLES 12-35)

Part III of the Indian Constitution talks about Fundamental Rights.

The fundamental rights were included in the constitution because they were considered essential for the development of the personality of every individual and to preserve human dignity.

All people, irrespective of race, religion, caste or sex, have been given the right to move the Supreme Court and the High Courts for the enforcement of their fundamental rights. There are seven categories of Fundamental Rights (FR) which are covered from Articles 12-35.

ARTICLE 12: DEFINITION

In this Part, unless the context otherwise required, “the State” includes the Governmental and Parliament of India and the Government and the Legislature of each of the States and 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

(1) All laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void.

(2) The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void.

(3) In this article, unless the context otherwise required, – (a) “law” includes any Ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of law; (b) “laws in force” includes laws passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed, notwithstanding that any such law or any part thereof may not be then in operation either at all or in particular areas.

(4) Nothing in this article shall apply to any amendment of this Constitution made under article 368.

ARTICLE 14: EQUALITY BEFORE LAW

The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

ARTICLE 15: PROHIBITION OF DISCRIMINATION ON GROUNDS OF RELIGION, RACE, CASTE, SEX OR PLACE OF BIRTH

(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

(2) No citizen shall, on ground 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 –
(a) access to shops, public restaurants, hotels and places of public entertainment; or
(b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained whole or partly out of State funds or dedicated to the use of general public.

(3) Nothing in this article shall prevent the State from making any special provision for women and children.

(4) Nothing in this article or in clause (2) or article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

ARTICLE 16: EQUALITY OF OPPORTUNITY IN MATTERS OF PUBLIC EMPLOYMENT

(1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

(3) Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory prior to such employment or appointment.

(4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.

(4A) Nothing in this article shall prevent the State from making any provision for reservation in

matters of promotion to any class or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State.

(5) Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

ARTICLE 17: ABOLITION OF UNTOUCHABILITY

“Untouchability” is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of “Untouchability” shall be an offence punishable in accordance with law.

ARTICLE 18: ABOLITION OF TITLES

(1) No title, not being a military or academic distinction, shall be conferred by the State.

(2) No citizen of India shall accept any title from any foreign State.

(3) No person who is not a citizen of India shall, while he holds any office of profit or trust under the State, accept without the consent of the President any title from any foreign State.

(4) No person holding any office of profit or trust under the State shall, without the consent of the President, accept any present, emolument, or office of any kind from or under any foreign State.

ARTICLE 19 : PROTECTION OF CERTAIN RIGHTS REGARDING FREEDOM OF SPEECH, ETC.

(1) All citizens shall have the right –

(a) to freedom of speech and expression;

(b) to assemble peaceably and without arms;

(c) to form associations or unions;

(d) to move freely throughout the territory of India;

(e) to reside and settle in any part of the territory of India; and

(f) to practice any profession, or to carry on any occupation, trade or business.

(2) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on

the exercise of the right conferred by the said sub-clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.

(3) Nothing in sub-clause (b) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interest of the sovereignty and integrity of India or public order, reasonable restrictions on the right conferred by the said sub-clause.

(4) Nothing in sub-clause (c) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

(5) Nothing in sub-clause (d) and (e) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or for the protection of the interests of any Schedule Tribe.

(6) Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause, and, in particular, nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to, –

- (i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or
- (ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise.

ARTICLE 20: PROTECTION IN RESPECT OF CONVICTION FOR OFFENCES

(1) No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence, not be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.

(2) No person shall be prosecuted and punished for the same offence more than once.

(3) No person accused of any offence shall be compelled to be a witness against himself.

ARTICLE 21: PROTECTION OF LIFE AND PERSONAL LIBERTY

No person shall be deprived of his life or personal liberty except according to procedure established by law.

Article 21A: Right to education

The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.

ARTICLE 22: PROTECTION AGAINST ARREST AND DETENTION IN CERTAIN CASES

(1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice.

(2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.

(3) Nothing in clauses (1) and (2) shall apply –

(a) to any person who for the time being is an enemy alien; or

(b) to any person who is arrested or detained under any law providing for preventive detention.

(4) No law providing for preventive detention shall authorize the detention of a person for a longer period than three months unless –

(a) an Advisory Board consisting of persons who are, or have been, or are qualified to be appointed as, Judges of a High Court has reported before the expiration of the said period of three months that there is in its opinion sufficient cause for such detention: Provided that nothing in this sub-clause shall authorise the detention of any person beyond the maximum period prescribed by any law made by Parliament under sub-clause (b) of clause (7); or

(b) such person is detained in accordance with the provisions of any law made by Parliament under sub-clauses (a) and (b) of clause (7).

(5) When any person is detained in pursuance of an order made under any law providing for

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preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order.

(6) Nothing in clause (5) shall require the authority making any such order as is referred to in that clause to disclose facts which such authority considers to be against the public interest to disclose.

(7) Parliament may by law prescribe –

(a) the circumstances under which, and the class or classes of cases in which, a person may be detained for a period longer than three months under any law providing for preventive detention without obtaining the opinion of an Advisory Board in accordance with the provisions of sub-clause (a) of clause (4);

(b) the maximum period for which any person may in any class or classes of cases be detained under any law providing for preventive detention; and

(c) the procedure to be followed by an Advisory Board in an inquiry under sub-clause (a) of clause (4).

ARTICLE 23: PROHIBITION OF TRAFFIC IN HUMAN BEINGS AND FORCED LABOUR

(1) Traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

(2) Nothing in this article shall prevent the State from imposing compulsory service for public purposes, and in imposing such service the State shall not make any discrimination on ground only of religion, race, caste or class or any of them.

ARTICLE 24: PROHIBITION OF EMPLOYMENT OF CHILDREN IN FACTORIES, ETC.

No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

ARTICLE 25: FREEDOM OF CONSCIENCE AND FREE PROFESSION, PRACTICE AND PROPAGATION OF RELIGION

(1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from

making any law –

- (a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;
- (b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.

Explanation I: The wearing and carrying of kirpans shall be deemed to be included in the profession of the Sikh religion.

Explanation II: In sub-Clause (b) of clause (2), the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly.

ARTICLE 26: FREEDOM TO MANAGE RELIGIOUS AFFAIRS

Subject to public order, morality and health, every religious denomination or any section thereof shall have the right –

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

ARTICLE 27: FREEDOM AS TO PAYMENT OF TAXES FOR PROMOTION OF ANY PARTICULAR RELIGION

No person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination.

ARTICLE 28: FREEDOM AS TO ATTENDANCE AT RELIGIOUS INSTRUCTION OR RELIGIOUS WORSHIP IN CERTAIN EDUCATIONAL INSTITUTIONS

- (1) No religious instruction shall be provided in any educational institution wholly maintained out of State funds.
- (2) Nothing in clause (1) shall apply to an educational institution which is administered by the State but has been established under any endowment or trust which requires that religious instruction shall be imparted in such institution.
- (3) No person attending any educational institution recognised by the State or receiving aid out of State funds shall be required to take part in any religious instruction that may be imparted in

such institution or to attend any religious worship that may be conducted in such institution or in any premises attached thereto unless such person or, if such person is minor, his guardian has given his consent thereto.

ARTICLE 29: PROTECTION OF INTERESTS OF MINORITIES

(1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.

(2) No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.

ARTICLE 30: RIGHT OF MINORITIES TO ESTABLISH AND ADMINISTER EDUCATIONAL INSTITUTIONS

(1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice. (1A) In making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority, referred to in clause (1), the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause. (2) The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language.

ARTICLE 31: COMPULSORY ACQUISITION OF PROPERTY

ARTICLE 31A: SAVING OF LAWS PROVIDING FOR ACQUISITION OF ESTATES, ETC.

(1) Notwithstanding anything contained in article 13, no law providing for –
(a) the acquisition by the State of any estate or of any rights therein or the extinguishment or modification of any such rights, or

(b) the taking over of the management of any property by the State for a limited period either in the public interest or in order to secure the proper management of the property, or

(c) the amalgamation of two or more corporations either in the public interest or in order to secure the proper management of any of the corporations, or

(d) the extinguishment or modification of any rights of managing agents, secretaries and treasurers, managing directors, directors or managers of corporations, or of any voting rights of share-holders thereof, or

(e) the extinguishment or modification of any rights accruing by virtue of any agreement, lease

or licence for the purpose of searching for, or winning, any mineral or mineral oil, or the premature termination or cancellation of and such agreement, lease or licence, shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by article 14 or article 19: Provided that where such law is a law made by the Legislature of a State, the provisions of this article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent: Provided further that where any law makes any provision for the acquisition by the State of any estate and where any land comprised therein is held by a person under his personal cultivation, it shall not be lawful for the State to acquire any portion of such land as is within the ceiling limit applicable to him under any law for the time being in force or any building or structure standing thereon or appurtenant thereto, unless the law relating to the acquisition of such land, building or structure, provides for payment of compensation at a rate which shall not be less than the market value thereof.

(2) In this article, –

(a) the expression “estate” shall, in relation to any local area, have the same meaning as that expression or its local equivalent has in the existing law relating to land tenure in force in that area and shall also include –

(i) any jagir, inam or muafi or other similar grant and in the States of Tamil Nadu and Kerala, any janmam right;

(ii) any land held under ryotwari settlement;

(iii) any land held or let for purposes of agriculture or for purposes ancillary thereto, including waste land, forest land, land for pasture or sites of buildings and other structures occupied by cultivators of land, agricultural labourers and village artisans;

(b) the expression “rights”, in relation to an estate, shall include any rights vesting in a proprietor, sub-proprietor, under-proprietor, tenure-holder, raiyat, under-raiyat or other intermediary and any rights or privileges in respect of land revenue.

ARTICLE 31B: VALIDATION OF CERTAIN ACTS AND REGULATIONS

Without prejudice to the generality of the provisions contained in article 31A, none of the Acts and Regulations specified in the Ninth Schedule nor any of the provision thereof shall be deemed to be void, or even to have become void, on the ground that such Act, Regulation or provision is inconsistent with, or takes away or abridges any of the rights conferred by, any provisions of this part, and notwithstanding any judgment, decree or order of any court or tribunal to the contrary, each of the said Acts and Regulations shall, subject to the power of any competent Legislature to repeal or amend it, continue in force.

ARTICLE 31C: SAVING OF LAWS GIVING EFFECT TO CERTAIN DIRECTIVE PRINCIPLES

Notwithstanding anything contained in article 13, no law giving effect to the policy of the State towards securing all or any of the principles laid down in Part IV shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by article 14 or article 19; and no law containing a declaration that it is for giving effect to such policy shall be called in question in any court on the ground that it does not give effect to such policy:

Provided that where such law is made by the Legislature of a State, the provisions of this article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent.

ARTICLE 31D: SAVING OF LAWS IN RESPECT OF ANTI-NATIONAL ACTIVITIES

ARTICLE 32: REMEDIES FOR ENFORCEMENT OF RIGHTS CONFERRED BY THIS PART

(1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed.

(2) The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part.

(3) Without prejudice to the powers conferred on the Supreme Court by clauses (1) and (2), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2).

(4) The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution.

ARTICLE 32A: CONSTITUTIONAL VALIDITY OF STATE LAWS NOT TO BE CONSIDERED IN PROCEEDINGS UNDER ARTICLE 32

ARTICLE 33: POWER OF PARLIAMENT TO MODIFY THE RIGHTS CONFERRED BY THIS PART IN THEIR APPLICATION TO FORCES, ETC.

Parliament may, by law, determine to what extent any of the rights conferred by this Part shall, in their application to,

(a) the members of the Armed Forces; or

(b) the members of the Forces charged with the maintenance of public order; or

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(c) persons employed in any bureau or other organisation established by the State for purposes of intelligence or counter intelligence; or

(d) persons employed in, or in connection with, the telecommunication systems set up for the purposes of any Force, bureau or organisation referred to in clauses (a) to (c), be restricted or abrogated so as to ensure the proper discharge of their duties and the maintenance of discipline among them.

ARTICLE 34: RESTRICTION ON RIGHTS CONFERRED BY THIS PART WHILE MARITAL LAW IS IN FORCE IN ANY AREA

Notwithstanding anything in the foregoing provisions of this Part, Parliament may by law indemnify any person in the service of the Union or of a State or any person in respect of any act done by him in connection with the maintenance or restoration or order in any area within the territory of India where martial law was in force or validate any sentence passed, punishment inflicted, forfeiture ordered or other act done under martial law in such area.

ARTICLE 35: LEGISLATION TO GIVE EFFECT TO THE PROVISIONS OF THIS PART

Notwithstanding anything in this Constitution, –

(a) Parliament shall have, and the Legislature of a State shall not have, power to make laws –

(i) With respect to any of the matters which under clause (3) of article 16, clause (3) of article 32, article 33 and article 34 may be provided for by law made by Parliament; and

(ii) for prescribing punishment for those acts which are declared to be offences under this part, and Parliament shall, as soon as may be after the commencement of this Constitution, make laws for prescribing punishment for the acts referred to in sub-clause (ii);

(b) any law in force immediately before the commencement of this Constitution in the territory of India with respect to any of the matters referred to in sub-clause (i) of clause (a) or providing for punishment for any act referred to in sub-clause (ii) of that clause shall, subject to the terms thereof and to any adaptations and modifications that may be made therein under article 372, continue in force until altered or repealed or amended by Parliament.

Explanation: In this article, the expression “law in force” has the same meaning as in article 372.

DIRECTIVE PRINCIPLES OF OUR STATE POLICY: PART IV (ARTICLES 36-51)

Part IV of the Indian Constitution deals with Directive Principles of our State Policy (DPSP).

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The provisions contained in this Part cannot be enforced by any court, but these principles are **fundamental in the governance of the country** and it shall be the duty of the State to apply these principles in making laws.

The concept of Directive Principles of State Policy was borrowed from the Irish Constitution. While most of the Fundamental Rights are negative obligations on the state, DPSPs are positive obligations on the state, though not enforceable in a court of law.

ARTICLE 36: DEFINITION

In this Part, unless the context otherwise requires, “the State” has the same meaning as in Part III.

ARTICLE 37: APPLICATION OF THE PRINCIPLES CONTAINED IN THIS PART

The provisions contained in this Part shall not be enforced by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.

ARTICLE 38: STATE TO SECURE A SOCIAL ORDER FOR THE PROMOTION OF THE WELFARE OF THE PEOPLE

(1) The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.

(2) The State shall, in particular, strive to minimise the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.

ARTICLE 39: CERTAIN PRINCIPLES OF POLICY TO BE FOLLOWED BY THE STATE

The State shall, in particular, direct its policy towards securing –

(a) that the citizen, men and women equally, have the right to an adequate means of livelihood;

(b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;

(c) that the operation of the economic system does not result in the concentration of wealth and

means of production to the common detriment;

(d) that there is equal pay for equal work for both men and women;
(e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;

(f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

ARTICLE 39A: EQUAL JUSTICE AND FREE LEGAL AID

The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

ARTICLE 40: ORGANISATION OF VILLAGE PANCHAYATS

The State shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government.

ARTICLE 41: RIGHT TO WORK, TO EDUCATION AND TO PUBLIC ASSISTANCE IN CERTAIN CASES

The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

ARTICLE 42: PROVISION FOR JUST AND HUMANE CONDITIONS OF WORK AND MATERNITY RELIEF

The State shall make provision for securing just and humane conditions of work and for maternity relief.

ARTICLE 43: LIVING WAGE, ETC., FOR WORKERS

The State shall endeavor to secure, by suitable legislation or economic organisation or in any other way, to all workers agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or co-operative basis in rural areas.

ARTICLE 43A: PARTICIPATION OF WORKERS IN MANAGEMENT OF

INDUSTRIES

The State shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organisation engaged in any industry.

ARTICLE 44: UNIFORM CIVIL CODE FOR THE CITIZEN

The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.

ARTICLE 45: PROVISION FOR FREE AND COMPULSORY EDUCATION FOR CHILDREN

The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.

ARTICLE 46: PROMOTION OF EDUCATIONAL AND ECONOMIC INTERESTS OF SCHEDULED CASTES, SCHEDULED TRIBES AND OTHER WEAKER SECTIONS

The State shall promote with special care the educational and economic interests of the weaker sections of the people, and in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

ARTICLE 47: DUTY OF THE STATE TO RAISE THE LEVEL OF NUTRITION AND THE STANDARD OF LIVING AND TO IMPROVE PUBLIC HEALTH

The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purpose of intoxicating drinks and of drugs which are injurious to health.

ARTICLE 48: ORGANIZATION OF AGRICULTURE AND ANIMAL HUSBANDRY

The State shall endeavour to organize agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milch and draught cattle.

ARTICLE 48A: PROTECTION AND IMPROVEMENT OF ENVIRONMENT AND SAFEGUARDING OF FORESTS AND WILDLIFE

The State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country.

ARTICLE 49: PROTECTION OF MONUMENTS AND PLACES AND OBJECTS OF NATIONAL IMPORTANCE

It shall be the obligation of the State to protect every monument or place or object of artistic or historic interest, declared by or under law made by Parliament to be of national importance, from spoliation, disfigurement, destruction, removal, disposal or export, as the case may be.

ARTICLE 50: SEPARATION OF JUDICIARY FROM THE EXECUTIVE

The State shall take steps to separate the judiciary from the executive in the public services of the State.

ARTICLE 51: PROMOTION OF INTERNATIONAL PEACE AND SECURITY

The State shall endeavour to –

- (a) promote international peace and security;
- (b) maintain just and honourable relations between nations;
- (c) foster respect for international law and treaty obligations in the dealings of organised people with one another; and
- (d) encourage settlement of international disputes by arbitration.

FUNDAMENTAL DUTIES : PART IVA (ARTICLE 51A)

Part IVA of the Indian Constitution deals with Fundamental Duties. As of now, there are 11 Fundamental duties.

Originally, the Constitution of India did not contain these duties. Fundamental duties were added by 42nd and 86th Constitutional Amendment acts.

Citizens are morally obligated by the Constitution to perform these duties. However, like the Directive Principles, these are non-justifiable, without any legal sanction in case of their violation or non-compliance.

Article 51A: Fundamental duties

It shall be the duty of every citizen of India –

- (a) to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;

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- (b) to cherish and follow the noble ideals which inspired our national struggle for freedom;
- (c) to uphold and protect the sovereignty, unity and integrity of India;
- (d) to defend the country and render national service when called upon to do so;
- (e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;
- (f) to value and preserve the rich heritage of our composite culture;
- (g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;
- (h) to develop the scientific temper, humanism and the spirit of inquiry and reform;
- (i) to safeguard public property and to abjure violence;
- (j) to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement.
- (k) to provide opportunities for education by the parent the guardian, to his child, or a ward between the age of 6-14 years as the case may be.

Info-bits related to Fundamental Duties

- The Fundamental Duties of citizens were added to the Constitution by the 42nd Amendment in 1976, upon the recommendations of the Swaran Singh Committee that was constituted by the government earlier that year.
- Fundamental duties are applicable only to citizens and not to the aliens.
- India borrowed the concept of Fundamental Duties from the USSR.
- The inclusion of Fundamental Duties brought our Constitution in line with article 29 (1) of the Universal Declaration of Human Rights and with provisions in several modern Constitutions of other countries.
- Out of the ten clauses in article 51A, six are positive duties and the other five are negative duties. Clauses (b), (d), (f), (h), (j) and (k) require the citizens to perform these Fundamental Duties actively.
- It is suggested that a few more Fundamental Duties, namely, duty to vote in an election, duty to pay taxes and duty to resist injustice may be added in due course to article 51A in Part IVA of the Constitution. (NATIONAL COMMISSION TO REVIEW

THE WORKING OF THE CONSTITUTION: A Consultation Paper on EFFECTUATION OF FUNDAMENTAL DUTIES OF CITIZENS).

- It is no longer correct to say that Fundamental Duties enshrined in article 51A are not enforceable to ensure their implementation and are a mere reminder. Fundamental Duties have the element of compulsion regarding compliance.
- A number of judicial decisions are available towards the enforcement of certain clauses under Article 51A.
- Comprehensive legislation is needed for clauses (a), (c), (e), (g) and (i). The remaining 5 clauses, which are exhortation of basic human values, have to be developed amongst citizens through the education system by creating proper and graded curricular input from primary level of education to the higher and professional levels.
- Available Legal Provisions: Justice Varma Committee was constituted in 1998 “to work out a strategy as well as the methodology of operationalizing a countrywide programme for teaching fundamental Duties in every educational institution as a measure of in-service training”. The Verma Committee was conscious of the fact that any non-operationalization of Fundamental Duties might not necessarily be the lack of concern or non-availability of legal and other enforceable provisions, but it was more a case of lacuna in the strategy of implementation. It, therefore, thought it appropriate to list in brief some of the legal provisions already available in regard to enforcement of Fundamental Duties. A summary of such legal provisions is given below:
 - In order to ensure that no disrespect is shown to the National Flag, Constitution of India and the National anthem, the Prevention of Insults to National Honour Act, 1971 was enacted.
 - The Emblems and Names (Prevention of Improper Use) Act 1950 was enacted soon after independence, *inter alia*, to prevent improper use of the National Flag and the National Anthem.
 - In order to ensure that the correct usage regarding the display of the National Flag is well understood, the instructions issued from time to time on the subject have been embodied in Flag Code of India, which has been made available to all the State Governments, and Union territory Administration (UTs).
 - There are a number of provisions in the existing criminal laws to ensure that the activities which encourage enmity between different groups of people on grounds of religion, race, place of birth, residence, language, etc. are adequately punished. Writings, speeches, gestures, activities, exercise, drills, etc. aimed at creating a feeling of insecurity or ill-will among the members of other

communities, etc. have been prohibited under Section 153A of the Indian Penal Code (IPC).

- Imputations and assertions prejudicial to the national integration constitute a punishable offence under Section 153 B of the IPC.
- A Communal organization can be declared unlawful association under the provisions of Unlawful Activities (Prevention) Act 1967.
- Offences related to religion are covered in Sections 295-298 of the IPC (Chapter XV).
- Provisions of the Protection of Civil Rights Act, 1955 (earlier the Untouchability (Offences) Act 1955).
- Sections 123(3) and 123(3A) of the Representation of People Act, 1951 declares that soliciting of vote on the ground of religion and the promotion or attempt to promote feelings of enmity or hatred between different classes of citizens of India on the grounds of religion, race, caste, community or language is a corrupt practice. A person indulging in a corrupt practice can be disqualified for being a Member of Parliament or a State Legislature under Section 8A of the Representation of People Act, 1951.

PART V: THE UNION (Article 52- 151)

CHAPTER I: THE EXECUTIVE

The President of India (Articles 52-62)

Part V of the Constitution (The Union) under Chapter I (The Executive) lists out the qualification, election and impeachment of the President of India.

The **President of India** is the head of state of the Republic of India. The President is the formal head of the executive, legislature and judiciary of India and is also the commander-in-chief of the Indian Armed Forces.

Although Article 53 of the Constitution of India states that the President can exercise his or her powers directly or by subordinate authority, with few exceptions, all of the executive authority vested in the President are, in practice, exercised by the Council of Ministers (CoM).

ARTICLE 52 : THE PRESIDENT OF INDIA

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There shall be a President of India.

ARTICLE 53 : EXECUTIVE POWER OF THE UNION

(1) The executive power of the Union shall be vested in the President and shall be exercised by him either directly or through officers subordinate to him in accordance with this Constitution.

(2) Without prejudice to the generality of the foregoing provision, the supreme command of the Defence Forces of the Union shall be vested in the President and the exercise thereof shall be regulated by law.

(3) Nothing in this article shall –

(a) be deemed to transfer to the President any functions conferred by any existing law on the Government of any State or other authority; or

(b) prevent Parliament from conferring by law functions on authorities other than the President.

ARTICLE 54 : ELECTION OF PRESIDENT

The President shall be elected by the members of an electoral college consisting of –

(a) the elected members of both Houses of Parliament; and

(b) the elected members of the Legislative Assemblies of the States. Explanation: In this article and in article 55, “State” includes the National Capital Territory of Delhi and the Union territory of Pondicherry.

ARTICLE 55 : MANNER OF ELECTION OF PRESIDENT

(1) As far as practicable, there shall be uniformity in the scale of representation of the different States at the election of the President.

(2) For the purpose of securing such uniformity among the States inter se as well as parity between the States as a whole and the Union, the number of votes which each elected member of Parliament and of the legislative Assembly of each state is entitled to cast at such election shall be determined in the following manner; –

(a) every elected member of the Legislative Assembly of a State shall have as many votes as there are multiples of one thousand in the quotient obtained by dividing the population of the State by the total number of the elected members of the Assembly;

(b) if, after taking the said multiples of one thousand, the remainder is not less than five hundred, then the vote of each member referred to in sub-clause (a) shall be further increased by one;

(c) each elected member of either House of Parliament shall have such number of votes as may

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be obtained by dividing the total number of votes assigned to the members of the Legislative Assemblies of the States under sub-clauses (a) and (b) by the total number of the elected members of both Houses of Parliament, fractions exceeding one-half being counted as one and other fractions being disregarded.

(3) The election of the President shall be held in accordance with the system of proportional representation by means of the single transferable vote and the voting at such election shall be by secret ballot.

Explanation: In this article, the expression “population” means the population as ascertained at the last preceding census of which the relevant figures have been published: Provided that the reference in this Explanation to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year 2000 have been published, be construed as a reference to the 1971 census.

ARTICLE 56 : TERM OF OFFICE OF PRESIDENT

(1) The President shall hold office for a term of five years from the date on which he enters upon his office:

Provided that – (a) the President may, by writing under his hand addressed to the Vice-President, resign his office;

(b) the President may, for violation of the Constitution, be removed from office by impeachment in the manner provided in article 61.

(c) the President shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

(2) Any resignation addressed to the Vice-President under clause (a) of the proviso to clause (1) shall forthwith be communicated by him to the Speaker of the House of the People.

ARTICLE 57 : ELIGIBILITY FOR RE-ELECTION

A person who holds, or who has held, office as President shall, subject to the other provisions of this Constitution be eligible for re-election to that office.

ARTICLE 58 : QUALIFICATIONS FOR ELECTION AS PRESIDENT

(1) No person shall be eligible for election as President unless he –

(a) is a citizen of India;

(b) has completed the age of thirty-five years, and

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(c) is qualified for election as a member of the House of the People.

(2) A person shall not be eligible for election as President if he holds any office of profit under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Governments.

Explanation: For the purposes of this article, a person shall not be deemed to hold any office of profit by reason only that he is the President or Vice-President of the Union or the Governor of any State or is a Minister either for the Union or for any State.

ARTICLE 59 : CONDITIONS OF PRESIDENT'S OFFICE

(1) The President shall not be a member of either House of Parliament or of a House of the Legislature of any State, and if a member of either House of Parliament or of a House of the Legislature of any State be elected President, he shall be deemed to have vacated his seat in that House on the date on which he enters upon his office as President.

(2) The President shall not hold any other office of profit.

(3) The President shall be entitled without payment of rent to the use of his official residences and shall be also entitled to such emoluments, allowances and privileges as may be determined by Parliament by law and until provision in that behalf is so made, such emoluments, allowances and privileges as are specified in the Second Schedule.

(4) The emoluments and allowances of the President shall not be diminished during his term of office.

ARTICLE 60 : OATH OR AFFIRMATION BY THE PRESIDENT

Every President and every person acting as President or discharging the functions of the President shall, before entering upon his office, make and subscribe in the presence of the Chief Justice of India or, in his absence, the senior most Judge of the Supreme Court available, an oath or affirmation in the following form, that is to say – “I, A.B., do swear in the name of God / solemnly affirm that I will faithfully execute the office of President (or discharge the function of the President) of India and will to the best of my ability preserve, protect and defend the Constitution and the law and that I will devote myself to the service and well-being of the people of India.”

ARTICLE 61 : PROCEDURE FOR IMPEACHMENT OF THE PRESIDENT

(1) When a President is to be impeached for violation of the Constitution, the charge shall be preferred by either House of Parliament.

(2) No such charge shall be preferred unless –

(a) the proposal to prefer such charge is contained in a resolution which has been moved after at least fourteen days' notice in writing signed by not less than one-fourth of the total number of members of the House has been given of their intention to move the resolution, and

(b) such resolution has been passed by a majority of not less than two-thirds of the total membership of the House.

(3) When a charge has been so preferred by either House of Parliament, the other House shall investigate the charge or cause the charge to be investigated and the President shall have the right to appear and to be represented at such investigation.

(4) If as a result of the investigation a resolution is passed by a majority of not less than two-thirds of the total membership of the House by which the charge was investigated or caused to be investigated, declaring that the charge preferred against the President has been sustained, such resolution shall have the effect of removing the President from his office as from the date on which the resolution is so passed.

ARTICLE 62 : TIME OF HOLDING ELECTION TO FILL VACANCY IN THE OFFICE OF PRESIDENT AND THE TERM OF OFFICE OR PERSON ELECTED TO FILL CASUAL VACANCY

(1) An election to fill a vacancy caused by the expiration of the term of office of President shall be completed before the expiration of the term.

(2) An election to fill a vacancy in the office of President occurring by reason of his death, resignation or removal, or otherwise shall be held as soon as possible after, and in no case later than six months from, the date of occurrence of the vacancy; and the person elected to fill the vacancy shall, subject to the provisions of article 56, be entitled to hold office for the full term of five years from the date on which he enters upon his office.

Info-Bits Related to the President of India

1. Salary of Indian President is Rs.5 lakh. Until 2017, the President used to get Rs 1.50 lakh per month. In Budget 2018, it was increased to Rs 5 lakh per month.
2. In addition to the salary, the President receives many other allowances and free facilities which include free medical, housing, and treatment facilities (whole life).
3. The Government of India spends around Rs.2.25 crore rupees annually on other expenses like President's housing, staff, food and hosting of guests.
4. Indian President's salary is $7000 \times 12 = 84,000$ \$, which is much lower when compared to US President's salary of 4,00,000\$.

5. The president of the United States of America is also indirectly elected by the people through the Electoral College, but to a four-year term. He is one of only two nationally elected federal officers, the other being the Vice President of the United States. (In total, there are 538 electors, corresponding to the 435 members of the House of Representatives, 100 senators, and the three additional electors from the District of Columbia.)
6. Under The Presidential and Vice-Presidential Elections Act, 1952, a candidate, to be nominated for the office of president of India needs 50 electors as proposers and 50 electors as seconders for his or her name to appear on the ballot.
7. The general principle in Indian Presidential election is that the total number of votes cast by Members of Parliament equals the total number of votes cast by State Legislators.
8. There are a total of 776 voters in both the Houses of Parliament. The Electoral College also consisted of 4120 MLAs in the states.
9. The formula to determine the value of the vote of an MLA = $\text{Population of the state} \div (\text{No. of M.L.A.s in the state} \times 1000)$.
10. The formula to determine the value of the vote of an MP = $\text{Total value votes assigned to all the M.L.A.s} \div \text{Total number of MPs}$.
11. Each MP had a vote value of 708 in the Presidential Election 2012.
12. Legislators from larger states cast more votes than those from smaller states.
13. If a state has few legislators, then each legislator has more votes; if a state has many legislators, then each legislator has fewer votes.
14. JFYI: The President of India moves around in a custom built heavily armoured Mercedes Benz S600 Pullman Guard (which costs around Rs. 12 Crore).
15. Nominated members cannot vote in the Presidential election. But they can participate in President's impeachment.
16. PS: Nominated members can participate in Vice-President's election and removal.
17. MLAs are involved in the Presidential election, but they have no role in President's impeachment. President's impeachment resolution requires a special majority of both houses of the parliament to pass.

POWERS OF INDIAN PRESIDENT

Powers of Indian President can be broadly classified under 8 headings. They are :

1. Legislative
2. Executive or Appointment powers
3. Judicial powers
4. Financial powers
5. Diplomatic powers
6. Military powers
7. Pardoning Powers
8. Emergency powers

There are articles outside Chapter 1 of Part V related with powers of President of India like Article 72 and Articles 352-360. We shall discuss in detail each of them later.

Article 72: Power of President to grant pardons, etc., and to suspend, remit or commute sentences in certain cases

(1) The President shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any persons convicted of any offence – (a) in all cases where the punishment or sentence is by a Court Martial;

(b) in all cases where the punishment or sentence is for an offence against any law relating to a matter to which the executive power of the Union extends;

(c) in all cases where the sentence is a sentence of death.

(2) Nothing in sub-clause (a) of clause (1) shall affect the power conferred by law on any officer of the Armed Forces of the Union to suspend, remit or commute a sentence passed by a Court martial.

(3) Nothing in sub-clause (c) of clause (1) shall affect the power to suspend, remit or commute a sentence of death exercisable by the Governor of a State under any law for the time being in force.

THE VICE-PRESIDENT OF INDIA (ARTICLES 63-73)

Part V of the Constitution of India under Chapter I (Executive) also discusses about the office of

the Vice-President of India. The Vice-President of India is the second highest constitutional office in the country. He serves for a five-year term, but can continue to be in office, irrespective of the expiry of the term, until the successor assumes office. Let's see the articles 63-73 which deal with the qualifications, election and removal of Vice-President of India.

ARTICLE 63: THE VICE-PRESIDENT OF INDIA

There shall be a Vice-President of India.

ARTICLE 64: THE VICE-PRESIDENT TO BE EX-OFFICIO CHAIRMAN OF THE COUNCIL OF STATES

The Vice-President shall be ex-officio Chairman of the Council of States and shall not hold any other office of profit:

Provided that during any period when the Vice-President acts as President or discharges the functions of the President under article 65, he shall not perform the duties of the office of Chairman of the Council of States and shall not be entitled to any salary or allowance payable to the Chairman of the Council of States under article 97.

ARTICLE 65: THE VICE-PRESIDENT TO ACT AS PRESIDENT OR TO DISCHARGE HIS FUNCTIONS DURING CASUAL VACANCIES IN THE OFFICE, OR DURING THE ABSENCE, OF PRESIDENT

(1) In the event of the occurrence of any vacancy in the office of the President by reason of this death, resignation or removal, or otherwise, the Vice-President shall act as President until the date on which a new President elected in accordance with the provisions of this Chapter to fill such vacancy enters upon his office.

(2) When the President is unable to discharge his functions owing to absence, illness or any other cause, the Vice-President shall discharge his functions until the date on which the President resumes his duties.

(3) The Vice-President shall, during, and in respect of, the period while he is so acting as, or discharging the functions of, President have all the powers and immunities of the President and be entitled to such emoluments, allowances and privileges as may be determined by Parliament by law and, until provision in that behalf is so made, such emoluments, allowances and privileges as are specified in the Second Schedule.

ARTICLE 66: ELECTION OF VICE-PRESIDENT

(1) The Vice-President shall be elected by the members of an electoral college consisting of the members of both Houses of Parliament in accordance with the system of proportional representation by means of a single transferable vote and the voting at such election shall be by

secret ballot.

(2) The Vice-President shall not be a member of either House of Parliament or of a House of the Legislature of any State, and if a member of either House of Parliament or of a House of the Legislature of any State be elected Vice-President, he shall be deemed to have vacated his seat in that House on the date on which he enters upon his office as Vice-President.

(3) No person shall be eligible for election as Vice-President unless he –

(a) is a citizen of India;

(b) has completed the age of thirty-five years; and

(c) is qualified for election as a member of the Council of States.

(4) A person shall not be eligible for election as Vice-President if he holds any office of profit under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Governments.

Explanation: For the purposes of this article, a person shall not be deemed to hold any office of profit by reason only that he is the President or Vice-President of the Union or the Governor of any State or is a Minister either for the Union or for any State.

ARTICLE 67: TERM OF OFFICE OF VICE-PRESIDENT

The Vice-President shall hold office for a term of five years from the date on which he enters upon his office:

Provided that – (a) A Vice-President may, by writing under his hand addressed to the President, resign his office;

(b) a Vice-President may be removed from his office by a resolution of the Council of States passed by a majority of all the then members of the Council and agreed to by the House of the People; but no resolution for the purpose of this clause shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution;

(c) A Vice-President shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

ARTICLE 68: TIME OF HOLDING ELECTION TO FILL VACANCY IN THE OFFICE OF VICE-PRESIDENT AND THE TERM OF OFFICE OF PERSON ELECTED TO FILL CASUAL VACANCY

(1) An election to fill a vacancy caused by the expiration of the term of office of Vice-President

shall be completed before the expiration of the term.

(2) An election to fill a vacancy in the office of Vice-President occurring by reason of his death, resignation or removal, or otherwise shall be held as soon as possible after the occurrence of the vacancy, and the person elected to fill the vacancy shall, subject to the provisions of article 67, be entitled to hold office for the full term of five years from the date on which he enters upon his office.

ARTICLE 69: OATH OR AFFIRMATION BY THE VICE-PRESIDENT

Every Vice-President shall, before entering upon his office, make and subscribe before the President, or some person appointed in that behalf by him, an oath or affirmation in the following form, that is to say – “I, A.B., do swear in the name of God /solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established and that I will discharge the duty upon which I am about to enter.”

ARTICLE 70: DISCHARGE OF PRESIDENT’S FUNCTIONS IN OTHER CONTINGENCIES

Parliament may make such provision as it thinks fit for the discharge of the functions of the President in any contingency not provided for in this Chapter.

ARTICLE 71: MATTERS RELATING TO, OR CONNECTED WITH, THE ELECTION OF A PRESIDENT OR VICE-PRESIDENT

(1) All doubts and disputes arising out of or in connection with the election of a President or Vice-President shall be inquired into and decided by the Supreme Court whose decision shall be final.

(2) If the election of a person as President or Vice-President is declared void by the Supreme Court, acts done by him in the exercise and performance of the powers and duties of the office of President or Vice-President, as the case may be, on or before the date of the decision of the Supreme Court shall not be invalidated by reason of that declaration.

(3) Subject to the provisions of this Constitution, Parliament may by law regulate any matter relating to or connected with the election of a President or Vice-President.

(4) The election of a person as President or Vice-President shall not be called in question on the ground of the existence of any vacancy for whatever reason among the members of the electoral college electing him.

ARTICLE 72: POWER OF PRESIDENT TO GRANT PARDONS, ETC., AND TO SUSPEND, REMIT OR COMMUTE SENTENCES IN CERTAIN CASES

- (1) The President shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any persons convicted of any offence – (a) in all cases where the punishment or sentence is by a Court Martial; (b) in all cases where the punishment or sentence is for an offence against any law relating to a matter to which the executive power of the Union extends; (c) in all cases where the sentence is a sentence of death.
- (2) Nothing in sub-clause (a) of clause (1) shall affect the power conferred by law on any officer of the Armed Forces of the Union to suspend, remit or commute a sentence passed by a Court martial.
- (3) Nothing in sub-clause (c) of clause (1) shall affect the power to suspend, remit or commute a sentence of death exercisable by the Governor of a State under any law for the time being in force.

ARTICLE 73: EXTENT OF EXECUTIVE POWER OF THE UNION*

- (1) Subject to the provisions of this Constitution, the executive power of the Union shall extend—
- (a) to the matters with respect to which Parliament has power to make laws; and
- (b) to the exercise of such rights, authority and jurisdiction as are exercisable by the Government of India by virtue of any treaty or agreement: Provided that the executive power referred to in sub-clause (a) shall not, save as expressly provided in this Constitution or in any law made by Parliament, extend in any State to matters with respect to which the Legislature of the State has also power to make laws.
- (2) Until otherwise provided by Parliament, a State and any officer or authority of a State may, notwithstanding anything in this article, continue to exercise in matters with respect to which Parliament has power to make laws for that State such executive power or functions as the State or officer or authority thereof could exercise immediately before the commencement of this Constitution.

Info-Bits related with the Vice-President of India

The office of the Vice-President of India is special because of multiple reasons. It would be interesting to explore the constitutional provisions related to VP of India. Try, if you can find the answers of the following questions, yourself.

1. Can Vice-President of India continue to be in office irrespective of the expiry of his term of 5 years?

Yes. Until the successor assumes office.

2. Who performs the duties of the Vice-President, when a vacancy occurs in the office of the Vice-President of India, before the expiry of his term?

Ans : Constitution is silent on this matter.

3. Who performs the duties of the Vice-President, when a vacancy occurs in the office of the Vice-President of India, when the Vice-President acts as the President of India?

Ans : Constitution is silent on this matter.

4. Who performs the Vice-President's function as the Chairperson of the Council of States (Rajya Sabha) when a vacancy occurs in the office of the Vice-President of India?

Ans : Deputy Chairperson of the Rajya Sabha, or any other member of the Rajya Sabha authorised by the President of India.

5. Salary for Vice-President for his role as Vice-President of India?

Ans : No salary for the role as Vice-President. Salary is for the role as ex-officio Chairperson of the Council of States (Rajya Sabha).

6. Salary for Vice-President for his role as ex-officio Chairperson of the Council of States (Rajya Sabha)?

Ans : Rs.1.25 lakhs.

7. Salary for Vice-President when Vice-President acts as President of India?

Ans : He will get salary of Indian President, ie Rs.1.5 lakh. But he will stop getting the salary of ex-officio chairman of Rajya Sabha.

8. Can nominated members participate in the election and removal process of Vice President?

Ans: Yes. (NB: For Presidential election nominated members cannot participate.)

9. Vice-President is neither an elected nor nominated member of Rajya Sabha. But being the chairman of Rajya Sabha, can he cast vote?

Ans : Yes. The Chairman has a casting vote in the case of an equality of votes.

10. How can the Vice-President of India removed from his office?

Ans : Vice-President may be removed from his office by a resolution of the Council of States passed by a majority of all the then members of the Council and agreed to by the House of the People; but no resolution for the purpose of this clause shall be

moved unless at least fourteen days' notice has been given of the intention to move the resolution.

Removal of Vice-President of India :

*“A Vice-President may be removed from his office by a resolution of the Council of States passed by a majority of all the **then members of the Council** and agreed to by the House of the People; but no resolution for the purpose of this clause shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution.”*

Let's see what is the importance of the word “then” here. Suppose the present strength of Rajya Sabha is 245 seats. And if 45 seats are vacant, then the strength of the house gets reduced to 200. So a majority of all the **then members of the Council** means that removal of Vice-President needs the approval of 101 Rajya Sabha MPs.

As shown above, this majority is not Absolute Majority (Total Strength of the House), but Effective Majority (Total Strength of the House – Vacancies). Whether the phrase “a majority of all the **then members of the Council**” can be interpreted as Simple Majority (Majority among those who are present and voting) is a matter of debate. But anyways, the removal does not need absolute majority or special majority. It can be said that resolution for removal of Vice-President requires an effective majority in Rajya Sabha and a simple majority in Loksabha.

NB: President's impeachment resolution requires special majority (2/3rd of total strength of the house) at both houses to get itself passed.

COUNCIL OF MINISTERS (COM), PRIME MINISTER AND ATTORNEY GENERAL (ARTICLES 74-78)

Chapter I (Executive) of Part V of the Constitution (Union) deals with President, Vice-President, Council of Ministers (COM) headed by Prime Minister and Attorney General. Having already discussed about President and Vice-President, let's concentrate now on COM, Prime Minister and Attorney General. While Indian President is the head of the state, Indian Prime Minister is the head of the government.

COUNCIL OF MINISTERS

ARTICLE 74 : COUNCIL OF MINISTERS TO AID AND ADVISE PRESIDENT

(1) There shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President who shall, in the exercise of his functions, act in accordance with such advice: Provided that the President may require the Council of Ministers to reconsider such advice, either generally or otherwise, and the President shall act in accordance with the advice tendered

after such reconsideration.

(2) The question whether any, and if so what, advice was tendered by Ministers to the President shall not be inquired into in any court.

ARTICLE 75: OTHER PROVISIONS AS TO MINISTERS

(1) The Prime Minister shall be appointed by the President and the other Ministers shall be appointed by the President on the advice of the Prime Minister.

(1A) The total number of Ministers, including the Prime Minister, in the Council of Ministers shall not exceed fifteen per cent. of the total number of members of the House of the People.

(1B) A member of either House of Parliament belonging to any political party who is disqualified for being a member of that House under paragraph 2 of the Tenth Schedule shall also be disqualified to be appointed as a Minister under clause (1) for duration of the period commencing from the date of his disqualification till the date on which the term of his office as such member would expire or where he contests any election to either House of Parliament before the expiry of such period, till the date on which he is declared elected, whichever is earlier.

(2) The Ministers shall hold office during the pleasure of the President.

(3) The Council of Ministers shall be collectively responsible to the House of the People.

(4) Before a Minister enters upon his office, the President shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Third Schedule.

(5) A Minister who for any period of six consecutive months is not a member of either House of Parliament shall at the expiration of that period cease to be a Minister.

(6) The salaries and allowances of Ministers shall be such as Parliament may from time to time by law determine and, until Parliament so determines, shall be as specified in the Second Schedule.

THE ATTORNEY-GENERAL FOR INDIA

ARTICLE 76: ATTORNEY-GENERAL FOR INDIA.

(1) The President shall appoint a person who is qualified to be appointed a Judge of the Supreme Court to be Attorney- General for India.

(2) It shall be the duty of the Attorney-General to give advice to the Government of India upon such legal matters, and to perform such other duties of a legal character, as may from time to time be referred or assigned to him by the President, and to discharge the functions conferred on

him by or under this Constitution or any other law for the time being in force.

(3) In the performance of his duties the Attorney-General shall have right of audience in all courts in the territory of India.

(4) The Attorney-General shall hold office during the pleasure of the President, and shall receive such remuneration as the President may determine.

ARTICLE 77: Conduct of Government Business

(1) All executive action of the Government of India shall be expressed to be taken in the name of the President.

(2) Orders and other instruments made and executed in the name of the President shall be authenticated in such manner as may be specified in rules to be made by the President, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the President.

(3) The President shall make rules for the more convenient transaction of the business of the Government of India, and for the allocation among Ministers of the said business.

ARTICLE 78: DUTIES OF PRIME MINISTER AS RESPECTS THE FURNISHING OF INFORMATION TO THE PRESIDENT, ETC.

—It shall be the duty of the Prime Minister—

(a) to communicate to the President all decisions of the Council of Ministers relating to the administration of the affairs of the Union and proposals for legislation;

(b) to furnish such information relating to the administration of the affairs of the Union and proposals for legislation as the President may call for; and

(c) if the President so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council.

Info Bits Related with COM, PM and AG

1. The prime minister is responsible for aiding and advising the president in distribution of work of the Government to various ministries and offices and in terms of the *Government of India (Allocation of Business) Rules, 1961*. The co-ordinating work is generally allocated to the Cabinet Secretariat.
2. By Article 75 of the constitution of India, remuneration of the prime minister as well as

other ministers are to be decided by the Parliament. In 2010, the prime minister's office reported that he did not receive a formal salary, but was only entitled to monthly allowances.

3. The Attorney General, like an Advocate General of a State is not supposed to be a political appointee, in spirit, but this is not the case in practice. Every time a party comes to power in the general elections, all the law officers resign and law officers loyal to the new party are appointed.
4. The Attorney General has the right of audience in all Courts in India as well as the right to participate in the proceedings of the Parliament, though not to vote.
5. Unlike the Attorney General of the United States, the Attorney General of India does not have any executive authority, and is not a political appointee, those functions are performed by the Law Minister of India.
6. The Attorney General is assisted by a Solicitor General and four Additional Solicitors General. (Non-constitutional posts.)
7. The Cabinet is a smaller body than Council of Ministers which consists of a few important senior ministers who are in charge of separate departments. The Cabinet is described as "a wheel within a wheel". It is the nucleus of the Council of Ministers.
8. Cabinet exercises all powers on behalf of the Council of Ministers. The policy decisions are taken in the Cabinet.
9. There are three categories of ministers (COM), in descending order of rank:
 - Union Cabinet Minister: senior minister in-charge of a ministry. A cabinet minister may also hold additional charges of other Ministries, where no other Cabinet minister is appointed.
 - Minister of State (Independent Charges): with no overseeing Union cabinet minister for that portfolio.
 - Minister of State (MoS): junior minister to overseeing cabinet minister, usually tasked with a specific responsibility in that ministry. For instance, an MoS in the Finance Ministry may only handle taxation

CHAPTER II: PARLIAMENT (Articles 79-88/122)

GENERAL

Though Article 79-122 deals with Chapter II (Parliament) of Part V (Union), we shall break the topic into sub-sections. In this post, we are covering only articles 79-88, which deals with the General provisions regarding the Parliament. Parliament consists of the President of India, Lok Sabha and Rajya Sabha. Normally, three Sessions of Parliament are held in a year: (i) Budget Session (February-May); (ii) Monsoon Session (July-August); and (iii) Winter Session (November-December).

CHAPTER II PARLIAMENT

ARTICLE 79: CONSTITUTION OF PARLIAMENT

There shall be a Parliament for the Union which shall consists of the President and two Houses to be known respectively as the Council of States and the House of the People.

ARTICLE 80 : COMPOSITION OF THE COUNCIL OF STATES –

(1) The Council of States shall consists of –

(a) twelve members to be nominated by the President in accordance with the provisions of clause (3); and (b) not more than two hundred and thirty-eight representatives of the States and of the Union territories.

(2) The allocation of seats in the Council of States to be filled by representatives of the States and of the Union territories shall be in accordance with the provisions in that behalf contained in the Fourth Schedule.

(3) The members to be nominated by the President under sub-clause (a) and clause (1) shall consists of persons having special knowledge or practical experience in respect of such matters as the following, namely: –Literature, science, art and social service.

(4) The representatives of each State in the Council of States shall be elected members of the Legislative Assembly of the State in accordance with the system of proportional representation by means of the single transferable vote.

(5) The representatives of the Union territories in the Council of States shall be chosen in such manner as Parliament may by law prescribe.



ARTICLE 81: COMPOSITION OF THE HOUSE OF THE PEOPLE

(1) Subject to the provisions of article 331, the House of the People shall consist of – (a) not more than five hundred and thirty members chosen by direct election from territorial constituencies in the States, and

(b) not more than twenty members to represent the Union territories, chosen in such manner as Parliament may by law provide.

(2) For the purposes of sub-clause (a) of clause (1), –

(a) there shall be allotted to each State a number of seats in the House of the People in such manner that the ratio between that number and the population of the State is, so far as practicable, the same for all States; and

(b) each State shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it is, so far as practicable, the same throughout the State:

Provided that the provisions of sub-clause (a) of this clause shall not be applicable for the purpose of allotment of seats in the House of the People to any State so long as the population of that State does not exceed six millions.

(3) In this article, the expression “population” means the population as ascertained at the last preceding census of which the relevant figures have been published: Provided that the reference in this clause to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year 2000 have been published, be construed as a reference to the 1971 census.

ARTICLE 82: READJUSTMENT AFTER EACH CENSUS

Upon the completion of each census, the allocation of seats in the House of the People to the

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States and the division of each state into territorial constituencies shall be readjusted by such authority and in such manner as Parliament may by law determine:

Provided that such readjustment shall not affect representation in the House of the People until the dissolution of the then existing House:

Provided further that such readjustment shall take effect from such date as the President may, by order, specify and until such readjustment takes effect, any election to the House may be held on the basis of the territorial constituencies existing before such readjustment: Provided also that until the relevant figures for the first census taken after the year 2000 have been published, it shall not be necessary to readjust the allocation of seats in the House of the People to the States and the division of each State into territorial constituencies under this article.

ARTICLE 83: DURATION OF HOUSES OF PARLIAMENT

(1) The Council of States shall not be subject to dissolution, but as nearly as possible one-third of the members thereof shall retire as soon as may be on the expiration of every second year in accordance with the provisions made in that behalf by Parliament by law.

(2) The House of the People, unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no longer and the expiration of the said period of 5 years shall operate as a dissolution of the House:

Provided that the said period may, while a Proclamation of Emergency is in operation, be extended by Parliament by law for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate.

ARTICLE 84: QUALIFICATION FOR MEMBERSHIP OF PARLIAMENT

A person shall not be qualified to be chosen to fill a seat in Parliament unless he –

(a) is a citizen of India, and makes and subscribes before some person authorised in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Third Schedule;

(b) is, in the case of a seat in the Council of States, not less than thirty years of age and, in the case of a seat in the House of the People, not less than twenty-five years of age; and

(c) possesses such other qualifications as may be prescribed in that behalf by or under any law made by Parliament.

ARTICLE 85: SESSIONS OF PARLIAMENT, PROROGATION AND DISSOLUTION

(1) The President shall from time to time summon each House of Parliament to meet at such time and place as he thinks fit, but six months shall not intervene between its lasting sitting in one

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session and the date appointed for its first sitting in the next session.

(2) The President may from time to time –

(a) Prorogue the Houses or either House;

(b) Dissolve the House of the People.

ARTICLE 86: RIGHT OF PRESIDENT TO ADDRESS AND SEND MESSAGES TO HOUSES

(1) The President may address either House of Parliament or both Houses assembled together, and for that purpose require the attendance of members.

(2) The President may send messages to either House of Parliament, whether with respect to a Bill then pending in Parliament or otherwise, and a House to which any message is so sent shall with all convenient despatch consider any matter required by the message to be taken into consideration.

ARTICLE 87: SPECIAL ADDRESS BY THE PRESIDENT

(1) At the commencement of the first session after each general election to the House of the People and at the commencement of the first session of each year the President shall address both Houses of Parliament assembled together and inform Parliament of the causes of its summons.

(2) Provision shall be made by the rules regulating the procedure of either House for the allotment of time for discussion of the matters referred to in such address.

ARTICLE 88: RIGHTS OF MINISTERS AND ATTORNEY-GENERAL AS RESPECTS HOUSES

Every Minister and the Attorney-General of India shall have the right to speak in, and otherwise to take part in the proceeding of, either House, any joint sitting of the Houses, and any committee of Parliament of which he may be named a member, but shall not by virtue of this article be entitled to vote.

Info- Bits related with Parliament

1. The total elective membership is distributed among the States in such a way that the ratio between the number of seats allotted to each State and the population of the State is, so far as practicable, the same for all States.

2. The Council of States is designed to maintain the federal character of the country. The number of members from a state depends on the population of the state (e.g. 31 from Uttar Pradesh and one from Nagaland).
3. Supreme Court can **strike down** certain provisions/amendments of Indian Constitution, if it feels that the provisions are unconstitutional or alter the basic structure of the constitution. But striking down does not take away the provisions from the Constitution. To take away the provisions, Parliament has to present a Constitution Amendment bill to **repeal** the provisions.

OFFICERS OF PARLIAMENT

Officers, Conduct of Business and Disqualification of MPs (Articles 89-106/122)

Having covered the General provision regarding parliament in the last post, let us discuss Articles 89-106 under Chapter II (Parliament) under Part V (Union) of the Constitution of India. We shall see topics like Officers of Parliament, Conduct of Business and Disqualifications of Members in this post. The Chairman and Deputy Chairman are the two officers of Rajya Sabha with Constitutional status. Similarly, Constitution mentions about Speaker and Deputy Speaker for Lok Sabha. There is also provisions for separate Secretarial staff for both houses of the Parliament. Now, let's see the articles from 89-106 in detail.

Officers of Parliament

ARTICLE 89: THE CHAIRMAN AND DEPUTY CHAIRMAN OF THE COUNCIL OF STATES

- (1) The Vice-President of India shall be ex-officio Chairman of the Council of States.
- (2) The Council of States shall, as soon as may be, choose a member of the Council to be Deputy Chairman thereof and, so often as the office of Deputy Chairman becomes vacant, the Council shall choose another member to be Deputy Chairman thereof.

ARTICLE 90: VACATION AND RESIGNATION OF, AND REMOVAL FROM, THE OFFICE OF DEPUTY CHAIRMAN

A member holding office as Deputy Chairman of the Council of States –

- (a) shall vacate his office if he ceases to be a member of the Council;
- (b) may at any time, by writing under his hand addressed to the Chairman, resign his office; and
- (c) may be removed from his office by a resolution of the Council passed by a majority of all the then members of the Council:

Provided that no resolution for the purpose of clause (c) shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution.

ARTICLE 91: POWER OF THE DEPUTY CHAIRMAN OR OTHER PERSON TO PERFORM THE DUTIES OF THE OFFICE OF, OR TO ACT AS, CHAIRMAN

(1) While the Office of Chairman is vacant, or during any period when the Vice-President is acting as, or discharging the functions of, President, the duties of the office shall be performed by the Deputy Chairman, or, if the office of Deputy Chairman is also vacant, by such member of the Council of States as the President may appoint for the purpose.

(2) During the absence of the Chairman from any sitting of the Council of States the Deputy Chairman, or, if he is also absent, such person as may be determined by the rules of procedure of the Council, or, if no such person is present, such other person as may be determined by the Council, shall act as Chairman.

ARTICLE 92: THE CHAIRMAN OR THE DEPUTY CHAIRMAN NOT TO PRESIDE WHILE A RESOLUTION FOR HIS REMOVAL FROM OFFICE IS UNDER CONSIDERATION

(1) At any sitting of the Council of States, while any resolution for the removal of the Vice-President from his office is under consideration, the Chairman, or while any resolution for the removal of the Deputy Chairman from his office is under consideration, the Deputy Chairman, shall not though he is present, preside, and the provisions of clause (2) of article 91 shall apply in relation to every such sitting as they apply in relation to a sitting from which the Chairman, or as the case may be, the Deputy Chairman, is absent.

(2) The Chairman shall have the right to speak in, and otherwise to take part in the proceedings of, the Council of States while any resolution for the removal of the Vice-President from his office is under consideration in the Council, but, notwithstanding anything in article 100 shall not be entitled to vote at all on such resolution or on any other matter during such proceedings.

ARTICLE 93: THE SPEAKER AND DEPUTY SPEAKER OF THE HOUSE OF THE PEOPLE

The House of the People shall, as soon as may be, choose two members of the House to be respectively Speaker and Deputy Speaker thereof and, so often as the office of Speaker or Deputy Speaker becomes vacant, the House shall choose another member to be Speaker or Deputy Speaker, as the case may be.

ARTICLE 94: VACATION AND RESIGNATION OF, AND REMOVAL FROM, THE OFFICES OF SPEAKER AND DEPUTY SPEAKER

A member holding office as Speaker or Deputy Speaker of the House of the People –

(a) shall vacate his office if he ceases to be a member of the House of the People;

(b) may at any time, by writing under his hand addressed, if such member is the Speaker, to the Deputy Speaker, and if such member is the Deputy Speaker, to the Speaker, resign his office; and

(c) may be removed from his office by a resolution of the House of the People passed by a majority of all the then members of the House:

Provided that no resolution for the purpose of clause (c) shall be moved unless at least fourteen days' notice has been of the intention to move the resolution:

Provided further that, whenever the House of the People is dissolved, the Speaker shall not vacate his office until immediately before the first meeting of the House of the People after the dissolution.

ARTICLE 95: POWER OF THE DEPUTY SPEAKER OR OTHER PERSON TO PERFORM THE DUTIES OF THE OFFICE OF, OR TO ACT AS SPEAKER

(1) While the office of Speaker is vacant, the duties of the office shall be performed by the Deputy Speaker or, if the office of Deputy Speaker is also vacant, by such member of the House of the People as the President may appoint for the purpose.

(2) During the absence of the Speaker from any sitting of the House of the People the Deputy Speaker or, if he is also absent, such person as may be determined by the rules of procedure of the House, or, if no such person is present, such other person as may be determined by the House, shall act as Speaker.

ARTICLE 96: THE SPEAKER OR THE DEPUTY SPEAKER NOT TO PRESIDE WHILE A RESOLUTION FOR HIS REMOVAL FROM OFFICE IS UNDER CONSIDERATION

(1) At any sitting of the House of the People, while any resolution for the removal of the Speaker from his office is under consideration, the Speaker, or while any resolution for the removal of the Deputy Speaker from his office is under consideration, the Deputy Speaker, shall not, though he is present, preside, and the provisions of clause (2) of article 95 shall apply in relation to every such sitting as they apply in relation to a sitting from which the Speaker, or, as the case may be, the Deputy Speaker, is absent. (2) The Speaker shall have the right to speak in, and otherwise to take part in the proceedings of, the House of the People while any resolution for his removal from office is under consideration in the House and shall, notwithstanding anything in article 100, be entitled to vote only in the first instance on such resolution or on any other matter during

such proceedings but not in the case of an equality of votes.

ARTICLE 97: SALARIES AND ALLOWANCES OF THE CHAIRMAN AND DEPUTY CHAIRMAN AND THE SPEAKER AND DEPUTY SPEAKER

There shall be paid to the Chairman and the Deputy Chairman of the Council of States, and to the Speaker and the Deputy Speaker of the House of the People, such salaries and allowances as may be respectively fixed by Parliament by law and, until provision in that behalf is so made, such salaries and allowances as are specified in the Second Schedule.

ARTICLE 98: SECRETARIAT OF PARLIAMENT

(1) Each House of Parliament shall have a separate secretarial staff:

Provided that nothing in this clause shall be construed as preventing the creation of posts common to both Houses of Parliament.

(2) Parliament may by law regulate the recruitment and the conditions of service of persons appointed, to the secretarial staff of either House of Parliament.

(3) Until provision is made by Parliament under clause (2), the President may, after consultation with the Speaker of the House of the People or the Chairman of the Council of States, as the case may be, make rules regulating the recruitment, and the conditions of service of persons appointed, to the secretarial staff of the House of the People or the Council of States, and any rules so made shall have effect subject to the provisions of any law made under the said clause.

CONDUCT OF BUSINESS

ARTICLE 99: OATH OR AFFIRMATION BY MEMBERS

Every member of either House of Parliament shall, before taking his seat, make and subscribe before the President, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule.

ARTICLE 100: VOTING IN HOUSES, POWER OF HOUSES TO ACT NOTWITHSTANDING VACANCIES AND QUORUM

(1) Save as otherwise provided in this Constitution, all questions at any sitting of either House or joint sitting of the Houses shall be determined by a majority of votes of the members present and voting, other than the Speaker or person acting as Chairman or Speaker. The Chairman or Speaker, or person acting as such, shall not vote in the first instance, but shall have and exercise a casting vote in the case of an equality of votes.

(2) Either House of Parliament shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in Parliament shall be valid notwithstanding that it is

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discovered subsequently that some person who was not entitled so to do sat or voted or otherwise took part in the proceedings.

(3) Until Parliament by law otherwise provides, the quorum to constitute a meeting of either House of Parliament shall be one-tenth of the total number of members of the House.

(4) If at any time during a meeting of a House there is no quorum, it shall be the duty of the Chairman or Speaker, or person acting as such, either to adjourn the House or to suspend the meeting until there is a quorum.

DISQUALIFICATIONS OF MEMBERS

ARTICLE 101: VACATION OF SEATS

(1) No person shall be a member of both Houses of Parliament and provision shall be made by Parliament by law for the vacation by a person who is chosen a member of both Houses of his seat in one House or the other.

(2) No person shall be a member both of Parliament and of a House of the Legislature of a State, and if a person is chosen a member both of Parliament and of a House of the Legislature of a State, then, at the expiration of such period as may be specified in rules made by the President, that person's seat in Parliament shall become vacant, unless he has previously resigned his seat in the Legislature of the State.

(3) If a member of either House of Parliament –

(a) becomes subject to any of the disqualifications mentioned in clause (1) or clause (2) of article 102; or

(b) resigns his seat by writing under his hand addressed to the Chairman or the Speaker, as the case may be, and his resignation is accepted by the Chairman or the Speaker, as the case may be, his seat shall thereupon become vacant:

Provided that in the case of any resignation referred to in sub-clause (b), if from information received or otherwise and after making such inquiry as he thinks fit, the Chairman or the Speaker, as the case may be, is satisfied that such resignation is not voluntary or genuine, he shall not accept such resignation.

(4) If for a period of sixty days a member of either House of Parliament it without permission of the House absent from all meetings thereof, the House may declare his seat vacant: Provided that in computing the said period of sixty days no account shall be taken of any period during which the House is prorogued or is adjourned for more than four consecutive days.

ARTICLE 102: DISQUALIFICATIONS FOR MEMBERSHIP

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(1) A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament –

(a) if he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder;

(b) if he is of unsound mind and stands so declared by a competent court;

(c) if he is an undischarged insolvent;

(d) if he is not a citizen of India, or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgement of allegiance or adherence to a foreign State;

(e) if he is so disqualified by or under any law made by Parliament.

Explanation: For the purposes of this clause a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State by reason only that he is a Minister either for the Union or for such State.

(2) A person shall be disqualified for being a member of either House of Parliament if he is so disqualified under the Tenth Schedule.

ARTICLE 103: DECISION ON QUESTIONS AS TO DISQUALIFICATIONS OF MEMBERS

(1) If any question arises as to whether a member of either House of Parliament has become subject to any of the disqualifications mentioned in clause (1) of article 102, the question shall be referred for the decision of the President and his decision shall be final.

(2) Before giving any decision on any such question, the President shall obtain the opinion of the Election Commission and shall act according to such opinion.

ARTICLE 104: PENALTY FOR SITTING AND VOTING BEFORE MAKING OATH OR AFFIRMATION UNDER ARTICLE 99 OR WHEN NOT QUALIFIED OR WHEN DISQUALIFIED

If a person sits or votes as a member of either House of Parliament before he has complied with the requirements of article 99, or when he knows that he is not qualified or that he is disqualified for membership thereof, or that he is prohibited from so doing by the provisions of any law made by Parliament, he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the Union.

ARTICLE 105: POWERS, PRIVILEGES, ETC., OF THE HOUSES OF PARLIAMENT AND OF THE MEMBERS AND COMMITTEES THEREOF

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(1) Subject to the provisions of this Constitution and to the rules and standing orders regulating the procedure of Parliament, there shall be freedom of speech in Parliament.

(2) No member of Parliament shall be liable to any proceedings in any court in respect of anything said or any vote given by him in Parliament or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of either House of Parliament of any report, paper, votes or proceedings.

(3) In other respects, the powers, privileges and immunities of each House of Parliament, and of the members and the committees of each House, shall be such as may from time to time be defined by Parliament by law, and, until so defined, shall be those of that House and of its members and committees immediately before the coming into force of section 15 of the Constitution (Forty-fourth Amendment) Act. 1978.

(4) The provisions of clauses (1), (2) and (3) shall apply in relation to persons who by virtue of this Constitution have the right to speak in, and otherwise to take part in the proceedings of, a House of Parliament or any committee thereof as they apply in relation to members of Parliament.

ARTICLE 106: SALARIES AND ALLOWANCES OF MEMBERS

Members of either House of Parliament shall be entitled to receive such salaries and allowances as may from time to time be determined by Parliament by law and, until provision in that respect is so made, allowances at such rates and upon such conditions as were immediately before the commencement of this Constitution applicable in the case of members of the Constituent Assembly of the Dominion of India.

Info Bits Related to Parliament and MPs

1. Who decides on the disqualification of MPs? Ans : **President on advice of Election Commission of India (binding).**
2. Which article provides immunity to MPs from any proceedings in Court? Ans : **Article 105 (2).**
3. Quorum needed for a house of the Parliament : Ans : **1/10th of the strength of that house.**

BILLS AND PROCEDURES IN THE PARLIAMENT (ARTICLES 107-122/122)

Articles 107-122 of Chapter II (Parliament) in the Part V (Union) of Constitution of India deals with three sub-topics namely : Legislative Procedure, Procedure in Financial Matters and Procedure Generally. These articles are very important, as it throw light on Joint Sitting (108), Definition of Money Bills (110) , Annual Financial Statement (112), Supplementary, Additional and excess grants (115) etc. Reading these articles, one would get idea not only about various types of bills in the Parliament, but also about the procedure for passing of bills.

LEGISLATIVE PROCEDURE

ARTICLE 107: PROVISIONS AS TO INTRODUCTION AND PASSING OF BILLS

- (1) Subject to the provisions of articles 109 and 117 with respect to Money Bills and other financial Bills, a Bill may originate in either House of Parliament.
- (2) Subject to the provisions of articles 108 and 109, a Bill shall not be deemed to have been passed by the Houses of Parliament unless it has been agreed to by both Houses, either without amendment or with such amendments only as are agreed to by both Houses.
- (3) A Bill pending in Parliament shall not lapse by reason of the prorogation of the Houses.
- (4) A Bill pending in the Council of States which has not been passed by the House of the People shall not lapse on a dissolution of the House of the People.
- (5) A Bill which is pending in the House of the People, or which having been passed by the House of the People is pending in the Council of States, shall subject to the provisions of article 108, lapse on a dissolution of the House of the People.

ARTICLE 108: JOINT SITTING OF BOTH HOUSES IN CERTAIN CASES

- (1) If after a Bill has been passed by one House and transmitted to the other House –
 - (a) the Bill is rejected by the other House; or
 - (b) the Houses have finally disagreed as to the amendments to be made in the Bill; or
 - (c) more than six months lapse from the date of the reception of the Bill by the other House without the Bill being passed by it, the President may, unless the Bill has lapsed by reason of a dissolution of the House of the People, notify to the Houses by message if they are sitting or by public notification if they are not sitting, his intention to summon them to meet in a joint sitting for the purpose of deliberating and voting on the Bill:

Provided that nothing in this clause shall apply to a Money Bill.

(2) In reckoning any such period of six months as is referred to in clause (1) no account shall be taken of any period during which the House referred to in sub-clause (c) of that clause is prorogued or adjourned for more than four consecutive days.

(3) Where the President has under clause (1) notified his intention of summoning the Houses to meet in a joint sitting, neither House shall proceed further with the Bill, but the President may at any time after the date of his notification summon the Houses to meet in a joint sitting for the purpose specified in the notification, and if he does so, the Houses shall meet accordingly.

(4) If at the joint sitting of the two Houses the Bill, with such amendments, if any, as are agreed to in joint sitting, is passed by a majority of the total number of members of both Houses present and voting, it shall be deemed for the purposes of this Constitution to have been passed by both Houses:

Provided that at a joint sitting –

(a) if the Bill, having been passed by one House, has not been passed by other House with amendments and returned to the House in which it originated, no amendment shall be proposed to the Bill other than such amendments (if any) as are made necessary by the delay in the passage of the Bill;

(b) if the Bill has been so passed and returned, only such amendments as aforesaid shall be proposed to the Bill and such other amendments as are relevant to the matters with respect to which the Houses have not agreed, and the decision of the person presiding as to the amendments which are admissible under this clause shall be final.

(5) A joint sitting may be held under this article and a Bill passed thereat, notwithstanding that a dissolution of the House of the People has intervened since the President notified his intention to summon the Houses to meet therein.

ARTICLE 109 : SPECIAL PROCEDURE IN RESPECT OF MONEY BILLS

(1) A Money Bill shall not be introduced in the Council of States.

(2) After a Money Bill has been passed by the House of the People it shall be transmitted to the Council of States for its recommendations and the Council of States shall within a period of fourteen days from the date of its receipt of the Bill return the Bill to the House of the People with its recommendations and the House of the People may thereupon either accept or reject all or any of the recommendations of the Council of States.

(3) If the House of the People accepts any of the recommendations of the Council of States, the Money Bill shall be deemed to have been passed both Houses with the amendments recommended by the Council of States and accepted by the House of the People.

(4) If the House of the People does not accept any of the recommendations of the Council of States, the Money Bill shall be deemed to have been passed by both Houses in the form in which it was passed by the House of the People without any of the amendments recommended by the Council of States.

(5) If a Money Bill passed by the House of the People and transmitted to the Council of States for its recommendations is not returned to the House of the People within the said period of fourteen days, it shall be deemed to have been passed by both Houses at the expiration of the said period in the form in which it was passed by the House of the People.

ARTICLE 110 : DEFINITION OF “MONEY BILLS”

(1) For the purpose of this Chapter, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters, namely: –

(a) the imposition, abolition, remission, alteration or regulation of any tax;

(b) the regulation of the borrowing of money or the giving of any guarantee by the Government of India or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Government of India;

(c) the custody of the Consolidated Fund or the Contingency Fund of India, the payment of moneys into or the withdrawal of moneys from any such Fund;

(d) the appropriation of moneys out of the Consolidated Fund of India;

(e) the declaration of any expenditure to be expenditure charged on the Consolidated Fund of India or the increasing of the amount of any such expenditure;

(f) the receipt of money on account of the Consolidated Fund of India or the public account of India or the custody or issue of such money or the audit of the accounts of the Union or of a State; or

(g) any matter incidental to any of the matters specified in sub-clause (a) to (f).

(2) A Bill shall not be deemed to be a Money Bill by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) If any question arises whether a Bill is a Money Bill or not, the decision of the Speaker of the House of the People thereon shall be final.

(4) There shall be endorsed on every Money Bill when it is transmitted to the Council of States under article 109, and when it is presented to the President for assent under article 111, the

certificate of the Speaker of the House of the People signed by him that it is a Money Bill.

ARTICLE 111: ASSENT TO BILLS

When a Bill has been passed by the Houses of Parliament, it shall be presented to the President, and the President shall declare either that he assents to the Bill, or that he withholds assent therefrom:

Provided that the President may, as soon as possible after the presentation to him of a Bill for assent, return the Bill if it is not a Money Bill to the Houses with a message requesting that they will reconsider the Bill or any specified provisions thereof and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message, and when a Bill is so returned, the Houses shall reconsider the Bill accordingly, and if the Bill is passed again by the Houses with or without amendment and presented to the President for assent, the President shall not withhold assent therefrom.

PROCEDURE IN FINANCIAL MATTERS

ARTICLE 112: ANNUAL FINANCIAL STATEMENT

(1) The President shall in respect of every financial year cause to be laid before both the Houses of Parliament a statement of the estimated receipts and expenditure of the Government of India for that year, in this Part referred to as the “annual financial statement”.

(2) The estimates of expenditure embodied in the annual financial statement shall show separately –

(a) The sums required to meet expenditure described by this Constitution as expenditure charged upon the Consolidated Fund of India; and

(b) The sums required to meet other expenditure proposed to be made from the Consolidated Fund of India, and shall distinguish expenditure on revenue account from other expenditure.

(3) The following expenditure shall be expenditure charged on the consolidated Fund of India –

(a) The emoluments and allowances of the President and other expenditure relating to his office;

(b) The salaries and allowances of the Chairman and the Deputy Chairman of the Council of States and the Speaker and the Deputy Speaker of the House of the People;

(c) Debt charges for which the Government of India is liable including interest, sinking fund charges and redemption charges, and other expenditure relating to the raising of loans and the service and redemption of debt;

(d)(i) The salaries, allowances and a pensions payable to or in respect of Judges of the Supreme court:

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- (ii) The pensions payable to or in respect of Judges of the Federal Court;
- (iii) The pensions payable to or in respect of Judges of any High Court which exercises jurisdiction in relation to any area included in the territory of India or which at any time before the commencement of this Constitution exercised jurisdiction in relation to any area included in a Governor's Province of the Dominion of India;
- (e) The salary, allowance and pension payable to or in respect of the Comptroller and Auditor-General of India;
- (f) Any sums required to satisfy any judgement, decree or award of any court or arbitral tribunal;
- (g) Any other expenditure declared by this Constitution or by Parliament by law to be so charged.

ARTICLE 113: PROCEDURE IN PARLIAMENT WITH RESPECT TO ESTIMATES

- (1) So much of the estimates as relates to expenditure charged upon the Consolidated Fund of India shall not be submitted to the vote of Parliament, but nothing in this clause shall be construed as preventing the discussion in either House of Parliament of any of those estimates.
- (2) So much of the said estimates as relates to other expenditure shall be submitted in the form of demands for grants to the House of the People, and the House of the People shall have power to assent, or to refuse to assent, to any demand, or to assent to any demand subject to a reduction the amount specified therein.
- (3) No demand for a grant shall be made except on the recommendation of the President.

ARTICLE 114: APPROPRIATION BILLS

- (1) As soon as may be after the grants under article 113 have been made by the House of the People, there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of India of all moneys required to meet –
 - (a) the grants so made by the House of the People; and
 - (b) the expenditure charged on the Consolidated Fund of India but not exceeding in any case the amount shown in the statement previously laid before Parliament.
- (2) No amendments shall be proposed to any such Bill in either House of Parliament which will have the effect of varying the amount or altering the destination of any grant so made or of varying the amount of any expenditure charged on the Consolidated Fund of India, and the decision of the person presiding as to whether an amendment is inadmissible under this clause shall be final.

(3) Subject to the provisions of articles 115 and 116, no money shall be withdrawn from the Consolidated Fund of India except under appropriation made by law passed in accordance with the provisions of this article.

ARTICLE 115: SUPPLEMENTARY, ADDITIONAL OR EXCESS GRANTS

(1) The President shall –

(a) if the amount authorised by any law made in accordance with the provisions of article 114 to be expended for a particular service for the current financial year is found to be insufficient for the purposes of that year when a need has arisen during the current financial year for supplementary or additional expenditure upon some new service not contemplated in the annual financial statement for that year, or

(b) if any money has been spent on any service during a financial year in excess of the amount granted for that service and for that year, cause to be laid before both the Houses of Parliament another statement showing the estimated amount of that expenditure or cause to be presented to the House of the People a demand for such excess, as the case may be.

(2) The provisions of articles 112, 113 and 114 shall have effect in relation to any such statement and expenditure or demand and also to any law to be made authorising the appropriation of moneys out of the Consolidated Fund of India to meet such expenditure or the grant in respect of such demand as they have effect in relation to the annual financial statement and the expenditure mentioned therein or to a demand for a grant and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet such expenditure or grant.

ARTICLE 116: VOTES ON ACCOUNT, VOTES OF CREDIT AND EXCEPTIONAL GRANTS

(1) Notwithstanding anything in the foregoing provisions of this Chapter, the House of the People shall have power –

(a) to make any grant in advance in respect of the estimated expenditure for a part of any financial year pending the completion of the procedure prescribed in article 113 for the voting of such grant and the passing of the law in accordance with the provisions of article 114 in relation to that expenditure;

(b) to make a grant for meeting an unexpected demand upon the resources of India when on account of the magnitude or the indefinite character of the service the demand cannot be stated with the details ordinarily given in an annual financial statement;

(c) to make an exceptional grant which forms no part of the current service of any financial year,

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and Parliament shall have power to authorise by law the withdrawal of moneys from the Consolidated Fund of India for the purposes for which the said grants are made.

(2) The provisions of articles 113 and 114 shall have effect in relation to the making of any grant under clause (1) and to any law to be made under that clause as they have effect in relation to the making of a grant with regard to any expenditure mentioned in the annual financial statement and the law to be made for the authorisation of appropriation of moneys out of the Consolidate Fund of India to meet such expenditure.

ARTICLE 117: SPECIAL PROVISIONS AS TO FINANCIAL BILLS

(1) A Bill or amendment making provision for any of the matters specified in sub-clauses (a) to (f) of clause (1) of article 110 shall not be introduced or moved except on the recommendation of the President and a Bill making such provision shall not be introduced in the Council of States: Provided that no recommendation shall be required under this clause for the moving of an amendment making provision for the reduction or abolition of any tax.

(2) A Bill or amendment shall not be deemed to make provision for any of the matters aforesaid by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alternation or regulation of any tax by any local authority or body for local purpose.

(3) A Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of India shall not be passed by either House of Parliament unless the President has recommended to that House the consideration of the Bill.

PROCEDURE GENERALLY

ARTICLE 118: RULES OF PROCEDURE

(1) Each House of Parliament may make rules for regulating, subject to the provisions of this Constitution, its procedure and the conduct of its business.

(2) Until rules are made under clause (1), the rules of procedure and standing orders in force immediately before the commencement of this Constitution with respect to the Legislature of the Dominion of India shall have effect in relation to Parliament subject to such modifications and adaptations as may be made therein by the Chairman of the Council of States or the speaker of the House of the People, as the case may be.

(3) The President, after consultation with the Chairman of the Council of States and the Speaker of the House of the People, may make rules as to the procedure with respect to joint sittings of, and communications between, the two Houses.

(4) At a joint sitting of the two Houses the Speaker of the House of People, or in his absence such person as may be determined by rules of procedure made under clause (3), shall preside.

ARTICLE 119: REGULATION BY LAW OF PROCEDURE IN PARLIAMENT IN RELATION TO FINANCIAL BUSINESS

Parliament may, for the purpose of the timely completion of financial business, regulate by law the procedure of, and the conduct of business in, each House of Parliament in relation to any financial matter or to any Bill for the appropriation of moneys out of the Consolidated Fund of India, and, if and so far as any provision of any law so made is inconsistent with any rule made by a House of Parliament under clause (1) of article 118 or with any rule or standing order having effect in relation to Parliament under clause (2) of that article, such provision shall prevail.

ARTICLE 120: LANGUAGE TO BE USED IN PARLIAMENT

(1) Notwithstanding anything in Part XVII, but subject to the provisions of article 348 business in Parliament shall be transacted in Hindi or in English: Provided that the Chairman of the Council of States or Speaker of the House of the People, or person acting as such, as the case may be, may permit any member who cannot adequately express himself in Hindi or in English to address the House in his mother-tongue.

(2) Unless Parliament by law otherwise provides, this article shall, after the expiration of a period of fifteen years from the commencement of this Constitution, have effect as if the words “or in English” were omitted therefrom.

ARTICLE 121: RESTRICTION ON DISCUSSION IN PARLIAMENT

No discussion shall take place in Parliament with respect of the conduct of any Judge of the Supreme Court or of a High Court in the discharge of his duties except upon a motion for presenting an address to the President praying for the removal of the Judge as herein after provided.

ARTICLE 122: COURTS NOT INQUIRE INTO PROCEEDINGS OF PARLIAMENT

(1) The validity of any proceedings in Parliament shall not be called in question on the ground of any alleged irregularity of procedure.

(2) No officer or member of Parliament in whom powers are vested by or vested by or under this Constitution for regulating procedure or the conduct of business, or for maintaining order, in Parliament shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers.

Info Bits Related With Passing of Bills

QUESTION: WHEN WILL A BILL LAPSE?

- A Bill pending in Parliament shall not lapse by reason of the prorogation of the Houses.
- A Bill pending in the Council of States which has not been passed by the House of the People shall not lapse on a dissolution of the House of the People.
- A Bill which is pending in the House of the People, or which having been passed by the House of the People is pending in the Council of States, shall subject to the provisions of article 108, lapse on a dissolution of the House of the People.

QUESTION: WHAT IS A MONEY BILL?

A bill is Money Bill if it deals only with the provisions of Article 110 in India Constitution. The provisions include :

- (a) the imposition, abolition, remission, alteration or regulation of any tax;
- (b) the regulation of the borrowing of money or the giving of any guarantee by the Government of India or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Government of India;
- (c) the custody of the Consolidated Fund or the Contingency Fund of India, the payment of moneys into or the withdrawal of moneys from any such Fund;
- (d) the appropriation of moneys out of the Consolidated Fund of India;
- (e) the declaration of any expenditure to be expenditure charged on the Consolidated Fund of India or the increasing of the amount of any such expenditure;
- (f) the receipt of money on account of the Consolidated Fund of India or the public account of India or the custody or issue of such money or the audit of the accounts of the Union or of a State; or
- (g) any matter incidental to any of the matters specified in sub-clause (a) to (f).

NB : A Bill shall not be deemed to be a Money Bill by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority of body for local purposes.

NB: If any question arises whether a Bill is a Money Bill or not, the decision of the Speaker of the House of the People thereon shall be final.

NB: There shall be endorsed on every Money Bill when it is transmitted to the Council of States under article 109, and when it is presented to the President for assent under article 111, the certificate of the Speaker of the House of the People signed by him that it is a Money Bill.

CONFLICT RESOLUTION MECHANISM OR BALANCE OF POWER BETWEEN LEGISLATURE AND JUDICIARY IN THE INDIAN CONSTITUTION

Article 122: Courts not inquire into proceedings of Parliament.

(1) The validity of any proceedings in Parliament shall not be called in question on the ground of any alleged irregularity of procedure.

(2) No officer or member of Parliament in whom powers are vested by or vested by or under this Constitution for regulating procedure or the conduct of business, or for maintaining order, in Parliament shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers.

Article 121: Restriction on discussion in Parliament

No discussion shall take place in Parliament with respect of the conduct of any Judge of the Supreme Court or of a High Court in the discharge of his duties except upon a motion for presenting an address to the President praying for the removal of the Judge as herein after provided.

CHAPTER III: LEGISLATIVE POWERS OF THE PRESIDENT

Ordinance Making Power of the President (Article 123)

We have so far covered Chapter 1 (Executive: Articles 52-78) and Chapter 2 (Parliament: Articles: 79-122) under the Part 5: The Union (Articles 52-151). Chapter 3 stands out with a single article chapter with Article 123 dealing with the legislative powers of the President of India. Article 123 speaks about the power of President to promulgate Ordinances during recess of Parliament. As this power is often misused (by COM), the ordinance making power is often a debatable topic, and hence important for UPC Civil Services mains.

CHAPTER III: LEGISLATIVE POWERS OF THE PRESIDENT

Article 123 Power of President to promulgate Ordinances during recess of Parliament

(1) If at any time, except when both Houses of Parliament are in session, the President is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require.

(2) An Ordinance promulgated under this article shall have the same force and effect as an Act of Parliament, but every such Ordinance –

(a) shall be laid before both Houses of Parliament and shall cease to operate at the expiration of six weeks from the reassembly of Parliament, or, of before the expiration of that period resolutions disapproving it are passed by both Houses, upon the passing of the second of those resolutions; and

(b) May be withdrawn at any time by the President.

Explanation: Where the Houses of Parliament are summoned to reassemble on different dates, the period of six weeks shall be reckoned from the later of those dates for the purposes of this clause.

(3) If and so far as an Ordinance under this article makes any provision which Parliament would not under this Constitution be competent to enact, it shall be void.

Info Bits Related With Ordinance Making Power of the President of India

- President can issue ordinance when one of the houses of the Parliament is not in session.
- The maximum validity of an ordinance is 6 months and 6 weeks.
- An ordinance will expire after 6 weeks once both houses of the Parliament are in session.
- A constitutional amendment cannot be made through ordinance route.
- Ordinance route is envisaged for immediate action ie. if President is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require.
- Article 213 deals with the Ordinance making power of the Governor of a state. However, the Governor cannot issue an Ordinance without instructions from the President in three cases where the assent of the President would have been required to pass a similar Bill ie (a) if a Bill containing the same provisions would have required the previous sanction of the President for introduction into the legislature; (b) if the Governor would have deemed it necessary to reserve a Bill containing the same provisions for the consideration of the President; and (c) if an Act of the legislature containing the same provisions would have been invalid unless it received the assent of the President.
- NB: With regard to issuing Ordinances as with other matters, the President acts on the advice of the Council of Ministers. While the Ordinance is promulgated in the name of the President and constitutionally to his satisfaction, in fact, it is promulgated on the advice of the Council of Ministers.

- Also, please understand that the ordinance making power with the President (in reality COM) is a case of subordinate legislation, where the actual lawmaking authority – Parliament – delegates its power to the executive, when the Parliament is in recess.
- In *AK Roy vs. Union of India* (1982) while examining the constitutionality of the National Security Ordinance, 1980, which sought to provide for preventive detention in certain cases, the Court argued that the President's Ordinance making power is not beyond the scope of judicial review.
- In *T Venkata Reddy vs. State of Andhra Pradesh* (1985), the Court held that the motives behind the exercise of this power cannot be questioned, just as is the case with legislation by the Parliament and state legislatures.
- In *DC Wadhwa vs. State of Bihar* (1987), the Supreme Court held that courts could strike down re-promulgated ordinances.

CHAPTER IV: THE UNION JUDICIARY

THE UNION JUDICIARY i.e. THE SUPREME COURT (ARTICLES 124-147)

Chapter IV under Part V of the constitution (Union) deals with the The Union Judiciary. The constitution and jurisdiction of Supreme Court is stated in detail from articles 124-147. Unlike the other two branches, executive and legislature, in India Judiciary is integrated. This means that even though there may be High Courts in states, the law declared by the Supreme Court shall be binding on all courts within the territory of India (Article 141). Now let's look into the details of each article dealing with the Union Judiciary.



Article 124: Establishment and Constitution of Supreme Court

(1) There shall be a Supreme Court of India consisting of a Chief Justice of India and, until Parliament by law prescribes a larger number, of not more than seven other Judges.

(2) Every Judge of the Supreme Court shall be appointed by the President by warrant under his hand and seal after consultation with such of the Judges of the Supreme Court and of the High Courts in the States as the President may deem necessary for the purpose and shall hold office until he attains the age of sixty-five years:

Provided that in the case of appointment of a Judge other than the Chief Justice, the Chief Justice of India shall always be consulted:

Provided further that –

(a) a Judge may, by writing under his hand addressed to the President, resign his office;

(b) a judge may be removed from his office in the manner provide in clause (4).

(2A) The age of a Judge of the Supreme Court shall be determined by such authority and in such manner as Parliament may by law provide.

(3) A person shall not be qualified for appointment as a Judge of the Supreme Court unless he is a citizen of India and –

(a) has been for at least five years a Judge of a High Court or of two or more such Courts in succession; or

(b) has been for at least ten years an advocate of a High Court or of two or more such Courts in succession; or

(c) is, in the opinion of the President, a distinguished jurist.

Explanation I: In this clause “High Court” means a High Court which exercises, or which at any time before the commencement of this Constitution exercised, jurisdiction in any part of the territory of India.

Explanation II: In computing for the purpose of this clause the period during which a a person has been an advocate, any period during which a person has held judicial office not inferior to that of a district judge after he became an advocate shall be included.

(4) A Judge of the Supreme Court shall not be removed from his office except by an order of the President passed after an address by each House of Parliament supported by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting has been presented to the President in the same session for such

removal on the ground of proved misbehaviour or incapacity.

(5) Parliament may by law regulate the procedure for the presentation of an address and for the investigation and proof of the misbehaviour or incapacity of a Judge under clause (4).

(6) Every person appointed to be a Judge of the Supreme Court shall, before he enters upon his office, make and subscribe before the President, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule.

(7) No person who has held office as a Judge of the Supreme Court shall plead or act in any court of before any authority within the territory of India.

Article 125: Salaries, etc., of Judges

(1) There shall be paid to the Judges of the Supreme Court such salaries as may be determined by Parliament by law and, until provision in that behalf is so made, such salaries as are specified in the Second Schedule.

(2) Every Judge shall be entitled to such privileges and allowances and to such rights in respect of leave of absence and pension as may from time to time be determined by or under law made by Parliament and, until so determined, to such privileges, allowances and rights as are specified in the Second Schedule:

Provided that neither the privileges nor the allowances of a Judge nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment.

Article 126: Appointment of acting Chief Justice

When the office of Chief Justice of India is vacant or when the Chief Justice is, by reason of absence or otherwise, unable to perform the duties of his office, the duties of the office shall be performed by such one of the other Judges of the Court as the President may appoint for the purpose.

Article 127: Appointment of ad hoc Judges

(1) If at any time there should not be a quorum of the Judges of the Supreme Court available to hold or continue any session of the Court, the Chief Justice of India may, with the previous consent of the President and after consultation with the Chief Justice of the High Court concerned, request in writing the attendance at the sittings of the Court, as an ad hoc Judge, for such period as may be necessary, of a Judge of a High Court duly qualified for appointment as a Judge of the Supreme Court to be designated by the Chief Justice of India.

(2) It shall be the duty of the Judge who has been so designated, in priority to other duties of his office to attend the sittings of the Supreme Court at the time and for the period for which his

attendance is required, and while so attending he shall have all the jurisdiction, powers and privileges, and shall discharge the duties, of a Judge of the Supreme Court.

Article 128: Attendance of retired Judges at sittings of the Supreme Court

Notwithstanding anything in this Chapter, the Chief Justice of India may at any time, with the previous consent of the President, request any person who as held the office of a Judge of the Supreme Court or of the Federal Court or who has held the office of a Judge of a High Court and is duly qualified for appointment as a Judge of the Supreme Court to sit and act as a Judge of the Supreme Court, and every such person so requested shall, while so sitting and acting, be entitled to such allowances as the President may by order determine and have all the jurisdiction, powers and privileges of, but shall not otherwise be deemed to be, a Judge of that Court: Provided that nothing in this article shall be deemed to require any such person as aforesaid to sit and act as a Judge of that Court unless he consents so to do.

Article 129: Supreme Court to be a court of record

The Supreme Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself.

Article 130: Seat of Supreme Court

The Supreme Court shall sit in Delhi or in such other place or places, as the Chief Justice of India may, with the approval of the President, from time to time, appoint.

Article 131: Original jurisdiction of the Supreme Court

Subject to the provisions of this Constitution, the Supreme Court shall, to the exclusion of any other court, have original jurisdiction in any dispute –

- (a) between the Government of India and one or more States; or
- (b) between the Government of India and any State or States on one side and one or more other States on the other; or
- (c) between two or more States.

if and in so far as the dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends:

Provided that the said jurisdiction shall not extend to a dispute arising out of any treaty, agreement, covenant, engagement, sanad or other similar instrument which, having been entered into or executed before the commencement of this Constitution, continues in operation after such commencement or which provides that the said jurisdiction shall not extend to such a dispute.

Article 131A: Executive jurisdiction of the Supreme Court in regard to questions as to constitutional validity of Central laws {...} —Repealed.

Article 132: Appellate jurisdiction of Supreme Court in appeals from High Court in certain cases

(1) An appeal shall lie to the Supreme Court from any judgement, decree or final order of a High Court in the territory of India, whether in a civil, criminal or other proceeding, if the High Court certifies under article 134A that the case involves a substantial question of law as to the interpretation of this Constitution.

(2) {...}

(3) Where such a certificate is given, any party in the case may appeal to the Supreme Court on the ground that any such question as aforesaid has been wrongly decided. Explanation: For the purpose of this article, the expression “final order” includes an order deciding an issue which, if decided in favour of the appellant, would be sufficient for the final disposal of the case.

Article 133: Appellate jurisdiction of Supreme Court in appeals from High Courts in regard to civil matters

(1) An appeal shall lie to the Supreme Court from any judgement, decree or final order in a civil proceeding of a High Court in the territory of India if the High Court certifies under article 134A –

(a) that the case involves a substantial question of law of general importance; and

(b) that in the opinion of the High Court the said question needs to be decided by the Supreme Court.

(2) Notwithstanding anything in article 132, any party appealing to the Supreme Court under clause (1) may urge as one of the grounds in such appeal that a substantial question of law as to the interpretation of this Constitution has been wrongly decided.

(3) Notwithstanding anything in this article, no appeal shall, unless Parliament by law otherwise provides, lie to the Supreme Court from the judgement, decree or final order of one Judge of a High Court.

Article 134: Appellate jurisdiction of Supreme Court in regard to criminal matters

(1) An appeal shall lie to the Supreme Court from any judgement, final order or sentence in a criminal proceeding of a High Court in the territory of India if the High Court –

(a) has on appeal reversed an order of acquittal of an accused person and sentenced him to death;

or

(b) has withdrawn for trial before itself any case from any court subordinate to its authority and has in such trial convicted the accused person and sentenced him to death; or
(c) certified under article 134A that the case is a fit one for appeal to the Supreme Court: Provided that an appeal under sub-clause (c) shall lie subject to such provisions as may be made in that behalf under clause (1) of article 145 and to such conditions as the High Court may establish or require.

(2) Parliament may by law confer on the Supreme Court any further powers to entertain and hear appeals from any judgment, final order or sentence in a criminal proceeding of a High Court in the territory of India subject to such conditions and limitations as may be specified in such law.

Article 134A: Certificate for appeal to the Supreme Court

Every High Court, passing or making a judgment, decree, final order, or sentence, referred to in clause (1) of article 132 or clause (1) of article 133, or clause (1) of article 134, –
(a) may, if it deems fit so to do, on its own motion; and
(b) shall, if an oral application is made, by or on behalf of the party aggrieved, immediately after the passing or making of such judgment, decree final order or sentence, determine, as soon as may be after such passing or making, the question whether a certificate of the nature referred to in clause (1) of article 132, or clause (1) or article 133 or, as the case may be, sub-clause (c) of clause (1) of article 134, may be given in respect of that case.

Article 135: Jurisdiction and powers of the Federal Court under existing law to be exercisable by the Supreme Court

Until Parliament by law otherwise provides, the Supreme Court shall also have jurisdiction and powers with respect to any matter to which the provisions of article 133 or article 134 do not apply if jurisdiction and powers in relation to that matter were exercisable by the Federal Court immediately before the commencement of this Constitution under any existing law.

Article 136: Special leave to appeal by the Supreme Court

(1) Notwithstanding anything in this Chapter, the Supreme Court may, in its discretion, grant special leave to appeal from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any court or tribunal in the territory of India.

(2) Nothing in clause (1) shall apply to any judgment, determination, sentence or order passed or made by any court or tribunal constituted by or under any law relating to the Armed Forces.

Article 137: Review of judgements or orders by the Supreme Court

Subject to the provisions of any law made by Parliament or any rules made under article 145, the Supreme Court shall have power to review any judgment pronounced or order made by it.

Article 138: Enlargement of the jurisdiction of the Supreme Court

(1) The Supreme Court shall have such further jurisdiction and powers with respect to any of the matters in the Union List as Parliament may by law confer.

(2) The Supreme Court shall have such further jurisdiction and powers with respect to any matter as the Government of India and the Government of any State may by special agreement confer, if Parliament by law provides for the exercise of such jurisdiction and powers by the Supreme Court.

Article 139: Conferment on the Supreme Court of powers to issue certain writs

Parliament may by law confer on the Supreme Court power to issue directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for any purposes other than those mentioned in clause (2) of article 32.

Article 139A: Transfer of certain cases

(1) Where cases involving the same or substantially the same questions of law are pending before the Supreme Court and one or more High Courts or before two or more High Courts and the Supreme Court is satisfied on its own motion or on an application made by the Attorney-General of India or by a party to any such case that such questions are substantial questions of general importance, the Supreme Court may withdraw the case or cases pending before the High Court of the High Courts and dispose of all the cases itself:

Provided that the Supreme Court may after determining the said questions of law return any case so withdrawn together with a copy of its judgment on such questions to the High Court from which the case has been withdrawn, and the High Court shall on receipt thereof, proceed to dispose of the case in conformity with such judgment.

(2) The Supreme Court may, if it deems it expedient so to do for the ends of justice, transfer any case, appeal or other proceedings pending before any High Court to any other High Court.

Article 140: Ancillary powers of Supreme Court

Parliament may by law make provision for conferring upon the Supreme Court such supplemental powers not inconsistent with any of the provisions of this Constitution as may appear to be necessary or desirable for the purpose of enabling the Court more effectively to exercise the jurisdiction conferred upon it by or under this Constitution.

Article 141: Law declared by Supreme Court to be binding on all courts

The law declared by the Supreme Court shall be binding on all courts within the territory of

India.

Article 142: Enforcement of decrees and orders of Supreme Court and orders as to discovery, etc.

(1) The Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it, and any decree so passed or order so made shall be enforceable throughout the territory of India in such manner as may be prescribed by or under any law made by Parliament and, until provision in that behalf is so made, in such manner as the President may by order prescribe.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Supreme Court shall, as respects the whole of the territory of India, have all and every power to make any order for the purpose of securing the attendance of any person, the discovery or production of any documents, or the investigation or punishment of any contempt of itself.

Article 143: Power of President to consult Supreme Court

(1) If at any time it appears to the President that a question of law or fact has arisen, or is likely to arise, which is of such a nature and of such public importance that it is expedient to obtain the opinion of the Supreme Court upon it, he may refer the question to that Court for consideration and the Court may, after such hearing as it thinks fit, report to the President its opinion thereon.

(2) The President may, notwithstanding anything in the proviso to article 131, refer a dispute of the kind mentioned in the said proviso to the Supreme Court for opinion and the Supreme Court shall, after hearing as it thinks fit, report to the President its opinion thereon.

Article 144: Civil and judicial authorities to act in aid of the Supreme Court

All authorities, civil and judicial, in the territory of India shall act in aid of the Supreme Court.

Article 144A: Special provisions as to disposal of questions relating to constitutional validity of laws {...} — Repealed

Article 145: Rules of Court, etc.

(1) Subject to the provisions of any law made by Parliament, the Supreme Court may from time to time, with the approval of the President, make rules for regulating generally the practice and procedure of the Court including –

(a) rules as to the persons practising before the Court;

(b) rules as to the procedure for hearing appeals and other matters pertaining to appeals including the time within which appeals to the Court are to be entered;

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(c) rules as to the proceedings in the Court for the enforcement of any of the rights conferred by Part III; (cc) rules as to the proceedings in the Court under article 139A;

(d) rules as to the entertainment of appeals under sub-clause (c) of clause (1) of article 134;

(e) rules as to the conditions subject to which any judgement pronounced or order made by the Court may be reviewed and the procedure for such review including the time within which applications to the Court or such review are to be entered;

(f) rules as to the costs of and incidental to any proceedings in the Court and as to the fees to be charged in respect of proceedings therein;

(g) rules as to the granting of bail;

(h) rules as to stay of proceedings;

(i) rules providing for the summary determination of any appeal which appears to the Court to be frivolous or vexatious or brought for the purpose of delay;

(j) rules as to the procedure for inquiries referred to in clause (1) of article 317.

(2) Subject to the provisions of clause (3), rules made under this article may fix the minimum number of Judges who are to sit for any purpose, and may provide for the powers of single Judges and Division Courts.

(3) The minimum number of Judges who are to sit for the purpose of deciding any case involving a substantial question of law as to the interpretation of this Constitution or for the purpose of hearing any reference under article 143 shall be five:

Provided that, where the Court hearing an appeal under any of the provisions of this Chapter other than article 132 consists of less than five Judges and in the course of the hearing of the appeal of the Court is satisfied that the appeal involves a substantial question of law as to the interpretation of this Constitution the determination of which is necessary for the disposal of the appeal, such Court shall refer the question for opinion to a Court constituted as required by this clause for the purpose of deciding any case involving such a question and shall on receipt of the opinion dispose of the appeal in conformity with such opinion.

(4) No judgement shall be delivered by the Supreme Court save in open Court, and no report shall be made under article 143 save in accordance with an opinion also delivered in open Court.

(5) No judgement and so such opinion shall be delivered by the Supreme Court save with the concurrence of a majority of the Judges present at the hearing of the case, but nothing in this clause shall be deemed to prevent a Judge who does not concur from delivering a dissenting judgement or opinion.

Article 146: Officers and servants and the expenses of the Supreme Court

(1) Appointments of officers and servants of the Supreme Court shall be made by the Chief Justice of India or such other Judge or officer of the Court as he may direct: Provided that the President may by rule require that in such cases as may be specified in the rule, no person not already attached to the Court shall be appointed to any office connected with the Court, save after consultation with the Union Public Service Commission.

(2) Subject to the provisions of any law made by Parliament, the conditions of service of officers and servants of the Supreme Court shall be such as may be prescribed by rules made by the Chief Justice of India or by some other Judge or officer of the Court authorised by the Chief Justice of India to make rules for the purpose:

Provided that the rules made under this clause shall, so far as they relate to salaries, allowances, leave or pensions, require the approval of the President.

(3) The administrative expenses of the Supreme Court, including all salaries, allowances and pensions payable to or in respect of the officers and servants of the Court, shall be charged upon the Consolidated Fund of India, and any fees or other moneys taken by the Court shall form part of that Fund.

Article 147: Interpretation

In this Chapter and in Chapter V of Part VI, references to any substantial question of law as to the interpretation of this Constitution shall be construed as including references to any substantial question of law as to the interpretation of the Government of India Act, 1935 (including any enactment amending or supplementing that Act), or of any Order in Council or order made thereunder, or of the Indian Independence Act, 1947, or of any order made thereunder.

Info- Bits related with Supreme Court

- Supreme Court can **strike down** certain provisions/amendments of Indian Constitution, if it feels that the provisions are unconstitutional or alter the basic structure of the constitution. But striking down does not take away the provisions from the Constitution. To take away the provisions, Parliament has to present a Constitution Amendment bill to **repeal** the provisions.

COMPTROLLER AND AUDITOR-GENERAL OF INDIA: CAG (ARTICLES 148-151)

Chapter V under Part V of the Indian Constitution deals with the Comptroller and Auditor-General of India (CAG). CAG is responsible for auditing the accounts of the Union and State

governments and public sector organizations, and for maintaining the accounts of State governments. The reports of the CAG are taken into consideration by the Public Accounts Committees. CAG enjoys the same status as a judge of Supreme Court of India.

Article 148: Comptroller and Auditor-General of India

(1) There shall be a Comptroller and Auditor-General of India who shall be appointed by the President by warrant under his hand and seal and shall only be removed from office in like manner and on the like grounds as a Judge of the Supreme Court.

(2) Every person appointed to be the Comptroller and Auditor-General of India shall, before he enters upon his office, make and subscribe before the President, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule.

(3) The salary and other conditions of service of the Comptroller and Auditor- General shall be such as may be determined by Parliament by law and, until they are so determined, shall be as specified in the Second Schedule: Provided that neither the salary of a Comptroller and Auditor-General nor his rights in respect of leave of absence, pension or age of retirement shall be varied to his disadvantage after his appointment.

(4) The Comptroller and Auditor-General shall not be eligible for further office either under the Government of India or under the Government of any State after he has ceased to hold his office.

(5) Subject to the provisions of this Constitution and of any law made by Parliament, the conditions of service of persons serving in the Indian Audit and Accounts Department and the administrative powers of the Comptroller and Auditor-General shall be such as may be prescribed by rules made by the President after consultation with the Comptroller and Auditor-General.

(6) The administrative expenses of the office of the Comptroller and Auditor- General, including all salaries, allowances and pensions payable to or in respect of persons serving in that office, shall be charged upon the Consolidated Fund of India.

Article 149: Duties and powers of the Comptroller and Auditor-General

The Comptroller and Auditor-General shall perform such duties and exercise such powers in relation to the accounts of the Union and of the States and of any other authority or body as may be prescribed by or under any law made by Parliament and, until provision in that behalf is so made, shall perform such duties and exercise such powers in relation to the accounts of the Union and of the States as were conferred on or exercisable by the Auditor-General of India immediately before the commencement of this Constitution in relation to the accounts of the Dominion of India and of the Provinces respectively.

Article 150: Form of accounts of the Union and of the States

The accounts of the Union and of the States shall be kept in such form as the President may, on the advice of the Comptroller and Auditor-General of India, prescribe.

Article 151: Audit reports

(1) The reports of the Comptroller and Auditor-General of India relating to the accounts of the Union shall be submitted to the President, who shall cause them to be laid before each House of Parliament.

(2) The reports of the Comptroller and Auditor-General of India relating to the accounts of a State shall be submitted to the Governor of the State, who shall cause them to be laid before the Legislature of the State.

Info-Bits Related with Comptroller and Auditor-General of India

- State Accountants General (SAG) works under CAG. The Finance Accounts and Appropriation Accounts are audited by the respective State Accountants General (Audit) before submission to the CAG of India for certification and submission to the Governor / Administrator of Union Territory for being caused to be laid before the State Legislature.
- Apart from the Constitutional provisions, Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Act, 1971 (56 of 1971) also provides for the power of CAG. The act determines the conditions of service of the Comptroller and Auditor-General of India and prescribes his duties and powers and for that matters connected therewith or incidental thereto.
- **CAG reforms that can be suggested (Suggestions of Vinod Rai):** (1) Bring all private-public partnerships (PPPs), Panchayati Raj Institutions and government-funded societies, within the ambit of the CAG. (2) Amendments to the CAG Act of 1971 to keep pace with the changes in governance. (3) A collegium type mechanism to choose a new CAG on the lines of selecting a Chief Vigilance Commissioner (CVC).
- "Audit has an adversarial function. In any situation whether it is private or public or government or whatever it is, it has an adversarial function. We are not going to praise government policies in an adversarial function. What is the purpose of audit — to look into actions taken and try to ensure that the actions that have been taken are as per the rules and procedures." – Vinod Rai, Former CAG.
- The CAG is also the head of the Indian Audit and Accounts Department, the affairs of which are managed by officers of Indian Audit and Accounts Service.
- The International Organisation of Supreme Audit Institutions (INTOSAI) operates as an umbrella organisation for the external government audit community. INTOSAI was founded in 1953 at the initiative of Emilio Fernandez Camus, then President of the SAI of

Cuba. At present INTOSAI has 192 Full Members and 5 Associated Members. INTOSAI is an autonomous, independent and non-political organisation. It is a non-governmental organisation with special consultative status with the Economic and Social Council (ECOSOC) of the United Nations. It has provided an institutionalised framework for supreme audit institutions to promote development and transfer of knowledge, improve government auditing worldwide and enhance professional capacities, standing and influence of member SAIs in their respective countries. In keeping with INTOSAI's motto, 'Experientia mutua omnibus prodest', the exchange of experience among INTOSAI members and the findings and insights which result, are a guarantee that government auditing continuously progresses with new developments.

CHAPTER II: THE EXECUTIVE

GOVERNOR OF STATES (ARTICLE 152-162)

PART VI of the Constitution deals with the other half of Indian federalism, ie the States. Article from 152-237 deals with various provisions related to States. It covers the executive, legislature and judiciary wings of the states. Article 152 clarifies about the definition of state, while the next set of articles lists the roles and responsibilities of the Governors of states.

CHAPTER I.—GENERAL

Article 152 : Definition

In this Part, unless the context otherwise requires, the expression "State" does not include the State of Jammu and Kashmir.

CHAPTER II. THE EXECUTIVE

THE GOVERNOR

ARTICLE 153: GOVERNORS OF STATES

There shall be a Governor for each State: Provided that nothing in this article shall prevent the appointment of the same person as Governor for two or more States.

ARTICLE 154: EXECUTIVE POWER OF STATE

(1) The executive power of the State shall be vested in the Governor and shall be exercised by him either directly or through officers subordinate to him in accordance with this Constitution.

(2) Nothing in this article shall—

(a) be deemed to transfer to the Governor any functions conferred by any existing law on any

other authority; or

(b) prevent Parliament or the Legislature of the State from conferring by law functions on any authority subordinate to the Governor.

ARTICLE 155: APPOINTMENT OF GOVERNOR

The Governor of a State shall be appointed by the President by warrant under his hand and seal.

ARTICLE 156: TERM OF OFFICE OF GOVERNOR

(1) The Governor shall hold office during the pleasure of the President.

(2) The Governor may, by writing under his hand addressed to the President, resign his office.

(3) Subject to the foregoing provisions of this article, a Governor shall hold office for a term of five years from the date on which he enters upon his office: Provided that a Governor shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

ARTICLE 157: QUALIFICATIONS FOR APPOINTMENT AS GOVERNOR

No person shall be eligible for appointment as Governor unless he is a citizen of India and has completed the age of thirty-five years.

ARTICLE 158: CONDITIONS OF GOVERNOR'S OFFICE

(1) The Governor shall not be a member of either House of Parliament or of a House of the Legislature of any State specified in the First Schedule, and if a member of either House of Parliament or of a House of the Legislature of any such State be appointed Governor, he shall be deemed to have vacated his seat in that House on the date on which he enters upon his office as Governor.

(2) The Governor shall not hold any other office of profit.

(3) The Governor shall be entitled without payment of rent to the use of his official residences and shall be also entitled to such emoluments, allowances and privileges as may be determined by Parliament by law and, until provision in that behalf is so made, such emoluments, allowances and privileges as are specified in the Second Schedule.

(3A) Where the same person is appointed as Governor of two or more States, the emoluments and allowances payable to the Governor shall be allocated among the States in such proportion as the President may by order determine.

(4) The emoluments and allowances of the Governor shall not be diminished during his term of

office.

ARTICLE 159: OATH OR AFFIRMATION BY THE GOVERNOR

Every Governor and every person discharging the functions of the Governor shall, before entering upon his office, make and subscribe in the presence of the Chief Justice of the High Court exercising jurisdiction in relation to the State, or, in his absence, the senior most Judge of that Court available, an oath or affirmation in the following form, that is to say—
“I, A. B., do swear in the name of God that I will solemnly affirm faithfully execute the office of Governor (or discharge the functions of the Governor) of(name of the State) and will to the best of my ability preserve, protect and defend the Constitution and the law and that I will devote myself to the service and well-being of the people of(name of the State).”

ARTICLE 160: DISCHARGE OF THE FUNCTIONS OF THE GOVERNOR IN CERTAIN CONTINGENCIES

The President may make such provision as he thinks fit for the discharge of the functions of the Governor of a State in any contingency not provided for in this Chapter.

ARTICLE 161: POWER OF GOVERNOR TO GRANT PARDONS, ETC., AND TO SUSPEND, REMIT OR COMMUTE SENTENCES IN CERTAIN CASES

The Governor of a State shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence against any law relating to a matter to which the executive power of the State extends.

ARTICLE 162: EXTENT OF EXECUTIVE POWER OF STATE

Subject to the provisions of this Constitution, the executive power of a State shall extend to the matters with respect to which the Legislature of the State has power to make laws: Provided that in any matter with respect to which the Legislature of a State and Parliament have power to make laws, the executive power of the State shall be subject to, and limited by, the executive power expressly conferred by this Constitution or by any law made by Parliament upon the Union or authorities thereof.

Info-bits related to Governor of States

- Powers of the Governor can be broadly classified into executive, legislative (including financial powers) and judicial powers.
- Though the Governor has the power to pardon, he cannot pardon a death sentence.
- There are also related articles like 163 -167, 174-176, 200-201, 213, 217, 233-234 which

touch the sphere of influence of the Governor of a state.

- When the governor reserves a bill for the consideration of the President, the assent of the Governor is no longer required (only President's assent would be needed then).
- The president is not bound to give his assent to a state bill reserved by the governor for the Consideration of the President and he can return the bill to the houses for reconsideration 'n' times.
- **Removal of Governors by Center :** Disapproving the practice of replacing Governors after a new government comes to power at the Centre, the Supreme Court in 2010 had said that the Governors of states cannot be changed in an *arbitrary and capricious manner* with the change of power. A five-judge Constitution bench headed by Chief Justice K G Balakrishnan held that a Governor can be replaced only under "*compelling reasons for proven misconduct or other irregularities*". The Bench also said the Governor can be removed only under "compelling reasons" and what the compelling reasons are depends on facts and situations of a particular case. The landmark decision came on a PIL filed was in 2004 by then BJP MP B P Singhal challenging the removal of Governors of Uttar Pradesh, Gujarat, Haryana and Orissa by the previous UPA government.
- NB : The judgment had provided an important exception, which now allows the Union government to build a file containing the reasons for a governor's removal prior to the council of ministers headed by the PM making such a recommendation to the President. Though the President can return the file, he must sign the recommendation in the event of Cabinet reiterating its decision. (The case is even then open for Judicial review on grounds of "compelling" reasons for proven misconduct or other irregularities.)

CHAPTER III: THE STATE LEGISLATURE

The State Legislature – in General (Article 168-177)

This post on the State Legislature is a part of Clear IAS polity series on Indian Constitution, covering all the important topics from Article 1 to Article 395. Posts so far published under this series are linked directly under their respective chapters and parts. Our goal is to cover Indian Constitution in detail, giving stress to important areas.

We have been following the same order of Parts and Articles in Indian Constitution in our posts. After presenting the articles of Indian Constitution first, our team presents extra-information related to each topic and probable questions from the same for prelims and mains. In this post we discuss articles 168 to 177 which deals with the State Legislature in general.

Article 168: Constitution of Legislatures in States.

(1) For every State there shall be a Legislature which shall consist of the Governor, and—

(a) in the States of Andhra Pradesh, Telengana, Uttar Pradesh, Bihar, Maharashtra, Karnataka and Jammu and Kashmir, two Houses;

(b) in other States, one House.

(2) Where there are two Houses of the Legislature of a State, one shall be known as the Legislative Council and the other as the Legislative Assembly, and where there is only one House, it shall be known as the Legislative Assembly.

Article 169: Abolition or creation of Legislative Councils in States.

(1) Notwithstanding anything in article 168, Parliament may by law provide for the abolition of the Legislative Council of a State having such a Council or for the creation of such a Council in a State having no such Council, if the Legislative Assembly of the State passes a resolution to that effect by a majority of the total membership of the Assembly and by a majority of not less than two-thirds of the members of the Assembly present and voting.

(2) Any law referred to in clause (1) shall contain such provisions for the amendment of this Constitution as may be necessary to give effect to the provisions of the law and may also contain such supplemental, incidental and consequential provisions as Parliament may deem necessary.

(3) No such law as aforesaid shall be deemed to be an amendment of this Constitution for the purposes of article 368.

Article 170: Composition of the Legislative Assemblies.

(1) Subject to the provisions of article 333, the Legislative Assembly of each State shall consist of not more than five hundred, and not less than sixty, members chosen by direct election from territorial constituencies in the State.

(2) For the purposes of clause (1), each State shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall, so far as practicable, be the same throughout the State.

Explanation.—In this clause, the expression “population” means the population as ascertained at the last preceding census of which the relevant figures have been published: Provided that the reference in this Explanation to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year 2026 have been published, be construed as a reference to the 2001 census.

(3) Upon the completion of each census, the total number of seats in the Legislative Assembly of

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each State and the division of each State into territorial constituencies shall be readjusted by such authority and in such manner as Parliament may by law determine: Provided that such readjustment shall not affect representation in the Legislative Assembly until the dissolution of the then existing Assembly:

Provided further that such readjustment shall take effect from such date as the President may, by order, specify and until such readjustment takes effect, any election to the Legislative Assembly may be held on the basis of the territorial constituencies existing before such readjustment: Provided also that until the relevant figures for the first census taken after the year 2026 have been published, it shall not be necessary to readjust—

- (i) the total number of seats in the Legislative Assembly of each State as readjusted on the basis of the 1971 census; and
- (ii) the division of such State into territorial constituencies as may be readjusted on the basis of the 2001 census, under this clause.

Article 171: Composition of the Legislative Councils.



(1) The total number of members in the Legislative Council of a State having such a Council shall not exceed one third of the total number of members in the Legislative Assembly of that State:

Provided that the total number of members in the Legislative Council of a State shall in no case be less than forty.

(2) Until Parliament by law otherwise provides, the composition of the Legislative Council of a State shall be as provided in clause (3).

(3) Of the total number of members of the Legislative Council of a State—

(a) as nearly as may be, one-third shall be elected by electorates consisting of members of municipalities, district boards and such other local authorities in the State as Parliament may by law specify;

(b) as nearly as may be, one-twelfth shall be elected by electorates consisting of persons residing in the State who have been for at least three years graduates of any university in the territory of India or have been for at least three years in possession of qualifications prescribed by or under any law made by Parliament as equivalent to that of a graduate of any such university;

(c) as nearly as may be, one-twelfth shall be elected by electorates consisting of persons who have been for at least three years engaged in teaching in such educational institutions within the State, not lower in standard than that of a secondary school, as may be prescribed by or under any law made by Parliament;

(d) as nearly as may be, one-third shall be elected by the members of the Legislative Assembly of the State from amongst persons who are not members of the Assembly;

(e) the remainder shall be nominated by the Governor in accordance with the provisions of clause (5).

(4) The members to be elected under sub-clauses (a), (b) and (c) of clause (3) shall be chosen in such territorial constituencies as may be prescribed by or under any law made by Parliament, and the elections under the said sub-clauses and under sub-clause (d) of the said clause shall be held in accordance with the system of proportional representation by means of the single transferable vote.

(5) The members to be nominated by the Governor under sub-clause (e) of clause (3) shall consist of persons having special knowledge or practical experience in respect of such matters as the following, namely:— Literature, science, art, co-operative movement and social service.

Article 172: Duration of State Legislatures.

(1) Every Legislative Assembly of every State, unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no longer and the expiration of the said period of five years shall operate as a dissolution of the Assembly:

Provided that the said period may, while a Proclamation of Emergency is in operation, be extended by Parliament by law for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate.

(2) The Legislative Council of a State shall not be subject to dissolution, but as nearly as possible one-third of the members thereof shall retire as soon as may be on the expiration of every second year in accordance with the provisions made in that behalf by Parliament by law.

Article 173: Qualification for membership of the State Legislature.

A person shall not be qualified to be chosen to fill a seat in the Legislature of a State unless he—

(a) is a citizen of India, and makes and subscribes before some person authorised in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Third Schedule;

(b) is, in the case of a seat in the Legislative Assembly, not less than twenty-five years of age and, in the case of a seat in the Legislative Council, not less than thirty years of age; and

(c) possesses such other qualifications as may be prescribed in that behalf by or under any law made by Parliament.

Article 174: Sessions of the State Legislature, prorogation and dissolution.

(1) The Governor shall from time to time summon the House or each House of the Legislature of the State to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.

(2) The Governor may from time to time—

(a) prorogue the House or either House;

(b) dissolve the Legislative Assembly.

Article 175: Right of Governor to address and send messages to the House or Houses.

(1) The Governor may address the Legislative Assembly or, in the case of a State having a Legislative Council, either House of the Legislature of the State, or both Houses assembled together, and may for that purpose require the attendance of members.

(2) The Governor may send messages to the House or Houses of the Legislature of the State, whether with respect to a Bill then pending in the Legislature or otherwise, and a House to which any message is so sent shall with all convenient despatch consider any matter required by the message to be taken into consideration.

Article 176: Special address by the Governor.

(1) At the commencement of the first session after each general election to the Legislative Assembly and at the commencement of the first session of each year, the Governor shall address the Legislative Assembly or, in the case of a State having a Legislative Council, both Houses assembled together and inform the Legislature of the causes of its summons.

(2) Provision shall be made by the rules regulating the procedure of the House or either House for the allotment of time for discussion of the matters referred to in such address.

Article 177: Rights of Ministers and Advocate-General as respects the Houses.

Every Minister and the Advocate-General for a State shall have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Assembly of the State or, in the case of a State having a Legislative Council, both Houses, and to speak in, and otherwise to take part in the proceedings of, any committee of the Legislature of which he may be named a member, but shall not, by virtue of this article, be entitled to vote.

Info- Bits related with State Legislature

1. At present there are seven states which have bicameral legislature – Andhra Pradesh, Telengana, Uttar Pradesh, Bihar, Maharashtra, Karnataka and Jammu and Kashmir.
2. The permissible strength of a Legislative Assembly (LA) is between 60 and 500.
3. Total number of Members in the Legislative Council (LC) of a State shall not exceed one third of the total number of Members in the Legislative Assembly.
4. Of the total number of Members of the Legislative Council, 1/3 of Members are elected by electorates consisting of the Members of Local Authorities, 1/12 are elected by electorates consisting of graduates residing in the State, 1/12 are elected by electorates consisting of persons engaged in teaching, 1/3 are elected by the Members of Legislative Assembly and the remaining are nominated by the Governor. (For example, if the total strength of L.C is 48, 16 will be elected by members of local authorities, 16 will be elected by L.A, 4 will be elected by graduates, 4 will be elected by teachers and 8 will be nominated by Governor.)

OFFICERS OF THE STATE LEGISLATURE (ARTICLES 178 TO 187)

Officers of the State Legislature (Articles 178 to 187)

Articles from 178 to 187 deals with the officers of the state legislature. They include Speaker, Deputy speaker, Chairman of LC, Deputy Chairman of LC etc.

Article 178: The Speaker and Deputy Speaker of the Legislative Assembly.

Every Legislative Assembly of a State shall, as soon as may be, choose two members of the Assembly to be respectively Speaker and Deputy Speaker thereof and, so often as the office of Speaker or Deputy Speaker becomes vacant, the Assembly shall choose another member to be Speaker or Deputy Speaker, as the case may be.

Article 179: Vacation and resignation of, and removal from, the offices of Speaker and

Deputy Speaker.

A member holding office as Speaker or Deputy Speaker of an Assembly—

(a) shall vacate his office if he ceases to be a member of the Assembly;

(b) may at any time by writing under his hand addressed, if such member is the Speaker, to the Deputy Speaker, and if such member is the Deputy Speaker, to the Speaker, resign his office; and

(c) may be removed from his office by a resolution of the Assembly passed by a majority of all the then members of the Assembly:

Provided that no resolution for the purpose of clause (c) shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution: Provided further that, whenever the Assembly is dissolved, the Speaker shall not vacate his office until immediately before the first meeting of the Assembly after the dissolution.

Article 180: Power of the Deputy Speaker or other person to perform the duties of the office of, or to act as, Speaker.



Speaker of Legislative Assembly

(1) While the office of Speaker is vacant, the duties of the office shall be performed by the Deputy Speaker or, if the office of Deputy Speaker is also vacant, by such member of the Assembly as the Governor may appoint for the purpose.

(2) During the absence of the Speaker from any sitting of the Assembly the Deputy Speaker or, if he is also absent, such person as may be determined by the rules of procedure of the Assembly, or, if no such person is present, such other person as may be determined by the Assembly, shall act as Speaker.

Article 181: The Speaker or the Deputy Speaker not to preside while a resolution for his removal from office is under consideration.

(1) At any sitting of the Legislative Assembly, while any resolution for the removal of the Speaker from his office is under consideration, the Speaker, or while any resolution for the removal of the Deputy Speaker from his office is under consideration, the Deputy Speaker, shall not, though he is present, preside, and the provisions of clause (2) of article 180 shall apply in relation to every such sitting as they apply in relation to a sitting from which the Speaker or, as the case may be, the Deputy Speaker, is absent.

(2) The Speaker shall have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Assembly while any resolution for his removal from office is under consideration in the Assembly and shall, notwithstanding anything in article 189, be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of an equality of votes.

Article 182: The Chairman and Deputy Chairman of the Legislative Council.

The Legislative Council of every State having such Council shall, as soon as may be, choose two members of the Council to be respectively Chairman and Deputy Chairman thereof and, so often as the office of Chairman or Deputy Chairman becomes vacant, the Council shall choose another member to be Chairman or Deputy Chairman, as the case may be.

Article 183: Vacation and resignation of, and removal from, the offices of Chairman and Deputy Chairman.

A member holding office as Chairman or Deputy Chairman of a Legislative Council—

(a) shall vacate his office if he ceases to be a member of the Council;

(b) may at any time by writing under his hand addressed, if such member is the Chairman, to the Deputy Chairman, and if such member is the Deputy Chairman, to the Chairman, resign his office; and

(c) may be removed from his office by a resolution of the Council passed by a majority of all the then members of the Council:

Provided that no resolution for the purpose of clause (c) shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution.

Article 184: Power of the Deputy Chairman or other person to perform the duties of the office of, or to act as, Chairman.

(1) While the office of Chairman is vacant, the duties of the office shall be performed by the

Deputy Chairman or, if the office of Deputy Chairman is also vacant, by such member of the Council as the Governor may appoint for the purpose.

(2) During the absence of the Chairman from any sitting of the Council the Deputy Chairman or, if he is also absent, such person as may be determined by the rules of procedure of the Council, or, if no such person is present, such other person as may be determined by the Council, shall act as Chairman.

Article 185: The Chairman or the Deputy Chairman not to preside while a resolution for his removal from office is under consideration.

(1) At any sitting of the Legislative Council, while any resolution for the removal of the Chairman from his office is under consideration, the Chairman, or while any resolution for the removal of the Deputy Chairman from his office is under consideration, the Deputy Chairman, shall not, though he is present, preside, and the provisions of clause (2) of article 184 shall apply in relation to every such sitting as they apply in relation to a sitting from which the Chairman or, as the case may be, the Deputy Chairman is absent.

(2) The Chairman shall have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Council while any resolution for his removal from office is under consideration in the Council and shall, notwithstanding anything in article 189, be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of an equality of votes.

Article 186: Salaries and allowances of the Speaker and Deputy Speaker and the Chairman and Deputy Chairman.

There shall be paid to the Speaker and the Deputy Speaker of the Legislative Assembly, and to the Chairman and the Deputy Chairman of the Legislative Council, such salaries and allowances as may be respectively fixed by the Legislature of the State by law and, until provision in that behalf is so made, such salaries and allowances as are specified in the Second Schedule.

Article 187: Secretariat of State Legislature.

(1) The House or each House of the Legislature of a State shall have a separate secretarial staff: Provided that nothing in this clause shall, in the case of the Legislature of a State having a Legislative Council, be construed as preventing the creation of posts common to both Houses of such Legislature.

(2) The Legislature of a State may by law regulate the recruitment, and the conditions of service of persons appointed, to the secretarial staff of the House or Houses of the Legislature of the State.

(3) Until provision is made by the Legislature of the State under clause (2), the Governor may,

after consultation with the Speaker of the Legislative Assembly or the Chairman of the Legislative Council, as the case may be, make rules regulating the recruitment, and the conditions of service of persons appointed, to the secretarial staff of the Assembly or the Council, and any rules so made shall have effect subject to the provisions of any law made under the said clause.

Info- Bits related with Officers of the State Legislature

1. The Constitution does not prevent creation common posts to both houses of state legislature.
2. If there is any resolution for the removal of Speaker, Deputy Speaker, Chairman or Deputy Chairman of the State Legislature, then they cannot preside. But they have the right to speak in. The right to vote changes for Speaker of LA and Chairman of LC from casting vote to first instance vote.
3. In comparison, if there is a resolution for removal of Chairman of Rajya Sabha (ie. Vice President of India), he will not get any right for casting vote or first instance vote.
4. If office of Speaker vacant, then the preference goes to → Deputy Speaker → Member appointed by Governor.
5. If office of Speaker absent, then the preference goes to → Deputy Speaker → Person determined by the rules of procedure of the Assembly → Person determined by the Assembly.

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301 Freedom of trade, commerce and intercourse.

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

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

304 Restrictions on trade, commerce and intercourse among States.

305 Saving of existing laws and laws providing for State monopolies.

306 [Repealed.]

307 Appointment of authority for carrying out the purposes of articles 301 to 304.

PART XIV: SERVICES UNDER THE UNION AND THE STATES

CHAPTER I: SERVICES

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308 Interpretation.

309 Recruitment and conditions of service of persons serving the Union or a State.

310 Tenure of office of persons serving the Union or a State.

311 Dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or a State.

312 All-India services.

312A Power of Parliament to vary or revoke conditions of service of officers of certain services.

313 Transitional provisions.

314 [Repeated.]

CHAPTER II: PUBLIC SERVICE COMMISSIONS

315 Public Service Commissions for the Union and for the States.

316 Appointment and term of office of members.

317 Removal and suspension of a member of a Public Service Commission.

318 Power to make regulations as to conditions of service of members and staff of the Commission.

319 Prohibition as to the holding of offices by members of Commission on ceasing to be such members.

320 Functions of Public Service Commissions.

321 Power to extend functions of Public Service Commissions.

322 Expenses of Public Service Commissions.

323 Reports of Public Service Commissions.

PART XIVA: TRIBUNALS

323A Administrative tribunals.

323B Tribunals for other matters.

PART XV: ELECTIONS

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324 Superintendence, direction and control of elections to be vested in an Election Commission.

325 No person to be ineligible for inclusion in, or to claim to be included in a special, electoral roll on grounds of religion, race, caste or sex.

326 Elections to the House of the People and to the Legislative Assemblies of States to be on the basis of adult suffrage.

327 Power of Parliament to make provision with respect to elections to Legislatures.

328 Power of Legislature of a State to make provision with respect to elections to such Legislature.

329 Bar to interference by courts in electoral matters.

329A [Repealed.]

PART XVI: SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES

330 Reservation of seats for Scheduled Castes and Scheduled Tribes in the House of the People.

331 Representation of the Anglo-Indian community in the House of the People.

332 Reservation of seats for Scheduled Castes and Scheduled Tribes in the Legislative Assemblies of the States.

333 Representation of the Anglo-Indian community in the Legislative Assemblies of the States.

334 Reservation of seats and special representation to cease after sixty years.

335 Claims of Scheduled Castes and Scheduled Tribes to services and posts.

336 Special provision for Anglo-Indian community in certain services.

337 Special provision with respect to educational grants for the benefit of the Anglo-Indian Community.

338 National Commission for Scheduled Castes.

338A National Commission for Scheduled Tribes.

338A National Commission for Backward Classes.

339 Control of the Union over the Administration of Scheduled Areas and the welfare of Scheduled Tribes.

340 Appointment of a Commission to investigate the conditions of backward classes.

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341 Scheduled Castes.

342 Scheduled Tribes.

342A Socially and educationally backward classes.

PART XVII: OFFICIAL LANGUAGE

CHAPTER I: LANGUAGE OF THE UNION

343 Official language of the Union.

344 Commission and Committee of Parliament on official language.

CHAPTER II: REGIONAL LANGUAGES

345 Official language or languages of a State.

346 Official language for communication between one State and another or between a State and the Union.

347 Special provision relating to language spoken by a section of the population of a State.

CHAPTER III: LANGUAGE OF THE SUPREME COURT, HIGH COURTS, ETC.

348 Language to be used in the Supreme Court and in the High Courts and for Acts, Bills, etc.

349 Special procedure for enactment of certain laws relating to language.

CHAPTER IV: SPECIAL DIRECTIVES

350 Language to be used in representations for redress of grievances.

350A Facilities for instruction in mother-tongue at the primary stage.

350B Special Officer for linguistic minorities.

351 Directive for development of the Hindi language.

PART XVIII: EMERGENCY PROVISIONS

352 Proclamation of Emergency.

353 Effect of Proclamation of Emergency.

354 Application of provisions relating to distribution of revenues while a Proclamation of Emergency is in operation.

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355 Duty of the Union to protect States against external aggression and internal disturbance.

356 Provisions in case of failure of constitutional machinery in States.

357 Exercise of legislative powers under Proclamation issued under article 356.

358 Suspension of provisions of article 19 during emergencies.

359 Suspension of the enforcement of the rights conferred by Part III during emergencies.

359A [Repealed.]

360 Provisions as to financial emergency.

PART XIX: MISCELLANEOUS

361 Protection of President and Governors and Rajprakhsh.

361A Protection of publication of proceedings of Parliament and State Legislatures.

361B Disqualification for appointment on remunerative political post.

362 [Repealed.]

363 Bar to interference by courts in disputes arising out of certain treaties, agreements, etc.

363A Recognition granted to Rulers of Indian States to cease and privy purses to be abolished.

364 Special provisions as to major ports and aerodromes.

365 Effect of failure to comply with, or to give effect to, directions given by the Union.

366 Definitions.

367 Interpretation.

PART XX: AMENDMENT OF THE CONSTITUTION

368 Power of Parliament to amend the Constitution and procedure therefor.

PART XXI: TEMPORARY, TRANSITIONAL AND SPECIAL PROVISIONS

369 Temporary power to Parliament to make laws with respect to certain matters in the State List as if they were matters in the Concurrent List.

370 Temporary provisions with respect to the State of Jammu and Kashmir.

371 Special provision with respect to the States of Maharashtra and Gujarat.

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- 371A Special provision with respect to the State of Nagaland.
- 371B Special provision with respect to the State of Assam.
- 371C Special provision with respect to the State of Manipur.
- 371D Special provisions with respect to the State of Andhra Pradesh.
- 371E Establishment of Central University in Andhra Pradesh.
- 371F Special provisions with respect to the State of Sikkim.
- 371G Special provision with respect to the State of Mizoram.
- 371H Special provision with respect to the State of Arunachal Pradesh.
- 371-I Special provision with respect to the State of Goa.
- 371J Special provision with respect to the State of Karnataka.
- 372 Continuance in force of existing laws and their adaptation.
- 372A Power of the President to adapt laws.
- 373 Power of President to make order in respect of persons under preventive detention in certain cases.
- 374 Provisions as to Judges of the Federal Court and proceedings pending in the Federal Court or before His Majesty in Council.
- 375 Courts, authorities and officers to continue to function subject to the provisions of the Constitution.
- 376 Provisions as to Judges of High Courts.
- 377 Provisions as to Comptroller and Auditor-General of India.
- 378 Provisions as to Public Service Commissions.
- 378A Special provision as to the duration of Andhra Pradesh Legislative Assembly.
- 379-391 [Repealed.]
- 392 Power of the President to remove difficulties.

PART XXII: SHORT TITLE, COMMENCEMENT, AUTHORITATIVE TEXT IN HINDI AND REPEALS

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393 Short title.

394 Commencement.

394A Authoritative text in the Hindi language.

395 Repeals.

LIST OF SCHEDULES IN INDIAN CONSTITUTION

The following table describes the Schedule of the Indian Constitution –

Schedule	Contains
First Schedule	Lists the states and territories of India (also about their changes)
Second Schedule	Lists the salaries of officials holding public office, Presidents, judges, and Comptroller and Auditor General of India
Third Schedule	Forms of oaths and Affirmations of offices for elected officials including judges

Fourth Schedule	Allocation of seats in the Rajya Sabha (the Upper House of Parliament) per State or Union Territory
Fifth Schedule	Provisions as to the Administration and Control of Scheduled Areas and Scheduled Tribes
Sixth Schedule	Provisions as to the Administration of Tribal Areas in the States of Assam, Meghalaya, Tripura, and Mizoram
Seventh Schedule	The Union (central government), state, and concurrent lists of responsibilities
Eight Schedule	The Languages
Ninth Schedule	Validation of certain Acts and Regulations
Tenth Schedule	"Anti-defection" provisions for the Members of Parliament and the Members of the State Legislatures

Eleventh Schedule	Panchayat Raj (rural local government)
Twelfth Schedule	Municipalities (urban local government)

LIST OF MAJOR AMENDMENTS OF THE INDIAN CONSTITUTION

Important amendments brought in the Indian Constitution are mentioned below:

As of January 2020, there have been 104 **amendments of the Constitution of India** since it was first enacted in 1950.

There are three types of amendments to the Constitution of India of which second and third type of amendments are governed by Article 368.

- The first type of amendments includes that can be passed by "simple majority" in each house of the Parliament of India.
- The second type of amendments includes that can be effected by the parliament by a prescribed "special majority" in each house; and
- The third type of amendments includes those that require, in addition to such "special majority" in each house of the parliament, ratification by at least one half of the State Legislatures.

Although constitutional amendments require the support of a two-thirds majority in both houses of Parliament (with some amendments requiring ratification by a majority of state legislatures), the Indian Constitution is the most amended national constitution in the world.^[4] The Constitution spells out governmental powers with so much detail that many matters addressed by statute in other democracies must be addressed via constitutional amendment in India. As a result, the Constitution is amended roughly twice a year.

First Amendment Act, 1951

The state was empowered to make special provisions for the advancement of socially and backward classes

The Ninth Schedule was added

Note:

- Fourth Amendment Act, 1955 included some more Acts in the Ninth Schedule
- 17th Amendment Act, 1964 included 44 more Acts in the Ninth Schedule
- 29th Amendment Act, 1972 included two Kerala Acts on land reforms in the Ninth Schedule
- 34th Amendment Act, 1974 included twenty more land tenure and land reforms acts of various states in the Ninth Schedule

Three more grounds of restrictions on Article 19 (1) [Freedom of speech and expression] were added:

- Public order
- Friendly relations with foreign states
- Incitement to an offence

Note: Restrictions were made reasonable and justiciable.

Introduced the validity of the state's move to nationalize any business or trade and the same to not be invalid on the grounds of violation of the right to trade and business

Second Amendment Act, 1952

The scale of representation in the Lok Sabha was readjusted stating that 1 member can represent even more than 7.5 lakh people.

Seventh Amendment Act, 1956

The provision of having a common High Court for two or more states was introduced

Abolition of Class A, B, C and D states – 14 States and 6 Union Territories were formed

Introduction of Union Territories

Ninth Amendment Act, 1960

Adjustments to Indian Territory as a result of an agreement with Pakistan (Indo-Pak Agreement 1958):

- Cession of Indian territory of Berubari Union (West Bengal) to Pakistan

Tenth Amendment Act, 1961

Dadra, Nagar, and Haveli incorporated in the Union of Indian as a Union Territory

12th Amendment Act, 1962

Goa, Daman and Diu incorporated in the Indian Union as a Union Territory

13th Amendment Act, 1962

Nagaland was formed with special status under Article 371A

14th Amendment Act, 1962

Pondicherry incorporated into the Indian Union

Union Territories of Himachal Pradesh, Manipur, Tripura, Goa, Daman and Diu and Puducherry were provided the legislature and council of ministers

19th Amendment Act, 1966

System of Election Tribunals was abolished and High Courts were given the power to hear the election petitions

21st Amendment Act, 1967

Sindhi language was language into 8th Schedule of Indian Constitution

24th Amendment Act, 1971

The President's assent to Constitutional Amendment Bill was made compulsory

25th Amendment Act, 1971

Fundamental Right to Property was curtailed

26th Amendment Act, 1971

Privy Purse and privileges of former rulers of princely states were abolished

31st Amendment Act, 1972

Lok Sabha seats were increased from 525 to 545

35th Amendment Act, 1974

The status of Sikkim as protectorate state was terminated and Sikkim was given the status of 'Associate State' of India

36th Amendment Act, 1975

Sikkim was made a full-fledged state of India

40th Amendment Act, 1976

Parliament was empowered to specify from time to time the limits of the territorial waters, the continental shelf, the exclusive economic zone (EEZ) and the maritime zones of India.

42nd Amendment Act, 1976

Since the 42nd Amendment Act is the most comprehensive amendment of the Indian Constitution, called the 'Mini-Constitution,'

44th Amendment Act, 1978

It is also one of the important amendments in the Indian Constitution, enacted by the Janata Government.

52nd Amendment Act, 1985

A new tenth Schedule was added providing for the anti-defection laws. Candidates can read in detail about the Tenth Schedule in the linked article.

61st Amendment Act, 1989

The voting age was decreased from 21 to 18 for both Lok Sabha and Legislative Assemblies elections

65th Amendment Act, 1990

Multi-member National Commission for SC/ST was established and the office of a special officer for SCs and STs was removed.

Candidates can read about these National Commissions from the links provided below:

- National Commission for SC
- National Commission for ST

69th Amendment Act, 1991

Union Territory of Delhi was given the special status of 'National Capital Territory of Delhi.'

70-member legislative assembly and a 7-member council of ministers were established Delhi

71st Amendment Act, 1992

Konkani, Manipuri and Nepali languages were included in the Eighth Schedule of the Constitution.

Total number of official languages increased to 18

73rd Amendment Act, 1992

Panchayati Raj institutions were given constitutional status.

A new Part-IX and 11th Schedule were added in the Indian Constitution to recognize Panchayati Raj Institutions and provisions related to them

74th Amendment Act, 1992

Urban local bodies were granted constitutional status

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A new Part IX-A and 12th Schedule were added to the Indian Constitution

86th Amendment Act, 2002

Elementary Education was made a fundamental right – Free and compulsory education to children between 6 and 14 years

A new Fundamental Duty under Article 51 A was added – “It shall be the duty of every citizen of India who is a parent or guardian to provide opportunities for education to his child or ward between the age of six and fourteen years”

88th Amendment Act, 2003

Provision of Service Tax was made under Article 268-A – Service tax levied by Union and collected and appropriated by the Union and the States

92nd Amendment Act, 2003

Bodo, Dogri (Dongri), Maithili and Santhali were added in the Eighth schedule

Total official languages were increased from 18 to 22

95th Amendment Act, 2009

Extended the reservation of seats for the SCs and STs and special representation for the Anglo-Indians in the Lok Sabha and the state legislative assemblies for a further period of ten years i.e., up to 2020 (Article 334).

97th Amendment Act, 2011

Co-operative Societies were granted constitutional status:

- Right to form cooperative societies made a fundamental right (Article 19)
- A new Directive Principle of State Policy (Article 43-B) to promote cooperative societies
- A new part IX-B was added in the constitution for cooperative societies

100th Amendment Act, 2015

To pursue land boundary agreement 1974 between India and Bangladesh, exchange of some enclave territories with Bangladesh mentioned

Provisions relating to the territories of four states (Assam, West Bengal, Meghalaya) in the first schedule of the Indian Constitution, amended.

101st Amendment Act, 2016

Goods and Service Tax (GST) was introduced. Read more about GST in the linked article.

102nd Amendment Act, 2018

Constitutional Status was granted to National Commission for Backward Classes (NCBC)

103rd Amendment Act, 2019

A maximum of 10% Reservation for Economically Weaker Sections of citizens of classes other than the classes mentioned in clauses (4) and (5) of Article 15, i.e. Classes other than socially and educationally backward classes of citizens or the Scheduled Castes and the Scheduled Tribes.

104th Amendment Act, 2020

Extended the deadline for the cessation of seats for SCs and STs in the Lok Sabha and states assemblies from Seventy years to Eighty. Removed the reserved seats for the Anglo-Indian community in the Lok Sabha and state assemblies.

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APPENDIX I
MULTIPLE CHOICE QUESTIONS

INDIAN CONSTITUTION – SAMPLE MULTIPLE CHOICE QUESTIONS

1. In 1934, _____ demanded for a Constituent Assembly for the first time.

A) Indian National Congress

B) Swarajya Party

C) Forward Block

D) Communist Party

2. The Indian Constitution was drafted by _____.

A) Congress

B) Constituent Assembly

C) Judicial Assembly

D) Hindu Mahasbha

3. In Nepal, the struggle for democracy started in _____.

A) 1990

B) 1991

C) 1992

D) 1994

4. The father of Indian Constitution is _____.

A) B R Ambedkar

B) Liaquat Ali Khan

C) Rajendra Prasad

D) S C Sinha

5. To ensure greater economic and social reforms, the Constitution introduced

A) Directive Principles of State Policy

B) Fundamental Rights

C) Judiciary Rights

D) Executive Rights

6. _____ is a group of people who make laws and run the government.

A) Congress

B) Judiciary

C) Government

D) Executive

7. Shri Jagjivan Ram was the first _____ minister of India.

A) labour

B) health

C) Parliamentary Affairs

D) Home

8. The existence of more than one level of government in any country is called _____

A) Democracy

B) Federalism

C) Universal Adult Franchise

D) Monarchy

9. The Human trafficking and forced labour are prohibited under _____.

A) Culture and Educational Rights

B) Right against Exploitation

C) Right to freedom of Religion

D) Right to Property

10. The Indian government is a _____ form of government.

A) Monarchy

B) Military

C) Parliamentary

D) Dictatorship

11. Right to Move Freely falls under _____.

A) Right against Exploitation

B) Right to Property

C) Right to freedom

D) Culture and Educational Rights

12. The system of courts in the country is collectively referred as _____.

A) Judiciary

B) Congress

C) Ministers

D) Executive

13. _____ was the first Finance minister of India.

A) Atal Bihari Bajpai

B) John Mathai

C) Maulana Azad

D) Liaquat Ali

14 _____ were urged by B R Ambedkar to join government and civil services.

A) Hindus

B) Pashtuns

C) Scheduled Castes

D) Muslims

15. The first Health Minister of Independent India was _____.

A) Aruna Asaf Ali

B) Indira Gandhi

C) Rajkumari Amrit Kaur

D) C Rajaji

16. _____ was the first Prime Minister of independent India.

A) Sardar Patel

B) Mahatma Gandhi

C) Jawaharlal Nehru

D) Maulana Azad

17. The Indian Constitution was finally completed in _____.

A) November 1946

B) September 1949

C) November 1949

D) August 1950

18. _____ was the President of the Constituent Assembly.

A) Dr Rajendra Prasad

B) S Radhakrishnan

C) B R Ambedkar

D) C Rajaji

19. The elected representatives in India are part of _____.

A) Judiciary

B) Legislature

C) Executive

D) Cabinet

20. 'Everyone is equal before law.' This right falls under _____.

A) Right to Education

B) Right to Vote

C) Right to Equality

D) Right to Study

21. The first citizen of the country is

(A) Vice President

(B) Prime Minister

(C) Governor

(D) President

22. The governor of the State is appointed by

(A) The President of India

(B) The Vice President

(C) Chief Justice of India

(D) Speaker of Lok Sabha

23. The Election Commission of India is a

(A) Independent body

(B) Statutory body

(C) Private body

(D) Public corporation

24. The Auditor General of India is appointed by the

(A) Public

(B) Chief Justice of Supreme Court

(C) Prime Minister

(D) President

25. The Chief Minister is appointed by

(A) The Prime Minister

(B) Speaker

(C) The Governor

(D) The President

26. The council of Ministers is headed by

(A) The Deputy Prime Minister

(B) The Vice President

(C) The President

(D) The Prime Minister

27. The State Council of Minister is headed by

(A) The Governor

(B) The Chief Minister

(C) The Speaker

(D) Home Minister

28. The Election Commission of India is situated at

(A) Kolkata

(B) New Delhi

(C) Chennai

(D) Mumbai

29. The Mayor is elected by

(A) The Governor

(B) The Chief Minister

(C) The Councilors

(D) The people directly

30. The Election Commissioners are appointed by the

(A) Council of Ministers

(B) President of India

(C) Governor

(D) Prime Minister

31. The Supreme Court's permanent seat is at

(A) New Delhi

(B) Kolkata

(C) Mumbai

(D) Chennai

32. The Rajya Sabha consists of

(A) 238 members

(B) 248 members

(C) 250 members

(D) 12 members

33. Which authority conducts the local bodies Elections?

(A) State Election Commission

(B) Central Election Commission

(C) District Election Board

(D) Observers

34. The upper most form of the Municipal organization is the

(A) Cantonment Board

(B) Municipal Corporation

(C) Panchayat Union

(D) Municipality

35. The age for voting right in India is

(A) 18 years

(B) 20 years

(C) 21 years

(D) 25 years

36. The Governor of a State is appointed by the President on the advice of the

(A) Prime Minister

(B) Vice- President

(C) Chief Minister

(D) Chief Justice

37. The President gives his resignation to the

(A) Chief Justice

(B) Parliament

(C) Vice President

(D) Prime Minister

38. For what period does the Vice President of India hold office ?

(A) 5 years

(B) Till the age of 65 years

(C) 6 years

(D) 2 years

39. Who among the following holds office during the pleasure of the President ?

(A) Governor

(B) Election Commissioner

(C) Speaker of Lok Sabha

(D) Prime Minister

40. Which of the following is not true regarding the payment of the emoluments of the President ?

(A) They can be reduced during a Financial Emergency.

(B) They are shown separately in the budget.

(C) They are charged on the Contingency Fund of India.

(D) They do not require any parliament sanction.

41. The total number of members nominated by the President to the Lok Sabha and the Rajya Sabha is

(A) 16

(B) 18

(C) 14

(D) 12

42. Which one of the following does not constitute the electoral college for electing the President of India ?

(A) Elected members of Lok Sabha

(B) Elected members of the Legislative Assembly of each state.

(C) Elected members of the Legislative Council

(D) Elected members of Rajya Sabha

43. The council of Ministers in a Parliamentary type of Government can remain in office till it enjoys the support of the

(A) Minority of members of the Upper House of Parliament

(B) Majority of the members of the Upper House of Parliament

(C) Minority of members of the Lower House

(D) Majority of the members of the Lower House of Parliament

44. Which of the following appointments is not made by the President of India ?

(A) Chief of the Army

(B) Speaker of the Lok Sabha

(C) Chief Justice of India

(D) Chief of the Air Force

45. Who appoints the Prime Minister of India ?

(A) Lok Sabha

(B) President

(C) Parliament

(D) Citizens of India

46. The first woman Governor of a state in free India was

(A) Mrs. Indira Gandhi

(B) Mrs. Vijaya Laxmi Pandit

(C) Mrs. Sarojini Naidu

(D) Mrs. Sucheta Kripalani

47. Minimum age required to contest for Presidentship is

(A) 23 years

(B) 21 years

(C) 35 years

(D) 30 years

48. The charge of impeachment against the President of India for his removal can be preferred by

(A) Both Houses of Parliament

(B) Speaker of Lok Sabha and Chairman of Rajya Sabha

(C) Rajya Sabha

(D) Lok Sabha

49. The Chief Minister of a Union Territory where such a set up exists, is appointed by the

(A) Lt. Governor

(B) Majority party in Legislature

(C) President

(D) Prime Minister

50. In case a President dies while in office, the vice President can act as President for a maximum period of

- (A) 1 years
- (B) 3 months
- (C) 6 months**
- (D) 2 years

NOTE:

Refer more MCQ problems for cracking any UPSC, STATE Government Exams, Civil Service Examinations etc...