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INDIAN CONSTITUTION

THIS CHAPTER INCLUDES

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| <ul style="list-style-type: none">• Preamble• Citizenship• Fundamental Rights and Fundamental Duties• Directive Principles of State Policy• State under Constitution• President and Governors• Council of Ministers and Prime Minister | <ul style="list-style-type: none">• Lok Sabha, Rajya Sabha and Legislative Assembly, Legislative Council• Supreme Court and High Courts• Landmark Amendment in Constitution• List of subjects-Centre, State and Concurrent |
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CHAPTER AT A GLANCE

A constitution means a document having a special legal sanctity which sets out the frame work and principal functions of the government, Constitution of a country gives idea about basic structure of the political system under which its people are to be governed. It defines the powers of the main organs of the state, demarcates their responsibilities and regulates their relationships which each other and with the people. It can also be termed as “Fundamental Law” of a country which reflects people’s faith and aspirations.

Objectives of the Constitution of India.

The objectives of the constitution were outlined in the objective Resolution moved by Pt. Jawaharlal Nehru and adopted by the Constituent Assembly on January 22, 1947. The main principles outlined in the resolution were:

- (i) Resolve to proclaim India as an **Independent sovereign republic**
- (ii) To establish a democratic Union with an equal level of self government for all the constituent parts.

- (iii) All power and authority of the union government and governments of the constituent parts are derived from the people.
- (iv) To guarantee and secure to all people of India. Justice, Social Economic and Political.
 - equality of status, of opportunity and before law.
 - freedom of thought, expression, belief, faith worship, vocation association and action.
- (v) Adequate safeguards for minorities backward and tribal areas and depressed and other backward classes.
- (vi) To maintain the integrity of the territory of the Republic and its sovereign rights on land, sea, and air according to justice and law of civilized nations.
- (vii) To secure for India its rightful and honoured place in the world.
- (viii) To contribute to the promotion of world peace and the welfare of mankind.

These objectives are incorporated in the Preamble of the constitution.

1.1**Preamble**

1. The constitution of India is preceded by a preamble which **outlines its aims and objectives.**

It reads:

“We the people of India having solemnly resolved to constitute India into a **sovereign, socialist, secular, democratic republic** and to secure to all its citizens:

Justice social, economic and political

Liberty of thought, expression, belief, faiths and worship.

Equality of status and of opportunity and to promote among them all.

Fraternity assuring the dignity of the individual and the **unity and integrity of the nation.**

“In our constituent Assembly this twenty sixth day of November, 1949 we do hereby adopt, enact and give to ourselves this constitution”.

2. Thus

- (a) The preamble declares India sovereign, socialist, secular, democratic and a republican state which draws its authority from the people.
 - (b) It intends to provide its citizens social economic and political justice.
 - (c) It assures them liberty of thought expression, belief, faith and worship.
 - (d) It assures equality of status and opportunity.
 - (e) It aims at securing a fraternity based on dignity of the individual and
 - (f) It aims at securing the unity and integrity of the nation.
3. The word **Sovereign** means that India is both internally as well as externally free and is not dependent upon any outside authority.
 4. The term '**socialism**' in the preamble (inserted by the 42nd Amendment) refers to some form of **ownership** of means of **production and distribution** by the state. However, the Indian brand of socialism is quite different and holds faith in a **mixed economy**.
 5. **Secularism** implies that the state is only concerned with relations between various citizens and is not concerned with relations of man with God. Further, it means that the state has no religion of its own.
 6. The term **Democratic** implies that the government draws its authority from the people. The rulers are elected by the people and are accountable to them.
 7. The word **Republic** implies that the head of the state in India shall be an elected person and shall hold office for a fixed term. The President of India is the chief executive head of India.
 8. The preamble has great value and has been described as the "Key to the Constitution". It has helped courts to resolve various ambiguous points of the constitution and interpret it in the true spirit in which it was enacted by the framers.
 9. Despite the importance of the Preamble, initially it was not regarded as part of the constitution and hence, was not treated as **source** of any substantive powers.

In the **Berubari Case**, the Supreme Court specifically held that the Preamble could not override the express provisions of the Act. However, in the **Keshavananda Bharati** case of 1973, the Supreme Court took the view that the Preamble is part of the constitution.

The then CJI Justice Sikri observed “The Preamble of our constitution is of extreme importance in the light of the grand and noble vision expressed in the preamble”.

The court relied on the Preamble while restricting the amending power of the Parliament under Article 368 of the constitution. It held that the basic element of the Preamble cannot be amended under Article 368. It was further held that since the Preamble was part of the constitution it can be amended subject to the condition that the ‘basic feature’ in the Preamble cannot be amended. The court contended that if any of the basic elements mentioned in the Preamble is removed, the structure will not survive.

Salient features of the Indian Constitution:

1. The Bulkiest constitution of the world:

The constitution, originally consisting of 395 articles, now consists of **444** Articles divided into **25 parts** and **12 schedules**. The main factors that led to the constitution being bulky were:

- (i) Incorporation of good provisions of the constitutions of other countries to avoid future loopholes.
- (ii) Absence of separate constitutions for the states and provision of both central and state structure in the constitution.
- (iii) Incorporation of Fundamental Rights, Fundamental Duties and Directive Principles of State Policy.
- (iv) Provisions regarding peculiar problems facing by the country, such as problem of scheduled cases and scheduled tribes, backward classes, official languages etc.
- (v) Inclusion of emergency provisions in the constitution for the protection of the interests of the country and the people.
- (vi) Detailed provisions regarding the organization of the judiciary, the services, election and other transitory provision.

- (vii) Codification of details regarding centre, state relations to eliminate future conflicts.
- (viii) Enumeration of central practices, which in other countries operate on the basis of conventions.

2. **Combination of Rigidity and Flexibility:**

The Indian Constitution is a combination of rigidity and flexibility, while some provisions of the constitution can be amended by the Parliament by a **simple majority**, other require a **two-thirds** majority of the members of the Parliament as well as a **majority in the state legislatures**. Again, some provisions of the constitution can be amended by the Parliament alone by a two-third majority. Further flexibility is introduced in the constitution by the provisions which permit the parliament to supplement the provisions of the constitution by legislation.

3. **Parliamentary system of Government:**

The constitution provides for a parliamentary system of government under which the real executive power rests with the council of ministers and the President is only a nominal ruler. The council of ministers stay in office as long as they enjoy the confidence of the Parliament.

The framers of the constitution decided to adopt a parliamentary system of government for several reasons.

Firstly, the system was already in existence in India and people were well acquainted with its working.

Secondly, the vast size of the country and the diversity of its culture necessitated the adoption of a parliamentary form of government.

Thirdly, the desire to avoid conflicts between the executive and the legislatures, which was a common features in America also induced the members of the constituent Assembly to opt for a parliamentary system.

4. **Federal system with a Unitary Bias:**

The Indian constitution provides for a federation with a strong centre.

It is note worthy that the constitution has not used the word 'federation', any when, and has described India as a "Union of States", which implies that the Indian federation is not the result of any agreement among the units and the unit cannot secede from it.

India possesses most of the features of the federation but also several of the unitary features.

The Indian federal structure acquired a unitary character during emergency, where the normal distribution of powers between the centre and the states undergoes vital changes.

5. **Fundamental Rights:**

The constitution contains an elaborate list of Fundamental Right.

The state cannot make laws which take away or abridge any of the fundamental right of the citizens. If it does so, the courts can declare such a law as unconstitutional.

It may be noted that the fundamental rights granted by the constitution are not absolute and are subject to certain restrictions. In other words, the constitution seeks to strike a balance between individual liberty and social interests.

6. **Fundamental Duties:**

The constitution also contains a list of 10 fundamental duties of the citizens.

These duties were added to the constitution by the 42nd amendment in 1976. These duties serve as constant reminders to the citizen that they have to observe certain basic norms of democratic conduct.

7. **Directive Principles of State Policy:**

The constitution outlines certain Directive Principles of State Policy which the government has to keep in mind while formulating any policy. These principles seek to provide social and economic basis for democracy and the establishment of a welfare state.

Unlike the Fundamental Rights, the Directive Principles of State Policy are non-Justice-able, which implies that no action can be brought against the state before a court of law for its failure to implement the Directive Principles. However, in actually the government has accorded due importance to the Directive Principles in the formation of its policies.

8. **Secular State:**

The constitution makes India a secular state. This means that there is no state religion and state is completely detached from religious dogmas.

It also implies that citizens are free to profess, practice and propagate any religion. However, freedom of religion is not absolute and the same can be regulated in the interest of the public.

9. Independent Judiciary:

The constitution provides an independent judiciary which ensures that the government is carried out in accordance with the provisions of the constitution.

It acts as the guardian of the liberties and fundamental Rights of the citizen. It also determines the limits of the powers of the centre and the states.

10. People as source of Authority:

The constitution draws its authority from the people and has been promulgated in the name of the people. This is evident from the preamble with states. "We the people of Indiado hereby adopt, enact and give to ourselves this constitution".

11. Universal Adult Franchise:

The constitution introduces universal adult franchise and accords the right to vote to all citizens above 18 years of age without discrimination. However, it makes reservation of seats for Schedule Castes and Scheduled Tribes to provide them adequate representation.

12. Emergency Powers:

The constitution vests extraordinary powers in the President during emergencies arising out of armed rebellion or external aggression, emergency due to breakdown of constitutional machinery in the state and financial emergency where the credit of the country is threatened. In fact during emergency the federal constitution can virtually be converted into a unitary constitution.

13. Single Citizenship:

It provides single citizenship. All persons residing in different parts of the country are treated as Indian citizens and are entitled to the same rights of citizenship. There is no separate citizenship of different States.

14. Bicameral Legislature:

It provides a bicameral legislature at the centre consisting of the Lok Sabha and the Rajya Sabha. The former contains representatives of the people, while the latter contains representatives of the States.

15. Special Provisions for minorities:

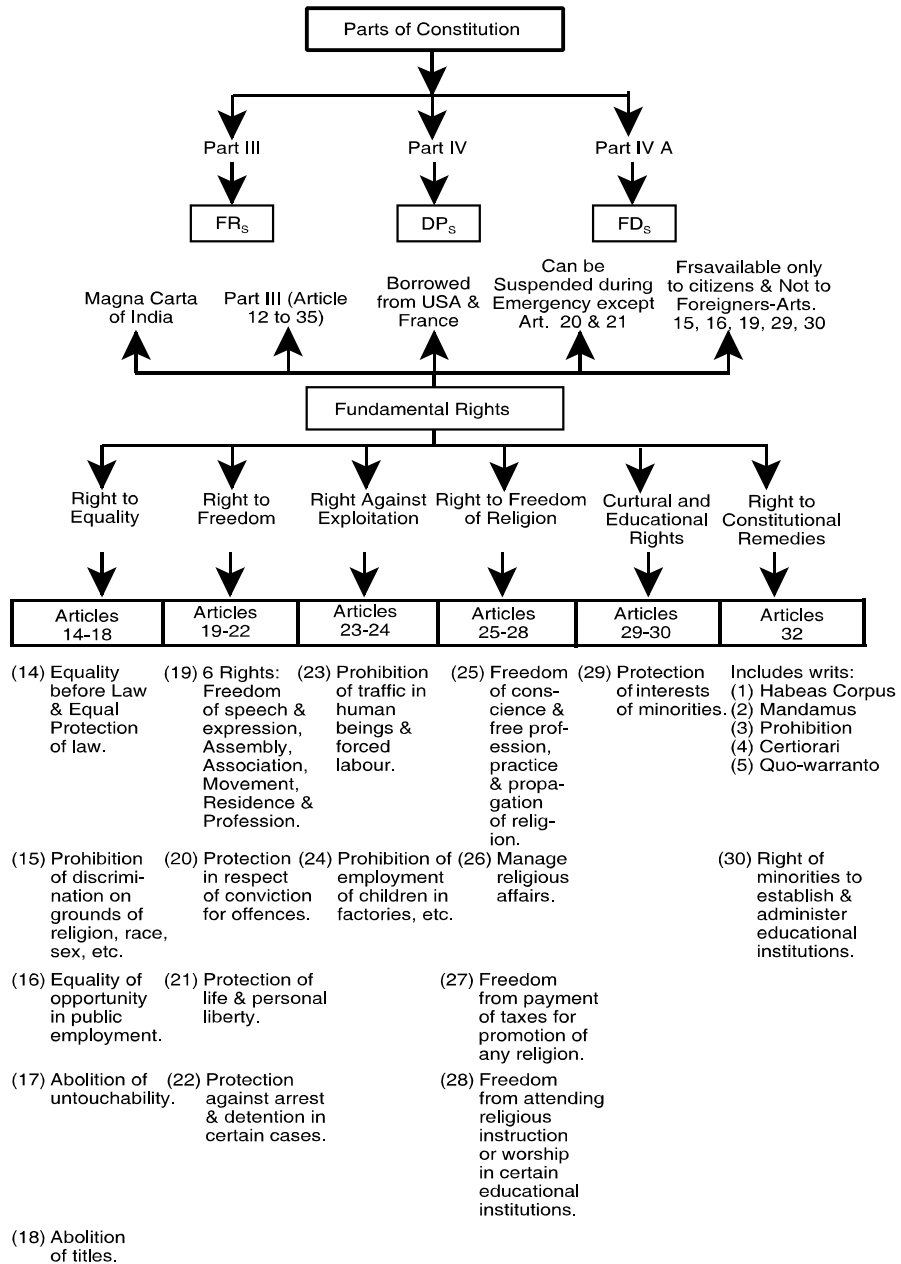
The constitution makes special provision for minorities. Scheduled Castes Scheduled Tribes etc. It not only reserves seat for them in the Parliament and state legislatures, but also grants them certain special rights and privileges.

16. Panchayati Raj:

The constitution provides constitutional basis to Panchayati Raj institution as well as Urban local bodies. This was achieved through the seventy-third and seventy-fourth amendment to the constitution carried out in December 1992.

Fundamental Rights:

Fundamental Rights are defined as Basic human freedoms, which every Indian citizen has to enjoy for a proper and harmonious development of personality. It contains six rights. Fundamentals Rights are justiciable and are protected by the judiciary. The Constitution seeks to strike a balance between individual freedom and social interests through the Fundamental Duties. To make fundamental right and duties of citizens of India safe and effective, there are certain guidelines for the governance of the country given in the Directive Principles of state policy.



- Articles 12-35 of the Constitution deal with fundamental rights. Constitution does not define fundamental rights but says that they are fundamental and superior to ordinary laws. Fundamental rights cannot be altered except with constitutional amendment.
- Fundamental Rights incorporate provisions of "American Bill of Rights" and are very elaborate and comprehensive. They provide for absolute rights with judiciary having powers to impose limitations. Legislature can impose limitations on fundamental rights during national emergency.
- These can be negative obligations on the state not to encroach on individual liberty in its activities.
- They promote political democracy and prevent authoritative rule.
- In USA legislature is competent to interfere with individual rights if they endanger safety of the state and collective interests.
- Originally, the Constitution classifies Fundamental Rights under 7 groups.
- Now there are only 6 groups as Right to Property has been eliminated by the 44th Amendment Act, 1978 and transposed to a new Article - Article 300 A, which is outside Part-111 of the Constitution and has been labelled in as 'Chapter IV' of Part XII - but that is not a fundamental right.
- Fundamental rights under Articles 15, 16, 19, 29 & 30 are applicable to Indian citizens.
- Fundamental rights under Articles 14, 20, 21, 23, 25, 26, 27 and 28 are available to all resident of India both citizens and foreigner.
- Some fundamental rights are negatively worded as prohibitions on the State like Articles - 14, 15(1), 16(2), 18(1), 20, 22(1) and 28(1)
- Fundamental rights which impose absolute limitations upon the legislative power cannot be regulated by the legislature are covered by Articles 15, 17, 18, 20 and 24.
- All fundamental rights are guaranteed against state action. If Rights under Article 19 and Article 21 are violated by an individual, legal remedies but not Constitutional remedies are available.

- **Article 12 defines the State which includes:**
 1. Government and Indian parliament i.e. executive and Legislature of the Union.
 2. Government and legislature of the states.
 3. All local and other authorities within the territory of India.
 4. All local and other authorities under the control of GOI.
 - Article 13 confers the power of judicial review to the courts of all legislative acts.
 - Supreme Court of India and State High Courts have power under Article 32 and 226. They can declare a law unconstitutional if it is inconsistent with Part III of the Constitution.
 - Power of judicial review makes the constitution legalistic
- ARTICLE-14: Equality before law/Equal protection of Laws**
- Equality before law and equal protection of laws are different.

Equality Before Law	Equal Protection of Law
Negative concept	Positive concept
Absence of special privilege due to birth, creed or like in the favour of any person. There is equal treatment before law.	Right to equality of treatment in similar circumstances.
Dicey's concept of rule of law.	Treated as due process of law.
Established law in England.	An American concept.

'Rule of Law' is the "Basic Feature" of the Constitution which cannot be destroyed even by constitutional amendment under Article 368.

Exception to the Rule of Law

Art	Explanation
361	Immunity to the President of India and State Governors.
361 (1)	President of India and State Governors are not answerable to any Court for exercise and performance of their powers and duties.

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361 (2)	No criminal proceedings can be initiated against President of India and State Governors during their term of office.
361 (4)	No civil proceeding can be instituted during the term of office in respect of any act done by President of India and State Governor in their personal capacity before or after they enter office till 2 months after the notice has been delivered to the President. The foreign ambassadors and diplomats enjoy immunity from criminal and civil proceedings. The UNO and its agencies enjoy the diplomatic immunity.

- Concept of equality provides protection against arbitrariness.
- Concept of equality promotes natural justice.
- Right to Equality incorporates Equal pay for equal work [Art 39(d)]. This is not a fundamental right but a constitutional goal under Articles 14, 16 and 39(d).

ARTICLE 15: Prohibition of discrimination

15 (1)	No discrimination on grounds of religion, race, caste, sex or place of birth can be made. It applies to matters under the control of the state.
15 (2)	Prohibits discrimination at public places (shops, public hotels, restaurants, well, tanks, bathing, ghats etc.) and applies both to state and private individual.
15 (3)	Provisions for protection of women & children.
15 (4)	Provisions to protect interests of backward classes, 1 st amendment Act, 1951

ARTICLE 16: Equality of opportunity in public employment

16 (1) & (2)	No discrimination in public employment on grounds of religion, race, caste, sex, descent, place of birth or residence.
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16 (3)	Residence within a state is a qualification for appointment for any government post.
16 (4)	For reservation of posts in govt. jobs in favour of any backward class.
16 (5)	Provides for the incumbent of any office, in connection with the affairs of any religious or denominational institution or any member of the governing body shall be a person professing a particular religion or belonging to a particular denomination is not a violation of the Constitution.

ARTICLE 17 & 18: Abolition of Untouchability and Titles

17	Abolition of Untouchability. The parliament has passed protection of civil rights act, 1955 to abolish Untouchability.
18	Abolition of Titles except military and academic titles i.e, Bharat Ratna, Padma Vibhushan, Padma Shri and National Awards.

ARTICLE 19

Provides for 6 fundamental rights in the nature of freedoms. These are guaranteed to Indian citizens with reasonable restrictions.

Freedom		Restrictions imposed	
19 (1) (a)	Speech & Expression Freedom of press & Media. People's Right to Know	19 (2) 8 Grounds	Integrity and Sovereignty of India
			Security of the state
			Friendly relations with foreign states
			Public order
			Decency and morality
			Contempt of Court
			Defamation
			Incitement to an offence

19 (1) (b)	Assembly	19 (3) 3 Grounds	Assembly must be peaceful.
			Assembly must be unarmed
			Restriction under Art 19 (3): Sovereignty and integrity of India Public order
19 (1) (c)	Forming Association	19 (4) 3 Grounds	Sovereignty and integrity of India
			Public order
			Morality
19 (1) (d)	Freedom of Movement	19 (5) 2 Grounds	Interest of general public
			Protection of interests of any Scheduled Tribe
19 (1) (e)	Freedom of Residence	19 (5) 2 Grounds	Interest of general public
			Protection of interests of Scheduled Tribe.
19 (1) (f)	Freedom of Profession, Occupation, Trade or Business	19 (6)	By the state making any law relating to: Protecting Public interest.
			Establishing professional/technical qualifications for a profession/ occupation, trade or business.
			Enabling state to conduct any trade or business excluding citizens wholly or partially

ARTICLE 20: Protection in respect of conviction for offences

- Provides 3 safeguards to persons accused of crimes:
- **Article 20 (1):** Ex-Post facto law - No person shall be convicted of any offence except for the violation of 'law in force'. Such protection does not apply in case of Preventive Detention.

- **Article 20 (2):** Double Jeopardy - no person shall be prosecuted and punished for the same offence more than once.
- **Article 20 (3): Prohibition against Self Incrimination** - no person accused of an offence shall be compelled to be a witness against himself.

ARTICLE 21 and 22: Protection of Life and Personal Liberty

- Constitution provides for a two fold guarantee:
- No person shall be deprived of his life and personal liberty except according to the law (**Article 21**).
- Safeguards against arbitrary arrest and detention (**Article 22**).
- Prior to Menaka Gandhi Case (1978), Article 21 guaranteed the Right to Life and Liberty against arbitrary action of the executive. Article 21 now protects Right to Life and Personal Liberty even from legislative action. It includes -
 - Right to live with human dignity.
 - Right to livelihood.
 - Right to privacy.
 - Right to shelter.
 - Right to health and Medical Assistance.
 - Right to free legal aid.
 - Right against solitary confinement.
 - Available to 'citizens' and 'non-citizens'.
 - **Right to Education is a Fundamental Right under Article 21-A (86th Constitutional Amendment 2002).**
 - Provision of Compensation if Article 21 is violated.
 - Right to Death is not a fundamental right under Article 21.

ARTICLE 22

Article 22 grants protection to persons who are arrested or detained. Detention is of two types - punitive and preventive. Punitive Detention is to punish a person for an offence committed by him after trial and conviction in a Court. Preventive means detention of a person without trial and conviction by a person for a past offence, but to prevent him from committing an offence in the near future.

- It includes
- Right to be informed about the ground of arrest.
- Right to be defended by a lawyer of his own choice.
- Right to be produced before a magistrate within 24 hours.
- No detention beyond 24 hrs except by order of the magistrate.
- No law providing for preventive detention shall authorize the detention of a person for a longer period than 3 months unless - an advisory board consisting of persons who are qualified to be appointed as judge of a High Court has reported before the expiration of the said period of 3 months that there is in its option sufficient cause for such detention.
- This right is not available to an enemy, an alien and a person arrested and detained under Preventive Detention.

ARTICLE 23 and 24: Right against Exploitation

- **Article 23:** protects individual against actions of the state and private citizens. This right is available to both citizens and non-citizens.
- **Article 23 (i):** prohibits traffic in human beings and forced labour,
- **Article 23(ii):** nothing in this article shall prevent state from imposing compulsory services for public purpose and in imposing such service the state shall not make any discrimination on grounds of religion, race, caste or class or any of them.
- **Article 24:** prohibits employment of children below 14 years of age in a dangerous occupation, factory and mines.

ARTICLE 25 and 28: Right to Freedom of Religion

- India, under the Constitution, is a “Secular State”, i.e. a state which observes an attitude of neutrality and impartiality towards all religions.
- There is no “State religion” in India. State will not establish a religion of its own, nor will it patronize any religion. This is implicit from:
- State will not compel any citizen to pay any tax for promotion or maintenance of a religion or religious institution (Article 27).
- No religious instruction shall be provided in an educational institution run completely by government funds.

- Religious instruction can be imparted in educational institutions recognized by or receiving aid from the state, no person attending such institution shall be compelled to receive such religious instruction (Art 28).
- Article 25 guaranteed the Freedom of Conscience and Freedom to Profess, Practice and Propagate person religion
- Right to 'Propagate' under Article 25 gives the right only to disseminate the tenets of religion but it would include the Right to Convert.
- States have made it a penal offence to convert or attempt to convert a person by means of "force, fraud or allurement".
- Volunteer conversion with free consent is allowed.
- **Article 26** provides rights to every religious group or denominations:
- To establish and maintain institutions for religious and charitable purposes.
- To manage its own religious affairs.
- To own and acquire movable and immovable property.
- To administer such property in accordance with national laws.

Cultural and Educational Rights:

- **Article 29 (1)** guarantees to citizens having a distinct language, script or culture of its own, the right to conserve the same.
- **Article 30** provides for the right to religious and linguistic minorities to establish and maintain educational institution to conserve their language, script or culture.
- **Article 30 (2)** prohibits the state from discriminating against any educational institution in grant of aid. No citizen shall be denied admission to educational institutions maintained by the state or receiving aid out of state funds on grounds of religion, race, caste and language. It is compulsory for unaided private institutions to give reservations to backward classes. Minority institutions are exempted from such obligation.
- Article 29 applies only to citizens.
- Article 30 applies to both citizens and non-citizens.

ARTICLE 31-A, 31-B & 31-C

Art	Relates To	Amendment
31A	Facilitate agrarian reforms	1 st Amendment, 1951
31B	None of the act mentioned in 9 th Schedule shall be deemed to be void on the ground that they are inconsistent with Part III of the Constitution. Legislature is competent to amend and repeal these acts.	1 st Amendment, 1951
31C	Empowers legislature to enact laws for implementing Directive Principles of State Policy under Articles 39(b) & (c) have over-riding effect over fundamental rights.	25 th Amendment, 1971

- Supreme Court has viewed that 9th Schedule must come under Judicial Review. States have passed acts regarding reservations, and placed them under Schedule 9 to make them non-justiciable.
- Right to Property which was a fundamental right under Article 31, was repealed by 44th Constitutional Amendment, 1978. It was made a Constitutional Right under ordinary law under Article 300-A.
- **Public Interest Litigation (PIL)**
The traditional rule to apply for redressal of breach of fundamental rights. The person whose right has been breached can approach the court (locus standi).
- **Public Interest Litigation (PIL), borrowed from USA, is being applied for achieving larger public interest. Any public-spirited person can go to the court for redressal of breach of fundamental rights.**

Right to Information:

The right to information has been granted to citizens under **the Information Act passed by the Indian Parliament in 2005.**

The Act entitles every citizen to have access to information Controlled by public authorities of both the Union and the State governments. The main objective of this right is to make the government open, transparent, responsive and accountable to the people. According to this law people can seek any information from the government, which is duty bound to provide

the requisite information within a specified period of 30 days. If the concerned authorities do not provide correct and timely information, complaint can be lodged with the Central Information Commission/State Information Commission. If the requested information is denied to a person, he/she must be informed of the reasons for refusal. It may further be noted that the law does not apply to Jammu and Kashmir, or security agencies like IB, RAW and BSE. The other areas which have been excluded from the jurisdiction of the law include cabinet papers, legal advice relating to decision making, information likely to breach the privileges of the Parliament and state legislatures, etc.

Suspension of Fundamental Rights:

Fundamental rights are not absolute and have limitations regarding their exercise. The limitations strike a balance between individual liberty and social need.

Article 358 provides that during national emergency, President under Article 352, fundamental freedoms guaranteed by Article 19 are suspended and cannot be revived during emergency. Things done during emergency cannot be challenged even after it is over.

Article 359 empowers the President to suspend the Right to move a Court for the enforcement of rights conferred by Part III of the Constitution (except Article 20 & 21) during an emergency.

Under Article 358, rights conferred by Article 19 are suspended. Suspension under Article 359 can only be by an order of the President.

Can Fundamental Rights be Amended:

- Whether fundamental rights are amendable is a matter of controversy.
- In Golaknath case, 1967, Supreme Court questioned the validity of amendments to the Constitution by the parliament. It held the amendments to be invalid.
- 24th Amendment 1971, added word 'Power' to Article 368 and described specifically the power of Parliament to amend the Constitution and laid down procedures.
- This was challenged in Keshavanand Bharati case (1973) in which "Basic Structure" doctrine was established by the Supreme Court. Parliament had the power to amend the Constitution without harming its Basic structure. But as to what forms the basic structure is not clear.

- 42nd Amendment was passed by the parliament in 1976. It was called the “Mini Constitution”. It gave unlimited amending powers to the Parliament. The validity of this amendment was tested in Minerva Mills case, 1980. The basic structure of the Constitution has been pronounced by the Supreme Court.
- The Parliament is not authorized to limit the operation of Articles 14, 19 and 21 which form the part of basic structure of the Constitution.

Fundamental Duties:

Covered under Article 51-A (PART IV A) of the Constitution.

Added to the Constitution by 42nd Amendment, 1976.

Added on the recommendations of “Swaran Singh Committee.”

Originally **10 duties**, but now increased to **11**.

51-A (k) was added by 86th Amendment Act, 2002. (93rd Amendment Bill).

Borrowed from the Constitution of undivided **USSR**.

Article	Relates to
51 (A) (a)	Abide by the Constitution and respect National Flag and National Anthem.
b	Follow ideals of the freedom struggle.
c	Protect sovereignty & integrity of India.
d	Defend the country and render national services when called upon.
e	Spirit of common brotherhood.
f	Preserve composite culture.
g	Protect natural environment.
h	Develop scientific temper.
i	Safeguard public property.
j	Strive for excellence.
k	Duty of all parents and guardians to send their children in the age group of 6-14 years to school.

Verma Committee on Fundamental Duties:

In 1999, the Verma Committee on Fundamental Duties of the citizens identified and pointed out the legal provisions for the enforcement of certain Fundamental Duties. The following are some of them:

- (a) The Prevention of Insults to National Honour Act (1971) prevents disrespect to the Constitution of India, the National Flag and the National Anthem.
- (b) The Indian Penal Code declares the imputations and assertion prejudicial to national integration as punishable offences.
- (c) The Wildlife (protection) Act 1972 prohibits trade in rare and endangered species.
- (d) The Representation of People Act (1951) has provided for the disqualification of members of the Parliament or a State Legislature for indulging in corrupt practice of soliciting votes on the ground of religion or promoting enmity between different sections of people on grounds of religion, caste, race and language, etc.

1.3**Directive Principles of State Policy**

- Contained in Part-IV of the Constitution (**Articles 36-51**), **borrowed from Ireland**.
- These are fundamental guidelines in the governance of the country.
- They promote the concept of a welfare state.
- They are classified into 3 categories:
- **Socialistic or Welfare Principles:** Arts 38, 39, 41-43.
- **Gandhian Principles:** Arts 40, 43, 46-49
- **Liberal - Intellectual Principles:** Arts 44 - 45, 50 - 51
- While fundamental rights aim at political freedoms, DPs aim at securing economic and social justice through appropriate state action.
- They impose obligations on the state and give direction to take positive action to promote social welfare.
- These are the ideals to be kept in mind while formulating policy or pass a law.

- Directives are **non-justiciable**. Courts cannot be approached for their enforcement (Article 37).
- Articles 38 & 39 embody the Jurisprudential doctrine of Distributive Justice".
- 42nd Amendment Act (1976) added Articles 39-A, 43 A, 48-A. Provision for "Creation of Opportunities for healthy development of children" in Articles 39 (A).
- **B.R. Ambedkar described the DPs as "Instrument of Instruction."**

Article	Relates To
38	Social order based on justice and to minimize inequalities in income, status, facilities and opportunities.
39	Principles of policy to be followed by the State for securing economic justice in the form of: <ul style="list-style-type: none"> • Means of Livelihood to all. • Use of resources for common good. • Prevention of concentration of wealth. • Equal pay for equal work. • Protection of workers. • Protection of children and youth.
39 A	Equal justice and free legal aid to the poor. Legal aid and speedy trial are fundamental rights under Article 21 of the Constitution available to all prisoners and are enforceable by the courts.
40	Organization of village panchayats.
41	Right to Work, Education and Public assistance in some cases.
42	Just and humane conditions of work.
43	Living wage for workers. Living wage are not minimum wage.
43 A	Participation of workers in management.
44	Uniform civil code.

45	Free and compulsory education for children.
46	Educational and economic interests of SC, ST and weaker sections.
47	Standard of living and improvement in health.
48	Agriculture and animal husbandry.
48A	Protection of environment, forests and wildlife.
49	Protection of monuments, places and objects of national importance.
50	Separation of judiciary from the executive.
51	Promotion of international peace and security.

Directives in other Parts of the Constitutions

Besides the directives in part IV, there are certain other Directives in the Constitution, also non-Justiciable. These include Article 350 A which calls upon the state to provide adequate facilities for instruction in mother tongue at primary school level to children from linguistic minority groups. **Article 351** calls upon the Union to promote the spread and development of Hindi to enable it to become the medium of expression of all the parts of the composite culture of India. **Article 335** supports the claims of the Scheduled Castes and Scheduled Tribes to appointments in government service, subject to the maintenance of efficiency of administration.

Fundamental Rights and Directive Principles: Difference

There is no doubt that both the Fundamental Rights and the Directive Principles of State Policy are important feature of the constitution. However, they differ from each other in certain points.

Differences -

- (i) The Fundamental Rights seek to protect the individual from state encroachment and thus they are enforceable; the Directive Principles are aimed at the promotion of the General welfare of society and they are not enforceable.

- (ii) The Fundamental Rights constitute limitations upon State action; The Directive Principles are positive instructions to the government to take steps to establish a just social, economic and political order.

1.4**Citizenship**

Article 5 provides that at the commencement of the 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 an citizen of India.

1.5**Parliament**

There shall be Parliament for union which shall consist of

- President
- Council of States
- House of People

- **President :**

- **President of India:**

- Indian President is the head of the state. He is the first citizen of India and is a symbol of solidarity, unity and integrity of the nation. He is a part of Union Executive along with Vice-President, Prime Minister, Council of Ministers and Attorney-General of India.

- **How is President elected?**

- There is no direct election for the Indian President. An electoral college elects him. The Electoral College responsible for President's elections comprises elected members of:

1. Lok Sabha and Rajya Sabha
2. Legislative Assemblies of the states (Legislative Councils have no role)
3. Legislative Assemblies of the Union Territories of Delhi and Puducherry

Note:

- Value of the vote of an MLA is given below:

$\text{Value of the vote of an MLA} = \frac{\text{Total Population of state}}{\text{Total number of elected members in the state legislative assembly}} \times \frac{1}{1000}$
--

- Value of the vote of MP is given below:

$\text{Value of the vote of an MP} = \frac{\text{Total value of votes of all MLAs of all states}}{\text{Total number of elected members of Parliament}}$
--

Who does not take part in the President's elections?

The following group of people are not involved in electing the President of India:

1. Nominated Members of Lok Sabha (2) and Rajya Sabha (12)
2. Nominated Members of State Legislative Assemblies
3. Members of Legislative Councils (Both elected and nominated) in bicameral legislatures
4. Nominated Members of union territories of Delhi and Puducherry

What is the term of President's office?

Once President is elected, he holds office for five years. He sits in the office even after the completion of five years given no new election have taken place or no new President has been elected till then. He can also be re-elected and there is no cap on his re-election.

What is the principle of election used in the President's election?	Proportional Representation with means of a single transferable vote
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How does voting take place in the election of Indian President?	It is a secret ballot system of voting
What is a quota of votes in President's elections?	Electoral quota = $\frac{\text{Total number of valid votes polled}}{1 + 1} + 1$ $1 + 1 = (2)$
How is the Supreme Court (SC) involved in the President's election?	Any dispute related to his election is taken up by SC. SC's decision is final. Note: After the election of President is declared null and void, the acts done by the President in his office remain valid even after his removal.

What are the qualifications of President?

A candidate has to meet some qualifications to be elected as the President.

1. He should be an Indian Citizen
2. His age should be a minimum of 35 years
3. He should qualify the conditions to be elected as a member of the Lok Sabha
4. He should not hold any office of profit under the central government, state government, or any public authority

What are the conditions of the President's office?

There are a few conditions for the candidate running for the President's elections:

1. He cannot be a member of Lok Sabha and Rajya Sabha. If he has been a member of either of the house, he should vacate the seat on his first day as President in the office
2. He should not hold any office of profit
3. For his residence, Rashtrapati Bhavan is provided to him without the payment of rent
4. Parliament decides his emoluments, allowances and privileges
5. Parliament cannot diminish his emoluments and allowances during his term of office

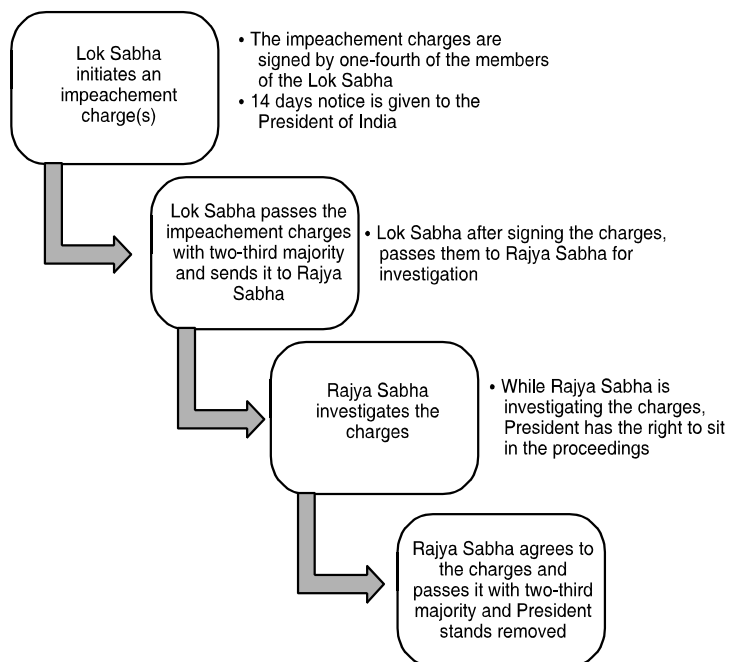
6. He is given immunity from any criminal proceedings, even in respect of his personal acts
7. Arrest or imprisonment of President cannot take place. Only civil proceedings can be initiated for his personal acts that too after giving two months' of prior notice.

What is the procedure for impeachment of a President?

The only condition for the initiation of impeachment of Indian President is the 'violation of the constitution.'

Note: Indian Constitution contains no definition of 'violation of constitution.'

The impeachment process of President is given below. (We have taken Lok Sabha as the first house to initiate the impeachment charges, however, Rajya Sabha too can initiate the impeachment charges against President and in that case, it will pass the resolution and send the charges to Lok Sabha which will investigate and pass it if it finds those charges valid.)



Can the President's office be vacant?

Yes, his office can be vacant in the following ways:

1. When President of India completes his term of five years in the office
2. If the President resigns by putting forward his resignation to the Vice-President of India
3. If Lok Sabha/Rajya Sabha initiates an impeachment charge and they stand valid, he is removed
4. If he dies in the office
5. If Supreme Court declares his election invalid

What are the powers and functions of President of India?**Executive Powers of President**

1. For every executive action that the Indian Government takes, is to be taken in his name.
2. He may/may not make rules to simplify the transaction of business of the Central Government.
3. He appoints the Attorney General of India and determines his remuneration.
4. **He appoints the following people:**
 - Comptroller and Auditor General of India (CAG)
 - Chief Election Commissioner and other Election Commissioners
 - Chairman and members of the Union Public Service Commission
 - State Governors
 - Finance Commission of India chairman and members
5. He seeks administrative information from Union Government.
6. He requires PM to submit, for 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.
7. He appoints National Commissions of:
 - Scheduled Castes
 - Scheduled Tribes
 - Other Backward Classes
8. He appoints inter-state council.
9. He appoints Administrators of Union Territories.
10. He can declare any area as scheduled area and has powers with respect to the administration of scheduled areas and tribal areas.

Legislative Powers of President

1. He summons or prorogues Parliament and dissolve the Lok Sabha.
2. He summons a joint sitting of Lok Sabha and Rajya Sabha in case of deadlock.
3. He addresses the Indian Parliament at the commencement of the first session after every general election.
4. He appoints speaker, deputy speaker of Lok Sabha and chairman/ deputy chairman of Rajya Sabha when the seats fall vacant He nominates 12 members of the Rajya Sabha.
5. He can nominate two members to the Lok Sabha from the Anglo-Indian Community.
6. He consults Election Commission of India on questions of disqualifications of MPs..
7. He recommends/ permits the introduction of certain types of bills He promulgates ordinances.
8. He lays the following reports before the Parliament:
 - Comptroller and Auditor General
 - Union Public Service Commission
 - Finance Commission, etc.

Financial Powers of President:

1. To introduce the money bill, his prior recommendation is a must
2. He causes Union Budget to be laid before the Parliament
3. To make a demand for grants, his recommendation is a pre-requisite
4. Contingency Fund of India is under his control
5. He constitutes the Finance Commission every five years

Judicial Powers of President:

1. Appointment of Chief Justice and Supreme Court/High Court Judges are on him
2. He takes advises from Supreme Court however, those advises are not binding on him
3. He has pardoning power.

Diplomatic Powers of President:

1. International Treaties and agreements that are approved by the Parliament are negotiated and concluded in his name
2. He is the representative of India in international forums and affairs

Military Powers of President:

He is the Commander of defence forces of India. He appoints:

1. Chief of the Army
2. Chief of the Navy, and
3. Chief of the Air Force

Emergency Powers of President:

He deals with three types of emergencies given in the Indian Constitution:

1. National Emergency (Article 352)
2. President's Rule (Article 356 & 365); and
3. Financial Emergency (Article 360)

What is the Ordinance Making Power of President?

Article 123 deals with the ordinance making power of the President. President has many legislative powers and this power is one of them. President promulgates an ordinance on the recommendation of the union cabinet.

- **Council of States**

Rajya Sabha

Indian Parliament is bicameral in nature i.e. that it has two houses. Rajya Sabha is one of those two houses. The other house is the Lok Sabha. Rajya Sabha is the second chamber of the parliament and represents the states and union territories of the nation. It is empowered to protect the interests of the states and union territories if there is an interference by the centre in their work.

Composition of Rajya Sabha:

Composition of Rajya Sabha	
Maximum Strength - 250	230 represent States & Union Territories
	12 are nominated by the president

Current Strength - 245	229 members represent the states
	4 members represent the union territories
	12 members are nominated by the president
Note: Fourth Schedule of Indian Constitution deals with allocation of seats in Rajya Sabha	

Rajya Sabha Elections

There are three types of representation in Rajya Sabha:

Representation of States in Rajya Sabha:

- Members are elected by the elected members of State Legislative Assemblies
- Election Principle used-Proportional Representation by means of Single Transferable Vote
- Population of state is a factor that decides the representation of states in Rajya Sabha

Note: Representation of States in Rajya Sabha is not equal. It depends on its population. State with a larger population will have more number of seats in Rajya Sabha than those with a lesser population.

Representation of Union Territories in Rajya Sabha:

- Members of Rajya Sabha belonging to Union Territories are indirectly elected by members of an electoral college that is constituted for this purpose
- Election Principle used - Proportional Representation by means of Single Transferable Vote

Note: Out of 7 union territories, only Delhi and Puducherry have representation in Rajya Sabha.

Representation of Nominated Members in Rajya Sabha:

12 people are nominated by the President in Rajya Sabha for their contribution and expertise in the fields of:

- Art
- Literature
- Science
- Social Service

Facts related to Rajya Sabha elections:

Two changes were made to Rajya Sabha election in 2003:

1. To be elected as a Rajya Sabha member from a particular state, the requirement to be an elector from that state was removed.
2. System of open ballot was introduced in place of secret ballot system.

Can Rajya Sabha get dissolved?

Rajya Sabha is a permanent body and also called as 'continuing chamber.' Unlike Lok Sabha which usually runs for 5 years and the fresh elections are taken up, Rajya Sabha has no specific tenure and it keeps on running.

Therefore, it is never dissolved.

Note:

- Every second year, one-third of its members retire. For the vacant seats, fresh elections take place.
However, for nominations are taken up in the beginning of third year.
- Representation of the People Act, 1951 authorizes the President to make provisions to govern the order of retirement of the members of the Rajya Sabha.

Who is Rajya Chairman & Deputy Chairman?

Indian Vice-President is an Fex-officio Chairman of Rajya Sabha while the Deputy Chairman of Rajya Sabha is one who is elected from amongst Rajya Sabha members. The details on Rajya Sabha Chairman and Deputy Chairman are given in the table below:

Details	Rajya Sabha Chairman	Rajya Sabha Deputy Chairman
Role	He presides the upper house	He presides the upper house whenever given-below conditions arise: <ul style="list-style-type: none"> • Seat of chairman falls vacant • When Chairman/Vice-President has to act as President

		<ul style="list-style-type: none"> When Chairman is absent from the sitting <p>Note: In all three cases, Deputy Chairman of Rajya Sabha has all the powers of Chairman of Rajya Sabha</p>
Removal	<p>He can be removed as the Chairman of Rajya Sabha only when he is removed from the seat of Vice-President of India</p> <p>Note: While the resolution is moved, he can't preside the house as chairman, though he can be a part of house, speak in the house</p>	<p>He can be removed by a resolution passed by a majority of all the members of the Rajya Sabha</p> <p>Note: The resolution to remove him can be moved only after giving 14 days' advance notice</p>
Is he a member of the house?	No	Yes
Can he vote in the house?	<p>He cannot vote in the first instance</p> <p>Note: He can vote in the case of an equality of votes</p>	<p>When he presides as the Chairman, he too cannot vote in the first instance, but can exercise casting vote in case of a tie</p> <p>Note: When Chairman is present in the house, Deputy Chairman is an ordinary member in the house and can speak, participate in proceedings and even vote in the questions of house</p>

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Salary	Fixed by Parliament Note: His salary is charged on Consolidated fund of India Note: When Chairman of the house has to act as President of India, he is not entitled to salary of Chairman of Rajya Sabha but of President of India	Fixed by Parliament Note: His salary is charged on Consolidated fund of India
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Important questions that are related to the topic 'Rajya Sabha' in the table below:

What is the principle of election in Rajya Sabha?	Proportional Representation with the means of Single Transferable Vote
How many Department Related Standing Committees (DRSC) are there in Rajya Sabha?	There are 8 Standing Committees in Rajya Sabha
What is the role of Rajya Sabha in the passage of Money Bill?	Rajya Sabha cannot introduce, reject or amend the Money Bill but has to return the bill with or without amendments
Who is the leader of Rajya Sabha?	Like Lok Sabha, Rajya Sabha also has a leader who is a minister and a member of the house and is nominated by the prime minister to function as such

What is the qualification of Rajya Sabha members?	<ul style="list-style-type: none"> • Must be an Indian Citizen • Must be not less than 30 years of age • Must be registered as an elector for a parliamentary constituency
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• **House of People
Lok Sabha**

What is Lok Sabha and who are Lok Sabha members?

Indian Parliament is bicameral in nature i.e. that it has two houses. Lok Sabha is one of those two houses. The other house is the Rajya Sabha. Lok Sabha is the first chamber of the parliament and represents the people of India as a whole. The members elected by universal adult suffrage are part of Lok Sabha.

Composition of Lok Sabha:

Composition of Lok Sabha	
Maximum Strength - 552	530 represent the States
	20 are the representatives of Union Territories
	2 are nominated by the President from Anglo-Indian Community
Current Strength - 545	530 represent States
	13 represent Union Territories
	2 are nominated from the President from Anglo-Indian Community

Lok Sabha Elections

The Members of Parliament (Mps) are elected/appointed from states, union territories or are appointed from a field of particular expertise. The elections to Lok Sabha occur every 5 years in the name of general elections. The Indian Constitution has adopted universal adult franchise as a basis of elections to the Lok Sabha and the State legislative assemblies.

Representation of States in Lok Sabha:

- Members are directly elected by the people from the territorial constituencies in the states
- Election Principle used - Universal Adult Franchise
- Eligibility to Vote: Any Indian Citizen of/above 18 years of age

Note: Voting age was reduced from 21 to 18 years by the 61st Constitutional Amendment Act, 1988.

Representation of Union Territories in Lok Sabha:

- Parliament is empowered to choose the members from the UTs in any manner as it desires
- Election Principle used – **Direct Election**

Note: Union Territories (Direct Election to the House of the People) Act, 1965, has been enacted by which the members of Lok Sabha from the union territories are chosen by direct election.

Representation of Nominated Members in Lok Sabha:

President nominates 2 members from Anglo-Indian Community if they are not adequately represented.

Note: The provision to nominate Anglo-Indians was extended till 2020 by 95th Amendment Act, 2009.

Facts about Lok Sabha Election

- 1st Lok Sabha Election took place in 1952. There were 489 seats elected. Congress won 364 out of 489 seats. Jawaharlal Nehru became the first Prime Minister.
- 2019 Lok Sabha elections were country's 17th General Elections. Elections took place for 552 seats. BJP won 303 seats out of 552. Narendra Modi is the Prime Minister.
- In 1952, only 22 women were elected while in 2014, 49 women candidates were elected.
- Elections to Lok Sabha are carried out using first-past-the-post electoral system.

Who is Lok Sabha Speaker?

The speaker of Lok Sabha is a member who elected from amongst the members of the house. He chairs the house and no proceedings in the house take place in his absence.

Facts about Lok Sabha Speaker

- 1st Lok Sabha Speaker-Ganesh Vasudev Mavalankar (1952-1956) (died in the office)
 - Ananthasayanam Ayyanagar was elected as Lok Sabha Speaker in 1956 who worked till 1957
- After 16th Lok Sabha elections, Ms. Sumitra Mahajan was elected as the Lok Sabha speaker
- Following 17th Lok Sabha elections (2019 General Elections), Om Birla is the speaker of Lok Sabha.

Lok Sabha Constituencies

There are 543 constituencies in India that take part in Lok Sabha elections. There are various doubts related to Lok Sabha constituencies which strike an aspirants' mind. Below-given are answers to a few questions related to Lok Sabha constituencies which you may know.

Which is the largest constituency (area-wise)?	Ladakh (173266.37 sq.km)
Which is the smallest constituency (area-wise)?	Chandni Chowk (10.59 sq.km)
Which is the largest constituency (electors-wise)	Malkajgiri (29,53,915)
Which is the smallest constituency (electors-wise)	Lakshadweep (47972)

Lok Sabha and important articles of the Indian Constitution

The following are important articles of the Indian Constitution in relation to Lok Sabha.

Article	Provision
Article 326 (Part XV)	Elections to Lok Sabha shall be on the basis of adult suffrage
Article 83 (2)	Lok Sabha will continue for 5 years, unless sooner dissolved, 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 House

Article 75	Council of Ministers are collectively responsible to Lok Sabha
Article 324	Power, superintendence of Election commission w.r.t. Lok Sabha elections and more

What are the important amendments acts related to Lok Sabha?

The following table provides the list of important amendment acts and their relationship with Lok Sabha:

Amendment Act	Amended Provisions w.r.t. Lok Sabha
2 nd Amendment Act, 1952	Readjusted the scale of representation in the Lok Sabha.
23 rd Amendment Act, 1969	Extended the reservation of seats for the SCs and STs, and special representation for the Anglo-Indians in the Lok Sabha for a further period of ten years (i.e., up to 1980).
31 st Amendment Act, 1972	Increased the number of Lok Sabha seats from 525 to 545.
41 st Amendment Act, 1976	<ul style="list-style-type: none"> • Froze the seats in the Lok Sabha and state legislative assemblies on the basis of 1971 census till 2001. • Raised the tenure of Lok Sabha and state legislative assemblies from 5 to 6 years.
44 th Amendment Act, 1978	<ul style="list-style-type: none"> • Restored the original term of the Lok Sabha and the state legislative assemblies (i.e., 5 years) • Omitted the provisions which took away the power of the court to decide the election disputes of the Lok Sabha Speaker.
45 th Amendment Act, 1980	Extended the reservation of seats for the SCs and STs and special representation for the Anglo-Indians in the Lok Sabha.

51 st Amendment Act, 1984	Provided for reservation of seats in the Lok Sabha for STs in Meghalaya, Arunachal Pradesh, Nagaland and Mizoram.
61 st Amendment Act, 1989	Reduced the voting age from 21 years to 18 years for the Lok Sabha.
62 nd Amendment Act, 1989	Extended the reservation of seats for the SCs and STs and special representation for the Anglo-Indians in the Lok Sabha.
79 th Amendment Act, 1999	Extended the reservation of seats for the SCs and STs and special representation for the Anglo-Indians in the Lok Sabha.
84 th Amendment Act, 2001	Extended the ban on the readjustment of seats in the Lok Sabha for another 25 years (i.e., up to 2026) with the same objective of encouraging population limiting measures.
91 st Amendment Act, 2003	Article 75(IA): The total number of ministers, including the Prime Minister, in the Central Council of Ministers, shall not exceed 15% of the total strength of the Lok Sabha.
95 th Amendment Act, 2009	Article 334: Extended the reservation of seats for the SCs and STs and special representation for the Anglo-Indians in the Lok Sabha for a further period of ten years i.e., up to 2020.

Questions related to Lok Sabha

When was NOTA introduced in Lok Sabha?	NOTA was introduced in 16 th Lok Sabha Elections of 2014
When VVPAT was introduced in Lok Sabha?	<ul style="list-style-type: none"> • A voter-verifiable paper audit trail was first used in an election in India in September 2013 in Noksen in Nagaland. • Later, introduced in 8 of 543 parliamentary constituencies in 2014.

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How many Department Related Standing Committees (DRSC) are there in Lok Sabha?	There are 16 Standing Committees in Lok Sabha.
What is the role of Lok Sabha in the introduction on Money Bill?	Money Bill can only be introduced in Lok Sabha. Lok Sabha speaker decides the credibility of the money bill.
Who is the leader of Lok Sabha?	Prime Minister is the leader of the house.
What is the qualification of Lok Sabha members?	<ul style="list-style-type: none">• Must be an Indian Citizen.• He must be not less than 25 years of age• Must be registered as an elector for a parliamentary constituency.• Those who want to contest election from the seat reserved for SC/ST must be a member of a scheduled caste or scheduled tribe in any state or union territory.

1.6**Council of Ministers****Is Prime Minister of India elected or appointed?**

President of India appoints a person as the Prime Minister who is either the leader of the party which holds a majority of seats in the Lok Sabha or is a person who is able to win the confidence of the Lok Sabha by gaining the support of other political parties. All other ministers are appointed by the President on the advice of the Prime Minister.

Note: President can also appoint Prime Minister on his own discretion but only when no party has a clear majority in the Lok Sabha.

Role of Indian Prime Minister

Prime Minister of India serves the country by following various functions. He performs his functions taking responsibilities as:

- **The leader of Country:** The Prime Minister of India is the Head of the Government of India.
- **Portfolio allocation:** The Prime Minister has the authority to assign portfolios to the Ministers.
- **Chairman of the Cabinet:** The Prime Minister is the Chairman of the Cabinet and presides the meetings of the Cabinet. He can impose his decision if there is a crucial opinion difference among the members.
- **Official Representative of the country:** Prime minister represents the country for high-level international meetings.
- **The link between the President and the Cabinet:** The Prime Minister acts as the link between President and Cabinet. He communicates all decisions of the Cabinet to the President which is related to the administration of the affairs of the Union and proposals for legislation.
- **Head:** The Prime Minister is the head of Nuclear Command Authority, NITI Aayog, Appointments Committee of the Cabinet, Department of Atomic Energy, Department of Space and Ministry of Personnel, Public Grievances and Pensions.
- **Chief Advisor:** He acts as the Chief Advisor to the President
Like Prime Minister is the head of Union Parliament, the Chief Minister is the head of state parliament.

Who is eligible to be a Prime Minister?

To become an Indian Prime Minister one has to be

- A citizen of India.
- A member of either Rajya Sabha or Lok Sabha
- He should have completed his 30 years if he is a member of the Rajya Sabha or can be 25 years of age if he is a member of the Lok Sabha

Position of the Prime Minister

Right from the days of the first Prime Minister Pandit Jawaharlal Nehru, the Prime Minister is treated at a much higher pedestal. His pre-eminence rests on his commanding position in the Cabinet, coupled with fact that he is the leader of the majority part.

During the period of the Congress rule, the Prime Minister was usually the President of his party and the major campaigner in the elections. All these positions of power when combined in one person make him rank much above an ordinary Minister.

The death or resignation of the Prime Minister automatically brings about the dissolution of the Council of Ministers. It generates a vacuum. The demise, resignation or dismissal of a Minister creates only a vacancy which the Prime Minister may or may not like to fill. The Government cannot function without a Prime Minister but the absence of a Minister is easily tolerated and compensated.

Relationship between the Prime Minister and the President of India

There are a few articles in the Indian Constitution that deal with the relationship both Prime Minister and the President share with each other.

The articles are:

Articles	Relationship between Prime Minister and the President
Article 74	Mentions how Prime Minister and President are both connected with Council of Ministers. The Council with PM as head advise President on various issues.
Article 75	Mentions three things: <ul style="list-style-type: none"> • President appoints PM and other ministers are appointed by the President on the advice of the PM. • Ministers hold their office during the pleasure of the President. • Council of Ministers is collectively responsible to the Lok Sabha.
Article 78	PM communicates all decisions made by the Council of Members to the President. President can also refer issues for the consideration of the Council of Members.

Council of Ministers

Which articles in the Constitution deal with the Council of Ministers?

Two articles - Article 74 and Article 75 of the Indian Constitution deal with the Council of Ministers. Where article 74 mentions that the council will be headed by the Prime Minister of India and will aid and advise the President, article 75 mentions the following things:

- They are appointed by the President on the advice of Prime Minister
- They along with the Prime Minister of India form 15% of the total strength of the lower house i.e. Lok Sabha. (The number cannot exceed 15%)
- 91st Amendment Act provided for the disqualification of the minister when he stands disqualified as a Member of Parliament.
- A Minister ceased to exist as one if he is not a member of either house of Parliament for six consecutive months.
- Parliament decides the salary and allowances of the Council of Ministers.

Is the advice tendered by the Council of Ministers binding on the President?

Yes, the advice is binding on the President and this provision was introduced by the 42nd Amendment Act 1976 and 44th Amendment Act 1978. The acts also mentioned that the advice given by the council cannot be inquired into by any court.

Collective Responsibility of the Council of Ministers

In England, the Cabinet system is based on conventions. The framers of our Constitution considered it fit to incorporate the system in the Constitution. The principle of collective responsibility finds a place in Article 75(3) where it is stated that the Council of Ministers shall be collectively responsible to the Lok Sabha. In other words, this provision means that a Ministry which loses confidence in the Lok Sabha is obliged to resign.

The loss of confidence is expressed by rejecting a Money Bill or Finance Bill or any other important policy measure or by passing a motion of no-confidence or rejecting a motion expressing confidence in the Ministry. When a Ministry loses the confidence of the Lok Sabha the whole of the Ministry has to resign including those Ministers who are from the Rajya Sabha. The Ministers fall and stand together. In certain case, the Ministry may advise the President to dissolve Lok Sabha and call for fresh elections.

Types of Ministers

The Indian Constitution does not categorize ministers into ranks, however, in practice seen in India, ministers are of four types:

1. **Cabinet Ministers:** He is present and he participates in every meeting of the Cabinet.
2. **Minister of State with independent charge:** He is a Minister of State who does not work under a Cabinet Minister. When any matter concerning his Department is on the agenda of the Cabinet, he is invited to attend the meeting.
3. **Minister of State:** He is a Minister who does not have independent charge of any Department and works under a Cabinet Minister. The work to such Minister is allotted by his Cabinet Minister.
4. **Deputy Minister:** He is a Minister who works under a Cabinet Minister or a Minister of State with independent charge. His work is allotted by the Minister under whom he is working.

State Legislature

Bicameral and Unicameral States

Though a uniform pattern of Government is prescribed for the States, it is not so in the matter of the composition of the Legislature. While the Legislature of every State shall consist of the Governor and the State Legislature, in some of the States, the Legislature shall consist of two Houses, namely, the Legislative Assembly and the Legislative Council, while in the rest, there shall be only one House, namely the Legislative Assembly.

The constitution provides for the abolition of the second chamber in a state where it exists as well as for the creation of such a chamber in a state where there is none at present. If a state Legislature passes a resolution by an absolute majority, together with not less than two-thirds of the members actually present and voting in favour of the creation of the second chamber and if Parliament gives concurrence to such a resolution, the concerned State can have two Houses in the Legislature. Similar is the procedure for the abolition of the Upper houses and the State of Punjab and West Bengal abolished the second chambers in 1969 and 1970 respectively.

Legislative Council in Tamil Nadu was abolished in 1986. The State Legislature which has only one House is known as the Legislative Assembly (Vidhan Sabha) and in the State which has two houses, the Upper House is known as the Legislative Council (Vidhan Parishad) and the lower House is known as the Legislative Assembly (Vidhan Sabha).

Owing to changes introduced since the inauguration of Constitution, in accordance with the procedure laid down in Article 169, the States having two Houses are Bihar, Maharashtra, Karnataka, Andhra Pradesh, Telangana and Uttar Pradesh.

State Legislature - Legislative Assembly

The Legislative Assembly is the popularly elected chamber and is the real Centre of power in a State. The maximum strength of an assembly must not exceed 500 or its minimum strength fall below 60. But some of the States have been allowed to have smaller Legislative Assemblies, e.g. Sikkim, Arunachal Pradesh, Goa, etc.

The territorial constituencies demarcation should be done as far as possible, such that the ratio between the population of each constituency and the number of seats allotted to it is the same all over the State. Apart from these general provisions, there are also special provisions with respect to the representation of SC and ST. In case the Governor feels that the Anglo-Indian community is not adequately represented, he can nominate one member of that community to the assembly.

State Legislature - Legislative Council

The Legislative Council of a State comprises not more than one-third of the total number of members in the Legislative Assembly of the State and in no case less than 40 members. However, in Jammu and Kashmir, the strength is only 36. The system of the composition of the Council as provided for in the Constitution is not final. The final power is given to the Parliament of the Union. But until the Parliament legislates on the subject, it shall be as provided for in the Constitution.

Duration of Legislative Assembly & Legislative Council

It will be a partly nominated and partly elected body, the election being an indirect one and in accordance with the principle of proportional representation by the single transferable vote. The members being drawn from various sources, the Council shall have a variegated composition.

The duration of the Legislative Assembly is five years. The Governor has the power to dissolve the Assembly even before the expiry of its term. The period of five years, may, while a proclamation of emergency is in operation, be extended by the 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 proclamation has ceased to operate (Article 172(1)). Unlike the Legislative Assembly, the Legislative Council is not subject to dissolution. It is a permanent body unless abolished by the Legislative Assembly and Parliament by the due procedure. But no person can be a permanent member of the Council as one-third of the members of the Council retire on the expiry of every second year. It amounts to a term of six years for each member. There is no bar on a member getting re-elected on the expiry of his term.

- (a) one-third of the total number of members of the Council would be elected by electorates consisting of members of local bodies like the municipalities and the district boards.
- (b) one-twelfth of the members would be elected by electorates comprising of graduates of the standing of three years dwelling in that particular state.
- (c) one-twelfth of the members would be elected by electorates consisting of teachers who have been in the teaching profession for at least 3 years in educational institutes in that state, which are not lower than secondary schools in the standard.
- (d) one-third would be elected by members of the Legislative Assembly from amongst people who are not Assembly members.
- (e) The rest would be nominated by the Governor from persons having knowledge or practical experience in matters like science, literature, cooperative movement, art and social service. (The Courts can't question the propriety or bonafide of the Governor's nomination.)

Who is a Governor?

Governor is a nominal executive head of the State. He forms an important part of the state executive where he acts as the chief executive head.

How is a Governor Appointed?

The Indian President appoints Governor for each state by warrant under his hand and seal. Central Government is responsible to nominate the governor for each state.

Note:

- Unlike elections of President, there is no direct or indirect election for the post of Governor.
- Office of a governor is not a part of union executive and is an independent constitutional office. The governor doesn't serve the Union Government and neither is subordinate to it.
- The nomination of a governor by the Union and his appointment by the President in India is based on the Canadian model of government.

What is the term of Governor's office?

Since the Governor holds the office under the pleasure of the President, his office has no fixed term. President can remove the Governor and the grounds upon which he may be removed are not laid down in the constitution.

Governor may also get transferred from one state to another by the President. He also can be reappointed.

Note:

- An interregnum is not allowed; following which a Governor may sit in the office beyond 5 years (expiry of the term) till the new governor assumes the charge of the office.
- On President's discretion, Chief Justice of the High Court of the concerned state can also be appointed as the Governor on a temporary basis when and how the President thinks fit. (Example — On the governor's death, Chief Justice of HC can be appointed as the governor.)

Who is qualified to become a Governor?

Unlike Lok Sabha or Rajya Sabha members or even in the case of Prime Minister or President who have a set of qualifications to meet to hold the office; Governor has to meet only two qualifications:

1. He should be an Indian Citizen
2. He should be 35 years old or more

Note: There are two conventions that the government follow before nominating a person as a Governor:

1. That person is not appointed as the governor who belongs to the state. He shall be an outsider having no relation with the state he is being appointed to.

Consultation of the Chief Minister is taken by the President before appointing a governor

It should also be noted that both the above conventions are not absolute and have been ignored by the union government in many instances.

What are the conditions of his office?

There are a few conditions for a person to be appointed as a Governor:

1. He cannot be a member of Lok Sabha and Rajya Sabha. If he has been a member of either of the house, he should vacate the seat on his first day as Governor in the office.
2. He should not hold any office of profit.
3. For his residence, Raj Bhavan is provided to him without the payment of rent.
4. Parliament decides his emoluments, allowances and privileges.
5. When a governor is responsible for two or more states, the emoluments and allowances payable to him are shared by the states in such proportion as the President may determine.
6. Parliament cannot diminish his emoluments and allowances during his term of office.
7. He is given immunity from any criminal proceedings, even in respect of his personal acts.
8. Arrest or imprisonment of Governor cannot take place. Only civil proceedings can be initiated for his personal acts that too after giving two months of prior notice.

What are the powers and functions of Governor?

Executive Powers of the Governor

The following comes under his executive powers:

1. Every executive action that the state government takes, is to be taken in his name.
2. How an order that has been taken up his name is to be authenticated, the rules for the same can be specified by the Governor.

3. He may/may not make rules to simplify the transaction of business of the state government.
4. Chief Ministers and other ministers of the states are appointed by him.
5. It is his responsibility to appoint Tribal Welfare Minister in the states of:
 1. Chattisgarh
 2. Jharkhand
 3. Madhya Pradesh
 4. Odisha
6. He appoints the Advocate General of states and determines their remuneration.
7. He appoints the following people:
 1. State Election Commissioner
 2. Chairman and Members of the State Public Service Commission
 3. Vice-Chancellors of the universities in the state
8. He seeks information from the state government
9. A constitutional emergency in the state is recommended to the President by him.
10. The governor enjoys extensive executive powers as an agent of the President during the President's rule in the state.

Legislative Powers of the Governor:

The following are the legislative powers of the governor:

1. It's in his power to prorogue the state legislature and dissolve the state legislative assemblies
2. He addresses the state legislature at first session of every year
3. If any bill is pending in the state legislature, Governor may/may not send a bill to the state legislature for concerning the same
4. If the speaker of the legislative assembly is absent and same is Deputy Speaker, then Governor appoints a person to preside over the session
5. As President nominates 12 members in Rajya Sabha, Governor appoints 1/6 of the total members of the legislative council from the fields of:
 1. Literature
 2. Science
 3. Art
 4. Cooperative Movement
 5. Social Service

6. As President nominates 2 members in the Lok Sabha, Governor nominates 1 member in state legislative assembly from Anglo-Indian Community.
7. He can consult Election Commission for the disqualification of members
8. With respect to the bill introduced in the state legislature, he can:
 1. Give his assent
 2. Withhold his assent
 3. Return the bill
 4. Reserve the bill for the President's consideration (In instances where the bill introduced in the state legislature endangers the position of state High Court.)

Note: Governor can reserve the bill for the President's consideration in the following cases:

- When provisions mentioned in the bill violates the constitution (*Ultra-Vires*)
- When provisions mentioned in the bill oppose Directive Principles of State Policy
- When provisions mentioned in the bill hinders the larger interests of the country
- When provisions mentioned in the bill concern the national importance
- When provisions mentioned in the bill mention the acquisition of property that is dealt with Article 31A in the constitution.
 - An ordinance can be promulgated by him when either Legislative Assembly or Council (Unicameral/Bicameral) are not in session.
 - The following reports are laid by him:
 1. State Finance Commission
 2. State Public Service Commission
 3. Comptroller and Auditor General (Concerning the state finance)

Financial Powers of the Governor

The following are the financial powers and functions of the Governor:

1. He looks over the state budget being laid in the state legislature
2. His recommendation is a prerequisite for the introduction of money bill in the state legislature
3. He recommends for demand for grants which otherwise cannot be given

4. Contingency Fund of State is under him and he makes advances out that to meet unforeseen expenditure
5. State Finance Commission is constituted every five years by him.

Judicial Powers of the Governor

The following are the judicial powers and functions of the Governor:

1. He has following pardoning powers against punishment:
 1. Pardon
 2. Reprieve
 3. Respite
 4. Remit
 5. Commute
2. President consults the Governor while appointing judges of High Court
3. In consultation with state High Court, Governor makes appointments, postings and promotions of the district judges
4. In consultation with the state High Court and state public service commission, he also appoints persons to the judicial services.

What is the Constitutional Position of Governor?

The Constitutional position of governor can be understood by the following articles:

Constitutional Position of the Governor	
Article	Provision
Article 154	He is the executive head of the state. All the executive functions will be performed by him or by the officers subordinate to him in accordance with the Constitution
Article 163	<p>He will be aided and advised by the Chief Minister and Council of Ministers unless he is performing a function at his own discretion</p> <p>Note:</p> <ul style="list-style-type: none"> • The power to act at his own discretion is a power that is not given to the President • 42nd Amendment Act made the advice of Council of Ministers' binding on the President but not on the Governor in state

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Article 164	Council of Ministers are collectively responsible to the state legislative assembly Note: This provision is the foundation of the state parliamentary system
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The Constitution has mentioned the authority of the governor to decide the validity of his actions taken in his own discretion in circumstances where his actions are called into action.

Governor's Discretionary Powers

The Governor of state, unlike the President of India, is conferred with power to act at his own discretion. There are two categories of discretion for the governor. One is Constitutional Discretion and the other is Situational Discretion.

1.9	The Judiciary
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The Judiciary

- (i) The Supreme Court
- (ii) High Courts
- (iii) Subordinate Courts

(i) Supreme Court

The Supreme Court of India is the country's highest judicial court. It is the final court of appeal in the country.

Functions

- It takes up appeals against the verdicts of the High Courts, other courts and tribunals.
- It settles disputes between various Government Authorities, between State Governments, and between the centre and any State Government.
- It also hears matters which the President refers to it, in its advisory role.
- The S.C. can also take up cases *suo moto* (on its own).
- The law that S.C. declares is binding on all the courts in India and on the Union as well as the State Governments.

Supreme Court Jurisdiction

The Jurisdiction of the S.C. is of three types:

1. Original
2. Appellate
3. Advisory

Supreme Court History

- The Federal Court of India was created as per Government of India Act 1935.
- This Court settled disputes between provinces and federal States and heard appeals against judgements of the High Courts.
- After independence, the Federal Court and the Judicial Committee of the Privy Council were replaced by the Supreme Court of India, which came into being in January, 1950.
- The Constitution of 1950 envisaged a Supreme Court with one Chief Justice and 7 puisne Judges.
- The number of S.C. judges was increased by the Parliament and currently, there are 34 judges including the Chief Justice of India (CJI).

Supreme Court Composition

- Including the CJI, there are 34 judges in the Supreme Court.
- The judges sit in benches of 2 or 3 (called a Division Bench) or in benches of 5 or more (called a Constitutional Bench) when there are matters of fundamental questions of the law is to be decided.

Supreme Court Judge Eligibility

As per Article 124, an Indian citizen who is below 65 years of age is eligible to be recommended for appointment as a judge of the S.C. if:

1. he/she has been a judge of one or more High Courts, for at least 5 years, or
2. he/she has been an advocate in one or more High Courts for at least 10 years, or
3. he/she is in the opinion of the President, a distinguished jurist.

Independence of Judiciary

The Constitution has many provisions to ensure the judiciary's independence. They are discussed below:

1. **Security of tenure:** The judges of the S.C. are given security of tenure. Once appointed, they will retain their office until the age of 65 years. They can be removed only by a presidential order on grounds of proven misbehaviour and/or incapacity. This requires a Special Majority according to Article 368.
2. **Salaries and allowances:** The judges of the S.C. enjoy good salaries and allowances and these cannot be decreased except in the case of a financial emergency. The expenses of the High Court are charged on the Consolidated Fund of the State, which is not subject to vote in the State legislature.
3. **Powers and Jurisdiction:** The SC's powers and jurisdiction can only be added by the Parliament and not be curtailed.
4. The conduct of any judge of the Supreme Court in the discharge of his/her duties cannot be discussed in the legislature.
5. The S.C. has the power to punish any person for its contempt, as per Article 129.
6. **Separation of the Judiciary from the Executive:** A Directive Principle of State Policy says that the state shall take steps to separate the judiciary from the executive in the public services of the State. According to Article 50, there shall be a separate judicial service free from executive control.

Questions related to Supreme Court of India

Q1. Who is the Chief Justice of India in 2019?

Answer:

The Current Chief Justice of India (CJI) is Sharad Arvind Bobde. He was appointed in November, 2019.

Q2. How many Supreme Courts are there in India?

Answer:

There is only 1 Supreme Court in India. And, there are 25 High Courts.

Q3. What are the powers and functions of Supreme Court?

Answer:

The SC is the highest judicial court in India. It upholds the rule of law and also guarantees and protects citizens' rights and liberties as given in the Constitution. Therefore, the Supreme Court is also known as the Guardian of the Constitution.

Q4. How many judges are there in Supreme Court?

Answer:

At present, there are 34 judges in the SC including the CJI.

Q5. Who is the first woman Chief Justice of India?

Answer:

The first woman Chief Justice of India was Fatima Beevi, who appointed in 1989.

Q6. Can Supreme Court overrule President India?

Answer:

Technically, the President cannot overrule the S.C. Only Parliament can amend any law to overcome the decision of the S.C. The President has the pardoning power, which he can exercise on the advice of the Council of Ministers. Even here, the President does not overrule the S.C. The judgement of the Court remains, only, the President can "pardon" the punishment.

(ii) High Courts:

High Courts are the highest courts in a State. Presently, there are 25 High Courts in India, with some States having a common High Court. They are an important part of the Judicial system in India.

Powers and Functions of the High Court

The High Court is the highest court in a State in India. Articles 214 to 231 in the Indian Constitution talk about the High Courts, their organisation and powers. The Parliament can also provide for the establishment of one High Court for two or more States.

For instance, Haryana, Punjab and the Union Territory of Chandigarh have a common High Court. The north-eastern States also have one common High Court. In addition, Tamil Nadu shares a High Court with Puducherry.

Currently, there are 25 High Courts in India.

The High Courts of Calcutta, Madras and Bombay were established by the Indian High Courts Act 1861.

High Court Jurisdiction

The various kinds of the jurisdiction of the High Court are briefly given below:

Original Jurisdiction

- The High Courts of Calcutta, Bombay and Madras have original jurisdiction in criminal and civil cases arising within these cities.
- An exclusive right enjoyed by these High Courts is that they are entitled to hear civil cases which involve property worth over ₹20,000.
- **Regarding Fundamental Rights:** They are empowered to issue writs in order to enforce fundamental rights.
- **With respect to other cases:** All High Courts have original jurisdiction in cases that are related to Will, divorce, contempt of Court and admiralty.
- Election petitions can be heard by the High Courts.

Appellate Jurisdiction

- **In civil cases:** an appeal can be made to the High Court against a district court's decision.
- An appeal can also be made from the subordinate court directly, if the dispute involves a value higher than ₹ 5000/- or on a question of fact or law.
- **In criminal cases:** it extends to cases decided by Sessions and Additional Sessions Judges.
 - If the sessions judge has awarded an imprisonment for 7 years or more.
 - If the sessions judge has awarded capital punishment.
- The jurisdiction of the High Court extends to all cases under the State or Federal laws.
- **In constitutional cases:** If the High Court certifies that a case involves a substantial question of law.

High Court Powers

Apart from the above, the High Courts have several functions and powers which are described below.

As a Court of Record

- High Courts are also Courts of Record (like the Supreme Court).
- The records of the judgements of the High Courts can be used by subordinate courts for deciding cases.
- All High Courts have the power to punish all cases of contempt by any person or institution.

Administrative Powers

1. It superintends and controls all the subordinate courts.
2. It can ask for details of proceedings from subordinate courts.
3. It issues rules regarding the working of the subordinate courts.
4. It can transfer any case from one court to another and can also transfer the case to itself and decide the same.
5. It can enquire into the records or other connected documents of any subordinate court.
6. It can appoint its administration staff and determine their salaries and allowances, and conditions of service.

Power of Judicial Review

High Courts have the power of judicial review. They have the power to declare any law or ordinance unconstitutional if it is found to be against the Indian Constitution.

Power of Certification

A High Court alone can certify the cases fit for appeal before the Supreme Court.

High Court Autonomy

The independence of the High Courts can be corroborated by the points given below:

1. **Appointment of Judges:** The appointment of judges of the High Courts lies within the judiciary itself and is not connected to the legislature or the executive.

2. **Tenure of the Judges:** High Court judges enjoy security of tenure till the age of retirement, which is 62 years. A judge of High Court cannot be removed except by an address of the President.
3. **Salaries and allowances:** The High Court Judges enjoy good salaries, perks and allowances and these cannot be changed to their disadvantage except in case of a financial emergency. The expenses of the High Court are charged on the Consolidated Fund of the State, which is not subject to vote in the State legislature.
4. **Powers:** The Parliament and the State legislature cannot cut the powers and jurisdiction of the High Court as guaranteed by the Constitution.
5. **Conduct of judges:** Unless a motion of impeachment has been moved, the conduct of the High Court judges cannot be discussed in the Parliament.
6. **Retirement:** After retirement, High Court judges cannot hold an office of emolument under the Government of India or that of a State. There is an exception to this clause, however, when, with the consent of the Chief Justice of India, retired judges can be nominated to a temporary office, and in situation of Emergencies.

Questions related to Powers of High Court

Q1. How many High Courts are there in India?

Answer:

Currently, in India, there are 25 High Courts.

Q2. Which is the first High Court in India?

Answer:

The first High Court in India is the Calcutta High Court. It was established in 1862 as the High Court of Judicature at Fort William.

Q3. What is the salary of Chief Justice of India?

Answer:

At present, judges of the High Courts gets a monthly salary of ₹ 2.5 lakh.

Q4. How many judges are in High Court of India?

Answer:

The number of judges in a High Court can vary. Currently, the Allahabad High Court has the highest number at 160 while the Sikkim High Court has 4.

Q5. Which High Court has the highest number of benches in India?

Answer:

The Guwahati High Court has the highest number of Benches in India.

(iii) Subordinate Courts:

These are the courts which are under/ subordinate to the High Court. The subordinate courts include the District Judges, Judges of the city civil courts, Metropolitan Magistrates and members of the judicial service of the state.

1.10

Write Jurisdiction of High Courts and Supreme Court

ARTICLE 32: Right to Constitutional Remedies

- It provides for machinery for the effective enforcement of Fundamental Rights.
- It empowers a person to approach the Supreme Court directly for the enforcement of his Fundamental Rights.
- Right to Constitutional Remedies cannot be suspended except otherwise provided in the Constitution, i.e. during Emergency.
- Ambedkar calls this article “**the very soul and heart of the Constitution.**”

Writs Under Article 32

Habeas corpus means to produce the body of	Order to the person who has detained another to produce the detainee before the court. This is issued to let the court know the grounds of confinement. This protects individual liberty. It is a powerful safeguard against arbitrary Acts not only of private individual but also of the Executive.
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Mandamus means a Command	Commands a public or quasi-public legal person to perform his duty. The writ of mandamus can be issued by the court to enforce Fundamental Rights: whenever a public officer or a Government has committed an Act violating a person's Fundamental Rights, the court can restrain that authority from enforcing such orders or committing such an act.
Prohibition means to forbid	Issued by Supreme Court or High Court to a lower court forbidding it continue proceedings in a case beyond its jurisdiction or exercise jurisdiction which is not vested with it legally. The Supreme Court can issue the writ only where a Fundamental Right is affected because of jurisdictional defect in their proceedings.
Certiorari means to be certified	Issued to a lower court after a case has 'to be certified' been decided by it quashing the decision or order. It ensures that the jurisdiction of an inferior court or tribunals is properly exercised. While prohibition is available during the pendency of the proceedings and before the order is made, certiorari can be issued only after the order has been made under similar circumstances.
Quo Warranto	Issued by the court to enquire into the legality of claim which a person asserts to a public office. The writ of quo warranto enables the public to see that a public office is not usurped by an unlawful claimant.

- **Article 226** gives power to High Court to issue writs.
- **Article 32** is used for the enforcement of fundamental rights only. Article 226 is helpful for "any other purpose" also. Therefore the power of the High Court is wider under Article 226 than the power conferred on Supreme Court under Article 32.
- Courts also issue Injunction, which is not mentioned in the Constitution. It is issued against private persons.

1.11 Major Constitutional Amendments 1951 - 2019

India's Constitution is neither rigid nor flexible. Parliament is empowered to amend the Indian Constitution under Article 368, subjected to 'Basic Structure of Constitution'. It is done in three ways:

1. By Simple majority
2. By Special majority
3. By Special majority with ratification by half of the states.

Important Amendments in the Indian Constitution

First Constitutional Amendment Act, 1951

- Added Ninth Schedule to protect land reforms and other laws from the scrutiny of Judicial review.
- Insertion of new Article 31A and Article 31 B.
- Amended Article 19 by adding three more ground of reasonable restriction on freedom of speech and expression.

Seventh Constitutional Amendment Act, 1956

- State reorganization on a linguistic basis. Abolished classification of States into four categories and reorganized them into 14 States and 6 UTs.
- Appointment of a Governor for two or more States.
- Establishment of common High Court for two or more States, extended jurisdiction of the High Court to Union Territories. Appointment of additional and acting judges of High Court.
- Insertion of New Article 350 A (instruction in mother-tongue at primary education to children belonging to linguistic minority) and 350B (Special Officer for linguistic minorities is provided) in Part XVII.

Eighth Constitutional Amendment Act, 1960

- Extended reservation of seats for the S.Cs and S.Ts and special representation for Anglo-Indians in the Lok Sabha and state legislature.

Twenty-Fourth Constitutional Amendment Act, 1971

- Amended Article 368 and Article 13, affirming the Power of Parliament to amend any Part of the Constitution including fundamental rights.

- When an amendment to the Constitution adopted by both Houses of Parliament it is submitted to the President for his approval, he is obliged to give his consent.

Twenty-Fifth Constitutional Amendment Act, 1971

- Curtailment of the fundamental right to property.
- Insertion of new Articles 31 C, which provides that if any law is passed in order to give result to the DPSP contained in 39(b) and (c), that law will not be considered to be void on the ground that it removes or reduces any of the rights under Articles 14, 19 or 31 and will not be challenged on the ground that it doesn't give effect to those principles.

Twenty-Sixth Constitutional Amendment Act, 1971

- Insertion of Article 363 A giving effect to the abolishment of Privy purse paid to former rulers of princely States.

Forty-Second Constitutional Amendment Act, 1976

- Amendment in Preamble by addition of three words- 'Socialist', 'Secular' and 'Integrity'.
- Addition of new Part IVA (Article 51 A) for fundamental duties.
- Insertion of new Article 31 D for saving laws in respect of anti-national activities, taking precedence over fundamental rights.
- Insertion of new Article 32 A for Constitutional Validity of State laws not to be considered in proceedings under Article 32. Also added Article 226 A for Constitutional Validity of Central laws not to be considered in proceedings under Article 226.
- Insertion of three new Articles regarding DPSP.
 - (i) Article 39 A: Free legal aid and Equal justice
 - (ii) Article 43 A: Participation of workers in the management of industries and
 - (ii) Article 48 A: Protection and improvement of environment and safeguarding of forests and wildlife.
- Curtailment of Power of Supreme Court and High Court with respect to judicial review and writ jurisdiction.
- Made Constitutional amendment beyond judicial review.
- The Tenure (period) of Lok Sabha and State Legislative assemblies raised to 6 years by amending Article 83 and Article 172.

- Frozen seats in Lok Sabha and State.
- Parliament is empowered to decide the powers, privileges and immunities of the members and the committees of each House of Parliament and State Legislature by amending Article 105 and Article 194.
- Added new Part XIV regarding administrative tribunal and tribunal for other matters under Article 323 A and 323 B.
- Addition of new Article 257 A for assistance to States by the deployment of armed forces or other forces of the Union.
- Creation of All India Judicial Services under Article 236.
- Facilitated a Proclamation of emergency in operation in any part of the Territory of India.
- Made President bound by the advice of Council of Ministers by amending Article 74.
- Amendment in Seventh Schedule by shifting five subjects from the State list to the concurrent list.
These are: (a) education, (b) forests, (c) protection of wild animals and birds, (d) weights and measures (e) administration of justice.
- Extended one-time duration of President's rule from six months to one year.

Forty-Fourth Constitutional Amendment Act, 1978

- Substituted term 'Armed rebellion' with earlier 'Internal disturbance' in case of national emergency.
- President can proclaim emergency only on the basis of written advice tendered by the cabinet.
- Removal of right to property from the list of fundamental right and recognized as a mere legal right.
- Provided that during national emergency fundamental right guaranteed under Article 20 and Article 21 cannot be suspended.
- Restored the original term of Lok Sabha and State Legislative assembly to five years.
- Restored the power of Election Commission in deciding matters related to election dispute of President, Vice-President, Prime Minister and Speaker of Lok Sabha.

- Guaranteed right of the media to report the proceedings in Parliament and the State Legislatures freely and without censorship.
- Set some procedural safeguards with respect to a national emergency and President's rule.
- Restored the powers of Supreme Court and High Court taken away in earlier amendments.
- In the case of issuing ordinances, the amendment did away with the provision that made the satisfaction of the President or Governor as final justification.
- President can now send back the advice of cabinet for reconsideration. Reconsidered advice, however, is binding on the President.

Sixty-First Constitutional Amendment Act, 1988

- Proposed to reduce the voting age from 21 years to 18 years for Lok Sabha and State legislative assembly election.

Sixty-Ninth Constitutional Amendment Act, 1991

- Granted the National Capital a special status among the Union territories to ensure stability and permanence. Amendment also provided with a Legislative Assembly and a Council of Ministers for Delhi.

Seventy-Third Constitutional Amendment Act, 1992

- Added new Part IX that gave Constitutional status to the Panchayati Raj Institution. Inserted new Eleventh schedule having 29 functions of Panchayat.

Seventy-Fourth Constitutional Amendment Act, 1992

- Granted Constitutional status to Urban Local Bodies. Added 'The Municipalities' as new Part XI-A in the Constitution. Inserted Twelfth schedule having 18 functions of the municipality.

Eighty-Fourth Constitutional Amendment Act, 2002

- Readjustment and rationalization of territorial constituencies, without altering the number of seats allotted in the Lok Sabha and State Legislative assemblies to be fixed on the basis of 1991 census till 2026.

Eighty-Sixth Constitutional Amendment Act, 2002

- Inserted new Article 21-A in the Constitution which provided for free and compulsory education to all children of the age of 6 to 14 years.

- Inserted Article 51-A as a fundamental duty which provided for the education of a child between the age of 6 and 14 years.
- Changes in the DPSP Article 45 which provided free and compulsory education for all children up to the age of 14 years.

Eighty-Seventh Constitutional Amendment Act, 2003

- Readjustment and rationalization of territorial constituencies in the States to be fixed as per 2001 census instead of earlier 1991 census.

Eighty-Ninth Constitutional Amendment Act, 2003

- Creation of two separate bodies out of combined body namely 'National Commission for Scheduled Castes' under Article 338 and 'National Commission for Scheduled Tribes' under Article 338-A.

Ninety-First Constitutional Amendment Act, 2003

- **Inserted new clause Article 75 (1A):** provides that the total number of ministers, including the PM, in the COM shall not exceed 15% of the total number of members of LS.
PM- Prime Minister COM- Council of Ministers LS- Lok Sabha
- **Inserted fresh Clause Article 75 (1B):** Provides that a member of either House of Parliament belonging to any political party that is disqualified on grounds of defection from being a member of that House shall also be disqualified from being a Minister.
- **New clause Article 164(1A):** Provides that the total number of ministers, including the CM, in the COM shall not exceed 15% of the total number of members of the State Legislative Assembly.
CM- Chief Minister COM- Council of Ministers
- Inserted new Clause Article 164 (1B) which says, a member of Legislative assembly of the State or either House of State Legislature belonging to any political party who is disqualified on the ground of defection for being a member of that House shall also be disqualified to be appointed as a minister.
- Removal of the provision in Tenth Schedule pertaining to an exemption from disqualification in case of the split by one-third members of the legislature party.

Ninety-Seventh Constitutional Amendment Act, 2011

- It gave Constitutional protection to Co-operative Societies by making the following changes.
- Right to form Co-operative Society as a fundamental right under Article 19.

- Insertion of the new Directive Principle of State Policy under Article 45-B for promotion of Co-operative societies.
- Added new Part IX B under the Constitution as 'The Co-operative Societies' under Article 243-ZH to 243-ZT.

Ninety-Ninth Constitutional Amendment Act, 2014

- Insertion of new Article 124-A which provided for the establishment of National Judicial Appointments Commission (NJAC) for the appointment and transfer of judges of the higher judiciary. However, it was later struck down by apex court and held as unconstitutional and void.

Hundredth Constitutional Amendment Act, 2015

- This amendment gave effect to the acquisition of territories by India and transfer of certain territories to Bangladesh in pursuance of the Land Boundary Agreement and its protocol entered into between the Governments of India and Bangladesh.

Hundred and First Constitutional Amendment Act, 2016

- Insertion of new Article 246-A, 269-A and 279-A for enrollment of Goods and Service Tax (GST) that made changes in Seventh Schedule and course of inter-state trade and commerce.

Hundred and Second Constitutional Amendment Act, 2018

- It provided for the establishment of National Commission for Backward Classes (NCBC) as a Constitutional body under Article 338-B of the Constitution. It is vested with the responsibility of considering inclusion and exclusion of communities in the list of backward communities for reservation in jobs.

Hundred and Third Constitutional Amendment Act, 2019

- In relation to the current reservation, the reservation of up to 10% for "economically weaker segments" in academic organizations and Government jobs has been made.
- It gives effect to the mandate of the Directive Principle of State Policy under Article 46.
- It added new provisions under Article 15 (6) and Article 16 (6) to permit the Government to ensure the advancement of "economically weaker segments."

1.12 List of subjects-Centre, State and Concurrent**Item of Union, State and Concurrent****Union List (List - I)**

1. Defence of India
2. Naval, military and air forces; any other armed forces of the Union
- 2A. Deployment of any armed force of the Union in any state in aid of the civil power
3. Cantonment areas and local self-government in such areas
4. Naval, military and air force works
5. Arms, firearms, ammunition, and explosives
6. Atomic energy and mineral resources necessary for its production
7. Defence Industries
8. Central Bureau of intelligence and investigation
9. Preventive detention for reasons connected with defence, foreign affairs, or the security of India
10. Foreign affairs
11. Diplomatic, consular and trade representation
12. United Nations Organisation
13. International conferences, associations and other bodies
14. Treaties, agreements and conventions with foreign countries
15. War and peace
16. Foreign jurisdiction
17. Citizenship, naturalization and aliens
18. Extradition
19. Passports and visas
20. Pilgrimages to places outside India
21. Piracies and crimes committed on the high seas or in the air and offences against the law of nations.
22. Railways
23. National highways
24. Shipping and navigation on national waterways
25. Maritime shipping and navigation
26. Lighthouses for the safety of shipping and aircraft

27. Major ports
28. Port quarantine, seaman and marine hospitals
29. Airways, aircraft and air navigation, provision of aerodromes
30. Carriage of passengers and goods by railway, sea, air or national waterways
31. Posts and telegraphs; telephones, wireless, broadcasting and other like forms of communication
32. Property of the Union
33. Courts of wards for the estates of rulers of Indian states
34. Public debt of the Union
35. Currency, coinage and legal tender; foreign exchange
36. Foreign loans
37. Reserve Bank of India
38. Post office savings bank
39. Lotteries organised by the Union or state
40. Trade and commerce with foreign countries
41. Inter-state trade and commerce
42. Trading corporations, including banking, insurance and financial corporations but not including co-operative societies
43. Corporations, whether trading or not, with objects not confined to one state
44. Banking
45. Bills of exchange, cheques, promissory notes and other like instruments
46. Insurance
47. Stock exchange and futures markets
48. Patents, inventions and designs, copyright; trade-marks and merchandise marks
49. Establishment of standards of weight and measure
50. Establishment of standards of equality for goods to be exported out of India or transported from one state to another
51. Industries, the control of which by the public interest
52. Oil fields and mineral oil resources; petroleum and petroleum products; other liquids and substances which are inflammable
53. Regulation of mines and mineral development in the public interest

54. Regulation of labour and safety in mines and oil fields
55. Regulation of development of inter-state rivers and river valleys
56. Fishing and fisheries beyond territorial waters
57. Manufacture, supply and distribution of salt by Union and other agencies
58. Cultivation and manufacture of opium and its export
59. Sanctioning of cinematograph films for exhibition
60. Industrial disputes concerning Union employees
61. National Library, the Indian Museum, the Imperial War Museum, the Victoria Memorial and the Indian War Memorial, and any other like institution of national importance
62. Banaras Hindu University, the Aligarh Muslim University and the Delhi University, any other institution of national importance
63. Scientific or technical education institutions of national importance
64. Union agencies and institutions for training research or detection of crime
65. Standards in institutions for higher education or research and scientific and technical institutions
66. Ancient and historical monuments and records, and archaeological sites and remains of national importance
67. The Survey of India, the geological, botanical, zoological and anthropological surveys of India, meteorological organisations
68. Census
69. Union Public Services; All-India Services; Union Public Service Commission
70. Union Pensions
71. Elections to Parliament, the legislatures of states and the offices of President and Vice-President, the Election Commission
72. Salaries and allowances of members and presiding officers of parliament
73. Powers, privileges and immunities of each House of Parliament and of the members and the committees of each House
74. Emoluments and service conditions of the president, governors, the ministers for the Union and the Comptroller and Auditor General
75. Audit of the accounts of the Union and of the states
76. Organisation, jurisdiction and powers of the Supreme Court

77. Organisation of the high courts
78. Extension of the jurisdiction of a high court to any union territory
79. Extension of the powers and jurisdiction of members of a police force belonging to any state to any area outside that state
80. Inter-state migration; inter state quarantine
81. Taxes on income other than agricultural income
82. Duties of customs including export duties
83. Duties of excise on tobacco and other goods except alcoholic liquours for human consumption and opium, Indian hemp and other narcotic drugs and narcotics but including medicinal and toilet preparations containing alcohol
84. Corporation tax
85. Taxes on the capital value of the assets (exclusive of agricultural land) of individuals and companies, taxes on the capital of companies
86. Estate duty in respect of property other than agricultural land
87. Duties in respect of succession to property other than agricultural land
88. Terminal taxes on goods or passengers, carried by railway, sea or air; taxes on railway fares and freights
89. Taxes other than stamp duties on transactions in stock exchanges and futures markets
90. Rates of stamp duty in respect of bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, transfer of shares, debentures, proxies and receipts
91. Taxes on the sale or purchase of newspapers and on advertisements published therein
92. Taxes on the sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-state trade or commerce
93. Taxes on the consignment of goods in the course of inter-state trade or commerce
94. Taxes on services
95. Offences against laws with respect to any of the matters in this list
96. Inquiries, surveys and statistics for the purpose of any of the matters in this list

97. Jurisdiction and powers of all courts (except the Supreme Court) with respect to any of the matters in this list; admiralty jurisdiction
98. Fees in respect of any of the matters in this list, but not including fees taken in any court
99. Any other matter not enumerated in List II or List III including any tax not mentioned in either of those lists

State List (List-II)

1. Public order
2. Police
3. Officers and servants of the high court
4. Prisons, reformatories, borstal institutions and other such institutions
5. Local government
6. Public health and sanitation
7. Pilgrimages, other than pilgrimages to places outside India
8. Intoxicating liquors
9. Relief of the disabled and unemployed
10. Burials and burial grounds
11. (Omitted)
12. Libraries, museums and other similar institutions; ancient and historical monuments and records other than those of national importance
13. Communications, that is, roads, bridges, ferries and other means of communication not specified in List I
14. Agriculture, including agricultural education and research
15. Preservation of stock and prevention of animal diseases
16. Pounds and the prevention of cattle trespass
17. Water, that is, water supplies, irrigation and canals, drainage and embankments, water storage and water power
18. Land, that is, right in or over land, land tenures and the collection of rents
19. (Omitted)
20. (Omitted)
21. Fisheries
22. Courts of wards
23. Regulation of mines and mineral development

24. Industries
25. Gas and gas-works
26. Trade and commerce within the state
27. Production, supply and distribution of goods
28. Markets and fairs
29. (Omitted)
30. Money-lending and money-lenders, relief of agricultural indebtedness
31. Inns and inn-keepers
32. Corporation, other than those specified in List I, and universities, unincorporated trading, literacy, scientific, religious and other societies and associations; co-operative societies
33. Theaters and dramatic performances; cinemas; sports, entertainments and amusements
34. Betting and gambling
35. Works, lands and buildings of the state
36. (Omitted)
37. Elections to the legislature of the state
38. Salaries and allowances of members and presiding officers of the legislature of the state
39. Powers, privileges and immunities of the legislature of the state and of the members and the committees thereof
40. Salaries and allowances of ministers for the state
41. States public services; State Public Service Commission
42. State pensions
43. Public debt of the state
44. Treasure trove
45. Land revenue, including maintenance of land records
46. Taxes on agricultural income
47. Duties in respect of succession to agricultural land
48. Estate duty in respect of agricultural land
49. Taxes on lands and buildings
50. Taxes on mineral rights
51. Duties of excise on alcoholic liquors for human consumption; opium, Indian hemp and other narcotic drugs and narcotics, but not including medicinal and toilet preparations containing alcohol

52. Taxes on the entry of goods into a local area
53. Taxes on the consumption or sale of electricity
54. Taxes on the sale or purchase of goods other than newspapers
55. Taxes on advertisements other than advertisements published in the newspapers and advertisements broadcast by radio or television
56. Taxes on goods and passengers carried by road or on inland waterways
57. Taxes on vehicles
58. Taxes on animals and boats
59. Tolls
60. Taxes on professions, trades, callings and employments
61. Captivation taxes
62. Taxes on luxuries, including taxes on entertainments, amusements, betting and gambling
63. Rates of stamp duty in respect of documents other than those specified in List I
64. Offences against laws with respect to any of the matters in this list
65. Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this list
66. Fees in respect of any of the matters in this list, but not including fees taken in any court

Concurrent List (List - III)

1. Criminal Law, including all matters included in the Indian penal code
2. Criminal procedure, including all matters included in the code of criminal procedure
3. Preventive detention for reasons connected with the security of a state, the maintenance of public order or the maintenance of supplies and services essential to the community
4. Removal from one state to another state of prisoners and accused persons
5. Marriage and divorce; infants and minors; adoption; wills, intestacy and succession; joint family and partition
6. Transfer of property other than agricultural land; registration of deeds and documents
7. Contracts
8. Actionable wrongs

9. Bankruptcy and insolvency
10. Trust and Trustees
11. Administration-general and official trustees
- 11A. Administrators of justice; constitution and organisation of all courts, except the Supreme Court and the High Courts
12. Evidence and oaths; recognition of laws, public acts and records, and judicial proceedings
13. Civil procedure, including all matters included in the code of civil procedure
14. Contempt of court, but not including contempt of the Supreme Court
15. Vagrancy; nomadic and migratory tribes
16. Lunacy and mental deficiency
17. Prevention of cruelty to animals
- 17A. Forests
- 17B. Protection of wild animals and birds
18. Adulteration of foodstuffs and other goods
19. Drugs and poisons
20. Economic and social planning
- 20A. Population control and family planning
21. Commercial and industrial monopolies, combines and trusts
22. Trade unions; industrial and labour disputes
23. Social security and social insurance; employment and unemployment
24. Welfare of labour including conditions of work, provident funds, employers' liability, workmen's compensation, invalidity and old age pensions and maternity benefits
25. Education, including technical education, medical education and universities
26. Legal, medical and other professions
27. Relief and rehabilitation of persons
28. Charitable institutions, religious endowments and religious institutions
29. Infectious or contagious diseases or pests affecting men, animals or plants

30. Vital statistics including registration of births and deaths
31. Ports other than major ports
32. Shipping and navigation on inland waterways
33. Trade and commerce in, and the production, supply and distribution of, foodstuffs, including edible oilseeds and oils, cattle fodder, raw cotton, and cotton seeds; and raw jute
- 33A. Weights and measures except establishment of standards
34. Price control
35. Mechanically propelled vehicles including the principles on which taxes on such vehicles are to be levied
36. Factories
37. Boilers
38. Electricity
39. Newspapers, books and printing presses
40. Archaeological sites and remains other than those of national importance
41. Evacuee property (including agricultural land)
42. Acquisition and requisitioning of property
43. Recovery in a state of claims in respect of taxes and other public demands
44. Stamp duties other than duties or fees collected by means of judicial stamps, but not including rates of stamp duty
45. Inquiries and statistics for the purposes of any of the matters specified in List II or List III
46. Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this list
47. Fees in respect of any of the matters in this list, but not including fees taken in any court

PRACTICE QUESTIONS

1. Which of the following word have not been written in the Preamble of the Indian Constitution?
 - (a) Sovereign
 - (b) Socialist
 - (c) Democratic
 - (d) Indians

Answer:
2. Which of the following statements is not true?
 - (a) The date of implementation of Indian Constitution is 26th November, 1949
 - (b) The “Secular” word was added by the 42nd Constitution Amendment
 - (c) The 42nd Constitutional Amendment was done in 1976
 - (d) Social, Economic and political justice has been taken from the Russian revolution in the Indian Constitution

Answer:
3. Which statement is not correct in the case of “Sovereign India”?
 - (a) India is not dependent on any country
 - (b) India is not a colony of any other country
 - (c) India can give any part of its country to any other country
 - (d) India is obliged to obey the UN in its internal affairs

Answer:
4. K.M. Munshi was related to
 - (a) Constitution Draft Committee
 - (b) Preamble Committee
 - (c) Public Accounts Committee
 - (d) None of the these

Answer:
5. Which year is related to *Berubari Case*?
 - (a) 1972
 - (b) 1976

(c) 1970

(d) 1960

Answer:

6. What is the true meaning of "Secular"?

(a) All religions are equal in the eyes of the Government

(b) Special importance to a religion related to minorities

(c) One religion is promoted by the Government

(d) None of the following

Answer:

7. What is the meaning of "Social Equality" in the Indian Constitution?

(a) Lack of opportunities

(b) Lack of equality

(c) Equal opportunities for all sections of the societies

(d) None of the these

Answer:

8. Who among the following said that the Preamble of the Indian Constitution is "The Key note of the Constitution"?

(a) Ernest Barker

(b) Jawaharlal Nehru

(c) Dr. Ambedkar

(d) Nelson Mandela

Answer:

9. Which of the following statements is true?

(a) In the Berubari case the Supreme Court had said that the Preamble of the Constitution is not a part of the Constitution

(b) In the Keshavanand Bharti case, the Supreme Court had said that the preamble of the Constitution is part of the Constitution

(c) "Preamble" of the Indian Constitution has been taken from the Constitution of Canada

(d) None of the above

Answer:

10. "The language of Preamble" of Indian Constitution is taken from the Constitution of.....

- (a) America
- (b) Canada
- (c) Australia
- (d) Ireland

Answer:

11. What is another name of the Council of States?

- (a) Lok Sabha
- (b) Rajya Sabha
- (c) Parliament
- (d) Adhoc Committee

Answer:

12. What is another name of the Lok Sabha?

- (a) Council of States
- (b) The Upper House
- (c) The House of the People
- (d) Parliament

Answer:

13. The maximum strength (number of members) of the Rajya Sabha:

- (a) 220
- (b) 235
- (c) 238
- (d) 250

Answer:

14. The President can nominate how many members in the Rajya Sabha and Lok Sabha?

- (a) 6, 3
- (b) 8, 2
- (c) 10, 3
- (d) 12, 2

Answer:

15. Who is the *ex-officio* Chairman of Rajya Sabha?

- (a) President of India
- (b) Vice President of India
- (c) Prime Minister of India
- (d) Chosen from the members of the Rajya Sabha

Answer:

16. What is the tenure of the elected members of Rajya Sabha?

- (a) 2 Years
- (b) 4 Years
- (c) 6 Years
- (d) 8 Years

Answer:

17. Which Article is related to the Money Bill and where it can be introduced?

- (a) Article 110, Rajya Sabha
- (b) Article 110, Lok Sabha
- (c) Article 121, Rajya Sabha
- (d) Article 121, Lok Sabha

Answer:

18. Which of the following is not an eligibility criterion to become a member of Lok Sabha?

- (a) Age 25 years or over
- (b) Mentally sound
- (c) Candidate should not hold office of profit.
- (d) Must be from arts field.

Answer:

19. As per Constitution of India, what is the maximum strength (number of members) of the Lok Sabha?

- (a) 530
- (b) 540
- (c) 550
- (d) 552

Answer:

20. Who among the following is the presiding officer of the Lok Sabha?
(a) President
(b) Vice-President
(c) Speaker of Lok Sabha
(d) Prime Minister
Answer:
21. Who among the following can remove the Governor of a State from office?
(a) Legislative Assembly
(b) Parliament
(c) President
(d) Supreme Court
Answer:
22. For removal of a Governor from office, the President seeks advice from _____:
(a) Council of Ministers
(b) Supreme Court
(c) Chief Minister of the Concerned State
(d) None of them
Answer:
23. The reports of the Comptroller and Auditor-general of India relating to the accounts of the States are submitted to which among the following?
(a) The President
(b) The Governor
(c) The Parliament
(d) The Chief Minister
Answer:
24. Who is the Chief Executive head of the State?
(a) Chief minister
(b) Governor
(c) President
(d) None of the above
Answer:

25. Whose Consent is required for a money bill to originate in the State legislature?

- (a) Chief Minister
- (b) President
- (c) Governor
- (d) Finance Minister

Answer:

26. The Governor of a State can _____?

- (a) Nominate one third members of legislative assembly
- (b) Nominate one sixth members of the legislative council
- (c) Nominate one third members of the legislative council
- (d) Nominate 12 members in legislative assembly

Answer:

27. Which of the following articles says that executive power of the State is vested in the Governor?

- (a) Article 152
- (b) Article 153
- (c) Article 154
- (d) Article 155

Answer:

28. The Constitution of India does not provide for impeachment of which of the following?

- (a) Chief Justice of India
- (b) President of India
- (c) Vice president of India
- (d) Governor of an Indian State

Answer:

29. Who among the following functions as a Constitutional Ruler and an agent of the centre?

- (a) President
- (b) Vice President
- (c) Governor
- (d) Comptroller and Auditor General

Answer:

30. Which Article of the Indian Constitution says that there shall be a President of India?

- (a) 61
- (b) 62
- (c) 52
- (d) 74

Answer:

31. Who participates in the Presidential election?

- (a) Elected members of both Houses of Parliament
- (b) Elected and nominated members of the State Legislative Assembly
- (c) Members of all Union Territories
- (d) All of the above

Answer:

32. What qualifications should be to become a President?

- (a) 35 years of age
- (b) He should be eligible to be elected as a member of Rajya Sabha.
- (c) Must be an Indian Citizen
- (d) Only a and c

Answer:

33. Which of the following statements is wrong?

- (a) Elected and nominated members of the State Legislative Assembly participate in the presidential election.
- (b) The Union Executive includes the President, Vice President, Prime Minister, Attorney General of India
- (c) Impeachment may be initiated against the President for 'Breach of Constitution'
- (d) Article 56 envisages the tenure of the President

Answer:

34. Which of the following is not matched?

- (a) Article 54: Presidential election
- (b) Article 55: Manner of presidential election
- (c) Article 60: Procedure for impeachment of the President
- (d) Article 123: Power of the President to promulgate ordinance

Answer:

35. Which article of Indian Constitution envisages that there shall be an Attorney General of India?

- (a) Article 78
- (b) Article 76
- (c) Article 67
- (d) Article 113

Answer:

36. How can the post of President be vacant?

- (a) On expiry of his tenure
- (b) By his resignation
- (c) Only on the commencement of impeachment in Rajya Sabha
- (d) Only (a) and (b)

Answer:

37. Which of the following statements is not correct?

- (a) President is the head of military forces of India
- (b) President can appoint a commission to investigate into the conditions of S.Cs and S.Ts.
- (c) Parliament can declare any area as scheduled area.
- (d) President of India chooses the Chairman of the Finance Commission

Answer:

38. In which of the following article provision of National Emergency is mentioned?

- (a) Article 356
- (b) Article 352
- (c) Article 360
- (d) Article 365

Answer:

39. Impeachment of the President can be initiated in

- (a) Only in Lok Sabha
- (b) Only in Rajya Sabha
- (c) In either house of Parliament
- (d) Supreme Court

Answer:

40. In the Constitution of India, the Freedom of speech and expression:
- (a) Is enshrined in Part III
 - (b) Is absolute
 - (c) Can not be curtailed by legislation
 - (d) Can be suspended in emergency
- Answer:**
41. Which among the following authorities decides, how far the fundamental rights can apply to the members of the armed forces in India?
- (a) President of India
 - (b) Parliament of India
 - (c) Arms Forces themselves
 - (d) Arms Forces Tribunal
- Answer:**
42. Supreme Court has made Right to Free Education as the part of which among the following rights?
- (a) Right to life
 - (b) Right against Exploitation
 - (c) Right to freedom of speech and expression
 - (d) Cultural and Educational Rights
- Answer:**
43. Which among the following articles of Constitution of India abolishes the untouchability?
- (a) Article 15
 - (b) Article 16
 - (c) Article 17
 - (d) Article 18
- Answer:**
44. How many freedoms are guaranteed by Article 19 (Right to Freedom)?
- (a) 3
 - (b) 4
 - (c) 5
 - (d) 6
- Answer:**

45. The right to constitutional remedies allows Indian citizens to stand up for their rights against anybody even the Government of India. Which article says this?
- (a) Article 31
 - (b) Article 32
 - (c) Article 33
 - (d) Article 34
- Answer:**
46. Which among the following don't come under the purview of Right to Education?
- (a) Government Schools
 - (b) Private Schools
 - (c) Madarsas
 - (d) Government schools funded by Private Funds
- Answer:**
47. Which among the following articles helped the Madarsas in India to remain out of purview of the Right to Education Act?
- (a) Article 26
 - (b) Article 27
 - (c) Article 28
 - (d) Article 30
- Answer:**
48. Which among the following amendments of Constitution of India had accorded precedence to Directive Principles over Fundamental Rights?
- (a) 25th
 - (b) 42nd
 - (c) 59th
 - (d) 44th
- Answer:**
49. "Right to vote" can be placed in which among the following categories?
- (a) Fundamental Right
 - (b) Constitutional Right
 - (c) Fundamental Duty
 - (d) Legal Obligation
- Answer:**

50. Right to property was made a Legal right from a Fundamental Right by which among the following amendments to Indian Constitution?

- (a) 42nd
- (b) 44th
- (c) 46th
- (d) 48th

Answer:

51. Which of the following provisions of the constitution did not come into force on November 26th, 1949?

- (a) Provisions relating to citizenship
- (b) Provisions relating to elections
- (c) Fundamental rights
- (d) None of the above

Answer:

52. Any member of the public or group of people may approach the Court, on behalf of the aggrieved persons for protection of his fundamental rights. This is called _____?

- (a) Doctrine of public interest litigation
- (b) Doctrine of Severability
- (c) Doctrine of Real effect
- (d) None of the above

Answer:

53. A boy of 12 years is employed in a factory with a hazardous job. Which among the following is violated in this case?

- (a) Right to Equality
- (b) Right to freedom
- (c) Abolition of Untouchability
- (d) Right Against Exploitation

Answer:

54. Which among the following provisions of Indian Constitution have been taken from the Weimer Constitution of Germany ?

- (a) Emergency & its effects on Fundamental Rights
- (b) The Concurrent list

- (c) Constitutional Amendments
- (d) Preamble

Answer:

55. To enforce the fundamental rights, which among the following body has authority to issue writs?
- (a) High Courts of India
 - (b) Supreme Court of India
 - (c) Both 1 & 2
 - (d) District Courts

Answer:

56. Who among the following can suspend the fundamental rights?
- (a) Parliament
 - (b) President
 - (c) Prime minister
 - (d) Supreme Court

Answer:

57. Which among the following is the most appropriate definition of Political liberty of Citizens of India ?
- (a) Right to participate in the Government and assume equal opportunity to assume highest office
 - (b) Right to cast vote and participate in the election process
 - (c) Equal opportunity to freely move in the Political territories of India
 - (d) None of the above

Answer:

58. The right to constitutional remedies in India is available to whom of the following ?
- (a) Only Citizens of India
 - (b) All persons incase of infringement of any fundamental right
 - (c) any person for enforcing any of the fundamental rights conferred on all persons
 - (d) none of the above

Answer:

59. The reasonableness of the restrictions placed on Fundamental rights is decided by which of the following ?
- (a) Parliament
 - (b) Courts
 - (c) President
 - (d) Prime minister
- Answer:**
60. Which among the following fundamental rights is available to Indian Citizens but not to aliens?
- (a) Freedom of expression and speech
 - (b) Equality before Law
 - (c) Protection of life & liberty
 - (d) None of the above
- Answer:**
61. Which among the following fundamental rights has been deleted by 44th amendment bill?
- (a) Right to form associations
 - (b) Right to property
 - (c) Right against exploitation
 - (d) Right to freedom of speech and expression
- Answer:**
62. Which among the following does not come under Fundamental Duties of a Citizen in India?
- (a) To protect and Improve Natural Environment
 - (b) To develop scientific temper, humanism and spirit of inquiry and reform
 - (c) To strive towards abolition of untouchability
 - (d) All are comes under fundamental duties
- Answer:**
63. The " Bill of rights and Judicial Review" are borrowed from which of the following countries constitution ?
- (a) USA
 - (b) UK

- (c) Germany
- (d) Australia

Answer:

64. Which among the following best supported the idea of inclusion of fundamental rights in our constitution?

- (a) Simon Commission, 1927
- (b) Nehru Committee Report, 1928
- (c) Swaraj Bill, 1895
- (d) Sapru Committee Report on Constitutional proposals, 1945

Answer:

65. The Writ of *mandamus* is available for the purpose of which of the following?

1. Enforcement of Fundamental Rights
2. Compelling a Court or Judicial Tribunal to exercise its jurisdiction when it has refused to exercise it
3. Directing a public official or the Government not to enforce a law which is unconstitutional

Select the correct option from the codes given below:

- (a) Only 1 & 2
- (b) Only 2 & 3
- (c) Only 1 & 3
- (d) 1, 2 & 3

Answer:

66. Which Article of the Indian Constitution gives an extensive original jurisdiction to the Supreme Court in regard to enforcement of Fundamental Rights?

- (a) Article 22
- (b) Article 32
- (c) Article 35
- (d) Article 37

Answer:

67. Which among the following Fundamental Rights has been most controversial?

- (a) Right to Freedom

- (b) Right to Property
- (c) Right to Freedom of Religion
- (d) Right to Cultural & Education Rights

Answer:

68. Bring Out the wrong statements:

- (a) The Fundamental Rights were finalized by a committee of the constituent assembly headed by Jawahar Lal Nehru
- (b) Article 32 empowers an individual to approach directly to Supreme Court for enforcement of his fundamental rights
- (c) Article 17 & 24 are called absolute rights
- (d) All are correct

Answer:

69. 'Sarbjit Roy *versus* DERC' was a famous case in the later half of 2006. This case is particularly related to which of the following?

- (a) Fundamental Rights
- (b) Fundamental Duties
- (c) Right to Information
- (d) Income Tax

Answer:

70. Which among the following statement is correct?

- (a) Right to Property is a fundamental right and right to privacy is a implied right
- (b) Right to Property is a legal right and right to privacy is a fundamental right
- (c) Right to Property is a implied right while right to privacy is a legal right
- (d) Right to Property is a Legal right while right to privacy is a implied right

Answer:

71. Which among the following fundamental rights has been to subject to maximum litigation after inauguration of the Constitution of India?

- (a) Right to Freedom
- (b) Right to Constitutional Remedies

- (c) Right to Property
- (d) Right Against Exploitation

Answer:

72. Articles 25-28 of the Indian Constitution deal with ___?

- (a) Right to Freedom
- (b) Right to Equality
- (c) Freedom of Religion
- (d) Constitutional Remedies

Answer:

73. "All those laws that were in force immediately before the enactment of the Constitution shall be void to the extent of inconsistency with the fundamental rights". Essence of Article 13(1) which quotes this can be placed under which of the following?

- (a) Judicial Activism
- (b) Judicial Review
- (c) Discretionary Review
- (d) Judicial Interpretation

Answer:

74. The Supreme Court of India has held that "Where Article _____ comes in Article 14 goes out.

- (a) Article 30
- (b) Article 31 A
- (c) Article 31 B
- (d) Article 32

Answer:

75. "Test of Reasonableness" is a very important consequence under the following articles?

- (a) Article 13
- (b) Article 14
- (c) Article 15
- (d) Article 16

Answer:

76. Which of the following rights deal with freedom of religion?

- (a) Articles 12-19
- (b) Articles 19-21
- (c) Articles 22,23
- (d) Articles 25-28

Answer:

77. Which among the following is an incorrect statement:

- (a) Fundamental Freedoms given by Article 19 are not absolute
- (b) Article 19 as well as 22 deal with personal liberties
- (c) Article 19 guarantees freedom of assembly
- (d) All are correct

Answer:

78. Which among the following is not expressly mentioned in Article 19?

- (a) Freedom of speech and expression
- (b) Freedom of assembly
- (c) Freedom to form associations
- (d) Freedom of Press

Answer:

79. Which of the following sections of the Right of Children to Free and Compulsory Education Act Prohibits the conducting of admission test in schools?

- (a) Section 11
- (b) Section 13
- (c) Section 15
- (d) Section 17

Answer:

