



# MP - PSC

State Civil Services

**PRE**

**Madhya Pradesh Public Service Commission**

**Volume - 5**

**Constitution Government and Economy of  
India and National and Regional Bodies**



# MP-PSC PRE

## Constitution Government and Economy of India and National and Regional Bodies

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# 1 CHAPTER

# Foundation of Constitution



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

## Evolution of Constitution of India

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

Regulating Act, 1773	<ul style="list-style-type: none"> <li>● laid the <b>foundation of Central Administration in India</b>.</li> <li>● <b>Governor of Bengal</b> → <b>Governor-General of Bengal</b>. (Lord Warren Hastings)</li> <li>● <b>Executive Council of 4 members</b> to assist the GGB.</li> <li>● <b>Governors of Madras &amp; Bombay</b> presidencies <b>subordinate</b> to GGB.</li> <li>● Set up the <b>SC of Calcutta</b> with 1 Chief justice and 3 other judges.</li> <li>● <b>Court of Directors</b> of the Company to <b>report the British Government</b> regarding Company's revenue, civil and military affairs in India.</li> </ul>	
Act of Settlement, 1781	<ul style="list-style-type: none"> <li>● <b>Safeguarded the GGB and its council</b> from the jurisdiction of the <b>SC</b>.</li> <li>● provided <b>immunity to the servants</b> for their official actions.</li> <li>● <b>Exempted revenue matters of Company</b> from jurisdiction of the <b>SC</b></li> <li>● <b>SC to administer the personal law</b> of the defendant.</li> <li>● <b>GGB to frame regulations for Provincial Courts and Councils</b>.</li> </ul>	
Pitt's India Act, 1784	<ul style="list-style-type: none"> <li>● Established a <b>system of Double Government</b>.               <ul style="list-style-type: none"> <li>○ <b>Court of Director to manage</b> Company's <b>commercial affairs</b></li> <li>○ <b>Board of Control to manage</b> its <b>political affairs</b>.</li> </ul> </li> <li>● <b>Board of Control to supervise</b> and direct <b>civil and military operations</b> and <b>revenues of the British possessions</b> in India. (First time acknowledged)</li> </ul>	
Charter Act, 1813	<ul style="list-style-type: none"> <li>● <b>Abolished the trade monopoly</b> of the Company in India               <ul style="list-style-type: none"> <li>○ <b>exceptions:</b> trade in tea and trade with China.</li> </ul> </li> <li>● Authorized <b>Local Governments to levy taxes</b></li> </ul>	
Charter Act, 1833	<ul style="list-style-type: none"> <li>● <b>GGB = Governor-General of India</b> (Lord William Bentinck)               <ul style="list-style-type: none"> <li>○ Vested <b>all civil and military powers</b></li> <li>○ <b>exclusive legislative powers</b> of the entire British India.</li> </ul> </li> <li>● <b>Company</b> → purely <b>administrative body</b>.</li> </ul>	
Charter Act, 1853	<ul style="list-style-type: none"> <li>● <b>Separated legislative and executive functions</b> of the GGI's Council.</li> <li>● <b>6 members Indian Legislative Council</b> to function as <b>mini parliament</b>.</li> <li>● open competition system for <b>Indian Civil Services for Indians also</b>.</li> <li>● Introduced <b>local representation in the Indian (Central) Legislative Council</b>. (out of 6 members 4 to be <b>appointed by the local governments of Madras, Bombay, Bengal and Agra</b>)</li> </ul>	

## Crown Rule in India (1858 to 1947)

<b>Government of India Act, 1858</b>	<ul style="list-style-type: none"> <li>● <b>British Government took control over territory of India</b></li> <li>● aka <b>Act of Good Government of India.</b></li> <li>● <b>GGI = Viceroy of India (Lord Canning)</b> <ul style="list-style-type: none"> <li>○ <b>representative of British Crown</b> in India.</li> </ul> </li> <li>● <b>Board of Control and Court of Directors</b> ceased to exist.</li> <li>● <b>Secretary of State for India</b>, with <b>complete authority and control</b> over Indian administration.</li> <li>● Created a <b>15 member Council of India</b> to assist the SSI.</li> </ul>
<b>Indian Councils Act, 1861</b>	<ul style="list-style-type: none"> <li>● <b>Viceroy to nominate Indians as the non-official members</b> (Lord Canning nominated <b>3 Indians</b>: The <b>Raja of Benaras, the Maharaja of Patiala and Sir Dinkar Rao</b>)</li> <li>● <b>Decentralized legislative powers</b> <ul style="list-style-type: none"> <li>○ Empowered the <b>Bombay and Madras Presidencies.</b></li> </ul> </li> <li>● established new <b>legislative councils for Bengal, North-Western Provinces and Punjab.</b></li> <li>● <b>Viceroy to make rules and orders for the Council</b> <ul style="list-style-type: none"> <li>○ <b>members of the council in-charge</b> of and authorized to issue orders regarding their allocated <b>departments</b></li> </ul> </li> <li>● <b>Viceroy to issue ordinances</b> in emergency with a <b>validity of 6 months.</b></li> </ul>
<b>Indian Councils Act, 1892</b>	<ul style="list-style-type: none"> <li>● <b>Increased non-official members</b> in Central and Provincial legislative councils.</li> <li>● <b>legislative councils can discuss budget</b> and address questions to the executive.</li> <li>● Provided for the <b>nomination of some non-official members</b> of the:           <ul style="list-style-type: none"> <li>○ <b>CLC by Viceroy</b> based on recommendation of PLCs and Bengal Chamber of Commerce</li> <li>○ <b>PLCs by Governors</b> on the recommendation of district boards, Municipalities, universities, trade associations, zamindars and chambers.</li> </ul> </li> </ul>
<b>Indian Councils Act, 1909</b>	<ul style="list-style-type: none"> <li>● aka <b>Morley-Minto Reforms.</b></li> <li>● members in the <b>CLC ↑ from 16 to 60</b> and members in the <b>PLCs also increased</b> but not uniformly.</li> <li>● <b>members of LC</b> can ask <b>supplementary questions, move resolutions on the budget</b>, etc.</li> <li>● association of <b>Indians with the executive councils of the Viceroy and Governors.</b> (<b>Satyendra Prasad Sinha</b> as the <b>Law member</b>)</li> <li>● <b>communal representation for Muslims and separate electorate.</b></li> </ul>
<b>Government of India Act, 1919</b>	<ul style="list-style-type: none"> <li>● aka the <b>Montagu-Chelmsford Reforms.</b></li> <li>● <b>Separated Central and Provincial subjects.</b> <ul style="list-style-type: none"> <li>○ <b>Provincial subjects:</b> <ul style="list-style-type: none"> <li>■ <b>Transferred subjects:</b> governed by the <b>Governor with the aid of ministers of the LC</b></li> <li>■ <b>Reserved subjects:</b> governed by the <b>Governor with his executive council.</b></li> </ul> </li> </ul> </li> <li>● Introduced <b>bicameralism and direct elections</b> in the country.</li> <li>● <b>3 out of 6</b> members of the <b>Viceroy's executive council = Indian.</b></li> <li>● <b>separate electorates for Sikhs, Indian Christians, Anglo-Indians and Europeans</b> also.</li> <li>● <b>Granted franchise</b> to a people <b>based on property, tax or education.</b></li> <li>● Created <b>office of High Commissioner for India in London.</b></li> <li>● set up a <b>Central Service Commission</b> for recruiting civil servants.</li> <li>● <b>Separated provincial budgets from the Central budget</b> and authorized the provincial legislatures to enact their budgets.</li> </ul>
<b>Government of India Act, 1935</b>	<ul style="list-style-type: none"> <li>● Established <b>All India Federation</b> = provinces + princely states.</li> <li>● Divided powers into <b>three lists:</b> <ul style="list-style-type: none"> <li>○ <b>Federal list</b> (for Centre, with <b>59 items</b>),</li> <li>○ <b>Provincial list</b> (for Provinces, with <b>54 items</b>)</li> <li>○ <b>Concurrent list</b> (for both, with <b>36 items</b>).</li> </ul> </li> <li>● <b>Residuary Powers:</b> vested in the <b>Viceroy</b></li> </ul>

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

## Constituent Assembly

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

- **Total strength = 389 partly elected and partly nominated**
  - **296 seats** were allotted to **British India**
    - **292 members** from the **11 governors' provinces**
    - **4** from the **4 chief commissioners' provinces**
  - **93 seats** to the **Princely States**.
- **Allotted seats in proportion to their respective population.**
- **Seats** allocated to each **British province** were to be **divided among Muslims, Sikhs and General (others), in proportion to their population.**
- Representatives of each community → **elected by members of that community by proportional representation using a single transferable vote.**
- Representatives of the **princely states** were to be **nominated by the heads of the princely states**
- Members were **indirectly elected** by the members of the provincial assemblies.
- **Did not present the sentiments of the masses** as the members of provincial assemblies themselves were elected on a limited franchise.
- **Election for British Indian Provinces was held in July-August 1946.**
  - **Indian National Congress** won **208 seats,**
  - **Muslim League** won **73 seats**
  - **Independent players** held **15 seats**
- **Seats of princely states were not filled** as they refrained from the Assembly
- Assembly had **representatives from every section** of the society
- **Mahatma Gandhi was not a member** of the Constituent Assembly.



- **On April 28, 1947** representatives of the **6 states became part of the assembly**
- After the **Mountbatten Plan of June 3, 1947**, most of the **princely states entered the assembly**.
- Later **Muslim League from the Indian dominion also joined** the assembly.

### Working of the Constituent Assembly

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



### Objective Resolution

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- Presented on Dec 13, 1946, by **JL Nehru** in the Constituent Assembly, **unanimously adopted** by the assembly on **January 22, 1947**.
- **Important provisions:**
  - **proclaim India as the Independent Sovereign Republic**
  - **India, shall be a Union** of territories of British India that join it
  - **Boundaries determined by the Constituent Assembly** which shall possess **residuary powers and exercise all powers and functions** of the Government and administration implied in the Union
  - **power and authority** of Independent India **derived from the people**
  - shall **guarantee** to all the people of India
    - **justice**, social, economic and political;
    - **equality** of status of opportunity, and before the law;
    - **freedom** of thought, expression, belief, faith, worship, association and action
  - **adequate safeguards** shall be provided for **minorities, backward and tribal areas and depressed and other backward classes**
  - Maintain **integrity of the territory of the Republic and its sovereign rights** on land, sea and air according to justice and the law of civilized nations
  - **attains its rightful and honoured place in the world** and makes its full and willing **contribution** to the promotion of **world peace and the welfare of mankind**.



### Changes after the Indian Independence Act, 1947

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




### Other Functions Performed by the Assembly

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



## Committees of the Constituent Assembly

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

### Drafting Committee

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



## Enactment of the Constitution

- Dr B.R. Ambedkar introduced the final draft on **Nov 4, 1948**, for first reading.
- Second reading held on **November 15, 1948**,
- third reading on **November 14, 1949**.
- draft was passed on **November 26, 1949 (Constitution day)**.
- Constitution as adopted on **November 26, 1949**, contained
  - Preamble
  - 394 Articles
  - 8 Schedules.
- Provisions of citizenship, elections, provisional parliament, temporary and transitional provisions and short title contained in Article 5, 6, 7, 8, 9, 60, 324, 366, 367, 379, 380, 388, 391, 392 and 393 **came into force on November 26, 1949**. The **remaining** provisions came into force **on January 26, 1950**.
- With the adoption of the Constitution, all the provisions under the Indian Independence Act, 1947 and the **Government of India Act, 1935** were repealed.
- **Abolition of Privy Council Jurisdiction Act (1949)** continued.



## Criticism to the Constituent Assembly

- **Not a Representative Body** - did not reflect the mass verdict due to election by the limited franchise.
- **Not a Sovereign body** as it was formed based on the proposals of the British Government and held its meeting with their permission.
- **Took greater time in framing** the Constitution as compared to the American constitution which took only 4 months.
- **Dominated by Congress**
- **Domination of Lawyers and Politicians**
- **Dominated by Hindus**



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

## Functions of a Constitution

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





## Preamble



# THE CONSTITUTION OF INDIA

## PREAMBLE

**WE, THE PEOPLE OF INDIA**, having solemnly resolved to constitute India into a **'[SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC]** and to secure to all its citizens :

**JUSTICE**, social, economic and political;

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

**EQUALITY** of status and of opportunity and to promote among them all;

**FRATERNITY** assuring the dignity of the individual and the <sup>2</sup>[unity and integrity of the Nation];

**IN OUR CONSTITUENT ASSEMBLY** this twenty-sixth day of November, 1949 do **HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.**

1. Subs. by the Constitution (Forty-second Amendment) Act, 1976, Sec.2, for "Sovereign Democratic Republic" (w.e.f. 3.1.1977)
2. Subs. by the Constitution (Forty-second Amendment) Act, 1976, Sec.2, for "Unity of the Nation" (w.e.f. 3.1.1977)

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

### Ingredients of the Preamble

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

## Key Terms related to Preamble

- **Sovereignty: absolute Independence** that is a government which is **not controlled by any other power:** internal or external. A country cannot have its own Constitution without being sovereign. India is a sovereign country. It is free from any external control.
- **Socialist: not part of the original Constitution.**
  - Added by **42nd Amendment act**
  - used in the context of economic planning.
  - commitment to attain ideals like **removal of inequalities, provision of minimum basic necessities to all, equal pay for equal work.**
- **Secularism:** added by **42nd Constitutional Amendment Act 1976.**
  - India is **neither religious nor irreligious nor anti-religious.**
  - **no state religion-** the state **does not support any particular religion**
- **Democratic Republic:** Government is **elected by the people** and is **responsible and accountable to the people.**
  - **democratic provisions:** Universal adult franchise, elections, Fundamental Rights and responsible Government.
  - **Republic:** the **elected head** of the state (President → indirectly elected) not a hereditary ruler as Britain.
- **Justice:** to give people what they are entitled to in terms of basic rights to food, clothing, housing, participation in decision making and living with dignity as human beings.
  - taken from the **Russian Revolution (1917)**
  - three **dimensions of Justice- social, economic and political.**
    - **Social justice:** equal treatment of all citizens without any social distinction based on caste, colour, race, religion, sex and so on.
    - **Economic justice:** non-discrimination on economic factors.

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

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



## Preamble as a part of the Constitution

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



## Salient Features of the Constitution

- **Longest written constitution:** it contains:
  - **Separate provisions for states and centre** and their inter-relationship.
  - **borrowed provisions** from several sources and constitutions of the world.



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

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

- **Universal Adult Franchise:** establishes political equality in India through the method of universal adult franchise which functions on the basis of 'one person one vote'.
  - Every Indian who is **18 years of age or above is entitled to vote** in the elections, irrespective of caste, sex, race, religion or status.
- **Independent and Integrated Judicial System:** free from the influence of the **executive and the legislature**.
  - SC as the apex court below which HCs and lower courts come
- **Fundamental Rights, Fundamental Duties and DPSPs:**
  - **Fundamental Rights are not absolute** but are **subject to the limitations** defined by the constitution itself and are enforceable in the court of law.
  - **DPSPs are the guidelines** to be followed by the states regarding governance and are not enforceable in the court of law.
  - **Fundamental Duties, added by the 42nd Amendment are moral conscience** which ought to be followed by the Citizens.
- **Federation with a strong centralizing tendency:** India is an **indestructible Union with destructible states** means it acquires a unitary character during the time of emergency.
- **Balancing Parliamentary supremacy with Judicial Review:** An **independent judiciary with the power of judicial review**

## Parts and Schedules of Indian Constitution



Parts	Subject Matter	Articles Covered
I.	The Union and its territory	1 to 4
II.	Citizenship	5 to 11
III.	Fundamental Rights	12 to 35
IV.	Directive Principles of State Policy	36 to 51
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V.	The Union Government	52 to 151
	Chapter I - The Executive	52 to 78
	Chapter II - Parliament	79 to 122
	Chapter III - Legislative Powers of President	123
	Chapter IV - The Union Judiciary	124 to 147
	Chapter V - Comptroller and Auditor-General of India	148 to 151
VI.	The State Governments	152 to 237
	Chapter I - General	152
	Chapter II - The Executive	153 to 167
	Chapter III - The State Legislature	168 to 212
	Chapter IV - Legislative Powers of Governor	213
	Chapter V - The High Courts	214 to 232
	Chapter VI - Subordinate Courts	233 to 237
VIII.	The Union Territories	239 to 242
IX.	The Panchayats	243 to 243-O
IX-A.	The Municipalities	243-P to 243-ZG
IX-B.	The Co-operative Societies	243-ZH to 243-ZT
X.	The Scheduled and Tribal Areas	244 to 244-A
XI.	Relations between the Union and the States	245 to 263

	Chapter I - Legislative Relations Chapter II - Administrative Relations	245 to 255 256 to 263
<b>XII.</b>	Finance, Property, Contracts and Suits	264 to 300-A
	Chapter I - Finance Chapter II - Borrowing Chapter III - Property, Contracts, Rights, Liabilities, Obligations and Suits Chapter IV - Right to Property	264 to 291 292 to 293 294 to 300 300-A
<b>XIII.</b>	Trade, Commerce and Intercourse within the Territory of India	301 to 307
<b>XIV.</b>	Services under the Union and the States	308 to 323
	Chapter I - Services Chapter II - Public Service Commissions	308 to 314 315 to 323
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<b>XV.</b>	Elections	324 to 329-A
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<b>XVII.</b>	Official Language	343 to 351
	Chapter I - Language of the Union	343 to 344
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	Chapter III-Language of the Supreme Court, High Courts, and so on Chapter IV-Special Directives	348 to 349 350 to 351
<b>XVIII.</b>	Emergency Provisions	352 to 360
<b>XIX.</b>	Miscellaneous	361 to 367
<b>XX.</b>	Amendment of the Constitution	368
<b>XXI.</b>	Temporary, Transitional and Special Provisions	369 to 392
<b>XXII.</b>	Short title, Commencement, Authoritative Text in Hindi and Repeals	393 to 395

- Schedules are lists categorizing and tabulate bureaucratic activity and policy of Government.

Numbers	Subject Matter
<b>First Schedule</b>	1. Names of the States and their territorial jurisdiction. 2. Names of the Union Territories and their extent.
<b>Second Schedule</b>	Provisions relating to the emoluments, allowances, privileges and so on of: 1. The President of India 2. The Governors of States 3. The Speaker and the Deputy Speaker of the Lok Sabha 4. The Chairman and the Deputy Chairman of the Rajya Sabha 5. The Speaker and the Deputy Speaker of the Legislative Assembly in the states 6. The Chairman and the Deputy Chairman of the Legislative Council in the states 7. The Judges of the Supreme Court 8. The Judges of the High Courts 9. The Comptroller and Auditor-General of India
<b>Third Schedule</b>	Forms of Oaths or Affirmations for: 1. The Union ministers 2. The candidates for election to the Parliament 3. The members of Parliament 4. The Judges of the Supreme Court 5. The Comptroller and Auditor-General of India



	6. The state ministers 7. The candidates for election to the state legislature 8. The members of the state legislature 9. The Judges of the High Courts
<b>Fourth Schedule</b>	Allocation of seats in the Rajya Sabha to the states and the union territories.
<b>Fifth Schedule</b>	Provisions relating to the administration and control of scheduled areas and scheduled tribes.
<b>Sixth Schedule</b>	Provisions relating to the administration of tribal areas in the states of Assam, Meghalaya, Tripura and Mizoram.
<b>Seventh Schedule</b>	Division of powers between the Union and the States in terms of List I (Union List), List II (State List) and List III (Concurrent List). Presently, the Union List contains 100 subjects (originally 97), the state list contains 61 subjects (originally 66) and the concurrent list contains 52 subjects (originally 47).
<b>Eighth Schedule</b>	<p>Languages recognized by the Constitution. Originally, it had 14 languages but presently there are 22 languages. They are: Assamese, Bengali, Bodo, Dogri (Dongri), Gujarati, Hindi, Kannada, Kashmiri, Konkani, Mathili (Maithili), Malayalam, Manipuri, Marathi, Nepali, Oriya, Punjabi, Sanskrit, Santhali, Sindhi, Tamil, Telugu and Urdu.</p> <p><b>Sindhi</b> added by <b>21st Amendment Act of 1967</b>; <b>Konkani, Manipuri and Nepali</b> by <b>71st Amendment Act of 1992</b>; and <b>Bodo, Dongri, Maithili and Santhali</b> by <b>92nd Amendment Act of 2003</b>.</p>
<b>Ninth Schedule</b>	Acts and Regulations (originally 13 but presently 282) 19 of the state legislatures dealing with land reforms and abolition of the zamindari system and of the. This was added by the 1st Amendment (1951) to protect the laws included in it from judicial scrutiny on the ground of violation of Fundamental Rights. In 2007, the Supreme Court ruled that the laws included in this schedule after April 24, 1973, are now open to Judicial Review.
<b>Tenth Schedule</b>	Provisions relating to disqualification of the members of Parliament and State Legislatures on the ground of defection. This schedule was added by the 52nd Amendment Act of 1985, also known as Anti-defection Law.
<b>Eleventh Schedule</b>	Specifies the powers, authority and responsibilities of Panchayats. It has 29 matters. This schedule was added by the 73rd Amendment Act of 1992.
<b>Twelfth Schedule</b>	Specifies the powers, authority and responsibilities of Municipalities. It has 18 matters. This schedule was added by the 74th Amendment Act of 1992.

# 2 CHAPTER

## Constitutional Amendment



### Constitutional Provisions

- **Article 368 in Part XX** of the Indian Constitution
- **Source:** Constitution of South Africa



Article	Provision
Article 368	Power of <b>Parliament to amend the Constitution</b> and procedure therefore

- Constitution - a **Living Document** that **develops through amendments**.
- Also **contains the Provisions** to amend the constitution.

### Types of Amendment

#### 1. Amendment by Special Majority

- **Simple Majority:** Majority of the **members present and voting** i.e., more than 50% members present and voting.
- These provisions **include:**
  - **Admission or establishment** of new states.
  - **Formation of new states and alteration of areas**, boundaries or names of existing states.
  - **Abolition or creation of legislative councils** in states.
  - **Second Schedule**—emoluments, allowances, privileges and so on of the president, the governors, the Speakers, judges, etc.
  - **Quorum** in Parliament.
  - **Salaries and allowances of the members of Parliament.**
  - **Rules of procedure in Parliament.**
  - **Privileges of the Parliament**, its members and its committees.
  - **Use of English language** in Parliament.
  - **Number of puisne judges** in the SC.
  - Conferment of **more jurisdiction on the SC.**
  - Use of **official language.**
  - **Citizenship**—acquisition and termination.
  - **Elections to Parliament and state legislatures.**
  - **Delimitation of constituencies.**
  - **Fifth Schedule**—administration of scheduled areas and scheduled tribes.
  - **Sixth Schedule**—administration of tribal areas.



#### 2. Amendment by the special Majority

- **Special Majority:** Majority of the **total membership** of each House and a **majority of two-thirds** of the **members of each House present and voting**.
- **Total membership:** Regardless of whether there are **vacancies or absentees**, the **total number of members that constitute the House**.
- These provisions **include:**
  - **Fundamental Rights;**
  - **Directive Principles of State Policy;** and
  - All **other provisions** which are **not covered** by the first and third categories.

### 3. Amendment by Special Majority of Parliament and Consent of States

- Provisions of Constitution related to federal structure of polity.
- Only ratification of half of the states is required.
- No time limit within which the states should give their consent to the bill.
- These provisions include:
  - Election of the President and its manner.
  - Extent of the executive power of the Union and the states.
  - SC and HCs.
  - Distribution of legislative powers between the Union and the states.
  - Goods and Services Tax Council
  - Any of the lists in the Seventh Schedule.
  - Representation of states in Parliament.
  - Power of Parliament to amend the Constitution and its procedure (Article 368 itself).



#### Procedure for Amendment

- Can be initiated only in either House of Parliament and not in the state legislatures.
- Can be introduced either by a minister or by a private member and prior permission of the president not required.
- Must be passed in each House by a special majority.
- Each House must pass the bill separately. No provision of Joint sitting in case of disagreement between two Houses.
- If bill amends federal provisions of Constitution - must be ratified by the legislatures of half of states by a simple majority.
- After being passed by both Houses of Parliament and ratified by the state legislatures - bill is presented to President for assent.
- President must give his assent to the bill. He can neither withhold his assent nor return the bill for reconsideration of the Parliament.
- After President's assent, bill becomes a constitutional amendment act and Constitution stands amended.



#### Criticism of The Amendment Procedure

- No provision for a special body to change the Constitution, such as the Constitutional Convention (USA) or the Constitutional Assembly.
- Parliament has authority to propose a constitutional modification - state legislatures are prohibited.
  - Exception- Passing a resolution proposing the creation or repeal of legislative councils in the states.
- Large portion of Constitution can be changed by Parliament alone, with either a special majority or a simple majority - consent of state legislatures is only required in a few instances.
- No provision for state legislatures to ratify or reject an amendment.
- Silent on the question of whether states can revoke their permission afterward.
- No provision for a joint sitting of both Houses of Parliament in case of deadlock.
- Amending procedure provisions ambiguous.
- Give a lot of room for the courts to intervene.



#### Landmark Cases of Amendment in Constitution

##### Shankari Prasad V Union of India 1951

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





### Sajjan Singh V State of Rajasthan 1965

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

### Golak Nath V State of Punjab 1967

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

### Major Amendments in the Indian Constitution: Timeline

Amendments	Changes introduced
1st Amendment Act, 1951	<ul style="list-style-type: none"> <li>● The <b>state</b> was <b>empowered</b> to make special provisions for the <b>development</b> of <b>socially and economically backward classes</b>.</li> <li>● <b>Ninth Schedule</b> included to <b>protect</b> the <b>land reforms</b> and other laws in it from the judicial review.</li> <li>● <b>Articles 31A and 31B</b> added.</li> </ul>
7th Amendment Act, 1956	<ul style="list-style-type: none"> <li>● <b>Implementation</b> of the <b>State Reorganization Act</b>.</li> <li>● <b>Amended 2nd and 7th Schedules</b> of the constitution.</li> </ul>
10th Amendment Act, 1961	<ul style="list-style-type: none"> <li>● <b>Nagaland</b> was given status of <b>state</b> and <b>special provisions</b> were made for it.</li> </ul>
24th Amendment Act, 1971	<ul style="list-style-type: none"> <li>● <b>Amendment</b> of <b>Article 13</b> and <b>368</b> related to the power of Parliament to <b>amend the Constitution</b> and procedure thereof.</li> <li>● The <b>parliament</b> was given the power to <b>amend Fundamental Rights</b>.</li> </ul>
25th Amendment Act, 1971	<ul style="list-style-type: none"> <li>● <b>Article 31C</b> added to the <b>Constitution</b> related to the <b>relationship</b> between <b>Directive Principles of state Policy</b> and <b>Fundamental Rights</b>.</li> <li>● Article 31C conferred primacy of Articles 39(b) and 39(c) over Articles 14, 19 and 31.</li> </ul>
26th Amendment Act, 1971	<ul style="list-style-type: none"> <li>● <b>Privy purses</b> and <b>privileges</b> given to Princely rulers were <b>abolished</b>.</li> </ul>
34th Amendment Act, 1974	<ul style="list-style-type: none"> <li>● <b>Land ceiling</b> and <b>land tenure reforms</b> were added to the 9th Schedule of the Constitution.</li> </ul>
38th Amendment Act, 1975	<ul style="list-style-type: none"> <li>● <b>Emergency</b> and <b>Promulgation</b> of <b>Ordinances</b> declared by the President was considered as non-justiciable.</li> <li>● The <b>President</b> was empowered to <b>declare different proclamations of national emergency</b> on different grounds simultaneously.</li> </ul>
42nd Amendment Act, 1976 (Mini Constitution)	<ul style="list-style-type: none"> <li>● <b>Preamble</b>- 'Sovereign Socialist Secular Democratic Republic' were added to the Preamble.</li> <li>● <b>Parliament</b> and <b>State Legislatures:</b> The <b>term</b> of the <b>Lok Sabha</b> and State Legislative Assemblies <b>extended to 6 years</b>.</li> <li>● <b>Executive:</b> <b>President</b> shall <b>act</b> in <b>accordance with the advice</b> of the <b>Council of Ministers</b> in the discharge of his functions under Article 74.</li> <li>● <b>Judiciary:</b></li> <li>● <b>Article 32A</b>- denied the Supreme Court the power to consider the Constitutional validity of the State law.</li> </ul>