

CONSTITUTION

Handouts for Competitive Exams



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Points to remember : Historical Background

1. The Cabinet Mission arrived in India in March 1946.
2. The Constituent Assembly was established on December 6, 1946, based on the recommendations of the Cabinet Mission.
3. The members of the Constituent Assembly were elected indirectly by the provincial assemblies.
4. The first session of the Constituent Assembly took place on December 9, 1946.
5. S.N. Sinha was chosen as the temporary chairman of the Constituent Assembly on December 9, 1946.
6. Dr. Rajendra Prasad was elected as the permanent chairman of the Constituent Assembly on December 11, 1946.
7. The British Parliament passed the Indian Independence Act in 1947.
8. The Indian Independence Act came into effect on August 15, 1947, marking the end of British rule.
9. The drafting committee, chaired by Dr. B.R. Ambedkar, consisting of 7 members, was formed on August 29, 1947.
10. The drafting of the Constitution took 2 years, 11 months, and 18 days.
11. The Constitution of India was adopted and enacted by the Constituent Assembly on November 26, 1949.
12. The Constitution came into force on January 26, 1950, known as Republic Day.
13. The Indian Constitution is the most extensive and detailed constitution globally.
14. Original structure of constitution 395 articles, 22 parts, 8 schedules.
15. After the 92nd Amendment Act of 2005, it consists of 26 parts and 12 schedules

Constitution of India

- Definition Clause: Article 366
- Interpretation Clause: Article 367

Nature of the Indian Constitution

- Types of Constitution: Unitary and Federal
 - *Unitary Constitution:*
 - Centralized government powers with the central government having supremacy.
 - Provinces are subordinate to the center.

- *Federal Constitution:*
 - Powers divided between the federal (center) and state governments.
 - Both governments have independent spheres of authority.

Essential Characteristics of a Federal Constitution

1. Division of Powers: Clearly demarcated powers between Federal and provincial units.
2. Supremacy of Constitution: Constitution is the supreme law.
3. Written Constitution: Documented and codified constitution.
4. Rigidity: Difficult amendment procedures ensure stability.
5. Judicial Authority: Courts resolve disputes between central and state governments.

Indian Constitution's Federal Nature

- Contains essential federal characteristics but also features that lean towards unitary governance.
- Perspectives vary among scholars:
 - *Quasi-Federal:* Unitary state with subsidiary federal aspects (Professor KC Wheare).
 - *Federal with Centralizing Tendency:* Strong central government within a federal framework (Professor Jennings).

Unitary Provisions in Indian Constitution

1. Appointment of Governors: Articles 155 and 156.
2. Parliament's Legislative Power: Article 249 allows Parliament to legislate on state list items in national interest.
3. State Reorganization: Article 3 grants Parliament authority to form new states or alter state boundaries.
4. Emergency Powers: Articles 352-360 empower the central government during emergencies.

Inspiration taken while making constitution:

- Judicial review, fundamental rights (US Constitution).
- Parliamentary system, rule of law (UK).
- Federalism with a strong center (Canada).
- Directive principles of state policy (Ireland), amendment procedures (South Africa).
- Freedom of trade (Australia), procedure established by law (Japan).
- Fundamental duties (USSR), emergency provisions (Government of India Act 1935).
- Concepts like equality before law, equal protection of laws (UK, USA).
- Preamble inspired by the US Constitution.

Preamble of the Indian Constitution

- Content: Declares India as a sovereign socialist secular democratic republic.
- Amendments: Words "socialist," "secular," and "integrity" added by the 42nd Amendment Act.
- Clarified existing principles in the Preamble.

Key Terms in the Preamble

- Sovereign: Emphasizes India's independence internally and externally.
- Socialist: Added democratic socialism, not communist socialism.
- Emphasizes nationalization and state ownership in favor of working people's welfare.
- Secular: State neutrality towards religion, treating all religions equally.
- Democratic: Government authority derived from the people, rulers accountable to them.
- Republic: Elected head of state, not hereditary monarchy.

Status of the Preamble

- Historical View: Initially not considered part of the Constitution (Re Berubari Case, 1960).
- Modern View: Integral part of the Constitution and reflects its basic features (Kesavananda Bharati Case, 1973).

Purpose of the Preamble

1. Source of Constitution: Represents the will of the people of India.

2. Enacting Clause: Marks the commencement of the Constitution.
3. Declaration: States fundamental rights, freedoms, and type of government intended.

Amendment of the Preamble

- Under Article 368: Can be amended like other provisions but subject to restrictions as a basic feature of the Constitution (Kesavananda Bharati Case, 1973).

PART I

Union and its territory

Article 1: Name and Territory of the Union

- Name of the Union: India (Bharat).
- Territory: Initially categorized as parts A, B, and C in the first schedule, later reduced to States and Union Territories after the 7th Amendment Act, 1956.

Article 2: Powers of Parliament

- Admitting New States: Parliament has the power to admit new States into the Union.
- Establishing New States: Parliament can establish new States within India.

Article 3: Powers of Parliament for Formation and Alteration of States

- Formation of New States: Parliament can create new States by:
 - Separating territory from existing States.
 - Uniting two or more States.
 - Uniting parts of States.
 - Uniting territories with parts of States.
- Other Powers: Parliament can increase or decrease the area of States, alter boundaries, and change State names.

Parliament's Authority and Judicial Interpretations

- Formation of New States: Parliament can do so through a simple majority, not bound by State legislature views (Babulal vs. State of Bombay, AIR 1960 SC).

- Ceding Territory to Foreign Country: Parliament cannot cede Indian territory to a foreign state under Article 3(c) without amending the Constitution (Re Berubari Union Case).
- Dispute Resolution: Disputes over territory adjustment with foreign countries can be resolved without amending the Constitution if it doesn't involve cession (Magan Bhai vs. Union of India, 1969).

Conclusion:

- The Constitution grants Parliament significant powers regarding the Union's territory, including forming new States and altering boundaries.
- Ceding territory to foreign countries requires a constitutional amendment under Article 368, while other territorial adjustments may not necessarily require such amendments based on judicial interpretations.

PART II

CITIZENSHIP

In every country, there are citizens and aliens, with citizens enjoying various rights and privileges. Rights include fundamental rights, participation in governance, and the right to vote (Article 326).

Citizenship at the Commencement of the Constitution

- Persons becoming citizens at the Constitution's commencement under Articles 5 to 8:
 1. Citizenship by Domicile (Article 5)
 2. Citizenship by Immigrants from Pakistan (Article 6)
 3. Citizenship of Migrants to Pakistan (Article 7)
 4. Citizenship of Indians Abroad (Article 8)

Citizenship by Domicile (Article 5)

Conditions for citizenship by domicile:

- Domicile in India at the Constitution's commencement.
- Born in India, parent born in India, or resident in India for at least 5 years preceding the commencement.

- Two types of domicile: by birth (origin) and by choice (residence intention).
- Supreme Court rulings clarify that India recognizes only one domicile (of India) and requires an intention to reside permanently (*animus mutandi*).

Parliament's Power on Citizenship (Article 11)

- Article 11 grants Parliament the authority to legislate on citizenship, including acquisition, termination, and related matters.
- Citizenship Act of 1955: Enacted by Parliament under Article 11, provides for various ways of acquiring citizenship after the Constitution's commencement:
 1. By birth
 2. By descent
 3. By registration
 4. By naturalization
 5. By incorporation

Conclusion

- Indian citizenship is governed by constitutional provisions (Articles 5 to 8) and legislation such as the Citizenship Act of 1955.
- The Act outlines procedures for acquiring citizenship through different means, ensuring a structured framework for citizenship acquisition and termination.

PART III FUNDAMENTAL RIGHTS

- Origin: Inspired by historical documents like Magna Carta and the Bill of Rights.
- Scope: Enshrined in Articles 12 to 35 of Part III of the Indian Constitution.

Classification of Rights

1. Fundamental Rights: Protected by the Constitution and can't be taken away without a constitutional amendment under Article 368.
2. Constitutional Rights: Mentioned in the Constitution but distinct from fundamental rights (e.g., right to vote, right to property).
3. Legal Rights: Granted by statutes and can be taken away by the legislature.

Classification of Fundamental Rights

1. Right to Equality (Articles 14-18)
2. Right to Freedom (Articles 19-22)
3. Right against Exploitation (Articles 23-24)
4. Right to Freedom of Religion (Articles 25-28)
5. Cultural and Educational Rights (Articles 29-30)
6. Right to Constitutional Remedies (Articles 32-35)

Important Concepts and Points

- Equality before Law: Derived from the UK's concept; ensures equal treatment.
- Separation of Powers: Montesquieu's concept, divides powers among the executive, judiciary, and legislature.
- Division of Power: Mentioned in Schedule 7 and Article 246, divides powers between the Union and States.
- Criticism: Dr. B.R. Ambedkar noted fundamental rights as a highly criticized part of the Constitution.
- Supreme Court's Role: Seen as the protector and guarantor of fundamental rights.
- Scope: Some rights are for citizens only, while others apply to all persons in India.
- Rights against State and Individuals: Some rights are enforceable against both the State and individuals.

Suspension of Fundamental Rights

- Circumstances for Curtailment:
 1. Article 33: Control of fundamental rights for the armed forces.
 2. Article 34: Curtailment during Martial Law.
 3. Article 352: Suspension during emergencies, except for Article 20 and 21.
 4. Article 368: Amendment of fundamental rights by Parliament.

Article 12 of the Indian Constitution defines "State" to include:

1. The Government and Parliament of India (executive and legislature of the Union).
2. The Government and Legislature of each State.
3. All local authorities and other entities with legal powers.

The interpretation of Article 12 has been shaped by notable court cases:

1. *Electricity Board Rajasthan vs Mohanlal* (AIR 1967 SC): This case expanded the definition to include bodies like the Rajasthan Electricity Board, emphasizing that "other authorities" cover all entities created by the Constitution or State with legal powers.
2. *Sukhdev Singh vs Bhagatram* (AIR 1975 SC): It affirmed that bodies such as ONGC, LIC, and IFC, being statutory, fall under Article 12 as State entities.
3. *Ramana Dayaram Shetty vs International Airport Authority* (AIR 1979 SC): Here, the Court considered if a body is an agency or instrumentality of the Government, leading to entities like the International Airport Authority being included under Article 12.
4. *Ajay Hasia vs Khalid Mujib* (AIR 1981 SC): The judgment highlighted that even registered societies under the Societies Registration Act 1898 can be considered State entities under Article 12.
5. Further Clarifications: While bodies like the Food Corporation of India and CSIR were held to be State entities, others like NCERT and BCCI were not, depending on factors such as control, funding, and functional character.

Que. Weather Judiciary is a State?

In *Naresh versus State of Maharashtra* AIR 1967 and *AR Antulay vs RS Naik* AIR 1988 the supreme court held that even if a Court is the State a writ under Article 32 cannot be issued to High Court against its judicial orders because such order cannot be said to violate the fundamental rights of citizens.

Article 13 of the Indian Constitution

Article 13 of the Indian Constitution encompasses the doctrine of judicial review, ensuring that all legislation, past, and future, aligns with the fundamental rights outlined in Part III of the Constitution. This power, vested in the Supreme Court under Article 32, allows for the declaration of any law as unconstitutional if it contradicts these fundamental rights.

The concept of judicial review was first established by the Supreme Court of America in *Marbury versus Madison* 1800. In India, key judgments have solidified judicial review as a basic feature of the Constitution:

1. *Keshavanand Bharti versus State of Kerala* 1973: This landmark case affirmed judicial review as a basic feature of the Constitution, safeguarding it from alteration under Article 368.

2. L Chandra Kumar versus Union of India AIR 1997 SC: The Supreme Court reiterated that judicial review is an integral part of the basic structure of the Constitution and cannot be abrogated under Article 368.
3. I R Coelho versus State of Tamil Nadu AIR 2009: Upholding the inviolability of judicial review, the Supreme Court ruled that no Act of Parliament can revoke this essential feature.

Regarding pre-constitutional laws, Article 13(1) renders all laws inconsistent with fundamental rights void from the Constitution's commencement, but not retroactively. The doctrine of severability allows for the nullification of only the conflicting parts of a law, preserving the rest if separable.

The doctrine of eclipse applies to laws that infringe fundamental rights but does not render them void ab initio; instead, they become unenforceable while remaining in legal existence. Post-constitutional laws can also fall under eclipse, especially for non-citizens who lack certain fundamental rights.

However, the doctrine of waiver, as established in *Bheshwar Nath versus Income Tax Commissioner* 1959, emphasizes that individuals cannot waive their fundamental rights since these rights serve public interest and are constitutional obligations.

A significant debate arose regarding whether constitutional amendments fall under Article 13(2). Initially, the Supreme Court ruled they did not (*Shankari Prasad versus Union of India* 1951, *Sajjan Singh versus State of Rajasthan* 1965), but this changed with *Golak Nath versus State of Punjab* 1967, where the Court included amendments as "laws." The 24th Constitutional Amendment Act 1971 clarified this, affirming that amendments under Article 368 are not laws under Article 13. This was upheld in *Kesavananda Bharati's* case, establishing the prospective overruling doctrine and ensuring the validity of specific amendments while upholding judicial review as an unassailable constitutional principle.

Article 14 of the Indian Constitution enshrines the principles of equality before the law and equal protection of the laws.

Equality Before Law:

- Derived from Dicey's rule of law in England, it signifies that no person, regardless of rank, is above the law.
- Key aspects of Dicey's rule of law include the absence of arbitrary power, equality before the law, and the constitution as the source of individual rights.

Equal Protection of Laws:

- Borrowed from the 14th Amendment of the American Constitution, it ensures that the state protects every person's rights without discrimination.
- Both equality before the law and equal protection of laws are complementary and essential for fair treatment.

Exceptions to Equality:

1. Immunity for foreign diplomats.
2. Immunity for the President, Governors, and certain ministers under Article 361.
3. Discretionary powers for ministers.
4. Differential treatment for specific professions like lawyers, doctors, and armed forces personnel.
5. Certain constitutional provisions like Articles 31B and 31C provide exceptions.

Case Laws on Article 14:

1. Indian Express vs. Union of India: Classification of newspapers based on circulation for custom duty is valid.
2. DK Yadav vs. JMA Industries: Unjust termination without a fair hearing is unconstitutional.
3. Bhagwanti vs. Union of India: Arbitrary classification for family pension after retirement is unlawful.
4. Randhir Singh vs. Union of India: Equal pay for equal work is a constitutional goal.
5. Indian Council of Legal Aid vs. Bar Council of India: Age-based enrollment restrictions for advocates are discriminatory.
6. Mitthu Singh vs. State of Punjab: Mandatory death sentence for murder committed under life imprisonment is unconstitutional.
7. Air India vs. Nargis Mirza: Compulsory retirement based on marriage for air hostesses is discriminatory.
8. State of Bombay vs. Anwar Ali Sarkar: Discretionary powers without clear guidelines are unconstitutional.
9. Revati vs. Union of India: Denying the wife the right to prosecute for adultery is discriminatory.
10. BALCO Employees Union vs. Union of India: Judicial review of economic policies is limited unless unconstitutional.

These cases reflect the evolving understanding of equality under Article 14, emphasizing fairness, non-arbitrariness, and reasonable classification based on intelligible differentia and a rational nexus to the legislation's objective.

Article 15 of the Indian Constitution:

Article 15(1):

- Prohibits discrimination by the state on grounds of religion, race, caste, sex, place of birth, or any of them.
- However, discrimination based on additional factors alongside these grounds may be permissible, such as sex and physical fitness requirements for certain jobs like employment in heavy industries or nursing.

Article 15(2):

- Extends the prohibition of discrimination not only to the state but also to individuals under its control.

Article 15(3):

- Empowers the state to make special provisions for women and children due to their special nature, such as maternity relief, exclusive educational institutions, reservation of seats, and measures against exploitation.

Article 15(4):

- Added by the First Constitutional Amendment Act in response to the Champakam Dorairajan case.
- Empowers the state to make special provisions for the advancement of socially and educationally backward classes or for Scheduled Castes and Scheduled Tribes.
- This clause is discretionary and does not impose an obligation on the state but enables it to take special actions.

Article 15(5):

- Added by the 93rd Constitutional Amendment Act 2006 to nullify certain Supreme Court judgments regarding reservations in private educational institutions.
- Allows the state to make reservations for backward classes or SC/STs in admissions to educational institutions, including private ones, except those established by minorities under Article 30(1).

Definitions and Authorities:

- Backward classes are determined based on reports from commissions appointed under Article 340.
- Scheduled Castes and Scheduled Tribes are specified by the President under Articles 341 and 342 respectively, with Parliament having the power to include or exclude groups from these lists.

Specific Case Example:

- In *Dr. Neelima vs. Dean of PG Studies, AP Agricultural University Hyderabad* 1993, it was held that a high-caste girl marrying a boy from a Scheduled Tribe is not entitled to reservation benefits available to Scheduled Tribes.

These provisions ensure equality and non-discrimination while also allowing for targeted measures to uplift disadvantaged groups.

Article 16 of the Indian Constitution regarding equality of opportunity in public employment:

Article 16(1) and (2):

- Prohibit discrimination in public employment based on religion, race, caste, sex, descent, residence, or place of birth.
- Ensures equal opportunity for all citizens in matters of public employment under the state.

Exceptions to Article 16(1) and (2):

1. Article 16(3): Allows Parliament to make laws discriminating between citizens based on residence.

2. Article 16(4): Permits the state to make reservations for appointments or posts in favor of backward classes of citizens who are not adequately represented in state services.
3. Article 16(5): Allows for the reservation of posts for officers connected with religious institutions for members of that community.

Amendments and Judgments:

- Article 16(4A): Added by the 77th Amendment Act 1995, allows reservations for promotions for Scheduled Castes and Scheduled Tribes with consequential seniority.
- Article 16(4B): Added by the 81st Amendment Act 2000, removes the 50% limit for SC, ST, and OBC reservations in backlog vacancies.
- Balaji vs. State of Mysore (1963): Established criteria for reservations, including considerations beyond caste and a 50% limit.
- Indira Sahani vs. Union of India (1993): Known as the Mandal Commission case, clarified aspects of reservation under Article 16(4), including identifying backward classes based on caste and excluding the creamy layer.

Other Court Cases:

- Devadasan vs. Union of India (1964): Initially struck down the carry forward rule for reservations but later validated it with a 50% limit.
- Ashok Thakur vs. Union of India (2008): Validated OBC reservations in central government institutions but excluded the creamy layer.
- M Nagaraj vs. Union of India (2007): Upheld the constitutional validity of Article 16(4) and (4A) regarding reservations.
- Jarnail Singh vs. Lacchmi Narain Gupta (2018): Relates to reservations in promotions, likely dealing with the aftermath of the 77th Amendment Act.

These amendments and court cases have shaped the implementation and scope of reservations in public employment, addressing issues of representation and fairness.

Article 17 of the Indian Constitution

1. Abolition of Untouchability: Article 17 abolishes untouchability, a practice that discriminates against certain groups based on caste, and prohibits its practice in any form.
2. Legislation: In line with Article 17, Parliament enacted the Untouchability (Offences) Act in 1955. This act was later amended in 1976 to strengthen laws against untouchability, leading to its renaming as the Protection of Civil Rights Act, 1955. The term "civil right"

in this context refers to any right accruing to a person due to the abolition of untouchability under Article 17

3. **Scope of Protection:** Article 15(2) also contributes to eradicating untouchability by ensuring that no person can be denied access to public places, amenities, and services like shops, restaurants, hotels, wells, tanks, bathing ghats, roads, and public resorts funded by the state, on the grounds of untouchability.
4. **Prevention of Atrocities:** To further combat untouchability and protect vulnerable communities, the SC/ST (Prevention of Atrocities) Act was enacted in 1989. This legislation aims to prevent atrocities against Scheduled Castes and Scheduled Tribes, including those related to untouchability and caste-based discrimination.

Article 18 of the Indian Constitution abolishes the conferment of titles by the state, both on citizens and non-citizens, with exceptions for military and academic distinctions. It also prohibits Indian citizens from accepting titles from foreign states without the President's consent. Similarly, foreigners holding office under the Indian state cannot accept titles from foreign states without the President's approval. Additionally, individuals holding office under the state cannot accept presents, emoluments, or offices from foreign states without the President's consent.

Recent national awards like Bharat Ratna, Padma Vibhushan, Padma Bhushan, and Padma Shri are not considered titles under Article 18 but are recognized as state honors for exceptional contributions in various fields. These awards were established in January 1954 and are not to be used as prefixes or suffixes to names. In *Balaji Raghavan vs Union of India* 1996, the Supreme Court upheld the validity of these awards, stating that they do not violate equality principles and are essential for recognizing excellence as per Article 51-A(f).

Article 19 of the Indian Constitution guarantees several fundamental freedoms to citizens:

1. **Freedom of Speech and Expression (19(1)(a)):** This includes the right to express opinions through various mediums like speech, writing, or gestures. The freedom of press is also encompassed within this right.
 - *Restrictions:* Sovereignty, security, public order, decency, contempt of court, defamation, incitement to offense.
 - *Case Laws:* *Indian Express vs Union of India* (1985), *Sakal Papers vs Union of India* (1962), *Romesh Thapar vs State of Madras* (1950).
2. **Freedom of Assembly (19(1)(b)):** Citizens have the right to assemble peacefully and hold meetings or processions.
 - *Restrictions:* Public order, decency, sovereignty.

- *Case Laws:* Communist Party of India vs Bharat Kumar (1998), Rajneesh Kapoor vs Union of India (2007).
3. Freedom to Form Associations (19(1)(c)): Citizens can form associations, unions, or political parties.
 - *Restrictions:* Sovereignty, public order, morality.
 - *Case Laws:* None mentioned.
 4. Freedom of Movement throughout India (19(1)(d)): Citizens have the right to move freely within India.
 - *Restrictions:* General public interest, protection of scheduled tribes' interests.
 - *Case Laws:* State of UP vs Kaushalya (1964), Rajneesh Kapoor vs Union of India (2007).
 5. Freedom to Reside and Settle (19(1)(e)): Citizens can reside and settle in any part of India.
 - *Restrictions:* Same as freedom of movement.
 - *Case Laws:* None mentioned.
 6. Freedom of Profession, Occupation, Trade, or Business (19(1)(g)): Citizens have the right to choose their profession or occupation.
 - *Restrictions:* Public interest, qualifications necessary for professions, state monopoly.
 - *Case Laws:* P A Inamdar vs State of Maharashtra (2005), Om Prakash vs State of UP (2004).

Article 20 of the Indian Constitution provides important safeguards to persons accused of crimes:

1. Ex Post Facto Law (20(1)): Criminal law cannot have a retrospective effect. An accused cannot be convicted for a greater punishment than what was prescribed at the time of the crime. If the punishment is reduced during the trial period, the benefit is given to the accused.
 - *Case Law:* Ratan Lal vs State of Punjab (1965).
2. Double Jeopardy (20(2)): No person can be prosecuted and punished for the same offense more than once.
 - *Criteria:* Accused of an offense, proceedings before a court or tribunal, previous prosecution and punishment for the same offense.
 - *Exceptions:* Proceedings before administrative or departmental authorities are not considered judicial proceedings.
 - *Case Law:* None mentioned.
3. Prohibition against Self-Incrimination (20(3)): An accused cannot be compelled to be a witness against himself.

- *Essentials*: Accused of an offense, protection against compulsion to be a witness or give evidence against himself.
- *Case Law*: MP Sharma vs Satish Chandra (date not specified), State of Bombay vs Kathi Kalu (1961), Nandini Satpathy vs PL Dani (1977).
- *Scope*: The protection extends to police investigations, not just the trial stage. The accused has the right to remain silent if questions could expose guilt but must answer questions where there's no tendency to incriminate.
- *Admissible Evidence*: Statements made without force or operation but recorded without the accused's knowledge can be admissible.
 - *Case Law*: Yusuf Ali vs State of Maharashtra (1968).
- *Tests and Compulsion*: Narcoanalysis, polygraphy, and brain fingerprinting are considered testimonial compulsion and are prohibited under Article 20(3).
 - *Case Law*: Selvi vs State of Karnataka (2010).

Article 21 of the Indian Constitution safeguards the right to life and personal liberty, which is applicable to both citizens and non-citizens. Definition of Life and Liberty:

- *AK Gopalan vs Union of India (1950)*: Defined life and liberty narrowly as physical existence and freedom from unlawful detention.
 - *Kharak Singh vs State of UP (1963)*: Defined life and liberty broadly to include all rights necessary for life enjoyment.
2. Expansion of Personal Liberty:
 - *Maneka Gandhi's Case (1978)*: Widened the scope of personal liberty under Article 21, extending protection against arbitrary executive actions.
 - *Right to Know Reasons*: Government actions must be accompanied by reasons to prevent arbitrary decisions violating Article 21.
 3. Procedure Established by Law:
 - The law justifying interference with life and liberty must be valid and its procedure must be just, fair, and reasonable.
 - *Maneka Gandhi's Case*: Introduced the test of reasonableness and natural justice in procedures under Article 21.
 4. Relationship with Other Articles:
 - *AK Gopalan vs Union of India*: Initially, there was no connection between Articles 19 and 21.
 - *Maneka Gandhi's Case*: Established a connection between Articles 19 and 21, ensuring that procedural laws under Article 21 meet the tests of Article 19 and Article 14.
 5. Emergency Provisions:

- *44th Constitutional Amendment (1978)*: Ensured that Articles 20 and 21 cannot be suspended during a state of emergency.
6. Right to Live with Dignity:
 - *Francis Coralie vs Union of India*: Life includes the right to live with human dignity, encompassing basic necessities like food, shelter, and healthcare.
 7. Right to Privacy:
 - *PUCL vs Union of India (1997)*: Telephone tapping without sufficient cause violates the right to privacy under Article 21.
 8. Environmental Protection:
 - Several cases emphasized the right to a pollution-free environment, extending Article 21's protection to ecological concerns.
 9. Right to Legal Aid, Speedy Trial, and Shelter:
 - *Hussainara Khatoon vs State of Bihar (1979)*: Right to free legal aid ensured under Article 21.
 - *Chameli Singh vs State of UP (1996)*: Right to shelter included in Article 21.
 - *Right to Speedy Trial*: Recognized as a fundamental right under Article 21.
 10. Compensation for Violation:
 - Courts have awarded compensation for violations of Article 21, ensuring accountability for unlawful actions.

These cases and principles highlight the evolving and comprehensive nature of rights protected under Article 21, ensuring the fundamental dignity and freedoms of individuals.

Article 22 of the Indian Constitution safeguards individuals against arbitrary arrest and detention, providing procedural protections for both ordinary law arrests and arrests under preventive detention laws.

1. Types of Arrest under Article 22:
 - Ordinary law arrest (Clauses 1 and 2)
 - Preventive detention arrest (Clauses 3 to 7)
2. Rights of Arrested Persons under Ordinary Law:
 - Right to be informed of the grounds of arrest (Section 50 and 50A of CRPC).
 - Right to consult and be represented by a lawyer.
 - Right to be produced before a magistrate within 24 hours.
 - Freedom from detention beyond 24 hours without magistrate's order.
3. Guidelines for Arrests:

- *Joginder Kumar vs State of UP (1994)*: Guidelines for arrest during investigation, emphasizing the need for strong reasons for arrest.
 - *DK Basu vs. State of West Bengal (1997)*: Basic requirements for arrest and detention in all cases.
4. Exceptions under Preventive Detention Laws:
 - Not applicable to enemy aliens or persons detained under preventive detention laws (Clause 3).
 5. Procedures for Preventive Detention:
 - Justification based on suspicion of the detenu committing acts harmful to society or government security.
 - Review by an advisory board after 3 months of detention (Article 22(4)).
 - Communication of grounds of detention to the detenu (Article 22(5)).
 - Right of representation against detention order (Article 22(5)).
 6. Exceptions and Parliamentary Authority:
 - *Clause 6*: Exception for non-disclosure of facts against public interest.
 - *Clause 7*: Empowers Parliament to make laws regarding extended detention periods and advisory board procedures.
 7. Case Law:
 - *AK Roy vs Union of India (1982)*: Upheld the constitutional validity of the National Security Act (NSA) related to preventive detention.

These provisions ensure that arrest and detention procedures are just, fair, and reasonable, aligning with the principles of Articles 14, 19, and 21 of the Indian Constitution.

Article 23 of the Indian Constitution prohibits traffic in human beings and forced labor.

1. Prohibition of Traffic in Human Beings and Forced Labor:
 - Prohibits trafficking in humans, begar (forced labor), and similar forms of forced labor.
 - Any contravention of this provision is punishable by law.
2. Definitions:
 - *Traffic in human beings*: Includes selling and buying individuals as commodities, including immoral trafficking in women and children. Slavery is a prime example.
 - *Beggar*: Involves compelling a person to work without remuneration, even if payment is made, if the labor is not willingly given but forced or coerced.
3. State Laws and Offenses:

- Various state laws criminalize forcing individuals to work against their will, such as the UP Removal of Social Disabilities Act, 1947.
 - Example: In State vs. Banwari (1951), individuals were convicted under the above Act for refusing to provide services to Harijans based on caste discrimination.
4. Parliamentary Authority and Acts:
 - Article 35 empowers Parliament to enact laws for punishing offenses under Article 23.
 - The Immoral Traffic (Prevention) Act, 1956, is one such law aimed at preventing human trafficking and related offenses.
 5. Bonded Labor:
 - Bonded labor is prohibited under Article 23 as a form of forced labor.
 - The protections of Article 23 apply to both citizens and non-citizens.
 6. Exceptions:
 - Compulsory service for public purposes, such as military or social services, is permissible as it does not constitute begar or trafficking in human beings.

Doctrinim

Article 24 of the Indian Constitution prohibits the employment of children in factories and other hazardous occupations.

1. Objective:
 - Article 24 aims to safeguard the public health and ensure the safety of children by prohibiting their employment in factories and hazardous industries.
2. State Obligations:
 - Article 39 imposes an obligation on the state to protect the health and strength of workers, including children, and to prevent economic necessity from forcing individuals into unsuitable work based on their age or strength.
3. Enacted Acts:
 - The state has enacted several laws to fulfill this duty:
 - Employment of Children Act, 1938
 - Child Labour (Prohibition and Regulation) Act, 1986
 - Factories Act, 1952
 - Mines Act, 1952

- Merchant Shipping Act, 1958
 - Motor Transport Workers Act, 1961
 - Plantation Labour Act, 1951
 - Beedi and Cigar Workers (Condition of Employment) Act, 1966, among others.
 - These acts collectively prohibit the employment of children below a certain age in various industries.
4. Judicial Precedents:
- *PUDR vs. Union of India (1983)*: Construction work was deemed hazardous, and the court ruled that no children below 14 years could be employed in such work.
 - *MC Mehta vs. State of TN (1997)*: In the case of children engaged in Sivakasi cracker factories, the Supreme Court directed the establishment of a Child Welfare Fund and suggested measures for their rehabilitation.

Articles 25-28 of the Indian Constitution regarding the right to freedom of religion, secularism, and related provisions:

Secularism:

- The concept of secularism is implicit in the Preamble, emphasizing liberty of thought, expression, belief, faith, and worship.
- The 42nd Amendment Act of 1976 officially inserted the term "secular" into the Preamble.
- Secularism in India means neutrality regarding religion; the state protects all religions without favoring any particular one.

Article 25 - Freedom of Religion:

- Guarantees the freedom of conscience and the freedom to profess, practice, and propagate religion.
- "Conscience" refers to absolute inner freedom in matters of faith.
- "Profess" means openly declaring one's faith.
- "Practice" includes performing religious duties, rites, rituals, and exhibiting beliefs.
- "Propagate" refers to spreading religious views without coercion.
- Exceptions to this right include public order, health, morality, and other provisions of Part 3 of the Constitution.
- The state can regulate economic, financial, political, or other activities associated with religious practices.

- Religious conversions are not protected under this article.
- Case examples include restrictions on public dances with religious elements and the legality of certain religious practices.

Article 26 - Freedom to Manage Religious Affairs:

- Gives religious denominations the right to establish and maintain institutions for religious and charitable purposes.
- Allows denominations to manage their affairs, own property, and administer it according to the law.
- Restrictions include public order, morality, and health.
- Case examples involve defining religious denominations and their rights under this article.

Article 27 - Freedom from Taxes for Promotion of Religion:

- Prohibits the use of public funds collected through taxes for promoting any specific religion or religious denomination.
- Taxes cannot be levied for religious promotion but can be for general public purposes.
- Case law distinguishes between taxes and fees, with taxes being compulsory and fees linked to specific services

Article 28

- Prohibits religious instruction in state-funded educational institutions.
- Identifies four types of institutions based on funding and administration.
- Restrictions on Religious Instructions:
 - No religious teaching in institutions fully maintained by the state.
 - Consent needed for religious teachings in state-recognized or aided institutions.
 - No restriction on religious teachings in state-administered but trust-established institutions.
- DAV College Jalandhar vs State of Punjab (1971): Supreme Court has held that the study and research on the life and teaching of Guru Nanak does not amount to religious instructions for promotion of any particular religion and therefore is not violative of article 28.

Article 29 and 30 Overview:

- Article 29(1): Guarantees minorities' rights to conserve language, script, or culture.
- Article 30(1): Allows minorities to establish and manage educational institutions.
- Article 30(2): Ensures no discrimination in state aid based on minority status.
- Article 29(2) prevents denial of admission based on religion, race, caste, or language.

2. Key Court Cases:

- DAV College Bathinda vs State of Punjab (1971): Upheld minorities' right to choose the medium of instruction.
- Brahmachari Siddheshwar vs State of West Bengal (1995): Declared Ramakrishna Mission as part of Hindu religion, not a minority group.
- Tma Pai Foundation vs State of Karnataka (2003): Affirmed minorities' right to set admission policies in unaided educational institutions.
- Bal Patil vs Union of India (2005): Stated minority status should be based on state demographics, not national demographics.
- Naresh Agarwal vs Bharat: AMU not considered a minority institution but established by parliamentary act.

3. Article 31A, 31B, and 31C:

- Article 31A: Protects laws for land acquisition from being void due to violating fundamental rights.
- Article 31B and Ninth Schedule: Validate certain acts and regulations against fundamental rights.
- IR Coelho vs State of Tamil Nadu (2007): Allows challenges to laws in the Ninth Schedule post-Kesavananda Bharati case.
- Article 31C: Protects laws implementing Directive Principles from judicial review, with exceptions post-42nd amendment.

Article 32 - Right to Constitutional Remedies:

- Article 32 grants individuals the right to move the Supreme Court for enforcing fundamental rights, making it a fundamental right itself.
- The Supreme Court cannot refuse relief based on alternative remedies, disputed facts, or technicalities.
- It empowers the Supreme Court to issue directions for fundamental rights enforcement.
- Parliament can empower other courts to exercise similar powers within their jurisdiction.

Suspension of Rights under Article 32:

- Article 32(4) allows suspension of this right during a National Emergency, except for Articles 20 and 21.
- This suspension is via the President's order under Article 359.

Curative Petition and Public Interest Litigation (PIL):

- Curative petitions allow correction of gross miscarriages of justice in final judgments.
- PIL relaxes traditional locus standi rules, allowing public-spirited individuals to file cases on behalf of the disadvantaged.
- PIL has widened access to justice and addressed various social issues like environmental protection, labor rights, and child welfare.
- Guidelines set by Justice Bhagwati in *MC Mehta vs Union of India* (1987) expanded the scope of PIL, including granting compensation and allowing individuals to write directly to judges for relief.

Criticism of PIL:

- Criticisms include potential flooding of courts, delays in other cases, and overreach into executive and legislative domains.
- Justice Bhagwati cautioned against misuse and emphasized the need for cases to be bona fide and not politically motivated.

Judicial Activism:

- Judicial activism is not defined in the Indian Constitution but is interpreted by the Supreme Court and scholars.
- Dr. Upendra Bakshi defines it as social action litigation, while Justice P N Bhagwati sees it as judges interpreting legislative intent creatively.
- Its purpose is to bring justice to the marginalized and fill legal gaps, primarily protecting constitutional rights.
- Sources of judicial activism include judicial review powers, constitutional remedies, the binding nature of Supreme Court decisions, high court superintendence, and the basic features doctrine.
- Traditional concepts like locus standi have been relaxed, allowing Public Interest Litigation (PIL) for enforcing fundamental rights of disadvantaged groups.

Examples of Judicial Activism Cases:

- Sunil Batra vs Delhi administration: Expanded the scope of Habeas Corpus to protect prisoners from inhuman treatment.
- Hussainara Khatoon vs State of Bihar: Highlighted the issue of delayed justice.
- MC Mehta cases: Addressed environmental and child labor issues.
- Rudal Shah vs State of Bihar: Emphasized individual rights.
- Various PIL cases: Dealt with public interest matters like pollution, human rights violations, and workplace safety.

Causes of Judicial Activism:

1. Legislative and executive inaction or failure to act effectively.
2. Systemic ineffectiveness and inactivity.
3. Violation of basic human rights.
4. Courts expand their jurisdiction and functions to uphold rights and justice.

Article 33: Restrictions on Fundamental Rights of Armed Forces Members

It is an exception to the fundamental rights guaranteed in Part III of the Indian Constitution. It empowers Parliament to restrict or abrogate these rights for:

1. Members of the armed forces
2. Forces responsible for public order maintenance
3. Personnel in intelligence organizations like RAW, CBI, and IB
4. Employees involved in telecommunications for these organizations.

The purpose is to maintain discipline and ensure proper performance of duties. While fundamental rights primarily apply against the state, under certain circumstances, they can also be enforced against private individuals or entities:

- In Indian Council for Enviro Legal Action vs Union of India 1996, the Supreme Court allowed writs against private individuals violating citizens' fundamental rights.
- Delhi Judicial Services Association vs State of Gujarat 1991 saw the Supreme Court convicting police officers for contempt via Article 32 writs.
- In MK Sharma vs BEL, compensation was ordered for employees affected by X-ray radiation during work.
- Sunil Batra vs Delhi Administration showcased Habeas Corpus writs to prevent torture, holding jailers personally accountable.

Directive Principles of State Policy (Articles 36-51)

The Directive Principles of State Policy (DPSP) in Part IV of the Indian Constitution outline socio-economic goals for the government. While not legally enforceable, they guide state policies for promoting the welfare of the people and achieving economic democracy.

1. Article 36: Defines the "state" as in Part III, Article 12.
2. Article 37: States that DPSPs are fundamental in governance, though not enforceable by courts.
3. Article 38: Directs the state to promote social, economic, and political justice and minimize inequalities.
4. Article 39: Mandates policies for livelihood, preventing wealth concentration, equal pay for equal work, and protecting children from labor.
5. Article 39A: Added by the 42nd Amendment Act, provides free Legal Aid and speedy trials.
6. Article 40: Calls for organizing village panchayats, leading to the 73rd Amendment Act for village-level governance.
7. Article 41: Ensures the right to work, education, and public assistance, reflected in laws like the National Rural Employment Guarantee Act and Right to Education Act.
8. Article 42: Advocates for just and humane working conditions.
9. Article 43: Calls for living wages and labor laws to support workers.
10. Article 44: Advocates for a Uniform Civil Code, upheld in various court cases.
11. Article 45: Ensures early childhood care and education, leading to the Right to Education Act.
12. Article 46: Promotes the interests of SC, ST, and OBC communities, reflected in reservation policies.
13. Article 47: Directs the state to raise nutrition levels, prohibit intoxicants, and protect public health.
14. Article 48: Encourages modernizing agriculture and protecting cows and wildlife.
15. Article 48A: Added for environmental protection and conservation.
16. Article 49: Protects monuments and national heritage.
17. Article 50: Advocates for separating the judiciary from the executive.
18. Article 51: Promotes international peace, reflected in laws like the Protection of Human Rights Act.

The relation between Fundamental Rights (FR) and DPSP involves a balance where FRs are justiciable, and DPSPs are non-justiciable. Courts uphold this balance, promoting both principles through harmonious interpretations and legislative implementations.

Article 51A: Outlines fundamental duties of citizens towards the country.

The duties include:

- To abide by the Constitution and respect its ideals and institutions (Article 51A(a)).
- To cherish and follow the noble ideals that inspired the national struggle for freedom (Article 51A(b)).
- To uphold and protect the sovereignty, unity, and integrity of India (Article 51A(c)).
- To defend the country and render national service when called upon (Article 51A(d)).
- To promote harmony and the spirit of common brotherhood among all people of India transcending religious, linguistic, and regional diversities (Article 51A(e)).
- To value and preserve the rich heritage of our composite culture (Article 51A(f)).
- To protect and improve the natural environment, including forests, lakes, rivers, and wildlife, and to have compassion for living creatures (Article 51A(g)).
- To develop scientific temper, humanism, and the spirit of inquiry and reform (Article 51A(h)).
- To safeguard public property and to abjure violence (Article 51A(i)).
- To strive towards excellence in all spheres of individual and collective activity (Article 51A(j)).
- Article 51A(k): Added by the 86th Amendment, emphasizes the duty of parents or guardians to provide opportunities for education to their children aged 6 to 14 years.

The Supreme Court has interpreted these duties in various cases, such as the duty to protect the environment (*MC Mehta vs. Union of India*) and the reasonableness of restrictions on fundamental rights for promoting objectives like animal preservation (*State of Gujarat vs. Mirazpur Moti Kureshi Kasab Jamaat*).

Part V: The Union Executive

President and Vice President

The President

1. Article 52: Establishes the position of the President of India as the head of the state.
2. Article 53:

- The executive power of the Union is vested in the President, who exercises it either directly or through subordinate officers.
 - Article 53(2): The supreme command of the defense forces is vested in the President, regulated by law.
3. Articles 54 and 55:
- The President is elected by an electoral college comprising elected members of both Houses of Parliament and the elected members of the Legislative Assemblies of the States.
 - The election follows a system of proportional representation through the single transferable vote method.
4. Article 56:
- The President holds office for five years but continues until a successor assumes office.
 - The President can resign by writing to the Vice President.
 - Removal via impeachment for violating the Constitution is detailed in Article 61.
 - The President is eligible for re-election under Article 57.
5. Article 58: Qualifications for being President:
- Must be a citizen of India.
 - Must be at least 35 years old.
 - Must qualify to be elected as a member of the House of the People.
 - Must not hold any office of profit.
6. Article 60:
- The President must take an oath or affirmation to preserve, protect, and defend the Constitution, administered by the Chief Justice of India or the senior-most Supreme Court judge available.
7. Article 71:
- Disputes related to the election of the President or Vice President are adjudicated by the Supreme Court.

Impeachment Procedure (Article 61):

- Initiation by either House of Parliament.
- Requires a resolution signed by at least one-fourth of the members and a 14-day notice.
- The resolution must pass by a two-thirds majority.
- The other House investigates the charges, providing the President an opportunity to be heard.
- If two-thirds of the investigating House agree, the President is removed from office.

Powers of the President:

1. Executive Powers:

- The President is the constitutional head, with all executive functions carried out in his name.

2. Appointing Powers:

- Appoints the Prime Minister, other Union Ministers, State Governors, Judges of the Supreme Court and High Courts, Attorney General, Comptroller and Auditor General, and others.

3. Military Powers:

- The President is the supreme commander of the defense forces and can declare war or peace in accordance with the law.

4. Diplomatic Powers:

- The President sends and receives ambassadors and negotiates treaties in his name.

5. Legislative Powers:

- Integral part of Parliament; every bill passed must receive the President's assent.
- Can summon and prorogue Parliament and dissolve the Lok Sabha.
- Can call a joint sitting of both Houses in case of a deadlock over a bill.

6. Ordinance Making Power (Article 123):

- The President can issue ordinances when Parliament is not in session, which must be approved within six weeks of reassembling.

7. Pardoning Power (Article 72):

- Can grant pardons, reprieves, respites, remissions, or commute sentences.
- This power extends to sentences by court-martial, offenses against Union laws, and death sentences.

Vice President of India

1. Article 63: Establishes the position of the Vice President.

2. Article 64: The Vice President is the ex-officio Chairman of the Rajya Sabha.

3. Article 66:

- The Vice President is elected by an electoral college consisting of members of both Houses of Parliament using the proportional representation system with a single transferable vote.
- Qualifications include being a citizen of India, at least 35 years old, eligible for election as a member of the Council of States, and not holding any office of profit.

4. Article 67:

- The Vice President holds office for five years.
- Can resign by writing to the President.
- Can be removed by a resolution passed by a majority in the Rajya Sabha and agreed upon by the Lok Sabha after 14 days' notice.

Council of Ministers (Articles 74 and 75):

1. Article 74:

- There shall be a Council of Ministers headed by the Prime Minister to aid and advise the President.

2. Article 75:

- The Prime Minister is appointed by the President, and the other ministers are appointed on the Prime Minister's advice.
- The Council of Ministers is collectively responsible to the Lok Sabha.
- Ministers hold office at the President's pleasure and must take an oath of office and secrecy.
- A minister not a member of Parliament for six consecutive months ceases to be a minister.

Important Cases:

- Ram Jawaya vs. State of Punjab (1955): The Supreme Court stated that while the executive power is vested in the President, it is exercised based on the Council of Ministers' advice.
- Shamsher Singh vs. State of Punjab (1974): The Supreme Court held that the President and Governors are constitutional heads and must act based on the Council of Ministers' advice.

Pardoning Powers (Article 72 and 161):

1. Pardoning Power of President (Article 72):

- Can grant pardons for court-martial cases, Union law offenses, and death sentences.
- Includes pardon, respite, remission, reprieve, and commutation.

2. Pardoning Power of Governor (Article 161):

- Applies to state law offenses.

- Cannot pardon death sentences but can commute them.

Judicial Review of Pardoning Power:

- *Epuran Sudhar vs. Government of Andhra Pradesh* (2006): The Supreme Court held that the President and Governors' pardoning powers are subject to judicial review to ensure they are not exercised arbitrarily or on malafide grounds.

The Parliament: Articles 79 to 122

Article 79: Composition of Parliament

- Parliament of India consists of three organs:
 - The President
 - Council of States (Rajya Sabha)
 - House of the People (Lok Sabha)

Article 80: Rajya Sabha (Council of States)

- Rajya Sabha is the Upper House of Parliament.
- Maximum membership is fixed at 250, with 12 members nominated by the President (Article 80(1)).
- Nominated members are chosen from individuals with special knowledge or practical experience in literature, science, art, and social service (Article 80(3)).
- Nominated members do not participate in the election of the President of India.
- The Vice President of India is the ex-officio Chairman of Rajya Sabha (Article 89).
- Rajya Sabha elects a Deputy Chairman from among its members.
- Rajya Sabha is not subject to dissolution; however, one-third of its members retire every two years (Article 83(1)).

Article 81: Lok Sabha (House of the People)

- Members of Lok Sabha are directly elected by the people.
- Maximum membership is fixed at 550, with up to 530 representing states and up to 20 representing Union Territories.

- Lok Sabha has a tenure of five years from the commencement of its first session (Article 83).
- The President may dissolve Lok Sabha earlier; during a proclamation of emergency, its tenure may be extended by law for one year.

Article 84: Qualifications for Membership

- A citizen of India.
- Minimum age of 30 years for Rajya Sabha and 25 years for Lok Sabha.
- Other qualifications as prescribed by Parliament.

Privileges (Article 105 and 194)

Differences between Prorogation and Dissolution

- Prorogation:
 - Ends a session but does not end the life of the house.
 - Bills pending do not lapse upon prorogation.
 - Adjournment terminates a sitting of the house.
- Dissolution:
 - Ends the life of the house, necessitating a general election.
 - Only Lok Sabha can be dissolved, not Rajya Sabha.
 - The power to dissolve Lok Sabha lies with the President, who acts on the advice of the Prime Minister (Article 85(2)).

Functions of Parliament

- The primary function of Parliament is to make laws, initiated in the form of bills: Ordinary Bills, Money Bills, and Financial Bills (Articles 107, 108, and 111).

Ordinary Bill

- Can originate in either house of Parliament.
- Must be passed by both houses and assented to by the President to become law.

Money Bill

- Only the Lok Sabha has exclusive power over Money Bills.
- Rajya Sabha cannot amend, modify, or reject a Money Bill passed by Lok Sabha.

- Money Bill can become law without Rajya Sabha's concurrence (Article 110(1)).
- Contains provisions regarding taxes, government borrowing, consolidated funds, and appropriation of money.
- The Speaker of Lok Sabha certifies whether a bill is a Money Bill, and this decision is final (Article 110(4)).
- Process:
 1. Introduced only in Lok Sabha with the President's recommendation (Article 109(1)).
 2. Passed by Lok Sabha and sent to Rajya Sabha for recommendations.
 3. Rajya Sabha must return the bill with recommendations within 14 days.
 4. Lok Sabha may accept or reject Rajya Sabha's recommendations.
 5. If not returned within 14 days, it is deemed passed by both houses.
 6. Presented to the President for assent.

Financial Bills

- Types:
 - Money Bill (Article 110(1))
 - Other Financial Bills (Article 117(1))
 - Bills involving expenditure (Article 117(3))
- The Money Bill contains only provisions related to Article 110 matters.
- The Financial Bill deals with Article 110 matters and other issues.
- All Money Bills are Financial Bills, but not all Financial Bills are Money Bills.
- Financial Bills can be amended or rejected by Rajya Sabha, unlike Money Bills.

Restrictions on Discussions and Enquiries

- Refer to Articles 121, 122, 211, and 212 for restrictions on discussions and inquiries within Parliament.

Comptroller and Auditor General of India (Articles 148 to 151)

1. Appointment: Appointed by the President of India.
2. Salary: Charged on the Consolidated Fund of India.
3. Removal: Can be removed from office on grounds of proved misbehavior or incapacity in the same manner as a Supreme Court judge (Article 148).

JUDICIARY

SUPREME COURT (Article 124)

1. Appointment: By the President of India.
2. Qualifications:
 - Must be a citizen of India.
 - Must have at least five years of experience as a High Court judge or ten years of practice as an advocate.
 - In the President's opinion, must be a distinguished jurist.
3. Retirement Age: 65 years.
4. Grounds of Removal: Proved misbehavior or incapacity.
5. Types of Justices:
 - Regular
 - Acting Chief Justice (Article 126)
 - Ad Hoc Judges (Article 127)
 - Retired Judges (Article 128)
6. Pension and Salaries: Charged on the Consolidated Fund of India.
7. Practice Post-Retirement: Not entitled to practice after retirement.

HIGH COURT (Article 217)

1. Appointment: By the President of India.
2. Qualifications:
 - Must be a citizen of India.
 - Must have ten years of judicial service or ten years of experience as a High Court advocate.
3. Retirement Age: 62 years.
4. Grounds of Removal: Proved misbehavior or incapacity.
5. Types:
 - Regular
 - Additional or Acting (Articles 223 and 224)
 - Retired (Article 224A)
6. Pension: From the Consolidated Fund of India.
7. Salary: From the Consolidated Fund of the state.
8. Practice Post-Retirement: Entitled to practice in the Supreme Court and other High Courts where they were not judges.

Appointment of Judges (Articles 124 and 217)

- The President appoints the judges of the Supreme Court and High Courts after consulting the Chief Justice of India (CJI) and other judges as deemed fit.
- Cases:
 - SP Gupta vs Union of India (1982): CJI's opinion is not binding on the President in the matter of appointments.
 - Supreme Court Advocates-on-Record Association vs Union of India (1993): Overruled the SP Gupta case; CJI's opinion is binding, formed in consultation with senior judges.
 - In Re Judges Appointment and Transfer Case (1999): CJI should consult a collegium of four senior-most judges for Supreme Court appointments and two for High Court appointments. For High Court transfers, consult the Chief Justices of the respective High Courts.

Removal of Judges (Articles 124(4) and 124(5))

- Process: A judge can be removed by the President on grounds of proven misbehavior or incapacity, based on an address from both Houses of Parliament, supported by a majority of the total membership and a two-thirds majority of those present and voting.
- Procedure: Determined by law by Parliament.

Jurisdiction of Supreme Court

1. Court of Record: (Article 129) Includes the power to punish for its contempt.
2. Original Jurisdiction: (Article 131) Disputes between the Government of India and one or more states, or between states.
3. Appellate Jurisdiction: (Articles 132-136) Includes constitutional, civil, and criminal matters, and special leave to appeal.
4. Advisory Jurisdiction: (Article 143) President can seek the Supreme Court's opinion on questions of law or fact of public importance.

Writs (Articles 32 and 226)

1. Habeas Corpus: "You may have the body" - to release a person detained unlawfully.
2. Mandamus: "We command" - directs a public authority to perform a public duty.
3. Prohibition: Prevents lower courts from exceeding their jurisdiction.
4. Certiorari: Superior court orders to review the lower court's decision.
5. Quo Warranto: Questions the authority of a person holding a public office.

Independence of Judiciary

1. Article 50: Separation of judiciary from the executive.
2. Security of Tenure: Judges have fixed tenure.
3. Salary: Fixed and charged on the Consolidated Fund of India.
4. Article 138: Parliament can expand but not reduce the jurisdiction of the Supreme Court.
5. Article 121 and 211: Prohibits discussion in legislatures about judges' conduct.
6. Articles 129 and 215: Courts' power to punish for contempt.
7. Appointments: By the executive with binding consultation with the CJI.
8. Post-Retirement: Prohibited from practicing law.
9. Transfers: With CJI's consultation.

Legislative Relations between Union and States

Article 245: Parliament and state legislatures can make laws for their respective territories.

- Case: State of Bombay vs. RMDC (1957).

Article 246: Subjective distribution of legislative power into three lists - Union List, State List, Concurrent List.

- Article 254: In case of conflict, central laws prevail over state laws.

Parliament's Power to Legislate on State Subjects

1. Article 246(4): Parliament can legislate on state matters for any part of India not included in a state.
2. Article 249: Parliament can legislate on state matters if the Rajya Sabha passes a resolution.
3. Article 250: During a National Emergency.
4. Article 252: With the consent of two or more states.
5. Article 253: To implement international treaties or agreements.
6. Article 356: During President's Rule in a state.

Emergency Provisions (Articles 352 to 360)

The Constitution of India provides for three types of emergencies:

1. National Emergency
2. State Emergency (Failure of Constitutional Machinery in a State)
3. Financial Emergency

National Emergency

Grounds for Proclamation (Article 352)

- War
- External Aggression
- Armed Rebellion (added by the 44th Amendment Act, 1978, replacing "internal disturbance")

Process and Requirements:

- The President can proclaim a national emergency if satisfied, based on the written recommendation of the Council of Ministers.
- The President's satisfaction is based on the cabinet's advice, not personal satisfaction.

Historical Context:

- In 1975, the emergency was declared on the grounds of "internal disturbance" by Prime Minister Indira Gandhi.
- The proclamation can be made even before the actual occurrence of war if there's an imminent threat.

Duration and Approval:

- The emergency proclamation ceases to operate after one month unless approved by both houses of Parliament.
- If approved, it remains in force for six months and can be extended with subsequent parliamentary approval.
- During an emergency, the Lok Sabha's term can be extended by Parliament for up to one year at a time, but not beyond six months after the emergency ceases to operate.

Revocation (Article 352(7) and (8)):

- The President must revoke the proclamation if the Lok Sabha passes a disapproving resolution.
- If 1/10th of the Lok Sabha members request a special sitting to consider revocation, it must be held within 14 days.

Effects of Proclamation:

1. Article 353(a): Union executive power extends to giving directions to states.
2. Article 353(b): Parliament can legislate on matters not in the Union List.
3. Article 354: Centre can alter revenue distribution between Union and States.
4. Article 83(2) proviso: Parliament can extend the Lok Sabha's life during an emergency.
5. Article 358: Article 19 rights are suspended during emergencies declared on grounds of war or external aggression.
6. Article 359: Enforcement of all fundamental rights, except Articles 20 and 21, can be suspended by a presidential order.

Significant Case:

- ADM Jabalpur v. Shivakant Shukla (Habeas Corpus case): Before the 44th Amendment, the Supreme Court ruled that no person could move the court for enforcement of fundamental rights during an emergency. Post-amendment rights under Articles 20 and 21 remain enforceable during an emergency.

State Emergency (Article 356)

Grounds for Proclamation:

- The President can proclaim a state emergency if satisfied that the constitutional machinery has failed in a state, based on the Governor's report or otherwise.
- Article 365: Failure to comply with Union's directions can also trigger state emergency.

Powers of President During State Emergency:

1. Assume all or any of the executive powers of the state government.
2. Declare that the state legislature's powers will be exercised by Parliament.

Duration and Approval:

- The proclamation ceases to operate after two months unless approved by Parliament.
- Once approved, it operates for six months and can be extended for up to three years with periodic parliamentary approvals.
- Extension beyond one year requires a certification from the Election Commission that elections cannot be held in the state.

Significant Cases:

- *State of Rajasthan v. Union of India* (1977): The court held that the President's satisfaction can be challenged only on grounds of malafide or irrelevant considerations.
- *SR Bommai v. Union of India* (1994): The court ruled that the President's rule is subject to judicial review and outlined guidelines to prevent misuse.
- *Rameshwar Prasad v. Union of India* (2006): The Supreme Court declared the proclamation of state emergency in Bihar unconstitutional, stating the Governor misled the Centre.

Financial Emergency (Article 360)

Grounds for Proclamation:

- The President can proclaim a financial emergency if satisfied that the financial stability or credit of India is threatened.

Duration and Approval:

- The proclamation ceases to operate after two months unless approved by Parliament.
- Once approved, it remains in force indefinitely until revoked by the President.

Effects During Financial Emergency:

- The President can direct the reduction of salaries and allowances of all or any class of persons serving in the state.
- The President can also direct the reduction of salaries of judges of the Supreme Court and High Courts.

Amendment of the Constitution (Article 368)

Power and Procedure:

- Parliament has the power to amend the Constitution and the procedure is specified in Article 368.
- The process for amendment varies based on the type of amendment required.

Types of Amendments:

1. Simple Majority: Articles that can be amended by a simple majority (e.g., Article 5 - Citizenship).
2. Special Majority: Most articles require a special majority (majority of total membership and two-thirds of members present and voting).
3. Special Majority with Ratification: Certain articles require ratification by at least half of the state legislatures (e.g., Election of the President, Extent of Executive Powers).

Significant Cases:

- *Shankari Prasad v. Union of India* (1951): The Supreme Court upheld Parliament's power to amend any part of the Constitution, including fundamental rights.
- *Golaknath v. State of Punjab* (1967): The Court ruled that Parliament cannot amend fundamental rights.
- *Kesavananda Bharati v. State of Kerala* (1973): The Court introduced the Basic Structure Doctrine, limiting Parliament's power to amend the Constitution.
- *Minerva Mills v. Union of India* (1980): The Supreme Court struck down clauses 4 and 5 of Article 368, reaffirming the Basic Structure Doctrine and the limited power of Parliament.

These provisions ensure a balance between the need for flexibility and the protection of fundamental principles in the Indian Constitution.

**DREAM.
BELIEVE.
DO.
REPEAT.**