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MESSAGE FROM THE DIRECTOR

Dear Aspirant,

This book is dedicated to YOU, the untiring civil service aspirant who has the drive and commitment to persevere towards clearing this exam which is considered as one of the toughest exams in the world.

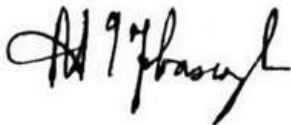
We congratulate you on choosing this book for “**Polity**”. Our attempt here is to simplify important concepts without losing the key points. Hence, we hope you will find this book useful in your civil services journey.

About this book

This book is a distillation of the expertise of the faculty at Officers IAS academy, explained in simple and easy to understand language. What you get to study in this book has been painstakingly collated by our faculty through their years of teaching and mentoring thousands of aspirants.

A strong zeal from you to clear this exam combined with our coaching and textbook will, I am sure help you scale great heights.

I wish you the very best in the most important endeavour of your life.



R. A. Israel Jebasingh

(IAS, 2004 Batch All India Rank 59)

Director of Officers IAS Academy

HOW TO USE THIS BOOK?

Hello Aspirant!

There is a subtle difference between putting in effort and putting in the right & focussed effort. That difference could mean whether you get into the civil services or not!

Aspirants know that the first step to become a Civil Servant is to crack the Preliminary Exam (Prelims) conducted by the UPSC. At first glance, any UPSC Prelims question paper might give the impression that many of the questions asked were 'random', 'remote', 'unexpected', 'out of syllabus', 'from obscure areas' etc.,

But, upon careful consideration one can see that there are some hidden patterns present in the way how some of them were framed. We in the R&D of Officers IAS Academy, understand this.

Our R&D team consists of about 25 members, all of whom have appeared in multiple UPSC Mains & Interviews. This team of veterans spent a year, meticulously combing through the question papers of the past 26 years of UPSC preliminary exams to identify patterns, repetitions & outliers.

The team carefully isolated all such patterns, high-value topics from every subject and has prepared a 'hitlist'. Based on these insights we have prepared books, which we rightfully call as 'Prelims Harvest' books.

Please note: We do not advocate the use of these books as 'Standard' sources. However, instead of reading endless number of books for the UPSC preparation, aspirants can focus on the standard books (NCERTs, etc.,) for the foundational knowledge and then devote the rest of their time in studying the Officers IAS Academy's Prelims Harvest books.

So, please use the Prelims Harvest Books in conjunction with the primary sources (NCERTs, etc.,) and get the best value for your time invested in your UPSC preparation.

Thank you!

R&D Team,

Officers IAS Academy, Chennai.

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CONSTITUTIONAL FRAMEWORK

HISTORICAL BACKGROUND

a) Indian Councils Act (a.k.a. Morley-Minto Reforms), 1909:

- In October 1906, group of Muslims elites who were called **Simla Deputation** and led by Agha Khan met Lord Minto, the Viceroy of India and demanded a separate electorate for Muslims.
- Gopal Krishna Gokhale travelled to England to meet John Morley, the Secretary of State for British India, to put the demands of self-governing system which prevailed in some other British Colonies.
- They passed the Indian Councils Act of 1909 which is also known as Morley-Minto reforms.
- **Events which preceded the Act:**
 - Rise of militancy in India.
 - Reactionary policies of Lord Curzon.
 - Partition of Bengal (1905).
 - Swadeshi and Boycott Movement (1905-08).
 - Growth of extremism.
 - Formation of the Muslim League (1906).
 - Split in INC (Moderates & Extremists) (1907).

The features of this Act were:

i) It considerably increased the size of the Legislative Councils, both Central and Provincial. The number of members in the Central Legislative Council was raised from 16 to 60. The number of members in the Provincial Legislative Councils was not uniform.

ii) It retained official majority in the Central legislative council, but **allowed the provincial legislative councils to have non-official majority.**

iii) It enlarged the deliberative functions of the Legislative Councils at both the levels. For example, members were **allowed to ask supplementary questions, move resolutions on the budget** and so on.

iv) It provided, for the **first time**, for the association of Indians with the Executive Councils of the Viceroy and Governors. **Satyendra Prasad**

Sinha was the first Indian to join the Viceroy's Executive Council. He was appointed as the Law Member.

v) First time, direct elections to Provincial Legislative Councils.

vi) It introduced a system of **communal representation for Muslims** by accepting the concept of '**separate electorate**'. Under this, the Muslim members were to be elected only by Muslim voters. This was for the **first time** that, the seats in the legislative bodies were reserved on the basis of religion for Muslims. Thus, the Act 'legalised communalism' and **Lord Minto** came to be known as the **Father of Communal Electorate**. Besides separate electorates for the Muslims, representation in excess of the strength of their population was accorded to the Muslims. Also, the income qualification for Muslim voters was kept lower than that for Hindus.

vii) It also provided for the separate representation of Presidency corporations, Chambers of commerce, Universities and Zamindars.

viii) The members could discuss budget and move resolutions.

ix) They could also discuss matters of public interest.

x) They could also ask supplementary questions.

xi) No discussions on foreign policy or on relations with the Princely States were permitted

Negatives of the Act:

i) The Morley-Minto Reforms of 1909 could not come up to the expectations of the Indians.

ii) The real political solution was lying in complete self-rule and accountable governance.

iii) Indians expected responsible government but what they got was simply '**Benevolent Despotism (nothing but absolute Crown Rule)**'

iv) It had essentially created Constitutional autocracy (Constitution for British India to be decided by the British Parliament in London).

v) The non-official majority was nullified by the fact that it included nominated members.

vi) There was no real majority of those who represented the people.

vii) So, essentially, the 1909 Act was only a face saving device.

viii) The Act rather added new political problem with the introduction of the separate electorate system.

Positives of the Act:

- i)** They mark an important stage in the growth of representative institution.
- ii)** It also gave recognition to the elective principle as the basis of the composition of legislative council for the first time.
- iii)** It gave some further avenues to Indians to ventilate their grievances.
- iv)** They also got opportunity to criticise the executives and make suggestions for better administration.
- v)** The enlargement of the legislatures furthered the demand of complete Indianization of the legislature.

b) Government of India Act (a.k.a. Montague-Chelmsford Reforms), 1919:

- In August 1917, for the very first time, the British Government decided to introduce a responsible government in India, but an integral part of the British Empire.
- The Government of India Act, 1919 was passed by the British Parliament on the joint report of Sir Edwin Montagu, The Secretary of State for British India and Lord Chelmsford, the Viceroy of British India.
- It affirmed that the High Commissioner in London, would represent India in Great Britain.
- It also clarified that there would be only a gradual development of self-governing institutions in India and that the British Parliament—and not self-determination of the people of India—would determine the time and manner of each step along the path of Constitutional progress.
- **Events which preceded the Act:**
 - Extremism continues – Ghadar Party.
 - Komagatamaru Incident (1914).
 - World War 1.
 - Arrival of Mahatma Gandhi to India (1915).
 - Lucknow session of INC in 1916 – Extremists were allowed to join INC.
 - Lucknow Pact (1916).
 - Home Rule Movement (1916).
 - Montague Declaration of 1917.

The Features of this act were:

i) It relaxed the central control over the provinces by demarcating and separating the Central and Provincial Subjects. The Central and Provincial Legislatures were authorised to make laws on their respective list of subjects. However, the structure of government continued to be centralised and unitary.

ii) It further **divided the Provincial subjects into two parts—transferred and reserved**. The transferred subjects were to be administered by the Governor with the aid of Ministers and were responsible to the Legislative Council. The reserved subjects, on the other hand, were to be administered by the Governor and his Executive Council without being responsible to the Legislative Council. **This dual scheme of governance was known as ‘dyarchy’**—a term derived from the Greek word ‘diarchy’ **which means double rule**. However, this experiment was largely unsuccessful.

iii) Viceroy could issue ‘ordinances.’

iv) 25% of the Central budget was subject to vote.

v) Introduced three measures to resolve any deadlock: Joint Committees, Joint Conferences and Joint Sittings.

vi) The Viceroy’s assent was required for any Bill to become a law even if both houses have passed it.

vii) Viceroy could also enact a Bill without the legislature’s consent. He could prevent a Bill from becoming law if he deems it as detrimental to the peace of the country.

viii) At the Provincial level, the Governor’s assent was required to pass any Bill. He also had veto power and could issue ordinances also.

ix) It introduced, for the **first time**, ‘**Bicameralism**’ and ‘**direct elections**’ in the country. Thus, the Indian Legislative Council was replaced by a bicameral legislature consisting of an Upper House (Council of State) and a Lower House (Legislative Assembly). The majority of members of both the Houses were chosen by direct election.

x) It required that the three of the six members of the Viceroy’s Executive Council (other than the Commander-in-Chief) were to be Indian.

xi) It **extended the principle of communal representation** by providing **separate electorates for Sikhs, Indian Christians, Anglo-Indians and Europeans**.

xii) It granted **franchise to a limited number of people** on the basis of property, tax or education.

xii) It created a **new office of the High Commissioner for British India in London** and transferred to him some of the functions hitherto performed by the Secretary of State for British India.

xiii) It provided for the establishment of a Public Service Commission in India. Hence, a Central Public Service Commission was set up in 1926 for recruiting civil servants.

xiv) It separated, for the **first time**, provincial budgets from the Central budget and authorised the provincial legislatures to enact their own budgets.

xv) It provided for the appointment of a Statutory Commission (later to be named as the Simon Commission) to inquire into and report on its working after ten years of its coming into force.

c) GoI Act, 1935:

• **Events which preceded the Act:**

- Rowlatt Act 1919.
- Jallianwala Bagh Massacre (1919).
- Khilafat Movement (1919).
- Non-Cooperation Movement (1920).
- Pro-changers and No-changers.
- Emergence of socialist ideas.
- Rise of extremism.
- Simon Commission (1927).
- Nehru Report (1928).
- Lahore session – Purna Swaraj declaration (1929).
- Civil Disobedience Movement (1930).
- Round Table Conferences (1930-32).
- Gandhi-Irwin Pact.
- Poona Pact (1932).
- Elections to Central Legislative Assembly (1934).

i) It provided for the establishment of an **All-India Federation** consisting of Provinces and Princely States as units. The Act divided the powers

between the Centre and the Units in terms of three lists – Federal List (for Centre, with 59 items), Provincial List (for Provinces, with 54 items) and the Concurrent List (for both, with 36 items). **Residuary powers were given to the Viceroy.** However, **the federation never came into existence** as the Princely States did not join it.

ii) It abolished dyarchy in the Provinces and introduced 'provincial autonomy' in its place. The Provinces were allowed to act as autonomous units of administration in their defined spheres. Moreover, the Act introduced responsible Governments in Provinces, that is, the Governor was required to act with the advice of Ministers responsible to the Provincial Legislature. This came into effect in 1937 and was discontinued in 1939.

iii) It provided for the adoption of dyarchy at the Centre. Consequently, the federal subjects were divided into reserved subjects and transferred subjects. However, this provision of the Act did not come into operation at all.

iv) It introduced bicameralism in six out of eleven Provinces. Thus, the Legislatures of Bengal, Bombay, Madras, Bihar, Assam and the United Provinces were made bicameral consisting of a Legislative Council (Upper House) and a Legislative Assembly (Lower House). However, many restrictions were placed on them.

v) It further extended the principle of communal representation by providing separate electorates for depressed classes (Scheduled Castes), women and labour (workers).

vi) It abolished the Council of India, established by the Government of India Act of 1858. The Secretary of State for **British** India was provided with a team of advisors.

vii) It extended voting rights to about 10 per cent of the total population got the voting right.

viii) It provided for the establishment of a Reserve Bank of India (based on the recommendations of Hilton Young Commission) to control the currency and credit of the country.

ix) It provided for the establishment of not only a Federal Public Service Commission, but also a Provincial Public Service Commission and Joint Public Service Commission for two or more Provinces.

x) It provided for the **establishment of a Federal Court**, which was set up in 1937.

d) Indian Independence Act, 1947:

- The Indian Independence Act was passed by the British Parliament in 5th July 1947 and got royal assent on 18th July 1947 and implemented on 15th August, 1947.
- By this act, two Independent domains of Pakistan and India were created.
- The features of this Act were as follows:

i) It ended the British rule in India and declared India as an independent and sovereign State from August 15, 1947.

ii) It provided for the **partition of India** and creation of two independent dominions of India and Pakistan with the right to secede from the British Commonwealth.

iii) It **abolished the office of Viceroy** and provided, for each dominion, a Governor General, who was to be appointed by the British King on the advice of the dominion cabinet. His Majesty's Government in Britain was to have no responsibility with respect to the Government of India or Pakistan.

iv) It empowered the Constituent Assemblies of the two dominions to frame and adopt a Constitution for their respective nations and to repeal any Act of the British Parliament, including the Independence Act itself.

v) It empowered the Constituent Assemblies of both the dominions to legislate for their respective territories till the new Constitutions were drafted and enforced. No Act of the British Parliament passed after August 15, 1947 was to extend to either of the new dominions unless it was extended thereto by a law of the legislature of the dominion.

vi) It **abolished the office of the Secretary of State for British India** and transferred his functions to the Secretary of State for Commonwealth Affairs.

vii) It proclaimed the **lapse of British paramountcy over the Indian Princely States** and treaty relations with tribal areas from August 15, 1947.

viii) It granted freedom to the Indian Princely States either to join the Dominion of India or Dominion of Pakistan or to remain independent.

ix) It provided for the governance of each of the dominions and the provinces by the Government of India Act of 1935, till the new Constitutions were framed. The dominions were however authorised to make modifications in the Act.

ix) It deprived the British Monarch of his right to veto Bills or ask for reservation of certain Bills for his approval. But this right was reserved for the Governor General. The Governor General would have full power to assent to any Bill in the name of His Majesty.

x) It designated the Governor-General of India and the Provincial Governors as Constitutional (nominal) Heads of the states. They were made to act on the advice of the respective Council of Ministers in all matters.

xi) It dropped the title of Emperor of India from the royal titles of the King of England.

xii) It discontinued the appointment to civil services and reservation of posts by the Secretary of State for British India. The members of the civil services appointed before August 15, 1947 would continue to enjoy all benefits that they were entitled to till that time.

MAKING OF THE CONSTITUTION & ITS FEATURES

Features

a) What is a Constitutional government?

- Places effective restrictions on the authority of the state in the interest of individual liberty.
- Limited government by means of Constitution.

b) Constitution Committees:

- Constitution Assembly of India appointed a number of committees for the making of the Constitution.
- It had eight major committees and several minor committees.

8 Major Committees of Constituent Assembly	Chairman
Union Powers Committee	Jawaharlal Nehru
Union Constitution Committee	Jawaharlal 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
Rules of Procedure Committee	Dr. Rajendra Prasad
States Committee (Committee for Negotiating with States)	Jawaharlal Nehru
Steering Committee Chairman	Dr. Rajendra Prasad

c)Members of the Constituent Assembly from the Provinces- elected by the Provincial Legislative Assemblies:

- The members of the Constituent Assembly were elected indirectly by the Provincial Assemblies.
- The seats per provinces were allotted based on population, in the ratio of one seat for 10 million people.
- Provinces were grouped into A, B and C, and the seats were decided among the three communities of the Hindus, the Muslims and the Sikhs. The members were elected by the representatives of each community in their respective legislative assemblies by the method of proportional representation with single transferable vote.
- The number of members allotted to the Indian states was also to be fixed on the same basis of population as adopted for British India, but the method of their selection was to be settled later by consultation.
 1. The total strength of the Constituent Assembly was to be 389. Of these, 296 seats were to be allotted to British India and 93 seats to the Princely States. Out of 296 seats allotted to the British India, 292 members were to be drawn from the eleven Governors' provinces and four from the four Chief Commissioners' provinces, one from each.
 2. Each province and Princely State (or group of states in case of small states) were to be allotted seats in proportion to their respective population. Roughly, one seat was to be allotted for every million population.
 3. Seats allocated to each British province were to be divided among the three principal communities–Muslims, Sikhs and General in proportion to their population.
 4. The representatives of each community were to be elected by members of that community in the provincial legislative assembly and voting was to be by the method of proportional representation by means of single transferable vote.
 5. The representatives of the Princely States were to be nominated by the heads of the Princely States.
 6. Although the Constituent Assembly was not directly elected by the people of India on the basis of adult franchise, the Assembly comprised representatives of all sections of the Indian society–

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Hindus, Muslims, Sikhs, Parsis, Anglo-Indians, Indian Christians, SCs, STs including women of all these sections. The Assembly included all important personalities of India at that time, with the exception of Mahatma Gandhi.

d)No. of Parts, Articles and Schedules:

- When the Constitution was adopted on November 26, 1949, it contained a Preamble, 395 Articles and 8 Schedules and 22 Parts.
- Now it has 448 Articles, 25 Parts and 12 Schedules.

e)Parts of the Constitution:

Parts	Title	Articles
I	THE UNION AND ITS TERRITORY	1 - 4
II	CITIZENSHIP	5 - 11
III	FUNDAMENTAL RIGHTS	12 - 35
IV	DIRECTIVE PRINCIPLES OF STATE POLICY	36 - 51
IV A	FUNDAMENTAL DUTIES	51A
V	THE UNION	52 - 151
VI	THE STATES	152 - 237
VII	THE STATES IN PART B OF THE FIRST SCHEDULE (REPEALED by 7th amendment)	238
VIII	THE UNION TERRITORIES	239 - 241
IX	THE PANCHAYATS(73rd amendment)	243 - 243O
IXA	THE MUNICIPALITIES(74th amendment)	243P - 243ZG
IXB	THE CO-OPERATIVE SOCIETIES(97th Amendment)	243ZH - 243ZT
X	THE SCHEDULED AND TRIBAL AREAS	244 - 244A
XI	REALTIONS BETWEEN THE UNION AND THE STATES	245 - 263
XII	FINANCE, PROPERTY, CONTRACTS AND SUITS	264 - 300A
XIII	TRADE, COMMERCE AND INTERCOURSE WITHIN THE TERRITORY OF INDIA	301 -307
XIV	SERVICES UNDER THE UNION AND THE STATES	308 - 323
XIVA	TRIBUNALS(42nd amendment)	323A -

		323B
XV	ELECTIONS	324 – 329
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XVIII	EMERGENCY PROVISIONS	352 – 360
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XXI	TEMPORARY, TRANSITIONAL AND SPECIAL PROVISIONS	369 – 392
XXII	SHORT TITLE, COMMENCEMENT, AUTHORITATIVE TEXT IN HINDI AND REPEALS	393 - 395

f) Schedules of the Indian Constitution:

Schedules are lists in the Constitution which categorise & tabulate bureaucratic activity & government policy.

Schedule I [Articles 1 & 4]

1. The States.
2. The Union territories.

Schedule II [Articles 59(3), 65(3), 75(6), 97, 125, 148(3), 158(3), 164(5), 186 & 221]

- Part A- Provisions as to the President and the Governors of States.
- Part B [Repealed].
- Part C-Provisions as to the Speaker and the Deputy Speaker of the House of the People and the Chairman and the Deputy Chairman of the Council of States and the Speaker and the Deputy Speaker of the Legislative Assembly and the Chairman and the Deputy Chairman of the Legislative Council of a State.
- Part D-Provisions as to the Judges of the Supreme Court and of the High Courts. o o Part E-Provisions as to the Comptroller and Auditor-General of India.

Schedule III [Articles 75(4), 99, 124(6), 148(2), 164(3), 188 & 219]

- Forms of Oaths or Affirmations.

Schedule IV [Articles 4(1) & 80(2)]

- Allocation of seats in the Council of States

Schedule V [Article 244(1)]- Provisions as to the Administration and Control of Scheduled Areas and Scheduled Tribes.

- Part A General.
- Part B- Administration and Control of Scheduled Areas and Scheduled Tribes.
- Part C-Scheduled Areas.
- Part D- Amendment of the Schedule.

Schedule VI [Articles 244(2) & 275()] - Provisions as to the Administration of Tribal Areas in the 6 States of Assam, Meghalaya, Tripura and Mizoram.

Schedule VII [Article 246]

- List I-Union List.
- List II-State List.
- List III-Concurrent List.

Schedule VIII [Articles 344(1) & 351] - Languages.

Schedule IX[Article 31-B] - Validation of certain Acts & Regulations.

Schedule X [Articles 102(2) & 191(2)]-Provisions as to disqualification on ground of defection.

Schedule XI [Article 243G]-Powers, authority and responsibilities of Panchayats.

Schedule XII [Article 243W]- Powers, authority and responsibilities of Municipalities.

g) Salient features and they are borrowed from:

Ireland:

- Directive Principles of State Policy
- Nomination of the members of the Rajya Sabha
- Method of Election of President

USA:

- Preamble
- Fundamental Rights
- Federal structure of Government

- Electoral College
- Independence of the judiciary and separation of powers among the three branches of the government
- Judicial Review
- President as supreme Commander of Armed Forces
- Equal Protection under the Law

Australia:

- Freedom of trade and commerce within the country and between the States
- Power of the national legislature to make laws for implementing treaties, even on matters outside normal federal jurisdiction (Article 253).
- Concurrent List

Canada:

- A quasi-federal form of government – a federal system with a strong central government
- Distribution of powers between the central government and state governments
- Residuary powers to the Central Government.

PREAMBLE

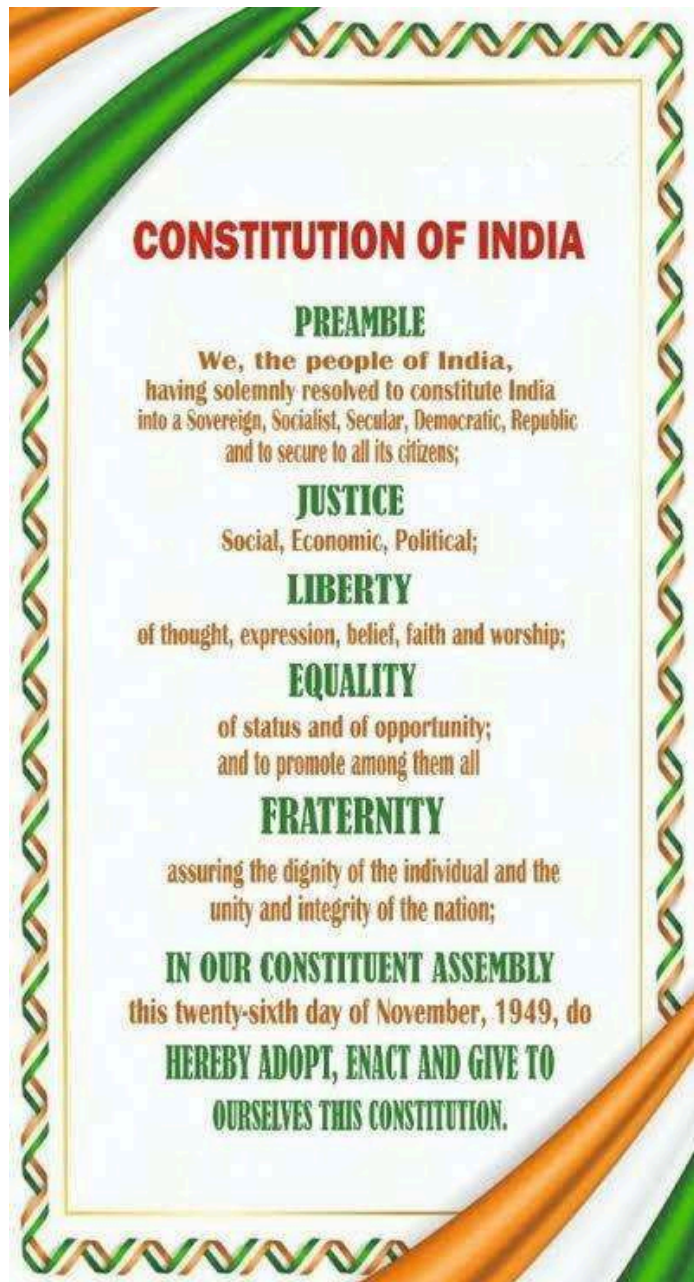
i) Constitution was adopted on 26th November 1949

- But most of the Articles in the Constitution came into force on January 26th, 1950.
- Those Articles which came into existence on 26th November 1949 were given effect through Article 394.
- Article 394 states that this Article (394) and Articles 5, 6, 7, 8, 9, 60, 324, 366, 367, 379, 380, 388, 391, 392 and 393 shall come into force at once, and the remaining provisions of this Constitution shall come into force on the twenty-sixth day of January 1950.

ii) Preamble ensures liberty of thought, expression, belief, faith and worship (not economic liberty).

iii) Economic Justice is provided in Preamble and DPSP.

- Various provisions of DPSP point towards economic justice such as
 - the State should work to prevent concentration of wealth and means of production in a few hands.
 - try to ensure that ownership and control of the material resources is distributed to best serve the common good.



- The State should also ensure a living wage and proper working conditions for workers.
- The State shall endeavour to provide the right to work etc.

iv) Preamble is part of the Constitution but has no legal effect independently of other Parts

- In the Berubari Union Case (1960) = Preamble not part of the Indian Constitution.
- In the Kesavananda Bharati Case (1973) = Preamble is part of the Indian Constitution.
- In the Minerva Mills Case (1980) = Preamble is an integral part of the Indian Constitution.

v) Constitutional status as on 26th jan 1950- A Sovereign Democratic Republic.

- The original Preamble, adopted by the Constituent Assembly on 26th November, 1949 and came into force on 26th January, 1950, declared India as a “Sovereign Democratic Republic”.
- By the 42nd Amendment of 1976, enacted during the Emergency, the words “Socialist” and “Secular” were inserted. [the term ‘Integrity’ was also added]
- The Preamble now reads India as a “Sovereign Socialist Secular Democratic Republic”.

FUNDAMENTAL RIGHTS

Background

- The fundamental rights were included in the constitution because they were considered essential for the development of the personality of every individual and to preserve human dignity. The Fundamental Rights are enshrined in Part III of the Constitution from Articles 12 to 35. The framers of the Constitution derived the inspiration of Fundamental Rights from the Constitution of the USA (i.e., Bill of Rights).
- Part III of the Constitution is rightly described as the Magna Carta of India. It contains a very long and comprehensive list of 'justiciable' Fundamental Rights. The Fundamental Rights in our Constitution are more elaborate than those found in the Constitution of any other country in the world, including the USA
- All people, irrespective of race, religion, caste, or sex, have been given the right to move the Supreme Court and the High Courts for the enforcement of their fundamental rights. There Are seven categories of Fundamental Rights (FR) which are covered from Articles 12-35.
- The Fundamental Rights are named so because they are guaranteed and protected by the Constitution, which is the fundamental law of the land. They are 'fundamental' also in the sense that they are most essential for the all-round development (material, intellectual, moral, and spiritual) of the individuals.

Originally, the Constitution provided for seven Fundamental Rights. These are

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 property (Article 31)
7. Right to constitutional remedies (Article 32)

However, the right to property was deleted from the list of Fundamental Rights by the 44th

Amendment Act, 1978. It is made a legal right under Article 300-A in Part XII of the

Constitution. **So at present, there are only six Fundamental Rights.**

Features of Fundamental Rights

The Fundamental Rights guaranteed by the Constitution are characterised by the following:

1. Some of them are available only to the Indian citizens while others are available to all persons whether citizens, foreigners, or legal persons like corporations or companies.
2. They are not absolute but qualified. The state can impose reasonable restrictions on them. However, whether such restrictions are reasonable or not is to be decided by the courts. Thus, they strike a balance between the rights of the individual and those of the society as a whole, between individual liberty and social control.
3. Most of them are available against the arbitrary action of the State, with a few exceptions like those against the State's action and the action of private individuals. When the rights that are available against the State's action only are violated by the private individuals, there are no constitutional remedies but only ordinary legal remedies.
4. Some of them are negative, i.e. it places limitations on the authority of the State, while others are positive, conferring certain privileges on the persons.
5. They are justiciable, allowing persons to move the courts for their enforcement, if and when they are violated.
6. They are defended and guaranteed by the Supreme Court. Hence, the aggrieved person can directly go to the Supreme Court, not necessarily by way of appeal against the judgment of the high courts.
7. They are not sacrosanct or permanent. The Parliament can curtail or repeal them but only by a constitutional amendment act and not by an ordinary act. Moreover, this can be done without affecting the 'basic structure' of the Constitution
8. They can be suspended during the operation of a National Emergency except the rights guaranteed by Articles 20 and 21. Further, the six rights guaranteed by Article 19 can be suspended only when an emergency is

declared on the grounds of war or external aggression (i.e., external emergency) and not on the ground of armed rebellion (i.e., internal emergency).

9. Their scope of operation is limited by Article 31A (saving of laws providing for the acquisition of estates, etc.), Article 31B (validation of certain acts and regulations included in the 9th Schedule), and Article 31C (saving of laws giving effect to certain directive principles).

10. Their application to the members of armed forces, para-military forces, police forces, intelligence agencies, and analogous services can be restricted or abrogated by the Parliament (Article 33).

11. Their application can be restricted while martial law is in force in any area. Martial law means 'military rule' imposed under abnormal circumstances to restore order (Article 34). It is different from the imposition of a national emergency.

12. Most of them are directly enforceable (self-executory) while a few of them can be enforced based on a law made for giving effect to them. Such a law can be made only by the Parliament and not by state legislatures so that uniformity throughout the country is maintained (Article 35).

Article-12 Definition of State

- Government & Parliament of India
- Govt & Legislature of States
- Local authorities + statutory authorities
- Bodies LIC, ONGC, SAIL
- Private body working an instrument of State Laws inconsistent/derogation with/of Fundamental Rights– Void

Article-13 What constitutes the law?

- Permanent laws enacted by Parliament or State legislatures
- Temporary laws like ordinances

- Statutory instruments in the nature of delegated legislation
- Non-legislative sources of law
- Even the constitutional amendment act can be challenged
- (Keshava Nanda Bharati case- 1973 SC.)

Right to equality(Article 14-18)

Right to equality is an important right provided for in Articles 14, 15, 16, 17 and 18 of the constitution. It is the principal foundation of all other rights and liberties, and guarantees the following:

- **Equality before law:** Article 14 of the constitution guarantees that all citizens shall be equally protected by the laws of the country. It means that the State cannot discriminate against a citizen on the basis of caste, creed, colour, sex, religion or place of birth. According to the Electricity Act of 26 January 2003 the Parliament has the power to create special courts for the speedy trial of offences committed by persons holding high offices. Creation of special courts is not a violation of this right.
- **Social equality and equal access to public areas:** Article 15 of the constitution states that no person shall be discriminated on the basis of caste, colour, language etc. Every person shall have equal access to public places like public parks, museums, wells, bathing ghats and temples etc. However, the State may make any special provision for women and children. Special provisions may be made for the advancements of any socially or educationally backward class or scheduled castes or scheduled tribes.
- **Equality in matters of public employment:** Article 16 of the constitution lays down that the State cannot discriminate against anyone in the matters of employment. All citizens can apply for government jobs. There are some exceptions. The Parliament may enact a law stating that certain jobs can only be filled by applicants who are domiciled in the area. This may be meant for posts that require knowledge of the locality and language of the area. The State may also reserve posts for members of backward classes, scheduled castes or scheduled tribes which are not adequately represented in the services under the State to bring up the weaker sections of the society. Also, there a law may be passed which requires that the holder of an office of any religious institution shall also be a person professing that particular religion. According to the

Citizenship (Amendment) Bill, 2003, this right shall not be conferred to Overseas citizens of India.

- **Abolition of untouchability:** Article 17 of the constitution abolishes the practice of untouchability. Practice of untouchability is an offense and anyone doing so is punishable by law. The Untouchability Offences Act of 1955 (renamed to Protection of Civil Rights Act in 1976) provided penalties for preventing a person from entering a place of worship or from taking water from a tank or well.
- **Abolition of Titles:** Article 18 of the constitution prohibits the State from conferring any titles. Citizens of India cannot accept titles from a foreign State. The British government had created an aristocratic class known as Rai Bahadurs and Khan Bahadurs in India — these titles were also abolished. However, Military and academic distinctions can be conferred on the citizens of India. The awards of Bharat Ratna and Padma Vibhushan cannot be used by the recipient as a title and do not, accordingly, come within the constitutional prohibition". The Supreme Court, on 15 December 1995, upheld the validity of such awards.

Right to freedom(articles 19-22)

The Constitution of India contains the right to freedom, given in articles 19, 20, 21 and 22, with the view of guaranteeing individual rights that were considered vital by the framers of the constitution.

- The right to freedom in Article 19 guarantees the following six freedoms:
 1. Freedom of speech and expression, which enable an individual to participate in public activities. The phrase, " freedom of press" has not been used in Article 19, but freedom of expression includes freedom of press. Reasonable restrictions can be imposed in the interest of public order, security of State, decency or morality.
 2. Freedom to assemble peacefully without arms, on which the state can impose reasonable restrictions in the interest of public order and the sovereignty and integrity of India.
 3. Freedom to form associations or unions on which the state can impose reasonable restrictions on this freedom in the interest of public order, morality and the sovereignty and integrity of India.
 4. Freedom to move freely throughout the territory of India though reasonable restrictions can be imposed on this right in the



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