



Constitutional Law-I

Free Material For 3 Years/ 5 Years LL.B Course

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PART-A

Short Answers

1. Meaning of Constitution.

The term "*Constitution*" refers to the fundamental legal document that serves as the foundation of governance in a country. It establishes the framework and principles according to which the state is organized and functions. A Constitution sets out the relationship between the state and its citizens, as well as the structure and functioning of government institutions. The **Constitution of India**, adopted on **26th November 1949**, is known for its comprehensiveness and inclusiveness. It embodies the aspirations of a diverse population and ensures justice, liberty, equality, and fraternity.

Historical Perspective:

- Derived from the Latin term "*Constitutio*", meaning "to establish or organize".
- Aristotle, the Greek philosopher, referred to the Constitution as "*a framework of rules that determines the distribution of power within the political community.*"
- In modern legal systems, it signifies a codified document.

Legal Perspective:

- A Constitution is a body of fundamental principles or established precedents according to which a state or organization is acknowledged to be governed.

Indian Perspective:

- The Constitution of India is the **supreme law of the land**. It defines the powers and functions of different organs of the government (Legislature, Executive, and Judiciary), delineates the fundamental rights and duties of citizens, and outlines the directive principles of state policy for governance.

Characteristics of a Constitution

1. **Supremacy of Law:** The Constitution is the highest law of the land and overrides all other laws.
2. **Division of Powers:** It ensures a separation of powers between the three organs of government—Legislature, Executive, and Judiciary.
3. **Fundamental Rights:** It guarantees certain basic rights to citizens that cannot be arbitrarily violated.
4. **Amendability:** The Constitution provides for its own amendment to address changing needs, ensuring its adaptability.
5. **Rule of Law:** It ensures that every individual, including those in power, is subject to the law.

2. Government of India Act, 1919.

The **Government of India Act, 1919**, also known as the **Montagu-Chelmsford Reforms**, was an important constitutional reform enacted by the British Parliament to address the increasing demand for

greater Indian participation in governance. The Act laid the foundation for limited self-government in India and introduced several significant administrative and political changes.

1. August Declaration (1917):

- Edwin Montagu, the Secretary of State for India, announced that British policy would aim for the progressive realization of self-governing institutions in India.
- This was in response to growing nationalist demands and the need to secure Indian loyalty during World War I.

2. Montagu-Chelmsford Report (1918):

- Drafted by Edwin Montagu and Lord Chelmsford (then Viceroy of India), it proposed constitutional reforms, which later formed the basis of the Act.

Key Features of the Government of India Act, 1919

1. Introduction of Dyarchy in Provinces:

- Dyarchy (dual government) was introduced in the provinces.
- Subjects were divided into two lists:
 - **Transferred Subjects:** Administered by Indian ministers responsible to the legislative councils (e.g., education, health, agriculture).
 - **Reserved Subjects:** Administered by the Governor and his executive council without being responsible to the legislative councils (e.g., law and order, finance, irrigation).
- This division aimed to involve Indians in governance while retaining British control over critical areas.

2. Bicameral Legislature at the Centre:

- For the first time, a **bicameral legislature** was established at the central level:
 - **Council of State** (Upper House).
 - **Legislative Assembly** (Lower House).
- However, the powers of the legislature were limited, as the Viceroy retained overriding authority.

3. Expansion of Provincial Legislative Councils:

- The size of provincial legislative councils was increased.
- Indians were given a larger role in the councils, although the majority of members were still indirectly elected.

4. Increased Franchise:

- The franchise was extended, but it remained restricted to a small section of the population based on property, tax, or educational qualifications.

5. Establishment of a Public Service Commission:

- The Act provided for the establishment of a **Public Service Commission** to oversee recruitment for government services.

6. Division of Powers:

- The central government retained control over critical subjects like defense, foreign.

3. Citizenship.

Citizenship refers to the legal status of an individual recognized as a member of a sovereign state, entitled to its protection and owing allegiance to it. In India.

The concept of citizenship is governed by the **Constitution of India** and the **Citizenship Act, 1955**, along with subsequent amendments.

The Constitution of India originally provided for citizenship under **Articles 5 to 11** in **Part II**. These articles addressed citizenship at the commencement of the Constitution (26th January 1950) and empowered the Parliament to regulate future acquisition and termination of citizenship.

1. **Article 5:** Citizenship at the commencement of the Constitution
 - Persons domiciled in India and fulfilling any of the following conditions were deemed Indian citizens:
 - Born in India.
 - Either parent born in India.
 - Ordinarily resident in India for at least 5 years immediately before the commencement of the Constitution.
2. **Article 6:** Rights of citizenship for migrants from Pakistan
 - Migrants from Pakistan to India before 19th July 1948 were entitled to citizenship if they had resided in India since migration.
 - Migrants arriving after this date could gain citizenship through registration.
3. **Article 7:** Rights of citizenship for persons migrating to Pakistan and returning
 - Persons who migrated to Pakistan after 1st March 1947 but returned to India under a permit for resettlement were granted citizenship.
4. **Article 8:** Citizenship for persons of Indian origin residing outside India
 - Persons of Indian origin residing abroad could register as Indian citizens if their father or grandfather was born in India.
5. **Article 9:** Loss of citizenship
 - Persons voluntarily acquiring citizenship of a foreign state would lose Indian citizenship.
6. **Article 10:** Continuance of citizenship
 - Any person deemed to be a citizen under Articles 5 to 9 would remain so, subject to laws made by Parliament.
7. **Article 11:** Parliamentary power to regulate citizenship
 - The Parliament was empowered to make laws on the acquisition, termination, and other matters relating to citizenship.

Modes of Acquiring Citizenship

1. **By Birth:**
 - A person born in India after 26th January 1950 but before 1st July 1987 is an Indian citizen.
 - For births between 1st July 1987 and 3rd December 2004, at least one parent must be an Indian citizen.
 - After 3rd December 2004, citizenship by birth is granted only if:
 - Both parents are Indian citizens, or
 - One parent is an Indian citizen, and the other is not an illegal migrant.
2. **By Descent:**
 - A person born outside India can claim citizenship if:
 - For births before 10th December 1992: Either parent is an Indian citizen.

- For births after 10th December 1992: At least one parent is an Indian citizen, and the birth is registered at an Indian consulate within one year.
3. **By Registration:**
 - Certain categories of people, such as persons of Indian origin or those married to Indian citizens, can register for citizenship.
 4. **By Naturalization:**
 - Foreigners can acquire citizenship through naturalization after residing in India for a prescribed period (typically 12 years).
 5. **By Incorporation of Territory:**
 - If a foreign territory becomes part of India, the Government of India may grant citizenship to residents of that territory.

Termination of Citizenship

The Citizenship Act provides three ways in which citizenship can be terminated:

1. **Renunciation** (voluntary relinquishment by the citizen).
2. **Termination** (automatic loss upon acquiring citizenship of another country).
3. **Deprivation** (citizenship can be revoked by the government for reasons such as fraud).

4. Rule of Law.

The **Rule of Law** is a fundamental principle of governance that emphasizes the supremacy of law over the arbitrary exercise of power. It ensures equality before the law, accountability of public officials, and protection of individual rights. The concept is deeply rooted in the Indian legal system and forms a cornerstone of the Indian Constitution.

Historical Origin

- The concept of Rule of Law can be traced back to **A.V. Dicey**, a British jurist, who popularized the doctrine in his book *"Introduction to the Study of the Law of the Constitution"* (1885).
- Dicey's formulation of the Rule of Law is based on three key principles:
 1. **Supremacy of Law:** No individual or authority has absolute power, and laws are supreme.
 2. **Equality Before Law:** Every individual is subject to the ordinary law and courts of the land.
 3. **Predominance of Legal Spirit:** Rights and freedoms are protected through judicial decisions rather than arbitrary actions

Rule of Law in the Indian Constitution

The Rule of Law is an integral part of India's constitutional framework. Although the phrase "Rule of Law" is not explicitly mentioned, its principles are enshrined in various provisions:

1. **Supremacy of the Constitution:**
 - The **Constitution of India** is the supreme law of the land. All laws and government actions must conform to the Constitution.
 - Article 13 declares that any law inconsistent with the fundamental rights shall be void.

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2. **Equality Before Law (Article 14):**

- Guarantees **equality before the law** and **equal protection of the laws**.
- Prohibits arbitrary discrimination and ensures that every individual is subject to the same legal standards.

3. **Fundamental Rights (Part III):**

- Articles 19, 20, 21, and 22 protect individuals from arbitrary state action, ensuring the protection of life, liberty, and dignity.

4. **Separation of Powers:**

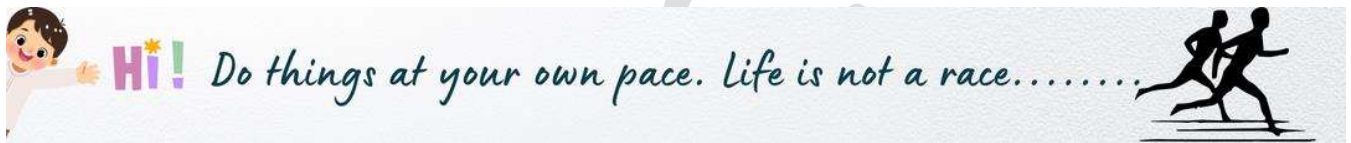
- The Constitution provides for the separation of powers among the Legislature, Executive, and Judiciary, preventing concentration of power in one authority.

5. **Judicial Review (Article 32 and Article 226):**

- The Supreme Court and High Courts have the power to review legislative and executive actions to ensure they conform to the Constitution.

Significance of Rule of Law

- Safeguards Democracy
- Ensures Equality
- Protects Individual Rights
- Prevents Abuse of Power



5. **Right against self-incrimination.**

The **Right Against Self-Incrimination** is a fundamental legal principle enshrined in the **Indian Constitution** under **Article 20(3)**. It protects individuals from being compelled to provide evidence against themselves in criminal cases, ensuring fairness and safeguarding personal liberties.

Constitutional Provision: Article 20(3) of the Constitution states: *"No person accused of any offence shall be compelled to be a witness against himself."*

This provision is based on the Latin maxim **"Nemo tenetur seipsum accusare"**, meaning no one is bound to accuse themselves.

Essentials of Article 20(3)

1. **Applicability to Accused Persons:**

- The protection is available only to individuals formally accused of an offence (during investigations, trials, or proceedings).
- It does not apply to witnesses or individuals not formally accused.

2. **Compulsion:**

- The provision protects against **compulsion** to provide evidence that incriminates oneself.
- If evidence is given voluntarily, the right does not apply.

3. **Witness Against Oneself:**

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- The term "witness" includes both oral testimony and the production of documents or other evidence that implicates the accused.
- However, physical evidence like fingerprints, handwriting samples, or DNA tests is excluded from this protection (as per judicial interpretations).

Significance of the Right Against Self-Incrimination

- 1. Presumption of Innocence:**
 - Ensures that the burden of proof lies on the prosecution and not the accused.
- 2. Fair Trial:**
 - Protects individuals from coercive practices that could lead to involuntary confessions or admissions of guilt.
- 3. Safeguards Dignity:**
 - Prevents the accused from being forced into situations that may compromise their dignity or autonomy.
- 4. Protection Against Abuse:**
 - Prevents law enforcement agencies from resorting to coercion, torture, or harassment.

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6. Minority.

In India, the term **minority** refers to groups that are numerically smaller than the majority population. The Constitution and various laws recognize and protect the rights of minorities to ensure equality, dignity, and the preservation of their culture, language, and religion.

Constitutional Provisions Relating to Minorities

- 1. Article 29: Protection of Interests of Minorities**
 - **Article 29(1):** Any section of the citizens residing in India with a distinct language, script, or culture has the right to conserve it.
 - **Article 29(2):** No citizen shall be denied admission to any educational institution maintained by the state or receiving aid from the state on the grounds of religion, race, caste, language, or any of them.

These provisions are designed to protect cultural, religious, and linguistic minorities from discrimination.

- 2. Article 30: Right of Minorities to Establish and Administer Educational Institutions**

- **Article 30(1):** Religious and linguistic minorities have the right to establish and administer educational institutions of their choice.
- **Article 30(2):** The state shall not discriminate against any educational institution under its control on the ground of religion, race, or language.

This provision ensures that minorities can have educational institutions that reflect their culture, language, and religion.

Who Are Minorities in India?

1. Religious Minorities:

- According to the **National Commission for Minorities Act, 1992**, the Government of India recognizes six religious communities as minorities:
 - **Muslims**
 - **Christians**
 - **Sikhs**
 - **Buddhists**
 - **Jains**
 - **Zoroastrians (Parsis)**

These communities, although constituting a smaller percentage of the population, are provided with specific safeguards under the law to ensure their welfare and protection.

2. Linguistic Minorities:

- **Linguistic minorities** are defined as people who speak a language different from the majority language spoken in a particular state or region. The **Constitution of India** does not specifically define "linguistic minority," but provisions such as **Article 29** and **Article 30** offer protection to these communities.
- **The Official Languages Act, 1963** and amendments in 2003 provide guidelines about the use of languages in official communication and the preservation of linguistic diversity.

3. Cultural Minorities:

- Groups that maintain a distinct culture, traditions, or way of life are also protected under **Article 29**, ensuring that their cultural identity is not suppressed by the majority.

Legal Protections for Minorities

1. Protection of Religious Minorities:

- The Constitution guarantees freedom of religion under **Article 25** (Freedom of conscience and free profession, practice, and propagation of religion).
- **Article 26** provides the right to manage religious affairs and institutions.
- **Article 27** prohibits the state from compelling any person to pay taxes for the promotion of any religion.

2. Educational Rights:

- **Article 29** and **Article 30** ensure that minorities are not discriminated against in educational institutions and have the right to establish their own institutions for promoting education in their own language and religion.

3. The Minorities Rights Commission:

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- The **Minorities Rights Commission** works to ensure that minorities receive fair representation and access to benefits from welfare schemes. It also addresses concerns regarding social, educational, and economic backwardness of minorities.

7. Preventive Detention.

Preventive detention refers to the act of detaining a person without trial or charge to prevent them from committing a future offense. The concept of preventive detention is an exception to the general rule that a person cannot be detained without being charged and tried in a court of law. In India, preventive detention is governed by specific provisions under the **Constitution** and various **legislative acts**.

Constitutional Provisions:

1. Article 22 of the Indian Constitution:

- **Article 22(1):** No person shall be deprived of their personal liberty except according to the procedure established by law.
- **Article 22(3):** The Constitution allows preventive detention under certain conditions and requires that a person detained under preventive detention must be informed of the reasons for their detention.
- **Article 22(4):** A person cannot be detained for more than three months without obtaining the opinion of an Advisory Board.

These provisions provide a framework within which preventive detention can be carried out, but they also impose safeguards to prevent arbitrary detention.

Preventive Detention and Fundamental Rights:

- **Right to Personal Liberty (Article 21):**
 - Article 21 guarantees the protection of personal liberty, but preventive detention allows an exception to this fundamental right, provided the detention is lawful and adheres to the procedures laid down under the law.
- **Preventive Detention and Due Process:**
 - Preventive detention does not require a trial, which is contrary to the general rule of **due process of law**. This has led to concerns regarding its potential misuse, particularly in cases of arbitrary detention without a fair hearing.
- **Judicial Review:**
 - Although preventive detention can occur without trial, the **Supreme Court** has the power to review preventive detention orders. The Court can ensure that the detention does not violate constitutional safeguards.
- In the **case of A.K. Gopalan v. State of Madras (1950)**, the Supreme Court ruled that the preventive detention laws did not violate the constitutional guarantees under Article 21, although the judgment was later modified in subsequent cases.

8. Fundamental Duties.

Fundamental Duties are a set of moral obligations for the citizens of India, which were added to the Constitution through the **42nd Amendment Act, 1976**. While **Fundamental Rights** in Part III of the Indian Constitution primarily protect individual freedoms, **Fundamental Duties** in Part IVA (Article 51A) are meant to guide citizens towards responsible behavior in the interest of the nation and society. These duties are meant to complement the rights provided to individuals by ensuring that citizens not only enjoy rights but also perform duties towards the state and fellow citizens.

Article 51A enumerates the **Fundamental Duties of Indian citizens**. It was inserted by the **42nd Amendment Act, 1976** to promote a sense of civic responsibility and national integrity. Originally, there were **10 duties** listed, but later, with the **86th Amendment Act, 2002**, a new duty was added, bringing the total to **11 duties**.

List of Fundamental Duties (Article 51A)

1. **To Abide by the Constitution and Respect its Ideals and Institutions:**
 - Every citizen has the duty to respect the Constitution, the national flag, and the national anthem. This emphasizes the importance of abiding by the democratic principles and values that underpin the Indian republic.
2. **To Cherish and Follow the Noble Ideals of the Freedom Struggle:**
 - Citizens are expected to uphold the ideals and values that the country fought for during its independence struggle, including freedom, justice, and equality.
3. **To Uphold and Protect the Sovereignty, Unity, and Integrity of India:**
 - This duty emphasizes the obligation of every citizen to safeguard India's sovereignty, unity, and integrity, which are fundamental to the country's national security and stability.
4. **To Defend the Country and Render National Service When Called Upon:**
 - This duty mandates that every citizen be ready to contribute to the defense of the country, whether in times of war or peace, and perform national service if required.
5. **To Promote Harmony and the Spirit of Common Brotherhood:**
 - Citizens must work towards fostering unity, harmony, and fraternity among the diverse people of India, irrespective of their religion, language, or region. This promotes a sense of collective identity and brotherhood.
6. **To Value and Preserve the Rich Heritage of Our Composite Culture:**
 - India has a rich and diverse cultural heritage. Citizens are expected to preserve and promote this heritage, ensuring the continuity of the cultural values passed down through generations.
7. **To Protect and Improve the Natural Environment:**
 - It is the duty of every citizen to contribute to the protection and preservation of the environment, including forests, lakes, rivers, wildlife, and pollution control.
8. **To Develop Scientific Temper, Humanism, and the Spirit of Inquiry and Reform:**
 - Citizens should foster a scientific attitude and a rational approach to life, promote humanistic values, and engage in reforming society to remove social evils.
9. **To Safeguard Public Property and Abjure Violence:**
 - Every citizen must protect public property and refrain from indulging in violence. This reflects the importance of maintaining public order and respecting state-owned resources.
10. **To Strive Towards Excellence in All Fields of Endeavor:**

- Citizens should aim to achieve excellence in various areas of life—whether in education, professional life, or personal development—so as to contribute to the nation's progress.

11. To Provide Opportunities for Education to Children Between the Ages of 6 to 14 Years (Added by the 86th Amendment Act, 2002):

- This duty emphasizes the responsibility of every parent or guardian to ensure that their children between the ages of 6 and 14 are provided with an opportunity to receive free and compulsory education, as mandated by the **Right to Education Act, 2009**.

9. Government of the India Act 1935.

The **Government of India Act, 1935** was a significant piece of legislation enacted by the **British Parliament** with the aim of introducing constitutional reforms in British India. It is often seen as the last major constitutional development before India's independence in 1947. The Act provided a framework for the governance of British India and set the stage for a transition towards self-rule, although full sovereignty was still vested with the British Crown.

The **Government of India Act, 1935** was comprehensive and had a significant impact on the Indian political system. It introduced many features that were later incorporated into the Constitution of India, which came into effect in 1950.

Main Features of the Government of India Act, 1935

1. Federal System of Government:

- The Act introduced a **federal system of government** in India, with the establishment of a **Federal Legislature** consisting of two houses: the **Council of States** and the **Legislative Assembly**.
- However, the federal system was more of a **loose federation** as it did not allow for full autonomy for provinces, and the federal scheme was largely imposed from the top down.
- The **Federation of India** under the Act was never fully implemented as many princely states did not join, making it incomplete.

2. Division of Powers: The Act provided a **division of powers** between the **Central Government** and the **Provincial Governments**. This division was outlined in three lists:

- **Union List:** Matters on which only the Central Government could legislate.
- **Provincial List:** Matters on which only Provincial Governments could legislate.
- **Concurrent List:** Matters on which both Central and Provincial Governments could legislate, but in case of conflict, the Central Government's law would prevail.
- The **Federal List** and **Provincial List** were much longer than the **Concurrent List**, giving more power to the provinces than the federal government.

3. Governor-General and Council of Ministers:

- The **Governor-General** of India was made the representative of the British Crown in India and retained substantial executive powers.
- The **Governor-General** had the power to issue ordinances, dissolve the Legislature, and had the final say in the administration of the country.
- The **Executive Council of India** was created, and the Governor-General had to work with a Council of Ministers, although ultimate authority remained with the Governor-General.

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4. Provincial Autonomy:

- The Act granted **autonomy to the provinces**, allowing them to have their own legislative assemblies with full control over areas like education, health, and local government.
- However, the central government retained control over important matters such as defense, foreign affairs, and finance. The **Governor of the Province** had special powers, which allowed them to override decisions made by the provincial assemblies.
- **Dyarchy** in provinces was abolished, meaning that provinces were given full control over most subjects in the **Provincial List**.

5. Separate Electorates and Reservation of Seats:

- The Act continued the system of **separate electorates** for different communities, which had been introduced by the **Morley-Minto Reforms** in 1909. This allowed minorities, such as Muslims, Sikhs, and Christians, to elect their own representatives.
- It also introduced a **system of reserved seats** for **Scheduled Castes** and **Scheduled Tribes**.

6. Bicameral Legislature at the Centre:

- The **Federal Legislature** at the Centre was bicameral, consisting of:
 - **Council of States (Upper House):** Represented the provinces and the princely states.
 - **Legislative Assembly (Lower House):** Directly elected by the people (through limited franchise).
- The **Council of States** was similar to a **Council of Lords**, and the **Legislative Assembly** represented elected representatives, albeit through a limited and restricted franchise system.

7. Provincial Legislative Assemblies:

- Provinces were given the authority to have their own legislative assemblies, which were elected by the people. The powers of these assemblies were, however, limited in comparison to the Central Legislature, and the **Governor** could dissolve the assembly and override its decisions in certain circumstances.

8. The Role of the Governor:

- The **Governor** was given sweeping powers, including the ability to act on his discretion, without consulting the provincial legislature. This allowed the British government to control the provincial administrations, despite the formal autonomy granted by the Act.

9. Federal Court of India:

- The **Government of India Act, 1935** established the **Federal Court of India** (the predecessor of the **Supreme Court of India**), which had the power to resolve disputes between the Centre and the provinces or between provinces.

10. Majority of Indian Members in Provincial Legislature:

- While the provinces were granted autonomy, the Act ensured that a majority of the members in the **Provincial Legislative Assemblies** would be Indian. This was a significant step towards self-governance.

11. Indian Civil Services:

- The Act maintained the existing structure of the **Indian Civil Services (ICS)**, although it opened the Civil Services to more Indians, albeit with limited opportunities. The Civil Services remained under the control of the British Crown.

12. Protection of the Interests of Minorities:

- The Act continued the system of **separate electorates** for various religious and social communities. This system was designed to protect the interests of **Muslims, Sikhs, Anglo-Indians**, and other communities.

10. Preamble.

The **Preamble** is the introductory statement in the **Constitution of India** that reflects the core values, philosophy, and principles of the Indian state. It is often referred to as the "**soul**" of the Constitution as it outlines the objectives that the framers of the Constitution envisioned for the Indian republic. The Preamble, although not legally enforceable, serves as a guiding light for the interpretation of the Constitution and its provisions.

Text of the Preamble

"We, the people of India, having solemnly resolved to constitute India into a Sovereign, Socialist, Secular, Democratic Republic and to secure to all its citizens:

- *Justice, social, economic, and political;*
- *Liberty of thought, expression, belief, faith, and worship;*
- *Equality of status and of opportunity;*
- *Fraternity assuring the dignity of the individual and the unity and integrity of the Nation;*

In our Constituent Assembly this 26th day of November 1949, do hereby adopt, enact, and give to ourselves this Constitution."

The Preamble contains a brief yet comprehensive statement of the Constitution's philosophy. It highlights the following core elements:

1. **We, the People of India:**
 - The Preamble begins with the phrase "**We, the People of India,**" signifying that the Constitution is being framed by the people of India and for the people of India, establishing the **sovereignty** of the Indian populace in framing their own governance.
2. **Sovereign:**
 - India is a **sovereign** state, which means it has full control over its internal and external affairs, without being subject to any external authority. **Sovereignty** is the authority of the state to govern itself, free from interference by external powers or entities.
3. **Socialist:**
 - The term "**socialist**" was added by the **42nd Amendment Act, 1976**. It reflects India's commitment to achieving a **socialist society**. The term suggests that the Indian state aims to reduce economic disparities and ensure a fair distribution of wealth and resources among all citizens. While it does not explicitly adopt Marxist socialism, it promotes **social and economic equality** through state intervention in various sectors.
4. **Secular:**
 - India is a **secular** state, meaning there is no state religion, and all religions are treated equally by the state. The government neither favors nor discriminates against any religion, allowing freedom of religion to all citizens.
5. **Democratic:**
 - India is a **democratic** republic, where the people elect their representatives through free and fair elections. **Democracy** ensures that sovereignty rests with the people, who exercise their power through voting and participation in governance.
6. **Republic:**

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- India is a **republic**, meaning the country does not have a monarchy. The head of state, i.e., the **President of India**, is elected, and power ultimately rests with the people, unlike in a monarchy where power is inherited.

7. Justice:

- The Preamble guarantees **justice** in three forms:
 - **Social Justice:** Ensuring the elimination of discrimination based on caste, creed, gender, and religion.
 - **Economic Justice:** Ensuring fair distribution of wealth and resources, and striving towards an equitable society.
 - **Political Justice:** Ensuring equal participation of all citizens in political life and governance.

8. Liberty:

- The Preamble affirms **liberty** of thought, expression, belief, faith, and worship. It emphasizes the protection of individual freedoms and the right of every citizen to express their opinions, beliefs, and to follow any religion they choose.

9. Equality:

- The Preamble promises **equality of status and opportunity** to all citizens. This guarantees that every individual will have equal access to opportunities and will not face discrimination in matters of employment, education, or other spheres of life.

10. Fraternity:

- The concept of **fraternity** in the Preamble refers to the bond of brotherhood that ensures mutual respect, unity, and harmony among all the citizens of India. It assures the **dignity of the individual** and promotes **national unity** and integrity.

11. Unity and Integrity of the Nation:

- The Preamble emphasizes the importance of preserving the **unity** and **integrity** of the country, ensuring that citizens act in the collective interest of the nation.

11. Doctrine of eclipse

The **Doctrine of Eclipse** is an important concept in Indian constitutional law. It refers to a situation where a law or provision, which is inconsistent with the Constitution, is temporarily "shadowed" or "eclipsed" but not void. In simple terms, it means that if a law or provision of law violates the **Fundamental Rights** guaranteed under the **Constitution of India**, it does not become non-existent. Instead, it becomes inoperative or eclipsed until the inconsistency is removed, and if the inconsistency is removed (for instance, through an amendment or judicial review), the law can come back into effect.

This doctrine primarily applies to **pre-constitutional laws** that were in force before the enactment of the Constitution and may conflict with the Constitution's provisions, particularly the **Fundamental Rights**. Such laws are not automatically struck down, but they remain dormant or ineffective as long as they are inconsistent with the Constitution.

Legal Foundation of the Doctrine

1. Article 13 of the Constitution of India:

- Article 13(1) of the **Indian Constitution** provides that **all laws** in force in India before the commencement of the Constitution, to the extent that they are inconsistent with the **Fundamental Rights**, shall be void. However, laws made after the commencement of the

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Constitution will be subject to judicial scrutiny to ensure they do not violate Fundamental Rights.

- Article 13 does not explicitly provide for the **Doctrine of Eclipse**, but this principle arises out of judicial interpretation of this provision.

2. Supreme Court's Interpretation:

- The doctrine was propounded by the **Supreme Court of India** in its judgment in **Bhikaji Narain Dhakras v. State of Madhya Pradesh (1955)**, where the Court held that laws inconsistent with Fundamental Rights are not automatically void but are merely "eclipsed" and can be revived once the inconsistency is removed.

Key Features of the Doctrine of Eclipse

1. Does Not Apply to Post-Constitutional Laws:

- The Doctrine of Eclipse only applies to **pre-constitutional laws** and is not applicable to laws made after the Constitution came into force. Laws made after the Constitution that violate Fundamental Rights are **void** to the extent of the inconsistency and are not just eclipsed.

2. Temporary Inoperativeness:

- The law does not cease to exist; rather, it becomes **inoperative**. It exists in a dormant state and can be revived once the inconsistency is removed.

3. Rectification of Inconsistency:

- The inconsistency with the Fundamental Rights can be removed by the **legislature** through amendments or by judicial interpretation. Once this happens, the law becomes operative again.

4. Pre-Constitutional Laws:

- The Doctrine applies only to **pre-constitutional laws**. Laws passed after 1950, i.e., after the Constitution came into force, will be considered void if inconsistent with Fundamental Rights, as provided under **Article 13(2)**.

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12. Gender Justice

Gender Justice refers to the concept of ensuring equal rights, opportunities, and treatment for individuals of all genders. It emphasizes the importance of eliminating gender-based discrimination and promoting equality in social, political, economic, and cultural spheres. Gender justice is essential for creating a society where individuals are not discriminated against based on their gender and can fully exercise their rights and freedoms.

In the Indian context, gender justice is closely tied to **constitutional principles, human rights, and national laws** that aim to protect individuals from gender-based violence, discrimination, and exploitation.

The Indian Constitution envisions gender equality and provides a framework for ensuring the protection of women's rights and the removal of gender-based discrimination.

Legal Foundation of Gender Justice in India

1. Constitutional Provisions:

- The **Constitution of India** guarantees gender equality through various provisions that aim to prevent discrimination based on gender and ensure the protection and promotion of women's rights. The following constitutional provisions are essential to understanding gender justice in India:
- **Article 14 - Right to Equality:**
 - Guarantees **equality before the law** and ensures that the state will not discriminate against any individual on the grounds of religion, race, caste, sex, or place of birth. This article plays a vital role in ensuring that women and men have equal access to opportunities and protection under the law.
- **Article 15 - Prohibition of Discrimination:**
 - Prohibits discrimination on grounds of religion, race, caste, sex, or place of birth. It provides a specific protection for **gender equality**, as it empowers the state to make special provisions for women and children to improve their status.
- **Article 16 - Equality of Opportunity:**
 - Provides for equality of opportunity in matters of employment, ensuring that women have equal access to jobs and public office, and promoting their participation in all sectors of life.
- **Article 21 - Right to Life and Personal Liberty:**
 - Guarantees the right to life and personal liberty, which includes the protection of women from violence, exploitation, and trafficking. This article has been interpreted by the Supreme Court in numerous cases to ensure the protection of women's rights in all spheres of life.
- **Article 39(a) - Directive Principles of State Policy:**
 - Directs the state to ensure that all citizens, particularly women, have an adequate means of livelihood and access to resources, which is crucial for gender justice.
- **Article 42 - Provision for Just and Humane Conditions of Work:**
 - The state is required to ensure the welfare of workers, including women workers, and promote their dignity through just and humane working conditions.
- **Article 51A(e) - Fundamental Duties:**
 - Encourages citizens to promote harmony and the spirit of brotherhood, which is fundamental in achieving gender justice by fostering a society free from gender-based violence and discrimination.

13. Ex-post facto law.

Ex-post facto law refers to a law that applies retroactively to events that occurred before the law was enacted. In simple terms, it means that a law can be passed that punishes an act that was not considered illegal when it was committed or increases the penalty for a crime after it has been committed. **Ex-post facto laws** are prohibited under the **Indian Constitution** to protect individuals from arbitrary and unfair legal treatment.

The term "ex post facto" is Latin for "from a thing done afterward," and such laws can have serious implications on legal fairness and justice.

Constitutional Provisions and the Prohibition of Ex-Post Facto Laws in India

1. Article 20(1) of the Constitution of India:

- Article 20(1) of the **Indian Constitution** explicitly prohibits **ex-post facto laws** in criminal matters. It states:
 - **"No person shall be convicted of any offense except for violation of the law in force at the time of the commission of the act charged as an offense, nor be subjected to a penalty or punishment greater than that which might have been inflicted under the law in force at the time of the commission of the offense."**
- This provision ensures **protection against retroactive punishment**, meaning no individual can be convicted or penalized for an act that was not illegal at the time it was committed. It also prohibits the imposition of a heavier penalty than what was applicable when the offense was committed.

Key Aspects of Ex-Post Facto Law

1. No Retroactive Application in Criminal Law:

- **Article 20(1)** prohibits the **retroactive application of criminal laws**, ensuring that individuals are only punished for actions that were criminal at the time they were committed.
- This principle upholds **fairness** and **justice**, preventing individuals from being penalized for something that was not illegal when it occurred.

2. No Increase in Punishment:

- According to **Article 20(1)**, if a law changes after an offense is committed, the penalty or punishment cannot be increased retroactively. Even if a new law imposes a stricter punishment for an offense, it cannot be applied to an act committed before the law came into force.

3. Not Applicable to Civil Laws:

- The prohibition on ex-post facto laws under **Article 20(1)** applies only to **criminal laws**. The Constitution does not prevent the retrospective application of **civil laws**. Hence, a civil law can be applied retroactively if it is not inconsistent with other constitutional protections.

Ex-post facto laws are prohibited under **Article 20(1)** of the **Indian Constitution**, ensuring that individuals are not punished for actions that were legal at the time they were committed and that they cannot be subjected to increased penalties for crimes that were committed prior to the enactment of a law. This constitutional safeguard helps protect **individual rights** and ensures **fairness** in the criminal justice system.

14. Habeas Corpus.

Habeas Corpus is a Latin term meaning "you shall have the body." It is a fundamental legal principle and a writ issued by a **court** to order the immediate release of an individual who is unlawfully detained or imprisoned. The writ serves as a safeguard against arbitrary detention and ensures that no one is deprived of their liberty without lawful justification.

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The **right to habeas corpus** is considered one of the most important human rights, ensuring protection from unlawful detention, and is enshrined in the **Indian Constitution** under **Article 32** and **Article 226**. It is a tool used by the courts to uphold **personal liberty** and **fundamental rights** guaranteed by the Constitution.

Constitutional Provisions Related to Habeas Corpus in India

1. Article 32 - Right to Constitutional Remedies:

- **Article 32** of the **Indian Constitution** guarantees the right to move the **Supreme Court of India** for the enforcement of **fundamental rights**. The Supreme Court has the power to issue **writs**, including **habeas corpus**, for the protection of these rights.
- This provision is often referred to as the **"heart and soul" of the Constitution**, as it enables citizens to directly approach the highest court for the protection of their **personal liberty** and **fundamental rights**.
- **Text of Article 32(1):**
 - *"The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed."*
- **Article 32(2)** allows the Supreme Court to issue writs in the nature of **Habeas Corpus, Mandamus, Prohibition, Certiorari, or Quo Warranto**.

2. Article 226 - Power of High Courts to Issue Writs:

- **Article 226** of the Constitution extends the power to issue writs, including **habeas corpus**, to the **High Courts** of India. Under this article, any person can approach a High Court for the enforcement of **fundamental rights** or other legal rights.
- **Text of Article 226:**
 - *"Notwithstanding anything in Article 32, every High Court shall have power, throughout the territory in relation to which it exercises jurisdiction, to issue to any person or authority, including the government, within those territories, directions, orders, or writs, including writs in the nature of Habeas Corpus, Mandamus, Prohibition, Certiorari, or Quo Warranto, for the enforcement of any of the rights conferred by Part III and for any other purpose."*

The Purpose of Habeas Corpus

The primary purpose of **habeas corpus** is to **protect personal liberty** and prevent the arbitrary detention of individuals. It ensures that no one can be unlawfully detained by any person or authority without sufficient legal grounds. If an individual is arrested or detained, they must be brought before a court to determine whether the detention is lawful.

The writ of **habeas corpus** seeks to:

- Prevent unlawful detention
- Ensure due process
- Safeguard individual freedom:

15. Free legal aid.

Free legal aid refers to the provision of legal assistance to individuals who cannot afford to pay for legal services. The concept of free legal aid is enshrined in the **Indian Constitution** to ensure that the **right to justice** is accessible to all, regardless of their economic status. Legal aid aims to ensure that **everyone** can have access to legal representation, thereby promoting **equality** before the law and protecting the fundamental rights of individuals.

Constitutional Provisions and Legal Framework for Free Legal Aid in India

1. Article 39A of the Constitution of India:

- **Article 39A** was introduced by the **42nd Amendment Act, 1976**. It directs the **State** to provide **free legal aid** to those who are unable to afford it, ensuring that justice is not denied due to economic or other disabilities.
- **Text of Article 39A:**
 - *"The State shall secure that the operation of the legal system promotes justice on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities."*
- This provision ensures that the **State** takes positive steps to provide free legal aid to those who are disadvantaged and may not be able to afford legal services.

2. Article 21:

- The right to life and personal liberty includes the right to free legal aid as an essential part of a fair trial.
- In the landmark case of *Hussainara Khatoon v. State of Bihar (1979)*, the Supreme Court held that the right to free legal aid is an integral part of the right to a fair trial under Article 21.

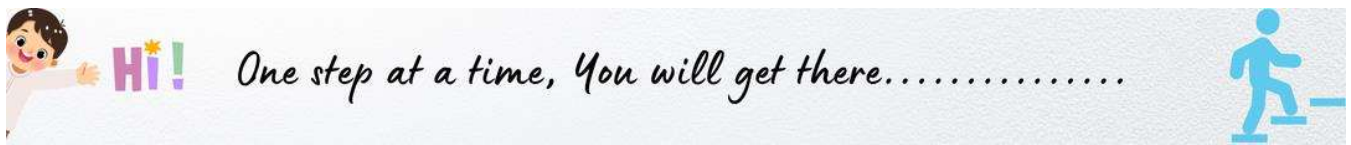
Legal Provisions for Free Legal Aid

1. Legal Services Authorities Act, 1987:

- The **Legal Services Authorities Act, 1987** was enacted to provide for the establishment of **Legal Services Authorities** at the **national, state, and district levels**. The Act provides a framework for the provision of **free legal aid** to eligible individuals.
- The Act led to the creation of the **National Legal Services Authority (NALSA)**, which is responsible for implementing the legal aid program at the national level. Similarly, each state has its own **State Legal Services Authority** to administer the system of free legal aid.
- **Key Provisions of the Legal Services Authorities Act:**
 - **Section 12:** This section defines the eligibility for free legal aid. It provides that a person is eligible for free legal aid if:
 - The person is a member of a **Scheduled Caste** or **Scheduled Tribe**.
 - The person is a **woman** or a **child**.
 - The person is a **victim of trafficking** or **commercial sexual exploitation**.
 - The person is an **industrial worker**.
 - The person is a **person with disability**.
 - The person is a **person in custody** (under detention).
 - The person has a **annual income** below a certain threshold set by the government.

2. **Section 304 of the Criminal Procedure Code (CrPC):**

- **Section 304** of the **Criminal Procedure Code** provides for the appointment of **legal aid lawyers** for accused persons who are unable to afford legal representation. The **Court** is responsible for appointing an advocate for the accused at the government's expense when the accused is unable to hire a lawyer.
- This provision applies to both **trial courts** and **higher courts** in criminal cases. It ensures that the right to a **fair trial** is maintained, even for individuals who cannot afford to hire a lawyer.



16. **Classification of constitution.**

A **constitution** is the fundamental legal document that establishes the framework of a country's governance, delineating the structure, powers, and functions of various organs of the government, and the rights and duties of its citizens. Constitutions can be classified based on various criteria such as their form, structure, origin, and flexibility.

1. **Based on the Form: Written vs. Unwritten**

a. Written Constitution: A **written constitution** is a single, consolidated document that contains the fundamental principles and rules governing a country. It is precise, well-documented, and codified. **Examples:** The **Constitution of India** (1949) and The **Constitution of the United States** (1787).

b. Unwritten Constitution: An **unwritten constitution** is not contained in a single document but is based on customs, traditions, judicial decisions, and statutory laws. **Example:** The **United Kingdom**.

2. **Based on the Structure: Federal vs. Unitary**

a. Federal Constitution: A **federal constitution** divides powers between the central government and various state or regional governments. The authority of each level of government is constitutionally guaranteed. **Examples:** **India:** Although termed "quasi-federal" as it has federal features with a strong centralizing tendency, **United States** and **Canada**.

b. Unitary Constitution: A **unitary constitution** places all the power in the hands of the central government, with sub-national units (if any) deriving their authority from the central government. **Examples:** **United Kingdom** and **France**.

3. **Based on Flexibility: Rigid vs. Flexible**

a. Rigid Constitution: A **rigid constitution** requires a special procedure, often involving a higher threshold, for amendments. This ensures stability but may make it difficult to adapt to changing circumstances. **Examples:** **USA** and **India**.

b. Flexible Constitution: A flexible constitution can be amended easily, often through the same process used to pass ordinary laws. **Examples: United Kingdom Constitution.**

4. Based on Origin: Enacted vs. Evolved

a. Enacted Constitution: An enacted constitution is deliberately created and adopted by a constituent assembly or a similar body. **Examples: India:** Drafted by the **Constituent Assembly** of India.

b. Evolved Constitution: An evolved constitution develops gradually over time through customs, traditions, judicial decisions, and statutes. **Examples: United Kingdom.**

5. Based on Ideology: Democratic vs. Autocratic

a. Democratic Constitution: A democratic constitution is based on the principle of popular sovereignty, with government authority deriving from the consent of the people. **Examples: India:** The Preamble starts with "We, the People of India." And USA

b. Autocratic Constitution: An autocratic constitution centralizes power in the hands of a ruler or a small group, with little or no accountability to the people. **Examples: North Korea.**

6. Based on the Nature of Governance: Parliamentary vs. Presidential

a. Parliamentary Constitution: A parliamentary constitution establishes a system where the executive is derived from and accountable to the legislature. **Examples: India** and UK

b. Presidential Constitution: A presidential constitution separates the executive from the legislature, with the President as the Head of State and Government. **Examples: United States.**

7. Based on Content: Secular vs. Theocratic

a. Secular Constitution: A secular constitution ensures that the state remains neutral in matters of religion, treating all religions equally. **Examples: India:** The word "secular" was added to the Preamble by the **42nd Amendment Act, 1976.**

b. Theocratic Constitution: A theocratic constitution is based on religious principles, with the state identifying itself with a particular religion.

- State laws align with religious doctrines.
- Limited or no religious freedom for minorities.

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17. Citizenship of Domicile

Citizenship by domicile refers to the process by which a person becomes a citizen of a country based on their place of permanent residence or intention to permanently reside in that country. In the context of Indian law, the concept of citizenship by domicile is addressed under **Article 5** of the **Constitution of India** and further elaborated under the **Citizenship Act, 1955**.

Constitutional Provisions (Article 5 of the Indian Constitution)

Article 5 of the **Indian Constitution** provides that at the commencement of the Constitution (on January 26, 1950), every person who satisfies the following conditions shall be deemed a citizen of India by domicile:

1. Domicile in the Territory of India:

- The individual must have a domicile within the territory of India at the time of the commencement of the Constitution.
- **Domicile** here refers to the intention to permanently reside in India, irrespective of where the person was born.

2. Fulfillment of Additional Conditions:

- **Born in India:** The person must have been born in the territory of India; or
- **Parentage:** Either of the person's parents must have been born in the territory of India; or
- **Ordinary Residence:** The person must have been ordinarily resident in the territory of India for not less than **five years** immediately preceding the commencement of the Constitution.

Explanation of Domicile:

- Domicile is different from **residence**. While residence refers to living in a place temporarily, domicile involves a permanent intention to reside in a place and is governed by the **Indian Succession Act, 1925**, for legal interpretation.

The Citizenship Act, 1955

The **Citizenship Act, 1955**, provides the statutory framework for acquiring and determining Indian citizenship. It also elaborates on the concept of domicile in certain contexts:

1. Domicile as a Basis for Citizenship:

- Under the Act, individuals who acquire citizenship by **birth, descent, or registration** are required to have a connection to India, often established through domicile.

2. Domicile and Overseas Indians:

- The Act allows persons of Indian origin (PIOs) to register as Indian citizens if they establish their domicile in India and fulfill other conditions.

Domicile and Citizenship by Birth (Section 3 of the Citizenship Act, 1955)

Citizenship by birth is closely linked to the principle of domicile:

1. A person born in India on or after **January 26, 1950**, but before **July 1, 1987**, automatically became an Indian citizen, regardless of their parents' nationality.
2. For those born on or after **July 1, 1987**, at least one parent must be an Indian citizen at the time of their birth.
3. For births on or after **December 3, 2004**, both parents must either be Indian citizens, or one parent must be an Indian citizen and the other not an illegal migrant.

Key Differences: Domicile vs. Citizenship

Aspect	Domicile	Citizenship
Nature	A concept of private law.	A concept of public law.
Scope	Refers to a person's permanent home.	Refers to a person's membership in a country.
Legal Basis	Governed by laws like the Indian Succession Act, 1925.	Governed by the Constitution and Citizenship Act, 1955.
Acquisition	Requires intention to reside permanently in India.	Requires fulfillment of legal conditions under the Citizenship Act.

Domicile plays a pivotal role in determining Indian citizenship, especially at the commencement of the Constitution and in cases of naturalization or registration. It signifies a deeper connection to the country, involving both physical presence and an intention to reside permanently. The provisions under **Article 5** and the **Citizenship Act, 1955**, ensure that citizenship by domicile aligns with India's democratic and inclusive values.

18. Double Jeopardy.

Double Jeopardy is a legal principle that protects an individual from being tried or punished more than once for the same offense. This concept is rooted in both Indian and international jurisprudence and is a fundamental safeguard against abuse of legal processes.

Constitutional Provision in India

The principle of double jeopardy is enshrined in **Article 20(2)** of the **Constitution of India**, which states:

"No person shall be prosecuted and punished for the same offence more than once."

This provision applies only to criminal proceedings and ensures that once a person has been convicted or acquitted for a specific offense by a competent court, they cannot be tried again for the same offense.

Key Features of Double Jeopardy under Indian Law

1. **Applicability:**
 - It applies only to offenses for which the person has already been **prosecuted and punished**.

- Mere initiation of proceedings or filing of an FIR does not attract the protection of Article 20(2).
- 2. **Prosecution and Punishment:**
 - Both prosecution and punishment must have occurred in the previous trial for the principle to apply. For example, if someone was acquitted or convicted in a previous trial, they cannot be retried for the same offense.
- 3. **Same Offense:**
 - The protection applies only if the second trial concerns the *same offense* as the first. If the second trial is for a different offense arising from the same act, the principle does not apply.
- 4. **Competent Jurisdiction:**
 - The earlier trial must have been conducted by a court with competent jurisdiction.

Double Jeopardy in International Context

1. **Universal Declaration of Human Rights (UDHR), Article 11(2):**
 - Protects individuals from being punished twice for the same offense.
2. **International Covenant on Civil and Political Rights (ICCPR), Article 14(7):**
 - Provides similar safeguards against double jeopardy.
3. **Common Law Jurisdictions:**
 - Many countries, such as the USA and UK, recognize this principle under their legal systems.

19. Right to freedom of religion.

The **Right to Freedom of Religion** is one of the fundamental rights guaranteed under the **Indian Constitution**, ensuring that every individual has the liberty to profess, practice, and propagate their religion without interference, subject to public order, morality, and health.

Constitutional Provisions

The Right to Freedom of Religion is enshrined in **Articles 25 to 28** of the Indian Constitution.

1. Article 25: Freedom of Conscience and Free Profession, Practice, and Propagation of Religion

- Guarantees the freedom of conscience and the right to freely profess, practice, and propagate religion.
- **Limitations:**
 - Subject to public order, morality, and health.
 - Regulates secular activities associated with religious practices (e.g., economic, financial, political, or other secular aspects of religion).
 - Allows the state to make laws for social reform and welfare (e.g., abolishing practices like Sati or untouchability).

2. Article 26: Freedom to Manage Religious Affairs

- Grants every religious denomination or any section the right to:

1. Establish and maintain institutions for religious and charitable purposes.
2. Manage its own affairs in matters of religion.
3. Own and acquire movable and immovable property.
4. Administer such property in accordance with the law.

Limitations: Subject to public order, morality, and health.

3. Article 27: Freedom from Payment of Taxes for Promotion of Religion

- Prohibits compelling any person to pay taxes for the promotion or maintenance of any religion or religious denomination.
- Example: Public funds cannot be used to promote any specific religion.

4. Article 28: Freedom in Matters of Religious Instruction

- **Prohibits religious instruction in:**
 - Educational institutions wholly funded by the state.
 - State-recognized or state-administered institutions.
- **Permits religious instruction:**
 - In institutions established by a religious endowment that require such instruction by their trust or deed.

20. Directive principles and Classification of Directive principles of state policy.

The **Directive Principles of State Policy (DPSP)** are enumerated in **Part IV (Articles 36 to 51)** of the **Constitution of India**. These principles guide the State in formulating policies and legislation to establish social and economic democracy and achieve the goals of a welfare state. Although the Constitution does not explicitly classify DPSPs, they are generally categorized into three groups based on their objectives: **Socialistic, Gandhian, and Liberal-Intellectual Principles**.

1. Socialistic Principles: These principles reflect the ideology of socialism and aim to establish economic and social justice, reduce inequalities, and promote the welfare of the people.

Key Provisions:

1. **Article 38:** The State shall strive to promote the welfare of the people by securing a social order based on justice—social, economic, and political.
2. **Article 39:** Directs the State to ensure:
 - Adequate means of livelihood for all citizens.
 - Equitable distribution of material resources for the common good.
 - Prevention of concentration of wealth.
 - Equal pay for equal work for men and women.
 - Protection of children and youth against exploitation.
3. **Article 41:** Right to work, education, and public assistance in cases of unemployment, old age, sickness, and disability.
4. **Article 42:** Just and humane conditions of work and maternity relief.
5. **Article 43:** Living wages and decent standard of life for workers.

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6. **Article 47:** Duty of the State to raise the level of nutrition and the standard of living and improve public health.

2. Gandhian Principles: These principles are inspired by the ideals and vision of **Mahatma Gandhi**, focusing on rural development, cottage industries, and social harmony.

Key Provisions:

1. **Article 40:** Organization of village panchayats and empowerment of local self-government.
2. **Article 43:** Promotion of cottage industries in rural areas.
3. **Article 46:** Promotion of the educational and economic interests of Scheduled Castes (SCs), Scheduled Tribes (STs), and other weaker sections of society.
4. **Article 47:** Prohibition of the consumption of intoxicating drinks and drugs harmful to health.
5. **Article 48:** Prohibition of slaughter of cows, calves, and other milch and draught cattle and the promotion of animal husbandry.

3. Liberal-Intellectual Principles

These principles reflect the liberal ideals of freedom, international peace, and security and emphasize the promotion of arts, education, and environmental protection.

Key Provisions:

1. **Article 44:** Uniform Civil Code (UCC) for all citizens.
2. **Article 45:** Provision for free and compulsory education for children (now moved to Article 21A through the 86th Amendment).
3. **Article 48:** Modernization of agriculture and animal husbandry.
4. **Article 48A:** Protection and improvement of the environment and safeguarding forests and wildlife (added by the 42nd Amendment, 1976).
5. **Article 49:** Protection of monuments, places, and objects of historical and artistic interest.
6. **Article 50:** Separation of the judiciary from the executive.
7. **Article 51:** Promotion of international peace and security.

The classification of Directive Principles of State Policy into **Socialistic, Gandhian, and Liberal-Intellectual principles** highlights the inclusive vision of the Indian Constitution. While they are not enforceable in a court of law, their implementation is essential for achieving the objectives of justice, liberty, equality, and fraternity, as outlined in the **Preamble**. Together with Fundamental Rights, they form the backbone of India’s democratic and welfare state structure.

21. Federal constitutions.

A **federal constitution** is a system of governance in which the powers and functions of the government are divided between a central authority and various regional units (states or provinces). This division of power is enshrined in the constitution and cannot be altered by either level of government unilaterally.

Characteristics of a Federal Constitution

1. **Dual Government Structure:**
 - There are two levels of government: the central (or federal) government and state (or regional) governments, each functioning independently within their jurisdiction.
2. **Supremacy of the Constitution:**
 - The federal constitution is the supreme law of the land. All laws enacted by the central and state governments must conform to the constitution.
3. **Division of Powers:**
 - The constitution clearly divides powers between the central and state governments, typically through:
 - Union List (central government powers)
 - State List (state government powers)
 - Concurrent List (shared powers)
4. **Written Constitution:**
 - Federal constitutions are usually written to ensure clarity and prevent disputes over jurisdiction.
5. **Rigid Constitution:**
 - Amending a federal constitution is generally a rigid process, requiring the consent of both the central and state governments.
6. **Independent Judiciary:**
 - An independent judiciary acts as the interpreter and guardian of the constitution and resolves disputes between the central and state governments.
7. **Financial Autonomy:**
 - Both levels of government have their own sources of revenue as defined by the constitution.
8. **Bicameral Legislature:**
 - Most federal systems have a bicameral legislature, where one house represents the population (e.g., Lok Sabha in India) and the other represents the states or regions (e.g., Rajya Sabha in India).

Federalism in the Indian Constitution

The Indian Constitution has federal features but also contains unitary elements, leading it to be described as a "quasi-federal" system.

Category	Features/Examples
Federal Features in India	- Division of Powers
	- Supremacy of the Constitution
	- Independent Judiciary
	- Bicameral Legislature
Unitary Features in India	- Strong Central Government
	- Single Citizenship
	- Unified Judiciary
Examples of Federal Constitutions	- United States
	- Canada
	- Australia

22. Protective discrimination.

Protective discrimination refers to policies and measures adopted by the state to uplift socially and educationally disadvantaged sections of society by providing them special provisions and safeguards. This concept aims to reduce inequalities and promote social justice in line with the goals of the Indian Constitution.

Constitutional Basis for Protective Discrimination: The Constitution of India incorporates various provisions for protective discrimination to ensure justice, equality, and the upliftment of marginalized communities.

Key Provisions

1. **Article 15(4):**
 - Empowers the state to make special provisions for the advancement of:
 - Scheduled Castes (SCs)
 - Scheduled Tribes (STs)
 - Socially and educationally backward classes.
 - Introduced by the First Constitutional Amendment, 1951.
2. **Article 15(5):**
 - Allows the state to make special provisions for the advancement of socially and educationally backward classes, SCs, and STs regarding admission to educational institutions, including private institutions, except minority institutions.
3. **Article 16(4):**
 - Permits the state to provide reservations in public employment for backward classes if they are not adequately represented in the services under the state.
4. **Article 16(4A):**
 - Provides for reservation in promotions for SCs and STs in government jobs.
5. **Article 46:**
 - Directs the state to promote the educational and economic interests of SCs, STs, and other weaker sections and protect them from social injustice and exploitation.

6. **Article 243D and 243T:**

- Provide for reservation of seats for SCs and STs in Panchayati Raj institutions and municipalities.

7. **Article 330 and 332:**

- Reservation of seats for SCs and STs in the Lok Sabha and State Legislative Assemblies.

Objectives of Protective Discrimination

1. **Achieve Social Justice:**

- To address historical injustices and socio-economic inequalities faced by marginalized communities.

2. **Promote Equality:**

- To bridge the gap between disadvantaged groups and the mainstream population.

3. **Ensure Representation:**

- To provide adequate representation of SCs, STs, and backward classes in education, employment, and governance.

4. **Upliftment of Vulnerable Sections:**

- To ensure access to opportunities and resources for socio-economic development.

Protective discrimination is an essential tool for achieving the ideals of social justice and equality enshrined in the Indian Constitution. However, its implementation requires constant review and refinement to ensure that the intended beneficiaries are uplifted without fostering resentment or dependency. Balancing equality of opportunity with affirmative action is crucial to achieving an inclusive and harmonious society.

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23. **Writ of mandamus?**

The **writ of mandamus** is one of the five types of writs provided under **Article 32** and **Article 226** of the Constitution of India. It is a judicial order issued by a court to a public authority, government, or subordinate court, directing them to perform a duty that they are legally obligated to perform.

The term "**mandamus**" is Latin for "**we command.**" It serves as a tool to ensure that public officials or authorities fulfill their statutory duties or refrain from acting beyond their jurisdiction.

Constitutional Provisions

1. **Article 32:**

- The Supreme Court has the power to issue writs, including mandamus, for the enforcement of Fundamental Rights.

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2. Article 226:

- High Courts can issue the writ of mandamus for the enforcement of Fundamental Rights or for any other legal right.

Essentials for Issuing a Writ of Mandamus

1. Existence of a Legal Duty:

- The authority must have a legal duty to perform, arising out of a statute, rule, or order.

2. Failure to Perform Duty:

- The authority must have failed to perform its duty, refused to act, or acted improperly.

3. No Adequate Alternative Remedy:

- The petitioner must demonstrate that no other effective legal remedy is available.

4. Enforceable Right:

- The petitioner must have a legal right to compel the authority to act.

Scope of Writ of Mandamus

The writ of mandamus is issued against:

1. Public Officials:

- To compel them to perform their statutory duties.

2. Government Departments:

- To ensure they act in accordance with the law.

3. Tribunals and Subordinate Courts:

- To ensure they do not exceed their jurisdiction.

Objectives of Writ of Mandamus

1. Enforce Rule of Law:

- Ensures public authorities act within their legal boundaries.

2. Protect Fundamental Rights:

- Mandamus can enforce fundamental rights when they are violated by a public authority.

3. Promote Accountability:

- Compels authorities to fulfill their public duties.

4. Prevent Abuse of Power:

- Stops authorities from arbitrary or unauthorized actions.

The **writ of mandamus** is a vital instrument to ensure accountability and compliance with the law by public authorities. It upholds the principles of the **rule of law** and protects the rights of citizens. By compelling authorities to perform their statutory duties, it reinforces the democratic ideals enshrined in the Indian Constitution.

24. Right to property.

The **Right to Property** was originally a Fundamental Right under the Indian Constitution but is now recognized as a **Constitutional Right** under **Article 300A**. This change was brought about by the **44th**

Constitutional Amendment Act, 1978, which removed the Right to Property from the list of Fundamental Rights.

Historical Perspective

1. Original Provision:

- Under **Article 19(1)(f)**: Citizens had the right to acquire, hold, and dispose of property.
- Under **Article 31**: The state could not deprive any person of their property except through a law providing for compensation.

2. Amendments and Changes:

- **1st Amendment (1951)**: Introduced Articles 31A and 31B to protect land reforms from judicial review.
- **4th Amendment (1955)**: Restricted judicial intervention in land acquisition laws.
- **25th Amendment (1971)**: Changed the word "compensation" to "amount" in Article 31, diluting the guarantee of fair compensation.
- **44th Amendment (1978)**: Abolished Article 31 and moved the Right to Property to **Article 300A**, making it a constitutional right.

Current Status under Article 300A

- **Article 300A:**
 - "No person shall be deprived of his property save by authority of law."
 - This means the state can only take away property through a law and not arbitrarily.
- **Impact:**
 - Right to Property is no longer enforceable as a Fundamental Right under Article 32.
 - It is now a legal right enforceable in High Courts under Article 226.

The **Right to Property** has transitioned from being a Fundamental Right to a Constitutional Right to accommodate India's socio-economic goals. While it no longer enjoys the same level of protection as Fundamental Rights, Article 300A ensures that property cannot be arbitrarily taken away, maintaining a balance between public welfare and individual rights.



25. Right to privacy.

The **Right to Privacy** is a fundamental right in India, as recognized by the Supreme Court. Though not explicitly mentioned in the Constitution, the **Right to Privacy** is deemed an essential part of the **Right to Life and Personal Liberty** under **Article 21** of the Constitution of India.

Constitutional Basis

1. Article 21:

- States that "No person shall be deprived of his life or personal liberty except according to a procedure established by law."

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- The Supreme Court has interpreted this as including the right to privacy as an essential aspect of personal liberty.
- 2. **Article 19(1)(a):**
 - Protects the freedom of speech and expression, which is often tied to the ability to maintain privacy in one's communications and opinions.
- 3. **Article 19(1)(d):**
 - Grants the right to move freely, which includes the right to maintain one's personal and spatial privacy.

Scope of the Right to Privacy

1. **Informational Privacy:**
 - Protection against unauthorized collection and dissemination of personal data, including biometric, financial, and health information.
2. **Bodily Privacy:**
 - Protection of physical autonomy and the right to make decisions regarding one's body, including issues like medical treatment and reproductive choices.
3. **Spatial Privacy:**
 - The right to privacy in one's home, workspaces, and other private areas, protecting individuals from unwarranted searches, surveillance, or intrusion.
4. **Decisional Privacy:**
 - The right to make personal decisions related to family, relationships, marriage, and lifestyle, free from state interference.

Limitations and Restrictions on Privacy

The **Right to Privacy** is not absolute and is subject to **reasonable restrictions**, such as:

1. **National Security:**
 - The government can restrict privacy for reasons of national security or public order (e.g., surveillance or data collection).
2. **Public Order and Crime Prevention:**
 - The state may impose restrictions on privacy to prevent crime or maintain law and order.
3. **Reasonable Laws:**
 - Any law that aims to limit privacy must be reasonable, proportionate, and necessary for a legitimate state purpose (e.g., public health, welfare).
4. **Consent:**
 - Privacy laws often require individuals' consent for sharing personal information or engaging in certain activities.

26. Constituent Assembly.

The **Constituent Assembly of India** was formed to draft the Constitution of independent India. It was the pivotal body that laid the foundation for the legal and political structure of the newly independent nation, shaping the governance of India as a sovereign republic. The Assembly's work began in **1946**, and it played a significant role in India's journey to becoming a democratic republic.

Historical Context

The formation of the Constituent Assembly was influenced by the Indian independence movement and the need to create a legal framework for independent India after the end of British rule in 1947. The Assembly was tasked with drafting a constitution that would govern the country after its independence.

Formation and Composition

1. Establishment of the Assembly:

- The **Cabinet Mission** of 1946 proposed the formation of a Constituent Assembly to draft the Constitution for an independent India.
- The first session of the Constituent Assembly was held on **December 9, 1946**.

2. Members of the Constituent Assembly:

- The initial number of members was **389**, with representatives from British India and the princely states.
- After the partition of India, the Assembly was reduced to **299 members** representing India (after Pakistan became a separate nation).

3. Representation:

- The Assembly had representatives from diverse political parties, regions, religions, and communities. It included representatives from the Indian National Congress, the Muslim League, the Scheduled Castes, and other groups.
- Notable members included **Dr. B.R. Ambedkar** (Chairman of the Drafting Committee), **Jawaharlal Nehru**, **Sardar Vallabhbhai Patel**, **Maulana Abul Kalam Azad**, and **Rajendra Prasad**.

Key Functions and Objectives

1. Drafting the Constitution:

- The main objective of the Constituent Assembly was to draft a Constitution that would define the political, legal, and social framework of independent India.
- The Constitution was designed to reflect the democratic values of justice, equality, liberty, and fraternity while taking into account the diverse needs of Indian society.

2. Committees:

- The Constituent Assembly formed several committees to address specific areas, the most important of which was the **Drafting Committee**, headed by Dr. B.R. Ambedkar. The Drafting Committee played a critical role in shaping the document that would become the Constitution.
- Other committees worked on areas like fundamental rights, the judiciary, and the division of powers between the central and state governments.

3. Deliberations and Debates:

- The Assembly held extensive debates and discussions on various issues related to the form of government, federalism, the protection of rights, and social justice.
- A major focus of the Assembly was ensuring the protection of the rights of minorities and ensuring social and economic justice through affirmative action for marginalized communities.

27.Right to Education.

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The **Right to Education (RTE)** is a fundamental right in India that guarantees free and compulsory education to all children in the age group of **6 to 14 years**. This right is enshrined in the **Constitution of India** and is aimed at ensuring that every child has access to quality education, irrespective of their social, economic, or cultural background.

Constitutional Basis

1. **Article 21-A** (Inserted by the **86th Constitutional Amendment Act, 2002**):
 - Article 21-A mandates that "**The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.**"
 - This article makes the Right to Education a **fundamental right**, ensuring that the state has an obligation to make education accessible to all children within the specified age group.
2. **Directive Principles of State Policy**:
 - **Article 45**: Prior to the introduction of Article 21-A, Article 45 of the Constitution directed the State to provide free and compulsory education to children up to the age of 14 years, which was later made a fundamental right.

The Right of Children to Free and Compulsory Education Act (RTE Act), 2009

The **RTE Act** was enacted to give effect to Article 21-A and lays down the legal framework for the implementation of the Right to Education in India.

Key Provisions of the RTE Act:

1. **Free and Compulsory Education**:
 - The Act mandates that **all children in the age group of 6 to 14 years** have the right to receive free and compulsory education in a **neighborhood school**.
 - The state is required to ensure that education is provided free of cost, including for **tuition fees, examination fees, and admission fees**.
2. **Non-Discrimination**:
 - The Act prohibits any form of discrimination based on **caste, sex, religion, or social or cultural background** in schools. It promotes inclusivity and equality in education.
3. **Quality of Education**:
 - The Act mandates the establishment of certain **minimum standards** for schools, including the **teacher-pupil ratio**, infrastructure, and teaching quality.
 - Schools must be equipped with essential facilities such as **toilets, drinking water, and playgrounds**.
4. **Admission**:
 - Every child is entitled to admission in a school, and no child can be denied admission for any reason, such as lack of documentation or inability to pay.
5. **Teacher Qualifications**:
 - Teachers must possess minimum qualifications, and their recruitment and professional development are to be regulated by the state to ensure quality education.
 - The Act also mandates **teacher training** to improve the overall quality of education.
6. **Compulsory Education**:

- It is the responsibility of the parents and guardians to ensure that their children attend school. The Act also allows the state to impose penalties for non-compliance by parents or guardians.
- 7. **Child Protection:**
 - The Act has provisions to prevent **child labor** and **child exploitation**, ensuring that children are not forced to work but are enrolled in and attend school.
- 8. **Special Needs Education:**
 - The Act mandates that children with special needs should have access to **special schools** or receive special provisions in regular schools.
- 9. **School Management Committees (SMCs):**
 - The Act encourages the formation of **School Management Committees**, which include local authorities, parents, and teachers, to ensure the community's involvement in managing the school and monitoring educational quality.

28. Cultural Rights.

Cultural rights refer to the rights of individuals and communities to preserve and promote their cultural identity, heritage, language, and traditions. In India, these rights are safeguarded under the **Constitution of India** as part of the broader framework of fundamental rights and provisions related to the protection of cultural diversity.

Constitutional Basis of Cultural Rights

1. **Article 29 – Protection of interests of minorities:**
 - **Article 29(1)** provides that "**Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script, or culture of its own shall have the right to conserve the same.**"
 - This ensures that communities and minorities have the right to preserve and promote their distinct culture, language, or script.
 - **Article 29(2)** further states that no citizen shall be denied admission to any educational institution maintained or aided by the State on grounds only of religion, race, caste, language, or any of them. This promotes equality and cultural diversity in educational settings.
2. **Article 30 – Right of minorities to establish and administer educational institutions:**
 - **Article 30** gives **religious and linguistic minorities** the right to establish and administer educational institutions of their choice.
 - This ensures that minorities can set up institutions that promote their language, culture, and religious values, helping preserve their unique cultural identity.

Key Aspects of Cultural Rights in India

1. **Protection of Language, Script, and Culture:**
 - Cultural rights ensure that linguistic and cultural minorities are able to use, teach, and promote their languages and scripts without facing discrimination.
 - The Constitution explicitly protects the right of minorities to conserve their languages, scripts, and cultures, which is essential for maintaining India's pluralistic society.
2. **Right to Establish Educational Institutions:**

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- As mentioned under **Article 30**, minorities have the right to establish educational institutions that teach their own languages and reflect their culture and traditions.
- This provision allows communities to safeguard and promote their culture through education, which is a key mechanism for the transmission of cultural values to future generations.

3. Preservation of Cultural Heritage:

- Cultural rights are not only about the protection of language and education but also about the preservation of tangible and intangible cultural heritage, such as arts, music, literature, dance forms, and traditional practices.
- The State is required to take steps to preserve and promote cultural diversity and heritage, as a part of its constitutional obligation to uphold **pluralism**.

29. Definition of State.

In the context of **Indian Constitutional Law**, the term "**State**" has a broader meaning than its ordinary usage, referring not just to the government, but to various agencies and instrumentalities exercising sovereign power in the country. The **State** is defined in **Article 12** of the **Constitution of India**. **Article 12** defines the **State** for the purposes of **Part III** (Fundamental Rights) of the Constitution. It reads:

"In this Part, unless the context otherwise requires, the State includes the Government and Parliament of India, and the Government and Legislature of each of the States, and all local or other authorities within the territory of India or under the control of the Government of India."

This definition is essential for understanding the scope of fundamental rights, as it determines which entities are bound by the constitutional provisions on fundamental rights.

Entities Included Under the Definition of "State"

- 1. Government of India:**
 - The **Union Government** (Central Government) is a part of the **State**. It includes the President, the Parliament, and the executive authorities of the Union.
- 2. State Governments:**
 - The **State Governments** of each of the 28 states and 8 Union Territories of India, which consist of the **Governor**, the **Legislature**, and the **Executive**.
- 3. Parliament of India:**
 - The **Indian Parliament**, consisting of the **Lok Sabha (House of the People)** and the **Rajya Sabha (Council of States)**, is included as part of the **State**.
- 4. Legislature of the States:**
 - The **Legislative Assemblies (Vidhan Sabhas)** and **Legislative Councils (Vidhan Parishads)** of the States and Union Territories.
- 5. Local Authorities:**
 - Local bodies such as **municipalities, panchayats, local boards**, and other similar entities that derive authority from the government. These can be urban or rural local government bodies.
 - **Article 243** defines "local authorities" to include **Panchayats** and **Municipalities** under Part IX and IX-A of the Constitution.
- 6. Other Authorities:**

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- The term "State" also includes any other authority or body that **exercises governmental power** and is controlled or created by the government. This could include **statutory bodies, regulatory authorities, public sector enterprises, boards, and commissions.**
- **Examples** include:
 - **Reserve Bank of India (RBI)**
 - **Public Service Commissions (e.g., UPSC, State PSCs)**
 - **Election Commission of India**
 - **Securities and Exchange Board of India (SEBI)**
 - **National Human Rights Commission (NHRC)**

These authorities are not explicitly part of the government but are regarded as the "State" because they function under the control or authority of the government.

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PART-B

Long Answers

1. Explain the salient features of the **Government of India Act 1935**, that made an impact on the present Constitution.

Or

Explain the making of Indian Constitution. Discuss the impact of the **Government of India Act, 1935** on it.

The **Government of India Act, 1935** was a significant piece of legislation that laid the groundwork for India's constitutional framework and played an important role in shaping the **Constitution of India, 1950**. The 1935 Act introduced a series of reforms that had a lasting impact on the political, administrative, and legal system of India. While it did not grant full independence, it was a major step towards self-governance. Here are the **salient features of the Government of India Act, 1935**, and the ways in which it influenced the **Indian Constitution**.

1. Federal Structure

- **Feature in the Government of India Act, 1935:**
 - The Government of India Act, 1935, introduced a **federal system** of government, which was like the structure seen in countries like Canada. It provided for a **Division of Powers**

between the **Central Government** and the **Provincial Governments**, which was delineated in two lists: the **Federal List**, the **Provincial List**, and the **Concurrent List**.

- The Act also introduced a **dual polity**, with a **Central Legislature** and a **Provincial Legislature**, both of which had their own powers and responsibilities.
- The **Provincial autonomy** was a key feature, as it gave more powers to the provinces, particularly in matters of **finance, education, and law and order**.
- **Impact on the Indian Constitution:**
 - The Indian Constitution adopted a **federal structure of government**, with a **strong Central Government** and a **Division of Powers** between the Centre and States.
 - The **Union List, State List, and Concurrent List** in the **Seventh Schedule** of the Constitution are directly inspired by the model in the 1935 Act.
 - The **federal system** outlined in the Act influenced the **framework of Centre-State relations** in the Indian Constitution, although the Constitution provides for a **stronger Union Government**.

2. Introduction of Dyarchy at the Provincial Level

- **Feature in the Government of India Act, 1935:**
 - The **Dyarchy** system (shared governance) introduced in the provinces by the Government of India Act, 1919, was continued in the 1935 Act. Under the 1935 Act, this system was **abolished** at the provincial level and replaced by a system of **full provincial autonomy**.
 - This change transferred significant administrative powers to elected provincial governments and ensured greater self-rule for provinces, especially in areas like **education, health, and local administration**.
- **Impact on the Indian Constitution:**
 - The system of **Provincial Autonomy** in the Government of India Act, 1935, formed the basis for the provisions regarding the **decentralization of powers** in the Indian Constitution.
 - The **provinces** were given full control over their internal affairs, a feature that was incorporated into the Indian Constitution through provisions that granted the States a wide range of **autonomy** in certain matters, though subject to Union control.

3. The Role of the Governor

- **Feature in the Government of India Act, 1935:**
 - The **Governor** had extensive powers under the Government of India Act, 1935, particularly in the provinces. The Governor could override decisions made by the **provincial government**, and in certain cases, could even dissolve the **Provincial Legislative Assembly**.
 - The Governor was a representative of the **British Crown**, and in cases where there were disagreements between the provincial ministers and the Governor, the Governor had the ultimate say in many matters, including **finance and legislation**.
- **Impact on the Indian Constitution:**
 - The Indian Constitution **retained** the position of the **Governor** in the states. However, the role of the Governor is more clearly defined and is intended to be a **constitutional head** of

the State, acting according to the advice of the **Council of Ministers** (Article 163 of the Constitution).

- The Governor's role as a **representative of the Union Government** in the state is influenced by the 1935 Act's provisions, but with more checks and balances to prevent the misuse of power.

4. The Bicameral Legislature

- **Feature in the Government of India Act, 1935:**
 - The 1935 Act provided for a **bicameral legislature** at the **Centre**. It created a **Council of States** (the Upper House) and the **Federal Assembly** (the Lower House), both of which had significant powers in the formulation of laws.
 - It also introduced provisions related to **elections, representation, and the franchise**, though the voting system was still based on a limited electorate.
- **Impact on the Indian Constitution:**
 - The Indian Constitution also adopted a **bicameral legislature** at the national level, consisting of the **Rajya Sabha** (Council of States) and the **Lok Sabha** (House of the People).
 - The bicameral system, with its provisions for **elections, representation, and franchise**, was drawn from the 1935 Act. The **Lok Sabha** and **Rajya Sabha** were modeled on the Federal Assembly and Council of States, respectively.

5. Reserved Subjects for the Central Government

- **Feature in the Government of India Act, 1935:**
 - The Act provided a list of subjects under which the **Central Government** could legislate, known as the **Federal List**. These included matters that were of national importance such as **defense, foreign affairs, and trade**.
 - The **Central Government** had control over key areas, while the **provinces** had powers in other areas that were not exclusively federal.
- **Impact on the Indian Constitution:**
 - The Indian Constitution retained the idea of a **Union List**, which enumerates subjects on which only the **Central Government** can legislate. These include areas such as **defense, foreign affairs, finance, and banking**.
 - The **Concurrent List** and **State List** were also carried over from the 1935 Act, with modifications to adapt to the needs of post-independence India.

6. The Federal Court

- **Feature in the Government of India Act, 1935:**
 - The Government of India Act, 1935, established the **Federal Court** of India, which was given the power to adjudicate disputes between the **Centre** and the **Provinces** or between the **provinces** themselves.
 - It was also empowered to hear appeals from the High Courts.
- **Impact on the Indian Constitution:**
 - The **Federal Court** was succeeded by the **Supreme Court of India** upon the adoption of the Indian Constitution in 1950.

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- The Constitution of India retains the **Judicial Review** power, allowing the judiciary to interpret the Constitution and adjudicate disputes between the **Centre** and the **States**, with the **Supreme Court** serving as the highest court of appeal.

7. Separation of Powers

- **Feature in the Government of India Act, 1935:**
 - The Act established the separation of powers between the **Executive**, **Legislature**, and **Judiciary** at both the central and provincial levels.
 - The Act introduced a system in which the **Governor** played a key role in the executive functions, which included control over finances and appointments, often bypassing the legislature.
- **Impact on the Indian Constitution:**
 - The Indian Constitution upholds the **doctrine of separation of powers**, but with more defined roles for each branch of government.
 - The **Executive**, **Legislature**, and **Judiciary** in India are separate but interdependent, ensuring a system of checks and balances.

The **Government of India Act, 1935** played a pivotal role in the constitutional evolution of India. Many of its provisions, such as **federalism**, **bicameralism**, **separation of powers**, **provinces' autonomy**, and **the Federal Court**, were incorporated and refined in the **Constitution of India**. While the 1935 Act served as a blueprint for constitutional governance, the Constitution of India made substantial changes to ensure that the new democratic republic was not only a **federation** but also a **sovereign state**, with a stronger **central government**, more **inclusive representation**, and greater protection of **individual rights**.



2. Explain the nature and salient features of Indian constitution.

The **Constitution of India** is the supreme law of India, laying down the framework for the governance of the country. It establishes the structure, powers, and duties of the various organs of government and defines the rights and duties of citizens. It is a **written** and **lengthy document**, incorporating various provisions that address the unique political, cultural, and social conditions of India.

The Constitution is a result of the country's historical evolution, designed to be flexible, yet rooted in the democratic, secular, and socialist ideals of the Indian state.

Nature of the Indian Constitution

1. **Written Constitution:**
 - The Indian Constitution is **written** and **rigid** in many aspects. It is a **comprehensive document** comprising **448 articles**, which are organized into **25 parts** and **12 schedules**.
 - It is the **longest written constitution** in the world, detailing the structure of government, the functioning of the legislature, executive, and judiciary, and the rights of the citizens.
2. **Federal in Nature, Unitary in Spirit:**

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- The Constitution sets up a **federal system of government**, with a **division of powers** between the **Centre** and the **States**. However, in times of national crisis (such as a war or emergency), the Constitution provides for a **unitary** system, in which the powers of the Centre become predominant.
 - This reflects the **unitary bias** in certain provisions, such as **Article 356 (President's Rule)** and the **distribution of powers** in the **Union List, State List, and Concurrent List**.
3. **Sovereign:**
- India is a **sovereign** state, meaning that the Indian state has full control over its internal and external matters. No external authority can impose its will on India.
 - **Article 1** of the Constitution declares India as a **sovereign, socialist, secular, democratic republic**.
4. **Democratic:**
- The Constitution establishes a **democratic republic** with a **multi-party system** and guarantees universal adult suffrage. Citizens have the right to vote in **free and fair elections** to elect their representatives.
 - **Direct and indirect elections** are provided for the **Lok Sabha, Rajya Sabha, Legislative Assemblies, and Legislative Councils**.
5. **Republic:**
- The Constitution declares India as a **republic**, meaning that the head of state, the **President**, is elected, and not a hereditary monarch. The President is the constitutional head of state, but executive powers lie with the **Council of Ministers** headed by the **Prime Minister**.
6. **Secular:**
- The Indian Constitution declares India a **secular state**, meaning there is no state religion. It guarantees **freedom of religion** to all citizens (under **Article 25-28**) and mandates that the state does not favor any religion.
7. **Socialist:**
- The term **socialist** was added to the Preamble by the **42nd Amendment Act, 1976**. It reflects the commitment to achieving **social and economic justice** for all citizens. The aim is to reduce economic disparities and ensure equitable distribution of wealth and resources.
 - The Constitution provides for the **Right to Work, Right to Livelihood, and State-directed social and economic planning** to address poverty, unemployment, and inequality.

Salient Features of the Indian Constitution

1. **Preamble:**
- The **Preamble** of the Indian Constitution sets out the **objectives** of the Constitution. It reflects the aspirations of the Indian people and outlines the principles of **justice, liberty, equality, and fraternity**.
 - The Preamble mentions India as a **sovereign, socialist, secular, democratic republic**, and emphasizes the values of **social, economic, and political justice**.
2. **Fundamental Rights (Part III):**
- The Constitution guarantees **Fundamental Rights** to all citizens of India, which include the **Right to Equality, Right to Freedom, Right against Exploitation, Right to Freedom of Religion, Cultural and Educational Rights, and the Right to Constitutional Remedies** (which enables citizens to approach courts for the enforcement of their rights).
 - These rights are **justiciable**, meaning they can be enforced by the courts.

3. Directive Principles of State Policy (Part IV):

- The **Directive Principles of State Policy (DPSP)** are guidelines or principles for the **governance of the country**, intended to establish a social order in which justice—social, economic, and political—shall inform all institutions of national life.
- Although these principles are not justiciable (not enforceable in courts), they are fundamental in the governance of the country and aim to create social and economic conditions under which citizens can lead a good life.

4. Independence of the Judiciary:

- The Indian Constitution provides for an **independent judiciary**, headed by the **Supreme Court of India**. The judiciary has the power to **review** laws passed by the legislature and ensure they comply with the Constitution.
- **Judicial Review** is a key feature that empowers courts to examine the constitutionality of laws, executive actions, and policies.

5. Fundamental Duties (Part IVA):

- The Constitution lists **Fundamental Duties** (under **Article 51A**) that citizens are expected to follow. These duties are intended to promote a sense of responsibility among citizens and include respecting the national flag and the Constitution, safeguarding public property, and preserving the environment.
- These duties are not legally enforceable but act as a moral compass for the citizens of India.

6. Single Citizenship:

- The Indian Constitution provides for a **single citizenship**, which means that all citizens, regardless of the state they reside in, are citizens of India. This is in contrast to **dual citizenship**, which is practiced in some other countries.

7. Secularism:

- Secularism in India ensures that **religion and state** are kept separate. The state does not promote or interfere in religious practices. Every individual has the **freedom to practice, profess, and propagate any religion** of their choice.

8. Bicameral Legislature:

- The Indian Parliament consists of two houses:
 - **Lok Sabha** (House of the People) – the lower house, with directly elected representatives.
 - **Rajya Sabha** (Council of States) – the upper house, with members elected by the state legislatures or appointed by the President.
- This system is modeled after the **Westminster-style parliamentary system**.

9. Universal Adult Franchise:

- The Constitution guarantees **universal adult suffrage**, meaning every citizen of India, above the age of 18, has the right to vote, irrespective of religion, caste, gender, or education.

10. Amendment Process:

- The Constitution provides a **flexible amendment process** under **Article 368**. While certain provisions can be amended by a simple majority, others require a **special majority** or **ratification by States**. This ensures that the Constitution remains adaptable to the changing needs of the country.

11. Emergency Provisions:

- The Constitution provides for the declaration of an **emergency** under **Article 352** (National Emergency), **Article 356** (President's Rule in States), and **Article 360** (Financial Emergency).
- These provisions allow the **Central Government** to take special measures during times of war, rebellion, or financial crisis.

12. Official Language:

- **Hindi** is the official language of the Indian government, as per **Article 343**, but **English** is also used for official purposes.
- The Constitution allows states to adopt their own languages for official use in their respective regions.

Conclusion: The Indian Constitution is a **comprehensive, democratic, and flexible document** designed to meet the diverse needs of a vast and pluralistic country. It provides for a **federal structure**, while ensuring a **unitary bias** in times of crisis. It guarantees **Fundamental Rights**, aims to achieve **social justice** through **Directive Principles**, and sets up an **independent judiciary** to safeguard the rule of law. The Constitution is dynamic and can be amended to adapt to the changing needs of society, yet it preserves the core values that ensure justice, liberty, and equality for all citizens.



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3. Discuss the significance of preamble in the Constitution of India and discuss whether it forms a part of the constitution or not?

The **Preamble** is a brief introductory statement that sets forth the guiding principles, objectives, and philosophy of the Indian Constitution. It reflects the ideals that the framers of the Constitution aspired to achieve in the governance of India. The Preamble is often referred to as the **soul** of the Constitution, as it outlines the aspirations and core values on which the entire document is built.

The Preamble encapsulates the **philosophical essence** and **fundamental principles** that guide the Indian polity. It reflects the **objectives** and **vision** of the Constitution in achieving justice, liberty, equality, and fraternity for all citizens of India.

Key Elements of the Preamble:

1. We, the People of India:

- It signifies that the Constitution derives its authority from the **people of India** and not from any external or foreign power. This embodies the democratic principle of **popular sovereignty**.

2. Sovereign:

- India is a **sovereign** state, meaning that it has full control over its internal and external affairs without any interference from outside.

3. **Socialist:**

- The term **socialist** was added by the **42nd Amendment Act of 1976**. It reflects India's commitment to achieving **social and economic justice**, reducing inequalities, and ensuring equitable distribution of resources among its citizens.

4. **Secular:**

- India is a **secular** state, meaning that the government does not favor any religion. The Preamble upholds the **freedom of religion** for every individual, promoting a society based on **tolerance** and **pluralism**.

5. **Democratic:**

- India is a **democratic** republic, meaning that it follows the principle of **popular sovereignty** where the people elect their representatives, and the head of state is elected, not a hereditary monarch.

6. **Republic:**

- India is a **republic**, meaning that the head of the state is the **President**, who is elected, not a monarch. This reflects the democratic nature of the Indian state.

7. **Justice:**

- The Preamble stresses **social, economic, and political justice**, highlighting the need to address historical inequalities, promote fairness, and uphold human dignity.

8. **Liberty:**

- It guarantees **liberty of thought, expression, belief, faith, and worship**, which reflects the importance of **freedom** for every individual in India.

9. **Equality:**

- It seeks to ensure **equality of status and opportunity** for all citizens, thereby aiming to eliminate discrimination based on caste, religion, gender, or any other factor.

10. **Fraternity:**

- The Preamble emphasizes **fraternity**, promoting a sense of unity, brotherhood, and a **common national identity** among the people of India. It also upholds the **dignity of the individual** and **integrity of the nation**.

The significance of the Preamble also lies in the question of whether it forms a part of the Constitution. Initially, it was debated whether the Preamble had any **legal force** or if it was just a **statement of objectives** without any binding legal effect.

The **Supreme Court of India** has, however, clarified this matter in several rulings, and it can now be stated with confidence that the **Preamble is part of the Constitution** and has a **legal significance**, although it does not have the same force as the Articles.

1. **Kesavananda Bharati v. State of Kerala (1973):**

- The Supreme Court in this landmark case held that the **Preamble forms an integral part** of the Constitution. It can be used as a **guiding light** for interpreting the provisions of the Constitution, although it is not enforceable by itself in a court of law.
- The Court acknowledged that the Preamble reflects the **fundamental values** and **philosophical framework** of the Constitution, and it helps to **interpret** and **understand** the provisions contained within it.

2. **Union of India v. Dr. M. Shrinivasan (1996):**

- In this case, the Supreme Court reiterated that the **Preamble** is an important part of the Constitution, even though it is not an enforceable part in the sense that it cannot override the **substantive provisions** of the Constitution.
3. **Provisions of the Preamble are not enforceable:**
- The Preamble does not confer any specific rights and cannot be invoked in court for the enforcement of a right. However, it serves as a **guide** to the interpretation of the Constitution.
 - For instance, when interpreting **Fundamental Rights** or **Directive Principles of State Policy**, the **values** in the Preamble may be used to understand the broader objectives of the Constitution.
4. **The Preamble cannot be amended:**
- The **basic structure** doctrine, as laid down in **Kesavananda Bharati case**, suggests that the basic features of the Constitution cannot be altered by amendments. While the **Preamble** may be amended (as it was in 1976 to add the words **socialist** and **secular**), any such amendment must be in line with the **basic structure** of the Constitution.

Conclusion: The **Preamble** of the Indian Constitution is a **vital part** of the Constitution, encapsulating the **values, objectives, and philosophical principles** that the Constitution aims to achieve. While the Preamble is not enforceable as law in the same manner as the Articles of the Constitution, it forms a **guiding tool** for interpreting the Constitution and understanding the intentions of the framers. The Supreme Court has consistently upheld the Preamble as an integral part of the Constitution, and it remains a cornerstone for the interpretation of constitutional provisions.

3. What are the provisions relating to equality under the Constitution of India? What do you understand by the doctrine of reasonable classification?

The **right to equality** is one of the fundamental rights guaranteed by the **Constitution of India** under **Part III**, particularly **Articles 14 to 18**. These articles ensure that every individual is treated equally and without discrimination before the law.

1. Article 14: Equality before Law

- **Article 14** guarantees **equality before the law** and **equal protection of the laws** within the territory of India.
- **Equality before the law** means that no person, irrespective of their rank, position, or status, is above the law.
- **Equal protection of the laws** means that the laws must apply equally to all individuals who are similarly situated. It also implies that laws should not arbitrarily discriminate between individuals or groups.

2. Article 15: Prohibition of Discrimination on Grounds of Religion, Race, Caste, Sex, or Place of Birth

- **Article 15** prohibits discrimination by the state against any individual on the basis of religion, race, caste, sex, or place of birth.
- It mandates that there shall be no discrimination by the state in matters related to **public employment, public facilities, and educational institutions**.

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- However, **Article 15(3)** allows the state to make special provisions for women and children, and **Article 15(4)** permits the state to make affirmative action for the **advancement of socially and educationally backward classes**.

3. Article 16: Equality of Opportunity in Public Employment

- **Article 16** ensures **equality of opportunity** in matters of public employment. No person shall be discriminated against in the matter of employment in the government or its institutions based on religion, race, caste, sex, descent, place of birth, or residence.
- It allows for reservations in public employment to promote social justice and affirmative action for backward classes, Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes (OBCs), provided such provisions are made through law.

4. Article 17: Abolition of Untouchability

- **Article 17** abolishes **untouchability** and forbids its practice in any form. It is a **constitutional offense** for any person or institution to discriminate against or treat any individual as "untouchable."
- The practice of untouchability has been outlawed, and this is a crucial step towards promoting **social equality**.

5. Article 18: Abolition of Titles

- **Article 18** prohibits the government from granting any **titles** to individuals, except military or academic distinctions.
- This provision ensures that no individual is given special recognition or privileges based on titles, which promotes the idea of **equality of status**.

Doctrine of Reasonable Classification

The **doctrine of reasonable classification** is an important aspect of **Article 14**, which deals with the concept of **equality before the law** and **equal protection of the laws**. While the law guarantees equality, it also acknowledges that there can be reasonable classifications or distinctions between different groups or individuals. These distinctions must be based on **intelligible differentia** and must have a **rational nexus** with the object of the legislation.

Key Features of the Doctrine of Reasonable Classification:

1. Intelligible Differentia:

- The law may treat different groups or categories of persons differently, but the classification must be based on **distinct characteristics** or **differences** that are recognizable and justifiable.
- The group or category to which a person belongs must share a common feature that distinguishes them from others.

For example, laws that provide for reservations in education or employment for Scheduled Castes or Scheduled Tribes are based on an intelligible differentia because these groups have historically faced social and economic discrimination.

2. Rational Nexus:

- The classification must have a **rational connection** or **nexus** to the object or purpose of the law or policy.
- The difference between the two classes must be such that it is reasonable to treat them differently, based on the aim that the law seeks to achieve.

For example, a law that provides for preferential treatment to the backward classes is intended to promote **social and educational equality**, and the classification (backward classes) is rationally connected to this goal.

Application of the Doctrine:

The doctrine of reasonable classification allows the state to make distinctions in the application of laws, if they do not violate the principles of **equal protection** or **arbitrary discrimination**.

The **Supreme Court of India** has often applied the doctrine in various cases to determine the **validity of laws or policies** that create classifications. The Court examines whether:

- The classification is **based on an intelligible differentia**.
- The differentia has a **rational nexus** to the object of the law.

Cases that Define the Doctrine:

1. **State of West Bengal v. Anwar Ali Sarkar (1952):**
 - The Supreme Court in this case laid down the principle that the classification must not be arbitrary and must have a **reasonable relation** to the object of the statute.
2. **Chiranjit Lal Choudhury v. Union of India (1950):**
 - In this case, the Court held that reasonable classification is permissible under **Article 14**, as long as it is not **arbitrary** and has a **rational connection** to the purpose of the legislation.
3. **D. S. Nakara v. Union of India (1983):**
 - The Supreme Court applied the doctrine to uphold the validity of laws that treat different groups (pensioners in this case) differently based on their conditions, ensuring that the classification is reasonable and serves the purpose of providing adequate relief to the needy.
4. **M. Nagraj v. Union of India (2006):**
 - This case further clarified the **reasonableness** of the classification in affirmative action policies, particularly regarding reservations. The Court ruled that the State can make special provisions for backward classes, but such provisions should not undermine the principle of **equality** and should have a reasonable foundation.

The **provisions relating to equality** under the Constitution of India guarantee **equal treatment** to all citizens and prohibit discrimination on various grounds such as religion, caste, sex, and place of birth. These provisions reflect the **democratic** and **egalitarian** ideals on which the Constitution is based.

The **doctrine of reasonable classification** allows the state to create classifications or distinctions between individuals or groups, provided these classifications are **rational** and have a **reasonable relation** to the object of the legislation. This doctrine ensures that the state can make laws that provide for **positive discrimination** or affirmative action (such as reservations for backward classes) while upholding the principle of equality enshrined in **Article 14**.

4. Explain the different Constitutional remedies in the enforcement of Fundamental Rights.

Constitutional Remedies for the Enforcement of Fundamental Rights in India

The **Fundamental Rights** under **Part III** of the **Indian Constitution** are essential for the protection of individual freedoms and dignity. To ensure that these rights are safeguarded, the Constitution provides various **remedies** for their enforcement. These remedies are primarily outlined in **Article 32** and **Article 226** of the Constitution, and they empower individuals to seek legal relief when their Fundamental Rights are violated.

1. Article 32: Right to Constitutional Remedies

Article 32 is considered the **"heart"** and **"soul"** of the Constitution as it provides the right to individuals to directly approach the **Supreme Court** for the enforcement of their Fundamental Rights.

Key Provisions of Article 32:

- **Right to Move the Supreme Court:**
 - **Article 32(1)** guarantees that **any person** whose Fundamental Rights have been violated can directly approach the **Supreme Court of India** for the enforcement of those rights.
 - This is a **fundamental right** and cannot be suspended or restricted by the legislature or the executive.
- **Power of the Supreme Court to Issue Writs:**
 - **Article 32(2)** authorizes the Supreme Court to issue **writs** to enforce Fundamental Rights. These writs are judicial orders directing the government or authorities to act or refrain from acting in a particular way.
 - The types of writs that the Supreme Court can issue are the same as those under **Article 226** (discussed below).
- **Remedies Available:**
 - **Article 32(3)** allows the Parliament to **authorize** the **High Courts** to also issue writs for the enforcement of Fundamental Rights, but the Supreme Court remains the primary forum for such remedies.
 - The **Supreme Court** under Article 32 provides quick and effective remedies to individuals whose Fundamental Rights have been infringed.

Importance of Article 32:

- **Article 32** is an **enforceable right** and serves as a **guarantee** for the protection of Fundamental Rights.
- It is a **direct** remedy for violations of Fundamental Rights, ensuring that citizens can approach the highest court in the land without going through any lower courts.

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- In **Minerva Mills Ltd. v. Union of India (1980)**, the Supreme Court emphasized that the right to move the Supreme Court for the enforcement of Fundamental Rights is a **basic feature** of the Constitution and cannot be taken away by Parliament.

2. Writs Under Article 32 and Article 226

Both the **Supreme Court** and the **High Courts** have the power to issue writs for the enforcement of Fundamental Rights. These writs are a mechanism to challenge unlawful actions or omissions that violate constitutional rights.

The Five Types of Writs:

1. Habeas Corpus:

- **Meaning:** "You may have the body."
- **Purpose:** This writ is issued to **produce a person** who has been unlawfully detained before the court. It ensures that no person is deprived of their liberty without legal justification.
- **Example:** If a person is illegally arrested or detained by the authorities, they or their legal representative can file a writ of habeas corpus for their release.

2. Mandamus:

- **Meaning:** "We command."
- **Purpose:** This writ is issued by a court to **compel** a public authority to perform its **public duty** or act in accordance with the law. It can also be used to prevent a public authority from acting beyond its jurisdiction.
- **Example:** If a government official refuses to perform a duty imposed by law, a writ of mandamus can compel them to fulfill that duty.

3. Prohibition:

- **Meaning:** "To forbid."
- **Purpose:** This writ is issued by a higher court to **stop** a lower court or tribunal from exceeding its jurisdiction or from acting in a matter that it is not legally empowered to decide.
- **Example:** If a lower court is hearing a case that is outside its jurisdiction, the higher court can issue a writ of prohibition to halt the proceedings.

4. Certiorari:

- **Meaning:** "To be certified."
- **Purpose:** This writ is issued by a higher court to **quash** an order or decision made by a lower court or tribunal that has acted beyond its jurisdiction or made an error in law.
- **Example:** If a lower court passes an order that is against the law or its jurisdiction, the higher court can issue certiorari to set aside or annul that decision.

5. Quo Warranto:

- **Meaning:** "By what authority."
- **Purpose:** This writ is issued to **challenge the legality** of a person's claim to a public office. It is used to prevent someone from holding a public office to which they are not entitled.
- **Example:** If a person is holding a public office without legal authority, a writ of quo warranto can be filed to remove them from the office.

3. Article 226: Power of High Courts to Issue Writs

While **Article 32** deals with the power of the **Supreme Court**, **Article 226** gives **High Courts** the power to issue writs for the **enforcement of Fundamental Rights** as well as for the enforcement of any other legal right.

Key Provisions of Article 226:

- **High Courts' Jurisdiction:**
 - Article 226 empowers any **High Court** to issue writs in the nature of **habeas corpus, mandamus, prohibition, certiorari, and quo warranto** for the enforcement of Fundamental Rights and other legal rights within the jurisdiction of the respective High Court.
- **Wide Scope:**
 - Unlike Article 32, which deals specifically with Fundamental Rights, **Article 226** allows a High Court to entertain petitions not only for the enforcement of Fundamental Rights but also for the enforcement of other legal rights, as long as they fall within the jurisdiction of that High Court.

Difference between Articles 32 and 226:

- **Jurisdiction:** While **Article 32** gives the **Supreme Court** the power to enforce Fundamental Rights, **Article 226** allows **High Courts** to issue writs within their territorial jurisdiction.
- **Scope:** **Article 32** is more focused on **enforcing Fundamental Rights**, whereas **Article 226** has a broader scope, including the enforcement of **other legal rights**.

4. Article 32 vs. Article 226: Differences and Relationship

1. **Supreme Court vs. High Courts:**
 - Article 32 provides direct access to the **Supreme Court** for the enforcement of Fundamental Rights, while **Article 226** provides access to **High Courts** for similar relief within their jurisdiction.
2. **Fundamental Rights vs. Other Rights:**
 - Article 32 specifically deals with the enforcement of **Fundamental Rights**, whereas **Article 226** can enforce **both Fundamental Rights and other legal rights**.
3. **Precedence:**
 - The Supreme Court, being the highest court of the country, has precedence in matters of enforcing Fundamental Rights under Article 32. However, in cases where a High Court can provide the necessary remedy under Article 226, individuals can approach the High Court first.

The **Constitution of India** provides robust remedies for the enforcement of **Fundamental Rights** through **Articles 32 and 226**. Article 32, which allows individuals to directly approach the **Supreme Court**, is a fundamental right that serves as the "**right to constitutional remedies**" and ensures the protection of personal liberties and freedoms. Both **Supreme Court** and **High Courts** have the power to issue writs such as **habeas corpus, mandamus, prohibition, certiorari, and quo warranto** to safeguard the rights of individuals. These remedies serve as **effective tools** for the protection and enforcement of **Fundamental Rights**, upholding the constitutional values of justice, equality, and liberty.



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5. Explain the concept of a 'State' with reference to Article 12 and examine the authorities constitutes any other authority' with the help of Case-law evolved by the Supreme Court.

Concept of 'State' under Article 12 of the Indian Constitution

The term 'State' in the context of **Article 12** of the **Indian Constitution** is crucial for understanding the scope of Fundamental Rights and their enforcement against various authorities. Article 12 specifically defines the entities that come within the ambit of the term "State," allowing individuals to approach courts for the enforcement of their **Fundamental Rights** against these authorities.

Text of Article 12:

"In this Part, unless the context otherwise requires, the term 'State' includes the Government and Parliament of India, the Government and the Legislature of each State, and all local or other authorities within the territory of India or under the control of the Government of India."

According to **Article 12**, the **State** includes:

1. **Government and Parliament of India:** This refers to the executive and legislative bodies at the **central level**.
2. **Government and Legislature of each State:** This includes the executive and legislative bodies at the **state level**.
3. **Local Authorities:** This encompasses various **local bodies** like municipalities, panchayats, and other similar entities that are functioning within the territory of India.
4. **Other Authorities:** This is a broad category and includes any authority that exercises governmental powers or functions within India or under the control of the Government of India.

Purpose of Defining 'State' under Article 12:

- **To broaden the scope of Fundamental Rights enforcement:** The inclusion of entities like **local authorities** and **other authorities** ensures that **Fundamental Rights** can be enforced not only against the central government or state governments but also against any governmental or quasi-governmental body, which exercises powers or functions derived from the government.
- **Ensuring accountability:** It prevents public authorities, exercising powers under the Constitution or statutory laws, from violating the Fundamental Rights of individuals.

Interpretation of 'Other Authorities' in Article 12

The term '**other authorities**' has been the subject of significant judicial interpretation by the **Supreme Court of India**. The Court has given a wide and expansive interpretation to the term, recognizing that any

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authority or body which performs **public duties** or is **funded by the government** can be considered as a 'State' under Article 12.

Case Law Evolution:

1. **R. D. Shetty v. International Airport Authority of India (1979):**
 - In this landmark case, the Supreme Court held that the **International Airport Authority of India (IAAI)** was an authority within the meaning of Article 12. The Court emphasized that the **IAAI**, though a **corporation**, was created by the government and controlled by it, thus falling within the definition of '**other authorities**'.
 - **Key Takeaway:** The test laid down in this case was that **even if the body is a corporation**, if it performs functions of a public nature and is substantially controlled or funded by the government, it can be considered as a "State" under Article 12.
2. **Ajay Hasia v. Khalid Mujib (1981):**
 - In this case, the Supreme Court dealt with the question of whether an educational institution receiving government grants could be considered a '**State**' under Article 12. The Court ruled that the **Jamia Millia Islamia University**, receiving substantial aid from the government, was a State because its **functional control** and **substantial funding** came from the government.
 - **Key Takeaway:** The Court observed that a body could be treated as '**State**' if it is under **substantial government control**, even if it is not a government entity by its formal structure.
3. **S. R. Bommai v. Union of India (1994):**
 - The Supreme Court dealt with the issue of whether the **President of India** could dissolve a state government under Article 356, and in doing so, the Court reaffirmed that **all governmental authorities**—whether at the **central** or **state level**—are included in the term '**State**' under Article 12.
 - **Key Takeaway:** This case reiterated that **any body or authority exercising powers under the government's direction or control** falls within the scope of the term '**State**'.
4. **Pradeep Kumar Biswas v. Indian Institute of Chemical Biology (2002):**
 - In this case, the Supreme Court examined whether the **Indian Institute of Chemical Biology**, which was a **government-funded autonomous body**, could be considered a **State**. The Court concluded that the Institute was not a **State** because it had **operational autonomy** and was not under **substantial government control**.
 - **Key Takeaway:** The Court applied the **test of control** to determine whether a body is a **State** under Article 12, emphasizing that mere government funding or the fact that it is an **autonomous body** is not sufficient; there must be **substantial control** over its functioning.
5. **U.P. State Road Transport Corporation v. U.P. Parivahan Nigam Sewa (1995):**
 - The Supreme Court ruled that the **U.P. State Road Transport Corporation**, as a **public sector undertaking**, was a **State** under Article 12 due to its significant government ownership and its role in providing public services.
 - **Key Takeaway:** The Court reaffirmed that **government-owned corporations** or entities, which perform public duties and are funded or controlled by the government, fall under the category of '**State**'.

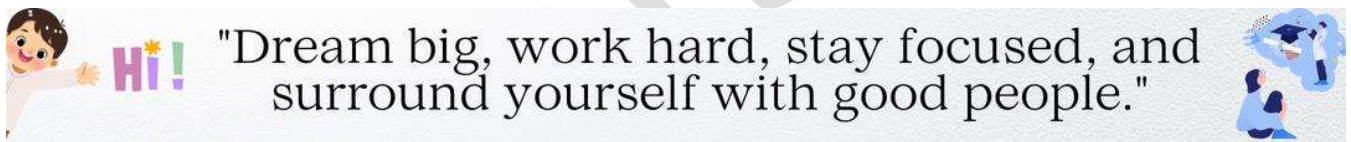
Criteria for Determining Whether an Authority is a 'State' under Article 12

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From the above cases, the Supreme Court has developed the following broad **criteria** for determining whether an entity is a 'State' under Article 12:

1. **Government Control:** The authority must be substantially controlled, managed, or financed by the government. A high degree of **government control** or **substantial government funding** is a key factor.
2. **Public Function:** The authority must be performing **public functions** or functions that are of **public importance**. If the body performs functions that are ordinarily performed by the government or if it is charged with public duties, it may be considered a 'State'.
3. **Governmental Power:** The entity should have some form of **governmental power**, such as the power to **regulate** or **tax** the public or the power to affect the legal rights and duties of individuals.
4. **Legal Status:** The body may be a **corporation** or an **autonomous body**, but if its functions are closely tied to governmental powers or if it receives substantial funding or control from the government, it can still be considered a 'State'.

The concept of 'State' under **Article 12** is broad and inclusive, and it encompasses the **Government of India, State Governments, Parliament, Legislatures, local authorities, and other authorities** that exercise governmental powers. Through judicial interpretations, particularly in **landmark cases**, the Supreme Court has expanded the definition of 'State' to include a variety of **autonomous bodies, public sector undertakings**, and other entities that perform **public functions** and are substantially controlled or financed by the government. This ensures that individuals can approach the **Supreme Court or High Courts** for the enforcement of **Fundamental Rights** not only against government agencies but also against entities performing public functions under government control.



6. Discuss the Original Justification of the Supreme Court to enforce fundamental right Under Article 32 of the Indian Constitution.

Article 32 of the Indian Constitution provides the **right to constitutional remedies**, which is a crucial mechanism for protecting **Fundamental Rights**. The original justification for the inclusion of **Article 32** in the Constitution was grounded in the belief that Fundamental Rights should be **justiciable**, and that individuals must have the ability to seek judicial relief if their rights are violated. **Article 32** is considered the **heart and soul** of the Constitution, as it provides the primary means to ensure the protection of fundamental freedoms and liberties.

Text of Article 32:

"In this Part, unless the context otherwise requires, the term 'State' includes the Government and Parliament of India, the Government and the Legislature of each State, and all local or other authorities within the territory of India or under the control of the Government of India."

Article 32 provides the right to **approach the Supreme Court directly** for the enforcement of Fundamental Rights, making it an **important safeguard** for individuals against any violation by the state or its agencies.

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Original Justification for Article 32: The original justification for **Article 32** in the Indian Constitution can be traced back to **Dr. B.R. Ambedkar's** vision and the **Constituent Assembly debates**, which emphasized the **centrality of the judiciary** in protecting the **fundamental freedoms** of the people. The key arguments and ideas that justify the inclusion of Article 32 can be summarized as follows:

1. Empowering Individuals to Protect Their Rights:

The **Fundamental Rights** under **Part III** of the Constitution are meant to safeguard the **basic dignity** and **freedom** of every individual. However, these rights would be of little value if there were no effective mechanism for their enforcement. **Article 32** ensures that **every citizen** has the **right to approach the Supreme Court** for the enforcement of these rights. Dr. Ambedkar and other framers of the Constitution wanted to make it clear that the **Supreme Court** would be the **final arbiter** in matters related to the protection of these rights.

- **Key Point:** The justification was that **Fundamental Rights must be justiciable**, and individuals should have an accessible and effective remedy if these rights are infringed upon by the state.

2. Judicial Review and Independence of the Judiciary:

The **Supreme Court's role** in enforcing Fundamental Rights under Article 32 is closely tied to the **doctrine of judicial review**, which allows the judiciary to review laws and actions of the executive and legislature to ensure they conform to the Constitution. **Article 32** was designed to reinforce **judicial supremacy** and **independence**, ensuring that the judiciary could independently act without interference from the government or any other body in protecting individual rights.

- **Key Point:** The framers of the Constitution believed that an **independent judiciary** was necessary to **uphold the rule of law** and protect the rights of individuals against arbitrary actions by the executive or legislature.

3. Direct Access to the Supreme Court:

The **direct access to the Supreme Court** for the enforcement of Fundamental Rights under Article 32 was a **unique feature** of the Indian Constitution. This allowed individuals to approach the **highest judicial authority** in the country without needing to go through lower courts. The framers believed that this would ensure a **quick and effective remedy**, as the **Supreme Court** could directly intervene in cases where fundamental rights were violated.

- **Key Point:** **Direct access to the Supreme Court** under **Article 32** was justified as an essential part of ensuring **expeditious justice** in cases of rights violations.

4. Protection Against Tyranny of the Majority:

Another significant justification for **Article 32** was to provide a mechanism for protecting minorities or individuals against the **tyranny of the majority**. Since fundamental rights are designed to protect individuals from state oppression, the framers wanted to ensure that these rights could not be easily infringed upon, even by a **majority government**. The **judicial mechanism** provided in Article 32 allows for **judicial oversight**, ensuring that no law or government action can violate the rights of individuals.

- **Key Point: Article 32** is a safeguard against **majoritarian tyranny** and is meant to protect the **minority's rights** from being trampled upon by the majority.

5. Ensuring Constitutional Supremacy:

The inclusion of Article 32 also reflects the commitment of the framers to **constitutional supremacy**. By providing a **right to constitutional remedies**, Article 32 reinforces the idea that the **Constitution is the supreme law of the land**, and any law or action that is inconsistent with the Constitution must be struck down. **Article 32** ensures that the **Supreme Court** can declare laws or actions violating Fundamental Rights as **unconstitutional** and can provide effective remedies to individuals.

- **Key Point: Article 32** was justified as a mechanism to **ensure constitutional supremacy** by allowing the Supreme Court to enforce the Constitution directly.

Significance of Article 32:

1. Ensures the Rule of Law:

- By allowing individuals to seek judicial intervention for violations of their fundamental rights, Article 32 ensures that the **rule of law** is upheld. The government is bound by the law, and no individual or authority is above it.

2. Judicial Remedy:

- The **right to approach the Supreme Court** is a **fundamental right** in itself, providing citizens with the necessary tool to protect their liberties. In **Minerva Mills Ltd. v. Union of India (1980)**, the Supreme Court held that Article 32 is a **basic feature** of the Constitution, and its scope cannot be curtailed.

3. Pivotal Role in the Protection of Rights:

- **Article 32** makes it clear that the **enforcement of Fundamental Rights** is a central feature of the Constitution. Without a direct remedy available to citizens, the promise of fundamental rights would be rendered ineffective.

4. Remedies for Violations:

- The **Supreme Court** can issue **writs** (habeas corpus, mandamus, certiorari, prohibition, and quo warranto) for the enforcement of Fundamental Rights. This judicial power ensures that individuals can seek effective relief against any violation of their rights.

The **original justification** for the **inclusion of Article 32** in the Constitution of India was based on the recognition that **Fundamental Rights** are the core of individual freedoms, and there must be an **effective and accessible remedy** to protect them. Dr. B.R. Ambedkar and other framers of the Constitution believed that **direct access** to the **Supreme Court**, coupled with the power to issue **writs**, would serve as the **final safeguard** against violations of fundamental rights. In doing so, **Article 32** ensured that the **rule of law** would prevail, that **constitutional supremacy** would be upheld, and that **individual liberties** would be effectively protected against any governmental infringement.

7. Critically examine the meaning and scope of the freedom of speech and expression and the reasonable restrictions imposed

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Analyse the scope, nature and extent of the freedom of speech and expression in India.

Or

Comment on the scope of freedom of speech and expression in India.

Freedom of Speech and Expression under the Constitution of India:

Article 19(1)(a) of the **Indian Constitution** guarantees the **freedom of speech and expression** to all citizens. This right is one of the **fundamental rights** that lie at the core of democratic governance, enabling individuals to freely express their views, opinions, beliefs, and ideas. It is an essential element for the **functioning of democracy**, the **promotion of individual autonomy**, and the **development of society**.

Text of Article 19(1)(a):

"All citizens shall have the right to freedom of speech and expression."

This freedom includes the right to **express opinions**, the right to **receive and impart information**, the right to **debate**, the **freedom of the press**, and the right to **artistic expression**.

Scope and Meaning of the Freedom of Speech and Expression:

1. Right to Express Ideas and Opinions:

- The **freedom of speech and expression** means that every individual has the **right to voice their thoughts** or **opinions** freely. This includes expressing views on social, political, and economic issues. It extends to both **oral** and **written** communication, and the right is applicable in **public spaces**, through **media**, **internet**, and other forms of **expression**.

2. Freedom of the Press:

- The **press** is an important instrument in shaping public opinion and **informing the public** about issues of public importance. The right to freedom of speech includes the **freedom of the press**, which allows the media to function without undue interference from the government. **Freedom of the press** is fundamental to ensuring transparency, accountability, and an informed citizenry.

3. Right to Receive Information:

- The scope of freedom of speech and expression also extends to the **right to receive information**. Citizens have the right to access information held by the government or other bodies that may affect their rights and interests, and this is enshrined in laws such as the **Right to Information Act, 2005**.

4. Artistic Expression:

- The scope of this freedom also includes the right to **artistic expression**. This can take the form of music, literature, dance, and other cultural activities. Creative and artistic works contribute to the cultural and intellectual development of society.

5. Right to Protest and Assemble:

- **Protesting** against government policies or actions is also an expression of dissent, and it is protected under the freedom of speech and expression, subject to the imposition of **reasonable restrictions** (discussed below).

Reasonable Restrictions on the Freedom of Speech and Expression:

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Although **freedom of speech and expression** is a **fundamental right**, it is not absolute. **Article 19(2)** permits the government to impose **reasonable restrictions** on this freedom on the following grounds:

1. Security of the State:

- Freedom of speech can be restricted if the expression **endangers the security of the state**, including the **sovereignty** and **integrity** of India. For example, **speech promoting violence**, or **inciting rebellion** against the government, can be restricted to ensure national security.
- **Example: Kedar Nath Singh v. State of Bihar (1962)** – The Supreme Court held that a person cannot be punished for speech unless it **incites violence** or **promotes public disorder**.

2. Friendly Relations with Foreign States:

- Speech that **threatens or harms relations** with foreign nations can be restricted. This is particularly important in cases involving **national security** or **international diplomacy**.
- **Example:** Speech that involves **hate speech** or **incitement to war** against another country could be restricted to protect the country's international relations.

3. Public Order:

- The freedom of speech can be restricted if the expression **disturbs public order** or creates situations of **chaos, violence, or lawlessness**.
- **Example: Chandini v. Delhi (1951)** – The court held that the restriction on speech for the sake of **public order** is valid if the expression leads to **violence** or public unrest.

4. Decency or Morality:

- Restrictions may be imposed if speech violates public standards of **decency** or **morality**. This ensures that harmful or obscene material does not circulate freely in society.
- **Example: Ranjit D. Udeshi v. State of Maharashtra (1965)** – The Supreme Court upheld the **prohibition on obscene publications**, especially in relation to **pornographic materials**.

5. Contempt of Court:

- The freedom of speech can be restricted if the speech **undermines the authority of the court** or **disrupts the administration of justice**. This prevents interference with ongoing legal proceedings or attempts to **discredit** the judiciary.
- **Example:** Speech that **contempts** or criticizes the judiciary in a manner that may **undermine public confidence** in the judicial system can be restricted.

6. Defamation:

- Freedom of speech does not include the right to make statements that harm a person's reputation without justification. **Defamation** laws ensure that people can protect their **honor** and **dignity** from false and malicious statements.
- **Example: Subramanian Swamy v. Union of India (2016)** – The Supreme Court upheld the **validity of defamation laws**, ruling that defamation is not protected under **freedom of speech** if it harms an individual's reputation unjustifiably.

7. Incitement to Offenses:

- Speech that directly **incites the commission of a criminal offense** can be restricted. This includes **hate speech**, **advocating violence**, or any expression that directly contributes to criminal activities.

- **Example: Shreya Singhal v. Union of India (2015)** – The Supreme Court struck down **Section 66A** of the Information Technology Act, 2000, which criminalized certain online speech, deeming it overly broad and a violation of free speech.

Critical Examination of the Restrictions:

While the Constitution allows for **reasonable restrictions**, the line between what is **reasonable** and what is **excessive** can be subjective and is often a point of contention in Indian jurisprudence.

1. Overuse of Restrictions:

- **Reasonable restrictions** have been invoked **frequently** by the state to curb speech, particularly in areas like **national security, public order, and defamation**. Critics argue that this has sometimes led to the **curtailing of free expression**, especially when restrictions are seen as **overbroad** or **vague**, leading to **abuse of power**.

2. Judicial Interpretation:

- The **Supreme Court** plays a critical role in interpreting what constitutes a **reasonable restriction**. The Court has, in some instances, upheld restrictive laws, but in others, it has narrowed their scope to preserve freedom of speech. For instance, in **Shreya Singhal v. Union of India**, the Court struck down **overreaching provisions** of law as being **unconstitutional**.

3. Chilling Effect:

- There is a concern that **broad and vague restrictions** may have a **chilling effect** on free speech, where people may **self-censor** due to fear of legal consequences. **Hate speech laws**, for instance, often result in ambiguity and can lead to **disproportionate curbs** on legitimate dissent or expression.

4. Modern Challenges:

- In the age of **social media**, there is a growing challenge to define **hate speech, defamation, and fake news**, as these concepts often overlap with **freedom of expression**. The government has often attempted to regulate **online content**, leading to concerns over the **excessive regulation** of speech in the digital space.

The **freedom of speech and expression** is a cornerstone of the **Indian democracy**. However, the **reasonable restrictions** on this freedom are necessary to maintain public order, protect national security, and ensure decency and morality in society. The **scope** of these restrictions, however, should be carefully defined to prevent **abuse of power** by the state. **Judicial oversight** plays a critical role in striking a balance between protecting individual rights and ensuring societal interests. As **India's democracy matures**, there will be continued debates and judicial scrutiny on the **reasonable limits** to this **fundamental right**.

8. State the inter-relationship between Fundamental Rights and Directive Principles of State Policy with the help of Case Laws.

Or

Explain the inter-relationship of the fundamental rights directive principles of state policy under Article 31-C of the constitution.

The **Fundamental Rights** and the **Directive Principles of State Policy (DPSPs)** are two important components of the Constitution of India, ensuring the **protection of individual liberties** and **promoting social and economic justice**. While both are part of the **Constitution's broader objective** to establish a just society, they serve different purposes and sometimes come into conflict with each other. However, the Constitution also seeks to reconcile and integrate these two parts.

1. Nature and Purpose of Fundamental Rights and DPSPs:

- **Fundamental Rights (Part III of the Constitution):** These are **justiciable** rights guaranteed to individuals, ensuring basic human freedoms such as **freedom of speech, right to equality, right to life and personal liberty**, and protection from **discrimination**. These rights are **enforceable in a court of law**, and any law that violates them can be struck down by the judiciary.
- **Directive Principles of State Policy (Part IV of the Constitution):** These are **non-justiciable** guidelines aimed at promoting social and economic welfare, such as providing **adequate means of livelihood, equal pay for equal work, promotion of education**, and **just and humane conditions of work**. While they are **not enforceable in courts**, they serve as **guiding principles** for the government in making laws and formulating policies.

2. The Inter-Relationship and Conflict Between Fundamental Rights and DPSPs:

The **relationship between Fundamental Rights and DPSPs** is often described as that of **harmonious co-existence** but sometimes conflict arises, as the Directive Principles may require laws or actions that infringe upon certain Fundamental Rights. However, the Constitution seeks to resolve such conflicts in a manner that gives **due weight to both**.

Harmonious Interpretation:

- The Constitution does not treat **Fundamental Rights** and **DPSPs** as mutually exclusive or contradictory, but instead aims to strike a balance between **individual liberties** and **social welfare**. This is reflected in the idea of **balancing individual freedom with social justice**.
- **Article 37** clarifies that **DPSPs are not enforceable by the courts**, but the **state must apply them** in the governance of the country. Thus, the state is required to work toward fulfilling the ideals of the DPSPs, provided they do not violate **Fundamental Rights**.

Case Law 1:

In the **State of Madras v. Champakam Dorairajan (1951)**, the **Supreme Court** held that **Fundamental Rights** cannot be overridden by **Directive Principles**. The Court ruled that in the event of a conflict, **Fundamental Rights** would prevail. The case involved **reservation policies** that conflicted with **Article 29(2)**, which protects individuals from discrimination based on religion, race, caste, or language.

Case Law 2:

In **Golaknath v. State of Punjab (1967)**, the **Supreme Court** held that **Fundamental Rights** were **immutable** and could not be altered or amended by Parliament. This indicated a stronger protection of **Fundamental Rights** in the face of legislative actions aimed at fulfilling **DPSPs**.

Reconciliation of Conflict:

To address potential conflicts between **Fundamental Rights** and **DPSPs**, the **Constitution** provides **Article 31-C**, which gives **protection** to laws made in **furtherance of certain Directive Principles**, specifically those related to **social welfare** and **economic justice**.

The Role of Article 31-C in Balancing Fundamental Rights and DPSPs:

Article 31-C was introduced by the **42nd Amendment Act, 1976**, to reconcile the conflict between Fundamental Rights and the Directive Principles of State Policy. It protects laws aimed at implementing the **Directive Principles of State Policy**, specifically those under **Article 39(b) and (c)**, from being challenged on the ground of **violating Fundamental Rights** under **Article 14 (equality)**, **Article 19 (freedom of speech and expression)**, and **Article 31 (right to property)**.

Text of Article 31-C:

"No law giving effect to the policy of the state towards securing all or any of the principles laid down in Article 39(b) and (c) shall be deemed to be void on the ground that it is inconsistent with or takes away or abridges any of the rights conferred by Article 14 or Article 19 or Article 31."

This means that any **legislative action** intended to implement the **Directive Principles** under **Article 39(b)** (distribution of wealth for common good) and **Article 39(c)** (prevention of concentration of wealth in few hands) is immune to challenge, even if it **violates** the **Fundamental Rights** of individuals under **Article 14 (equality)**, **Article 19 (freedom of speech)**, or **Article 31 (right to property)**.

Key Points Regarding Article 31-C:

1. Protection for Laws Implementing Social Justice:

- Article 31-C protects laws made to promote social and economic justice, particularly those focused on **land reforms** and **distribution of wealth** in accordance with the principles outlined in **Article 39**.

2. Limited Application:

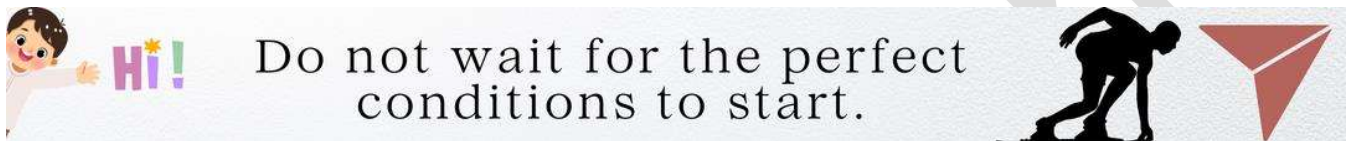
- Article 31-C is limited to laws that aim to fulfill the objectives of **Article 39(b) and (c)**, which focus on **social justice** and **economic equality**. The **other** Directive Principles (such as **promotion of education** and **public health** under Articles 41 to 43) do not have this protection under **Article 31-C**.

3. Supreme Court Interpretation:

- Initially, in the **Minerva Mills case (1980)**, the **Supreme Court** interpreted Article 31-C narrowly, ruling that **DPSPs** cannot **override the Fundamental Rights** entirely, especially **Article 14** (right to equality) and **Article 19** (freedom of speech). In this case, the Court ruled that while **Directive Principles** should be respected, they cannot **override** the **Fundamental Rights** if the conflict is too great.
- However, in **Keshavananda Bharati v. State of Kerala (1973)**, the Court held that the **Basic Structure Doctrine** applies to the Constitution, meaning that **Fundamental Rights** cannot be altered to the point that they destroy the **basic structure** of the Constitution, including the balance between **rights and duties**.

The relationship between **Fundamental Rights** and **Directive Principles of State Policy** is based on the **concept of balance**. While **Fundamental Rights** ensure individual freedoms and prevent arbitrary state actions, **Directive Principles** guide the state towards the establishment of a **welfare state**, aiming at social justice and economic equality. **Article 31-C** helps harmonize this relationship by providing some immunity to laws aimed at fulfilling social and economic justice goals, even if they infringe upon certain **Fundamental Rights**.

However, the **Supreme Court's** role in interpreting the **scope of reasonable restrictions**, **proportionality**, and the **basic structure doctrine** ensures that the relationship between the two is always **equitable and just**. **Article 31-C** has been instrumental in ensuring that **laws promoting social justice** can be given precedence, but this cannot be used to undermine the **core principles of democracy** and **human dignity** enshrined in **Fundamental Rights**.



10. Explain the right life and personal liberty under Article 21 of the constitution.

Right to Life and Personal Liberty Under Article 21 of the Constitution

Article 21 of the Indian Constitution states:

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

This provision guarantees that **every individual** shall have the **right to life and personal liberty**, and that no person shall be deprived of these rights unless it is done in accordance with a legal procedure. This right is one of the **most fundamental** rights under the Constitution and is often regarded as **"the heart of the Constitution."**

Meaning and Scope of Article 21:

1. Right to Life:

- **Right to Life** under Article 21 is not limited to mere physical existence but includes the **right to live with dignity**. The term **"life"** refers to the **quality of life** and not just the **mere act of breathing**. Thus, it includes various aspects that are essential to living a dignified life, such as **the right to health, personal security, and basic necessities of life** like food, shelter, and clothing.
- **Landmark Judgment:** In the **Maneka Gandhi v. Union of India (1978)** case, the Supreme Court expanded the scope of the **right to life** and held that the right to life includes **right to live with dignity**, and any action depriving a person of his life or personal liberty must be carried out in accordance with **a fair, just, and reasonable procedure**. The Court observed that the word **"life"** in Article 21 has a broad meaning and is not confined to mere survival.

2. Right to Personal Liberty:

- The term "**personal liberty**" encompasses a wide range of rights that protect an individual's freedom from arbitrary restraint and coercion. It includes **freedom of movement, freedom of association, freedom of thought, freedom of expression**, and the right to make choices about one's personal life.
- **Personal liberty** is not absolute, and the state may impose **reasonable restrictions** on it for the sake of public order, security, or morality. However, these restrictions must be reasonable, non-arbitrary, and comply with **due process of law**.

3. Procedure Established by Law:

- Article 21 also stipulates that no one can be deprived of their life or personal liberty except according to **procedure established by law**. This means that the **deprivation of life or personal liberty must follow a procedure that is validly enacted by law**. The procedure must be **fair, just, and reasonable**, and it cannot be arbitrary or oppressive.
- **Landmark Judgment:** In the **Maneka Gandhi case (1978)**, the Supreme Court clarified that **procedure established by law** does not mean that a law merely exists, but it must also be consistent with the principles of **natural justice** and **due process of law**. Therefore, a law that **violates the principles of fairness, justice, and reasonableness** cannot be upheld under Article 21.

Judicial Interpretation and Expansion of Article 21:

Over the years, the **Supreme Court** has **expanded the scope of Article 21** to include various rights that are essential to living a life of dignity. Some significant judicial pronouncements are as follows:

1. Right to Live with Dignity:

- The Supreme Court has held that the **right to life** under Article 21 is not confined to mere physical existence. It extends to the **right to live with dignity** and includes rights such as the right to **clean environment, health, and education**.
- **Case Law:** In **Francis Coralie Mullin v. The Administrator (1981)**, the Court observed that the right to life includes the right to live with dignity and that a person cannot be deprived of his dignity, personal safety, and health.

2. Right to Health and Medical Care:

- In the **state of right to health**, the Supreme Court has affirmed that the **right to life** includes the **right to health and medical care**. The state has an obligation to ensure that every citizen receives adequate health care services.
- **Case Law:** In **Paschim Banga Khet Mazdoor Samity v. State of West Bengal (1996)**, the Supreme Court held that the **right to life** includes the **right to emergency medical treatment**, and any failure on the part of the state to provide medical treatment violates Article 21.

3. Right to Privacy:

- The **right to privacy** was originally not expressly mentioned in Article 21 but was read into it by the Supreme Court through various decisions. The right to privacy includes the right to **personal autonomy** and **freedom from unwarranted governmental interference** in one's personal matters.
- **Landmark Judgment:** In **K.S. Puttaswamy v. Union of India (2017)**, the Supreme Court held that **right to privacy** is a **fundamental right** under Article 21, emphasizing that the right to privacy is intrinsic to the right to life and liberty.

4. Right Against Arbitrary Arrest and Detention:

- The Supreme Court has also ruled that **right to personal liberty** includes protection against **arbitrary arrest and detention**. The detention must be carried out in accordance with the **law** and must be subjected to judicial scrutiny.
- **Case Law:** In **D.K. Basu v. State of West Bengal (1997)**, the Supreme Court laid down guidelines for the protection of individuals against unlawful arrest and torture. It emphasized that the police must follow the prescribed procedure when making arrests.

5. Right to Education:

- The Supreme Court has recognized that **right to education** is an integral part of the **right to life** under Article 21, and the state is required to provide free and compulsory education to children.
- **Landmark Judgment:** In **Unni Krishnan, J.P. v. State of Andhra Pradesh (1993)**, the Court held that the **right to education** is a fundamental right under Article 21, and the state must provide education to all children until they reach the age of 14.

6. Protection from Forced Labor:

- **Article 23** of the Constitution prohibits **forced labor**, and this has been interpreted as a part of the **right to personal liberty** under Article 21. The Supreme Court has held that forced labor is a violation of **personal freedom**.
- **Case Law:** In **People's Union for Democratic Rights v. Union of India (1982)**, the Court recognized that forced labor (bonded labor) violates the **right to life** and **personal liberty** under Article 21.

Limitations and Exceptions:

While the **right to life and personal liberty** under Article 21 is a fundamental right, it is not absolute. The Constitution allows **reasonable restrictions** on this right in the following situations:

1. **National Security:** Laws relating to **preventive detention, terrorism**, and other issues related to national security may impose restrictions.
2. **Public Order:** Laws and actions that protect **public order, the integrity of the nation, or morality** may limit this right.

Preventive Detention Laws:

- Article 22 provides for **preventive detention**, which allows a person to be detained without trial for a specific period. However, such detention must follow a **law**, and the detained person must be informed of the reasons for their detention.

Conclusion: Article 21 guarantees the **fundamental right to life and personal liberty** and has been interpreted broadly by the **Supreme Court** to include a variety of rights essential for a dignified life. While the right is **not absolute**, any **restriction** on this right must comply with the **procedure established by law** and must be **fair, just, and reasonable**. Over the years, the scope of Article 21 has expanded to encompass rights related to **health, education, privacy, and freedom from arbitrary detention**. Thus, Article 21 is a cornerstone of the **Indian Constitution**, ensuring the protection of human dignity and individual freedom.

11. Explain the right to freedom of religion under Articles (25-28) of Indian Constitution.

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Right to Freedom of Religion Under Articles 25-28 of the Indian Constitution

The right to freedom of religion is a fundamental right guaranteed by the **Indian Constitution** under **Articles 25 to 28**. These articles collectively ensure the freedom of religion, both for individuals and communities, and also lay down the framework for religious practices and the role of the state in relation to religion.

Article 25: Freedom of Conscience and Free Profession, Practice, and Propagation of Religion

Article 25 guarantees the **freedom of conscience** and the **freedom to profess, practice, and propagate** any religion. However, this freedom is subject to **public order, morality, and health**, and to other provisions of the **Indian Constitution**.

Key Provisions of Article 25:

1. **Freedom of Conscience:**
 - This grants individuals the right to **freely follow** any religion or to not follow any religion. It provides the **right to believe** or **not believe** in a particular religion.
2. **Freedom to Practice Religion:**
 - This grants the right to **practice religious beliefs** in any manner, including prayers, rituals, ceremonies, or other religious activities.
3. **Freedom to Propagate Religion:**
 - This grants the right to **spread and promote one's religion** by **teaching, preaching, or disseminating religious beliefs**. However, this does not imply the right to **forcefully convert** others to one's religion.
4. **Restrictions:**
 - The exercise of these freedoms may be restricted by the state on grounds of **public order, morality, and health**. For example, certain practices like **human sacrifice** or **untouchability** might be prohibited if they are found to be detrimental to public morality or health.
 - **Case Law:** In **Rev. Stainislaus v. State of Madhya Pradesh (1977)**, the Supreme Court held that the right to propagate one's religion does not include the right to **convert others** by using **force, fraud, or inducement**.

Article 26: Freedom to Manage Religious Affairs

Article 26 grants every religious denomination or any section thereof the right to **establish and maintain** institutions for religious and charitable purposes. It also allows them to **manage their own affairs** in matters of religion, subject to certain restrictions.

Key Provisions of Article 26:

1. **Establishment and Maintenance of Religious Institutions:**
 - Religious denominations or groups have the right to **establish and maintain** institutions for religious and charitable purposes, such as temples, mosques, churches, or gurdwaras.
2. **Right to Manage Religious Affairs:**

- Religious denominations can **manage their own affairs** relating to religion, including the **administration of religious properties** and the **conduct of religious ceremonies**. This ensures autonomy for religious communities in managing their own religious practices and institutions.

3. Limitations:

- The state can **regulate** or **restrict** religious affairs in certain cases for reasons of **public order, morality, and health**, as well as to prevent practices that are **harmful** or **socially disruptive**.
- **Case Law:** In **Durgah Committee, Ajmer v. Syed Hussain Ali (1961)**, the Supreme Court held that the state can intervene in the management of religious institutions if there is **mismanagement** or if religious practices are causing harm to public order or morality.

Article 27: Freedom as to Payment of Taxes for Promotion of any Religion

Article 27 ensures that no person shall be compelled to pay any **tax** that is used for the promotion or maintenance of any religion. This article prevents the government from collecting taxes that benefit religious institutions or religious activities.

Key Provisions of Article 27:

1. No Compulsion to Pay Religious Taxes:

- The state cannot impose any **taxes for the promotion of a particular religion**, and individuals cannot be **compelled** to pay taxes for such purposes.

2. Exceptions:

- This provision does not prohibit taxes that may be imposed for the **general welfare** of the public or for the **maintenance of public order**.
- **Case Law:** The principle enshrined in Article 27 was affirmed in **S.R. Bommai v. Union of India (1994)**, where the Supreme Court emphasized the need for the state to remain **neutral** and **secular** in religious matters.

Article 28: Freedom as to Attendance at Religious Instruction or Religious Worship in Certain Educational Institutions

Article 28 deals with the issue of **religious education** in educational institutions. It ensures that individuals are not compelled to participate in religious activities in institutions that are funded by the state.

Key Provisions of Article 28:

1. Non-Religious Instruction:

- No person attending an educational institution, fully or partially funded by the state, shall be required to take part in any **religious instruction** or **religious worship**.

2. Exceptions:

- This provision does not apply to **institutions** that are established for the purpose of promoting **religious education** or for **teaching religion**. Therefore, institutions like **madrasas** or **seminaries** that primarily focus on religious education are not subject to these restrictions.

- **Case Law:** The **T.M.A. Pai Foundation v. State of Karnataka (2002)** case further elaborated those religious institutions can have their own policies regarding religious education but must still comply with constitutional provisions concerning secularism.

Interrelationship Between Articles 25-28

- **Articles 25 to 28** collectively safeguard religious freedom by ensuring the **freedom of individual conscience**, the **autonomy of religious denominations**, the **freedom from state-sponsored religious taxes**, and the **freedom from compulsory participation in religious practices** in state-funded institutions.
- These articles uphold the **principle of secularism**, meaning that the state must maintain a **neutral position** towards all religions and cannot interfere in religious practices unless there are issues related to **public order, health, or morality**.

Limitations and Restrictions on Religious Freedom

The right to freedom of religion under **Articles 25 to 28** is subject to certain **reasonable restrictions**. These include:

1. **Public Order:**
 - The state may regulate religious practices if they pose a **threat to public order**.
2. **Morality:**
 - Religious practices that violate **public morality** may be restricted. For example, practices like **sati** or **untouchability** are prohibited by law.
3. **Health:**
 - Religious practices that may pose a risk to **public health** can be regulated by the state, as in the case of **animal sacrifices** that violate hygiene standards.
4. **Fundamental Rights of Others:**
 - Religious practices cannot infringe upon the **fundamental rights** of others, including their right to equality, dignity, and personal liberty.

The **right to freedom of religion** under Articles **25 to 28** ensures that individuals and religious denominations have the freedom to **profess, practice, and propagate** their religion, while also maintaining **secularism** and **neutrality** of the state. The Constitution, however, allows for certain **reasonable restrictions** to balance the **right to religious freedom** with the need to maintain **public order, morality, and health**. These provisions promote the idea of **religious pluralism** and ensure that religious beliefs do not interfere with the **rights of others** or disrupt **social harmony**.

12. Explain the nature, significance and classification of directive principles of state Policy.

Directive Principles of State Policy (DPSP) are a set of guidelines or principles that are enshrined in **Part IV** of the **Indian Constitution** (Articles 36 to 51). These principles are meant to guide the state in formulating laws, policies, and measures aimed at achieving social, economic, and political justice for all citizens.

Although they are not justiciable (i.e., they are not enforceable by courts), they are fundamental in the governance of the country and serve as a **moral obligation** for the state to implement them. The **DPSP** plays a crucial role in promoting welfare, equality, and justice.

Nature of Directive Principles of State Policy

The **Directive Principles** are guidelines or instructions for the **government**. These principles are intended to establish a **welfare state** in India, where the government is expected to work toward reducing inequalities and providing basic necessities to the citizens.

1. Non-Justiciable:

- Unlike **Fundamental Rights** (Part III), which are justiciable (enforceable by courts), DPSPs are **not enforceable by law**. The courts cannot issue a writ or order against the government for failing to implement them.

2. Moral Obligation:

- The DPSPs represent the **moral duty** of the state. They are non-enforceable, but the state is expected to take them into consideration when formulating laws and policies.

3. Guiding Principles:

- The state is expected to guide its policies and laws by the principles laid down in DPSP, which are aimed at the establishment of a **just society**.

4. Supplementary to Fundamental Rights:

- While **Fundamental Rights** safeguard individual liberty, DPSPs provide the **social framework** to ensure equality, justice, and the welfare of the people. Together, they aim to **balance individual rights** with the welfare of society.

Significance of Directive Principles of State Policy

1. Promotion of Social and Economic Welfare:

- DPSPs guide the government towards achieving **social justice** by promoting welfare schemes related to **education, health, housing, and livelihood**. They ensure that the government works towards the betterment of the poor, underprivileged, and marginalized sections of society.

2. Reduction of Social Inequalities:

- These principles aim to eliminate **disparities in wealth, status, and opportunity**. They encourage the state to create conditions that promote **equality and justice**.

3. Establishment of a Welfare State:

- The **ultimate goal** of the DPSP is to establish a **welfare state** where citizens have access to adequate nutrition, education, healthcare, and employment, and the state is responsible for ensuring the general welfare of all its citizens.

4. Filling Gaps Left by Fundamental Rights:

- While **Fundamental Rights** focus on individual freedoms, the DPSPs lay down the groundwork for **collective well-being**. They provide directions on issues like **secularism, social justice, empowerment of women, and economic fairness**, which are essential for building a just society.

5. Balancing Individual Rights and Collective Good:

- While the Constitution guarantees individual rights (through Fundamental Rights), the DPSPs help balance those rights by ensuring that these rights do not lead to the **exploitation** of others, and contribute to the **public good**.
6. **State's Role in Development:**
- The DPSPs highlight the **role of the state** in economic and social development. The government is expected to implement policies that lead to **universal access to services** such as health, education, and employment.

Classification of Directive Principles of State Policy

The DPSPs can be classified into various categories based on the nature of the goals they aim to achieve. These classifications help in understanding the broader purposes they serve.

1. Social and Economic Welfare Principles:

- These principles deal with the **social and economic welfare** of the people. They urge the state to work towards **eliminating poverty, inequality, and social injustice**.
- **Example:**
 - **Article 38:** Promotion of the welfare of the people by securing a just social order.
 - **Article 39:** Equal pay for equal work for both men and women; and provision for securing the right to adequate means of livelihood.

2. Political and Democratic Principles:

- These principles guide the state in ensuring **democratic** values such as **political equality** and the promotion of a **democratic form of government**.
- **Example:**
 - **Article 40:** Organization of village panchayats to enable local self-governance.
 - **Article 41:** Right to work, education, and public assistance.

3. Principles Relating to International Peace and Security:

- These principles focus on India's role in **global peace, cooperation**, and ensuring the country's position in the **international community**.
- **Example:**
 - **Article 51:** Promotion of international peace and security by fostering friendly relations among nations.

4. Principles of Secularism and Equality:

- These principles aim at the establishment of a **secular** state, where the government is neutral in matters of religion, and **equality** is guaranteed to all citizens.
- **Example:**
 - **Article 44:** Uniform civil code for the citizens.
 - **Article 46:** Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes, and other weaker sections.

5. Principles for Justice and Social Security:

- These principles deal with ensuring **social justice, equality**, and the **well-being** of the disadvantaged sections of society.
- **Example:**
 - **Article 47:** Duty of the state to raise the level of nutrition and standard of living and to improve public health.
 - **Article 48:** Organization of agriculture and animal husbandry on modern lines.

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Important Articles of DPSP:

1. **Article 36:** Defines "State" for the purpose of Part IV (DPSPs).
2. **Article 37:** Specifies that DPSPs are **not enforceable** by courts but are fundamental in the governance of the country.
3. **Article 38:** Ensures that the state should promote the welfare of the people by securing a just social order.
4. **Article 39:** Provides for equal rights and opportunities, including economic justice.
5. **Article 40:** Encourages the organization of village panchayats.
6. **Article 41:** Focuses on providing the right to work and public assistance.
7. **Article 42:** Ensures that the state should make provisions for securing humane conditions of work.
8. **Article 43:** Ensures that the state should promote adequate means of livelihood.
9. **Article 44:** Advocates for a uniform civil code for the citizens.
10. **Article 45:** Provides for free and compulsory education for children until the age of 14.
11. **Article 51:** Directs the state to promote international peace and security.

Conclusion: The **Directive Principles of State Policy** are fundamental in shaping the governance and welfare state of India. Although they are non-justiciable, they represent the aspirations of the **Constitution makers** and guide the government in policymaking, especially in the areas of social justice, economic equity, and governance. The **significance** of the DPSPs lies in their ability to provide the state with a **moral compass** to ensure **inclusive growth** and **welfare** for all sections of society, thus fostering a just and egalitarian society.

14. Explain the right to free and compulsory education under Article 21-A of the Indian constitution.

Right to Free and Compulsory Education under Article 21-A of the Indian Constitution

Article 21-A of the Indian Constitution provides the **Right to Education** as a fundamental right. This provision was introduced by the **61st Amendment Act of 2002** and is a part of **Part III** of the Constitution, which deals with **Fundamental Rights**. The provision mandates that every child between the ages of 6 and 14 years shall have the **right to free and compulsory education**.

This right is significant because it ensures that children in this age group have access to **quality education**, and it places an obligation on the **state** to provide such education free of charge.

Article 21-A states:

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

Key Features of Article 21-A

1. **Right to Free Education:**

- The provision guarantees that no child within the age group of **6 to 14 years** shall be **denied access** to education. It mandates that the state must provide free education, which means that no financial barrier should prevent a child from attending school.
- 2. **Compulsory Education:**
 - Education is not only **free** but also **compulsory**, meaning it is the **duty of the state** to ensure that children are enrolled in school and attend classes regularly. Parents or guardians of children also have the **obligation** to ensure that their children are receiving an education.
- 3. **Scope of Article:**
 - The article covers children within the **age group of 6 to 14 years**. This target age group was selected as it aligns with the generally accepted age range for **primary education**.
- 4. **Role of the State:**
 - The state has the **primary responsibility** to make arrangements for the provision of free and compulsory education. This includes the establishment of schools, the provision of resources, and the creation of an infrastructure that ensures accessibility to education for all children within this age group.
- 5. **Implementation by Law:**
 - Article 21-A empowers the state to **determine the manner** of providing free and compulsory education, and this was further detailed through the **Right to Education Act (RTE), 2009**.

The Right to Education Act (RTE), 2009

To implement the provisions of Article 21-A, the **Right to Education Act (RTE), 2009**, was enacted. The RTE Act makes the following provisions:

1. **Compulsory Admission:**
 - It makes it mandatory for all **children aged 6 to 14 years** to be admitted to school, and **free education** must be provided.
2. **Non-Discrimination:**
 - The Act ensures **no discrimination** on the basis of caste, gender, or economic background. It aims to create an **inclusive education system**, especially for marginalized sections such as **Scheduled Castes, Scheduled Tribes**, and other **socially disadvantaged** groups.
3. **Quality of Education:**
 - It also mandates that education should be of **acceptable quality** with minimum standards set for schools, teachers, infrastructure, and curriculum.
4. **Child Rights:**
 - The Act prohibits **unfair practices** like **physical punishment** and ensures the child's **right to an enjoyable, meaningful, and fulfilling learning experience**.
5. **Infrastructure and Teacher-Student Ratio:**
 - The Act specifies that schools must adhere to certain **infrastructure norms** such as **teacher-student ratios**, the **availability of toilets, classrooms**, and **teaching materials**.
6. **Private Schools:**
 - The Act mandates that **private schools** must reserve **25% of seats** for children from economically weaker sections and provide them with free education.
7. **No Capitation Fees:**

- It also prohibits the collection of **capitation fees** and ensures that schools cannot charge fees beyond the set limits.
- 8. **No Admission Test:**
 - Schools cannot conduct any **admission test** for children in the age group of **6-14 years**; every child must be admitted on a **first-come, first-served** basis.

Important Provisions Under the Right to Education Act

1. **Section 3:** Children between the ages of **6 to 14 years** must be admitted to a school.
2. **Section 8:** Every school must maintain a **student-teacher ratio** to ensure quality education.
3. **Section 12(1)(c):** **Private unaided schools** are required to reserve **25% of seats** for children from disadvantaged and economically weaker sections, without any discrimination.
4. **Section 21:** Specifies the duties and responsibilities of the **appropriate government** and **local authority** to ensure that schools are **functioning properly** and are adhering to the RTE standards.

Judicial Interpretation of Article 21-A

1. **Unnikrishnan Case (1993):**
 - In the case of **Unnikrishnan JP v. State of Andhra Pradesh**, the Supreme Court held that the **right to education** is a **fundamental right** under **Article 21** (the Right to Life and Personal Liberty). While this case predates the enactment of Article 21-A, it laid down the foundation that education is an essential aspect of the right to life and liberty.
2. **Pramati Education Trust v. Union of India (2014):**
 - The Supreme Court held that the **RTE Act** was not applicable to **minority institutions**, i.e., private schools run by religious or linguistic minorities, as it would interfere with their rights under **Article 30** (Right to Establish and Administer Educational Institutions).

Challenges in Implementing Article 21-A and RTE

Despite the provisions for free and compulsory education, several challenges remain:

1. **Inadequate Infrastructure:**
 - Many schools, especially in rural and remote areas, lack proper infrastructure, such as **classrooms, toilets, and basic amenities**.
2. **Teacher Shortage and Quality:**
 - There is a **shortage of trained teachers**, and many schools struggle with maintaining quality standards of teaching due to a lack of **proper training** and **teaching resources**.
3. **Private Schools' Compliance:**
 - While private schools are required to reserve 25% of seats for disadvantaged children, compliance with this provision has been a **challenge** in some areas.
4. **Dropout Rates:**
 - The dropout rate in schools remains high in certain parts of the country, especially among **girls and children from low-income families**, due to factors like **economic pressures, child labor, and lack of interest** in education.
5. **Implementation in Remote Areas:**
 - The effective implementation of the **Right to Education Act** in **remote and tribal areas** poses a significant challenge due to geographical and cultural barriers.

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Article **21-A** of the Indian Constitution, along with the **Right to Education Act (RTE)**, is a monumental step in ensuring that every child in India receives **free and compulsory education**. While the provision has undoubtedly improved access to education, challenges related to infrastructure, quality, and inclusion need to be addressed for the full realization of the right to education. Ensuring that the benefits reach **disadvantaged groups** and that schools maintain high educational standards remains a critical focus for the state and central governments.



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PART-C

Note: There is no standard solution for any type of problem in Part C, as law students we have different perspectives and interpretation so we need to focus on the Draft, Section, Articles to support your discussion.

Anyways we will upload sample solutions for these problems on our website for your reference

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The state Government detained large number of persons under the Narcotic Drugs Act without trial. The under-trial prisoners questioned the validity on the ground of Violation of Article 21 of the Constitution of India. Decide

X was arrested by police, with a suspicion that he was a Naxalite, X was not produced before a magistrate for about a week. Later X dies in police station. Discuss the legal position.

X was carrying on some business and paying sales tax to the state Government. An officer of the State Government prevented X from carrying on his business. 'X' wants to challenge. Advice.

A child of 15 years was found working as a domestic servant in a house. What are the grounds on which the employer could be proceeded against? Discuss

X' a suspect in theft case died in Police Custody due to torture. Is there any violation of Fundamental right? Is there a Fundamental right against torture in the constitution of India? The wife of X wants to seek remedy, Guide her.

A was arrested by the police and kept for one week under police custody and he was not informed the grounds of arrest. After one week he was released by the police and they said that sorry, by mistake we arrested you. Advice A

A Hindu challenged the permission granted to a Muslim under Islam to marry more than one wife on the ground of violation of right to equality? Decide by the reference to relevant case law.

A university student found that number of visitors to the university have been smoking on the premises. On what grounds can he seek prohibition of smoking on the campus? Explain.

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A Devasthanam board appointed a person not belonging to priestly class as poojari in the Hindu Temple. The appointment was challenged by a person belonging to prickly class on the ground that it is against the traditions of religion-Decide

A. Temple in the public domain restricted the entry of women citing certain ancient scriptures is such restriction valid Discuss.

Refugees from Sri Lanka came to India in Lakhs and want to settle. They filed a writ the supreme court of India that they have right to settle in India. Decide.

Articles 14, 20,21 and 22 guaranteed by the fundamental Rights of Indian constitution to the citizens of India are suspended by the president of India during the National Emergency. A person wants to challenge in the S.C.-Advise,

A non-citizen has filed a writ petition before the Supreme Court alleging violation of the freedom guaranteed under Article 19(1) (d) of the constitution. Is the petition maintainable? Decide with reasons.

A crime suspect was arrested by the police on the ground that he committed a murder. When he denied his involvement, the police want him to undergo a lie detector test which he refused Advise the police about their powers in the given situation with reasons.

A boy of 18 years was detained in his Intermediate second year as he failed to clear all the subjects. He filed a writ petition challenging his detention on the ground of violation of his right to education, Decide with reason.

A person met with an accident on a road and is severely injured, many people Including the pedestrians and vehicle riders were taking photos of the injured persons with their cell phones, but no one ventured to shift him to hospital. He died after some time for lack of timely treatment Can it be said that the citizens failed in discharging their fundamental I duties? Explain.

A political party gave a band call. It was Challenged by two citizens belonging to lawyers bar association of Telangana Sate as illegal on the ground that it deprives other citizens from enjoying their fundamental rights – Advise.

A. arrested by police was not produced within 24 hours before the magistrate Advise A, the right to course of action

A, a student in a public school was removed from school as he refused to attend prayer. What remedy is assailable to A?

A linguistic minority group applied for permission to establish a minority educational Institution. The competent authority rejected the application on the ground that only religious minorities are eligible for such concession, Is such rejection valid? Decide.



Do not wait for the perfect conditions to start.

