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Indian Polity – Part 5

CONSTITUTION OF INDIA

India, also known as Bharat, is a Union of States. It is a Sovereign Socialist Secular Democratic Republic with a parliamentary system of government. The Republic is governed in terms of the Constitution of India which was adopted by the Constituent Assembly on 26th November, 1949 and came into force on 26th January, 1950. The Constitution provides for a Parliamentary form of government which is federal in structure with certain unitary features. The constitutional head of the Executive of the Union is the President. As per Article 79 of the Constitution of India, the council of the Parliament of the Union consists of the President and two Houses known as the Council of States (Rajya Sabha) and the House of the People (Lok Sabha). Article 74(1) of the Constitution provides that there shall be a Council of Ministers with the Prime Minister as its head to aid and advise the President, who shall exercise his/her functions in accordance to the advice. The real executive power is thus vested in the Council of Ministers with the Prime Minister as its head.

- Constituent assembly was formed according to the proposals of the cabinet mission.
- The ideal of a constituent assembly was propounded by M.N.Roy.
- Election was held in November 1946 to form a constituent assembly when there were 389 members.
- Of these, 296 were to be from British India and 93 from the princely Indian states.
- The recognized constituent assembly had 299 members
- The first sitting of the constituent assembly was held on 09 December 1946 with its president Dr.Sachchidananda sinha. Dr Rajendra Prasad was elected as the permanent president after two days.
- The process of making the constitution began on 13 December 1946 with the introduction of an “objective proposal” by Jawaharlal Nehru.

- B.N Rao was appointed the constitutional advisor of the assembly.
- On 3 June 1947, the Mountbatten Plan was announced which made it clear that India was to be partitioned.
- On 29th August 1947, it set up the drafting committee under the chairmanship of Dr. B.R Ambedkar.
- The draft of the constitution was conferred to the assembly on 8 February 1948.
- The constituent assembly next met in November 1948 and the whole work was over 17 October 1949.
- The constitution of India was adopted on 26 November 1949.
- The constituent assembly turned in to interim parliament on 26 January 1950 with appointment of Dr.Rajendraprasad of the union.
- It took 2 years, 11 months and 18 days to finish whole work.
- There were 395 articles and 8 schedules in the constitution when it was finally passed.
- The constitution of India is the largest written constitution.

COMMITTEE UNDER THE CONSTITUENT ASSEMBLY

Committee on the rule of procedure	.....	Dr. Rajendra Prasad
Steering Committee	.....	Dr. Rajendra Prasad
Finance and Staff Committee	.....	Anugrah Narayan Sinha
Credential Committee	.....	Alladi krishnaswamy Iyer
House Committee	.....	B. Pattabhi sitaramyya
Order of Business committee	.....	K M Munshi
Adhoc Committee on Nation flag	.....	Dr. Rajendra Prasad
Committee on the function of the constituent Assembly	.....	G. V Mavalankar
State Committee	.....	Jawarharlal Nehru
Advisory Committee on fundamental rights, minority's tribal and excluded areas	.....	Vallabhai Patel
Minorities subcommittee	.....	H C Mookherjee
Fundamental Rights sub Committee	.....	J B kripalani
Union power Committee	.....	Jawaharlal Nehru
Union constitution Committee	.....	Jawaharlal Nehru

Drafting Committee	.....B R Ambedkar
North east frontier tribal areas and Assam. Excluded and partially excluded areas sub committee	.....Gopinath Bardoloi
Excluded and partially excluded area (other than those in Assam) sub Committee	.....A.V Thakkar

SOURCE OF INDIAN CONSTITUTION

- 1. Govt. of India Act 1935: Federal system, office of the Governor, power of federal Judiciary, emergency power, Public service commissions, administrative details.
- 2. United Kingdom: Law making Procedure, Rule of law, Provisions of single citizenship, Parliamentary govt, Bicameralism, writs, Office of C.A.G.
- 3. USA: Independent Judiciary, judicial review, Fundamental rights, Removal of supreme and High court Judge (Impeachment), Preamble, Functions of Vice-president.
- 4. Canada: Federation with a strong centre, Residuary powers with the centre, Appointment of state Governors by center, Advisory/Review of Supreme Court.
- 5. Ireland: Directive principle of state policy, Method of Presidential elections, Nomination of members of Rajya sabha by the president.
- 6. Germany: Emergency provision and suspension of fundamental rights.
- 7. Australia: Concurrent list and freedom of trade.
- 8. South Africa: Amendment procedure.
- 9. France: Republic
- 10. Russia (USSR): Fundamental duties (44 amendments) and preamble.
- 11. Japan: Procedures established by law.

Preamble

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a 1[SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC] and to secure to all its citizens:

JUSTICE, social, economic and political;

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

EQUALITY of status and of opportunity;

and to promote among them all

FRATERNITY assuring the dignity of the individual and the 2[unity and integrity of the Nation];

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

FUNDAMENTAL DUTIES

45[51A. Fundamental Duties.-

It shall be the duty of every citizens of India-

- (a) to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
- (b) to cherish and follow the noble ideals which inspired our national struggle for freedom;
- (c) to uphold and protect the sovereignty, unity and integrity of India;
- (d) to defend the country and render national service when called upon to do so;
- (e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;
- (f) to value and preserve the rich heritage of our composite culture;
- (g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;
- (h) to develop the scientific temper, humanism and the spirit of inquiry and reform;
- (i) to safeguard public property and to abjure violence;
- (j) to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement.]

FUNDAMENTAL RIGHTS IN INDIA

The Fundamental Rights in Indian constitution acts as a guarantee that all Indian citizens can and will live their lives in peace as long as they live in Indian democracy. They include individual rights common to most liberal democracies, such as equality before the law, freedom of speech and expression, freedom of association and peaceful assembly, freedom of religion, and the right to constitutional remedies for the protection of civil right.

Originally, the right to property was also included in the Fundamental Rights, however, the Forty-Fourth Amendment, passed in 1978, revised the status of property rights by stating that "No person shall be deprived of his property save by authority of law."

Following are the Fundamental Rights in India

Right to Equality	<ul style="list-style-type: none"> • Article 14 :- Equality before law and equal protection of law • Article 15 :- Prohibition of discrimination on grounds only of religion, race, caste, sex or place of birth. • Article 16 :- Equality of opportunity in matters of public employment • Article 17 :- End of untouchability • Article 18 :- Abolition of titles, Military and academic distinctions are, however, exempted
Right to Freedom	<ul style="list-style-type: none"> • Article 19 :- It guarantees the citizens of India the following six fundamentals freedoms:- <ol style="list-style-type: none"> 1. Freedom of Speech and Expression 2. Freedom of Assembly 3. Freedom of form Associations 4. Freedom of Movement 5. Freedom of Residence and Settlement 6. Freedom of Profession, Occupation, Trade and Business • Article 20 :- Protection in respect of conviction for offences • Article 21 :- Protection of life and personal liberty • Article 22 :- Protection against arrest and detention in certain cases
Right Against Exploitation	<ul style="list-style-type: none"> • Article 23 :- Traffic in human beings prohibited • Article 24 :- No child below the age of 14 can be employed
Right to freedom of Religion	<ul style="list-style-type: none"> • Article 25 :- Freedom of conscience and free profession, practice and propagation of religion

Cultural and Educational Rights

- Article 26 :- Freedom to manage religious affairs
- Article 27 :- Prohibits taxes on religious grounds
- Article 28 :- Freedom as to attendance at religious ceremonies in certain educational institutions
- Article 29 :- Protection of interests of minorities
- Article 30 :- Right of minorities to establish and administer educational institutions
- Article 31 :- Omitted by the 44th Amendment Act

Right to Constitutional Remedies

- Article 32 :- The right to move the Supreme Court in case of their violation (called Soul and heart of the Constitution by BR Ambedkar)
- Forms of Writ check
- Habeas Corpus :- Equality before law and equal protection of law

BORROWED FEATURES OF CONSTITUTION

Following are the borrowed features of constitution from different countries.

From U.K.

- Nominal Head ♦ President (like Queen)
- Cabinet System of Ministers
- Post of PM
- Parliamentary Type of Govt.
- Bicameral Parliament
- Lower House more powerful
- Council of Ministers responsible to Lower House
- Speaker in Lok Sabha

From U.S.

- Written Constitution
- Executive head of state known as President and his being the Supreme Commander of the Armed Forces
- Vice- President as the ex-officio Chairman of Rajya Sabha
- Fundamental Rights
- Supreme Court
- Provision of States
- Independence of Judiciary and judicial review
- Preamble
- Removal of Supreme court and High court Judges

From USSR

- Fundamental Duties

From AUSTRALIA	<ul style="list-style-type: none"> • Five year Plan • Concurrent list • Language of the preamble • Provision regarding trade, commerce and intercourse
From JAPAN	<ul style="list-style-type: none"> • Law on which the Supreme Court function
From WEIMAR CONSTITUTION OF GERMANY	<ul style="list-style-type: none"> • Suspension of Fundamental Rights during the emergency
From CANADA	<ul style="list-style-type: none"> • Scheme of federation with a strong centre • Distribution of powers between centre and the states and placing. Residuary Powers with the centre
From IRELAND	<ul style="list-style-type: none"> • Concept of Directive Principles of States Policy(Ireland borrowed it from SPAIN) • Method of election of President • Nomination of members in the Rajya Sabha by the President

DIRECTIVE PRINCIPLES OF STATE POLICY

Provisions of the Constitution of India having a bearing on Education

Part	Title	Article / Schedule	Title
		37	Application of the principles contained in this Part
		38	State to secure a social order for the promotion of welfare of the people
		39	Certain principles of policy to be followed by the State
		41	Right to work, to education and to public assistance in certain cases
IV	Directive Principles		Text in force - Provision for free and compulsory education for children [Inserted by the 86th Amendment in December, 2002 and passed by the Parliament in July, 2009. The provisions of the Act came into force from 1st April, 2010]
		45	Provision for early childhood care and education to children below the age of six years
		46	Promotion of educational and economic interests of

Scheduled Castes, Scheduled Tribes and other weaker sections

Duty of the State to raise the level of nutrition and the standard of living and to improve public health

PARTS

PART I	THE UNION AND ITS TERRITORY	Art.(1-4)
PART II	CITIZENSHIP	Art.(5-11)
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PART IX	PANCHAYATS	Art.(243-243zg)
PART IXA	MUNICIPALITIES	Art.(243-243zg)
PART X	THE SCHEDULED AND TRIBAL AREAS	Art.(244-244A)
PART XI	RELATIONS BETWEEN THE UNION AND THE STATES	Art.(245-263)
PART XII	FINANCE, PROPERTY, CONTRACTS AND SUITS	Art.(264-300A)
PART XIII	TRADE,COMMERCE AND INTERCOURSE WITHIN THE TERRITORY OF INDIA	Art.(301-307)
PART XIV	SERVICES UNDER THE UNION AND THE STATES	Art.(308-323)
PART XIVA	TRIBUNALS	Art.(323A-323B)
PART XV	ELECTIONS	Art.(324-329A)
PART XVI	SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES	Art.(330-342)
PART XVII	OFFICIAL LANGUAGE	Art.(343-351)
PART XVIII	EMERGENCY PROVISIONS	Art.(352-360)
PART XIX	MISCELLANEOUS	Art.(361-367)
PART XX	AMENDMENT OF THE CONSTITUTION	Art.(368)
PART XXI	TEMPORARY, TRANSITIONAL AND SPECIAL PROVISIONS	Art.(369-392)
PART XXII	SHORT TITLE,COMMENCEMENT,AUTHORITATIVE TEXT IN HINDI AND REPEALS	Art.(393-395)

LIST OF ARTICLES

THE UNION AND ITS TERRITORY

1. Name and territory of the union
2. Admission or establishment of new States.
- 2A. [Repealed.]
3. Formation of new States and alteration of areas, boundaries or names of existing States.
4. Laws made under article 2 and 3 to provide for the amendment of the First and the Fourth Schedules and supplemental incidental and consequential matters.

PART II

CITIZENSHIP

5. Citizenship at the commencement of the Constitution.
6. Rights of citizenship of certain persons who have migrated to India from Pakistan.
7. Rights of citizenship of certain migrants to Pakistan.
8. Rights of citizenship of certain persons of Indian origin residing outside India.
9. Persons voluntarily acquiring citizenship of a foreign State not to be citizens.
10. Continuance of the rights of citizenship.
11. Parliament to regulate the right of citizenship by law.

FUNDAMENTAL RIGHTS

12. Definition
13. Laws of inconsistent with or in derogation of the fundamental rights.

Right to Equality

14. Equality before law.
15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.
16. Equality of opportunity in matters of public employment.
17. Abolition of Untouchability
18. Abolition of titles.

Right to Freedom

19. Protection of certain rights regarding freedom of speech, etc.
20. protection in respect of conviction for offences.
21. Protection of life and personal liberty.
22. Protection against arrest and detention in certain cases.

Right against Exploitation

23. Prohibition of traffic in human beings and forced labour.
24. Prohibition of employment of children in factories, etc.

Right to Freedom of Religion

25. Freedom of conscience and free profession, practice and propagation of religion.
26. Freedom to manage religious affairs.
27. Freedom as to payment of taxes for promotion of any particular religion.
28. Freedom as to attendance at religious instruction or religious worship in certain education institutions.

Cultural and Educational Rights

29. Protection of interests of minorities.
30. Right of minorities to establish and administer educational institutions.
31. [Repealed.]

Saving of Certain Laws

- 31A. Savings of laws providing for acquisition of estates, etc.
31B. Validation of certain Acts and Regulations
31C. Saving of laws giving effect to certain directive principles
31D. [Repealed.]

Right to Constitutional Remedies

32. Remedies for enforcement of rights conferred by this Part.
32A. [Repealed.]

DIRECTIVE PRINCIPLES OF STATE POLICY

36. Definition.
37. Application of the principles contained in this Part.
38. State to secure a social order for the promotion of welfare of the people.
39. Certain principles of policy to be followed by the State.
39A. Equal justice and free legal aid
40. Organisation of village panchayats.
41. Right to work, to education and to public assistance in certain cases.
42. Provision for just and humane conditions of work and maternity relief.
43. Living wage, etc., for workers.
43A. Participation of workers in management of industries.

44. Uniform civil code for the citizens.
45. Provision for free and compulsory education for children.
46. Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections.
47. Duty of the State to raise the level of nutrition and the standard of living and to improve public health.
48. Organisation of agriculture and animal husbandry.
- 48A. Protection and improvement of environment and safeguarding of forests and wild life.
49. Protection of monuments and places and objects of national importance.
50. Separation of judiciary from executive.
51. Promotion of international peace and security.

The President and Vice President

52. The President of India.
53. Executive power of the Union.
54. Election of President.
55. Manner of election of President.
56. Term of office of President.
57. Eligibility for re-election.
58. Qualifications for election as President.
59. Conditions of President's office.
60. Oath or affirmation by the president.
61. Procedure for impeachment of the President.
62. Time of holding election to fill vacancy in the office of President and the term of office of person elected to fill casual vacancy.
63. The Vice-President of India
64. The Vice-President to be ex-officio Chairman of the Council of States.
65. The Vice-President to act as President or to discharge his functions during casual vacancies in the office, or during the absence, of president.
66. Election of Vice-President.
67. Term of office of Vice-President.
68. Time of holding election to fill vacancy in the office of Vice-President and the term of office of person elected to fill casual vacancy.
69. Oath or affirmation by the Vice-President.
70. Discharge of President's functions in other contingencies.
71. Matters relating to, or connected with, the election of a President or Vice-President.

72. Power of President to grant pardons, etc., and to suspend, remit or commute sentences in certain cases.

73. Extent of executive power of the Union.

Council of Ministers

74. Council of Ministers to aid and advice President

75. Other provisions as to Ministers

The Attorney-General for India

76. Attorney-General for India

Conduct of Government Business

77. Conduct of business of the Government of India.

78. Duties of prime Minister as respects the furnishing of information to the President, etc.

CHAPTER II.-PARLIAMENT

79. Constitution of Parliament.

80. Composition of the Council of States.

81. Composition of the House of the People.

82. Readjustment after each census.

83. Duration of Houses of Parliament.

84. Qualification for membership of Parliament.

85. Sessions of Parliament, prorogation and dissolution.

86. Right of President to address and send message to Houses.

87. Special address by the President.

88. Rights of Ministers and Attorney-General as respects Houses.

Officers of Parliament

89. The Chairman and Deputy Chairman of the Council of States.

90. Vacation and resignation of, and removal from, the office of Deputy Chairman.

91. Power of the Deputy Chairman or other person to perform the duties of the office of, or to act as, Chairman

92. The Chairman or the Deputy Chairman not to preside while a resolution for his removal from office is under consideration.

93. The Speaker and Deputy Speaker of the House of the People.

94. Vacation and resignation of, and removal from, the offices of and Deputy Speaker.

95. Power of the Deputy Speaker or other person to perform the duties of the office of, or to act as, Speaker.

96. The Speaker or the Deputy Speaker not to preside while a resolution from office is under consideration.

97. Salaries and allowances of the Chairman and Deputy Chairman and the Speaker and Deputy Speaker.

98. Secretariat of Parliament.

Conduct of Business

99. Oath or affirmation by members.

100. Voting in Houses, power of Houses to act notwithstanding vacancies and quorum.

Disqualifications of members

101. Vacation of seats.

102. Disqualifications for membership.

103. Decision on questions as to disqualifications of members.

104. Penalty for sitting and voting before making oath or affirmation under article 99 or when not qualified or when disqualified.

Powers, Privileges and Immunities of Parliament and its Members

105. Powers, privileges, etc., of the Houses of Parliament and of the members and committees thereof.

106. Salaries and allowances of members.

Legislative Procedure

107. Provisions as to introduction and passing of Bills.

108. Joint sitting of both Houses in certain cases.

109. Special procedure in respect of Money Bills.

110. Definition of "Money Bills."

111. Assent to Bills.

Procedure in Financial Matters

112. Annual financial statement.

113. Procedure in Parliament with respect to estimates.

114. Appropriation Bills.

115. Supplementary, additional or excess grants.

116. Votes on account, votes of credit and exceptional grants.

117. Special provisions as to financial Bills.

Procedure Generally

118. Rules of procedure.

119. Regulation by law of procedure in parliament in relation to financial business.

120. Language to be used in Parliament.

121. Restriction on discussion in Parliament.

122. Courts not to inquire into proceedings of Parliament.

CHAPTER III.-LEGISLATIVE POWERS OF THE PRESIDENT

123. Power of President to promulgate Ordinances during recess of Parliament.

CHAPTER IV.- THE UNION JUDICIARY

124. Establishment and Constitution of Supreme Court.

125. Salaries, etc., of Judges.

126. Appointment of acting Chief Justice.

127. Appointment of ad hoc Judges.

128. Attendance of retired Judges at sittings of the Supreme Court.

129. Supreme Court to be a court of record.

130. Seat of Supreme Court.

131. Original jurisdiction of the Supreme Court.

131A. [Repealed.]

132. Appellate jurisdiction of Supreme Court in Appeals from High Courts in certain cases.

133. Appellate jurisdiction of Supreme Court in appeals from High Courts in regard to civil matters.

134. Appellate of jurisdiction of Supreme Court in regard to criminal matters.

134A. Certificate for appeal to the Supreme Court.

135. Jurisdiction and powers of the Federal Court under existing law to be exercisable by the Supreme Court.

136. Special leave to appeal by the Supreme Court.

137. Review of judgments or orders by the Supreme Court.

138. Enlargement of the jurisdiction of the Supreme Court.

139. Conferment on the Supreme Court of powers to issue certain writs.

139A. Transfer of certain cases.

140. Ancillary powers of Supreme Court.

141. Law declared by Supreme Court to be binding on all courts.

142. Enforcement of decrees and orders of Supreme Court and orders as to discovery, etc.

143. Power of President to consult Supreme Court.

144. Civil and judicial authorities to act in aid of the Supreme Court.

144A. [Repealed.]

145. Rules of Court, etc.

146. Officers and servants and the expenses of the Supreme Court.

147. Interpretation.

CHAPTER V.-COMPTROLLER AND AUDITOR-GENERAL OF INDIA

148. Comptroller and Auditor General of India

149. Duties and powers of the Comptroller and Auditor-General.

150. Form of accounts of the Union and of the States.

151. Audit reports.

152. Definition.

The CHAPTER II.-THE EXECUTIVE

Governor

153. Governors of State.
154. Executive Power of State
155. Appointment of Governor.
156. Term of office of Governor.
157. Qualifications for Appointment as Governor.
158. Conditions of Governor's office.
159. Oath or affirmation by the Governor.
160. Discharge of the functions of the Governor in certain contingencies.
161. Power of Governor to grant pardons, etc., and to suspend, remit 161 or commute sentences in certain cases.
162. Extent of executive power of State.

Council of Ministers

163. Council of Ministers to aid and advise Governor.
164. Other provisions as to ministers.

The Advocate-General for the State

165. Advocate-General for the State.

Conduct of Government Buiseness

166. Conduct of Business of the Government of a State.
167. Duties of Chief Minister as respects furnishing of information to Governor, etc.

CHAPTER III.-THE STATE LEGISLATURE

168. Constitution of Legislatures in States.
169. Abolition or creation of Legislative Councils in States.
170. Composition of the Legislative Assemblies
171. Composition of the Legislative Councils.
172. Duration of State Legislatures.
173. Qualification for membership of the State Legislature.
174. Sessions of the State Legislature prorogation and dissolution.
175. Right of Governor to address and send messages to the House or Houses.
176. Special address by the Governor.
177. Rights of Ministers and Advocate-General as respects the Houses.
- Officers of the State Legislature
178. The speaker and Deputy Speaker of the Legislative Assembly

179. Vacation and resignation of and removal from the offices of Speaker and Deputy Speaker

180. Power of the Deputy Speaker or other person to perform the duties of the office of or to act as, Speaker

181. The Speaker or the Deputy Speaker not to preside while a resolution for his removal from office is under consideration

182. The Chairman and Deputy Chairman of the Legislative Council.

183. Vacation and resignation of, and removal from, the offices of Chairman and Deputy Chairman.

184. Power of the Deputy Chairman or other person to perform the duties of the office of, or to act as, Chairman.

185. The Chairman or the Deputy Chairman not to preside while a resolution for his removal from office is under consideration.

186. Salaries and allowances of the Speaker and Deputy Speaker and the Chairman and Deputy Chairman.

187. Secretariat of State Legislature.

Conduct of Business

188. Oath or affirmation by members.

189. Voting in Houses, power of Houses to act notwithstanding vacancies and quorum.

Disqualifications of Members

190. Vacation of seats.

191. Disqualifications for membership.

192. Decision on question as to disqualifications of members.

193. Penalty for sitting and voting before making oath or affirmation under article 188 or when not qualified or when disqualified.

Powers, Privileges, Immunities of State Legislature and their Members

194. Powers, privileges, etc., of the Houses of Legislatures and of the members and committees thereof.

195. Salaries and allowances of members.

Legislative Procedure

196. Provisions as to introduction and passing of Bills.

197. Restriction on powers of Legislative Council as to Bills other than Money Bills.

198. Special procedure in respect of Money Bills.

199. Definition of "Money Bills".

200. Assent to Bills.

201. Bills reserved for consideration.

Procedure in Financial Matters

202. Annual financial Statement.

203. Procedure in Legislature with respect to estimates.

204. Appropriation Bills.

205. Supplementary, additional or excess grants.

206. Votes on account, votes of credit and exceptional grants.

207. Special provisions as to financial Bills.

Procedure Generally

208. Rules of procedure.

209. Regulation by law procedure in the Legislature of the State in relation to

210. Language to be used in the Legislature.

211. Restriction on discussion in the Legislature.

212. Courts not to inquire into proceedings of the Legislature.

CHAPTER IV.-LEGISLATIVE POWER OF THE GOVERNOR

213. Power of Governor to promulgate Ordinances during recess of Legislature.

CHAPTER V.-THE HIGH COURTS IN THE STATE

214. High Courts for States.
215. High Courts to be courts of record.
216. Constitution of High Courts.
217. Appointment and condition of the office of a Judge of a High Court.
218. Application of certain provisions relating to Supreme Court to High Courts.
219. Oath or affirmation by Judges of High Courts.
220. Restriction on practice after being a permanent Judge.
221. Salaries, etc., of Judges.
222. Transfer of a Judge from one High Court to another.
223. Appointment of acting Chief Justice.
224. Appointment of additional and acting Judges.
- 224A. Appointment of retired Judges at sittings of High Courts.
225. Jurisdiction of existing High Courts.
226. Power of High Courts to issue certain writs.
- 226A. [Repealed.]
227. Power of superintendence over all courts by the High Court.
228. Transfer of certain cases to High Court.
- 228A. [Repealed.]
229. Officers and servants and the expenses of High Courts.
230. Extension jurisdiction of High Courts to Union territories.
231. Establishment of a common High Court for two or more States.

CHAPTER VI.-SUBORDINATE COURTS

233. Appointment of district judges.
- 233A. Validation of appointments of, and judgments, etc., delivered by, certain district judges.
234. Recruitment of persons other than district judges to the judicial service.
235. Control over subordinate courts.
236. Interpretation.
237. Application of the provisions of this Chapter to certain class or classes of magistrates.
238. [Repealed.]

THE UNION TERRITORIES

239. Administration of Union territories.

239A. Creation of local Legislatures or Council of Ministers or both for certain Union territories.

239AA. Special provisions with respect to Delhi.

239AB. Provisions in case of failure of constitutional machinery.

239B. Power of administrator to promulgate Ordinances during recess of Legislature.

240. Power of President to make regulation for certain Union territories.

241. High Courts for Union territories.

242. [Repealed.]

THE PANCHAYATS

243. Definitions.

243A. Gram Sabha

243B. Constitution of Panchayats.

243C. Composition of panchayats.

243D. Reservation of seats.

243E. Duration of Panchayats etc

243F. Disqualifications for membership.

243G. Powers authority and responsibilities of Panchayats.

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243I. Constitution of finance Commissions to review financial position.

243J. Audit of accounts of Panchayats.

243K. Elections to the Panchayats.

243L. Application to Union territories.

243M. Part not to apply to certain areas.

243N. Continuance of existing laws and Panchayats.

243O. Bar to interference by courts in electoral matters.

THE SCHEDULED AND TRIBAL AREAS

244. Administration of Scheduled Areas and Tribal Areas.
- 244A. Formation of an autonomous State comprising certain tribal areas in Assam and creation of local Legislation or Council of Ministers or both therefor.
245. Extent of laws made by Parliament and by the Legislatures of States.
246. Subject-matter of laws made by Parliament and by the Legislatures of States.
247. Power of Parliament to provide for the establishment of certain additional courts.
248. Residuary powers of legislation.
249. Power of parliament to legislate with respect to a matter in the State List in the national interest.
250. Power of Parliament with respect to any matter in the State List if a Proclamation of Emergency is in operation.
251. Inconsistency between laws made by parliament under articles 249 and 250 and laws made by the Legislatures of States.
252. Power of Parliament to legislate for two or more States by consent and adoption of such legislation by any other State.
253. Legislation for giving effect to international agreements.
254. Inconsistency between laws made by Parliament and laws made by the Legislatures of States.
255. Requirements as to recommendations and previous sanctions to be regarded as matters of procedure only.

CHAPTER II.-ADMINISTRATIVE RELATIONS

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the Deputy Speaker of the Legislative Assembly and the Chairman and the Deputy Chairman of the Legislative Council of a State

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APPENDICES

APPENDIX I

The Constitution (Application to Jammu and Kashmir) Order, 1954.

APPENDIX II

Re-Statement, with reference to the present text of the Constitution, of the exceptions and modifications subject to which the Constitution applies to the State of Jammu and Kashmir.

APPENDIX III

Extracts from the Constitution (Forty-fourth Amendment) Act, 1978.

WRITS

The Indian Constitution empowers the Supreme Court to issue writs for enforcement of any of the fundamental rights conferred by Part III of Indian Constitution under **Article 32**. Thus the power to issue writs is primarily a provision made to make available the **Right to Constitutional Remedies** to every citizen. The Right to Constitutional Remedies, as we know, is a guarantor of all other fundamental rights available to the people of India.

In addition to the above, the Constitution also provides for the Parliament to confer on the Supreme Court power to issue writs, for purposes other than those mentioned above.

Similar High Courts in India are also empowered to issue writs for the enforcement of any of the rights conferred by Part III and for any other purpose.

Types of Writs

There are five types of Writs - *Habeas Corpus*, *Mandamus*, *Prohibition*, *Certiorari* and *Quo warranto*.

1. Habeas Corpus

"Habeas Corpus" is a Latin term which literally means "**you may have the body.**" The writ is issued to produce a person who has been detained, whether in prison or in private custody, before a court and to release him if such detention is found illegal.

2. Mandamus

Mandamus is a Latin word, which means "**We Command**". Mandamus is an order from the Supreme Court or High Court to a lower court or tribunal or public authority to perform a public or statutory duty. This writ of command is issued by the Supreme Court or High court when any government, court, corporation or any public authority has to do a public duty but fails to do so.

3. Certiorari

Literally, Certiorari means to **be certified**. The writ of certiorari can be issued by the Supreme Court or any High Court for quashing the order already passed by an inferior court, tribunal or quasi judicial authority.

There are several conditions necessary for the issue of writ of certiorari .

- a. There should be court, tribunal or an officer having legal authority to determine the question with a duty to act judicially.
- b. Such a court, tribunal or officer must have passed an order acting without jurisdiction or in excess of the judicial authority vested by law in such court, tribunal or officer.
- c. The order could also be against the principles of natural justice or the order could contain an error of judgment in appreciating the facts of the case.

4. Prohibition

The Writ of prohibition means to forbid or to stop and it is popularly known as '**Stay Order**'. This writ is issued when a lower court or a body tries to transgress the limits or powers vested in it. The writ of prohibition is issued by any High Court or the Supreme Court to any inferior court, or quasi judicial body prohibiting the latter from continuing the proceedings in a particular case, where it has no jurisdiction to try. After the issue of this writ, proceedings in the lower court etc. come to a stop.

Difference between Prohibition and Certiorari.

1. While the writ of prohibition is available during the pendency of proceedings, the writ of certiorari can be resorted to only after the order or decision has been announced.
2. Both the writs are issued against legal bodies.

5. The Writ of Quo-Warranto

The word Quo-Warranto literally means "by what warrants?" or "what is your authority"? It is a writ issued with a view to restrain a person from holding a public office to which he is not entitled. The writ requires the concerned person to explain to the Court by what authority he holds the office. If a person has usurped a public office, the Court may direct him not to carry out any activities in the office or may announce the office to be vacant. Thus High Court may issue a writ of quo-warranto if a person holds an office beyond his retirement age.

Conditions for issue of Quo-Warranto

1. The office must be public and it must be created by a statute or by the constitution itself.
2. The office must be a substantive one and not merely the function or employment of a servant at the will and during the pleasure of another.
3. There must have been a contravention of the constitution or a statute or statutory instrument, in appointing such person to that office.

Writs in brief		
Type of Writ	Meaning of the word	Purpose of issue
Habeas Corpus	You may have the body	To release a person who has been detained unlawfully whether in prison or in private custody.
Mandamus	We Command	To secure the performance of public duties by lower court, tribunal or public authority.
Certiorari	To be certified	To quash the order already passed by an inferior court, tribunal or quasi judicial authority.
Prohibition	-	To prohibit an inferior court from continuing the proceedings in a particular case where it has no jurisdiction to try.

Quo Warranto	What is your authority?	To restrain a person from holding a public office which he is not entitled.
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AMMENDMENTS OF INDIAN CONSTITUTION

	Date of Enforcement	Objectives
1st amendment	June 18, 1951	<p>To fully secure the constitutional validity of zamindari abolition laws.</p> <p>To place reasonable restriction on freedom of speech.</p> <p>A new constitutional device, called Schedule 9 introduced to protect laws that are contrary to the Constitutionally guaranteed fundamental rights.</p> <p>These laws encroach upon property rights, freedom of speech and equality before law</p>
2nd amendment	May 1, 1953	<p>A technical amendment to fix the size of each parliamentary constituency between 650,000 and 850,000 voters.</p>
3rd amendment	February 22, 1955	<p>Limits maximum no of seats in lok Sabha up to 500</p> <p>States to be divided into constituencies such that one member of a constituency represents between 500000 and 750000 people</p>
4th amendment	April 27, 1955	<p>Restrictions on property rights and inclusion of related bills in Schedule 9 of the constitution</p>
5th amendment	December 24, 1955	<p>Provides for a consultation mechanism with concerned states in matters relating to the amendments to the territorial matters and in the re-naming of the state</p>

6th amendment	September 11, 1956	Amended the Union and State Lists with respect to raising of taxes
7th amendment	November 1, 1956	Reorganization of states on linguistic lines Abolition of Class A, B, C, D states Introduction of Union Territories
8th amendment	January 5, 1960	Clarify state's power of compulsory acquisition and requisitioning of private property Include Zamindari abolition laws in Schedule 9 of the constitution
9th amendment	December 28, 1960	Minor adjustments to territory of Indian Union consequent to agreement with Pakistan for settlement of disputes by demarcation of border villages, etc.
10th amendment	August 11, 1961	Incorporation of Dadra, Nagar and Haveli as a Union Territory after acquisition from Portugal
11th amendment	December 19, 1961	Election of Vice President by Electoral College consisting of members of both Houses of Parliament, instead of election by a Joint Sitting of Parliament. Indemnify the President and Vice President Election procedure from challenge on grounds of existence of any vacancies in the electoral college
12th amendment	December 20, 1961	Incorporation of Goa, Daman and Diu as a Union Territory, after acquisition from Portugal
13th amendment	December 1, 1963	Formation of State of Nagaland, with special protection under Article 371A

14th amendment	December 28, 1962	Incorporation of Pondicherry into the Union of India Creation of Legislative Assemblies for Himachal Pradesh, Tripura, Manipur and Goa
15th amendment	October 5, 1963	Raise retirement age of judges from 60 to 62 Other minor amendments for rationalizing interpretation of rules regarding judges etc.
16th amendment	October 5, 1963	Make it obligatory for seekers of public office to swear their allegiance to the Indian Republic and prescribe the various obligatory templates
17th amendment	June 20, 1964	To secure the constitutional validity of acquisition of Estates and place land acquisition laws in Schedule 9 of the constitution
18th amendment	August 27, 1966	Technical Amendment to include Union Territories in Article 3 and hence permit reorganisation of Union Territories
19th amendment	December 11, 1966	Abolish Election Tribunals and enable trial of election petitions by regular High Courts
20th amendment	December 22, 1966	Indemnify & validate judgments, decrees, orders and sentences passed by judges. Validate the appointment, posting, promotion and transfer of judges except those not eligible for appointment under article 233. Amendment was needed to overcome the effect of judgement invalidating appointments of certain judges in the state of Uttar Pradesh

21th amendment	April 10, 1967	Included Sindhi as a National Language
22nd amendment	September 25, 1969	Provision to form Autonomous states within the State of Assam
23rd amendment	January 23, 1970	Extend reservation for SC / ST and nomination of Anglo Indian members in Parliament and State Assemblies for another ten years i.e. up to 1980
24th amendment	November 5, 1971	Enable parliament to dilute fundamental rights through amendments to the constitution
25th amendment	April 20, 1972	Restrict property rights and compensation in case the state takes over private property
26th amendment	December 28, 1971	Abolition of privy purse paid to former rulers of princely states which were incorporated into the Indian Republic
27th amendment	February 15, 1972	Reorganization of Mizoram into a Union Territory with a legislature and council of ministers
28th amendment	August 29, 1972	Rationalized Civil Service rules to make it uniform across those appointed prior to Independence and post independence
29th amendment	June 9, 1972	Places land reform acts and amendments to these act under Schedule 9 of the constitution
30th amendment	February 27, 1973	Changes the basis for appeals in Supreme Court of India in case of Civil Suits from value criteria to one involving substantial question of law
31th amendment	October 17, 1973	Increased size of Parliament from 525 to 545 seats.

		Increased seats went to the new states formed in North East India and minor adjustment consequent to 1971 Delimitation exercise
32nd amendment	July 1, 1974	Protection of regional rights in Telangana and Andhra regions of State of Andhra Pradesh
33rd amendment	May 19, 1974	Prescribes procedure for resignation by members of parliament and state legislatures Prescribes procedure for verification and acceptance of resignation by house speaker
34th amendment	September 7, 1974	Place land reform acts and amendments to these act under Schedule 9 of the constitution
35th amendment	March 1, 1975	Terms and Conditions for the Incorporation of Sikkim into the Union of India
36th amendment	April 26, 1975	Formation of Sikkim as a State within the Indian Union
37th amendment	May 3, 1975	Formation of Arunachal Pradesh legislative assembly
38th amendment	August 1, 1975	Enhances the powers of President and Governors to pass ordinances
39th amendment	August 10, 1975	Negated the judgement of Allahabad High Court invalidating Prime Minister Indira Gandhi's election to parliament. Amendment placed restrictions on judicial scrutiny of post of Prime Minister
40th amendment	May 27, 1976	Enable Parliament to make laws with respect to Exclusive Economic Zone and vest the mineral wealth with Union of

		India. Place land reform & other acts and amendments to these act under Schedule 9 of the constitution
41th amendment	September 7, 1976	Raised Retirement Age Limit of Chairmen and Members of Union and State Public Commissions from sixty to sixty two.
42nd amendment	April 1, 1977	Amendment passed during internal emergency by Indira Gandhi. Provides for curtailment of fundamental rights, imposes fundamental duties and changes to the basic structure of the constitution by making India a "Socialist Secular" Republic
43rd amendment	April 13, 1978	Amendment passed after revocation of internal emergency in the Country. Repeals some of the more 'Anti-Freedom' amendments enacted through Amendment Bill 42
44th amendment	September 6, 1979	Amendment passed after revocation of internal emergency in the Country. Provides for human rights safeguards and mechanisms to prevent abuse of executive and legislative authority. Annuls some Amendments enacted in Amendment Bill 42
45th amendment	January 25, 1980	Extend reservation for SC / ST and nomination of Anglo Indian members in Parliament and State Assemblies for another ten years i.e. up to 1990
46th amendment	February 2, 1983	Amendment to negate judicial pronouncements on scope and applicability on Sales Tax

47th amendment	August 26, 1984	Place land reform acts and amendments to these act under Schedule 9 of the constitution
48th amendment	April 1, 1985	Article 356 amended to permit President's rule up to two years in the state of Punjab
49th amendment	September 11, 1984	Recognize Tripura as a Tribal State and enable the creation of a Tripura Tribal Areas Autonomous District Council
50th amendment	September 11, 1984	Technical Amendment to curtailment of Fundamental Rights as per Part III as prescribed in Article 33 to cover Security Personnel protecting property and communication infrastructure
51th amendment	June 16, 1986	Provide reservation to Scheduled Tribes in Nagaland, Meghalaya, Mizoram and Arunachal Pradesh Legislative Assemblies
52nd amendment	March 1, 1985	Anti Defection Law - Provide disqualification of members from parliament and assembly in case of defection from one party to other
53rd amendment	February 20, 1987	Special provision with respect to the State of Mizoram.
54th amendment	April 1, 1986	Increase the salary of Chief Justice of India & other Judges Provisions for determining future increases without the need for constitutional amendment
55th amendment	February 20, 1987	Special powers to Governor consequent to formation of state of Arunachal Pradesh
56th amendment	May 30, 1987	Transition provision to enable formation of state of Goa

57th amendment	September 21, 1987	Provide reservation to Scheduled Tribes in Nagaland, Meghalaya, Mizoram and Arunachal Pradesh Legislative Assemblies
58th amendment	December 9, 1987	Provision to publish authentic Hindi translation of constitution Provision to publish authentic Hindi translation of future amendments
59th amendment	March 30, 1988	Article 356 amended to permit President's rule up to three years in the state of Punjab Articles 352 and Article 359A amended to permit imposing emergency in state of Punjab or in specific districts of the state of Punjab
60th amendment	December 20, 1988	Professional Tax increased from a maximum of Rs. 250/- to a maximum of Rs. 2500/-
61th amendment	March 28, 1989	Reduce age for voting rights from 21 to 18
62nd amendment	December 20, 1989	Extend reservation for SC / ST and nomination of Anglo Indian members in Parliament and State Assemblies for another ten years i.e. up to 2000
63rd amendment	January 6, 1990	Emergency powers applicable to State of Punjab, accorded in Article 359A as per amendment 59 repealed
64th amendment	April 16, 1990	Article 356 amended to permit President's rule up to three years and six months in the state of Punjab
65th amendment	March 12, 1992	National Commission for Scheduled Castes and Scheduled Tribes formed and its statutory powers specified in The Constitution.

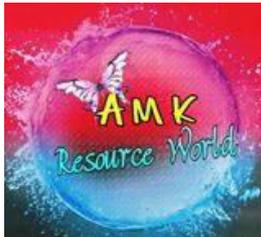
66th amendment	June 7, 1990	Place land reform acts and amendments to these act under Schedule 9 of the constitution
67th amendment	October 4, 1990	Article 356 amended to permit President's rule up to four years in the state of Punjab
68th amendment	March 12, 1991	Article 356 amended to permit President's rule up to five years in the state of Punjab
69th amendment	February 1, 1992	To provide for a legislative assembly and council of ministers for Federal National Capital of Delhi. Delhi continues to be a Union Territory
70th amendment	December 21, 1991	Include National Capital of Delhi and Union Territory of Pondicherry in electoral college for Presidential Election
71th amendment	August 31, 1992	Include Konkani, Manipuri and Nepali as National Languages
72nd amendment	December 5, 1992	Provide reservation to Scheduled Tribes in Tripura State Legislative Assembly
73rd amendment	April 24, 1993	Statutory provisions for Panchayat Raj as third level of administration in villages
74th amendment	June 1, 1993	Statutory provisions for Local Administrative bodies as third level of administration in urban areas such as towns and cities
75th amendment	May 15, 1994	Provisions for setting up Rent Control Tribunals
76th amendment	August 31, 1994	Enable continuance of 69% reservation in Tamil Nadu by including the relevant Tamil Nadu Act under 9th Schedule of the constitution

77th amendment	June 17, 1995	A technical amendment to protect reservation to SC/ST Employees in promotions
78th amendment	August 30, 1995	Place land reform acts and amendments to these act under Schedule 9 of the constitution
79th amendment	January 25, 2000	Extend reservation for SC / ST and nomination of Anglo Indian members in Parliament and State Assemblies for another ten years i.e. up to 2010
80th amendment	June 9, 2000	Implement Tenth Finance Commission recommendation to simplify the tax structures by pooling and sharing all taxes between states and The Centre
81th amendment	June 9, 2000	Protect SC / ST reservation in filling backlog of vacancies
82nd amendment	September 8, 2000	Permit relaxation of qualifying marks and other criteria in reservation in promotion for SC / ST candidates
83rd amendment	September 8, 2000	Exempt Arunachal Pradesh from reservation for Scheduled Castes in Panchayati Raj institutions
84th amendment	February 21, 2002	Extend the usage of 1971 national census population figures for state wise distribution of parliamentary seats
85th amendment	January 4, 2002	A technical amendment to protect seniority in case of promotions of SC/ST Employees
86th amendment	December 12, 2002	Provides Right to Education until the age of fourteen and Early childhood care until the age of six

87th amendment	June 22, 2003	Extend the usage of 1971 national census population figures for state wise distribution of parliamentary seats
88th amendment	January 15, 2004	To extend statutory cover for levy and utilization of Service Tax
89th amendment	September 28, 2003	The National Commission for Scheduled Castes and Scheduled Tribes was bifurcated into The National Commission for Scheduled Castes and The National Commission for Scheduled Tribes
90th amendment	September 28, 2003	Reservation in Assam Assembly relating to Bodoland Territory Area
91th amendment	January 1, 2004	Restrict the size of council of ministers to 15 % of legislative members & to strengthen Anti Defection laws
92nd amendment	January 7, 2004	Enable Levy of Service Tax Include Bodo, Dogri, Santali and Maithili as National Languages
93rd amendment	January 20, 2006	To enable provision of reservation for other backward classes (O.B.C.) in government as well as private educational institutions
94th amendment	June 12, 2006	To provide for a Minister of Tribal Welfare in newly created Jharkhand and Chhattisgarh States
95th amendment	25 January 2010	Extended the reservation of seats in Lok Sabha and State Assemblies for SC and ST from sixty to seventy years
96th amendment	23 September 2011	Substituted "Odia" for "Oriya"
97th amendment	12 January 2012	Added the words "or co-operative societies" in Article 19(1)(c) and inserted article 43B

i.e, Promotion of Co-operative Societies and added Part-IXB i.e, THE CO-OPERATIVE SOCIETIES

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