

# CONSTITUTION OF INDIA

**Constitution Of India :** Constitution is the foundational law of a country which ordains the fundamental principles on which the government (or the governance) of that country is based. It lays down the framework and principal functions of various Organs of the government as well as the modalities of interaction between the government and its citizens. With the exception of the United Kingdom (U.K.), almost all democratic countries possess a written constitution. India also possesses an elaborate written constitution which was enacted by a constituent assembly specifically set up for the purpose.

**Our Constitution :** Our present constitution— the first Constitution of India framed and given to themselves by the people of India was adopted by the Constituent Assembly on 26 November, 1949. It came into full operation with effect from 26 January, 1950. The Constitution as originally adopted had 22 parts, 395 articles and 8 schedules. Its present text is as amended from time to time.

## Evolution of Indian Constitution

Although the systems of ancient India do have their reflections in the Constitution of India, the direct sources of the Constitution lie in the administrative and legislative developments of the British period. A concise and chronological description of the Acts, documents and events that culminated in the framing of the world's largest written Constitution is given here.

## Administrative & Legislative Reforms Before 1857

### Regulating Act of 1773

- This Act was based on the report of a committee headed by the British Prime Minister Lord North.
- Governance of the East India Company was put under British parliamentary control.
- The Governor of Bengal was nominated as Governor General for all the three Presidencies of Calcutta, Bombay and Madras. Warren Hastings was the first such Governor General.
- A Supreme Court was established in Calcutta (now Kolkata ).
- Governor General was empowered to make rules, regulations and ordinances with the consent of the Supreme Court.

### Pitts India Act of 1784

- It was enacted to improve upon the provisions of Regulating Act of 1773 to bring about better discipline in the Company's system of administration.
- A 6-member Board of Controllers was set up which was headed by a minister of the British Government. All political responsibilities were given to this board.

- Trade and commerce related issues were under the purview of the Court of directors of the company.
- Provinces had to follow the instructions of the Central Government, and Governor General was empowered to dismiss the failing provincial government.

### **Charter Act of 1793**

- Main provisions of the previous Acts were consolidated in this Act.
- Provided for the payment of salaries of the members of the Board of Controllers from Indian revenue.
- Courts were given the power to interpret rules and regulations.

### **Charter Act of 1813**

- Trade monopoly of the East India Company came to an end.
- Powers of the three Councils of Madras, Bombay and Calcutta were enlarged, they were also subjected to greater control of the British Parliament.
- The Christian Missionaries were allowed to spread their religion in India.
- Local autonomous bodies were empowered to levy taxes.

### **Charter Act of 1833**

- The Governor General and his Council were given vast powers. This Council could legislate for the whole of India subject to the approval of the Board of Controllers.
- The Council got full powers regarding revenue, and a single budget for the country was prepared by the Governor General.
- The East India Company was reduced to an administrative and political entity and several Lords and Ministers were nominated as ex-officio members of the Board of Controllers.
- For the first time the Governor-General's Government was known as the 'Government of India' and his Council as the 'Indian Council'.

### **Charter Act of 1853**

- This was the last of the Charter Acts and it made important changes in the system of Indian legislation.
- This Act followed a report of the then Governor General Dalhousie for improving the administration of the company.
- A separate Governor for Bengal was to be appointed.
- Legislative and administrative functions of the Council were separately identified.
- Recruitment of the Company's employees was to be done through competitive exams.
- British Parliament was empowered to put Company's governance of India to an end at any suitable time.

## **Administrative & 'Legislative Reforms After 1857**

## **Government of India Act, 1858**

- British Crown decided to assume sovereignty over India from the East India Company in an apparent consequence of the Revolt of 1857, described as an armed sepoy mutiny by the British historians and remembered as the First War of Independence by the Indians.
- The first statute for the governance of India, under the direct rule of the British Government, was the Government of India Act, 1858.
- It provided for absolute (British) imperial control over India without any popular participation in the administration of the country.
- The powers of the crown were to be exercised by the Secretary of State for India, assisted by a council of fifteen members, known as the Council of India.
- The country was divided into provinces headed by a Governor or Lieutenant-Governor aided by his Executive Council.
- The Provincial Governments had to function under the superintendence, direction and control of the Governor-General in all matters.
- All the authority for the governance of India was vested in the Governor-General in Council who was responsible to the Secretary of State.
- The Secretary of State was ultimately responsible to the British Parliament.

## **Indian Councils Act, 1861**

- This is an important landmark in the constitutional history of India. By this Act, the powers of the crown were to be exercised by the Secretary of State for India, assisted by a council of fifteen members (known as the Council of India). The Secretary of State, who was responsible to the British Parliament, governed India through the Governor General, assisted by an Executive council.
- This Act enabled the Governor General to associate representatives of the Indian people with the work of legislation by nominating them to his expanded council.
- This Act provided that the Governor General's Executive Council should include certain additional non-official members also while transacting legislative business as a Legislative Council. But this Legislative Council was neither representative nor deliberative in any sense.
- It decentralised the legislative powers of the Governor General's Council and vested them in the Governments of Bombay and Madras.

## **Indian Councils Act, 1892**

- The non-official members of the Indian Legislative Council were to be nominated by the Bengal Chamber of Commerce and the Provincial Legislative Councils while the non-official members of the Provincial Councils were to be nominated by certain local bodies such as universities, district boards, municipalities, zamindars etc.
- The Councils were to have the power of discussing the Budget and addressing questions to the Executive.

## **Morley-Minto Reforms and the Indian Councils Act, 1909**

- Reforms recommended by the then Secretary of States for India (Lord Morley) and the Viceroy (Lord Minto) were implemented by the Indian Councils Act, 1909.
- The maximum number of additional members of the Indian Legislative Council (Governor-General's Council) was raised from 16 (under the Act of 1892) to 60 (excluding the Executive Councillors).
- The size of Provincial Legislative Councils was enlarged by including elected non-official members so that the official majority was gone.
- An element of election was also introduced in the Legislative Council at the centre also but here the official majority there was maintained.
- The Legislative Councils were empowered to move resolutions on the Budget, and on any matter of public interest, except certain specified subjects, such as the Armed forces, Foreign Affairs and the Indian States.
- It provided, for the first time, for separate representation of the Muslim community and thus sowed the seeds of separatism.

### **The Government of India Act, 1915**

- This act was passed to consolidate the provisions of the preceding Government of India Acts.

### **Montague-Chelmsford Report and the Government of India Act, 1919**

- The then Secretary of State for India Mr. E.S. Montagu and the Governor General Lord Chelmsford formulated proposals for the Government of India Act, 1919.
- Responsible Government in the Provinces was to be introduced, without impairing the responsibility of the Governor (through the Governor General), for the administration of the Province, by resorting to device known as 'Dyarchy' or dual government.
- The subjects of administration were to be divided into two categories Central and Provincial.
- Central subjects were those which were exclusively kept under the control of the Central Government.
- The provincial subjects were sub-divided into 'transferred' and 'reserved' subjects.
- The 'transferred subjects' were to be administered by the Governor with the aid of Ministers responsible to the Legislative Council in which the proportion of elected members was raised to 70 percent.
- The 'reserved subjects' were to be administered by the Governor and his Executive Council with no responsibility to the Legislature.
- The previous Central control over the provinces in administrative, legislative and financial matters was relaxed. Sources of revenue were divided into two categories so that the provinces could run the administration 'With the revenue raised by the provinces themselves.
- The political budget was separated from the central budget.
- The provincial legislature was empowered to present its own budget and levy its own taxes relating to the provincial sources of revenue.

- The Central legislature, retained power to legislate for the whole country on any subject.
- The control of the Governor General over provincial legislation was retained by providing that a Provincial Bill, even though assented to by the Governor, would become law only when assented to also by the Governor General.
- The Governor was empowered to reserve a Bill for the consideration of the Governor General if it was related to 'reserved' specified matters.
- The Governor General in Council continued to remain responsible only to the British Parliament through the Secretary of State for India.
- The Indian Legislature was made more representative and, for the first time 'bi-cameral'.
- The Upper House was named the Council of State. This was composed of 60 members of whom 34 were elected.
- The Lower House was named the Legislative Assembly. This was composed of about 144 members of whom 104 were elected.
- The electorates were arranged on a communal and sectional basis, developing the Morley-Minto device further.
- The Governor General's overriding powers in respect of Central legislation were retained as follows :
  - His prior sanction was required to introduce Bills relating to certain matters;
  - he had the power to veto or reserve for consideration of the Crown any Bill passed by the Indian Legislature;
  - he had the converse power of certifying Bill or any grant refused by the Legislature;
  - he could make Ordinances, in case of emergency.

### **Simon Commission**

- This commission, headed by Sir John Simon, constituted in 1927 to inquire into the working of the Act of 1919, placed its report in 1930. The report was examined by the British Parliament and the Government of India Bill was drafted accordingly.

### **The Government of India Act, 1935**

- The Act of 1935 prescribed a federation, taking the Provinces and the Indian States (native states) as units.
- It was optional for the Indian States to join the Federation, and since they never joined, the Federation never came into being.
- The Act divided legislative powers between the Centre and Provinces.
- The executive authority of a Province was also exercised by a Governor on behalf of the Crown and not as a subordinate of the Governor General.
- The Governor was required to act with the advice of Ministers responsible to the Legislature.

- In certain matters, the Governor was required to act 'in his discretion' without ministerial advice and under the control and directions of the Governor General, and, through him, of the Secretary of State.
- The executive authority of the Centre was vested in the Governor General (on behalf of the Crown).
- Counsellors or Council of Ministers responsible to the Legislature was not appointed although such provisions existed in the Act of 1935.
- The Central Legislature was bi-cameral, consisting of the Federal Assembly and the Council of State.
- In six provinces, the legislature was bi-cameral, comprising a Legislative Assembly and a Legislative Council. In other provinces, the Legislature was uni-cameral.
- Apart from the Governor General's power of veto, a Bill passed by the Central Legislature was also subject to veto by the Crown.
- The Governor General could prevent discussion in the Legislature and suspend the proceedings on any Bill if he was satisfied that it would affect the discharge of his special responsibilities.
- The Governor General had independent powers of legislation, concurrently with those of the Legislature.
- On some subjects no bill or amendment could be introduced in the Legislature without the Governor-General's previous sanction.
- A three-fold division in the Act of 1935 There was a Federal List over which the Federal Legislature had exclusive powers of legislation. There was a Provincial List of matters over which the Provincial Legislature had exclusive jurisdiction. There was a Concurrent List also over which both the Federal and Provincial Legislature had competence.
- The Governor-General was empowered to authorise either the Federal or the Provincial Legislature to enact a law with respect to any matter which was not enumerated in the above noted Legislative Lists.
- Dominion Status, which was promised by the Simon Commission in 1929, was not conferred by the Government of India Act, 1935.

### **Cripps Mission**

- In March 1942, Sir Stafford Cripps, a member of the British cabinet came with a draft declaration on the proposals of the British Government.
- These proposals were to be adopted at the end of the Second World War provided the Congress and the Muslim League could accept them.
- **According to the proposals**
- A ) The Constitution of India was to be framed by an elected Constituent Assembly by the Indian people.
- B ) The Constitution should give India Dominion Status.
- C ) There should be one Indian Union comprising all the Provinces and Indian States;
- D ) Any Province (or Indian State) not accepting the Constitution would be free to retain its constitutional position existing at that time and with such non-acceding Provinces the British Government could enter into separate Constitutional arrangements.



## Cabinet Mission Plan

- In March 1946, Lord Attlee sent a Cabinet Mission to India consisting of three Cabinet Ministers, namely Lord Pethick Lawrence, Sir Stafford Cripps and Mr. A.V. Alexander.
- The object of the Mission was to help India achieve its independence as early as possible, and to set up a Constituent Assembly.
- The Cabinet Mission rejected the claim for a separate Constituent Assembly and a separate State for the Muslim.
- According to Cabinet Mission Plan there was to be a Union of India, comprising both. British India and the States, and having jurisdiction over the subjects of Foreign Affairs, Defence and Communication. All residuary powers were to be vested in the Provinces and the States.
- The Union was to have an Executive and a Legislature consisting of representatives of the Provinces and the States.
- Any decision involving a major communal issue in the legislature was to require a majority support of representatives of each of the two major communities present and voting as well as a majority of all the members present and voting.
- The provinces could form groups with executives and legislatures, and each group could be competent to determine the provincial subjects.

## The Mountbatten Plan

- The plan for transfer of power to the Indians and partition of the country was laid down in the Mountbatten Plan.
- It was given a formal shape by a statement made by the British Government on 3rd June, 1947.

## The Indian Independence Act, 1947 of the British Parliament

- In pursuance of this Act, the Government of India Act, 1935, was amended by the Adaptation Orders, both. in India and Pakistan, for setting up an interim Constituent Assembly to draw up the future Constitution of the country.
- From the 15th August, 1947 India ceased to be a Dependency, and the suzerainty of the British Crown over the Indian States and the treaty relations with Tribal Areas lapsed from that date.
- The office of the Secretary of State for India was abolished.
- The Governor-General and the Governors lost extraordinary powers of legislations to compete with the Legislature.
- The Central Legislature of India, composed of the Legislative Assembly and the Council of States, ceased to exist on August 14, 1947.
- The Constituent Assembly itself was to function also as the Central Legislature with complete sovereignty.

## Constituent Assembly and Making of the Constitution

- The Cabinet Mission envisaged the establishment of a Constituent Assembly to frame a Constitution for the country. Members of the Constituent Assembly were elected by the Provincial Legislative Assemblies.
- Each Province and each Indian State were allotted seats in proportion of its population, roughly in the ratio of one to a million. The seats so ascertained were distributed among the main communities in each Province. The main communities recognised were Sikh, Muslim and General.

### Important Committees of the Constituent Assembly and their Chairman

| Chairman                              | Name of the Committee     |
|---------------------------------------|---------------------------|
| Committee on the Rules of Procedure   | Dr. Rajendra Prasad       |
| steering Committee                    | Dr. Rajendra Prasad       |
| Finance and Staff Committee           | Pt. Jawaharlal Nehru      |
| Ad Hoc Committee on the National Flag | Pt. Jawaharlal Nehru      |
| Union power Committee                 | Pt. Jawaharlal Nehru      |
| State Committee                       | Sardar vallabh bhai patel |
| Drafting committee                    | B.R. Ambedkar             |
| Advisory Committee on Fundamental     | Sardar vallabh bhai patel |
| Credential Committee                  | Alladi Krishnaswami Ayyar |
| House Committee                       | B.Pattabhi Sitaramayya    |
| Order of Business Committee           | K. M. Munshi              |
| Minorities Sub-Committee              | H.C. Mookherjee           |
| Excluded and Partially Excluded Areas | A. V. Thakkar             |

- The total number of members of the Constituent Assembly was 385, of whom 93 were representatives from the Indian States and 292 from the Provinces (British India).
- After the partition of India number of members of the Constituent Assembly came to 299, of whom 284 were actually present on the 26th November, 1949 and signed on the finally approved Constitution of India. The Constituent Assembly, which had been elected for undivided India, held its first meeting on December 9, 1946, and reassembled on August 14, 1947, as the sovereign Constituent Assembly for the dominion of India.
- It took two years, eleven months and eighteen days for the Constituent Assembly to finalise the Constitution.
- Objective Resolution was moved in the first session of the Constituent Assembly ( on 13 December, 1946 ) by Pandit Jawaharlal Nehru which was adopted after considerable deliberation and debate in the Assembly on 22 January, 1947. The following objectives were embodied in the resolution
- To foster unity of the Nation and to ensure its economic and political security, to have a written Constitution, and to proclaim India as a Sovereign Democratic Republic.
- To have a federal form of Government with the distribution of powers between the centre and states.



- To guarantee and secure justice, equality, freedom of thought, expression, belief, faith, worship, vocation, association and action to all the people of India.
- To provide adequate safeguards for minorities, backward and tribal areas and depressed and other backward classes.
- To maintain the integrity of the territory of the republic and its sovereign rights on land, sea and air according to justice and the law of civilised nations.
- To attain rightful and honoured place in the world and make its full and willing contribution to the promotion of the world peace and the welfare of mankind.
- The principles of the Constitution were outlined by various committees of the Assembly, and there was a general discussion on the reports of these Committees. The Assembly appointed the Drafting Committee with Dr. B.R. Ambedkar as the Chairman on August 29, 1947.
- The Drafting Committee, headed by Dr. B.R. Ambedkar, submitted a Draft constitution of India to the President of the assembly on 21 February 1948.
- The members of Drafting Committee were N. Gopalaswamy Ayyangar, Alladi Krishnaswamy Ayyar, K.M. Munshi, Mohd. Saadullah, B.L. Mitter (later replaced by N. Madhava Rao), Dr. D.P. Khaitan (replaced on death by T.T. Krishnamachari).
- The third and final reading of the draft was completed on November 26, 1949. On this date, the signature of the President of the Assembly was appended to it and the Constitution was declared as passed.
- The provisions relating to citizenship, elections and provisional Parliament etc. were implemented with immediate effect, that is, from the 26th November, 1949. The rest of the provisions of the constitution came into force on January 26, 1950 and this date is referred to in the Constitution as the date of its commencement.

### Different Sources of the Indian Constitution

- Although the skeleton of the constitution was derived from the Government of India Act 1935, many provisions were imported from other constitutions of the world. Some of them are listed below along with the Government of India Act, 1935 :

**Government of India Act, 1935 :** This Act formed the basis or 'blueprint' of the constitution of India with the features of Federal system, office of Governor, emergency powers etc. Besides, the Constitution of India has borrowed from the

**Constitution of Britain :** Law making procedures, Rule of law, Single citizenship, Bi-cameral Parliamentary system, office of CAG.

**Constitution of USA :** Independence of judiciary, judicial review, fundamental rights , removal of Supreme Court and High Court judges, Preamble and functions of President and Vice-president.

**Constitution of Canada :** Federation with strong Centre, to provide residuary powers to the Centre, Supreme Court's advisory jurisdiction.

**Constitution of Ireland :** Directive Principles of State policy, method of presidential elections, and the nomination of members to Rajya Sabha by the President.

**Constitution of Germany :** Provisions concerning the suspension of fundamental rights during emergency.

**Constitution of Australia :** Idea of the Concurrent List, Trade and Commerce provisions.

### Important Articles of the Constitution

| Articles | Subject   |
|----------|---|
| Part I   | The Union and its territory. (Art. 1-4 )                          |
| Part II  | Citizenship (Art. 5-11)   |
| Part III | Fundamental Rights  |
| Art. 12  | Definition  |
| Art. 13  | Laws inconsistent with or in derogation of the fundamental rights |

### Right to Equality

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

### Right to Freedom

|         |  |
|---------|--|
| Art. 19 | Protection of certain rights regarding freedom of speech, etc. |
| Art. 20 | Protection in respect of conviction for offences               |

Art. 21 Protection of life and personal liberty

21A. Right to education

Art. 22 Protection against arrest and detention in certain cases

### Right against Exploitation

Art. 23 Prohibition of traffic in human beings and forced labour

Art. 24 Prohibition of employment of children in factories, etc.

### Right to Freedom of Religion.

Art. 25 Freedom of conscience and free profession, practice and propagation of religion

Art. 26 Freedom to manage religious affairs

Art. 27 Freedom as to payment of taxes for promotion of any particular religion

Art. 28 Freedom as to attendance at religious instruction or religious worship in certain educational institutions Cultural and Educational Rights

Art, 29 Protection of interests of minorities

Art. 30 Right of minorities to establish and administer educational institutions

Saving of certain Laws

Art. 31A Saving of laws providing for acquisition of estates, etc.

Art. 31B Validation of certain Acts and Regulations

Art. 31C Saving of laws giving effect to certain directive principles

### Right to Constitutional Remedies

Art. 32 Remedies for enforcement of rights conferred by this Part

Art. 33 Power of Parliament to modify the rights conferred by this Part in their application to Forces, etc.

Art 34 Restriction on rights conferred by this Part while martial law is in force in any area

Art. 35 Legislation to give effect to the provisions of this Part

### Part IV Directive Principles of State Policy

Art. 36 Definition

Art. 37 Application of the principles contained in this Part

Art. 38 State to secure a social order for the promotion of welfare of the people

Art. 39 Certain principles of policy to be followed by the State

Art. 39A Equal justice and free legal aid

Art. 40 Organisation of village panchayats

Art. 41 Right to work, to education and to public assistance in certain cases

Art. 42 Provision for just and humane conditions of work and maternity relief

Art. 43 Living wage, etc. for workers

Art. 43A Participation of workers in management of industries

Art. 43B The State shall endeavour to promote voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies.

Art. 44 Uniform civil code for the citizens

Art. 45 Provision for early childhood care and education to children below the age of six years

Art. 46 Promotion of educational and economic interest of Scheduled Castes, Scheduled Tribes and other weaker sections

Art. 47 Duty of the State to raise the level of nutrition and the standard of living and to improve public health

Art. 48 Organisation of agriculture and animal husbandry

Art. 48A Protection and improvement of environment and safeguarding of forests and wild life

Art. 49 Protection of monuments and places and objects of national importance

Art. 50 Separation of judiciary from executive

Art. 51 Promotion of international peace and security

## Part IVA Art. 51A Fundamental Duties

## Part V The Union

## Chapter-1 : The Executive

Art. 52 The President of India

Art. 53 Executive power of the Union

Art. 54 Election of President

Art. 61 Procedure for impeachment of the President

Art. 63 The Vice-President of India

Art. 64 The Vice-President to be ex-officio Chairman of the Council of States

Art. 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

Art. 66 Election of Vice-President

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

Art. 74 Council of Ministers to aid and advise President

Art. 76 Attorney-General for India

## Chapter-II : Parliament

Art. 79 Constitution of Parliament

Art. 80 Composition of the Council of States (Rajya Sabha)

Art. 81 Composition of the House of the People (Lok Sabha)

Art. 83 Duration of Houses of Parliament

Art. 84 Qualification for membership of Parliament

Art. 85 Sessions of Parliament, prorogation and dissolution

Art. 86 Right of President to address and send messages to Houses

Art. 87 Special address by the President

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

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

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

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

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

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

Art. 98 Secretariat of Parliament

Art. 99 Oath or affirmation by members

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

Art. 105 Powers, privileges, etc. of the House; of Parliament and of the members and committees thereof

Art. 106 Salaries and allowances of members

Art. 107 Provisions as to introduction and passing of Bills

Art. 108 Joint sitting of both Houses in certain cases

Art. 109 Special procedure in respect of Money Bills

Art. 110 Definition of "Money Bills"

Art. 111 Assent to Bills

Art. 112 Annual financial statement (Budget)

Art. 113 Procedure in Parliament with respect to estimates

Art. 114 Appropriation Bills

Art. 115 Supplementary, additional or excess grants

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

Art. 117 Special provisions as to financial Bills

Art. 118 Rules of procedure

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

Art. 120 Language to be used in Parliament

Art. 121 Restriction on discussion in Parliament

Art. 122 Courts not to inquire into proceedings of Parliament

Chapter III : Legislative Powers of the President



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

#### Chapter IV : The Union Judiciary

Art. 124 Establishment and Constitution of Supreme Court

Art. 125 Salaries, etc. of Judges

Art. 126 Appointment of acting Chief Justice

Art. 127 Appointment of ad hoc Judges

Art. 128 Attendance of retired Judge at sittings of the Supreme Court

Art. 129 Supreme Court to be a Court of record

Art. 130 Seat of Supreme Court

Art. 131 Original jurisdiction of Supreme Court

Art. 132 Appellate jurisdiction of Supreme

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

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

Art. 136 Special leave to appeal by the Supreme Court

Art. 137 Review of judgements or orders by the Supreme Court

Art. 138 Enlargement of the jurisdiction of the Supreme Court

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

Art. 143 Power of President to consult Supreme Court

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

#### Chapter- V Comptroller and Auditor-General of India

Art. 148 Comptroller and Auditor-General of India

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

## Part VI The States

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Part X Art. 244-244A The Scheduled and Tribal Areas

Part XI Art. 245-263 Relations between. The Union and the States

Part XII Art. 264-300 Finance, property, contracts and suits; Distribution of revenue between Union and States; Finance Commission; Borrowing, Property, Contracts, Rights, Liabilities, Obligations and Suits

Art. 300A Right to Property

Part XIII Art. 301-307 Trade, commerce and intercourse within India

Part XIV Services Under The Union and The States

Art. 309 Recruitment and conditions of service of persons serving the Union or a State

Art. 310 Tenure of office of persons serving the Union or a State

Art. 311 Dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or a State

Art. 312 All-India Services

Art. 315 Public Service Commissions for the Union and for the States

Art. 316 Appointment and term of office of members

Art. 317 Removal and suspension of a member of a Public Service Commission

Art. 318 Power to make regulations as to conditions of service of members and staff of the Commission

Art. 320 Functions of Public Service Commissions

Art. 321 Power to extend functions of Public Service Commissions

Art. 323 Reports of Public Service Commissions

**Part XVI** ART. 330 - 342 SPECIAL PROVISION FOR CERTAIN CLASSES

**PART XVII** ART 343 - 351 OFFICIAL LANGUAGE

**PART XVIII** ART 352- 360 EMERGENCY PROVISION

**Part XXI** Art. 369-392 Temporary, Transitional and Special Provisions Special status of States

**Part XXII** Art. 393-395 Short Title, Commencement, Authoritative text in Hindi and Repeals

### Some important Amendments of the Constitution

- 1st Constitutional Amendment Act, 1951 : This amendment added Article, 15(4) and Article, 19(6) and brought changes in the right to private property in pursuance with the decision of. Supreme Court concerning fundamental rights. Ninth schedule to the Constitution was also added by It.
- 7th Constitutional Amendment Act, 1956 : Through this amendment the implementation of State Reorganisation Act, was made possible. The categorisation of States into Part A, Part B and Part C ceased henceforth. Part C states were redesignated as Union Territories. The seats in the Rajya Sabha and in the Union. and State Legislatures were reallocated. It also effected changes regarding appointment of additional and acting judges, High Courts and their jurisdictions etc.
- 10th Constitutional Amendment Act, 1961 : Incorporated Dadra and Nagar Haven as Union Territory.
- 12th Constitutional Amendment Act, 1962 : Inclusion of territories of Goa, Daman and Diu into the Indian Union.
- 13th Constitutional Amendment Act, 1962 : Insertion of Art. 371 A to make special provisions for the administration of the State of Nagaland.
- 14th Constitutional Amendment Act, 1962 : Pondicherry, Ka raikal, Mahe and Yenam, the former French territories, were specified in the Constitution as the Union Territory of Pondicherry (now Puducherry). Enabled the UTs of Himachal Pradesh, Manipur, Tripura, Goa, Daman and Diu and Pondicherry to have Legislatures and Council of Ministers.

- 15th Constitutional 1 Amendment Act, 1963 • It raised the age of retirement of a High Court Judge from 60 to 62. Extended the jurisdiction of a High Court to issue writs under Art. 226 to a Government or authority situated Outside its territorial jurisdiction where the cause of action arises such jurisdiction.
- 19th Constitutional Amendment Act, 1966 : Art. 324 was amended to clarify the duties of the Election Commission. It deprived the Election Commission of the power to appoint election tribunals for deciding election disputes of members of Parliament and State Legislatures.
- 21st Constitutional Amendment Act, 1967 : Sindhi language was included as 15th regional language in the Eighth Schedule.
- 24th Constitutional Amendment Act, 1971 : It was a retaliatory act of the Parliament to neutralise the effect of the judgement in Golak. Nath Case. It affirmed the parliament's power to amend any part of the Constitution, including Fundamental Rights by amending Arts. 368 and 13. It made obligatory for the President to give assent to Amendment Bills, when they are presented to him/ her.
- 25th Constitutional Amendment Act, 1971 (came into force on 20.04.1972): It restricted the jurisdiction of the Courts over acquisition laws with regard to adequacy of Compensation. This amendment came primarily in the wake of Bank Nationalisation case and the word 'amount' was substituted in place of 'compensation' in Article 31. It also provided that no law passed by the State to give effect to Directive Principles specified under clauses (b) and (c) of Art. 39 can be declared void on the ground that it was inconsistent with Fundamental Rights conferred by Arts. 14, 19 and 31.
- 26th Constitutional Amendment Act, 1971 : This amendment withdrew the recognition to the rulers of Princely States and their privy purses were abolished.
- 30th Constitutional Amendment Act, 1972 (w.e.f. 27.02.1973) : It provided that only such appeals can be brought to the Supreme Court which involve a substantial question of law. The valuation aspect of Rs. 20,000 for appeals in civil cases to the Supreme Court was abolished.

- 31st Constitutional Amendment Act, 1973 : By this amendment, the seats of the Lok Sabha was increased from 525 to 545 but reduced the representation of UTs in Lok Sabha from 25 to 20. Vith mstitutional Amendment Act, 1974 (w.e.f. 01.03.1975) : Accorded status of Associate State to Sikkim by ending its protectorate kingdom status which was a novel concept introduced in the Constitution. lhth Constitutional. AmenUment Act, 1975 : Made Sikkim a full fledged State of the Union of India.
- 38th Constitutional Amendment Act, 1975 : Clarified that declaration of emergency by the President and promulgation of Ordinance by the President or Governor cannot be challenged in any Court On any ground. Constitutional Amendment Act, 1975 The disputes or questions regarding elections of President, Vice-President Prime Minister and Speaker
- 43rd Constitutional Amendment Act, 1977 (w.e.f. 13.04.1978) : The 43rd Amendment omitted many articles inserted by 42nd Amendment. It restored the jurisdiction of the Supreme Court and the High Courts, which had been curtailed under the 42nd Amendment.
- 44th Constitutional Amendment Act, 1978 (w.e.f June-September, 1979) : The amendment was brought by the Janata Party Government which repealed some of the changes effected by 42nd Amendment, omitted a few and provided alterations. Right to property was taken away from the list of Fundamental Rights and placed in a new Art. 300A as an ordinary legal right. Constitutionality of the Proclamation of Emergency by the President could be questioned in a court on the ground of malafide (42nd Amendment had made it immune from judicial review). It brought the revocation of a Proclamation under Parliamentary control. In Article 352 regarding National Emergency, the words ' internal disturbance' were substituted by th.e words 'armed rebellion'. It authorised the President to refer back the advice to the Council of Ministers for reconsideration, but made it binding for the President to act on the reconsidered advice. The power of the Courts to decide disputes regarding election of Prime Minister and Speaker was restored. Constitutional protection on publication of proceedings of Parliament and State Legislatures was provided.
- 52nd Constitutional. Amendment Act, 1985 : This amendment was brought about during Rajiv Gandhi regime with a view to put an end to political defections. It added Tenth Schedule to the Constitution containing the modes for disqualification in case of defection from the Parliament or State Legislature.

- 55th Constitutional Amendment Act, 1986 (w.e.f. 20.02.1987) : The formation of Arunachal Pradesh took place with special powers given to the Governor. It also provided for a 30-member State Assembly.
- 56th Constitutional Amendment Act, 1987 : Goa was made a full fledged State with a State Assembly but Daman and Diu stayed as UT.
- 61st Constitutional Amendment Act, 1988 (w.e.f. 28.03.1989) : It brought about an amendment to Article 326 for the reduction of voting age from 21 to 18 years .
- 62nd Constitutional Amendment Act, 1989 : It increased the period of reservation of seats provided to the Scheduled Castes and Scheduled Tribes for another 10 years i.e. upto 2000 A.D. The reservation for Anglo-Indians through nomination in case of their inadequate representation, was also extended upto 2000 A.D.
- 65th Constitutional Amendment Act, 1990 (w.e.f. 12.03.1992) : A National Commission for Scheduled Castes and Scheduled Tribes with wide powers was provided to take care of the cause of SCs / STs.
- 66th Constitutional Amendment Act, 1990 : This amendment provided for the inclusion of 55 new land reform Acts passed by the States into the Ninth Schedule.
- 69th Constitutional Amendment Act, 1991 (w.e.f. 01.02.1992) : Arts. 239- AA and 239-AB were inserted in the Constitution to provide a National Capital Territory designation to Union Territory of Delhi with a legislative Assembly and Council of Ministers.
- 70th Constitutional Amendment Act, 1992 : Altered Art. 54 and 368 to include members of legislative assemblies of Union Territories of Delhi and Pondicherry in the electoral college for the election of the President.
- 71st Constitutional Amendment Act, 1992 : It included Manipuri, Konkani and Nepalese languages in the 8th Schedule.



- 73rd Constitutional Amendment Act, 1992 (w.e.f. 24.04.1993) The institution of Panchayati Raj received Constitutional guarantee, status and legitimacy . Xith Schedule was added to deal with it. It also inserted part IX, containing Arts, 243, 243A to 243O.
- 74th Constitutional Amendment Act, 1992 (w.e.f. 01.06.1993) : Provided for constitutional sanctity to Municipalities by inserting Part IX-A, containing Arts. 243P to 243ZG and the XIIth Schedule which deals with the items concerning Municipalities.
- 77th. Constitutional Amendment Act, 1995 : By this amendment a new CLASs 4A WAS added to Art.16 which authorised the State to make provisions
- 79th Constitutional Amendment Act, 1999 Amended Art. 334 to extend the reservation of seats for SCs/STs and Anglo-Indians in the Lok Sabha and in the State Legislative Assemblies upto 60 years from the commencement of the Constitution (i.e., till 2010).
- 80th Constitutional Amendment Act, 2000 Amended Art. 269 and Commission. This amendment was deemed to have come into substituted a new Article for Art. 270 and abolished Art. 272 of (The Constitution. This was based on the recommendation of the Tenth Finance Commission from 1 st April 1996. The Amendment widened the scope of the Central taxes and duties on the consignment of goods levied by the Government of India and distributed among States.
- 81st Constitutional Amendment Act, 2000 : Amended Art. 16(1) of the Constitution and added a new clause (4-B) after clause (4-A) to Art. 16(1) of the Constitution. The new clause (4-B) ends the 50% ceiling on reservation for Scheduled Caste and Scheduled Tribes and other Backward Classes in backlog vacancies.
- 82nd Constitutional Amendment Act, 2000 : This amendment restored the relaxation in qualifying marks and standards of evaluation in both job reservation and promotions to Scheduled Castes and Scheduled Tribes which was set aside by a Supreme Court's judgement in 1996.
- 84th Constitutional Amendment Act, 2001 (w.e.f. 21.02.2002) : This amendment provided that till the publication of the relevant figures of the first census after 2026 the ascertainment of the population of a State for following purposes shall be made on the basis of the census shown against each of them : Election of the President under Art. 55 1971 census. Allotment of seats to each State in Lok Sabha — 1971 census. Division of State into territorial Lok Sabha constituencies - 1991 census. Composition of Legislative Assemblies under Art. 170 1991 census. Reservation of seats for SC / ST in the Lok Sabha under Art. 330 1991 census

- 85th Constitutional Amendment Act, 2001 : It amended clause (4- The amendment provided for 'consequential seniority' to the SCOTs With A) of Art. 16 and substituted the words "in matters of promotion, consequential seniority, to any class" for the words "in matter of promotion to any class"for promotion in government service.
- 86th Constitutional Amendment Act, 2002 : Added a new Art. 21A Art. 21 which makes the right of education for children of the age of 6 to 14 years
- 89th Constitutional Amendment Act, 2003 : Provided for the establishment of a separate National Commission for Scheduled Tribes by bifurcat- ing the existing National Commission for Scheduled Castes and Scheduled Tribes. The commission shall consist of a Chairman, Vice-Chairman and three other members. They shall be appointed by the President of India.
- 90th Constitutional Amendment Act, 2003 : This amendment was necessitated due to creation of Bodoland Territorial Areas District within the State of Assam by agreement reached between the Centre and Bodo repre- sentatives for solving Bodoland problem. It stated that the representation of Scheduled Tribes and non-Scheduled Tribes in the Constitution of the Bodoland Territorial Areas District shall he maintained. It meant that the representation of the above categories shall remain the same as existed prior to the creation of Bodoland Territorial Areas District.
- 91st Constitutional. Amendment Act, 2003 (w.e.f. 01.01.2004) : This amendment limits the size of Ministries at the Centre and in States.According to new Clause (1-A) the total number of Ministers, including the Prime Minister in the Union Council of Ministers or Chief Minister in the State Lagislative Assemblies shall not exceed 15 per cent of the total members of the Lok Sabha in the Centre or Vidhan Sabha in the states. The new Clause (1-B) of Article 75 provides that a member of either House of Parliament belonging to any political party who is disqualified for being member of that house on the ground of defection shall also he disqualified to be appointed as a minister under Clause (1) of Art. 75 and 164 until he is again elected. However, the number of Ministers, including, the Chief Minister in a State shall not be less than 12 (in smaller States like Sikkim, Mizoram and Goa).
- 92nd Constitutional AmendmentAct, 2003 (w.e. f. 07.01.2004): It amended the Eighth Schedule of the Constitution and has inserted 4 new languages in it, namely Bodo, Dogri, Maithili and Santhali. After this amendment the total number of constitutionally recognised official languages has become 22.
- 93rd onstitutional Amendment Act, 2005 (w.e.f. 20.01.2006) : Provided reservation in admissions in private unaided educational institutions far students belonging to scheduled castes/ tribes and other backward classes

## FEATURES OF INDIAN CONSTITUTION -

The Indian Constitution has the features both of a federal and unitary forms of Government.

### Federal features of the Indian. Constitution -

- Distribution of powers between Union and the States has been made as per the three lists.
- The Union Government as well as the State Governments have to function strictly in accordance with the Constitution. They can neither alter the distribution of powers nor override the dictates of the Constitution.
- Indian Constitution is entirely written. An amendment to it must be passed by the Parliament and if an amendment affects the federal structure it must be ratified by at least half the State Legislatures.
- Like other federal states our country also has an independent Judiciary as an essential feature.

### Unitary features of the Indian. Constitution

- In a federation, people enjoy dual citizenship, that of the Centre and of the State to which they belong . But the Indian Constitution provides every Indian with single citizenship.
- The most important subjects are included in the Union List which has been allocated to the centre.
- The centre can legislate on the subjects in the concurrent list. Residuary powers belong to the Centre.
- Single Constitutional Framework has been provided for the Centre as well as for the State.
- The proclamation of National emergency can immediately turn the federal system of India into a Unitary one.
- In a federation, each State should get equal representation irrespective of its size or population. But in the Rajya Sabha in India, States are represented on the basis of population. Besides, the President has the power to nominate twelve members to the Rajya Sabha.
- The Governors of the States are appointed by the President and they continue to hold office only during his pleasure.
- The Indian Constitution provides for single judiciary, a single system of civil and criminal law and command All India Services.
- The authority of the Comptroller and Auditor General and the Chief Election Commissioner uniformly prevails over the Union as well as States.

### The Preamble

The Preamble to the Constitution states the object which the Constitution seeks to establish and promote, and also aids the legal interpretation of the Constitution where the language is found ambiguous. The ideals embodied in the Objectives Resolution is faithfully reflected in the Preamble to the Constitution, which, as amended in 1976, summaries the aims and objects of

the Constitution. 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 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 unity and integrity of the Nation in our Constituent Assembly on this twenty sixth day of November, 1949, do hereby adopt, enact and give to ourselves this constitution." The Preamble specifies the source of authority, i.e. people of India, the system of Government, the objectives to be attained by the political system and the date of adoption and enactment of the Constitution. Though, the Preamble is not enforceable in a court of law, it provides a key to the understanding and interpretation of the Constitution. In case of doubt, the Supreme Court has referred to the Preamble to elucidate vague aspects of the Constitution. In the *Berubari* case, the Supreme Court held that the Preamble was not part of the Constitution, but later, in the *Keshavananda Bharti* case, it declared that it was part of the Constitution.

### Lapse of. Paramountcy

When the Indian Independence Act 1947, was passed, it declared the lapse of suzerainty (paramountcy) of the crown, in sec. 7(i)(b) of the Acts from the appointed day-the suzerainty of His Majesty over the Indian States lapses, and with it, all treaties and agreements in force at the date of the passing of this Act between His Majesty and the rulers of Indian States, all functions exercisable by His Majesty at the date with respect to Indian States, all obligations of His Majesty existing at that date towards Indian States or the rulers thereof, and all powers, rights, authority, or jurisdiction exercisable by His Majesty at that date in or in relation to Indian States by treaty, grant, usage, sufferance or otherwise. Of the states situated within the geographical boundaries of the Dominion of India, all (numbering 552) save Hyderabad, Kashmir, Bahawalpur, Junagarh and the N.W.F. (North West Frontier) states (Chitral, Phulra, Dir, Swat and Amb) had acceded to the Dominion of India by the 15th August, 1947, i.e. before the 'appointed day' itself.

### Integration and Merger of Indian States

- The main objective of shaping the Indian States into sizeable or viable administrative units was sought to be achieved by a three-fold process of integration (known as the 'Patel Scheme' after Sardar Vallabhbhai Patel, Minister-in-charge of Home Affairs)— 216 states were merged into respective Provinces, geographically contiguous (connected) to them.
- These merged states were included in the territories of the states in Part B in the First Schedule of the constitution.
- The process of merger started with the merger of Orissa and Chhattisgarh States with the then Province of Orissa on January 1, 1948.

- 61 states were converted into Centrally administered areas and included in Part C of the First Schedule of the Constitution.
- The third form of integration was the consolidation of groups of states into new viable units, known as Union of States.
- As many as 275 states were integrated into 5 Unions — Madhya Bharat, Patiala and East Punjab States Union, Rajasthan, Saurashtra and Travancore–Cochin. These were included in the States in Part B of the First Schedule.
- The other three States included in Part B were—Hyderabad, Jammu and Kashmir and Mysore.
- Jammu and Kashmir acceded to India on October 26, 1947, and so it was included as a state in Part B, but the Government of India agreed to take the accession subject to confirmation by the people of the state, and a constituent. Assembly subsequently confirmed it, in November, 1956.

### Reorganization of States

A Bill seeking to create a new State or alter boundaries of existing States can be introduced in either House of the Parliament, only On the recommendation of the President. President refers the State Reorganization Bill to the State Legislature concerned for its opinion, fixing a time limit. Parliament is not bound to accept or act upon the views of the State Legislature on a state Reorganization Bill. The State Reorganization Bill requires simple majority in both Houses of the Parliament. It is not necessary to obtain the views of legislatures of Union territories before a bill affecting their boundaries or names is introduced

### Citizenship

- The Constitution of India provides for a single and uniform citizenship for whole of India.
- Citizenship of India was granted to every person who domiciled in the territory of India at the commencement of the constitution and who was born in the territory of India or —
  - Either of whose parents was born in the territory of India or
  - Who had been ordinarily residing in the territory of India for not less than five years immediately preceding commencement of the Constitution.
- Indian citizens have the following rights under the Constitution which aliens do not possess:
- Some of the Fundamental Rights enumerated in part III of the Constitution. e. g. Articles 15, 16, 19, 29, 30.

- Only citizens are eligible for offices of the President, Vice-President, Judge of the Supreme Court or a High. Court, Attorney General, Governor of a State, Member of a legislature etc.
- Only citizens have the right to vote.
- Generally, every person born in India on or after January 1950, shall be a citizen of India if either of his parents was a citizen of India at the time of his birth.
- A person who was outside India on or after 26 January; 1950, shall be a citizen of India by descent, if his father was a citizen of India at the time of that person's birth.
- A person can apply for and get registered as a citizen of India by the competent authority if he satisfies the conditions laid down.
- A person residing in India for more than 7 years and having adequate knowledge of a constitutionally recognised Indian language can seek citizenship by naturalisation, provided he is not a citizen of a country where Indian citizens are prevented from becoming citizens by naturalisation.
- If any new territory becomes a part of India, the persons of the territory become citizens of India.
- **Citizenship of India may be lost by :**
- Renunciation of citizenship.
- Termination of citizenship, if a citizen of India voluntarily acquires the citizenship of another country.
- Deprivation of citizenship by the Government of India

## **Fundamental Rights**

Six Fundamental Rights have been provided by the Constitution :

1. Right to equality
2. Right to liberty
3. Right against exploitation
4. Right to freedom of religion
5. Cultural and educational rights
6. Right to constitutional remedy

- Article 14 of the constitution provides that the State shall not deny any person equality before the law or equal protection of the laws within the territory of India.
- Exceptions to the provision of equality before law, allowed by the Indian Constitution are :
- The President or the Governor of a State is not answerable to any Court for the exercise and performance of the powers and duties of his office.
- No criminal proceeding can be instituted or continued against the President or a Governor in any Court during his term of office.



- No civil proceeding in which relief is claimed against the President or the Governor of a State can be instituted during his term of office in any Court in respect of any act done by him in his personal capacity, without a prior notice of two months.
- The above immunities do not bar Impeachment proceeding against the President and Suits or other appropriate proceeding against the Government of India or the Government of a State.
- Exceptions acknowledged by the comity of nations in every civilized country, in favour of foreign Sovereigns and ambassadors.
- The guarantee of 'equal protection' is a guarantee of equal treatment of persons in 'equal circumstances', permitting differentiation in different circumstances.
- Article 15 of the Constitution states that The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.
- No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them be subjected to any disability, liability restriction Or condi Lion with regard to access to shops, public restaurants, hotels and places of public entertainment or the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of general public.
- Nothing in this article shall prevent the State from making any special provisions for women, children or any socially and educationally backward classes.
- Article 16 guarantees Equality of opportunity in matters of public employment. It says that :
- There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State. No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth or any of them, be ineligible for any employment under the State.

### **The Mandal Commission Case**

- A nine-Judge Bench of the Supreme Court has laid down in Indra Sawhney's case (popularly known as the Mandal Commission Case) regarding reservation in Government employment, that
- Under Article 16(4) provisions can be made in favour of the backward classes in the matter of employment by Executive orders also. Backward class of citizens is not defined in the Constitution. A caste may also constitute a class.
- The backwardness contemplated by Art. 16(4) is mainly social. It need not be both social and educational.
- Income or the extent of property can be taken as a measure of social advancement and on that basis the 'creamy layer' of a given caste can be excluded. The reservations contemplated in Art. 16(4) should not exceed 50%.
- Reservation of posts under Art. 16(4) is confined to initial appointment only and cannot extend to providing reservation in promotion.

- Note : Mandal Commission was set up in 1979 under the Chairmanship of B.N. Madal, 11/1.P (Former Chief Minister of Bihar).
- The 77th Amendment has provided to continue reservation in promotion for the S.C. and S.T.
- Identification of backward classes is subject to judicial review.
- Article 17 ensures Abolition of Untouchability. The word 'untouchability' has not been defined either in the Constitution or in the relevant Act of Parliament. It has been assumed that the word has a well known connotation.
- Article 18 ensures Abolition of titles. It prevents the State from conferring any title.
- This ban is only against the State and not against institutions, such as Universities.
- The State is not debarred from awarding military or academic distinctions, even though they may be used as titles.
- The State is not prevented from conferring any distinction or award which cannot be used as a title. Bharat Ratna or Padma Vibhushan cannot be used by within the Constitutional prohibition. the recipient as a title and therefore does not c:mrrise;
- Article 19 provides the six freedoms of :
- Speech and expression; \* Assemble peacefully and without arms; Farm associations or unions;
- Move freely throughout the territory of India;
- Reside and settle in any part of the territory of India; and
- Practise any profession, or to carry on any occupation, trade or business.

State can impose restrictions on the freedom of speech in the interest of the sovereignty and integrity of India , the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of Court, defamation or incitement to an offence.

Restrictions can be imposed on the right to form associations in the interests of the sovereignty and integrity of India or public order or morality. Restrictions can also be imposed on freedom of movement and reside and settle in the interests of the general public or for the protection of the interests of any Scheduled Tribe.

State can prescribe the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business. State can exclude any citizen from a business or industry run by the Government or a body of Government.

There is no specific provision in the Constitution guaranteeing the freedom of the press because freedom of the press is included in the wider freedom of 'expression' which is guaranteed by freedom of expression under Art. 19.

Article 20 guarantees certain protection in respect of conviction for offences. It prohibits :

Restrospective criminal legislation, commonly known as ex post facto legislation.

Double jeopardy or punishment for the same offence more than once.

Compulsion to give self-incriminating evidence.

Article 21 (A) makes the right of education for children of the age of 6 to 14 years a fundamental right . {Ref. : 86th Amendment Act, 2002}

Article 21 of Constitution provides that no person shall be deprived of his life or personal liberty except according to the procedure established by law.

Under the 'Due Process' Clause of the American Constitution, the Court has assumed the power of declaring unconstitutional any law which deprives a person of his liberty without reasonableness and fairness.

In England courts have no power to invalidate a law made by Parliament

In the case of Gopalan Supreme Court held that our Constitution had embodied the English concept.

In Maneka's case the Supreme Court held that a law made by the State which seeks to deprive a person of his personal liberty must prescribe a procedure for such deprivation which must not be arbitrary, unfair or unreasonable. It follows that such law shall be invalid if it violates the principle of natural justice.

Article 22 provides that no person who is arrested shall be detained in custody without being informed of the grounds for such arrest.

No arrested person can be denied the right to consult, and to be defended by a legal practitioner of his choice.

Every person who is arrested and detained in custody is to be produced before the nearest magistrate within a period of twenty-four hours of arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person can be detained in custody beyond that period without the authority of a magistrate.

- Article 23 provides Right against Exploitation in following respects :

Traffic in human beings and begar and other similar forms of forced labour are prohibited.

The State can impose compulsory service for public purposes, and in imposing such service the State can not make any discrimination on grounds only of religion, race, caste or class or any of them.

Special provision for the protection of children is made in Art. 24 which provides that no child below the age of fourteen years can be employed to work in any factory or mine or engaged in any other hazardous employment.

- Article 25-28 provides Right to Freedom of Religion.

Article 25 provides freedom of conscience and free profession, practice and propagation of religion subject to public order, morality and health.

Under Art. 25 State can regulate religious activities and provide for social reforms and throw open Hindu religious institutions of public character to all sections of Hindus.

Article 26 guarantees following rights to all religious groups subject to public order, morality and health :

- Establish and maintain institution for religious and charitable purposes;
- Manage its own affairs in matters of religion;
- Own and acquire movable and immovable property;
- Administer such property in accordance with law.

The State can not compel any citizen to pay any taxes for the promotion or maintenance of any particular religion or religious institution (Ref. : Art. 27)

No religious instruction can be provided in any educational institution wholly maintained out of State funds {Ref. : Art. 28}

Where a religious community is in the minority, the Constitution enables it to preserve its culture and religious interests by providing that the

The above safeguard is not available to an enemy alien and a person arrested or detained under a law providing for preventive detention.

The Constitution authorises the Legislature to make laws for preventive detention for the security of State, the maintenance of public order, or the maintenance of supplies and services essential to the community, or for reasons connected with Defence and Foreign Affairs

## **THE WRITS**

- For enforcement of fundamental rights, the judiciary has been armed with the power to issue the writs.
- The power to issue these writs for the enforcement of the Fundamental Rights is given by the Constitution to the Supreme Court {Ref. : Art. 32} and High Courts {Ref. : Art. 226}.
- Supreme Court has the power to issue writs only for the purpose of enforcement of the Fundamental Rights whereas under Art. 226 a High Court can issue writs for the purpose of enforcement of Fundamental Rights and /or for the redress of any other injury or illegality.
- \*Supreme Court can issue a writ against any person or Government within the territory of India, while High Court can issue a writ against a person, Government or other authority only if they are located within the territorial jurisdiction of the High Court.

- A writ of Habeas Corpus calls upon the person who has detained another to produce the latter before the court, in order to let the court know on what ground he has been confined and to set him free if there is no legal justification for the imprisonment. The words 'habeas corpus' literally mean 'to have a body'. This writ may be addressed to an official or a private person, who has another person in his custody.
- Mandamus literally means a command. It commands the person to whom it is addressed to perform some public or quasi- public legal duty which he has refused to perform and the performance of which cannot be enforced by any other adequate legal remedy. Mandamus cannot be granted against the President, or the Governor of a state, for the exercise and performance of the powers and duties of his office.
- The writ of prohibition is a writ issued by the Supreme Court or a High Court to an inferior court forbidding the latter to continue proceeding therein in excess of its jurisdiction or to usurp a jurisdiction with which it is not legally vested.
- While mandamus is available not only against judicial authorities but also against administrative authorities, prohibition and certiorari are issued only against judicial or quasi-judicial authorities.
- \*Though prohibition and certiorari are both issued against Courts or Tribunals exercising judicial or quasi-judicial powers, certiorari is issued to quash order or decision of the Court or Tribunal while prohibition is issued to prohibit the Court or Tribunal from making the ultra vires order or decision. Prohibition is available during the pendency of the proceedings and before the order is made, certiorari can be issued only after the order has been made.

Quo warranto is a proceeding whereby the court enquires into the legality of the claim which a party asserts to a public office, and to oust him from its enjoyment if the claim is not well founded.

The conditions necessary for the issue of a writ of quo warranto are as follows :

- The office must be public and it must be created by a statute or by the constitution itself.

- 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.
- There has been a contravention of the Constitution or a statute or statutory instrument, in appointing such person to that office

The limitations on the enforcement of the fundamental rights are as follows :

Parliament has the power to modify the application of the Fundamental Rights to the members of the Armed Forces, Police Forces or intelligence organisations so as to ensure proper discharge of their duties and maintenance of discipline amongst them {Ref.: Art. 33}.

When martial law is in force, Parliament may indemnify any person in the service of the Union or a State for any act done by him {Ref.: Art. 34}.

Certain fundamental rights guaranteed by the Constitution may remain suspended, while a Proclamation of Emergency is made by the President under Art. 352.

### **Right to Information**

Right to information has been granted to every citizen of India under Right to information Act, 2005 which came into force on 12th October, 2005.

It is not a Fundamental Right but it entails a clause for penalty in case of delay in giving information to the applicant.

Information Commission has been set- up at central and state levels to oversee implementation of the Act.

### **Directive Principles of State Policy**

The Directive Principles are contained in Part IV of the Constitution. They aim at providing the social and economic base of a genuine democracy.

#### **Important Directive Principles**

Broadly speaking, there are three types of Directive Principles aimed at providing social and economic justice and ushering in a welfare state.

1. Socio economic Principles : They require the State

(a) to provide adequate means of livelihood to all citizens;

(b) to prevent concentration of wealth and means of production and ensure equitable distribution of wealth and material resources;



- (c) to secure equal pay for equal work of men as well as women;
- (d) to ensure a decent standard of living and leisure for all workers;
- (e) to provide necessary opportunities and facilities to children and youth to prevent their exploitation; and
- (f) to make efforts to secure the right to work, education and public assistance in case of unemployment, sickness, old age etc.

2. Gandhian Principles : These are the embodiment of the Gandhian programme for reconstruction. These include :

- (a) the establishment of village panchayats to function as units of self government;
- (b) the promotion of educational and economic interests of weaker sections of society;
- (c) the promotion of cottage industries;
- (d) the prohibition of intoxicating drugs and drinks; and
- (e) prevention of the slaughter of cows, calves and other milch cattle etc.

3. Liberal Principles : The principles are based on liberal thinking and emphasise the need for;

- (a) a uniform civil code for the country;
- (b) free and compulsory education for all children up to the age of 14 years;
- (c) separation of the judiciary and executive;
- (d) organisation of agriculture and animal husbandry along scientific lines;
- (e) securing the participation of workers in the management of industries;
- (f) safeguarding the forests and wildlife of the country; and
- (g) protecting monuments and places of artistic or historical importance.

The real significance of the directive principles lies in the fact that they intend to provide social and economic democracy in the country without which political democracy is a farce.

### **Difference Between Fundamental Rights and Directive Principles**

Fundamental rights constitute limitations upon State action, while the Directive Principles are instruments of instruction to the Government.

The directives require to be implemented by legislation while fundamental rights are already provided in the Constitution.

The Directives are not enforceable in the Courts and do not create any Justiciable rights in favour of the individuals, while the Fundamental Rights are enforceable by the Courts {Ref.: Arts. 32, 37, 226(1)}

In case of any conflict between fundamental rights and directive principles the former should prevail in the Courts.

42nd Amendment Act ensured that though the directives themselves are not directly enforceable it would be totally immune from unconstitutionality on the ground of contravention of the fundamental rights conferred by Arts. 14 and 19.

This attempt to confer a primacy upon the directives against the fundamental rights was foiled by the decision of the Supreme Court in *Minerva Mills Case* to the effect that a law would be protected by Art. 31C only if it has been made to implement the directive in Art. 39(b)-(c) and not any of the other Directives included in Part IV.

#### Directives Provided Outside Part IV of the Constitution

State and every local authority within the state to provide adequate facilities for instruction in the mother -tongue at the primary stage of education to children belonging to linguistic minority groups. {Ref. :Art 350 A)

union to promote spread of Hindi language and to develop it as a medium of expression of all the elements of the composite culture of India. {Ref.: Art. 351.)

The claims of th.e members of th.e Scheduled Castes and the Scheduled Tribes shallbe taken into consi deration, consistently with thy. maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the union or a state.{ Ref.: Art. 335}

Though the Directives contained in Arts. 335, 350A and 351 are not included in Part IV, Courts have given similar attention to them meaning that all parts of the Constitution should be read together.

### **Fundamental Duties**

The Fundamental Duties are eleven in number, incorporated in Art. 51A [Part IVA], which has been incorporated by the 42nd Amendment Act, 1976.

Under this Article, it is the duty of every citizen of India:

- 1.to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
- 2,to cherish and follow the noble ideals which inspired our National Struggle for freedom;
- 3-to uphold and protect the sovereignty, unity and integrity of India;
- 4 to defend the country;
- 5 to promote harmony and the spirit of common brotherhood amongst all the people of India;

- 6.to value andp reserve the rich heritage of our composite culture;
- 7 toprotect and improve the natural environment;
- 8 to develop the sdentific temper and spirit of inquiry;
- 9.to safeguard public property;
- 10.to strive towards excellence in all spheres of individual and collective activity.
- 11 . top rovide opportunities for education to his child or ward as the case may be between the age of six and fourteen years.

Note : The 11th Fundamental Duty was added by the 86th Constitutional Amendement Act, 2002.

There is no provision in the Constitution for direct enforcement of any of the Fundamental Duties nor for any sanction to prevent their violation.

### **The Prime Minister and the Union Council Of Ministers**

In a parliamentary system of Government, the Prime Minister occupies a unique position as the most powerful functionary who controls both the Parliament and tile Executive.

Prime Minister is appointed by the President. Other ministers are appointed and l or dismissed by the President on the advice of the Prime Minister.

Prime Minister, must be the leader of the party in majority in the Lok Sabha or a person who can win the confidence of the majority in that House.

As the bead of the Council of Ministers, the Prime Minister (PM) is the head of the Government. Also, he she is the leader of his/her party or / and of a coalition of parties in Parliament and usually the Leader o the Popular House.

The PM enjoys large powers of patronage. All the ministers are appointed at his /her recommendation and stand dismissed at his / her demand.

The PM allots work among the ministers. Also, he / she can change their portfolios at will.

The PM is the channel of communication between the Council of Ministers and the President.

Ministers get the salaries and allowances etc. as payable to members of parliament. In addition they get a sumptuary allowance at a varying scale and a residence, free of rent. Cabinet Ministers attend meeting of the Cabinet.

Ministers of State are not members of the Cabinet and they can attend a Cabinet Meeting only if invited to attend any particular meeting.

A Deputy Minister assists the Minister in discharge of his duties and takes no part in Cabinet meetings.

There is no bar to the appointment of a non- MP as Minister, but he cannot continue as Minister for more than 6 months unless he secures a seat in either House of Parliament.

Though the ministers are collectively responsible to the legislature, they are individually responsible to the electorate.

A Minister can take part in the proceedings of both Lok Sabha and Rajya Sabha, but he/she can vote only if he /she is a member of that House

The Attorney-General is the first Law Officer of the Government of India, who gives advice on legal matters and performs other duties of a legal character as assigned to him by the President.

The Attorney-General for India is appointed by the President and holds office during the pleasure of the President. He must have the same qualifications as are required to be a judge of the Supreme Court.

He discharges the functions conferred on him by the Constitution or any other law {Ref.: Art. 76}.

The Attorney-General for India is not a member of the Cabinet. But he has the right to speak in the Houses of Parliament or in any Committee thereof, but he has no right to vote {Ref.: Art 88}.

He is entitled to the privileges of a member of Parliament [Art. 105(4)]. In the performance of his official duties, the Attorney-General has the right of audience in all Courts in the territory of India.

He is not a whole-time counsel for the Government nor a Government servant.

### **The Comptroller & Auditor General of India**

The CAG controls the entire financial system of the Union as well as the States {Ref.: Art. 148 }.

Though appointed by the President, the Comptroller and Auditor- General can be removed only on an address from both Houses of Parliament on the ground of proved misbehaviour or incapacity.

His salary and conditions of service are laid down by Parliament and can not be varied to his disadvantage during his term of office.

The term of office of the Comptroller and Auditor-General (CAG) is 6 years from the date on which he assumes office.

CAG vacates office on attaining the age of 65 years even without completing the 6-year term. He can resign by writing under his hand, addressed to the President of India. He can be removed by impeachment {Ref.: Arts. 148(1); 124(4)}.

His salary is equal to that of a Judge of the Supreme Court. Other conditions of his service are similar to an I. A. S. of the rank of Secretary to the Government of India.

He is disqualified for any further Government office after retirement.

The salaries, etc. of the Comptroller and Auditor-General and his staff and the administrative expenses of his office are charged upon the Consolidated Fund of India and thus non-notable {Ref.: Art. 148 (6)}.

### **The main duties of the Comptroller and Auditor General are**

- To audit and report on all expenditure from the Consolidated Fund of India and of each state and each Union Territory having a Legislative Assembly as to whether such expenditure has been in accordance with the law.
- To audit and report on all expenditure from the Contingency

### **The Parliament of India**

The Parliament of India consists of the President, the Lok Sabha and the Rajya Sabha. (Ref.: Art. 791.

The President is a part of the Legislature, even though he or she does not sit in Parliament.

The main functions of Parliament are :

- Providing the cabinet. \* Control of the Cabinet.
- Criticism of the Cabinet and of individual Minister.
- Parliament secures the information authoritatively.
- Legislation i. e. making laws {Ref.: Arts. 107; 108; 245}
- Financial control.

Bill passed by the House of Parliament cannot become law without the President's assent.

### **Rajya Sabha and Lok Sabha**

The Rajya Sabha is composed of not more than 250 members of whom 12 are nominated by the President and 238 are representatives of the states and the Union Territories elected by the method of indirect election {Ref.: Art 80}.

The 12 nominated members are chosen by the President from amongst persons specialised in science, art, literature and social service.

Representatives of each State are elected by the elected members of the Legislative Assembly of the state in accordance with the system of proportional representation by means of the single transferable vote.

Prescribed composition of the Lok Sabha is

- Not more than 530 representatives of the States;
- Not more than 20 representatives of Union Territories.
- Not more than 2 members of the Anglo-Indian community, nominated by the President.

The representatives of the States are directly elected by the people of the States on the basis of adult suffrage.

Every citizen who is not less than 18 years of age and is not otherwise disqualified is entitled to vote at such election {Ref.: Art. 326}.

There is no reservation for any minority community other than the Scheduled Castes and the Scheduled Tribes {Ref.: Arts. 330, 341, 342}.

The Council of State is not subject to dissolution. It is a permanent body. 1/3 of its members retire on the expiration of every second year.

The normal term of the Lok Sabha is 5 years, but it may be dissolved earlier by the President.

The extension cannot be made for a period exceeding one year at a time.

Such extension cannot continue beyond a period of six months after the proclamation of Emergency ceases to operate.

Parliament must meet at least twice a year and not more than six months shall elapse between two sessions of Parliament.

A session is the period of time between the first meeting of Parliament and prorogation of Parliament.

The period between prorogation of Parliament and its re-assembly in a new session is called recess. Within a session, there are a number of daily sittings separated by adjournments which postpone the further consideration of a business for a specified time. The sitting of a House can be terminated by dissolution, prorogation or adjournment -

- While the powers of dissolution and prorogation are exercised by the President on the advice of the Council of Ministers. The power to adjourn the daily sittings of Lok Sabha and Rajya Sabha belongs to the Speaker and the Chairman, respectively.
  - A dissolution brings Lok Sabha to an end so that there must be a fresh election while prorogation merely terminates a session. Adjournment does not put an end to the session of Parliament but merely postpones the further transaction of business for a specified time, hours, days or weeks.
  - On dissolution of the Lok Sabha all matters pending before the House lapse. If these matters have to be pursued, they must be re-introduced in the next House after fresh election.
  - But a Bill pending in the Rajya Sabha which has not yet been passed by the Lok Sabha shall not lapse on dissolution.
  - A dissolution does not affect a joint sitting of the two Houses, if the President has notified his intention to hold a joint sitting before the dissolution {Ref.: Art. 108(5)}.
  - Adjournment has no such effect on pending business.
- 
- Qualifications for becoming a member of Parliament are : or Must be a citizen of India.

- Must not be less than 25 years of age in the case of Lok Sabha and 30 years in the case of Rajya Sabha.
- Additional qualifications may be prescribed by Parliament by law {Ref.: Art. 84}.
- A person can be disqualified for being a member of either House of Parliament, if :
- He holds any office of profit under the Government of India or. the Government of any State;
- He is of unsound mind and stands so declared by a competent Court;
- He is not a citizen of India or has voluntarily acquired citizenship of a foreign State or is under acknowledgment or allegiance or adherence to a foreign power;
- He is so disqualified by or under any law made by Parliament Ref.:Art. 1021.
- In a dispute regarding qualification the President's decision in accordance with the opinion of the Election Commission, is final .
- The House can declare a seat vacant if the member absents himself from all meetings of the House for a period of 60 days without permission of the house.

### **Speaker and Deputy Speaker of The Lok Sabha**

- Speaker presides over the Lok Sabha.
- The Speaker or the Deputy Speaker, normally holds office during the life of the House, but his office may terminate earlier in any of the following ways :
  - By his ceasing to be a member of the House.
  - By resignation in writing, addressed to the Deputy Speaker, and vice versa.
  - By removal from office by a resolution, passed by a majority of all the then members of the House {Ref.: Art. 94}.

A resolution to remove the speaker can not be moved unless at least 14 days notice has been given of the intention to move the resolution.

While a resolution for his removal is under consideration, the Speaker can not preside but he can speak in, take part in the proceedings of the House and vote except in the case of equality of votes {Ref.: Art. 96}.

At other meetings of the House the Speaker can not vote in the first instance, but can exercise a casting vote in case of equality of votes.

The Speaker has the final power to maintain order within the Lok Sabha and to interpret its Rules of Procedures.

In the absence of a quorum the Speaker adjourns the House or suspends the meeting until there is a quorum.

The Speaker's conduct in regulating the procedure or maintaining order in the House can not be questioned in a Court {Ref.: Art. 122}.

The Speaker presides over a joint sitting of the two Houses of Parliament {Ref.: Art. 118(4)}.



When a Money Bill is transmitted from the Lok Sabha to the Rajya Sabha the Speaker may certify that it is a Money Bill {Ref.: Art. 110(4)}.

The decision of the Speaker on whether a Bill is Money Bill is final.

While the office of Speaker is vacant or the Speaker is absent from a sitting of the House, the Deputy Speaker presides, except when a resolution for his own removal is under consideration.

### **Chairman and Deputy Chairman of the Rajya Sabha**

Vice-President of India is ex-officio Chairman of the Rajya Sabha and functions as the Presiding Officer of that House so long as he does not officiate as the President.

When the Chairman acts as the President of India, the duties of the Chairman are performed by the Deputy Chairman.

The Chairman may be removed from his office only if he is removed from the office of the Vice-President.

The powers of Chairman in the Rajya Sabha are similar to those of the Speaker in the Lok Sabha except that the Speaker has certain special powers like certifying a Money Bill, or presiding over a joint sitting of the two Houses.

### **Municipalities**

PART IX A, gives a constitutional foundation to the local self government units in urban area.

Most provisions for municipalities are similar to those contained in PART IX. e.g. Structure, Reservation of Seats, Functions, Sources of Income etc

Nagar Panchayat is for an area being transformed from a rural area to an urban area.

Municipal corporation is for a smaller urban area.

Municipal Corporation is for a larger urban area. The municipal corporation is the topmost urban local government.

The members of a municipality are generally elected by direct election.

The Legislature of a State can provide for representation in municipalities of:

- Persons having special knowledge or experience in municipal administration.
- Members of Lok Sabha, State Assembly, Rajya Sabha and Legislative Council.
- The Chairpersons of Ward Committees.  
Note : If the population is 3 Lacs or more Ward Committees are constituted.
- Two Committees constituted for preparing development plan are :
- A District Planning Committee at the district level

\* A Metropolitan Planning Committee at the metropolis level

## The Supreme Court

Every Judge of the Supreme Court after consulting the Chief Justice of the Supreme Court, is appointed by the President of India.

In appointment of the Chief Justice of India, President can consult such Judges of the Supreme Court and the High Court as he thinks appropriate.

A person is qualified for appointment as a judge of the Supreme Court, if he is :

- A citizen of India
- Has been a High Court Judge for at least 5 years
- Has been an Advocate of a High Court, or two or more courts in succession for at least 10 years {Ref.: Art. 124(3)}.

No minimum age or fixed period of office is prescribed for appointment as a Judge of the Supreme Court.

A Judge of Supreme Court ceases to be so, on :

- Attaining the age of 65 years;
- Resigning in writing addressed to the President;
- On being removed by the President.
- The only ground for such removal are proved misbehaviour and incapacity (Ref.: Art. 124(4)).
- Procedure for removal or impeachment of a Supreme Court Judge :
- A motion addressed to the President signed by at least 100 members of the Lok Sabha or 50 members of the Rajya Sabha is delivered to the Speaker or the Chairman.
- The motion is investigated by a Committee of 3 (2 Judges of the Supreme Court and a distinguished Jurist).
- If the Committee finds the Judge guilty, report of Committee is considered in the House where the Motion is pending.
- If the motion is passed in each House by majority of the total membership of the House and by a majority of not less than two-thirds of the members present and voting the address is presented to the President.

The Judge is removed after the President gives his order for removal on such address.

The procedure for impeachment is the same for Judges of the Supreme Court and the High Courts.

After retirement a Judge of the Supreme Court can not plead or act in any Court or before any authority within the territory of India (Ref.: Art. 124(7)1.

Jurisdiction of the Supreme Court is three-fold :

1. Original;
2. Appellate; and

### 3. Advisory.

Disputes between different States of the Union or between Union and any state is within exclusive Original jurisdiction of the Supreme Court {Ref.: Art. 131}

The jurisdiction of the Supreme Court to entertain an application under Art. 32 for the issue of writs for the enforcement of Fundamental Rights is treated as an 'original' jurisdiction of the Supreme Court though called Writ Jurisdiction

The Supreme Court is the highest court of appeal from all courts in the territory of India.

Supreme Court is the highest authority for interpretation of the Constitution.

Supreme Court may hear appeals by granting special leave against any kind of judgement or order made by any court or tribunal (except a military tribunal).

Under advisory jurisdiction, Supreme Court can give its opinion on any matter of law or fact of public importance referred to it by the President. {Ref.: Art. 143}.

### **The High Court**

- The High Court is the head of the Judiciary in the State.
- Every judge of a High Court is appointed by the President.
- In making appointment as a High Court Judge, President can consult the Chief Justice of India, the Governor of the State and also the Chief Justice of that High Court.
- A Judge of the High Court can hold office until the age of 62 years.
- A High Court Judge can leave his office :
  - By resignation in writing addressed to the President.

### **Lokpal**

- A Lokpal is a proposed 'Ombudsman' in India. It has jurisdiction over all members of Parliament (MPs), the Prime Minister (with certain exceptions), ministers and all Civil servants etc. in cases of corruption. Lokpal is empowered to sanction prosecution.
- The amended Lokpal and Lokavakta Bill 2011 was passed in Rajya Sabha and Lok Sabha on 17th and 18th December, 2013 respectively. Samajwadi Party opposed the Bill.
- The selection of the Lokpal will be held by a committee comprising the P.M., the Lok Sabha Speaker, the Leader of the opposition in Lok Sabha and the Chief Justice of India etc.
- Lokpal is to have Chairperson and maximum 8 members, 50% of them judicial members and at least 50% ; members to be from SC / ST / women / minorities.