

# **SALIENT FEATURES OF THE CONSTITUTION OF INDIA**

(Including Historical Genesis, making of the Constitution and Brief Note about Preamble, Sources and Amendments in the Constitution)

## **A Broad Overview**

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## **FOREWORD**

An attempt is being made by this broad overview to provide a glimpse of the Salient Features of the Constitution of India (Including Historical Genesis, making of the Constitution and Brief Note about Preamble, Sources and Amendments in the Constitution). I hope this will help to understand the niceties of the above subject in a better way. I am also very much indebted to Hon. Shri Ramraje Naik-Nimbalkar, Chairman, Maharashtra Legislative Council and Hon. Shri Haribhau Bagade, Speaker, Maharashtra Legislative Assembly for their continuous support and motivation in accomplishing this task.

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## I. WHAT IS CONSTITUTIONAL LAW?

- **Constitutional law** is the body of law which defines the relationship of different entities within a state, namely, the executive, the legislature, and the judiciary.
- Not all nation states have codified constitutions, though all such states have a jus commune, or law of the land, that may consist of a variety of imperative and consensual rules. These may include customary law, conventions, statutory law, judge-made law, or international rules and norms.
- The principles from the French Declaration of the Rights of Man and of the Citizen still have constitutional value.
- **State and Legal Structure** - It governs the relationships between the judiciary, the legislature and the executive with the bodies under its authority. One of the key tasks of constitutions within this context is to indicate hierarchies and relationships of power. For example, in a unitary state, the constitution will vest ultimate authority in one central administration and legislature, and judiciary, though there is often a delegation of power or authority to local or municipal authorities. When a constitution establishes a federal state, it will identify the several levels of government

coexisting with exclusive or shared areas of jurisdiction over lawmaking, application and enforcement.

- **Legislative Procedure** - Another main function of constitutions may be to describe the procedure by which parliaments may legislate. For instance, special majorities may be required to alter the constitution. In bicameral legislatures, there may be a process laid out for second or third readings of bills before a new law can enter into force. Alternatively, there may further be requirements for maximum terms that a government can keep power before holding an election.
- **Study of Constitutional Law**: Constitutional law is a major focus of legal studies and research. For example, most law students in the United States are required to take a class in Constitutional Law during their first year, and several law journals are devoted to the discussion of constitutional issues.
- **Rule of Law**: The doctrine of the rule of law dictates that government must be conducted according to law.
- Dicey identified three essential elements of the British Constitution which were indicative of the rule of law:
  1. Supremacy of Law (Absence of arbitrary power)
  2. Equality before the law;
  3. The Constitution is a result of the ordinary law of the land.

**As per Wade and Philips by Constitution means a document -**

- 1) having special legal sanctity
  - 2) which sets out the framework and the principle functions of the organs of the Government of a State.
  - 3) and declares the principle governing the operation of those organs but does not contain detailed rules.
  - 4) and defines authorities who is competent to make rules, enactment, regulation etc.
- Constitution may be written or unwritten one; the examples of written constitution are USA, Canada, Australia, India etc.
  - British Constitution is unwritten one. The British Parliament is constitutionally supreme and omnipotent body. The British Parliament can change every thing except 'man into women and women into man'. (Blackstone)
  - In the written Constitution power / authorities of various organs of Government are demarcated and defined. No transgression of powers by any authority including legislature, executive or judiciary is empowered to by pass the authority of the Constitution.
  - **1) Special legal sanctity** – It means Constitution of any country is supreme, sovereign and fundamental organic law of the land.

All laws, rules, regulations in order to be valid must confirm to the provisions of the Constitution, no authority can overrule the provisions of the Constitution. Legislature, Executive and Judicial wing of the Government must function within the framework of the Constitutional limits. They must act within the domain laid down by the Constitution (Keshavananda Bharati Case and various judgements delivered by the Supreme Court).

- **2) Framework and the principle functions of the organs of the Government -**

i) Democratic system is the system of governance in vogue in so many countries in the world. Democracy denotes rule of the people. In this system, people are sovereign and supreme. As per famous definition of Abraham Lincoln: Democracy is a system which is for the people, by the people, of the people. Supremacy of the people is corner stone of any democratic system.

- Democracy can be of two types; Presidential Democracy and Parliamentary Democracy.
- The Presidential democratic system prevailed in the America, the presidential form of government can be described in the following words:-

- **Meaning of Presidential Government:** According to Dr. Garner, “Presidential Government is that system in which the executive (including both the Head of the State and his ministers) is constitutionally independent of the legislature in respect to the duration of his or their tenure and irresponsible to it for his or their political policies. In such a system the Chief of the State is not merely the titular executive but he is real executive and actually exercises the powers which the constitution and laws confer upon him. In this system the President enjoys real powers of the government. He is not responsible to the legislature for his administration and policies.
- **Parliamentary form of Government:** The relation between the executive and legislature is the only way to know whether a government is Parliamentary or Presidential if real executive is responsible to the legislature or the parliament, the form of government is Parliamentary. A Parliamentary government is also called responsible or cabinet form of government, because the Cabinet enjoys the real powers of the government and it is under the control of Parliament. On the other hand, the President, who is not responsible to the Legislature?

- **Head of the State exercises nominal powers:** In a Parliamentary government, there is a Head of the State. He may be the President, the Governor-General the King or the Queen. Presidents are the Heads of the State in India, France, Austria, the West Germany and Italy etc. There are Governor-Generals in Canada, Australia and New Zealand. The Kings or Queens are in Japan, the Great Britain, Denmark, Holland, Belgium, Sweden and Norway. The main feature of a Parliamentary Government is that constitutionally the Head of the State enjoys many powers but in practice he does not utilize these powers. In practice the powers are used by the ministers and the Head of the State enjoys only nominal powers and has to act as per advise of Ministry.
- **Clear and stable majority:** In a parliamentary Government the administration is run by the majority party. The Head of the State invites the leader of the majority party to become the Prime Minister and submits a list of his colleagues to the Head of the State. The Head of the State appoints them as ministers. In this way a cabinet is formed. The ministers remain in office so long as they have the majority support in the popularly elected House. In the event of losing the majority support they tender their resignation.

- **Collective Responsibility:**

1. Another feature of the Parliamentary Government is that the Cabinet is collectively responsible to the Parliament. It means that once a decision is taken by the Cabinet, it becomes the responsibility of each minister to support it in and outside the Parliament, despite the fact that he did not agree to it in the Cabinet meeting.
2. For the administration and policies every department of the government, the ministers are collectively responsible to the Parliament, even if that policy is related to the department of a single minister.
3. If a motion of no-confidence is passed by the Parliament against the Government. The Prime Minister and the entire Cabinet has to tenders its resignation.
4. The Members of Parliament can ask questions and supplementary questions from the ministers; they can move adjournment motions and censure motions against the Government. They can appoint an Investigating Committee to investigate the charges of corruption against the administration.
5. The Parliament has a full control over the budget and also over the home and external policies of the government.

- **Individual Responsibility:** Whereas the ministers are collectively responsible to the Parliament, they are also responsible individually for their respective departments. The Members of the Parliament can put questions to minister and also criticize his department.
- **Membership of the Parliament:** It is essential for the ministers to be the Members of the Parliament. If anyone, who is not the Member of the Parliament, is appointed as a Minister by the Head of the State on the recommendations of the Prime Minister, he or she has to seek the membership of the Parliament within a fixed period. In India, this period is six months. If a minister fails to get a seat in the Parliament, he has to leave the Cabinet.
- **Leadership of the Prime Minister:** The main characteristic of Parliamentary government is the leadership of the Prime Minister over the Cabinet. His position in the Cabinet is '***primus inter pares***' that is first among equals. He being the leader of the majority party in the Lower House, is also called the leader of the House. In the mechanism of the Parliamentary Form of Government, the Prime Minister occupies the crucial position.

- '**Jennings**' describes him as the "Keystone of the Constitution".  
He is the Leader of the majority party in the Lok Sabha as well as of the Council of Ministers.
- He co-ordinates Government Policy. He is the channel of communication between the President and Ministers. He is responsible for the appointment of the Ministers and allocation of work among them. He can compel the resignation of a Minister and invoke the presidential power to dismiss an unwanted Minister. His resignation would automatically amount to a resignation of all Ministers i.e. Cabinet.
- Thus, the position of Prime Minister is one of great power, influence and prestige.
- He keeps the fabric of the Parliamentary Form of Government in working order. The entire constitutional machinery would appear to revolved around his personality.
- '**Laski**' in this famous treatise Parliamentary Government in England described Prime Minister "as the keystone of Cabinet arch" who is centralised to the formation, centralised to its life and centralised to its death.
- The Head of the State appoints ministers on his advice. He presides over the meetings of the Cabinet.

The Prime Minister is the Chief Spokesman to the Head of the State (President, King or Governor-General) and he informs him about the decisions of the Cabinet and seeks his advice in vital matters. Though the Prime Minister is not bound to accept the advice of the Head of the State yet he thinks over it seriously and accepts its good points. No Minister can see the Head of the State without his permission. It has already been stated that the Prime Minister along with his Ministers is responsible to the Parliament for administration and policies. This responsibility is a collective responsibility.

- **Political Homogeneity:** It means all the ministers act like a team in the Cabinet and they do not disclose their differences in the public. Generally, the ministers are from one party, but in case of a coalition Government they are related to more than one party. In such a situation ministers from all parties in coalition decide the policy line to which they have to work.
- **Secrecy:** At the time of their appointment, the ministers take the oath of allegiance to the constitution and secrecy of the office. The Ministers are given severe punishment under the law of the land for disclosing any secrets to the enemy.
- **Right of the Executive to dissolve the Legislature:** In a parliamentary government, sometimes there is a deadlock

between the executive and the legislature. In such a situation the Chief Executive or the Head of the State should have the right to dissolve the legislature so as to enable him to arrange fresh elections and seek a fresh mandate from the voters. In this way, fresh elections will remove the deadlock. A new legislature and a new executive will be informed, which will have mutual co-operation.

**Features or characteristics of Presidential type of government and its distinction from the parliamentary government.**

(1) There is a separation of powers in the Presidential government. In this system the executive and legislature are separate from each other and they have equal status. But in a Parliamentary Government, there is no separation of powers. In this system the executive is under the legislature.

(2) In a Presidential government, the President is the Head of the State as well as of the government while in a Parliamentary Government, the Head of the State is President, King or Governor-General and the Prime Minister is the Head of the Government.

(3) In a Presidential government, the President enjoys real powers of the administration and he exercises all those powers, which are given to him under the constitution and the law. In a Presidential

government there is no Prime Minister. The secretaries help the president in the administration and they are appointed by him on the basis of ability. It depends upon the will of the president to accept or reject their advice.

In a parliamentary government, though constitutionally the Head of the State (President, King or Governor-General) has many powers, yet in practice these powers are enjoyed by his ministers. Thus, in practice the President has only nominal powers and real powers lie with the Prime Minister or his ministers.

(4) In a Presidential government the President and his secretaries are not responsible to the legislature. The legislature cannot remove them through a vote of no-confidence. Moreover, an adjournment motion or a censure motion cannot be brought against them. The President and his secretaries are not the members of legislature and they do not attend its sessions. Thus, they cannot be asked questions and supplementary questions. As has already been discussed, in a Parliamentary government the Prime Minister and other ministers are the members of either House of the Parliament and any one who is not the member of the Parliament, he or she has to seek the membership within a specified period of time. They attend the sessions of the Parliament and answer the questions and supplementary questions. They place bills before the Parliament and make statements

relating to policies. A vote of no confidence, adjournment motion and censure motion can be brought against them. In a Parliamentary government only the President, King or Governor-General make a speech at the time of the inauguration of the Parliament. They are neither members of the House nor do they take part in its deliberation. The Head of the State is not responsible to the Parliament.

(5) In a Presidential government, the President is elected for a fixed tenure and except impeachment for the violation of the Constitution; he cannot be removed from his office before the expiry of his term.

In a parliamentary government, though similar is the position of the President, yet the Prime Minister can be removed only through a vote of no-confidence by the Parliament?

At present Presidential government is seen in the United States of America, Brazil and in the some other countries of South America.

The crux of Parliamentary form of Government is that Council of Ministers is collectively responsible to the House of People or Legislative Assembly of State. Which means that Council of Ministers can remain in power so long as it commands majority in these popularly elected Houses. The moment, it lost majority Ministry has to resign. It clearly indicates that, in this form of Government Legislature keeps control over the Executive and these two wings of the Government are inseparable

one because Legislature and Executive are part of the same coin. Executive or Council of Ministers has to be part and parcel of Legislature. Ministers must be members of the Legislature, if they are not, they have to become members of the House within six months, otherwise they are liable to lose the post of Minister. This very system mandates the Legislative control over Executive. (Article 164 of Constitution of India).

Before the Constituent Assembly of India, Dr. Babasaheb Ambedkar delivered a speech on 4<sup>th</sup> November 1948 in which he has thrown light on the form of Draft Government what is the form of the Indian Constitution. (Speech is reproduced as follows);-

*“Turning to the main question. A student of Constitutional Law if a copy of a Constitution is placed in his hands is sure to ask two questions. Firstly what is the form of Government that is envisaged in the Constitution; and secondly what is the form of the Constitution? For these are the two crucial matters which every Constitution has to deal with. I will begin with the first of the two questions.*

*In the Draft Constitution there is placed at the head of the Indian Union a functionary who is called*

*the President of the Union. The title of this  
functionary reminds one of the President of the  
United States. But beyond identity of names there is  
nothing in common between the form of  
Government prevalent in America and the form of  
Government proposed under the Draft Constitution.  
The American form of Government is called the  
Presidential system of Government. What the Draft  
Constitution proposes is the Parliamentary system.  
The two are fundamentally different.*

*Under the Presidential system of America, the  
President is the Chief Head of the Executive. The  
administration is vested in him. Under the Draft  
Constitution the President occupies the same  
position as the King under the English Constitution.  
He is the head of the State but not of the Executive.  
He represents the Nation but does not rule the  
Nation. He is the symbol of the nation. His place in  
the administration is that of a ceremonial device on  
a seal by which the nation's decisions are made  
known. Under the American Constitution the*

*President has under him Secretaries in charge of different Departments. In like manner the President of the Indian Union will have under him Ministers in charge of different Departments of administration. Here again there is a fundamental difference between the two. The President of the United States is not bound to accept any advice tendered to him by any of his Secretaries. The President of the Indian Union will be generally bound by the advice of his Ministers. He can do nothing contrary to their advice nor can he do any thing without their advice. The President of the United States can dismiss any Secretary at any time. The President of the Indian Union has no power to do so long as his Ministers command a majority in Parliament.*

*The Presidential system of America is based upon the separation of the Executive and the Legislature.* So that the President and his Secretaries cannot be members of the Congress. The Draft Constitution does not recognise this doctrine. The Ministers under the Indian Union are

members of Parliament. Only members of Parliament can become Ministers. Ministers have the same rights as other members of Parliament, namely, that they can sit in Parliament, take part in debates and vote in its proceedings. Both systems of Government are of course democratic and the choice between the two is not very easy.

A democratic executive must satisfy two conditions -

(1) It must be a stable executive and (2) it must be a responsible executive. Unfortunately it has not been possible so far to devise a system which can ensure both in equal degree. You can have a system which can give you more stability but less responsibility or you can have a system which gives you more responsibility but less stability. The American and the Swiss systems give more stability but less responsibility. The British system on other hand gives you more responsibility but less stability. The reason for this is obvious. The American Executive is a non-Parliamentary Executive which means that it is not dependent for its existence upon a majority in the Congress, while the British system is a

Parliamentary Executive which means that it is dependent for its existence upon a majority in the Congress. Being a non-Parliamentary Executive, the Congress of the United States cannot dismiss the Executive. A Parliamentary Government must resign the moment it loses the confidence of a majority of the members of Parliament. Looking at it from the point of view of responsibility, a non-Parliamentary Executive being independent of parliament tends to be less responsible to the Legislature, while a Parliamentary Executive being more dependent upon a majority in Parliament become more responsible. The Parliamentary system differs from a non-Parliamentary system in as much as the former is more responsible than the latter but they also differ as to the time and agency for assessment of their responsibility. Under the non-Parliamentary system, such as the one that exists in the U.S.A., the assessment of the responsibility of the Executive is periodic. It is done by the Electorate. In England, where the Parliamentary system prevails, the assessment of

*responsibility of the Executive is both daily and periodic. The daily assessment is done by members of Parliament, through questions, Resolutions, No-confidence motions, Adjournment motions and Debates on Addresses. Periodic assessment is done by the Electorate at the time of the election which may take place every five years or earlier.*

*The Daily assessment of responsibility which is not available under the American system is it is felt far more effective than the periodic assessment and far more necessary in a country like India. The Draft Constitution in recommending the Parliamentary system of Executive has preferred more responsibility to more stability.*

*So far I have explained the form of Government under the Draft Constitution. I will now turn to the other question, namely, the form of the Constitution.*

*Two principal forms of the Constitution are known to history - one is called Unitary and the other Federal. The two essential characteristics of a*

Unitary Constitution are: (1) the supremacy of the Central Polity and (2) the absence of subsidiary Sovereign polities. Contrariwise, a Federal Constitution is marked: (1) by the existence of a Central polity and subsidiary polities side by side, and (2) by each being sovereign in the field assigned to it. In other words. Federation means the establishment of a Dual Polity. The Draft Constitution is, Federal Constitution inasmuch as it establishes what may be called a Dual Polity. This Dual Polity under the proposed Constitution will consist of the Union at the Centre and the States at the periphery each endowed with sovereign powers to be exercised in the field assigned to them respectively by the Constitution. This dual polity resembles the American Constitution. The American polity is also a dual polity, one of it is known as the Federal Government and the other States which correspond respectively to the Union Government and the States Government of the Draft Constitution. Under the American Constitution the Federal Government is not a mere league of the

*States nor are the States administrative units or agencies of the Federal Government. In the same way the Indian Constitution proposed in the Draft Constitution is not a league of States nor are the States administrative units or agencies of the Union Government. Here, however, the similarities between the Indian and the American Constitution come to an end. The differences that distinguish them are more fundamental and glaring than the similarities between the two.*

*The points of difference between the American Federation and the Indian Federation are mainly two. In the U.S.A. this dual polity is followed by a dual citizenship. In the U.S.A. there is a citizenship of the U.S.A. But there is also a citizenship of the State. No doubt the rig ours of this double citizenship are much assuaged by the fourteenth amendment to the Constitution of the United States which prohibits the States from taking away the rights, privileges and immunities of the citizen of the United States. At the same time, as pointed out by*

*Mr. William Anderson, in certain political matters, including the right to vote and to hold public office, States may and do discriminate in favour of their own citizens. This favoritism goes even farther in many cases. Thus to obtain employment in the service of a State or local Government one is in most places required to be a local resident or citizen. Similarly in the licensing of persons for the practice of such public professions as law and medicine, residence or citizenship in the State is frequently required; and in business where public regulation must necessarily be strict, as in the sale of liquor, and of stocks and bonds, similar requirements have been upheld.*

*Each State has also certain rights in its own domain that it holds for the special advantage of its own citizens. Thus wild game and fish in a sense belong to the State. It is customary for the States to charge higher hunting and fishing license fees to non-residents than to its own citizens. The States also charge non-residents higher tuition in State*

*Colleges and Universities, and permit only residents to be admitted to their hospitals and asylums except in emergencies.*

*In short, there are a number of rights that a State can grant to its own citizens or residents that it may and does legally deny to non-residents, or grant to non-residents only on more difficult terms than those imposed on residents. These advantages, given to the citizen in his own State, constitute the special rights of State citizenship. Taken all together, they amount to a considerable difference in rights between citizens and non-citizens of the State. The transient and the temporary sojourner is everywhere under some special handicaps.*

*The proposed Indian Constitution is a dual polity with a single citizenship. There is only one citizenship for the whole of India. It is Indian citizenship. There is no State citizenship. Every Indian has the same rights of citizenship, no matter in what State he resides.*

*The dual polity of the proposed Indian Constitution differs from the dual polity of the U.S.A. in another respect. In the U.S.A. the Constitutions of the Federal and the States Governments are loosely connected. In describing the relationship between the Federal and State Government in the U.S.A., Bryce has said:*

*"The Central or national Government and the State Governments may be compared to a large building and a set of smaller buildings standing on the same ground, yet distinct from each other."*

*Distinct they are, but how distinct are the State Governments in the U.S.A. from the Federal Government? Some idea of this distinctness may be obtained from the following facts:*

- 1. Subject to the maintenance of the republican form of Government, each State in America is free to make its own Constitution.*

- 2. The people of a State retain for ever in their hands, altogether independent of the National*

Government, the power of altering their Constitution.

**To put it again in the words of Bryce:**

"A State (in America) exists as a commonwealth by virtue of its own Constitution, and all State Authorities, legislative, executive and judicial are the creatures of, and subject to the Constitution."

*This is not true of the proposed Indian Constitution. No States (at any rate those in Part I) have a right to frame its own Constitution. The Constitution of the Union and of the States is a single frame from which neither can get out and within which they must work.*

*So far I have drawn attention to the difference between the American Federation and the proposed Indian Federation. But there are some other special features of the proposed Indian Federation which mark it off not only from the American Federation but from all other Federations. All federal systems including the American are placed in a tight mould*

of federalism. No matter what the circumstances, it cannot change its form and shape. It can never be unitary. On the other hand the Draft Constitution can be both unitary as well as federal according to the requirements of time and circumstances. In normal times, it is framed to work as a federal system. But in times of war it is so designed as to make it work as though it was a unitary system. Once the President issues a Proclamation which he is authorised to do under the Provisions of Article 275, the whole scene can become transformed and the State becomes a unitary state. The Union under the Proclamation can claim if it wants (1) the power to legislate upon any subject even though it may be in the State list, (2) the power to give directions to the States as to how they should exercise their executive authority in matters which are within their charge, (3) the power to vest authority for any purpose in any officer, and (4) the power to suspend the financial provisions of the Constitution. Such a power of converting itself into a unitary State no federation possesses. This is one

*point of difference between the Federation proposed in the Draft Constitution, and all other Federations we know of.*

*This is not the only difference between the proposed Indian Federation and other federations.*

*Federalism is described as a weak if not an effete form of Government.* There are two weaknesses

*from which Federation is alleged to suffer. One is rigidity and the other is legalism. That these faults are inherent in Federalism, there can be no dispute.*

*A Federal Constitution cannot but be a written Constitution and a written Constitution must*

*necessarily be a rigid Constitution. A Federal Constitution means division of Sovereignty by no*

*less a sanction than that of the law of the Constitution between the Federal Government and*

*the States, with two necessary consequences (1)*

*that any invasion by the Federal Government in the field assigned to the States and vice versa is a*

*breach of the Constitution and (2) such breach is a justiciable matter to be determined by the Judiciary*

*only. This being the nature of federalism, a federal Constitution have been found in a pronounced form in the Constitution of the United States of America.*

*Countries which have adopted Federalism at a later date have attempted to reduce the disadvantages following from the rigidity and legalism which are inherent therein. The example of Australia may well be referred to in this matter. The Australian Constitution has adopted the following means to make its federation less rigid:*

*(1) By conferring upon the Parliament of the Commonwealth large powers of concurrent Legislation and few powers of exclusive Legislation.*

*(2) By making some of the Articles of the Constitution of a temporary duration to remain in force only "until Parliament otherwise provides."*

*It is obvious that under the Australian Constitution, the Australian Parliament can do many things, which are not within the competence of the American Congress and for doing which the*

*American Government will have to resort to the Supreme Court and depend upon its ability, ingenuity and willingness to invent a doctrine to justify its exercise of authority.*

*In assuaging the rigour of rigidity and legalism the Draft Constitution follows the Australian plan on a far more extensive scale than has been done in Australia. Like the Australian Constitution, it has a long list of subjects for concurrent powers of legislation. Under the Australian Constitution, concurrent subjects are 39. Under the Draft Constitution they are 37. Following the Australian Constitution there are as many as six Articles in the Draft Constitution, where the provisions are of a temporary duration and which could be replaced by Parliament at anytime by provisions suitable for the occasion. The biggest advance made by the Draft Constitution over the Australian Constitution is in the matter of exclusive powers of legislation vested in Parliament. While the exclusive authority of the Australian Parliament to legislate extends only to*

*about 3 matters, the authority of the Indian Parliament as proposed in the Draft Constitution will extend to 91 matters. In this way the Draft Constitution has secured the greatest possible elasticity in its federalism which is supposed to be rigid by nature.*

*It is not enough to say that the Draft Constitution follows the Australian Constitution or follows it on a more extensive scale. What is to be noted is that it has added new ways of overcoming the rigidity and legalism inherent in federalism which are special to it and which are not to be found elsewhere.*

*First is the power given to Parliament to legislate on exclusively provincial subjects in normal times. I refer to Articles 226, 227 and 229. Under Article 226 Parliament can legislate when a subject becomes a matter of national concern as distinguished from purely Provincial concern, though the subject is in the State list, provided a solution is passed by the Upper Chamber by 2/3rd majority in favour of such exercise of the power by the Centre. Article 227*

*gives the similar power to Parliament in a national emergency. Under Article 229 Parliament can exercise the same power if Provinces consent to such exercise. Though the last provision also exists in the Australian Constitution the first two are a special feature of the Draft Constitution.*

*The second means adopted to avoid rigidity and legalism is the provision for facility with which the Constitution could be amended. The provisions of the Constitution relating to the amendment of the Constitution divide the Articles of the Constitution into two groups. In the one group are placed Articles relating to (a) the distribution of legislative powers between the Centre and the States, (b) the representation of the States in Parliament, and (c) the powers of the Courts. All other Articles are placed in another group. Articles placed in the second group cover a very large part of the Constitution and can be amended by Parliament by a double majority, namely, a majority of not less than two thirds of the members of each House*

*present and voting and by a majority of the total membership of each House. The amendment of these Articles does not require ratification by the States. It is only in those Articles which are placed in group one that an additional safeguard of ratification by the States is introduced.*

*One can therefore safely say that the Indian Federation will not suffer from the faults of rigidity or legalism. Its distinguishing feature is that it is a flexible federation.*

*There is another special feature of the proposed Indian Federation which distinguishes it from other federations. A Federation being a dual polity based on divided authority with separate legislative, executive and judicial powers for each of the two polities is bound to produce diversity in laws, in administration and in judicial protection. Up to a certain point this diversity does not matter. It may be welcomed as being an attempt to accommodate the powers of Government to local needs and local circumstances. But this very diversity when it goes*

*beyond a certain point is capable of producing chaos and has produced chaos in many federal States. One has only to imagine twenty different laws-if we have twenty States in the Union-of marriage, of divorce, of inheritance of property, family relations, contracts, torts, crimes, weights and measures, of bills and cheques, banking and commerce, of procedures for obtaining justice and in the standards and methods of administration. Such a state of affairs not only weakens the State but becomes intolerant to the citizen who moves from State to State only to find that what is lawful in one State is not lawful in another. The Draft Constitution has sought to forge means and methods whereby India will have Federation and at the same time will have uniformity in all basic matters which are essential to maintain the unity of the country. The means adopted by the Draft Constitution are three*

*(1) a single judiciary,*

*(2) uniformity-in fundamental laws, civil and criminal, and*

*(3) a common All-India Civil Service to man important posts.*

*A dual judiciary, a duality of legal codes and a duality of civil services, as I said, are the logical consequences of a dual polity which is inherent in a federation. In the U. S. A. the Federal Judiciary and the State Judiciary are separate and independent of each other. The Indian Federation though a Dual Polity has no Dual Judiciary at all. The High Courts and the Supreme Court form one single integrated Judiciary having jurisdiction and providing remedies in all cases arising under the constitutional law, the civil law or the criminal law. This is done to eliminate all diversity in all remedial procedure. Canada is the only country which furnishes a close parallel. The Australian system is only an approximation.*

*Care is taken to eliminate all diversity from laws which are at the basis of civic and corporate life.*

*The great Codes of Civil & Criminal Laws, such as the Civil Procedure Code, Penal Code, the Criminal Procedure Code, the Evidence Act, Transfer of Property Act, Laws of Marriage Divorce, and Inheritance, are either placed in the Concurrent List so that the necessary uniformity can always be preserved without impairing the federal system.*

*The dual polity which is inherent in a federal system as I said is followed in all federations by a dual service. In all Federations there is a Federal Civil Service and a State Civil Service. The Indian Federation though a Dual Polity will have a Dual Service but with one exception. It is recognized that in every country there are certain posts in its administrative set up which might be called strategic from the point of view of maintaining the standard of administration. It may not be easy to spot such posts in a large and complicated machinery of administration. But there can be no doubt that the standard of administration depends upon the calibre of the Civil Servants who are appointed to these*

*strategic posts. Fortunately for us we have inherited from the past system of administration which is common to the whole of the country and we know what are these strategic posts. The Constitution provides that without depriving the States of their right to form their own Civil Services there shall be an All India service recruited on an All- India basis with common qualifications, with uniform scale of pay and the members of which alone could be appointed to these strategic posts throughout the Union.*

*[After the speech of Dr. Ambedkar, members of the Constituent Assembly rose and spoke on the Draft Constitution. Here are some experts eulogising the work of Dr. Ambedkar and the Drafting Committee – Ed.]*

**Friday, the 5th November 1948.**

The Constituent Assembly of India met in the Constitution Hall, New Delhi, at Ten of the Clock, Mr. President (The Honourable Dr. Rajendra Prasad) in the Chair.

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**Mr. Frank Anthony** ( C. P. and Berar: General): Mr. President, Sir, although Dr. Ambedkar is not present in the House I feel that, as a lawyer at least, I ought to congratulate him for the symmetrical and lucid analysis which he gave us of the principles underlying our Draft Constitution. Whatever different views we may hold about this Draft Constitution, I feel that this will be conceded that it is a monumental document at least from the physical point of view, if from no other point of view. And I think it would be churlish for us not to offer a word of special thanks, to the members of the Drafting Committee, because I am certain that they must have put in an infinite amount of lab our and skill to be able to prepare such a vast document.....

\* \* \* \* \*

Lastly, I wish to endorse the sentiment expressed by Dr. Ambedkar when he commended the provisions on behalf of the minorities. I know that it is an unsavoury subject (after what India has gone through) to talk of minorities or in terms of minority problems. And I do not propose to do that I do not propose to commend these minority provisions, because they have already been accepted by the Advisory Committee; they have been accepted by the Congress Party; they have also been accepted by the Constituent Assembly. But I feel I ought to thank and to congratulate the Congress Party for its realistic and

statesmanlike approach to this not easy problem; and I feel we ought particularly to thank Sardar Patel for his very realistic and statesmanlike approach. There is no point in blinking or in shirking the fact that minorities do exist in this country, but if we approach this problem in the way the Congress has begun to approach it, I believe that in ten years there will be no minority problem in this country. Believe me, Sir, when I tell you that I, at any rate, do not think that there is a single right minded minority that does not want to see this country reach, and reach in the shortest possible time, the goal of a real secular democratic State. We believe - we must believe - that in the achievement of that goal lies the greatest guarantee of any minority section in this country. As Dr. Ambedkar has said, we have struck a golden mean in this matter. The minorities too have been helpful.....

Finally, Sir, I wish to say that it is not so much on the written word of the printed Constitution that will ultimately depend whether we reach that full stature, but on the spirit in which the leaders and administrators of the country implement this Constitution of ours and on the spirit in which they approach the vast problems that face us; on the way in which we discharge the spirit of this Constitution will depend the measure of our fulfilment of the ideals which we all believe in.

**Shri Krishna Chandra Sharma** (United Provinces: General): I join in the pleasant task to compliment Dr. Ambedkar for the well worked out scheme he has placed before the House, the hard work he was put in, and his yesterday's able and lucid speech.

Sir, ours is a Democratic Constitution. Democracy involves a Government Constitution is not an end in itself. A Constitution is framed for certain objectives and these objectives are the general good of the people, the stability of the State and the growth and development of the individual. In India when we say the growth and development of the individual we mean his self-realization, self-development and self-fulfillment. When we say the development of the people we mean to say a strong and united nation.....

Sir, in considering a Constitution we have to take note of the fact that the Constitution is for, by, and for the people. In democracy, the combined wisdom of the people is regarded as superior to that of any single king or tyrant or indeed to a group of men. Moreover, democracy emphasizes the supreme good as being the welfare of the people. Political institutions are justifiable only in so far as they lead to this result and not by any pomp and show attached to them. These being the fundamentals of democracy, we have to judge whether the Constitution placed before us

will make India a strong united nation with the possibility of self-fulfillment, self-development and self-realization of the individual.

\* \* \* \* \*

**Shri T. T. Krishnamachari** (Madras: General): Mr. President, Sir, I am one of those in the House who have listened to Dr. Ambedkar very carefully. I am aware of the amount of work and enthusiasm that he has brought to bear on the work of drafting this Constitution. At the same time, I do realise that amount of attention that was necessary for the purpose of to it by the Drafting Committee. The House is perhaps aware that of the seven members nominated by you, one had resigned from the House and was replaced. One died and was not replaced. One was away in America and his place was not filled up and another person was engaged in State affairs, and there was a void to that extent. One or two people were far away from Delhi and perhaps reasons of health did not permit them to attend. So it happened ultimately no doubt that we are grateful to him for having achieved this task in a manner which is undoubtedly commendable.

**In short, Presidential and Parliamentary can be summarized as follows:-**

<b>Parliamentary System (Britain, India)</b>	<b>Presidential System (America)</b>
1) The Council of Ministers i.e. executive is responsible to popularly elected House i.e. Lok Sabha, House of Commons etc.	1) No responsibility of executive the governmental system is based on the principle of separation of powers.
2) The President is constitutional Head of the State. The real executive power rest with Prime Minister.	2) The executive power lies with the President who is not responsible to the Congress i.e. American Legislature (Senate and House of Representative)
3) The President has to function as per advice of Council of Ministers headed by Prime Minister.	3) The President is independent and free to choose his own ministry.
4) The Members of the Cabinet i.e. Ministers are invariably members of either House of Parliament if non member is chosen as Minister he has to become Member of either House of Parliament within six months.	4) Members of ministry are not members of congress. If any members of congress are appointed as ministers he ceased to be a member of congress.
5) Legislature and Executive are intermingled and part of same organisation. The Ministers are drawn from the Legislature, they are inseparable.	5) Legislature and Executive are independent.

6) Parliamentary system is based on principle of collective responsibility.	6) No such principle operates doctrine of separation of power prevailed.
7) Council of Ministers can be removed by Legislature i.e. House of Commons or Lok Sabha by no-confidence motion. The Ministry remains in power so long as it enjoys majority in the popularly elected House. Moment it lost majority, the ministry has to resign. This is crux of parliamentary system of government.	7) The President is chosen for fixed four years term. He cannot be removed by congress; he is not answerable to congress.
8) Parliamentary system is a responsible system. The responsibility of the government is assessed periodically through various parliamentary devices like questions, calling attentions, motions during Legislature session period etc.	8) The presidential system is a stable system. The responsibility is assessed after fixed term.

The framework of any constitutional system may be democratic, autocratic, military, monarchial, one party rule etc.

## The Principle function of the Organs of the Government

Normally, the Governmental functions are divided into three parts:

**i) Legislature ii) Executive and iii) Judiciary.** They are called organs of the Government.

**i) Legislature** – Legislature is a popularly elected body by the vote of the people, whose main function is to make laws or legislate and to decide policy.

Name of some democratic countries and legislature functioning in world; ---

<u>Name of Country</u>	<u>Nomenclature of the Legislature</u>
1) America – Constitution of America – 1787	1) Congress i.e. Senate and House of Representative.
2) Australia – Commonwealth of Australian Constitution Act, 1900	2) Senate and House of Representative --- Parliament of Commonwealth.
3) Canada – Canadian Constitution Act – 1867 and Canadian Charter of Rights and Freedom – Constitution Act 1992.	3) Senate and House of Commons.
4) France – 1958	4) French Parliament i.e. National Assembly and Senate
5) Federal Republic of Germany (German Reich Constitution)	5) House of Representative and Senate.
6) Irish Constitution of 1937	6) National Parliament, House of Representative and Senate.

7) United Kingdom (Britain)	7) British Parliament, House of Lords and House of Commons.
8) India	8) Indian Parliament, House of People and Council of States.
9) Italy – 1947	9) Parliament of Italy, Chamber of Deputies and Senate.
10) Japan – 1946 (Diet)	10) House of Representative and House of Councillors.
11) Russia – 1993 (Duma)	11) Federal Assembly, Federal Council and the State Duma.
12) Switzerland – Constitution of Swiss Confederation - 1874	12) Federal Assembly, National Council and Council of States (23 Sovereign cantons)

ii) **Executive** – Second organ of the Government is Executive, whose basic function is to implement law and policy,

- The executive wing of the government generally consists of all administrative organs of the States including Council of Ministers all Secretaries various departmental heads, Collector, Commissioner all bureaucracy heads of various corporations, universities etc. In short, executive wing of the Government envisages complete bureaucracy, civil servants who were in charge of carrying out policies of the Government.

iii) **Judicial Organ of the Government** – which means at the Apex Supreme Court their judges, at the State levels, Chief Justices of the High Court and other Judges, at the metropolitan area, City Civil Court, Metropolitan Court, at the district level district and session judge, at the taluka level civil judges, junior and senior division, judicial magistrate etc.

- The main function of the judicial wing of the Government is to interpret law or to say what the law is. The powers of judicial review vest with the Supreme Court and High Court. (Article 13, 32, 141, 226)
- The judiciary is protector and guarantor of the Constitution and Fundamental rights of the citizen.
- Under the power of judicial review, Supreme Court and High Court have power to declare any law, rules, regulations, bye-laws, or any administrative action as ultra-vires to the Constitution. In case they violate provisions of the Constitution (Article 13, 32, 226)
- The power of judicial review is very unique constitutional powers exercised by the judiciary, the source of which is found in landmark American Supreme Court judgement Marbury vs. Madison - 1803 US wherein first time American Supreme Court exercised the power of judicial

review and declared section 13 of the Judiciary Act of 1789 as unconstitutional to the extent it purports, to enlarge the original jurisdiction of the Supreme Court beyond that permitted by the Constitution. The Court further declared Congress cannot pass laws that are contrary to the Constitution and it is the role of the Federal Courts to interpret what the constitution permits. The Chief Justice, John Marshal has delivered this landmark judgement.

- The Supreme Court of India has exercised this novel power of judicial review in so many constitutional judgements like Sajjan Singh vs. Union of India, Shankari Prasad vs. Union of India, Golaknath vs. State of Punjab, Keshavananda Bharati vs. State of Kerala, Minerva Mills Case, Kihoto Hollohan vs. Zachillhu and Others, Rajaram Pal vs. Speaker Lok Sabha, Mohinder Singh Gill Case, Keshav Singh Case and many more landmark judgements.
- Independent Judiciary with power of Judicial Review is declared as a basic feature of the Constitution.

### **Framework of the Constitution**

Framework and principles governing the operation of organs of the Government:-

- **Framework** – Democratic Representative Parliamentary form of Government
- **Principles** – i) Parliamentary system of Government  
(British Westminster System  
ii) Federal system followed in American Constitution.
- The Federal System envisages four important principles i.e. dual government, distribution or division of power, authority of the Court and supremacy of the Constitution.
- The complete American System is based on the principle of Federalism and American Constitution is ideal federal constitution of the world.
- The Constitution of India is beautiful blending of a Federal System and Parliamentary System.

**Constitution does not contain detailed rules but defines authorities who are competent to make rules.**

- The Constitution is a substantive law that's why it contains substantive principle of governance of the country and detailed procedural rules are laid down in various enactments which carry out the provisions of the Constitution. However, powers and authorities of various organs of the Government are demarcated

and defined in the Constitution and no authority is legally entitled to transgress their limits.

- **There is no hard and fast definition of Constitutional Law.**
- **In simple terms the Constitutional Law means, the system of governance which regulates the structure of the principle organ of the Government and there relationship with each other and determine their principle functions (Law means rules of civil conduct enacted by legal authorities and recognised by the Court – Law must have a command of sovereign)**

### **Indian Constitutional Law**

- **Definition** - The Constitutional Law is that part of law which relates to the system of Government of the country “(where)”.
- In the context of American Govt. and Western democracies, Constitution is a basic and Supreme Law that outlines the governmental structure, allocates authority and duties to the govt. establishes basic decision making procedures and places, limitation upon governmental activities to spell out. Government authority to make all other laws, rules and regulations etc. and decision flows from Constitution.

- (John A. Straayer's American State & Local Govt. 3<sup>rd</sup> Ed. PP. 75-76)
- (P-1 cases and Materials on the Constitution by H. K. Saharey).

## **II. HISTORICAL AND CONSTITUTIONAL DEVELOPMENT BETWEEN 1858 TO 1947**

### **Historical Background:-**

(1) The very fact that the Constitution of Indian Republic is the product not of a political revolution but of the --research and deliberations of a body of eminent representatives of the people constituent Assembly --- who framed the Constitution.

(2) Not imposed by imperial power i.e. 1935 GOI Act, 1809 GOI – made by Sovereign Constituent Assembly – That explains the majesty and ethical value of this new instrument.

(3) Govt. Of India Act 1858 -- British Crown assumes sovereignty over India from East India Company and British Parliament enacted the first Statute for the Governance of India.

---- Secretary of states who was responsible to the British Parliament governed India through the Governor General assisted by an executive Council.

### **Important Points:**

- 1) The British period in the history of India began with the incorporation of East India Company in the year 1600 in England.
- 2) 1600-1765 / 1765 – 1858 / 1858 – 1919 / 1919 – 1947
- 3) **1600-1765 – The Rule of East India Company**

- i) Traders in the form of East India Company
  - ii) Established Factories - Surat 1612 (Jehangir Emperor – Royal Ferman)  
Madras 1639, Bombay, Calcutta – Presidencies
  - iii) Charter of 1726 – Legislative Significance, Mayors Courts at Calcutta, Bombay Madras Legislative powers vested to Court of Director in England.
  - iv) Battle of Plassey – 1757 (Lord Clive – Sirajuddin Nawad of Bengal 1764 Buxur – had laid the foundation of British Empire in India.
  - v) 1765 – Shah Alam granted the Diwani i.e. responsibility of collection of revenue to the Company.
- 4) **1765- 1858 – Beginning of British Rule**
- i) The grant of Diwani made the East India Company real masters of Bengal, Bihar & Orissa.
  - ii) Regulating Act – 1773 great const. important because it asserted for the first time the right of Parliament to regulate the affairs of Company.
  - iii) Establish Supreme Court at Calcutta.
  - iv) The Act of 1773 appointed Governor General & four councilors for the Presidency in Bengal & vested Civil, Military Govt. of Calcutta. “Warren Hastings” was the first Governor General.

v) The Governor General of Bengal and his council became the Supreme authority of India. The Act of 1773 thus, took the steps in the centralization of Adm. Machinery in India.

vi) Establishment of Supreme Court at Calcutta consisting of Chief Justice & 3 Judges.

- **The Charter Act 1833**

- i. The Governor General of Bengal was henceforth to be styled as Governor General of India.
- ii. This act led to the centralization of powers in the hands of Governor General in council by vesting Legislative powers solely in him.
- iii. The laws made under the previous Acts were called Regulations but the laws made under this Act, were called Acts of Parliament.

- **The Charter Act 1853**

- i. The Act created separate Legislative Council for India consisting of 12 members.
- ii. Local representation introduced first time.
- iii. The Act made separate Governor General for Bengal.
- iv. According to "Punniah" ---- (the directors were deprived of their privileged power of appointment. It was severe blow to the court of Directors) It paved the way for the transfer of Indian territories to

the British Crown. The mutiny of 1857 only accelerated this process and brought the career of East India Company to an end.

- **1858 to 1919 – End of Company Rule** - Government of India Act 1858

- 1) Transferred Govt. of India from company to British Crown.
- 2) Board of control and Court of Directors were abolished and their powers were transferred to their Majesty's Secretary of States.

- **Indian Council Act 1861** -

Indian Council Act 1861 introduced the grain of popular element i.e. in Governor General's Executive Council, composed exclusive of officials should include certain additional non-official members while transacting legislative business in Legislative Council.

- 1) Beginning of representatives Institutions.
- 2) Indians were first time associated with the work of Legislature.
- 3) The Legislative Council was given powers to frame laws and regulations for all persons.
- 4) The provincial Legislative Councils – Bombay, Madras etc. were empowered to make laws for the benefits of province.
- 5) Three Chartered High Courts – British Parliament had passed Indian High Court Act 1861 for British India, empowering Queen to constitute High Courts at Bombay, Madras and Calcutta. Calcutta

High Court had started functioning on 1<sup>st</sup> July 1862, Bombay High Court had started on 14<sup>th</sup> August 1862 and Madras High Court had started in 1862. When Constitution of India came into force on 26<sup>th</sup> January 1950, above High Courts were functioning.

- **Indian Council Act 1892** -

Indian and provincial Legislative Councils were introduced.

Non- official members of the Indian Legislative Council have henceforth to be nominated by the Bengal Chamber of Commerce, certain Local bodies, universities, Local Board, municipalities, etc.

(4) Morlay – Minto reforms and Indian Council Act, 1909

- i) The first attempt at introducing a representative and popular element.
- ii) The size of Central and provincial legislative Councils was enlarged by (16-80) including elected non-official members. So that official majority was gone.
  - Powers of Legislative council – enlarged.
- iii) An element of election was also introduced in the Legislative Council at centre.
- iv) For the first time it was provided separate representation of the Muslim Community & thus sowed the seeds of the

separation and eventually led to the partition of the country.

Lokmanya Tilak was blamed Muslim Communities.

- v) Now the Councils were empowered to discuss any matter ask questions and supplementary questions, the councils had also the right of discussing and moving resolutions of financial statements but they were not given the powers of voting.
- vi) **Montagu – Chelmsford Report** and GOI 1919
  - 1) failed to satisfy the aspirations of the nationalists in India--  
Parliamentary system was not introduced.  
Central Government in 1919 Act.
  - 1) The principle of responsible Govt. was not introduced at center.
  - 2) Central Govt. remains responsible to British Parliament through Secy. Of State.
  - 3) The Central Legislature was to have a bicameral legislature.
  - 4) The council of states (Upper house) was composed of Sixty members of whom 34 were elected and
  - 5) The Legislative Assembly was composed of 144 members (Lower House) of whom 104 were elected and rest nominated.

- 6) Power to veto bill exclusively given to lower House.
- 7) In financial bill – both the Houses equal powers.
- 8) The Central Legislature retained the powers to legislate for whole of India.
- 9) The Governor General had overriding powers in respect of legislation – prior sanction was required to introduce the bill, Power to veto or reserve the consideration of any bill to crown, could promulgate ordinance having force of law.

### **Main features**

- 1) Diarchy in the "Provinces" or dual govt.
  - a) The subject of administration were divided in two categories Central / provincial.
  - b) Central subjects were kept under exclusive control of Central Govt.
  - c) Provincial subject --- Transferred  
Reserved Subjects

**Transferred Subjects** – administered by the governor with the aid of Ministers responsible to Council.

**Reserved subjects** – Governor only (Finance)

### **Historical and Constituent Development between 1858 to 1947.**

- 1) It increased the numbers of members in the Central and Provincial Councils.
- 2) Introduced the election system partially.
- 3) Enlarged the functions of Councils.
- 4) The Councils were to have powers of discussing the budget and subject to certain restrictions to ask questions from the Government.
- 5) The Act laid down the foundation of Representative Government.
- 6) Although the Act of 1892 fell for short of demands made by Indian National Congress (1885) it certainly paved the way for future progress by conceding the principles of election and giving Legislative Council some control over the executive.

### **(IV) 1919-1947 Introduction of Self Government**

#### The Govt. of India Act, 1919 (Montague-Chelmsford Report)

- 1) The declaration – It promised responsible Govt. to Indians.
- 2) Dyarchy in the province: - Double rule – Greek word “di-arch” – object to train the natives in the act of self Government.
- 3) In matters of Legislation provincial subjects were divided into reserved and transferred.

Jail, police, finance, justice, irrigation comparatively more important subjects were reserved subjects – they were to be governed by Governor and his executive councils without any responsibility to Legislature.

Education, Agriculture, Local Self Govt. – subjects of lesser importance were transferred to the Indian Ministers and Governors.

- 4) The provincial Legislative Councils were empowered to legislate in respects of provincial matters only.
- 5) The proposed of elected members was increased upto 70% in the provincial Legislative Councils but the separate electorate for Muslims was continued.

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

- 1) It regarded as second milestone on the highway leading to a full responsible Govt.
- 2) It was lengthy document detailed and complicated having 321 sections with 10 Schedule.
- 3) The basic features of the Act were the introduction of partial responsibility, at centre, provincial autonomy and an All India Federation.

**(I) The All India Federation.**

- a) The Act provided for the establishment of an All India Federation comprising of the British India and such Indian States who would desire to come into Federation.
- b) In all previous Acts, the Govt. of India was unitary, but the Act of 1935 proposed a federation taking provinces and Indian States as one unit.
- c) The rulers of Indian states never gave their consent and not sign instrument of accession and thus federation envisaged in the Act never came into being.

**(II) Diarchy at the Centre**

- a) The Act of 1935 abolished diarchy at provincial level and introduced at centre.
- b) The executive authority of the centre was vested in the Governor General.
- c) The Federal Subjects were divided into the two categories –  
(i) reserved (ii) transferred.
- d) The administration of reserved subjects – defence, external affairs Governor General exclusively at his discretion with the help of councilors appointed by him not responsible to Legislature.

e) In case of transferred subject – Governor General has to act on the advice of Council of Ministers who was responsible to Legislature.

### **(III) Provincial autonomy:-**

- 1) Beginning of Provincial autonomy – Advance Step
- 2) The Act divided Legislative powers between Provincial and Central Legislature.
- 3) Within its defined sphere the Provinces were no longer delegates of the Central Government but were autonomous units of administration.
- 4) The executive authority of a Province was also exercised by governor on behalf of the crown and not as sub-ordinate of Governor General.
- 5) The Governor was required to act with the advice of Ministers responsible to legislature.

### **(IV) Federal Legislature:-**

- Federal Legislature – i) Council of States ii) Legislative Assembly
- Legislative Assembly (tenure – 5 years) – 275 British Indian Province & 125 Indian States.

- Council of States – 260 members consists of - 156 British Indian Province, 6 Nominated, rest elected directly & 104 nominated by Princess of Indian States.
- Powers were limited.
- Demands of supply of votes / financial bills to Assembly
- Joint session provisions.

**(V) Provincial Government** – The Provincial Executive was to consist of the Governor and Council of Ministers to advice him.

**(VI) Provincial Legislature:-**

- 1) After this Act, the Legislatures of Bombay, Bengal, Madras, Bihar, Assam and United Provinces were made bicameral and in other five Provinces unicameral.
- 2) Duration of Assembly – 5 years
- 3) Power to make laws – Provincial list and concurrent list.
- 4) Previous sanction of Governor General and Governor for introducing Bill – obligatory.
- 5) Governor's assent to Bill must - then Law.

**(VII) Distribution of Legislative powers into Centre & State:-**

- 1) Act made threefold division of powers between centre and the provinces.

- a) Federal List – 59 subjects
  - b) Provincial list – 54 subjects
  - c) Concurrent list – 26 subjects
- 2) Federal Legislature has power to make laws with respect to subject enumerated in provincial list:- i) Emergency ii) Two States resolutions
- 3) Residuary powers to Governor General.

**(VIII) Federal Court:-**

- The Act establishes Federal Court – Chief Justice and 6 Judges.
- Jurisdiction – Original, appellate, advisory.
- Appeal to privicouncil from decision of Federal Court.
- Act came into force in regard to provinces in April 1937.
- Provincial Ministries lasted only for two years.
- Mr. B.G. Kher, Prime Minister – Bombay Province
- 1939 Second World War – Congress ministry resigned.

**(I) Cabinet Mission 1946** – The Cabinet Mission came to India on 4th March, 1946. It consisted of three British Cabinet Ministers – Lord Pethic Lawrence., Sir Stafford Cripps and Mr. Alexander. The mission recommended the following proposals:-

- (1) There should be a Union of India embodying both British India and the States and with the exception of

certain reserved subjects, all subjects were to be retained by the States.

- (2) the paramountcy of Crown was to lapse.
- (3) For the purpose of framing a new Constitution a Constituent Assembly was to be elected.
- (4) An interim Government was to be set up having the support of major political parties.

The proposals of Cabinet Mission were accepted and in July 1946 elections to Constituent Assembly took place.

**(II) The Indian Independence Act, 1947:-**

- 1) The Act provided for the creation of two independent dominions, India and Pakistan from 15 August, 1947.
- 2) Each dominion was to have Governor General (Lord Mountbatten – Governor General) to be appointed by crown. (C. Rajgopalchari, First Governor General of Free India)
- 3) Constituent Assembly to act Legislative to frame laws till new constitution came into force.
- 4) After 15<sup>th</sup> August, 1947 – British Government was not to control India.
- 5) Till new Constitution – Indian Dominion provinces was to governed by Government of India 1935.

6) Indian Ind. Act, 1947 came into force on 15<sup>th</sup> August, 1947 when British rule in India came to an end.

(Pandit Nehru's famous speech "**Tryst with Destiny**" on Red Fort in midnight of 14 August, 1947).

### **III. MAKING OF THE CONSTITUTION - CONSTITUENT ASSEMBLY**

#### **Constituent Assembly of India as per Cabinet Mission Plan**

- 1) Elected for undivided India & held its first sitting on 9-12-46  
reassembled on 14 August 1947 as the sovereign Constituent  
Assembly for Dominion of India.
- 2) Constituent Assembly had been elected by indirect election by the  
members of Provincial Assemblies.  
--Provinces 292 + Indian states 93
  - 1) First sitting 9-12-46
  - 2) Adopted on 26-11-1949
  - 3) Dr. Rajendra Prasad- Chairman Constituent Assembly
  - 4) Dr. Ambedkar – Chairman drafting committee
  - 5) Draft constitution was published in January, 1948.
  - 6) 7695 Amm. Proposed – 2473 disc.
  - 7) Constituent Assembly held 11 sessions.
  - 8) The draft constitution considered for 114 days.
  - 9) Constituent Assembly sat for 2 years, 11 months and 18 days.
  - 10) Central Hall Parliament.
- 3) Partition – 3 June, 1947 --- Separate Constituent Assembly for  
Pakistan
- 4) 31-10-1947 --- strength – 299

5) On 26 Nov. 1949 --- 284 appended the signature to the constitution

6) Important Committees of Constituent Assembly are ---

- a) Union Power Committee – J. Nehru, Chairman
- b) Committee on F. R. & minorities – S. Patel, Chairman
- c) Steering Committee -- Dr. K. M. Munshi, Gopalswami Ayyangar,  
Das
- d) Provincial Consti. Comm. -- S. Patel
- e) Comm. on union const. – Nehru
- f) Appointed Drafting Committee on 29th August 1947 –  
Dr. Ambedkar, Chairman and 7 members – Father of  
Constitution.

Constituent Assembly met in November 1948 to consider the Draft Clause by Clause --- 17-10-49 complete – adopted on 24-11-1949 received signature of the President Assembly & was declared as passed – 26-1-1950 came into force. Dr. Ambedkar pilot to the draft – 15-8-1947 to 26-1-1950

Law Minister Sir B. N. Rau – Prepared draft – Adviser to Constituent Assembly 7 members drafting Committee. – Constitution came in to force on 26th January, 1950.

**Important members of Constituent Assembly were:**

- |                               |                         |
|-------------------------------|-------------------------|
| 1) Jawaharlal Nehru           | 2) Rajendra Prasad      |
| 3) Saradar Patel              | 4) Maulana Azad         |
| 5) Gopalswamy Ayyengar        | 6) G. B. Pant           |
| 7) Abdul Gaffar Khan          | 8) T. T. Krishnamachari |
| 9) Alladi Krishna Swamy Iyyer | 10) Dr. Ambedkar        |
| 11) H. N. Kunzaru             | 12) H. S. Gaur          |
| 13) M. Masani                 | 14) Acharya Kriplani    |
| 15) Dr. Radhakrishnan         | 16) Dr. Jaykar          |
| 17) Liyakat Ali Khan          | 18) Dr. Sinha           |

**Sources of Constitution**

- |                           |       |                                  |
|---------------------------|-------|----------------------------------|
| 1) Structural Part        | ----- | Government of India 1935         |
| 2) Preamble               | ----- | United States of America         |
| 3) Philosophical part --- |       |                                  |
| Fundamental Rights        | ----  | Bill of Rights U.S.A.            |
| Directive Principles      | ----  | Irish                            |
| Federal Nature            | ----  | Canada / USA                     |
| 4) Political Part         | ----  | British Cabinet System           |
|                           |       | Westminster Parliamentary System |
| 5) Union & State Relation |       | Canadian Constitution            |

6) Trade / commerce ----- Australia

7) Panchayat – Municipal -- Indigenous

### **Making of the Constitution:**

1. The Constitution of India was drafted by the Constituent Assembly which was constituted as per Cabinet Mission Plan, 1946. The Constituent Assembly elected for Undivided India and held its first sitting on 9<sup>th</sup> December, 1946 which was again re-assembled on 14<sup>th</sup> August, 1947 as the sovereign constituent assembly for the Dominion of India.
2. The members of Constituent Assembly had been elected by indirect election by the Members of Provincial Assembly. Total members from provinces were 292 and from Indian States were 93.
3. After partition on 3<sup>rd</sup> June, 1947, separate Constituent Assembly for both India and Pakistan was constituted.
4. On 31<sup>st</sup> October, 1947, the total strength of members of Constituent Assembly was 299.
5. The Constituent Assembly of India met for the first time in New Delhi on 9<sup>th</sup> December, 1946 in the Constitution Hall, which is now known as 'Central Hall of Parliament House'. The important members of Constituent Assembly were as follows:-

- 1) Dr. Rajendra Prasad, President.
- 2) Dr. Sachchidananda Sinha,
- 3) Pandit Jawaharlal Nehru,
- 4) Maulana Abul Kalam Azad,
- 5) Sardar Vallabhbhai Patel,
- 6) Acharya J. B. Kripalani,
- 7) Smt. Sarojini Naidu,
- 8) Shri Hare-Krushna Mahatab,
- 9) Pandit Govind Ballabh Pant,
- 10) Dr. B. R. Ambedkar,
- 11) Shri Sarat Chandra Bose,
- 12) Shri C. Rajagopalachari,
- 13) Shri M. Asaf Ali,
- 14) Prof. Harendra Coomar Mookerjee,
- 15) Prof. K. T. Shah,
- 16) Frank Anthony,
- 17) Shri T. T. Krishnamachari,
- 18) Shri N. Madhava Rau,
- 19) Shri Biswanath Das,
- 20) Shri Lokanath Misra,
- 21) Kazi Syed Karimuddin,
- 22) Pandit Laxmi Kanta Maitra,
- 23) Shri Ram Narayan Singh,
- 24) Shri S. Nagappa,
- 25) Shri Arun Chandra Guha,
- 26) Shri T. Prakasam,
- 27) Dr. Joseph Alban D'Souza,
- 28) K. Santhanam,
- 29) Shri R. R. Diwakar,
- 30) Shri Alladi Krishnaswamy Iyer,
- 31) Pandit Govind Malaviya,
- 32) Shri M. Ananthasayanam Ayyangar
- 33) Shri B. Pattabhi Sitaramayya,
- 34) Shri K. M. Munshi,
- 35) Shri G. V. Mavalankar,
- 36) Shri Gopinath Bardoloi,
- 37) Shri A. V. Thakkar and so on.

### **SOME FACTS**

The Constituent Assembly took almost three years (two years, eleven months and seventeen days to be precise) to complete its historic task of drafting the Constitution for Independent India. Over the course of this period (two years, eleven months and seventeen days), the Assembly held eleven sessions sitting on a total of 165 days. Of these, 114 days were spent on the consideration of the Draft Constitution.

As to its composition, members were chosen by indirect election by the members of the Provincial Legislative Assemblies, according to the scheme recommended by the Cabinet Mission. The arrangement was: (i) 292 members were elected through the Provincial Legislative Assemblies; (ii) 93 members represented the Indian Princely States; and (iii) 4 members represented the Chief Commissioners' Provinces. The total membership of the Assembly thus was to be 389. However, as a result of the partition under the Mountbatten Plan of 3 June, 1947, a separate Constituent Assembly was set up for Pakistan and representatives of some Provinces ceased to be members of the Assembly. As a result, the membership of the Assembly was reduced to 299.

**STATEWISE MEMBERSHIP OF THE CONSTITUENT ASSEMBLY**  
**OF INDIA AS ON 31 DECEMBER 1947, PROVINCES - 229**

S.No.	State	No. of Members
1.	Madras	49
2.	Bombay	21
3.	West Bengal	19
4.	United Provinces	55
5.	East Punjab	12
6.	Bihar	36
7.	C.P. and Berar	17
8.	Assam	8
9.	Orissa	9
10.	Delhi	1
11.	Ajmer-Merwara	1
12.	Coorg	1

INDIAN STATES-70

1.	Alwar	1
2.	Baroda	3
3.	Bhopal	1
4.	Bikaner	1
5.	Cochin	1
6.	Gwalior	4
7.	Indore	1
8.	Jaipur	3
9.	Jodhpur	2
10.	Kolhapur	1
11.	Kotah	1

12.	Mayurbhanj	1
13.	Mysore	7
14.	Patiala	2
15.	Rewa	2
16.	Travancore	6
17.	Udaipur	2
18.	Sikkim and Cooch Behar Group	1
19.	Tripura, Manipur and Khasi States Group	1
20.	U.P. States Group	1
21.	Eastern Rajputana States Group	3
22.	Central India States Group (Including Bundelkhand and Malwa)	3
23.	Western India States Group	4
24.	Gujarat States Group	2
25.	Deccan and Madras States Group	2
26.	Punjab States Group I	3
27.	Eastern States Group I	4
28.	Eastern States Group II	3
29.	Residuary States Group	4
		-----
	<b>Total</b>	<b>299</b>
		=====

On 13 December, 1946, Pandit Jawaharlal Nehru moved the Objectives Resolution.

1. This Constituent Assembly declares its firm and solemn resolve to proclaim India as an Independent Sovereign Republic and to draw up for her future governance a Constitution;

2. WHEREIN the territories that now comprise British India, the territories that now form the Indian States, and such other parts of India as are outside British India and the States as well as such other territories as are willing to be constituted into the Independent Sovereign India, shall be a Union of them all; and

3. WHEREIN the said territories, whether with their present boundaries or with such others as may be determined by the Constituent Assembly and thereafter according to the law of the Constitution, shall possess and retain the status of autonomous Units, together with residuary powers and exercise all powers and functions of government and administration, save and except such powers and functions as are vested in or assigned to the Union, or as are inherent or implied in the Union or resulting therefrom; and

4. WHEREIN all power and authority of the Sovereign Independent India, its constituent parts and organs of government, are derived from the people; and

5. WHEREIN shall be guaranteed and secured to all the people of India justice, social economic and political : equality of status, of opportunity, and before the law; freedom of thought, expression, belief, faith, worship, vocation, association and action, subject to law and public morality; and

6. WHEREIN adequate safeguards shall be provided for minorities, backward and tribal areas, and depressed and other backward classes; and

7. WHEREBY shall be maintained the integrity of the territory of the Republic and its Sovereign rights on land, sea, and air according to justice and the law of civilized nations; and

8. This ancient land attains its rightful and honoured placed in the world and make its full and willing contribution to the promotion of world peace and the welfare of mankind.

This Resolution was unanimously adopted by the Constituent Assembly on 22 January 1947.

Late in the evening of 14 August, 1947 the Assembly met in the Constitution Hall and at the stroke of midnight, took over as the Legislative Assembly of an Independent India.

On 29 August, 1947, the Constituent Assembly set up a Drafting Committee under the Chairmanship of Dr. B.R. Ambedkar to prepare a Draft Constitution for India. While deliberating upon the draft Constitution, the Assembly moved, discussed and disposed of as many as 2,473 amendments out of a total of 7,635 tabled.

The Constitution of India was adopted on 26 November, 1949 and the Hon'ble Members appended their signatures to it on 24 January, 1950. In all, 284 members actually signed the Constitution. On that day

when the Constitution was being signed, it was drizzling outside and it was interpreted as a sign of a good omen.

The Constitution of India came into force on 26 January, 1950. On that day, the Assembly ceased to exist, transforming itself into the Provisional Parliament of India until a new Parliament was constituted in 1952.

### **Sessions of the Constituent Assembly**

First Session:	9-23 December, 1946
Second Session:	20-25 January, 1947
Third Session:	28 April - 2 May, 1947
Fourth Session:	14-31 July, 1947
Fifth Session:	14-30 August, 1947
Sixth Session:	27 January, 1948
Seventh Session:	4 November, 1948 - 8 January, 1949
Eighth Session:	16 May - 16 June, 1949
Ninth Session:	30 July - 18 September, 1949
Tenth Session:	6-17 October, 1949
Eleventh Session:	14-26 November, 1949

*[The Assembly met once again on 24 January, 1950, when the members appended their signatures to the Constitution of India]*

**COMMITTEES UNDER THE CONSTITUENT ASSEMBLY**

1. Committee on the Rules of procedure - Rajendra Prasad
2. Steering Committee - Rajendra Prasad
3. Finance and Staff Committee - Anugrah Narayan Sinha
4. Credential Committee – Alladi Krishnaswamy Iyer
5. House Committee - B. Pattabhi Sitaramayya
6. Order of Business Committee – K. M. Munshi
7. Ad hoc Committee on the National Flag - Rajendra Prasad
8. Committee on the Functions of the Constituent Assembly  
G. V. Mavalankar
9. States Committee – Jawaharlal Nehru
10. Advisory Committee on Fundamental Rights, Minorities  
Tribal and Excluded Areas - Vallabhbhai Patel
11. Minorities Sub-Committee - Harendra Coomar Mookerjee
12. Fundamental Rights Sub-Committee - J. B. Kripalani
13. North-East Frontier Tribal Areas and Assam. Excluded &  
Partially Excluded Areas Sub-Committee - Gopinath Bardoloi
14. Excluded and Partially Excluded Areas (Other than those in  
Assam) Sub-Committee - A. V. Thakkar
15. Union Powers Committee – Jawaharlal Nehru
16. Union Constitution Committee – Jawaharlal Nehru
17. Drafting Committee - B. R Ambedkar

### **Constituent Assembly – The Framing of new Constitution of India**

- 1) Constituent Assembly came into being in November 1946, as per Cabinet Mission Plan.
- 2) Indirect election by provincial assemblies.
- 3) Out of 296 seats for British India, the Congress party captured 211 seats and Muslim League 73 seats, rest were not filled up.
- 4) The important members of Constituent Assembly were as follows:-
  - 1) Dr. Rajendra Prasad, President. 2) Dr. Sachchidananda Sinha,
  - 3) Pandit Jawaharlal Nehru, 4) Maulana Abul Kalam Azad, 5) Sardar Vallabhbhai Patel, 6) Acharya J. B. Kripalani, 7) Smt. Sarojini Naidu, 8) Shri Hare-Krushna Mahatab, 9) Pandit Govind Ballabh Pant, 10) Dr. B. R. Ambedkar, 11) Shri Sarat Chandra Bose, 12) Shri C. Rajagopalachari, 13) Shri M. Asaf Ali, 14) Prof. Harendra Coomar Mookerjee, 15) Prof. K. T. Shah, 16) Frank Anthony, 17) Shri T. T. Krishnamachari, 18) Shri N. Madhava Rau, 19) Shri Biswanath Das, 20) Shri Lokanath Misra, 21) Kazi Syed Karimuddin, 22) Pandit Laxmi Kanta Maitra, 23) Shri Ram Narayan Singh, 24) Shri S. Nagappa, 25) Shri Arun Chandra Guha, 26) Shri T. Prakasam, 27) Dr. Joseph Alban D'Souza, 28) K. Santhanam, 29) Shri R. R. Diwakar, 30) Shri Alladi Krishnaswamy Iyer, 31) Pandit Govind Malaviya, 32) Shri M. Ananthasayanam

Ayyangar 33) Shri B. Pattabhi Sitaramayya, 34) Shri K. M. Munshi, 35) Shri G. V. Mavalankar, 36) Shri Gopinath Bardoloi, 37) Shri A. V. Thakkar and so on.

**Important members of Constituent Assembly were:**

- |                              |                         |
|------------------------------|-------------------------|
| 1) Jawaharlal Nehru          | 2) Rajendra Prasad      |
| 3) Saradar Patel             | 4) Maulana Azad         |
| 5) Gopalswamy Ayyengar       | 6) G. B. Pant           |
| 7) Abdul Gaffar Khan         | 8) T. T. Krishnamachari |
| 9) Alladi Krishna Swamy Iyer | 10) Dr. Ambedkar        |
| 11) H. N. Kunzaru            | 12) H. S. Gaur          |
| 13) M. Masani                | 14) Acharya Kriplani    |
| 15) Dr. Radhakrishnan        | 16) Dr. Jaykar          |
| 17) Liyakat Ali Khan         | 18) Dr. Sinha           |

- 5) First Meeting of the Assembly was held on 9th December 1946.
- 6) Dr. Rajendra Prasad has been elected as President on 11th December 1946.
- 7) Objective resolution was moved by Pandit Jawaharlal Nehru on 13th December 1946 which later on formed Basis of the Constitution which was unanimously adopted by the Constituent Assembly on 22nd January 1947.

8) Various committees like Fundamental Rights Sub-Committee, Unions Powers Committee, Drafting Committee, and Minorities Committees were constituted. In all 70 Committees were constituted under the Constituent Assembly.

9) On 29th August 1947, Drafting Committee consisting of seven Members was set up under the Chairmanship of Dr. Babasaheb Ambedkar, the members were:-

- i) Dr. Ambedkar – Chairman
- ii) N. Gopalaswami Ayengar
- iii) Alladi Krishnaswamy Iyer
- iv) K.M. Munshi
- v) Mohammad Saadullah
- vi) B.L. Mitter ---- (after) N. Madhav Rao
- vii) D.P. Khaitan ---- (after) T.T. Krishnamachari

10) Before the Constituent Assembly of India, Dr. B.R. Ambedkar, Chairman of the Drafting Committee delivered a speech on 4th November 1948 in which he has thrown light on the form of Government that is envisaged in the Constitution and form of the Constitution itself.

11) Sir B. N. Rau, the Constitutional Advisor to the Constituent Assembly prepared a rough draft of the Constitution for the consideration of the Drafting Committee.

- 12) Draft Constitution was published in January 1948.
- 13) The people of India were given eight months to discuss the draft and proposed amendment.
- 14) In all 7635 amendments were proposed out of which 2473 amendments were actually discussed.
- 15) Constituent Assembly held 11 Sessions and sat for 2 years 11 months and 18 days.
- 16) The Draft Constitution was considered for 114 days.
- 17) Last speech delivered by Dr. B. R. Ambedkar before the Constituent Assembly on the adoption of the Constitution was on 25th November 1949.
- 18) The Constitution was adopted by the Constituent Assembly on 26th November 1949 and signed by President Dr. Rajendra Prasad and other members.
- 19) Articles 5, 6, 7, 8, 9, 60, 324, 366, 367, 372, 380, 388, 391, 392, 393 came into force at once and rest on 26th January 1950 i.e. date of commencement of Constitution.
- 20) The Constitution of India came into force on 26th January 1950. On that day, the Constituent Assembly ceased to exist, transforming itself into the provisional Parliament of India until a new Parliament was constituted 1952.

**THE CONSTITUTION OF INDIA**  
**PREAMBLE**

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

**JUSTICE**, social, economic and political;

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

**EQUALITY** of status and of opportunity;

and to promote among them all

**FRATERNITY** assuring the dignity of the individual and the <sup>2</sup>[unity and integrity of the Nation];

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

---

<sup>1</sup> Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 2, for "SOVEREIGN DEMOCRATIC REPUBLIC" (w.e.f. 3<sup>rd</sup> January 1977.)

<sup>2</sup> Subs. by s. 2, *ibid*, for "unity of the nation" (w.e.f. 3<sup>rd</sup> January 1977).

The Constituent Assembly of India met in the Constitution Hall, New Delhi on Thursday 4<sup>th</sup> November 1948.

The President Dr. Rajendra Prasad addressed the House. He explained what would be the programme of the business. This was followed by discussion.

In the afternoon session, the President called upon Dr. Ambedkar to move his motion. Accordingly, Dr. Ambedkar introduced the Draft Constitution to the Assembly for consideration.

After the Draft Constitution was presented to the Constituent Assembly on 4<sup>th</sup> November 1948, a brief general discussion followed which is called the first reading of the Constitution. The second reading commenced on 15<sup>th</sup> November 1948. In the second reading, the Constitution was discussed clause by clause in detail. The discussion concluded on the 17<sup>th</sup> October 1949.

The Constituent Assembly again sat on the 14<sup>th</sup> November, 1949, for the Third Reading. This was finished on the 26<sup>th</sup> November, 1949 when the Constitution was declared as passed and thereafter the President of the Assembly signed it.

**Preamble of the Constitution of United States of America also spell out the idea of liberty in the preamble itself which runs as under;**

“***We the People*** of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.”

**Australia**

The Constitution of Australia is the supreme law under which the government of the Commonwealth of Australia operates, including its relationship to the States of Australia. It consists of several documents. The most important is the Constitution of the Commonwealth of Australia, which is referred to as the "Constitution" in the remainder of this article. The Constitution was approved in a series of referendums held over 1898–1900 by the people of the Australian colonies, and the approved draft was enacted as a section of the Commonwealth of Australia Constitution Act 1900 an Act of the Parliament of the United Kingdom.

**Preamble of Australia**

Whereas the people of New South Wales, Victoria South Australia, Queensland and Tasmania, humbly relying on the blessing of the Almighty God, have agreed to unite in one indissoluble Federal Commonwealth under the Crown of the United Kingdom of Great Britain and Ireland, and under the Constitution hereby established.

And whereas it is expedient to provide for the admission into the Commonwealth of Australian Colonies and possessions of the Queen:  
Be it therefore enacted by the Queen's most Excellent Majesty...

## **Switzerland**

The preamble and the first title of the Swiss Federal Constitution of 18 April 1999 determine the general outlines of Switzerland as a democratic federal republic of 26 cantons governed by the rule of law.

### **Preamble of Switzerland**

The preamble to the Constitution states, in full:

In the name of Almighty God!

The Swiss People and the Cantons,

mindful of their responsibility towards creation,

resolved to renew their alliance so as to strengthen liberty, democracy,  
independence and peace in a spirit of solidarity and openness towards

the world,

determined to live together with mutual consideration and respect for

their diversity,

conscious of their common achievements and their responsibility

towards future generations,

and in the knowledge that only those who use their freedom remain free,

and that the strength of a people is measured by the well-being of its  
weakest members;

*adopt the following Constitution.*

## **CANADA**

The **Preamble to the Constitution Act, 1867** provides:

“ Whereas the Provinces of Canada, Nova Scotia, and New Brunswick have expressed their Desire to be federally united into One Dominion under the Crown of the United Kingdom of Great Britain and Ireland, with a Constitution similar in Principle to that of the United Kingdom:

And whereas such a Union would conduce to the Welfare of the Provinces and promote the Interests of the British Empire:

And whereas on the Establishment of the Union by Authority of Parliament it is expedient, not only that the Constitution of the Legislative Authority in the Dominion be provided for, but also that the Nature of the Executive Government therein be declared:

And whereas it is expedient that Provision be made for the eventual Admission into the Union of other Parts of British North America:

### **Importance of Preamble**

- The Preamble to an act sets out the main objectives which the Legislature is intended to achieve.

- It is introduction to the statute, very helpful to understand the policy and legislative intention. (Sir Alladi Krishnaswami Iyer – Constituent Assembly Debate Volume 10)
- In re-Berubari Case (AIR 1960 SC 845) SC asserted that the Preamble is key to open mind of Legislature's "(Story – famous Jurist).
- The Preamble denotes aims, objective, purpose, philosophy, ideals which Constitution seeks to achieve.
- In Keshavananda Bharati's Case (AIR 1973 SC 1461) Supreme Court observed that, "Preamble is part of Constitution and principles laid down therein are basic features of Constitution.
- Preamble serves following purpose:-
  1. It indicates the source from which the Constitution derives.
  2. Supremacy of the people.
  3. It declares that precious rights and freedoms secured to all citizens and fundamental policy which was to be established.

### **Meaning of Each Terms**

- ***We the people of India*** --- denotes in Indian Polity ultimate authority and sovereignty lies with the people.
- All three organs of the Government must strive to promote the welfare and well-being of the people.

**Sovereign** – which denotes power and authority which is absolute and uncontrolled, not subject to any external authority.

**Socialist** – (*Inserted by 42nd Constitution Amendment Act 1976*)

- Comparatively vague term and difficult to define.
- Indicates towards nationalization and state ownership.
- Russian origin
- Gandhian Philosophy – to provide decent standard of life to the people and especially provide security from cradle to grave.
- To wipe out every tear from the eyes of people who belongs to the lowest strata of society.
- Marxist Philosophy - haves, have not --- take out from haves and give it to have not --- classless society.
- Bridging gap between rich and poor and equal distribution of national resources among them.
- Eradication of poverty, good governance etc.

**Secular** (*Inserted by 42nd Amendment 1976*)

- The State or Government has no official religion.
- State does not recognize, promote any religion  
(Recent government circulars banning pictures, idols of God in Government office --- agitation)
- Article 25 to 28 guarantee freedom of conscious, right to profess, practice and propagate any religion.

- In S. R. Bommai vs. Union of India (1994) SCC 1—SC has held that the "Secularism is the basic feature of Constitution".
- In Aruna Roy vs. Union of India, (AIR 203 SC 3176) – SC Secularism has a positive meaning that is developing, understanding and respect towards different religion.

#### **IV) DEMOCRATIC STATE**

- 1) As a Form of Government the democracy which is envisaged is a Representative Democracy.
- 2) The people of India are to exercise their sovereignty through a Parliament and a Legislature, which is to be elected on adult franchise and to which the real executive the Council of Ministers shall be responsible.
- 3) Parliamentary Democracy envisages i) Representation of the People ii) Responsible Government iii) Accountability of the Council of Ministers to the Legislature.
- 4) The ideal of a Democratic Republic enshrined the Preamble of the Constitution.
- 5) Government of the People, by the people and for the people.

## **V. REPUBLIC**

- 1) Head of State is not hereditary monarch.
- 2) In a republic political sovereignty vests in the people and head of the State is only a person elected by the people for a fix term.
- 3) President of India – elected for fixed term.

## **VI. JUSTICE:**

### **a) Social Justice:**

- 1) It is essential objective of the Constitution.
- 2) Our Constitution is socio welfare document aims to ensure socio-economic justice to the people of India.
- 3) Various provisions in Directive Principles and Fundamental Rights ensures social justice.
- 4) E.g. Article 14, 15, 16, 17, 18, 19 (Right to Freedom) Article 21 (Protection of Life and Personal Liberty) Article 21A (Right to Education), Right against Exploitation, Article 22, 23, Right to Freedom of Religion, Article 25 to 28 Cultural and Educational Rights, Protection of interest of Minorities, Article 38, 39, 39A to 51 including Equal Justice, Right to Work, Public Assistance, Just an humane conditions of work, living wages for workers, promotion of co-operative societies, early childhood care and education to children, promotion of

educational and economic interest of scheduled caste, scheduled tribes another weaker sections, raising level of nutrition and the standard of living and to improve public health etc. Special provisions relating to reservation of seats for scheduled castes, scheduled tribes in the Legislature and Parliament, Article 330 to 342.

5) Social Justice is the comprehensive form to remove social imbalance by law harmonizing the rival claims or the interest of different groups and or sections in the social structure or individuals by means of which alone it would be possible to build up a welfare state. (Dalmia Cement Ltd. vs. Union of India (1996) 10 SCC 104).

b) **Political Justice** means the absence of any arbitrary distinction between man and man, man and women in the political sphere.

- 1) In order to ensure the political justice, it was essential that every person, irrespective of his caste, creed, sex, proprietary or educational qualifications should be allowed to participate in the political system.
- 2) One man one vote principle and universal adult suffrage are basis of political justice.

- 3) Offering of equal opportunities to men and women, irrespective of their caste and creed in the matter of public employment, equal treatment to minorities etc.

**c) Economic Justice:**

- 1) Article 38 and 39 of the Directive Principles of State Policy which ensured economic justice.
- 2) The banishment of poverty, economic and social planning, equal distribution of national wealth and resources and equitable distribution thereof.
- 3) In short, Economic justice aims at establishing economic democracy and a welfare state.
- 4) The ideal of economic justice is to make equality of status meaningful and life worth leaving.

**LIBERTY, EQUALITY AND FRATERNITY**

- 1) Article 14, 19, 21
- 2) Democracy in any sense cannot be established unless certain minimal rights which are essential for a free and civilized existence are assured to every member of the community, so Equality, Freedoms, Life and Personal Liberty and essential individual rights as Freedom of Thought, Expression, Belief,

Faith and Worship are guaranteed against all the authorities of the State by Part III of the Constitution.

- 3) The goal envisaged by the Constitution therefore is that of a welfare state and the establishment of a Socialist State.

### **UNITY AND INTEGRITY OF THE NATION**

- 1) Added by Constitution 42nd Amendment Act 1976.
- 2) Unity and Integrity amongst the citizen of India is core of the Constitutional Philosophy which keeps India as a strong country.

### **FRATERNITY**

- 1) The Fraternity cherished by the framers of the Constitution will be achieved not only by abolishing untouchability amongst the different sects of the same community, but by abolishing all communal or sectional or even local or provincial anti-social feelings which stand in the way of the unity of India.
- 2) Democracy would indeed be hollow if it fails to generate this spirit of brotherhood amongst all sections of the people, - a feeling that they are all children of the same soil, the same Motherland. It becomes all the more essential in a country like India, composed of so many races, religions, languages and cultures.

## **DIGNITY OF THE INDIVIDUAL**

- 1) A Fraternity cannot, however be installed unless the dignity of each of its member is maintained.
- 2) The Preamble will assure the dignity of the individual and Constitution seeks to achieve this object by guarantying equal fundamental rights to each individual.
- 3) Art. 39A, 42, 43
- 4) Combining the ideals of political, social and economic democracy with that of equality and fraternity, the Preamble seeks to establish what Mahatma Gandhi described as "the India of My Dreams", namely, -

*".... an India, in which the poorest shall feel that it is their country in whose making they have an effective voice; ... an India in which all communities shall live in perfect harmony. There can be no room in such an India for the curse of untouchability or the curse of intoxicating drinks and drugs. Women will enjoy the same rights as men".*

#### **IV. SALIENT / OUSTANDING FEATURES OF THE CONSTITUTION**

##### **1. Modern Constitution – Drawn from different sources:**

- The Constitution of India is a unique and remarkable document having various outstanding features. It is said that, the Constitution has been prepared after deep study of all the known Constitutions of the world.
- U.S.A. 1787 – 7000 Words, 7 Articles
  - Australia 1900
  - Canada – 1867 / 1982
  - Switzerland – 1874
  - United Kingdom – Unwritten Constitution.
- Most of the provisions substantially borrowed from others.
- Gather best features of each Constitution. If it is a “Patchwork” It is a “beautiful patchwork” (7 CAD 2242)
- The Framers of the Indian Constitution have tried hard to gather the best features each of the existing constitutions, may be federal, unitary having Parliamentary System or Presidential system. For e.g. American Constitution, Canadian, Australian and British Cabinet System etc.

**Sources of the Constitution:**

- The Constitutional Makers gathers best features of each known constitution of the world that's why it is criticised as patch work but it is a beautiful patch work as described in Constituent Assembly.
- Structural part – Government of India 1935
- Philosophical Part
- Fundamental Rights – U.S.A.
- Directive Principles – Irish
- Federal System - U.S.A. / Canada
- Parliamentary System – United Kingdom
- Political Part – British Cabinet System
- Executive – Legislature Relations – British System
- Union and State Relationship – Canadian Constitution.
- Concurrent list – Australian Constitution.
- Trade & commerce. – Australia
- Emergency – German Reich Constitution

**Our Constitution has adopted various provisions of Constitutions of other countries;**

1. Parliamentary System	UK British Constitutional System (Britain has no written Constitution, Mother of Democracy)
2. Rule of Law	
3. Cabinet Form of Government	
4. Conventions regarding Cabinet System	
5. Parliamentary Privileges	

1. Federal Nature	Canada and America
2. Residuary power to the centre	However, Indian Federal System is strongly influenced by Canadian Federation
3. Division of powers	
4. System of Strong Union Government	
5. Governor appointed by centre	
6. Advisory opinion of Supreme Court	

1. Provision regarding Vice-President	
2. Judicial provisions	
3. Fundamental Rights	
4. Preamble	
5. Power of Judicial Review	American Constitution

1. Directive Principles of State Policy	Irish Constitution
2. Election System of President of India	
3. Nominated members on Rajya Sabha	

1. Concurrent List	Australian Constitution of 1900
2. Interstate Trade and Business provisions	
3. Joint Session of Parliament for passing of bills	

1. Republic nature of Indian Constitution	Constitution of France
2. Principle of Liberty, Equality, Fraternity laid down in Preamble	

▪ Amendment – Article 368	South Africa
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▪ Provisions regarding Emergency Article 352, 356, 360	German Reich Constitution
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▪ Concept of Socialism, Fundamental Duties, Five Years Planning System	Russian Constitution
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▪ Advisory opinion of Supreme Court strong center, Governor app by President --- soul of Fed....	Canada
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## 2. Longest known Constitutions of the World

- The Indian Constitution has a distinction of being the most lengthy and detailed constitutional document. When it was adopted, it has 395 Articles and 8 Schedules now after 99<sup>th</sup> Amendment it contains 442 Articles and 12 Schedules.

- The volume of the Constitution has increased mainly due to endeavour of constitutional makers to incorporate detailed Fundamental Rights, Directive Principles, Parliamentary Systems, Constitution of the Union and States, Emergency Provisions, Amendment Provisions, detailed Administrative Provisions regarding Executive, Parliament, Privileges, Union Judiciary, Union Legislature, Comptroller and Auditor General, State Legislature, High Courts in the States, Union Territories, Union and States Relations, Finance properties Contracts, Services under the Union and States, Elections, certain provisions relating to certain classes, language and various schedules etc.
- The reason for including detailed provision was that, the constitutional makers sincerely of the view that smooth working and infant democracy might be jeopardised unless the Constitution mentioned in detailed things (*D. D. Basu – Introduction to the Constitution of India*).

### 3. **More flexible than rigid one**

- Compare to American or Australian Constitution, the Constitution of India is more flexible than rigid. The American Constitution of 1787 has been amended only 27 times in last

250 years. Australian Constitution is known as Frozen Constitution. Referendum is required to carry out amendment in the Constitution. The amending power laid down in Article 368 is comparatively very much easy, so our Constitution has been amended 99<sup>th</sup> time so far.

#### 4. Reconciliation of written Constitution with Parliamentary sovereignty

- Written Constitution denotes supremacy of the Constitution and all three organs of the Government have to function within the framework of the principles laid down in the written Constitution and it is comparatively rigid one.
- The principle of parliamentary sovereignty is peculiar feature of British Westminster Model.
- However, as Jawaharlal Nehru while expressing liberal philosophy underlying the Constitution pointed out that;

*“While we want this Constitution to be as solid and permanent as we can make it, there is no permanence in Constitutions. There should be a certain flexibility. If you make anything rigid and permanent, you stop the nation’s growth, the growth of a living, vital, organic people. ..In*

*any event, we could not make this Constitution as rigid that it cannot be adapted to changing conditions. When the world is in turmoil and we are passing through a very swift period of transition, what we may do to-day may not be wholly capable tomorrow.”*

## 5. **Role of convention under the Constitution**

- Most of the British convention of Cabinet system has been embodied in the Constitution of India. As Sir Ivor Jennings has observed that “*the machinery of Government is essentially British and the whole collection of British Constitutional conventions has been incorporated as conventions*”. E.g. Article 75 - Cabinet Responsibility and Cabinet System, Leader of majority party is called to form Government. After passing of No-Confidence motion Ministry has to resign etc.

## 6. **Justiciable Fundamental Rights**

- Part III of the Constitution from Article 12 to 35 deals with Justiciable fundamental rights which is essential for the all round development of the human being. The nature of fundamental rights is as such that, human personality cannot be

developed in any democratic country without these sacred rights.

- They are justiciable because the aggrieved person can move to Court for vindication of his precious rights, which has been taken from the American Bill of Rights.

## 7. **Non-justiciable Directive Principles**

- This principle which is some what moral in nature is a gift from Irish Constitution. The socio-economic democracy is a fundamental object of Constitution which can be fulfilled by implementation of these novel directives. Of course they are non-justiciable in the sense that, person cannot move to the Court for non-implementation of the directives.
- Part IV of the Constitution Article 36 to 51 deals with directive principles. The enforceability of which, as noted author Seervai has observed, is found out in the mandate of the people to the Government.
- If the welfare principle has not been taken care, then people are free to overthrow the Government in general elections.

## 8. **Judicial Review**

- In the Constitution of India, the power of judicial review bestowed upon apex judiciary is one of the novel outstanding

features which is also a part of basic structure of the Constitution. Unless, judiciary is given power of declaring any law, rules, regulations, bye-laws or any administrative action which violates provisions of the Constitution including fundamental rights, the sanctity of the fundamental rights cannot be protected.

- Particularly for the protection and to maintain enforceability of fundamental rights. The Courts of Law is empowered to use this power against any organ of the State i.e. Legislative or Executive. The power of judicial review is incorporated in Article 13, 32, 141, 143, 226 and Court is empower to issue writs in the nature Habeas Corpus, Mandamus, Prohibition, Quo-warranto, Certiorari.
- The power of judicial review is a precious gift from American Supreme Court in the celebrated judgement in *Marbury vs. Madison 1803*.
- An independent judiciary having the power of judicial review is most important feature of our Constitution. The judicial power of the State exercisable by the Courts under the Constitution as sentinels of Rule of Law is a basic feature of the Constitution. (D.D. Basu – Introduction to the Constitution of India).

**9. Socio-economic Justice**

- Constitution aims at securing socio-economic and political justice and guarantees that State will not discriminate between one citizen and another merely on the ground of religion, race, caste, sex or place of birth in the matter of employment, special provisions for the women's, children's, socially and educationally backward classes and Scheduled Caste and Scheduled Tribes including Prohibition of Untouchability.

**10. Fundamental Duties**

- Article 51A which is inserted by 42<sup>nd</sup> constitutional amendments 1976 enshrined novel fundamental duties which have no judicial enforceability.

**11. Universal Adult Franchise**

- This is another outstanding feature of the Constitution. The entire adult population having a voting age of 18, without any qualification either of sex, property, taxation can exercised their voting rights. (Article 326)
- The independent Election Commission of India is entrusted the job of holding free and fair election in our country. In recently held general election of Lok Sabha 2014, more than 75 Crores electorate have exercised their franchise.

## 12. **Parliamentary Form of Government**

- Our Constitution though federal in nature is modelled on the British Parliamentary System where Council of Minister is collectively responsible to the popularly elected House i.e. Lok Sabha or Legislative Assembly. They have to command majority in the Legislature otherwise it has to resign.
- The President is Head of the State in Parliamentary System of responsible Government but he is to act on the advice of the Council of Ministers.

## 13. **Federal System with unitary bias**

- In various judgements the Supreme Court has described our Constitution as basically federal with striking unitary features. Our federal system is based on American model. It is a combination of federal and unitary system i.e. quasi-federal system.

## 14. **Secular State**

- India has adopted a policy of secularism that means State does not protect, help, promote any particular religion and State has no official religion.

## 15. **Basic Structure Theory**

- The Supreme Court in his landmark judgement of Keshavananda Bharati Case has devised the theory of basic feature of the Constitution. There are certain basic features like Judicial Review, Parliamentary Form, Secularism, Federal Republic Nature, Free and Fair Election System etc are immune from the amending powers of Parliament under Article 368 of the Constitution.
- Basic Structure Theory puts implied limitation on the power of the Parliament and advocated Doctrine of Limited Government preferred to English Doctrine of Parliamentary Sovereignty.

## **Comparative Analysis in Brief**

The Indian Parliamentary system is basically different from American Presidential system. In Parliamentary System of Government, Council Of Ministers are collectively responsible to popularly elected House i.e. Lok Sabha or Legislative Assembly of a State.

However, in American Presidential system, President who is Chief Executive of the State is not responsible to Congress, neither Congress can remove him by no confidence motion. American President is free to choose his Ministers who are not Members of the Senate or House of Representative (Congress).

Doctrine of separation of powers is strictly applied to the American Constitution. Unlike British Parliamentary System, President of America or his Ministers are not responsible to Congress, neither can they be removed but in our Parliamentary system the existence of Prime Minister and his Ministry fully depend on the sweet will of the Lok Sabha. In our system Legislature and Executive are intermingled with each other.

In our Constituent Assembly the Constitutional makers have deliberately chosen British Westminster model rather than American Presidential System because Indian people are more accustomed to British responsible Government. They have deliberately preferred responsible Government for newly born India rather than stable Government like American system. The American President cannot be removed till his term i.e. for four years except on impeachment proceedings. So our system can be described as Parliamentary Executive System.

The concept of Fundamental Rights which has been incorporated in our Constitution has its origin in American Bill of Rights which is most cherished and sacrosanct human rights which cannot be violated and put on high pedestal. However, in British Constitution or in Australian one, there is no specific mention of fundamental rights. Even in Swiss Constitution it has not been mentioned, however, in 1982 Canada has provided such type of rights.

The Directive Principles of State Policy which is a novel concept has its origin in Irish Constitution. Of course, these rights are not enforceable in any court of law. However, these are socio welfare rights which are essential for the welfare and well-being of the common man. The question arose what is enforceability of the Directive Principles? The answer is simple i.e. People's mandate. If these welfare principles are not followed or disregarded then people have every right to overthrow such type of Governments which is not vigilant about their rights. In Britain, America, Australia or Swiss no such rights are provided.

So far as amendment is concerned, our Constitution is quite flexible as compared to U.S. and Australian or Swiss Constitution. In Australia, the provision of referendum is made, which can be described as practically frozen constitution. The amendment process is quite difficult in U.S. and Swiss also. In that sense ours is a flexible one which was amended under Article 368 quite a number of times, the latest one is 101st Amendment (2016).

The American Constitution was amended 27 times.

Judicial Review is one of the remarkable features of our Constitution. Of course, the celebrated judgment of U.S. Supreme Court in Marbury v. Madison 1803 is a guiding point behind it Article 13, 32, 226, 227 are the main Articles, which empower judiciary to strike down any law, rules, regulation or any administrative action and to declare it as

null and void, which violates provision of the Constitution. The concept of Judicial Review is common for America and our Constitution. However in Britain, Supremacy of Parliament is a fundamental feature of British polity. It is said that, British Parliament is so omnipotent that it can do anything except a man into woman and a woman into man. Supremacy of Parliament is a most important fundamental feature of British System so the courts in Britain do not have any powers to declare any law made by Parliament as unconstitutional. The British Constitution is an ideal example of unwritten Constitution.

The concept of Rule of Law is common in American, Britain and Indian Constitution which proclaimed the supremacy of law, equality before law and predominance of legal spirit (The Concept of Prof. A. V. Dicey 1885).

The federal features involve dual Government, distribution of powers, authority of the courts and supremacy of the Constitution. Our Constitution is basically federal with striking unitary features. The American Constitution is best example of Federal Constitution. Australia, Canada and Swiss are other examples. However; even though our Constitution is federal one, still central power is very strong. We may call our system as a Quasi Federal one or Combination of Federal system as well as unitary one (Basu).

## V. OBSERVATIONS AND CONCLUSIONS

- With the Independence and adoption of the Constitution of India the political revolution was complete but it was the beginning of a new socio-economic revolution for creating a new nation based on new values of liberty, equality, fraternity and justice to all-social, economic and political.
- Despite all such odds, the Indian Constitution has successfully sowed the seeds of socio-economic revolution. Indian Constitution is a document vibrant with a socio-economic ideology geared to the goal of socio-economic justice. It is simply not the document of governance but of a structural change in the Indian society. It is charter for the socio-economic transformation in India.
- As a consequence, the doctrine of Rule of Law, Part III and IV of the Constitution, that is, Fundamental Rights and Directive Principles of State Policy, an independent Judiciary as an arm of social revolution, the charter of equality, liberty and justice: social; economic and political to all, along with some constitutional safeguards to the marginalized groups, (Scheduled Castes, Scheduled Tribes, Other Backward Classes, Minorities and Women) form the core of this social revolution.
- **President Dr. Rajendra Prasad, assured the nation that the Assembly and the government's aim was to end poverty and**

squalor and its companions, hunger and disease; to abolish distinction and exploitation and to ensure decent conditions of living.

- On 14<sup>th</sup> August, 1947 Pandit Nehru in one of his famous speeches declared that, “Long years ago we made a tryst with destiny and now the time comes when we shall redeem our pledge, not wholly or in full measure, but very substantially.” Such strong views were held by many members of the Constituent Assembly.
- Obviously, Dr. B. R. Ambedkar, being the Chairman of the Drafting Committee, made all possible efforts to embody the philosophy of a constitutional law, role of modern State, Dr. Ambedkar strongly pleaded to the Constituent Assembly that, all countries like India which are late comers in the field of Constitution-making should not copy the faults of other countries.
- The Constitution of India which was adopted in the year 1950 has many remarkable and outstanding features. **The Parliamentary form of Government and Federal nature are two dominating features of the Indian Constitution**, rather it can be said that, it is a beautiful combination of both.

- Of course, there are various outstanding features of the **Indian Constitution which includes Parliamentary Democracy, Rule of Law, Independence of Judiciary, Doctrine of Separation of Powers, Socialistic pattern of society, Economic and Social Justice, Liberty, Equality, Fraternity, Judicial Review, Secularism etc.**
- The Constitution of India is prepared after ransacking all the known Constitutions of the world e.g. **parliamentary form of Government is a gift from British Westminster model, Federalism is incorporated from American and Canadian Constitution, Directive principles of State policy has its source to Irish Constitution. The Government of India Act, 1935 provides structural basis for this document and famous fundamental rights are a gift from American Bill of Rights.**
- Despite all odds, **this unique document has stood the test of time and immensely helped in the progress of the Country.** In the backdrop of neighbouring countries, their development, the success of our Constitution, its philosophy, its working is worth noticing. The Indian Constitution has successfully sowed the seeds of socio-economic revolution in this country. **This document can be described as a vibrant document with a social and economic ideology geared to the goal of socio-economic justice.**

- **Finally, it is crystal clear that success of any constitutional system depends on the functioning of the various authorities, implementation of the constitutional philosophy, ethos and various policy decisions made under it. Ultimately, the implementing authorities are expected to be upright persons having integrity, character coupled with the morality. The socio-economic commitment towards people at large is pre-requisite for success of any system. Our Country has adopted political executive system and all policy decision depends on the commitment of this political leadership. Political Leadership are supposed to be the destiny maker of this Country. They should be and must be role model for the society. If such policy makers live to the occasion and thrown themselves into the welfare of the people, then this Constitutional System would prove ideal before the world community. Finally, I would like to draw attention of the famous quote of Dr. B. R. Ambedkar, Chairman of the Drafting Committee from speech made on Adoption of the Constitution on 25th November 1949 before Constituent Assembly.**

*"As much defence as could be offered to the constitution has been offered by my friends Sir Alladi Krishnaswami Ayyar and Mr. T.T. Krishnamachari.*

*I shall not therefore enter into the merits of the Constitution. Because I feel, however good a Constitution may be, it is sure to turn out bad because those who are called to work it, happen to be a bad lot. However a Constitution may be, it may turn out to be good if those who are called to work it, happen to be a good lot. The working of a Constitution does not depend wholly upon the nature of the Constitution. The Constitution can provide only the organs of State such as the Legislature, the Executive and the Judiciary. The factors on which the working of those organs of the State depend are the people and the political parties they will set up as their instruments to carry out their wishes and their politics. Who can say how the people of India and their purposes or will they prefer revolutionary methods of achieving them? If they adopt the revolutionary methods, however good the Constitution may be, it requires no prophet to say that it will fail. It is, therefore, futile to pass any judgement upon the Constitution without reference to the part which the people and their parties are likely to play".*

### IMPORTANT CASES

1. **Kameshwar vs. State of Bihar, AIR1952 SC 252.** (Bihar Land Reform Act 1950 held ultra-vires by Supreme Court – 1<sup>st</sup> Constitutional Amendment 1951)
2. **Shankari Prasad vs. Union of India AIR 1951 SC 458** (Upheld Parliament power to amend fundamental rights)
3. **Sajjan Singh vs. State of Rajasthan, AIR 1965 SC 845.** (Upheld Parliament power to amend fundamental rights)
4. **Golaknath vs. State of Punjab, AIR 1967 SC 1461.** (Landmark Judgements – Parliament has no power to amend fundamental rights)
5. **Keshavananda Bharati vs. State of Kerala, AIR 1973 SC 1461** (Basic Structure Theory - Fundamental Right Case).
6. **Indira Nehru Gandhi vs. Raj Narayan, AIR 1975 SC 2299.** (Election Case, Free & Fair Election Basic structure)
7. **Minerva Mills vs. Union of India, AIR 1980 SC 1789.** (Basic structures)
8. **Kihoto Hollohan vs. Zachillhu (1992) 1 SCC 309 & AIR 1993 SC 412.** (Anti Defection Law)
9. Waman Rao vs. Union of India, AIR 1981 SC 271.
10. A K Gopalan vs. State of Madras (1950) SCR 88
11. **Maneka Gandhi vs. Union of India, AIR 1978 SC 597.** (Due process clause is part of Rule of Law – Natural Justice)

12. **Raja Ram Pal vs. Hon. Speaker, Lok Sabha (2007) 3 SCC 184.**  
(Privilege jurisdiction of Parliament upheld)
13. I R Coelho vs. State of Tamil Nadu, AIR 2007 SC 861.
14. ADM Jabalpur vs. Shiv Kant Shukla, AIR 1976 SC 1207 (Emergency and Article 21)
15. Air India vs. Nargesh Mirza, AIR 1981 SC 1829. (Article 14)
16. Bhikaji vs. State of M.P., 1950 SC
17. Ajay Hasia vs. Khalid Mujeeb, AIR 1981 SC 487. (Article 12)
18. R.D. Shetty vs. International Airport Authority of India, (1979) 3 SCR 1014.
19. Keshav Singh Case, Reference No. 1 of 1965 SC 745 under Article 143. (Keshav Singh Case - Privilege)
20. B. Hassan Ali Khan vs. Director of Higher Education Andhra Pradesh, (1987) 4 Reports 198.
21. M. Nagaraj vs. Union of India, AIR 2007 SC 71.
22. A. R. Antulay vs R.S. Nayak, AIR 1988 SC 1531
23. Associated Provincial Picture Houses Ltd vs Wednesbury Corporation (1948) 1 KB 223.
24. Atiabari Tea Co. Ltd vs State of Assam AIR 1961 SC 232.
25. Balaji vs. State of Mysore, AIR 1963 SC 649
26. Bandhua Mukti Morcha vs. Union of India AIR 1984 SC 802.
27. Bandhua Mukti Morcha vs. Union of India AIR 1997 SC 2218

28. Bennett Coleman and Co. Ltd vs Union of India AIR 1973 SC 106
29. Bijoe Emmanuel vs. State of Kerala 3 SCC 615: AIR 1987 SC 748
30. Board of Control of Cricket, India vs. Netaji Cricket club, AIR 2005 SC 592.
31. Charles Shobraj vs. Supdt. Central Jail, Tihar, New Delhi AIR 1978 SC 1514.
32. Chiranjit Lal vs. Union of India (1950) SCR 869: AIR 1951 SC 41.
33. Common Cause vs. Union of India, AIR 1996 SC 929
34. Common Cause vs. Union of India, AIR 1997 SC 1539.
35. Communist Party of India (M) vs. Bharat Kumar, AIR 1998 SC 184
36. D.A.V. College, Bhatinda vs. State of Punjab, AIR 1971 SC 1731
37. D.A.V. College, Jallundur vs. State of Punjab, AIR 1971 SC 1737
38. D.C. Wadhwa vs. State of Bihar, AIR 1987 SC 579
39. D.K. Basu vs. State of West Bengal, AIR 1997 SC 610
40. D.S. Nakara vs. Union of India, AIR 1983 SC 130.
41. Election Commission of India vs. Dr. Subramanian Swamy, (1996) 4 SCC 104.
42. Express Newspapers Pvt. Ltd. vs. Union of India, AIR 1986 SC 872.
43. Express Newspapers vs. Union of India, AIR 1958 SC 578.
44. Fertilizer Corporation of India vs. Union of India, AIR 1981 SC 344
45. Francis Coralie Mullun, Vs Administrator, Union Territory of India, AIR 1981 SC 746

46. Garg vs. Union of India, AIR 1981 SC 2138.
47. Kedar Nath vs. State of West Bengal, AIR 1953 SC 404
48. Keshavan vs. State of Bombay (1951) SCR 228
49. Kharak Singh vs. State of Uttar Pradesh AIR 1963 SC 1295
50. Kuldip Nayar vs. Union of India, AIR 2006 SC 3127
51. L. Chandra Kumar vs. Union of India, AIR 1997 SC 1125
52. M.H. Hoskot vs. State of Maharashtra AIR 1978 SC 1548
53. M.S.M. Sharma vs. Sri Krishna Sinha, AIR 1959 SC 395
54. M.S.M. Sharma vs. Sri Krishna Sinha, AIR 1960 SC 1186
55. Nilabati vs. State of Orissa (1993) 2 SCC 746
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59. People's Union for Democratic Rights vs. State of Bihar, AIR 1987 SC  
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60. Presidential Reference AIR 1999 SC 1.
61. Ratlam Municipality vs. Vardichan, AIR 1980 SC 1622
62. Ravi Naik vs. Union of India JT 1994 SC 551.
63. Reference under Article 317 (1) AIR 1983 SC 996
64. Rudal Shah vs. State of Bihar AIR 1983 SC 1086.

65. Rural Litigation and Entitlement Kendra vs. State of Uttar Pradesh  
AIR 1987 SCC 359.
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67. S.P. Sampath Kumar vs. Union of India AIR 1987 SC 386
68. S.R. Bommai vs. Union of India (1994) 3 SCC 1
69. Saheli vs. Commissioner of Police, AIR 1990 SC 513
70. Sakal Papers Pvt. Ltd. vs. Union of India, AIR 1962 SC 305.
71. Sheela Barse vs. Secretary, Children Aid Society, AIR 1987 SC 656.
72. Special Reference No. 1 of 2002, (Under article 143(1) of the  
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75. State of Bombay vs. R.M.D. Chamarbaugwala, AIR 1957 SC 699
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77. Supreme Court Advocates-on-records Association vs. Union of India  
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78. T.M.A. Pai foundation vs. State of Karnataka AIR 2003 SC 355
79. Tej Kiran Jain vs. M. Sanjiva Reddy AIR 1970 SC 1573
80. U.N.R. Rao vs. Indira Gandhi AIR 1971 SC 1002.
81. Vellore Citizens Welfare Forum vs. Union of India, AIR 1996 SC  
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83. Visakha vs. State of Rajasthan AIR 1997 SC SC 3011.
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87. C.H. Alexandrowicz, Constitutional Developments in India, 1957, pp. 157.70
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89. E.g. Santhanam, Union State Relations in India, 1960, pp. vii; 51, 59, 63.
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93. Brij Bhushan vs. State of Delhi (1950) SCR 605.
94. State of West Bengal vs. Anwar Ali, (1952) SCR 289.
95. Chiranjeev Lal vs. Union of India (1950) SCR 869.
96. State of Bombay vs. Balsara (1951) SCR 682.
97. Royappa vs. State of T.N., AIR 1974 SC 555.
98. Indra Sawhney vs. Union of India (1992) 3 SCC 217.
99. M.C. Mehta vs. State of T.N. (1996) SCC 756.
100. P. A. Inamdar vs. State of Maharashtra, AIR 2005 SC 3226.
101. B. K. Kapur vs. State of T.N. (2001) 7 SCC 231.

102. State of Madras vs. Champakam (1951) SCR 523.
103. Ram Jawaya vs. State of Punjab, (1955) 2SCR 225.
104. Dicey, Law of Constitution, 10<sup>th</sup> Edn., P. 468.
105. Special reference no. 1 of 1998 RE (1998) 7 SCC 739. The bench expressed its optimistic view that the successive CJI's shall henceforth act in accordance with the second judges' case and the opinion in the instant reference.
106. In RE Delhi Laws Act, 1912 (1951) SCR 747.
107. In RE Presidential Election, 1974, AIR 1974 SC 1682.
108. In RE Special Courts Bill, 1978, AIR 1979 SC 478.
109. Special Reference no. 1 of 1993 (regarding issue of an ordinance to acquire certain disputed land near Ram Janma Bhoomi and whether a temple stood at that place). Ismail Faruqui vs. Union of India (1994) 6 SCC 360.
110. Special reference no. 1 of 1998 7 SCC 739 (regarding consultation with Chief Justice of India and method of communicating in regard to appointment of SC and HC Judges).
111. Reference No. 1 of 1982 (Regarding validity of Resettlement Act, passed by the State of J & K, decided on 8.11.2001 but unreported yet)
112. Special reference no. 1 of 2002 (In re, Gujarat Assembly Election Matter, (2002) 8 SCC 237. [Gujarat Assembly was prematurely

dissolved. Reference was regarding whether the new Assembly must meet within six months. It involved interpretation of Article 174, 324 and 356].

113. Special Reference no. 1 of 2001 (2004) 4 SCC 489 (Regarding whether States have Legislative competence to legislate on the subject on natural gas and liquefied natural gas under entry 25 of list II of schedule VII or whether the Union exclusive jurisdiction over natural gas in whatever physical form under entry 53 of list I of schedule VII).
114. The Punjab Termination of Agreement Act, 2004, passed by Punjab State Legislature referred in July 2004 regarding Legislative Competence.
115. L. Chandra Kumar vs. Union of India (1997) 3 SCC 261.
116. Special reference no. 1 of 1998, RE: (1998) 7 SCC 739.
117. Cf. Gupta vs. President of India, AIR 1982 SC 149.
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119. Cf. State of Rajasthan vs. Union of India, AIR 1977 SC 1361.
120. RE: Kerala Education Bill, AIR 1958 SC 956.
121. Balaji vs. State of Mysore, AIR 1963 SC 649.
122. Indra Sawhney vs. Union of India, (1992) Supp. (3 SCC 217.)
123. P. V. Narsimha Rao vs. State, AIR 1998 SC 2170.

## **IMPORTANT TOPICS OF CONSTITUTIONAL LAW**

1. **Historical and Constitutional developments between 1858 – 1947**
  - Framing of Indian Constitution.
  - Nature and Features
  - A board over-view of the Constitution of India, 1950.
  - Historical genesis of Indian Constitution should be part of the Syllabus Particularly the transfer of power in 1857, introduction of bicameralism, federalism by 1935 Act, freedom struggle, Indian Independence act, 1947 and the drafting of our Constitution.
  
2. **Fundamental Rights and judicial activism**
  - Equality and Social Justice (Arts. 14-18& Part IV & Part XVI)
  - Secularism and religious freedoms
  - Life, Liberty other rights and freedoms
  
3. **Directive Principles and fundamental Duties (Part IV, IV A)**
  
4. **Indian Federalism –**  
 Idea of federalism – Indian federal features – strong centre – cooperative spirit- Centre relations - Special status to J & K (Parts XI,XII,XIII,XIV,XXI)
  
5. **Indian Parliament –**  
 Nature, Composition, powers and privileges and state legislatures.

**6. Cabinet Form of Government**

Parliamentary form at the center and states – head of State – Council of Ministers – Attorney General and Advocate Generals.

**7. Indian Judiciary :**

Supreme Court and High Courts, composition, powers and Judicial Independence – subordinate courts

**8. Law making under Indian constitution**

Kinds of bills, passing of bills, Ordinances

Citizenship Act 1935, representation of peoples Act 1951, comptroller and

Auditor Generals Act, 1971.

**Legislation made in pursuance of the Constitution like the**

(1) Bonded Labour Abolition Act

(2) Civil Rights Protection Act, 1955

(3) Scheduled castes and Scheduled Tribes (Prevention of Atrocities) Act, should be duly referred to.

**9. Emergency (part XVIII)**

Kinds, Legal requirements, Legal effects

**10. Amendment and the basic structure doctrine (part XX)****11. Services under Indian Constitution (Part IV)**

Services under Union / State – All Indian Services, Doctrine of Pleasure and Exceptions.

**12. Democracy and Election Commission of India (Part XV)****13. Introduce the following**

1. Civil Rights Protection Act, 1955

2. Citizenship : Part II

3. Parts IX,IX A, X Panchayats, Municipalities and Scheduled & Tribal Areas
4. Part XIV a Tribunals (covered in Administrative Law, Semester III)
5. Part XVII Official language
6. Part XIX Miscellaneous

**Recommended Readings:**

- 1) D.D. Basu, Shorter Constitution of (1996) Prentice 4 all of India, Delhi.
- 2) Constituent Assembly Debate Vole,. 1 to 12 (1989)
- 3) H.M. Seervai, Constitution of India, Vol.1-3 (1992), Tripathi
- 4) M.P. Singh (ed.), V.N. Shukla Constitutional Law of India (200) Oxford.
- 5) G. Austin, Indian Constitution, Cornerstone of a Nation (1970)
- 6) M. Gallanter, Competing Equalities – Law and the Backward Classes in India (1984) Oxford.
- 7) B. Sivaramayyam, Inequalities and the Law (1984) Eastern, Lucknow
- 8) S.C. Kashayap, Human Right & Parliament (1978) Metropolitan, New Delhi.
- 9) D.D. Basu, Introduction to Constitution.

## **Annexure – 1**

### **IMPORTANT ARTICLES AND SCHEDULES AT A GLANCE**

#### **FUNDAMENTAL RIGHTS**

##### *General*

12. **Definition**

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

##### *Right to Equality*

14. **Equality before law.**

15. **Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.**

16. **Equality of opportunity in matters of public employment.**

17. **Abolition of Untouchability**

18. **Abolition of titles.**

##### *Right to Freedom*

19. **Protection of certain rights regarding freedom of speech, etc.**

20. **Protection in respect of conviction for offences.**

21. **Protection of life and personal liberty.**

21A. **Right to Education**

22. **Protection against arrest and detention in certain cases.**

##### *Right against Exploitation*

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

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

##### *Right to Freedom of Religion*

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

- 26. Freedom to manage religious affairs.
- 27. Freedom as to payment of taxes for promotion of any particular religion.
- 28. Freedom as to attendance at religious instruction or religious worship in certain education institutions.

*Cultural and Educational Rights*

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

*Saving of Certain Laws*

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

*Right to Constitutional Remedies*

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

**DIRECTIVE PRINCIPLES OF STATE POLICY**

- 36. Definition.
- 37. Application of the principles contained in this Part.
- 38. State to secure a social order for the promotion of welfare of the people.
- 39. Certain principles of policy to be followed by the State.
- 39A. Equal justice and free legal aid
- 40. Organization of village panchayats.
- 41. Right to work, to education and to public assistance in certain cases.

42. Provision for just and humane conditions of work and maternity relief.
43. Living wage, etc., for workers.
- 43A. Participation of workers in management of industries.
- 43B. Promotion of co-operative societies.
44. Uniform civil code for the citizens.
45. Provision for free and compulsory education for children.
46. Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and  
other weaker sections.
47. Duty of the State to raise the level of nutrition and the standard of living and to improve  
public health.
48. Organization of agriculture and animal husbandry.
- 48A. Protection and improvement of environment and safeguarding of forests and wild life.
49. Protection of monuments and places and objects of national importance.
50. Separation of judiciary from executive.
51. Promotion of international peace and security.

### FUNDAMENTAL DUTIES

- 51A. Fundamental Duties

### THE UNION

#### CHAPTER I - THE EXECUTIVE

##### *The President and Vice President*

52. The President of India.
53. Executive power of the Union.
54. Election of President.

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

#### Council of Ministers

74. Council of Ministers to aid and advice President
75. Other provisions as to Ministers

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76. Attorney-General for India

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77. Conduct of business of the Government of India.

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

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*General*

79. Constitution of Parliament.

80. Composition of the Council of States.

81. Composition of the House of the People.

82. Readjustment after each census.

83. Duration of Houses of Parliament.

84. Qualification for membership of Parliament.

85. Sessions of Parliament, prorogation and dissolution.

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

87. Special address by the President.

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

*Powers, Privileges and Immunities of Parliament and its Members*

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

106. Salaries and allowances of members.

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107. Provisions as to introduction and passing of Bills.

108. Joint sitting of both Houses in certain cases.

109. Special procedure in respect of Money Bills.

110. Definition of "Money Bills."

111. Assent to Bills.

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112. Annual financial statement.

113. Procedure in Parliament with respect to estimates.

114. Appropriation Bills.

115. Supplementary, additional or excess grants.

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

117. Special provisions as to financial Bills.

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

120. Language to be used in Parliament.

121. Restriction on discussion in Parliament.

122. Courts not to inquire into proceedings of Parliament.

**CHAPTER III.-LEGISLATIVE POWERS OF THE PRESIDENT**

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

**CHAPTER IV - THE UNION JUDICIARY**

124. Establishment and Constitution of Supreme Court.

124A. National Judicial Appointments Commission.

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125. Salaries, etc., of Judges.

126. Appointment of acting Chief Justice.

127. Appointment of ad hoc Judges.

128. Attendance of retired Judges at sittings of the Supreme Court.
129. Supreme Court to be a court of record.
130. Seat of Supreme Court.
131. Original jurisdiction of the Supreme Court.
- 131A. [Repealed.]
132. Appellate jurisdiction of Supreme Court in Appeals from High Courts in certain cases.
133. Appellate jurisdiction of Supreme Court in appeals from High Courts in regard to civil matters.
134. Appellate of jurisdiction of Supreme Court in regard to criminal matters.
- 134A. Certificate for appeal to the Supreme Court.
135. Jurisdiction and powers of the Federal Court under existing law to be exercisable by the Supreme Court.
136. Special leave to appeal by the Supreme Court.
137. Review of judgments or orders by the Supreme Court.
138. Enlargement of the jurisdiction of the Supreme Court.
139. Conferment on the Supreme Court of powers to issue certain writs.
- 139A. Transfer of certain cases.
140. Ancillary powers of Supreme Court.
141. Law declared by Supreme Court to be binding on all courts.
142. Enforcement of decrees and orders of Supreme Court and orders as to discovery, etc.
143. Power of President to consult Supreme Court.
144. Civil and judicial authorities to act in aid of the Supreme Court.
- 144A. [Repealed.]
145. Rules of Court, etc.
146. Officers and servants and the expenses of the Supreme Court.

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**The CHAPTER II.-THE EXECUTIVE**

*Governor*

153. Governors of State.

154. Executive Power of State

155. Appointment of Governor.

156. Term of office of Governor.

157. Qualifications for Appointment as Governor.

158. Conditions of Governor's office.

159. Oath or affirmation by the Governor.

160. Discharge of the functions of the Governor in certain contingencies.

161. Power of Governor to grant pardons, etc., and to suspend, remit 161 or commute sentences in certain cases.

162. Extent of executive power of State.

*Council of Ministers*

163. Council of Ministers to aid and advise Governor.

164. Other provisions as to ministers.

*The Advocate-General for the State*

165. Advocate-General for the State.

*Conduct of Government Business*

166. Conduct of Business of the Government of a State.

167. Duties of Chief Minister as respects furnishing of information to Governor, etc.

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*General*

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

*Powers, Privileges, Immunities of State Legislature and their Members*

194. **Powers, privileges, etc., of the Houses of Legislatures and of the members and committees thereof.**
195. **Salaries and allowances of members.**

*Legislative Procedure*

196. **Provisions as to introduction and passing of Bills.**
197. **Restriction on powers of Legislative Council as to Bills other than Money Bills.**
198. **Special procedure in respect of Money Bills.**
199. **Definition of "Money Bills".**
200. **Assent to Bills.**
201. **Bills reserved for consideration.**

*Procedure in Financial Matters*

202. **Annual financial Statement.**

- 203. Procedure in Legislature with respect to estimates.
- 204. Appropriation Bills.
- 205. Supplementary, additional or excess grants.
- 206. Votes on account, votes of credit and exceptional grants.
- 207. Special provisions as to financial Bills.

#### CHAPTER IV - LEGISLATIVE POWER OF THE GOVERNOR

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

#### CHAPTER V - THE HIGH COURTS IN THE STATE

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

228. Transfer of certain cases to High Court.

228A. [Repealed.]

229. Officers and servants and the expenses of High Courts.

230. Extension jurisdiction of High Courts to Union territories.

231. Establishment of a common High Court for two or more States.

232. [Repealed.]

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LEGISLATIVE RELATIONS**

**CHAPTER I - LEGISLATIVE RELATIONS**

*Distribution of Legislative Powers*

245. Extent of laws made by Parliament and by the Legislatures of States.

246. Subject-matter of laws made by Parliament and by the Legislatures of States.

246A. Special provision with respect to goods and services tax.

247. Power of Parliament to provide for the establishment of certain additional courts.

248. Residuary powers of legislation.

249. Power of parliament to legislate with respect to a matter in the State List in the national interest.

250. Power of Parliament with respect to any matter in the State List if a Proclamation of Emergency is in operation.

251. Inconsistency between laws made by parliament under articles 249 and 250 and laws made by the Legislatures of States.

252. Power of Parliament to legislate for two or more States by consent and adoption of such legislation by any other State.

253. Legislation for giving effect to international agreements.

254. Inconsistency between laws made by Parliament and laws made by the Legislatures of States.

255. Requirements as to recommendations and previous sanctions to be regarded as matters of procedure only.

**CHAPTER II - ADMINISTRATIVE RELATIONS***General*

256. Obligation of States and the Union.

257. Control of the Union over States in certain cases.

257A. [Repealed.]

258. Power of the Union to confer powers, etc., on States in certain cases

258A. Power of the States to entrust functions to the Union

259. [Repealed.]

260. Jurisdiction of the Union in relation to territories outside India.

261. Public acts, records and judicial proceedings.

*Disputes relating to Waters*

262. Adjudication of disputes relating to waters of inter-State rivers or river valleys.

*Co-ordination between States*

263. Provisions with respect to an inter-State Council.

**FINANCE, PROPERTY, CONTRACTS AND SUITS**  
**CHAPTER IV - RIGHT TO PROPERTY**

300A. Persons not to be deprived of property save by authority of law.

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**CHAPTER I - SERVICES**

308. Interpretation.

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

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

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

312. All India services

**312A. Power of Parliament to vary or revoke conditions of services of officers of certain services.**

**313. Transitional provisions.**

**314. [Repealed.]**

## **CHAPTER II - PUBLIC SERVICE COMMISSIONS**

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

**316. Appointment and term of office of members.**

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

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

**319. Prohibition as to the holding of offices by members of Commission on ceasing to be such members.**

**320. Functions of Public Service Commission.**

**321. Power to extend functions of Public Service Commissions.**

**322. Expenses of Public Service Commissions.**

**323. Reports of Public Service Commissions.**

## **ELECTIONS**

**324. Superintendence, direction and control of elections to be vested in an Election Commission.**

**325. No person to be ineligible for inclusion in, or to claim to be included in a special, electoral roll on grounds of religion, race, caste or sex.**

**326. Elections to the House of the People and to the Legislative Assemblies of States to be on the basis of adult suffrage.**

**327. Power of Parliament to make provision with respect to elections to Legislatures.**

**328. Power of Legislature of a State to make provision with respect to elections to such Legislature.**

**329. Bar to interference by courts in electoral matters.**

**329A. [Repealed.]**

**EMERGENCY PROVISIONS**

352. **Proclamation of Emergency.**

353. **Effect of proclamation of Emergency.**

354. **Application of provisions relating to distribution of revenues while a Proclamation of Emergency is in operation.**

355. **Duty of the Union to protect States against external aggression and internal disturbance.**

356. **Provisions in case of failure of constitutional machinery in States.**

357. **Exercise of legislative powers under Proclamation issued under article 356.**

358. **Suspension of provisions of article 19 during emergencies.**

359. **Suspension of the enforcement of the rights conferred by Part III during emergencies.**

359A. **[Repealed.]**

360. **Provisions as to financial emergency.**

**AMENDMENT OF THE CONSTITUTION**

368. **Power of Parliament to amend the Constitution and procedure therefor**

- **SEVENTH SCHEDULE**

- **List I-Union List**

- **List II-State List**

- **List III- Concurrent List**

- **NINTH SCHEDULE** – [Validation of certain Acts and Regulations – See Article 31B]

- **TENTH SCHEDULE** – [Provisions as to disqualification on ground of defection].

**Annexure – 2****CASELAWS DECLARING CONSTITUTIONAL AMENDMENTS  
UNCONSTITUTIONAL**

<b><u>ARTICLE</u></b>	<b><u>AMENDMENT</u></b>	<b><u>YEAR</u></b>	<b><u>CASELAW</u></b>
12 (2)	17th Amendment	1964	L.C. Golok Nath v. State of Punjab, AIR 1967 SC 1643
31C	25th Amendment	1971	Keshavananda Bharati v. State of Kerala, AIR 1973 SC 1461
371 (1)	32nd Amendment	1973	P. Sambamurthy v. Union of India, AIR 1987 SC 663
329	36th Amendment	1975	Indira Nehru Gandhi v. Raj Narain, AIR 1975 SC 2299
368 (4) & (5)	42nd Amendment	1972	Minerva Mills Ltd. v. Union of India, AIR 1980 SC 1789
10th Schedule Para 7	42nd Amendment	1972	Kihota v. Zachilhu, AIR 1993 SC 412
	99th Amendment  (Amendment in Article 124 of the Indian Constitution)	2015	Supreme Court Advocates on records Association v. Union of India 2015 <b><i>(National Judicial Appointments Commission Case)</i></b> ▪ <b><i>National Judicial Commission and 99th Constitutional Amendment Act, 2014 held unconstitutional.</i></b>



**Annexure – 3****THE CONSTITUTION AMENDMENT ACTS**

<b>Sl. No.</b>	<b>Act</b>	<b>Date of assent by President</b>	<b>Date of commencement</b>	<b>Whether ratified by more than half of State Legislatures, as required by the Proviso to Art. 368</b>	<b>Amendment made</b>
1.	The Constitution (First Amendment) Act, 1951	18-6-1951	18-6-1951 (retrospective in part)		Articles amended-15, 19, 85, 87, 176, 341, 342, 376. Articles inserted-31A, 31B. Schedule added-Ninth.
2.	The Constitution (Second Amendment) Act, 1952	1-5-1953	1-5-1953	Since the Amendment Bill sought to make a change in the representation of States in Parliament, it had to be referred to the Legislatures of the States in Parts A and B for their ratification. The Bill was accordingly passed in Parliament on 19-12-1952 and then referred to the States. On receiving the ratification of not less than one half of the State Legislatures, the President gave his assent on 1-5-1953.	Article amended-81.
3.	The Constitution	22-2-1955	22-2-1955	The Bill was passed by	Schedule amended-Seventh Schedule

	(Third Amendment) Act, 1954			Parliament on 28-9-1954. Since the Bill sought to amend a List of the Seventh Schedule, it required ratification by the Legislatures of not less than one half of the States specified in Parts A and B of the First Schedule. After having received such ratification, the President gave his assent on 22-2-1955	List III, Entry 33.
4.	The Constitution (Fourth Amendment) Act, 1955	27-4-1955	27-4-1955	... ..	Articles amended-31, 31A, 305.
5.	The Constitution (Fifth Amendment) Act, 1955	24-12-1955	24-12-1955	... ..	Schedule amended-Ninth. Article amended-3
6.	The Constitution (Sixth Amendment) Act, 1956	11-9-1956	11-9-1956	The Bill was Passed by Parliament on 31-5-1956. It required ratification by not less than half of the State Legislatures because it sought to amend the Legislative Lists. Having received such ratification the Bill was assented to by the President on 11-9-1956.	Articles amended-269, 286. Schedule amended-Seventh Schedule List II, Entry 54; List I, Entry 92A inserted.
7.	The Constitution (Seventh Amendment) Act, 1956	19-10-1956	1-11-1956	For obvious reasons, this Bill required ratification. Hence, it was referred to the State Legislatures, having been passed	Articles amended-49, 80, 81, 131, 153, 158, 170, 171, 216, 217, 220, 222, 224, 230, 231, 232, 239, 240, 298, 371. Articles inserted-258, 290A, 350A,

				by Parliament on 11-9-1956. After obtaining the required ratification, the President gave his assent.	350B, 372A, 378A. Schedules amended-First, Second, Fourth, Seventh-List I Entries 32, 67; List II, Entries 12, 24; List III, Entry 40. Articles omitted-238, 242, 243, 259, 278, 306, 379-391. Schedule omitted-Second, Part B. Consequential amendments in numerous provisions.
8.	The Constitution (Eighth Amendment) Act, 1956	5-1-1960	5-1-1960	---	Article 334 amended-'20 years' substituted for '10 years'
9.	The Constitution (Ninth Amendment) Act, 1960	28-12-1960	17-1-1961	Views of the Legislature of the State of W.B. ascertained under Art.3, but ratification was not required as mere territorial change was not a matter specified in the Proviso to Art, 368.	First Schedule amended – to transfer certain territories from the States of Assam, Punjab, West Bengal and the Union Territory of Tripura to Pakistan, implementing the Indo-Pakistan agreements of different dates.
10.	The Constitution (Tenth Amendment) Act, 1961	16-8-1961	11-8-1961 (with retrospective effect) 19-12-1961	... ..	Article 240 and First Schedule amended to incorporate Dadra and Nagar Haveli as a Union Territory.
11.	The Constitution (Eleventh Amendment) Act, 1961	19-12-1961	19-12-1961	... ..	Articles 66(1) and 71(3)-to narrow down grounds for challenging validity of election of President or Vice-President.
12.	The Constitution (Twelfth	27-3-1962	20-12-1961 (retrospectively)	--- ---	Article 240 and First Schedule amended to incorporate Goa, Daman and Diu as a

	Amendment) Act, 1962			yes	Union Territory.
13.	The Constitution (Thirteenth Amendment) Act, 1962	28-12-1962	1-12-1963	--- --- yes	Article 371A inserted- to make special provisions for the administration of the State of Nagaland.
14.	The Constitution (Fourteenth Amendment) Act, 1962	28-12-1962	28-12-1962 But ss.3 & 5(a) came into force on 16-8-1962 (retrospectively).	yes	Provided that Pondicherry, Kariakal, Mahe and Yanam, the former French territories, should be specified in the Constitution as the Union Territory of Pondicherry. Enabled the Union Territories of Himachal Pradesh; Manipur, Tripura; Goa, Daman, and Diu and Pondicherry to have Legislatures and Councils of Ministers on the same pattern as in some of the Part C States before the States' reorganization. The Act also provided that representation for Union Territories in the Lok Sabha should be raised from 20 to 25, to enable the Union Territory of Pondicherry to be represented adequately.
15.	The Constitution (Fifteenth Amendment) Act, 1963	5-10-1963	5-10-1963	Yes	Amends a number of Arts. 124, 128, 217, 222, 224, 224A, 226, 297, 311, 316, Entry 78, List I. The more important of these changes are-the raising of the age of retirement of a High Court Judge from 60 to 62; the

					extension of 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 within such jurisdiction; modifying the procedure imposed by Art. 311 upon the pleasure of the President or Governor to dismiss a civil servant.
16.	The Constitution (Sixteenth Amendment) Act, 1963	5-10-1963	5-10-1963	Yes	Amends Art. 19 to enable Parliament to make laws providing restrictions upon the freedom of expression questioning the sovereignty or integrity of the Union of India, with consequential changes in Arts. 84, 173, Third Schedule.
17.	The Constitution (Seventeenth Amendment) Act, 1964	20-6-1964	20-6-1964	--- ---	Amends Art. 31A (definition of 'estate' amended with retrospective effect); Entries 21 – 64 added to the Ninth Schedule.
18.	The Constitution (Eighteenth Amendment) Act, 1966	27-8-1966	27-8-1966	--- ---	Adding Explanations to Art. 3. Provision was made for the formation of two States, Punjab and Haryana, by reorganizing Punjab on linguistic basis. The explanation added to Art. 3 was to clarify that the Parliament has the power to create a new State or Union Territory.
19	The Constitution	11-12-1966	11-12-1966	---	Amending Art. 324 to clarify the duties

	(Nineteenth Amendment) Act, 1966				of the Election Commission.
20	The Constitution (Twentieth Amendment) Act, 1966	22.12.1966	22.12.1966	---	Act, 233A inserted to validate the appointment of District Judges.
21	The Constitution (Twenty first Amendment) Act, 1967	10.4.1967	10.4.1967	---	Includes 'Sindhi' in the List of Languages in the English Schedule.
22	The Constitution (Twenty second Amendment) Act, 1969	25.9.1969	25.9.1969	Yes	Inserts Arts. 244A, 371B and CI. (1A) in Art 275, to constitute an autonomous State within the State of Assam (Meghalaya) comprising certain areas specified in Part A of the Sixth Schedule
23	The Constitution (Twenty-third Amendment) Act, 1970	23.1.1970	23.1.1970	Yes	Amending Arts. 330, 332, 333, 334 (to extend the period of reservation for Scheduled Cases and Tribes).
24	The Constitution (Twenty-fourth Amendment) Act, 1971	5-11-1971	5-11-1971	Yes	Inserting CI. (4) in Art. 13; amending Art. 368. The object of the amendment was to clarify that the Parliament has the power to amend every part of the Constitution. The intention was to wipe out the effect of <i>Golak Nath</i> . After this amendment the President is bound to assent to a Constitution Amendment

					Bill.
25	The Constitution (Twenty-fifth Amendment) Act, 1970	20.4.1972	20.4.1972	Yes	Clause (2) of Art. 31 amended and Cl. (2A) inserted, Art. 31C inserted. The Jurisdiction of the Courts to determine the adequacy of compensation on acquisition of property was taken away. A new Clause was added to lay down that no law which declared that it was for giving effect to the principles specified in Cls. (b) and (c) of Art. 39 would be called in question on the ground that it is inconsistent with the fundamental rights.
26	The Constitution (Twenty-sixth Amendment) Act, 1971	28.12.1971	28.12.1971	--	Omitting Arts. 291, 362; inserting Art. 363A; amending Art 366(22). The recognition to the Rules of Princely States was withdrawn and their privy purse were abolished.
27	The Constitution (Twenty-seventh Amendment) Act, 1971	30.12.1971	s. 3 from 30.12.1971, rest from 15-2-1972	--	Amending Art, 239A; inserting 239B; amending Art. 240 inserting Art. 371C. Two new Union Territories viz. Mizoram and Arunachal Pradesh, were formed.
28	The Constitution (Twenty-eighth Amendment) Act, 1972	27.8.1972	29.8.1972	--	Inserting Art. 312A; omitting Art. 314. The conditions of service and privileges of former Indian Civil Service officers were abolished.
29	The Constitution	9-6-1972	9-6-1972	--	Adding items 65-66 to the Ninth

	(Twenty-ninth Amendment) Act, 1972				Schedule. Two Kerala Acts pertaining to land reforms were included in the Ninth Schedule.
30	The Constitution (Thirtieth Amendment) Act, 1972	22.2.1973	27.2.1973	Yes	Amending Art. 133(1). Appeals to the Supreme Court were curtailed. Only such appeals can be brought which involve a substantial question of Law.
31	The Constitution (Thirty-first Amendment) Act, 1973	17.10.1973	17.10.1973	--	Amending Arts. 81, 330, 332. Elected seats in Lok Sabha increased from 525 to 545.
32	The Constitution (Thirty-second Amendment) Act, 1973	3-5-1974	1-7-1974	--	Amending Art. 37(1) and inserting Arts 371D-371E; amending Entry 63 of List I, Seventh Schedule. The object was to include six provisions in regard to Andhra Pradesh.
33	The Constitution (Thirty-third Amendment) Act, 1974	19-5-1974	19-5-1974	--	Amending Arts. 101, 190. It was provided that if a member of State Legislature or Parliament sends his resignation, the Chairman or Speaker would satisfy himself that it is voluntary and genuine.
34	The Constitution (Thirty-fourth Amendment) Act, 1974	7-9-1974	7-9-1974	Yes	Adding items 67-86 to the Ninth Schedule.
35	The Constitution	22.2.1975	1-3-1975	Yes	Inserting Art. 2A and amending Arts.

	(Thirty-fifth Amendment) Act, 1974				80-81; adding Tenth Schedule Sikkim was made an associate State.
36	The Constitution (Thirty-sixth Amendment) Act, 1975	16.5.1975	26.4.1975	Yes	Omitting Art. 2A, Schedule X; adding item 22 to Schedule 1; inserting Art. 371F; adding Entry 22 to Schedule IV. Sikkim was made a full-fledged State.
37	The Constitution (Thirty-seventh Amendment) Act, 1975	3-5-1975	3-5-1975	--	Amending Arts. 239A-240, repealing Tenth Schedule. Provision was made for a Legislative Assembly and Council of Ministers for the Union Territory of Arunachal Pradesh.
38	The Constitution (Thirty-eighth Amendment) Act, 1975			Yes	Amending Arts. 123, 213, 239B, 352, 356, 359, 360. Declaration of Emergency by the President and promulgation of Ordinances by the President or Governor made issues over which the Judiciary would not be able to exercise its power of review.
39	The Constitution (Thirty-ninth Amendment) Act, 1975	1-8-1975 10-8-1975	1-8-1975 10-8-1975	Yes	Amending Art. 71; inserting Art. 329A. Questions regarding elections of President Vice-President Prime Minister and Speaker of Lok Sabha taken out of the purview of the Judiciary.
40	The Constitution (Fortieth	27.5.1976	27.5.1976	--	Substituting Art. 297; adding Entries 125 to 188 to Schedule IX.

	Amendment) Act, 1976				It was provided that all lands, minerals etc. underlying the ocean within the territorial waters or the continental shelf or the exclusive economic zone of India shall vest in the Union. Power to determine the limits of territorial waters, continental shelf etc. was vested in the Parliament.
41	The Constitution (Forty-first Amendment) Act, 1976	7.9.1976	7.9.1976	---	Amending Art. 316. Upper age for Members of State Public Service Commission raised from 60 to 62.
42	The Constitution (Forty-second Amendment) Act, 1976	18.12.1976	Different dates, commencing from 3-1-1977, according to G.I. Notification of 3.1.1977	Yes	According Preamble, Arts. 31C, 39, 55, 74, 77, 81, 82, 83, 100, 102, 105, 118, 145, 166, 170, 172, 189, 191,, 194, 208, 217, 225, 227, 228, 311, 312, 330, 352, 353, 356, 357, 358, 359, 366, 368, 371F, Seventh Schedule. Substituting Arts. 103, 150, 192, 226; inserting Art. 31D, 32A, 39A, 43A, 48A, 51A, 131A, 139A, 144A, 226A, 228A, 257A, 323A, 323B. This amendment was almost a complete revision of the Constitution and many material changes were incorporated. It was enacted during an emergency. The next government that came into power in 1977 repealed most of the amendments.
43	The Constitution	13.4.1978	13.4.1978	Yes	Omitting Arts. 31D, 32A, 131A, 144A,

	(Forty-third Amendment) Act, 1977				amending Art.145. This amendment omitted many articles inserted by the 42nd Amendment Act. Some articles were changed.
44	The Constitution (Forty-fourth Amendment) Act, 1978	30.4.1979	Different dates as notified by Central Government for different provisions 19.6.1979 Art. 19, 30, 31, 31A, 31C, 74, 77, 83, 103,105, 123, 150, 166, 194, 213, 217, 225, 227, 257A, 300A, 352, 356, 358, 359, 360, 361A.	Yes	Omitting Arts. 19(1) (f), 31, 77(4), 123(4), 166(4), 213(4), 239B, (4), 257A, 329A. Inserting  Arts. 30(A), 134A, 300A, 361A. Amending and substituting Arts. 19(1), 22, 31A, 31C, 38, 71, 74, 83, 103, 105, 123, 130, 134, 139A, 172, 192, 194, 217, 225, 226, 227, 329, 352, 356, 358, 360, 361, 371F. Cancelling the amendments made by the 42nd Amendment Act to-Arts. 100, 102, 105, 118, 191, 194, 208. (6 clauses of the Bill were rejected by the Rajya Sabha). The changes made by the 42nd Amendment Arts were repeated or altered and the Constitution was brought back in its original form. But the right to Property was taken away from the Chapter of Fundamental Rights and put as a new Art. 300A.
45	The Constitution (Forty-fifth Amendment) Act, 1980	14.4.1980	25.1.1980	Yes	Extending reservation under Art. 334 from 30 to 40 Years.

46	The Constitution (Forty-sixth Amendment) Act, 1982	2.2.1983	2.2.1983	--	Amending Arts. 269, 286, 356, List I, relating to Sales Tax.
47	The Constitution (Forty-seventh Amendment) Act, 1984	26.8.1984	26.8.1984	--	Adding Entries 189-202, to the Ninth Schedule.
48	The Constitution (Forty-eighth Amendment) Act, 1984	26.8.1984	26.8.1984	--	Inserting Proviso to Cl. (5) of Art. 356 to extend President's Rule in Punjab.
49	The Constitution (Forty-ninth Amendment) Act, 1984	11.9.1984	1.4.1985	--	Amending Art. 244, Fifth & Sixth Schedule. Sixth Schedule was made applicable to Tripura.
50	The Constitution (Fiftieth Amendment) Act, 1984	11.9.1984	11.9.1984	--	Substituting Art. 33. Its scope was enlarged and many other Forces were included in its ambit.
51	The Constitution (Fifty-first Amendment) Act, 1984	--	16.6.1986	Yes	Amending Arts. 330, 332.
52	The Constitution (Fifty-second Amendment) Act, 1985	15.2.1985	1.3.1985	--	Amending Arts. 101, 102, 190, 191; adding Tenth Schedule (anti-defection). It was declared that a member who defects from his party would become subject to disqualification

53	The Constitution (Fifty-third Amendment) Act, 1984	14.8.1986	14.8.1986	--	Adding Arts. 371G. Mizoram was made a State.
54	The Constitution (Fifty-fourth Amendment) Act, 1986	--	1.4.1986	--	Amending Arts. 125, 221, Second schedule. Appropriate provisions were made to increase the salary of the judges of the Supreme Court and High Court.
55	The Constitution (Fifty-fifth Amendment) Act, 1986	23.12.1986	20.2.1987	--	Inserting Art. 371-H. State of Arunachal Pradesh was formed.
56	The Constitution (Fifty-sixth Amendment) Act, 1987	23.5.1987	30.5.1987	--	Inserting Art. 371I. The Union Territory of Goa, Daman, Diu was divided. Goa was made a State and provision for State Assembly were inserted. Daman and Diu to be a Union Territory.
57	The Constitution (Fifty-seventh Amendment) Act, 1987	15.9.1987	21.9.1987	--	Clause (3A) inserted in Art. 332. Articles 330 and 332 were amended to make provision for reservation of seats for Scheduled Tribes of Nagaland, Meghalaya, Mizoram and Arunachal Pradesh, in the Lok Sabha and in the Legislative Assemblies of Nagaland and Meghalaya.
58	The Constitution (Fifty-eighth Amendment) Act, 1987	9.12.1987	9-12-1987	--	Inserting Art. 394-A. The people had been demanding that

	Amendment) Act, 1987				the authoritative text of the Constitution should be published in Hindi. This amendment authorize the President to publish the authoritative text of the Constitution in Hindi. Inserting Art. 359A; Amending Art. 356.
59	The Constitution (Fifty-ninth Amendment) Act, 1988	30.3.1988	30.3.1988	--	Art. 356 was amended to provide that the declaration of emergency may remain in operation up to 3 years. The amendment made in Art. 352 provided that the emergency with respect to Punjab shall operate only in that State.
60	The Constitution (Sixtieth Amendment) Act, 1988	20.12.1988	20.12.1988	--	Amending Art. 276, to increase the limit of profession-tax from Rs.250 to Rs. 2,500.
61	The Constitution (Sixty-first Amendment) Act, 1989	28.3.1989	28.3.1989	Yes	Amending Art. 326, to reduce the voting age from 21 to 18 years.
62	The Constitution (Sixty-second Amendment) Act, 1989	25.1.1990	20.12.1989	Yes	Amending Art. 334, to increase the period of reservation of seats for Scheduled Castes and Tribes for 10 years i.e. up to the year 2000 A.D.
63	The Constitution (Sixty-third Amendment) Act, 1989	6.1.1990	--	--	Amending Art. 356 [omitting Proviso to Cl. (5) and omitting Art. 359A]. With regard to Punjab Cl. (5) was inserted in Art. 356 and a new Art.

					359A had been added. Both of these were omitted. The Government intended to end the emergency in Punjab and this step was taken with that in view.
64	The Constitution (Sixty-fourth Amendment) Act, 1990	6.4.1990	--	--	Amending Art. 356. As normalcy could not be restored in Punjab, emergency was to be continued. For that necessary provision was made in Art. 356.
65	The Constitution (Sixty-fifth Amendment) Act, 1990	7.6.1990	12.3.1992	--	Amending Art. 338, to provide for a National Commission for Scheduled Castes and Scheduled Tribes. The Commission has been given wide powers.
66	The Constitution (Sixty-sixth Amendment) Act, 1990	7.6.1990	--	--	Inserting Entries 203 to 257 in the Ninth Schedule.
67	The Constitution (Sixty-seventh Amendment) Act, 1990	4.10.1990	--	--	Amending Art. 356, 3rd Provision, Cl. (a) Extending President's Rule in Punjab to 4 years.
68	The Constitution (Sixty-eighth Amendment) Act, 1991	12.03.1991	12.03.1991	--	Amending Art. 356, 3rd Proviso, Cl. (a), extending the period to 5 years.
69	The Constitution (Sixty-ninth	12.12.1991	1.2.1992	--	Inserting Arts. 239AA and 239AB, to provide for a Legislative Assembly and

	Amendment) Act, 1991				Council of Ministers for the Union Territory of Delhi.
70	The Constitution (Seventieth Amendment) Act, 1992	12.8.1992	s.3 restore respectively from 21.12.1991 s.2 from 12.8.1992	Yes	Amending Arts. 54 and 368 to include Members of Legislative Assemblies of Union Territories of Delhi and Pondicherry in the electoral college.
71	The Constitution (Seventy-first Amendment) Act, 1992	31.8.1992	31.8.1992	..	Inserting entries 7.9.11 and re-inserting some entries in 8th Schedule.
72	The Constitution (Seventy-second Amendment) Act, 1992	5.12.1992	5.12.1992	..	Inserting Cl, (3B) in Art, 332.
73	The Constitution (Seventy-Third Amendment) Act, 1992	20.4.1993	24.4.1993	Yes	Re. Panchayat [Inserting Part IX, containing Arts. 243, 243A to 243-O; Eleventh Schedule].
74	The Constitution (Seventy-Fourth Amendment) Act, 1992	20.4.1993	1.6.1993	Yes	Re. Nagarpalika (Municipalities) [Inserting Part IXA, containing Arts. 243P to 243ZG; Twelfth Schedule].
75	The Constitution (Seventy-Fifth Amendment) Act, 1993	5.2.1994	15.5.1994	Yes	Inserting sub-Cl. (h) in Art, 323 B(2).
76	The Constitution (Seventy-Sixth	31.8.1994	31.8.1994	Yes	Inserting entry in the 9th Sch.

	Amendment) Act, 1994				
77	The Constitution (Seventy-Seventh Amendment) Act, 1995	17.6.1995	17.6.1995	..	Inserting Cl.(4A) in Art.16
78	The Constitution (Seventy-eighth Amendment) Act, 1995	30.8.1995	30.8.1995	..	Further addition of 27 entries to the 9th Sch. to the Constitution.
79	The Constitution (Seventy-Ninth Amendment) Act, 1999	21.1.2000	25.1.2000	Yes	Substituting "sixty years" for the words "fifth years" in Art. 334.
80	The Constitution (Eightieth Amendment) Act, 2000	9.6.2000	1.4.1996	..	Substituting new clauses for Cls. (1) and (2) of Art. 269; new Article for Art. 270 and omitting Art. 272.
81	The Constitution (Eighty – First Amendment) Act, 2000	9.6.2000	...	...	Inserting Cl. (4)(B) in Art. 16.
82	The Constitution (Eighty – Second Amendment) Act, 2000	8.9.2000	---	---	Inserting a proviso to Art. 335.
83	The Constitution (Eighty – Third Amendment) Act,	8.9.2000	---	---	Inserting Cl. (3A) in Art. 343M.

	2000				
84	The Constitution (Eighty – Fourth Amendment) Act, 2001	21.2.2002	21.2.2002	Yes	Substitution of the figure "2026" relating to census in Arts. 55, 81, 82, 170, 330, and 332 for the figure "2000".
85	The Constitution (Eighty – Fifth Amendment) Act, 2001	4.1.2002	17.6.1995	---	Substitution of certain words in Art. 16 (4A) to protect consequential seniority of reserved category retrospectively.
86	The Constitution (Eighty – Sixth Amendment) Act, 2002	12.12.2002	---	---	Insertion of Art. 21A, substitution of Art. 45 and insertion of Art. 51A(k).
87	The Constitution (Eighty – Seventh Amendment) Act, 2003	22.6.2003	22.6.2003	---	Substitution of the figure "2001" relating to census in Arts. 81, 82, 170 and 330 for the figure "1991".
88	The Constitution (Eighty – Eight Amendment) Act, 2003	8.5.2003	---	---	Insertion of Art. 268A, substitution of the words, figures and letter "Articles 268, 268A and 268" for the words and figures "Arts. 268 and 269" in Art. 270 and insertion of entry "92C" in Union List.
89	The Constitution (Eighty – Ninth Amendment) Act, 2003	28.9.2003	19.2.2004	---	Amendment of Art. 338 and insertion of Art. 338A.
90	The Constitution (Ninetieth	28.9.2003	28.9.2003	---	Insertion of a proviso to Art. 332(6).

	Amendment) Act, 2003				
91	The Constitution (Ninety-First Amendment) Act, 2003	1.1.2004	1.1.2004	---	Amendment of Art. 75, 164 and Schedule X, insertion of Art. 361B.
92	The Constitution (Ninety-Second Amendment) Act, 2003	7.1.2004	---	---	Addition of "Bodo", "Dogri", "Maithili" and "Salthali" languages in Schedule VIII.
93	The Constitution (Ninety-Third Amendment) Act, 2005	20.1.2006	20.1.2006	---	Insertion of Cl. (5) in Art. 15.
94	The Constitution (Ninety-Fourth Amendment) Act, 2006	12.6.2006	---	Yes	Amendment of Art. 164.
95	The Constitution (Ninety-Fifth Amendment) Act, 2009	18.1.2010	15.1.2010	---	Amendment of Art. 334.
96	The Constitution (Ninety-Sixth Amendment) Act, 2011	18.1.2010	25.1.2010	---	Amendment of Eight Schedule.
97	The Constitution (Ninety-Seventh Amendment) Act,	23.9.2011	---	---	Amendment of Art. 19, insertion of Art. 43(B), insertion of Part IXB consisting of Arts. 243ZH to 243ZT.

	2011				
98	The Constitution (Ninety-Eight Amendment) Act, 2012	1.1.2013	2.1.2013	---	Insertion of new Art. 371J.
99	The Constitution (Ninety-Ninth Amendment) Act, 2014	31.12.2014	13.4.2015	---	Insertion of Art. 124A, 124B, 124C. Amendment of Arts. 124, 127, 128, 217, 222, 224, 224A, 231.
100	The Constitution (Hundreth Amendment) Act, 2015	---	---	---	Amendment to Schedule 1 with regard to States of Assam, West Bengal, Meghalaya and Tripura.
101	The Constitution (One Hundred - First Amendment) Act, 2016	8.9.2016	8.9.2016	---	Insertion of New Article 246A – Special provision with respect to Goods and Services Tax. Amendment of Articles 248, 249, 250, 268, 269, 270, 271, 286, 366, 368, Sixth Schedule, Seventh Schedule. Deletion of Article 268A.



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<b>Office held and assumption of Office</b>	<b>Principal Secretary; Maharashtra Legislature Secretariat &amp; Secretary; Commonwealth Parliamentary Association (CPA) Maharashtra Branch</b>	
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