

# CONSTITUTIONAL LAW

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# What is The Constitution?

- It is the supreme law of the land.
- It is the basic structure, which defines the powers of the States and the rights and duties of its citizens.
- It can also be termed as the fundamental law of the country.
- It sets out the framework and principal functions of the Government.

# HOW THE IDEA CAME INTO BEING ?

- The idea of a Constitution Assembly for India was put forward for the first time by **N. Roy**, a pioneer of communist movement in the year **1934**.
- Later, in 1946, the Cabinet Mission came to India and put across a proposal for setting up of a Constituent Assembly.
- Members of the Provincial Legislatures elected members of the Constituent Assembly on communal basis indirectly through the method of proportional representation.
- The Constituent Assembly thus created had 389 members, of which the members of the Provincial Assemblies elected 296 members and the rest were nominated by the Princely States.
- First Meeting was held on December 9<sup>th</sup> 1946, **Sacchidanand Sinha** was elected as **Interim** Chairman.
- However on December 11<sup>th</sup> 1946, **Rajendra Prasad** was elected its **Permanent** Chairman.

# The Framing of the Constitution

- On August 29<sup>th</sup> 1947, the Assembly set up the **Drafting Committee** to prepare a draft Constitution ; Chairman : Dr. B.R Ambedkar
- The first session of the Assembly was held in **New Delhi** on **December 9, 1946**.
- The Constituent Assembly took **2 years, 11 months** and **18 days** to prepare the Constitution.
- The Constitution was ready and adopted on **November 26, 1949**.
- The Constitution came into full operation with effect from **January 26, 1950**.
- January 26, 1950, was **chosen as the date of commencement of the Constitution** because on this date in 1930, Indian people observed Independence Day, following the resolution of Purna Swaraj of the Congress session held in the midnight of December 31, 1929 at Lahore.
- Originally, it contained **395 articles** divided into **22 parts and 8 schedules**.
- The design of the National Flag was adopted by the Constituent Assembly on **July 22<sup>nd</sup>**
- The National Anthem was adopted by the Constituent Assembly on **January 24<sup>th</sup> 1950**.
- The National Emblem was taken from the Ashoka Pillar in Sarnath. The words **“Satyameva Jayate”** have been adopted from the **“Mundaka Upanishad”**.
- The Song **“Vande Mataram”** composed in Sanskrit by **Bankim Chandra Chatterji** has been adopted as National Song. It was first sung at the 1896 session of the Indian National Congress.

# The Preamble

**“WE, THE PEOPLE OF INDIA, have solemnly resolved to constitute India into a SOVEREIGN  
DEMOCRATIC REPUBLIC and to secure to all its citizens.  
JUSTICE, Social economic and political;  
LIBERTY of thought, expression, belief, faith and worship;  
FRATERNITY assuring the dignity of the individual and the 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”.**

*Under the 42nd Amendment two new words ‘SOCIALIST & SECULAR’ have been inserted in the Preamble.*

**DEMOCRATIC:** The term democratic means that the rulers are elected by the people and derive authority to run the government.

**SOCIALIST:** This word was added by the **42nd** Amendment of the Constitution, to bring out the concept of socialism. The inclusion of the word suggests that there would be a tendency to lean towards nationalization and State ownership of industry.

**SECULAR:** This word has also added by the **42nd** Amendment, to emphasise the secular nature of the nation. The word secular specifically means that there is no State religion.

**REPUBLIC:** It means absence of 'monarchy'. All the authorities of the State are directly or indirectly elected by the people.

**LIBERTY:** of thought, expression, belief, faith and worship. Liberty is an essential attribute of a free society that helps in the fullest development of intellectual, mental and spiritual faculties of an individual. The Indian Constitution guarantees six democratic freedoms to citizens under Art.19 and Right to Freedom of Religion under Arts. 25-28.

**FRATERNITY:** Fraternity as enshrined in the Constitution means a sense of brotherhood prevailing amongst all the sections of the people. This is sought to be achieved by making the State secular, guaranteeing fundamental and other rights equally to people of all sections and protecting their interests.

# ***Is the Preamble a part of the Constitution?***

- This question came up for consideration, for the first time before the Supreme Court in the **Berubari's Case** in 1960.
- In that case, the Supreme Court held that the **Preamble was a not a part of the Constitution.**
- The Supreme Court in Kesavananda Bharathi vs. State of Kerala overruled the above judgment.
- Supreme Court made it clear that the **Preamble is a part of the Constitution** and it is subject to the amending power of the Parliament as any other provisions of the Constitution is not destroyed.

# ARTICLES 1- 4

Articles 1 to 4 under Part I of the Constitution explains the Union and its Territory.

**Article-1:** describes India as a 'Union of States'.

**Article – 2:** It deals with admission or establishment of new States.

**Article- 3:**

- Formation of new States
- Alteration of areas of States
- Boundaries or names of existing States

**Article-4:** consequential changes to articles 2 & 3



# Citizenship (Article 5-11)

- **Citizenship by domicile (Article 5)**
- **Citizenship of migrants to India from Pakistan (Article 6)**
- **Citizenship of migrants of Pakistan (Article 7)**
- **Citizenship of persons of Indian origin residing outside India (Article 8)**

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**What are the provisions under the Citizenship Act, 1955?**

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- i) Citizenship by birth*
- ii) Citizenship by descent*
- iii) Citizenship by registration*
- iv) Citizenship by naturalization*
- v) Citizenship by incorporation of territory:*

What are the provisions in the Citizenship (Amendment) Act, 2019?

The newly amended **law provides for granting of Indian citizenship** to Hindus, Sikhs, Jains, Buddhists, Parsis and Christians from Pakistan, Bangladesh and Afghanistan who came to India on or before December 31, 2014.

**The law will not be extended** to Rohingya Muslims persecuted in Myanmar; Shia and Ahmadiyya Muslims in Pakistan; Hazaras, Tajiks and Uzbeks in Afghanistan; Tamils in Sri Lanka; and atheists in Bangladesh.

***Omission of specific religious communities***

# FUNDAMENTAL RIGHTS

## **Part III (Article 12 to 35) of the [Constitution of India](#) protects the fundamental rights**

- Equality before law (**Article 14**)
- Prohibition of discrimination on any grounds (**Article 15**) : no discrimination on the basis of religion, race, caste, sex or place of birth.
- Equality in matters of public employment (**Article 16**)
- Abolition of untouchability (**Article 17**)
- Abolition of Titles (**Article 18**)

## **Air India v. Nargesh Miija**

The Supreme Court struck down Regulations 46 and 47 of the Air India and Indian Airlines. Regulation 46 gave that an air-hostess will *resign from the service of the organization after attaining the age of 35 years or on marriage* on the off chance that it happens within 4 years or on *first pregnancy* whichever is prior.

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**The court held that termination of service based on pregnancy is unfair and clearly violates Article 14 and 15.**

# *D.P. Joshi v. State of Madhya Bharat*

A rule of medical universities stated that for all students who are bona fide residents of Madhya Bharat, no capitation fee ought to be charged yet for non-resident students, capitation fee ought to be charged.

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**Court Held :** Residence and place of birth are two different concepts with various meanings both in law and fact. Article 15 (1) forbids separation/discrimination on the ground of place of birth yet not on the ground of residence.

**Article 19** : the following *six freedoms* are guaranteed to every person of the country :

1. Freedom of speech and expression
2. Freedom to assemble
3. Freedom to form associations or unions or co-operative societies
4. Freedom to move freely
5. Freedom to reside and settle
6. Freedom to practice any profession or to carry on any business, occupation or trade

# Emmanuel v. State of Kerala ( National Anthem Case )

In a case, three children belonging to Jehovah's witnesses were expelled from the school for refusing to sing the national anthem, although they stood respectfully when the same was being sung.

Kerala High Court which upheld the expulsion as valid and on the ground that it was their fundamental duty to sing the national anthem.

Supreme Court :it was held that the children's expulsion from the school was a violation of their fundamental right under Article 19(1) (a), which also includes the freedom of silence.**Freedom of speech also includes the right to silence.**

# A. Abbas v. Union of India

Under the Cinematograph Act, 1952, *films are divided into two categories- ‘U’ films for **unrestricted exhibition**, and ‘A’ films that can be shown to adults only*. The petitioner’s film was refused the ‘U’ certificate, and he challenged the validity of censorship as violative of his fundamental right of freedom of speech and expression.

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The Court, however, held that ***motion pictures are able to stir emotions more deeply*** than any other form of art.

*Hence, pre- censorship and classification of films between ‘U’ and ‘A’ was held to be valid and was justified under Article 19(2) of the Constitution.*



- **Article 20** of the [constitution](#) gives protection in respect of conviction for offenses. (Ex post facto legislation ; Double Jeopardy ; Witness against oneself. )
- **Article 21** of the constitution gives Right to life, personal liberty and Right to die with dignity.
- Also, **Article 21A** gives a right to education to all children of the age of six to fourteen years.
- **Article 22** gives protection against arrest and detention in certain cases.

## Justice K.S. Puttuswamy (Retd.) vs. Union of India and Other

The Supreme Court's 9 judges constitutional bench held ***privacy to be a fundamental right under the Constitution of India.***



The Supreme Court, in its ***final judgement on Aadhaar upheld the validity of it*** and further stated that the Aadhar Act does not violate the right to privacy when a person agrees to share his biometric data. However, the Supreme Court barred the private companies from making use of aadhaar card for the purpose of KYC authentication. At the same time the apex court held that aadhaar will still be in use for various other purposes which would include PAN card and ITR filing.

# Aruna Shanbaug case ( Euthanasia )

Aruna Ramchandra Shanbaug was a nurse in the King Edwards Memorial Hospital in Mumbai. In November 1973, she was assaulted by ward boy, of the same hospital while changing her clothes in the hospital basement. He strangled Shanbaug with a dog chain around her neck.

The attack cut off oxygen supply from her brain leaving her blind, deaf, paralysed and in a vegetative state for the next 42 years

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The Supreme Court ruled ***that individuals had a right to die with dignity.*** Allowing passive euthanasia with guidelines. recognized ***passive euthanasia*** in Aruna Shanbaug case by which it had permitted ***withdrawal of life-sustaining treatment from patients not in a position to make an informed decision***

Under Article 21 : right to die with dignity is a fundamental right.

# Right to Freedom of Religion

- Under the articles from 25 to 28 each and every individual has a right to freedom of religion.
- He/she can practice their own religion without troubling others.
- It includes freedom of conscience and free profession, practice, and propagation of religion, freedom to manage religious affairs, and freedom from religious instructions in certain educational institutes.

# Cultural and Educational Rights

## **Article 29-30 : Cultural and Educational Right**

These are for the conservation of the cultural practices of the citizens and the right to education.

- ***Protection of interests of minorities:*** Any minority community having a distinct language, script or culture of its own shall have the right to preserve the same.
- ***Right of minorities to set up and administer educational institutions:*** All Minorities, whether based on religion or language, have the right to establish and administer educational institutions of their own choice. Right to Education (RTE)

The Right to Education comes under a new Article 21A under Fundamental Rights in 2002 by the 86th Constitutional Amendment.

**Article 31 (A) & (B)** of the Constitution not only guarantees the **right** of private ownership but also the **right** to enjoy and dispose of property free from restrictions other than reasonable restriction. The **article** states that no person shall be deprived of his/her property, except by authority of **law**.

By the *44th Amendment Act* of 1978, *Right to Property* was removed from our *Fundamental Rights* and was made a *Legal Right*.

This actually was done because the *Directive Principles* incorporated in Part-IV of our *Constitution* aims to establish a **Welfare State**.

# CONSTITUTIONAL REMEDIES

**Article 32** : It states that the citizens have a right to a constitutional remedy for enforcement of Fundamental Rights.

Types of Writs : There are five types of writs

- Habeas corpus
- Quo warranto
- Mandamus
- Certiorari
- Prohibition

### **Habeas Corpus:**

By this writ the court directs the person or authority who has detained another person to bring the body of the prisoner before the court so as to enable the court to decide the validity , jurisdiction or justification for such detention. latin term habeas corpus means 'you must have the body ' .

### **Quo Warranto:**

The term quo- warranto means what is your authority .The writ calls upon the holder of a public office to show to the court under what authority he is holding the office in question . If he is not entitled to the office , the court may restrain him from acting in the office and may also declare the office to be vacant .

### **Mandamus**

Mandamus is a command issued by a court to an authority directing it to perform a public duty imposed upon it by law . For example , when a body omits to decide a matter which it is bound to decide , it can be commanded to decide the same.

### **Certiorari :**

A writ of certiorari or a writ in the nature of certiorari can only be issued by the Supreme court under Art. 32 and a High court under 226. The writ of certiorari can be issued by the Supreme Court or any High Court for quashing the order already passed by an inferior court, tribunal or quasi judicial authority

### **Prohibition :**

This **writ** is often issued by a superior court to the lower court directing it not to proceed with a case which does not fall under its jurisdiction.



The **six fundamental rights** are:

1. **Right to Equality**: It includes equality before the law, forbiddance of discrimination on the grounds of religion, race, caste, creed, place of birth or gender and equality of employment.
2. **Cultural and Educational Right**: These are for the conservation of the cultural practices of the citizens and the right to education.
3. **Right to freedom**: It includes freedom of speech and expression, assembly, association or union or cooperatives, movement, and residence. It also includes the right to practice any profession or occupation.
4. **Right against exploitation**: It prohibits all forms of forced and [child](#) labor and human trafficking.
5. **The Right to freedom of religion**: It includes freedom of conscience and free profession, practice, and propagation of religion, freedom to manage religious affairs, and freedom from religious instructions in certain educational institutes.
6. **Right to constitutional remedies**: It states that the citizens have a right to a constitutional remedy for enforcement of Fundamental Rights.

Q. In India, the prohibition of discrimination under the grounds of race, caste, religion, place of birth, or sex is a fundamental right. Thus, this right is classified under

A. Right to equality

B. Right to education

C. Right to freedom of religion

D. Right against exploitation





**Answer: A. Right to equality**

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Q. Under the Indian constitution, the right to freedom of religion implies that the citizen of India

A. Must follow the religion of a state.

B. Can follow any religion other than the state religion

C. Can be appointed as a government official if he/she does not have faith in any religion.

D. Have the freedom to practice, propagate, or profess a religion of their liking.



**Answer: D. Have the freedom to practice, propagate, or profess a religion of their liking.**

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Q. Originally right to property was dealt with by which article?

A. Article 33

B. Article 19

C. Article 31

D. All of the above

E. Both B and C





**Answer: E. Both B and C**

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Q. Out of the following rights, which right is considered as the fundamental right of a citizen?

A. Article 31A

B. Article 31B

C. Article 31C

D. All of the above







**Answer: D. All of the above**

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Q. Out of following rights, which right guarantees that the fundamental right is given to every citizen of the country?

A. Right to equality

B. Right to freedom of speech

C. Right to constitutional remedies

D. Right against exploitation



**Answer: C. Right to constitutional remedies**



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Q. Under what right do the rights to constitutional remedies come under?

A. Legal rights

B. Fundamental rights

C. Natural rights

D. Constitutional rights





**Answer: B. Fundamental rights**

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## ***DIRECTIVE PRINCIPLES***

- Part IV - Articles 36 : 51
- Principles - state should keep in mind while framing laws and formulating policy
- They are not enforceable in courts .
- There are ***nineteen articles*** in part IV.
- Broadly divided into principles of ***administrative policy, social policy directives, socio-economic policy, and principles of international policy.***

- ***Economic Principles*** : So, this includes working for an egalitarian society where no concentration of wealth is there. In this society there is equal and plenty of opportunities for everyone
- ***Socialist Principles*** : The directive principles of state policy set forward the humanitarian approach. Principles which are important for the growth and development of the personality of all citizens.
- ***Protection of Environmental Monuments*** : Forest & Wildlife
- ***Law , Justice and Administration*** : *Article 40* called for village panchayats. *Article 50* provides all the information for separation of judiciary from the executive.
- ***International Peace & Security*** : maintain honorable relations between nations ; foster international treaty obligation .

Q. Among the following, which parts of the [constitution of India](#) have the concept of welfare states included in it?

A. Fourth schedule

B. Preamble

C. Ninth amendment

D. Directive principles







Answer: D. Directive principles

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# INDIAN PARLIAMENT

- The Indian [parliament](#) is a ***bicameral structure***.
- Lok Sabha - *Lower House* ; Rajya Sabha : *Upper house*
- Rajya Sabha represents the **council of states** and the upper house. While Lok Sabha represents the **house of people** and the lower house.
- Lok Sabha represents the Indian people while Rajya Sabha represents the union territories and states.

# Composition of Lok Sabha

- The maximum number of people that can be elected in Lok Sabha is **552**.
- Out of these 552 people, 530 are elected to be members of the states.
- While 20 are the members represented in the union territories.
- The remaining 2 people are from the Anglo-Indian community that is elected by the president of India.

## Composition of Rajya Sabha

- The maximum people that can be elected in Rajya Sabha is **250**.
- Out of this, 238 are elected as the state representatives. While the remaining 12 are nominated by the president. The 238 people also consist of representatives from union territories.
- The *elected members that are elected for the state legislative assemblies elect the state representatives* in Rajya Sabha.
- Also, these seats are given in the Rajya Sabha on the basis of the population.

# Tenure

- Lok Sabha does not follow continuous members. The normal term in Lok Sabha is of 5 years. Thus, it is from the date of its first meeting to the general elections. The committee dissolves thereafter.
- While Rajya Sabha is considered as a permanent body. Thus, it is not subjected to dissolution. Also, 1/3rd members of the Rajya Sabha retire every 2nd year. These retiring members can stand for re-election as well as for re-nomination any number of times they want.

## Speaker and Deputy Speaker of Lok Sabha

- In Lok Sabha, the speaker is *elected from amongst it's elected members.*
- Also, the date for the election of the speaker is fixed by the president.
- The speaker *decides if a bill is a money bill or not.*
- Also, the decision of the speaker is considered as final within any question.
- The *deputy speaker is also elected by the members of Lok Sabha.*
- However, the election date is fixed by the speaker.
- In the case of resignation, the deputy speaker offers his resignation to the speaker of Lok Sabha.

Q. Which of the following member is authorized to decide about the disqualification of a member for the parliament

A. Election committee

B. President

C. Lok Sabha speaker

D. Special committee



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**Answer: B. President**

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# Functions of Indian Parliament

The functions of parliament are divided based on the powers it has. These are:

- Executive powers
- Legislative powers
- Constituent powers
- Judicial powers
- Financial powers
- Electoral powers
- Executive powers



## Executive powers

- The executive is responsible for the acts and policies of the parliament.
- This enacted by the parliament form of the government.
- Thus, there are various measures that the parliament uses to control. These are questioned hour, committees, zero hours, etc.
- Furthermore, ministers are also collectively responsible for the measures taken in the parliament.

# Legislative Powers

- Enact Laws : Union & Concurrent List
- State List : if emergency declared
- Bill - after approved by Lok Sabha ; sent to Rajya Sabha for assent
- Money Bill has to be adjudged within 14 days (by Raja Sabha ) ; or else will be deemed passed .

## **Constituent Powers**

This is a simple function of parliament. Within this power, the parliament can pass any law that is required. Also, it can be done to amend the constitution.

## **Judicial Powers**

Within this power, there are different functions of parliament associated. This power includes functions like

- Removing the vice president
- Impeaching the president in reference to the violation of the constitution
- Punishing various members for breach of privileges like serving as a member while he/she is still under oath. Also, sitting in the house when the member themselves knows that they are not eligible.
- Removing the judges of the high court and supreme court.

## **Financial Powers**

This power has various functions in it. It includes scrutinizing the performance of the government particularly with respect to financial committees. Also, it includes the enactment of the budget.

# STATE LEGISLATURE

- Bi Cameral / Uni Cameral
- Bi Cameral : Vidhan Parishad (Upper House ) ; Vidhan Sabha (Lower House )
- Legislative Council - Upper house ; Legislative Assembly - Lower House
- Most states have - Unicameral ; A.P , U.P , Maharashtra - Bicameral

# JUDICIARY

The constitution is the [source of law](#) in India and also the supreme law of India.

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Judicial System of India consists of Supreme Court, High Court, District Court or Subordinate Court.

# Supreme Court of India

- Under the constitution of India, the supreme court is the final court of appeal. Hence has the chief justice of India, including 30 judges and other judges for advisory jurisdiction.

The Eligibility to become a Chief justice is:

1. The judge in one High court or more, for at least 5 years or advocate in high court for at least 10 years.
2. A distinguished judge in the opinion of the President of India.

# Jurisdiction

## **Original :**

1. Interpretation of the Constitution
2. Settlement of disputes between Union and States , State and State
3. Protection of Fundamental Rights

## **Appellate :**

1. Appeals involving interpretation of the Constitution
2. Appeals in Civil matters
3. Appeals in Criminal Cases

## **Advisory :**

Giving opinion or advice to the president on questions of public importance

## **As a Court of Record :**

Their decisions are recorded for future guidance .





# High Courts of India

Every state should regard to one high court. Mumbai high court is the oldest high court in India.

Eligibility for a high court judge is

- He should be a citizen of India.
- An advocate should have at least 10 years of practice in any court.

# District Courts

- District courts or Subordinate Courts are subordinate to the high court.
- District courts are established according to the population distribution of the district and state.
- It looks after the Civil and criminal matters of the district.
- A law declared by the district court is applicable to all subordinate courts.

Eligibility for judge in district court is :

1. He should be a citizen of India
2. An advocate should have at least practice for 7 years.

Question 1. Who has the right under the Constitution to seek the opinion of the Supreme Court on the question of law?

1 President

2 Any High Court

3 Prime Minister

4 All of these



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**Answer: President.**

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Who has the power to remove the judge of the Supreme Court?

- 1 Chief Justice of Supreme Court
- 2 Only President
- 3 Only Parliament
- 4 Both President and parliament



**Answer: Both the President and Parliament.**

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# EXECUTIVE

- The organ of a government that primarily looks after the function of implementation and administration is known **the Executive**.
- The Executive is the branch of Government accountable for the implementation of laws and policies legislated by the legislature
- The Parliamentary form of executive, the Prime Minister is the head of the government and the head of the State may be Monarch (Constitutional Monarchy, e.g. UK) or President (Parliamentary Republic, e.g. India).

# PRESIDENT

- The President of India is the head of the State. He **exercises only nominal powers**. His functions are mainly ceremonial in nature like the Queen of Britain
- All the political institutions in India, **function in the name of the President of India** and the President supervises their functions to bring harmony in their works to achieve the objectives of the State.
- In India, the President is **elected, not appointed**, (although not elected directly by the people). The President is elected by the Members of Parliament (MPs) and the Members of the Legislative Assemblies (MLAs) of each state.
- Participation of Members of the state's Legislative Assemblies in the election of the president of India shows that the President of India represents the entire nation. At the same time, the indirect election of the President ensures that he cannot claim popular mandate like that of the Prime Minister and thus remains only a nominal head of the State.
- All major **policy decisions and orders of the government** are issued in the President's name.
- The President **appoints all the major heads** of the institutions of the government, i.e.,
  - The appointment of the Chief Justice of India,
  - The Judges of the Supreme Court and the High Courts of the states,
  - The Governors of the states,
  - The Election Commissioners,
  - Ambassadors to other countries, etc.



- The government of India makes **all international treaties** and agreements in the name of the President.
- The President is the **supreme commander of the defense forces** of India.
- However, all these powers are exercised by the President only on the **advice of the Council of Ministers headed by the Prime Minister**.
- The President can ask the Council of Ministers for reconsideration on any advice (asked to him by the Council of Ministers), but if the Council of Ministers recommend the same advice again, he is bound to act according to it.
- **A Bill passed by the Parliament becomes a law only after the President gives assent to it.** The President can return a Bill back to the Parliament for reconsideration, but he has to sign it, if the Parliament passes the Bill again (with or without amendment).

## Vice President

- The Vice President is elected for **five** years and the election method is similar to that of the President; however, the only difference is that the *members of State legislatures do not participate* in the Electoral process.
- The Vice President acts as the **ex-officio Chairman of the Rajya Sabha**.
- The Vice President takes over the office of the President when there is a **vacancy** by reasons of death, resignation, removal by impeachment, or otherwise.
- The Vice President may be **removed** from his or her office by a Resolution of the Rajya Sabha passed by a majority and agreed to by the Lok Sabha.

# Prime Minister and Council of Ministers

- The Council of Ministers is one the most powerful political institutions in the country. **Prime Minister is the head of the Council of Ministers (as well as the central government).**
- The Prime Minister is appointed by the President of India. The President appoints a person as **Prime Minister who is the leader of the party having the majority in the Lok Sabha.**
- The Prime Minister continues in **power for five-year term** OR so long as he commands the majority party or coalition.
- The President appoints other ministers on the advice of the Prime Minister.
- **The Prime Minister is free to choose his ministers** from the members of Parliament.
- A person who is not a Member of Parliament can also become a minister. But such a person has to get elected to one of the Houses of the Parliament within six months of appointment as minister.
- All the Ministers collectively in a group are officially called as Council of Ministers; however, the Ministers have different ranks and portfolio.

The different categories of the ministers are –

- **Cabinet Ministers** are the ***most experienced and top-level leaders of the ruling party***. They usually hold the charge of the major ministries like Finance, Defense, Home, External Affairs, Food and Supply, etc. The decisions of the government are generally taken up in the meeting of the Cabinet Ministers headed by the Prime Minister. Thus the Cabinet is the core group of ministers within the Council of Ministers.
- **Ministers of State** with independent charge usually hold independent charge of ***smaller Ministries***. They generally do not participate in the Cabinet meetings but may participate when specially invited.
- Ministers of State are generally appointed to assist Cabinet Ministers.

# CHIEF MINISTER

**Appointment** : Governor of State appoints the leader of majority party in Vidhan Sabha as the Chief Minister .

**Term** : 5 years . Can be removed earlier with a non confidence vote.

**Council of Ministers** : Ministers are appointed by Governor ; on the advise of the chief minister .

## EMERGENCY PROVISIONS

PART XVIII and Articles 352 to 360 describe the emergency provisions of India.

Under the Indian Constitution, there are **three** types of emergency provisions –

- National Emergency;
  - Failure of constitutional machinery in state/s or President's Rule;
- and
- Financial Emergency.

# National Emergency

- **Article 352** states that if the President is satisfied that a grave emergency exists whereby the **security of India or of any part of the territory** thereof is threatened, whether by war or external aggression or armed rebellion, he may, by Proclamation, make a declaration to that effect in respect of the whole of India or of such part of the territory thereof as may be specified in the Proclamation.
- However, Article 352 (4) states that every Proclamation issued under this article shall be laid before each House of Parliament and shall, except where it is a Proclamation revoking a previous Proclamation, cease to operate at the expiration of one month unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament.
- Further, Article 352 (5) states that a Proclamation so approved shall, unless revoked, cease to operate on the expiration of a period of six months from the date of the passing of the second of the resolutions approving the Proclamation under clause (4).
- **Article 353** states that while a Proclamation of Emergency is in operation, then the executive power of the Union shall extend to the giving of directions to any State as to the manner in which the executive power thereof is to be exercised.



# President's Rule

- **Article 356** states that if the President, on receipt of a report from the Governor of a State or otherwise, is satisfied that a situation has arisen in which the Government of the State cannot be carried on in accordance with the provisions of this Constitution, then he (the President) may issue state emergency.
- Article 356 (3) states that every Proclamation under this article shall be laid before each House of Parliament and shall, except where it is a Proclamation revoking a previous Proclamation, cease to operate at the expiration of two months unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament.
- Further, Article 356 (4) states that a Proclamation so approved shall, unless revoked, cease to operate on the expiration of a period of six months from the date of issue of the Proclamation.
- Article 357 states that where by a Proclamation issued under clause (1) of Article 356, it has been declared that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament.
- Article 359 states that where a Proclamation of Emergency is in operation, the President may by order declare that the right to move any court for the enforcement of such of the rights conferred by Part III (except articles 20 and 21) as may be mentioned in the order and all proceedings pending in any court for the enforcement of the rights so mentioned shall remain suspended for the period during which the Proclamation is in force or for such shorter period as may be specified in the order.



# Financial Emergency

- **Article 360** states that if the President is satisfied that a situation has arisen whereby the financial stability or credit of India or of any part of the territory thereof is threatened, he may by a Proclamation make a declaration to that effect.
- Article 360 (4) (b) states that it shall be competent for the President during the period any Proclamation issued under this article is in operation to issue directions for the reduction of salaries and allowances of all or any class of persons serving in connection with the affairs of the Union including the Judges of the Supreme Court and the High Courts.

# FUNDAMENTAL DUTIES

**Under Part IV 'A', Article 51A of the Indian Constitution describes the following "Fundamental Duties" (i.e. the duty of every citizen of India).**

- To abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
- To cherish and follow the noble ideals which inspired our national struggle for freedom;
- To uphold and protect the sovereignty, unity and integrity of India;
- To defend the country and render national service when called upon to do so;
- To promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;
- To value and preserve the rich heritage of our composite culture;
- To protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;
- To develop the scientific temper, humanism and the spirit of inquiry and reform;
- To safeguard public property and to abjure violence;
- To strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of achievement; and
- Who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years.

Q. The Governor of a State is appointed by the President on the advice of the

- A. Prime Minister
- B. Vice- President
- C. Chief Minister
- D. Chief Justice



### **Correct Option: A**

At the state level, there is a Governor in whom the executive power of the State is vested by the Constitution. But the Governor acts as a nominal head, and the real executive powers are exercised by the Council of Ministers headed by the Chief Minister. The Governor of a State is appointed by the President of India.

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Hence, option A is correct

The President gives his resignation to the

- A. Chief Justice
- B. Parliament
- C. Vice President
- D. Prime Minister



## **Correct Option: C**

The President holds office for a term of 5 years from the date on which he enters upon his office. However, he can also resign from his office at any time by addressing the resignation letter to the Vice President.

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Hence, option C is correct.

Minimum age required to contest for the post of President is

- A. 23 years
- B. 21 years
- C. 35 years
- D. 30 years



### **Correct Option: C**

Article 58 of the constitution sets the principal qualifications one must meet to be eligible to the office of the president. A President must be a citizen of India of 35 years of age or above qualified to become a member of the Lok Sabha. A person shall not be eligible for election as President if he holds any office of profit under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Governments.

Hence, option C is correct



The constitution is the supreme law of the land. It is protected by

- A. The Supreme Court
- B. The Constituent Assembly
- C. The Parliament
- D. The President



**Correct Option: A**

The constitution is the supreme law of the land. It is protected by the **Supreme Court**.

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Hence, option A is correct.

Which one of the following is wrong ?

- A. The Prime Minister is the leader of the majority party in the Lok Sabha.
- B. The Prime Minister is the head of the Cabinet.
- C. The Prime Minister is the head of the Government.
- D. The Prime Minister is the head of the State.

**Correct Option: D**

President is the head of the state.

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Hence, option D is correct.