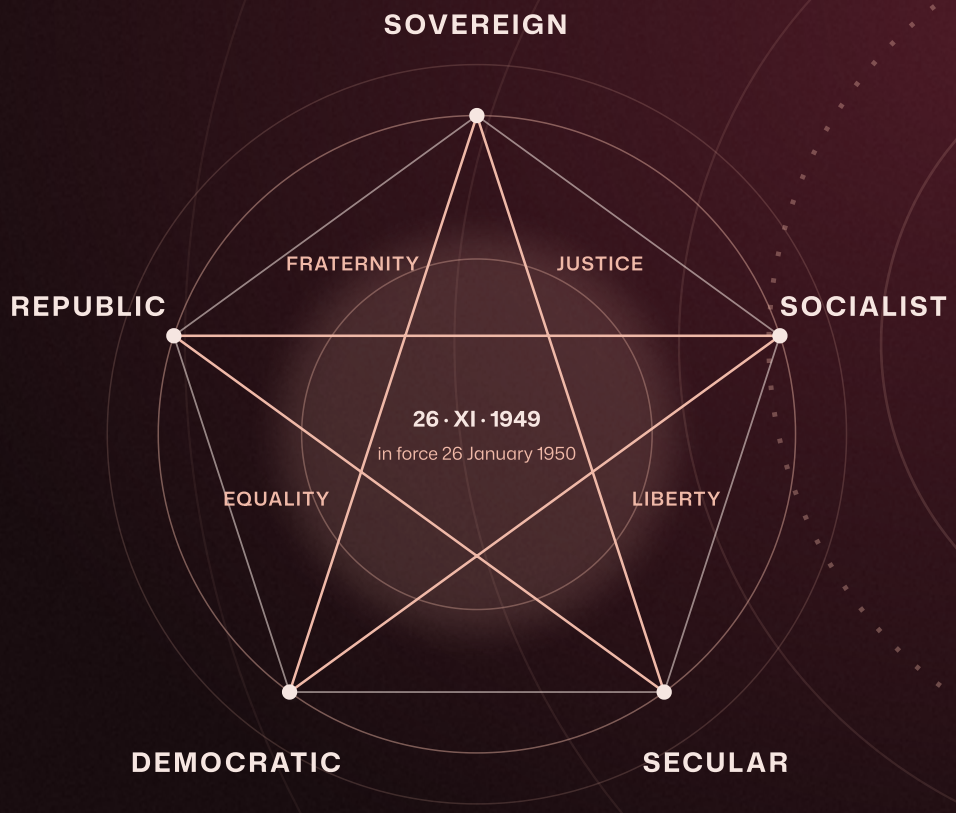
XamAgent

PRELIMS 2027

ED. 2027 · 23 CH · PYQ-PROOF · 207 FIG · 725 ★★★ · 268 MCQ



PRELIMS NOTES

Indian Polity

The night before Prelims, you'll want just one book.

PYQ-PROOF

Every UPSC & BPSC question since 2011 is answerable from these notes.

16 · YEARS

UPSC CSE · BPSC · UPPCS · SSC CGL

Also in हिन्दी

A note to the reader

Most short notes are short for a reason. Forty or fifty pages, small type, every page full to the edge. One page takes twenty minutes to read and is forgotten by the next. After the exam, they count the questions that “came from” them.

This book does not work that way.

- **Readable type.** Set to be read, not squeezed.
- **Two to three minutes a page.** Measured, not estimated.
- **Built for recall.** Every idea has a diagram, a memory hook, an everyday example and the trap examiners set around it.

It is longer than short notes because memory needs room. The extra pages hold no extra facts to cram.

You will like this book if you value:

- understanding an idea before memorising it;
- knowing which facts to revise first, and which can wait;
- pages that are easy to read and quick to revise;
- notes tested against real papers before the exam, not credited with them after it.

XamAgent

Contents

1	Making of the Constitution and its Salient Features	★★★	8
2	The Preamble	★★★	27
3	Parts, Schedules and Important Articles	★★	38
4	Union, its Territory and Citizenship	★★	53
5	Fundamental Rights and Writs	★★★	71
6	Directive Principles and Fundamental Duties	★★★	97
7	Amending the Constitution and the Basic Structure	★★★	117
8	Parliamentary and Federal System; Centre-State Relations	★★★	134
9	Emergency Provisions	★★	155
10	The President and the Vice-President	★★★	168
11	Prime Minister, Council of Ministers and Attorney General	★★★	189
12	Parliament: Houses, Officers, Sessions and Privileges	★★★	205
13	Law-making, the Budget and Parliamentary Committees	★★★	229
14	The Judiciary	★★★	251
15	State Government: Governor, Chief Minister, Legislature and UTs	★★★	272
16	Local Government: Panchayats and Municipalities	★★★	292
17	Scheduled and Tribal Areas; Reservations	★★	315
18	Constitutional Bodies	★★★	333
19	Statutory and Other Bodies	★★	351
20	Elections, Political Parties and Anti-defection	★★	365
21	Governance: Civil Services, Rights-based Laws, Police and Justice	★★	381
22	Political Theory and Key Concepts	★★	405
23	Quick Tables: Articles, Amendments, Landmark Cases, Committees	★★	422
★	**Night-before revision**: Every ★★★ fact in one place		450
	Facts that change: Where to check them		479

How to read: ★★★ asked again and again, ★★ asked sometimes, ★ good to know. Read the whole chapter once, then revise only the revision card and ★★★ points. Green boxes are memory tricks, red boxes are the traps examiners set, orange boxes show the idea in daily life.

CHAPTER 1

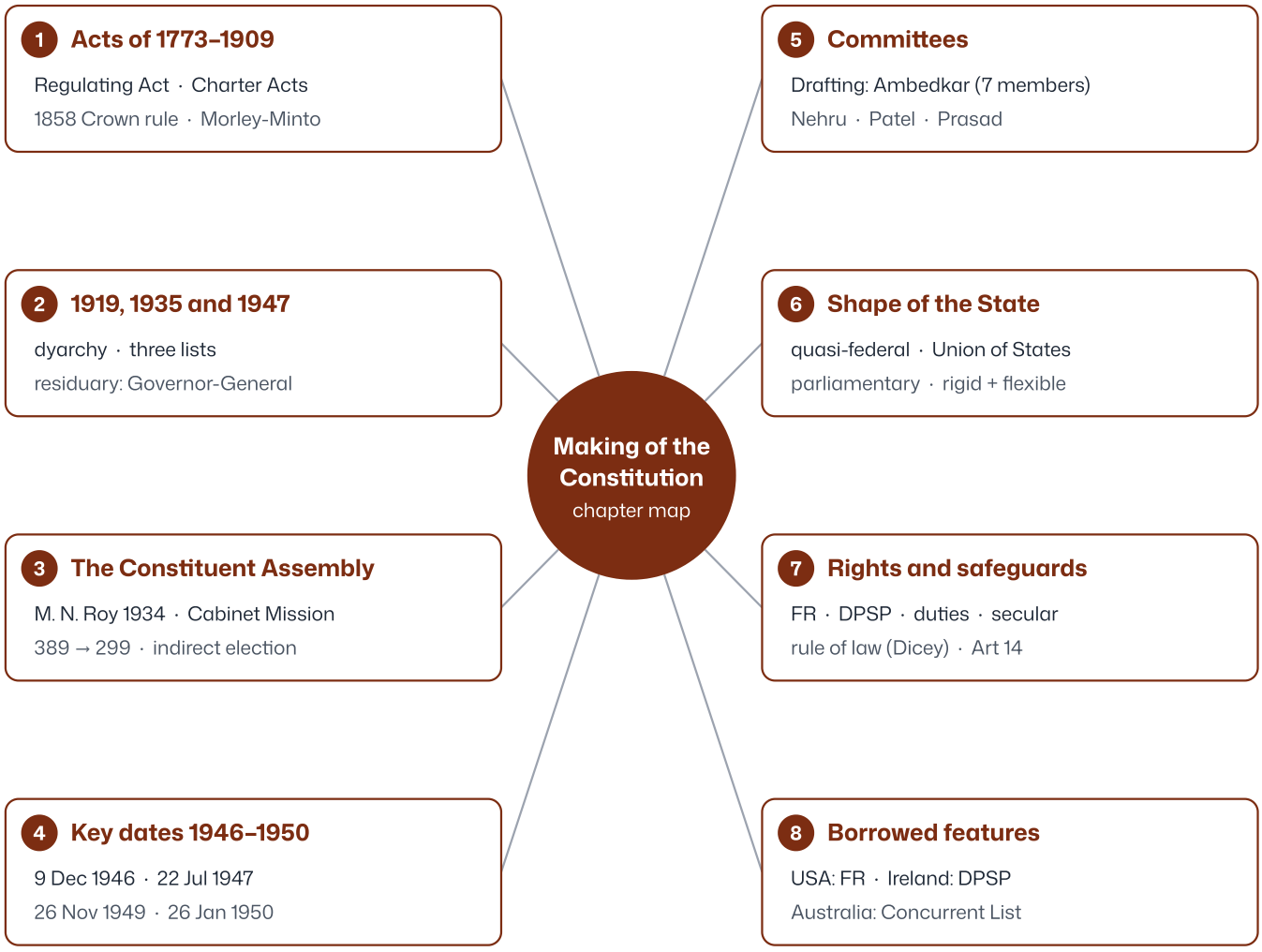
Making of the Constitution and its Salient Features

Constituent Assembly dates and people, the British-era Acts (above all the 1935 Act), borrowed features and the federal-parliamentary character of the Constitution are asked almost every year.

Asked 14 times in past papers: UPSC 6 · BPSC 8

≈ 44 min to read ≈ 10 min to revise ★★★

Revise on: Day 1 | Day 3 | Day 7 | Day 21



Revision card

1. **Regulating Act 1773**: first British Parliament control over the Company; **Charter Act 1833**: Governor-General of India (Bentinck); **GoI Act 1858**: Crown rule, Viceroy, Secretary of State.
2. **1909** Morley-Minto: separate electorate for Muslims. **1919** Montagu-Chelmsford: dyarchy in provinces, bicameral centre. **1935**: three lists, provincial autonomy, Federal Court, residuary powers with the **Governor-General**.
3. Constituent Assembly: idea from **M.N. Roy (1934)**, set up under the **Cabinet Mission Plan (1946)**; provincial members **elected indirectly by provincial legislative assemblies** (single transferable vote).
4. Strength **389** (292 provinces + 4 chief commissioners' provinces + 93 princely States); **299** after Partition.
5. **9 Dec 1946** first sitting under provisional President **Sachchidananda Sinha**; **11 Dec 1946 Rajendra Prasad** elected President; **13 Dec 1946** Nehru's Objectives Resolution (adopted 22 Jan 1947).
6. **Drafting Committee** set up **29 Aug 1947**, 7 members, chairman **B.R. Ambedkar**; constitutional adviser **B.N. Rau**.
7. **22 Jul 1947** National Flag adopted; **26 Nov 1949** Constitution adopted (**Constitution Day**); **24 Jan 1950** signed, anthem adopted, Prasad elected President; **26 Jan 1950** in force.
8. Took **2 years, 11 months, 18 days**; 11 sessions; 165 days of sittings.
9. Original text: Preamble, **395 Articles, 22 Parts, 8 Schedules**. Today (Nov 2026): 25 Parts, 12 Schedules, **106 amendments**.
10. Borrowed: FR and judicial review **USA**; DPSP **Ireland**; parliamentary system, rule of law, equality before law **Britain**; strong Centre **Canada**; Concurrent List **Australia**; duties **USSR**; amendment procedure **South Africa**.
11. Federal with a unitary bias: **'quasi-federal'** (K.C. Wheare); Art 1 says **'Union of States'**; residuary powers with **Parliament** (Art 248).
12. **Rule of law** (Dicey): supremacy of law, equality before law, rights from court rulings; India applies the first two (**Art 14**, judicial review). Its marks: **limited power, equality before law, liberty and civil rights**.

From Company to Crown: the Acts of 1773 to 1909

Regulating Act 1773

Charter Act 1833

GoI Act 1858

Councils Act 1861

Morley-Minto 1909

The British came as traders. Parliament first **regulated** the East India Company, then took India under the **Crown** after 1857, and then let Indians into the councils step by step. Each Act left behind an office or an idea that the Constitution later kept or rejected.

★★★ **Regulating Act 1773**: the British Parliament's first step to control the Company and the first recognition of its political role. The Governor of Bengal became **Governor-General of Bengal** (**Warren Hastings** first) with a council of 4; a **Supreme Court at Calcutta** followed in **1774**.

★★ **Pitt's India Act 1784**: split the Company's work: the **Court of Directors** kept trade, a new **Board of Control** ran political affairs. This was the 'double government'; Company lands were called 'British possessions in India'.

★ **Charter Act 1813**: ended the Company's trade monopoly in India, except in **tea** and trade with **China**; set aside money for the education of Indians.

★★★ **Charter Act 1833**: the last step of centralisation. The Governor-General of Bengal became **Governor-General of India** (**Lord William Bentinck** first) with all civil and military power; the Company became a purely administrative body.

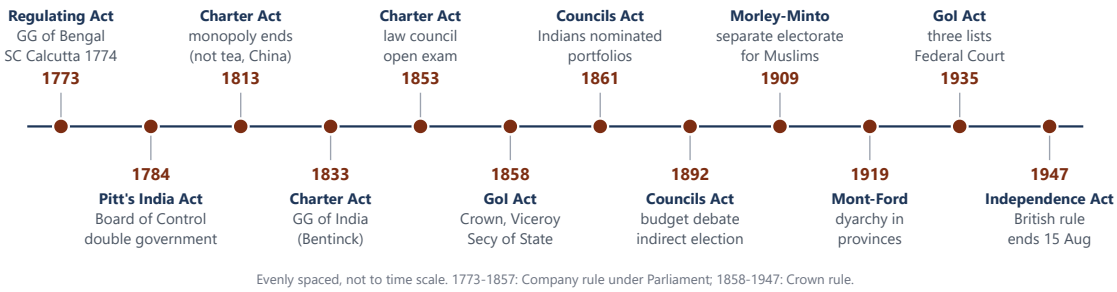
★★ **Charter Act 1853**: separated the **legislative** and **executive** work of the Governor-General's Council (a separate law-making council) and opened the civil services to **open competition**, Indians included. The last Charter Act.

★★★ **Government of India Act 1858** (after the revolt of 1857): rule passed from the Company to the **British Crown**. The Governor-General also became **Viceroy** (**Lord Canning** first); a new **Secretary of State for India**, a British cabinet minister, got a 15-member Council of India; the Board of Control and Court of Directors ended.

★★ **Indian Councils Act 1861**: Indians entered the Viceroy's legislative council as **nominated** non-official members (Canning nominated the Raja of Benares, the Maharaja of Patiala and Sir Dinkar Rao); law-making powers went back to Bombay and Madras; the Viceroy could issue **ordinances**; Canning's **portfolio system** got legal backing.

★★ **Indian Councils Act 1892**: more non-official members; councils could **discuss the budget** and ask questions; a limited, **indirect** form of election (the word 'election' was not used).

★★★ **Indian Councils Act 1909 (Morley-Minto Reforms)**: brought **separate electorates for Muslims** (communal representation), so **Lord Minto** is called the 'Father of Communal Electorate'. **Satyendra Prasad Sinha** became the first Indian in the Viceroy's Executive Council (law member).



The British-era Acts in order. Read the three titles along the line: Governor-General of Bengal (1773), of India (1833), Viceroy (1858).

Remember it: Watch the title grow with its reach: **Hastings 1773** ruled Bengal, **Bentinck 1833** ruled India, **Canning 1858** ruled for the Crown as Viceroy. Bengal, then India, then the Crown: '**B-I-C**', like the pen.

⚠ **Exam trap:** Only British-era statutes belong on this line. A post-1947 law such as the **Protection of Civil Rights Act 1955** (which enforces Art 17) is the odd one out when an option list asks for 'landmarks in constitutional development under British rule'.

Quick check

1. Which Act made the Governor-General of Bengal the Governor-General of India, and who was the first?
2. Which Act moved rule from the Company to the Crown?
3. Separate electorates for Muslims came with which Act?

Answer: 1. Charter Act 1833; Lord William Bentinck · 2. Government of India Act 1858 · 3. Indian Councils Act 1909 (Morley-Minto)

The Acts of 1919, 1935 and 1947

dyarchy 1919

three lists 1935

residuary: Governor-General

Federal Court 1937

Independence Act 1947

The 1919 and 1935 Acts handed Indians a share of power, first in the provinces. The **1935 Act** is the blueprint for much of the Constitution's machinery, which is why so many of its parts look familiar. The 1947 Act ended British authority and freed the Constituent Assembly.

★★★ **GoI Act 1919 (Montagu-Chelmsford Reforms)**: provincial subjects split into **reserved** and **transferred** (**dyarchy** in the provinces); a **bicameral** central legislature (Legislative Assembly and Council of State) with an elected majority; **direct elections** on a limited, property-based franchise.

★★ **1919, other changes**: communal representation extended to **Sikhs, Indian Christians, Anglo-Indians and Europeans**; a **High Commissioner for India** in London; a **Public Service Commission** (set up 1926); provincial budgets separated from the central budget; a statutory commission after 10 years (the **Simon Commission** came early, in 1927).

★★★ **GoI Act 1935**: the longest of the Acts (321 sections, 10 schedules). It proposed an **All-India Federation** of provinces and princely States, which never came into being because the States did not join.

★★★ **1935, division of powers**: three lists, **Federal** (59 items), **Provincial** (54) and **Concurrent** (36); **residuary powers with the Governor-General**.

★★ **1935, provincial autonomy**: dyarchy ended in the provinces, which got responsible governments; dyarchy was proposed at the Centre but never came into force.

★★ **1935, institutions**: **bicameral** legislatures in 6 of 11 provinces (Bengal, Bombay, Madras, Bihar, Assam, United Provinces); **Federal Court** (set up **1937**); **Reserve Bank of India** (1935); **Federal, Provincial and Joint Public Service Commissions**; the Council of India of the Secretary of State abolished; separate electorates extended to depressed classes, women and labour.

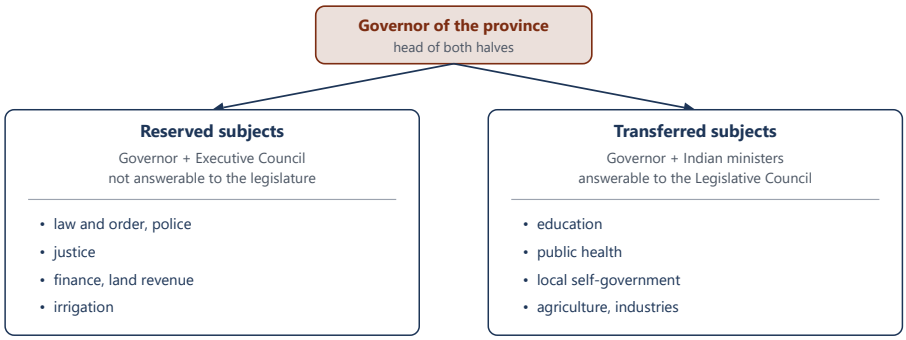
★★ Nehru called the 1935 Act 'a machine with strong brakes but no engine'. Even so, the Constitution took its **federal scheme**, the **office of Governor**, the **judiciary**, **public service commissions**, **emergency provisions** and much administrative detail from it.

★★★ **Indian Independence Act 1947** (on the Mountbatten Plan of 3 June 1947): British rule ended on **15 August 1947**; two dominions, **India and Pakistan**, each free to leave the Commonwealth; the office of **Viceroy** ended (a Governor-General for each dominion on its cabinet's advice); the **Secretary of State** post ended; **British paramountcy** over princely States lapsed.

★★ **1947 and the Assembly**: each dominion's Constituent Assembly could make any constitution and repeal any British law, including the Independence Act itself.

★★ **Lord Mountbatten** was free India's first Governor-General; **C. Rajagopalachari** the first and last Indian Governor-General.

★★ **Art 395** of the Constitution repealed the **Indian Independence Act 1947** and the **GoI Act 1935** (with the Acts that amended it), keeping only the Abolition of Privy Council Jurisdiction Act, 1949.



Dyarchy under the 1919 Act: one Governor, two kinds of subjects. Only the transferred half was run by ministers answerable to the legislature.

What the 1935 Act passed on, and what changed ★★★

Point	GoI Act 1935	Constitution
Division of powers	Federal (59 items), Provincial (54), Concurrent (36) Lists	Union, State, Concurrent Lists (Seventh Schedule): 97, 66, 47 entries in 1950; 98, 59, 52 in force today
Residuary powers	Governor-General	Parliament (Art 248; Entry 97, Union List)
Highest court	Federal Court (1937); appeals to the Privy Council	Supreme Court (1950), final
Head of a province or State	Governor appointed by the Crown	Governor appointed by the President (Art 155)
Service commissions	Federal and Provincial PSCs	UPSC and State PSCs (Art 315)
Emergency	special powers of the Governor-General	Part XVIII (Art 352 to 360)

⚠ **Exam trap: Residuary powers**: with the **Governor-General** under the 1935 Act, but with **Parliament** under the Constitution (Art 248). Canada also gives them to the Centre; the USA and Australia leave them with the States.

Remember it: 19 split, 35 listed, 47 freed: 1919 split provincial subjects in two (dyarchy), 1935 listed powers in three lists, 1947 freed the Assembly to write its own law.

Quick check

1. Under the 1935 Act, who held residuary powers? Who holds them now?
2. Dyarchy in the provinces came with which Act and ended with which?
3. In which year did the Federal Court begin work?

Answer: 1. the Governor-General; now Parliament (Art 248) · 2. came in 1919, ended by the 1935 Act · 3. 1937

The Constituent Assembly: idea and make-up

M.N. Roy 1934

Cabinet Mission 1946

389 seats

indirect election

299 after Partition

A constitution written by Indians was a demand of the national movement: self-rule had to begin with a self-made basic law. The British accepted it in stages, and the **Cabinet Mission Plan (1946)** finally set out how the body would be chosen. It was **not elected by the people directly**: the newly elected provincial assemblies chose its members.

★★★ **M.N. Roy** first put forward the idea of a Constituent Assembly in **1934**; the **Indian National Congress** demanded one officially in **1935**.

★★ **Nehru (1938)** asked for an Assembly elected on adult franchise; the British accepted the demand in principle in the **August Offer (1940)**; the **Cripps Mission (1942)** proposals were turned down.

★★★ **Cabinet Mission Plan, 1946**: fixed the scheme. Total strength **389**: **296** for British India (**292** from the 11 Governor's provinces and **4** from the Chief Commissioners' provinces) and **93** for the princely States.

★★ Seats were roughly **one for every 10 lakh people**; each province's seats were shared among **Muslims, Sikhs and General** voters in proportion to their population.

★★★ **How members were chosen**: those from the provinces were **elected indirectly** by the members of the **provincial legislative assemblies**, by **proportional representation through the single transferable vote**; princely State members were to be **nominated** by the rulers.

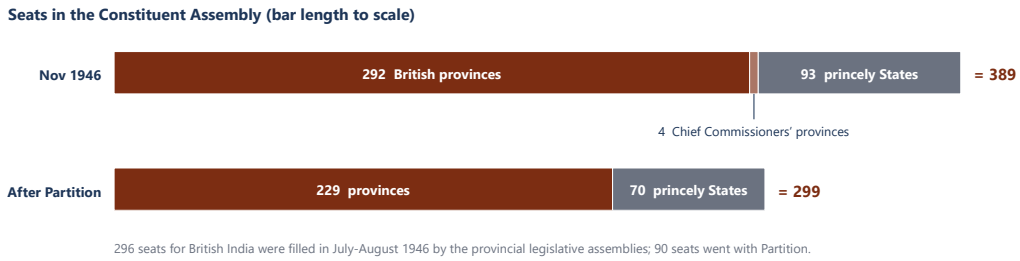
★★ So the body was **partly elected and partly nominated**, and none of it rested on universal adult franchise.

★★ **Elections of July-August 1946** (296 British India seats): **Congress 208**, **Muslim League 73**, small groups and independents **15**.

★★★ **After Partition**: members from areas that went to Pakistan left; the Assembly shrank to **299** (229 from the provinces, 70 from the princely States).

★★ **Women**: **15** women sat in the Assembly that framed the Constitution, among them Sarojini Naidu, Hansa Mehta, Durgabai Deshmukh, Rajkumari Amrit Kaur and Ammu Swaminathan; **Dakshayani Velayudhan** was the only Dalit woman member.

★ **Criticism**: not directly elected, created by a British plan, dominated by one party (Congress), and too slow; defenders point out that almost every shade of Indian opinion found a voice in it.



Seats in the Constituent Assembly before and after Partition, bar lengths to scale.

⚠ **Exam trap:** Members from the provinces were **neither directly elected by the people nor nominated by Congress and the Muslim League**: the **provincial legislative assemblies** elected them. Universal adult franchise came only with the Constitution (Art 326).

Remember it: 389 − 90 = 299: Partition took exactly 90 seats away.

Quick check

1. Who elected the Assembly's members from the provinces, and by what method?
2. Strength of the Assembly before and after Partition?
3. Who first proposed a Constituent Assembly, and when?

Answer: 1. provincial legislative assemblies; proportional representation by single transferable vote · 2. 389; 299 · 3. M.N. Roy, 1934

How the Assembly worked: dates to remember

9 Dec 1946

Objectives Resolution

22 Jul 1947 flag

26 Nov 1949

2 yr 11 m 18 d

The Assembly met from December 1946 to January 1950. After 15 August 1947 it wore two hats: it wrote the Constitution and also served as free India's first **legislature**. The dates below are the ones examiners return to.

★★★ **9 December 1946**: first sitting; the Muslim League stayed away. **Dr Sachchidananda Sinha**, the oldest member, was **provisional (temporary) President**, following the French practice.

★★★ **11 December 1946**: **Dr Rajendra Prasad** elected **President** of the Assembly. **H.C. Mukherjee** and **V.T. Krishnamachari** served as Vice-Presidents.

★★ **B.N. Rau** was the **constitutional adviser**; he prepared the first draft that the Drafting Committee worked on. **S.N. Mukherjee** was the Assembly's **chief draftsman**.

★★★ **13 December 1946**: **Nehru** moved the **Objectives Resolution**; the Assembly adopted it unanimously on **22 January 1947**. Its ideas later became the Preamble.

★★ **Two roles after independence**: as a constitution-making body it was chaired by **Rajendra Prasad**; as the **Dominion Legislature** it was chaired by **G.V. Mavalankar**. It continued as the **Provisional Parliament** until the first Lok Sabha met in 1952.

★★★ **22 July 1947**: the **National Flag** adopted.

★ **May 1949**: the Assembly ratified India's membership of the **Commonwealth**.

★★ **Draft Constitution** published in **February 1948**; three readings followed: first in November 1948, the second (clause by clause) from 15 November 1948 to 17 October 1949, the third from 14 November 1949.

★★★ **26 November 1949**: the Constitution **adopted**, the date written in the Preamble. It then had a Preamble, **395 Articles, 22 Parts and 8 Schedules**. The day is observed as **Constitution Day** (Samvidhan Divas) since **2015**.

★★ **In force on 26 November 1949 itself** (Art 394): citizenship (Art 5 to 9), elections (324), provisional Parliament (379, 380), some temporary provisions, the short title (393) and a few others.

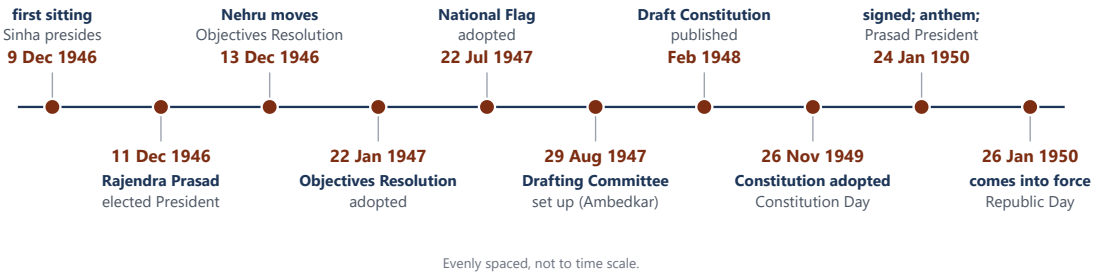
★★★ **24 January 1950**: last sitting. Members **signed** the Constitution (**284** signatures), adopted the **National Anthem** and **National Song**, and elected **Rajendra Prasad** the first **President of India**.

★★★ **26 January 1950**: the Constitution came fully into force (**Republic Day**), a date chosen because Congress had observed **26 January 1930** as Purna Swaraj Day.

★★★ **Time taken**: **2 years, 11 months, 18 days**, in **11 sessions** and **165 days** of sittings, of which **114 days** went on the Draft.

★ **Cost**: about **₹64 lakh**. The Assembly's seal carried an **elephant**.

★ **The handwritten original**: calligraphy by **Prem Behari Narain Raizada**; pages decorated by artists of Santiniketan under **Nandalal Bose**, the Preamble page by **Beohar Rammanohar Sinha**. The originals are kept in helium-filled cases in the Parliament Library.



Evenly spaced, not to time scale.

The Assembly's calendar from its first sitting to Republic Day.



The Constituent Assembly at its opening session, December 1946, in the hall now called the Central Hall of Samvidhan Sadan (the old Parliament House). Image: Unknown author, Wikimedia Commons, Public domain

⚠ **Exam trap: 26 Nov 1949** = adopted (Constitution Day, the date in the Preamble). **26 Jan 1950** = in force (Republic Day). The **Drafting Committee** dates from **29 August 1947**, not 26 November 1949, so a statement linking Constitution Day to the setting up of the Drafting Committee is wrong.

Remember it: The odd-date week of December 1946: 9 (first sitting, Sinha), 11 (Prasad elected), 13 (Nehru's resolution), each two days apart.

Quick check

1. Who was the provisional President of the Assembly?
2. On what date was the National Flag adopted?
3. How long did the Assembly take to make the Constitution?

Answer: 1. Dr Sachchidananda Sinha · 2. 22 July 1947 · 3. 2 years, 11 months, 18 days

Committees and the Drafting Committee

Drafting: Ambedkar

7 members

Nehru: Union

Patel: rights, provinces

Kripalani: FR sub-committee

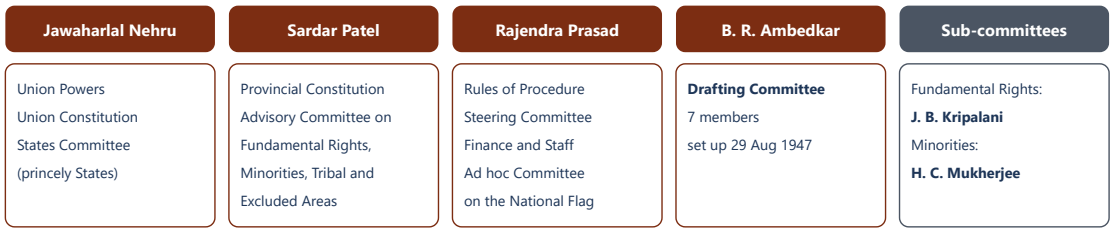
An Assembly of about 300 could not write clause by clause, so it worked through **committees**: eight major ones and many smaller ones. Their reports were debated on the floor, and the **Drafting Committee** turned the decisions into a text.

Major committees and their chairmen ★★★

Committee	Chairman
Union Powers Committee	Jawaharlal Nehru
Union Constitution Committee	Jawaharlal Nehru
States Committee (talks with the princely States)	Jawaharlal Nehru
Provincial Constitution Committee	Sardar Vallabhbhai Patel
Advisory Committee on Fundamental Rights, Minorities and Tribal and Excluded Areas	Sardar Vallabhbhai Patel
Rules of Procedure Committee	Rajendra Prasad
Steering Committee	Rajendra Prasad
Drafting Committee	B.R. Ambedkar

Sub-committees and minor committees ★★

Committee	Chairman
Fundamental Rights Sub-Committee	J.B. Kripalani
Minorities Sub-Committee	H.C. Mukherjee
North-East Frontier Tribal Areas and Assam Excluded and Partially Excluded Areas Sub-Committee	Gopinath Bardoloi
Excluded and Partially Excluded Areas (other than Assam) Sub-Committee	A.V. Thakkar
Finance and Staff Committee	Rajendra Prasad
Ad hoc Committee on the National Flag	Rajendra Prasad
Credentials Committee	Alladi Krishnaswamy Ayyar
Order of Business Committee	K.M. Munshi
House Committee	B. Pattabhi Sitaramayya
Committee on the Functions of the Constituent Assembly	G.V. Mavalankar



Who chaired what: Nehru took the Union and the princely States, Patel the provinces and rights, Prasad the running of the House, Ambedkar the drafting.

★★★ **Drafting Committee**: set up on **29 August 1947** with **7 members**: **B.R. Ambedkar** (chairman), **N. Gopalaswamy Ayyangar**, **Alladi Krishnaswamy Ayyar**, **K.M. Munshi**, **Syed Mohammad Saadullah**, **N. Madhava Rau** and **T.T. Krishnamachari**.

★★ **Changes in membership**: N. Madhava Rau replaced **B.L. Mitter**, who resigned; T.T. Krishnamachari replaced **D.P. Khaitan**, who died in 1948.

★★ **Ambedkar**, called the chief architect of the Constitution, piloted the draft through the Assembly and became free India's first **Law Minister**.

★★ The draft was published in **February 1948** and the public had about eight months to comment before the readings began.



Dr B.R. Ambedkar, chairman of the Drafting Committee, presents the final draft to Dr Rajendra Prasad, President of the Assembly, on 25 November 1949. Image: Unknown author, Wikimedia Commons, Public domain

⚠ **Exam trap:** Ambedkar chaired the **Drafting Committee**, not the Assembly (that was **Rajendra Prasad**). The Advisory Committee on rights and minorities was **Patel's**; its Fundamental Rights **sub-committee** was **Kripalani's**. Nehru was **not** a member of the Drafting Committee.

Remember it: Split the work like a household: **Nehru** handles the outside world (Union, States, princely States), **Patel** the provinces and the people's rights, **Prasad** runs the house (rules, steering, flag, money), **Ambedkar** writes it all down.

Quick check

1. How many members did the Drafting Committee have, and when was it set up?
2. Who chaired the Advisory Committee on Fundamental Rights and Minorities?
3. Who replaced D.P. Khaitan on the Drafting Committee?

Answer: 1. 7; 29 August 1947 · 2. Sardar Patel · 3. T.T. Krishnamachari

Salient features I: the shape of the State

lengthiest

rigid + flexible

quasi-federal

Union of States

parliamentary system

single citizenship

Four questions sort the structural features: how long is the text, how hard is it to change, how is power shared between Centre and States, and who runs the government. India's answers are: very long, partly rigid, federal with a strong Centre, and parliamentary.

★★★ **Lengthiest written constitution** in the world. In 1950: a Preamble, **395 Articles in 22 Parts, and 8 Schedules**. As of November 2026: **25 Parts, 12 Schedules**, amended **106 times** (latest: the 106th Amendment, 2023, on seats for women); the last Article is still numbered 395, with lettered Articles inserted in between.

★★ **Why so long**: India's size and diversity, the detailed model of the **1935 Act**, one Constitution for both the Union and the States, special provisions for weaker sections and regions, and the many lawyers in the Assembly.

★★★ **Rigid and flexible together**: Art 368 needs a **special majority** of Parliament for most amendments and also **ratification by half the States** for federal provisions; some provisions change by a **simple majority** through ordinary laws. Britain's constitution is flexible; the American one is rigid.

★★★ **Federal system with a unitary bias**: two sets of government, a written and supreme Constitution, division of powers, independent courts and a second chamber are federal; a strong Centre, one Constitution, single citizenship, an integrated judiciary, Governors appointed by the Centre, All-India Services and emergency powers are unitary.

★★★ **Art 1** calls India a '**Union of States**'. Ambedkar explained the choice: the federation is **not the result of an agreement** among States, and **no State may secede**. The word 'federation' appears nowhere in the Constitution.

★★ **Labels**: **K.C. Wheare**: 'quasi-federal'; **Ivor Jennings**: 'a federation with a strong centralising tendency'; **Granville Austin**: 'cooperative federalism'; **Morris-Jones**: 'bargaining federalism'. The Supreme Court in **S.R. Bommai (1994)** held federalism to be part of the basic structure.

★★ **Parliament can redraw States** (Art 3) by an ordinary law, without the State's consent; this is why India is called an 'indestructible Union of destructible States'.

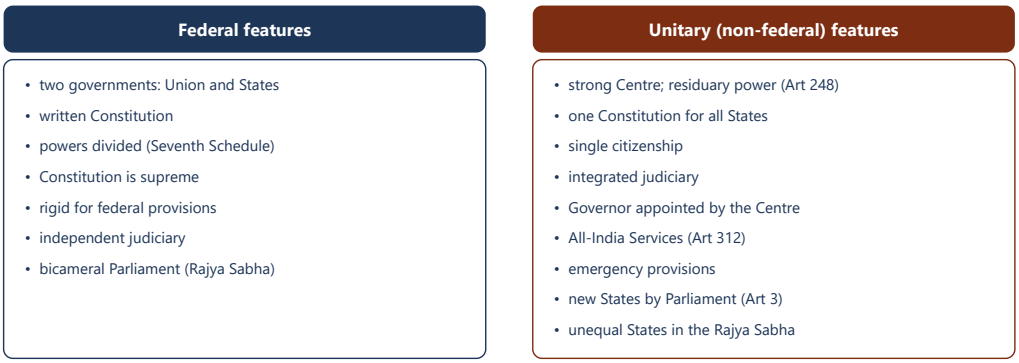
★★★ **Parliamentary government** (the British or Westminster model) at the Centre and in the States: a **nominal head** (President, Governor) and a **real executive** (Prime Minister or Chief Minister with ministers), ministers drawn from the legislature, **collective responsibility** to the lower House (Art 75(3), 164(2)), and the power to dissolve the lower House.

★★ **Different from Britain**: India's head of State is **elected** (a republic, not a monarchy), and Parliament is **not sovereign**: it works under a written Constitution and judicial review.

★★★ **Parliamentary sovereignty meets judicial supremacy**: Parliament can amend most of the Constitution, and courts can strike down laws; neither is absolute, because the **basic structure** doctrine (**Kesavananda Bharati, 1973**) limits amendments.

★★ **Integrated and independent judiciary**: one hierarchy, Supreme Court at the top, then High Courts and subordinate courts, enforcing both Central and State laws (the USA has two separate court systems). Fixed tenure and salaries charged on the Consolidated Fund keep judges independent.

★★★ **Single citizenship**: every Indian is a citizen of India only, with no separate State citizenship (the USA has dual citizenship).



The same Constitution, sorted two ways: federal features on the left, unitary features on the right.

⚠ **Exam trap:** 'Federation' is not in the text; Art 1 says **'Union of States'**. And though the parliamentary system is British, **parliamentary sovereignty** is not fully copied: Indian laws can be struck down by courts.

Remember it: A **joint family with separate kitchens**: each State cooks its own meals (State List), some dishes are shared (Concurrent List), and in a crisis the head of the family takes over the whole house (emergency).

Quick check

1. Who called the Indian Constitution 'quasi-federal'?
2. What does Art 1 call India?
3. Name two unitary features of the Constitution.

Answer: 1. K.C. Wheare · 2. a Union of States · 3. e.g. single citizenship, integrated judiciary, Governor appointed by the Centre, emergency powers

Salient features II: rights, duties and safeguards

six FRs

DPSP: novel feature

51A duties

secular State

61st: age 18

rule of law

The second group of features protects the citizen and the system: rights the courts enforce, goals the State must pursue, duties citizens owe, bodies that work at arm's length from the government, and the **rule of law** that binds the government itself.

★★★ **Fundamental Rights** (Part III, Art 12 to 35): **six** today (equality, freedom, against exploitation, religion, cultural and educational, constitutional remedies). Originally seven: the **44th Amendment (1978)** removed the right to property, now a legal right under **Art 300A**. Enforced through **Art 32** (Supreme Court) and **Art 226** (High Courts).

★★★ **Directive Principles** (Part IV, Art 36 to 51): not enforceable in court, yet 'fundamental in the governance of the country' (Art 37). Ambedkar called them a **'novel feature'**. **Minerva Mills (1980)**: the balance between Fundamental Rights and Directive Principles is part of the basic structure.

★★★ **Fundamental Duties** (Part IVA, Art 51A): added by the **42nd Amendment (1976)** on the **Swaran Singh Committee**'s advice; ten at first, an eleventh (parents to give children aged 6 to 14 a chance of education) by the **86th Amendment (2002)**; not enforceable by courts.

★★ **Secular State**: no State religion; equal respect for all faiths (**positive secularism**). The word 'secular' entered the Preamble in **1976**, but Art 25 to 28 made the State secular from 1950.

★★★ **Universal adult franchise** (Art 326): every citizen aged **18** or more may vote, without any test of property, education or sex. The age was **21** until the **61st Amendment Act, 1988**.

★★ **Independent bodies**: the **Election Commission** (Art 324), the **Comptroller and Auditor-General** (Art 148), the **UPSC** and State PSCs (Art 315) and the **Finance Commission** (Art 280) have constitutional protection of tenure and pay.

★★ **Emergency provisions** (Part XVIII): national emergency (**Art 352**), failure of constitutional machinery in a State (**Art 356**, President's Rule) and financial emergency (**Art 360**). During an emergency the Centre becomes all-powerful; rights other than **Art 20 and 21** can be suspended.

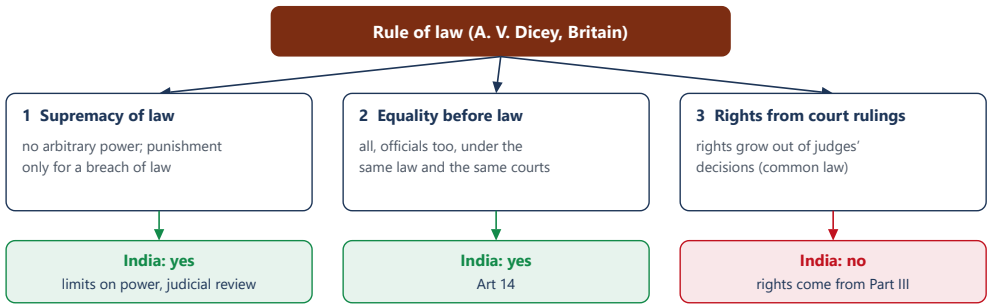
★★ **Three tiers of government**: the **73rd and 74th Amendments (1992)** gave constitutional status to **panchayats** (Part IX, Eleventh Schedule) and **municipalities** (Part IXA, Twelfth Schedule).

★ **Co-operative societies**: the **97th Amendment (2011)** made forming co-operatives a right (Art 19(1)(c)), added Art 43B and Part IXB. In **2021** the Supreme Court struck down Part IXB for State co-operatives (it needed ratification by the States); it survives for multi-State co-operatives.

★★★ **Rule of law** (**A.V. Dicey**, Britain) has three parts: **supremacy of law** (no arbitrary power; punishment only for a breach of law), **equality before law** (officials and citizens alike answer to the same law and courts), and **rights flowing from court decisions**. Its marks are **limits on power, equality before law, and protection of liberty and civil rights**.

★★★ **Rule of law in India**: the first two parts apply (**Art 14**, judicial review); the third does not, because Indian rights come from the written Constitution (Part III), not from judges' rulings.

★★ **Art 14** joins two ideas: '**equality before law**' from **Britain** and '**equal protection of the laws**' from the **USA**.



Dicey's three parts of the rule of law and how far India applies each.

⚠ **Exam trap: 'People's responsibility to the Government'** is not a feature of the rule of law; the rule of law makes the **government** answerable to the law. Also: equality before law is **British**, equal protection of laws is **American**.

Remember it: The **86th Amendment (2002)** did three things for one child: a right (**Art 21A**, free education 6 to 14), a goal (**Art 45**, care below 6) and a duty for the parent (**Art 51A(k)**).

Quick check

1. Who propounded the rule of law, and which Article of ours carries it?
2. Which amendment lowered the voting age to 18?
3. Which amendment added Fundamental Duties, and on whose advice?

Answer: 1. A.V. Dicey; Art 14 · 2. 61st Amendment Act, 1988 · 3. 42nd (1976), Swaran Singh Committee

Borrowed features: where each idea came from

USA: FR

Ireland: DPSP

Britain: rule of law

Canada: strong Centre

Australia: Concurrent List

USSR: duties

The Assembly studied about 60 constitutions and took what suited India, adapting each idea. Critics called it a 'bag of borrowings'; Ambedkar answered that the basic ideas of a constitution are common property, and what matters is fitting them to the country. Roughly: the **structure** came from the **1935 Act**, the **philosophy** (rights and directives) from the **American and Irish** texts, the **political system** from **Britain**.

Sources of the Constitution ★★★

Source	Features taken
Government of India Act 1935	federal scheme, office of Governor, judiciary, public service commissions, emergency provisions, administrative details
Britain	parliamentary government, rule of law, equality before law, law-making procedure, single citizenship, cabinet system, prerogative writs, parliamentary privileges, bicameralism
USA	Fundamental Rights, independence of judiciary, judicial review, impeachment of the President, removal of Supreme Court and High Court judges, post of Vice-President, equal protection of laws
Ireland	Directive Principles of State Policy, nomination of members to the Rajya Sabha, method of electing the President
Canada	federation with a strong Centre, residuary powers with the Centre, appointment of State Governors by the Centre, advisory jurisdiction of the Supreme Court
Australia	Concurrent List, freedom of trade, commerce and intercourse, joint sitting of the two Houses
Germany (Weimar Republic)	suspension of Fundamental Rights during an emergency
USSR	Fundamental Duties, the ideal of justice (social, economic and political) in the Preamble
France	republic, ideals of liberty, equality and fraternity in the Preamble
South Africa	procedure for amending the Constitution, election of Rajya Sabha members
Japan	'procedure established by law' (Art 21)

GoI Act 1935	Britain	USA	Ireland
federal scheme, Governor judiciary, PSCs, emergency administrative details	parliamentary government rule of law, single citizenship writs, bicameralism, cabinet	Fundamental Rights judicial review, impeachment Vice-President, judge removal	Directive Principles nomination to Rajya Sabha method of electing President
Canada	**Australia**	**Germany (Weimar)**	**USSR**
federation with strong Centre residuary powers with Centre SC advisory jurisdiction	Concurrent List freedom of trade and commerce joint sitting of Houses	suspension of Fundamental Rights during emergency	Fundamental Duties justice: social, economic, political (Preamble)
France	**South Africa**	**Japan**	
republic liberty, equality, fraternity (Preamble)	amendment procedure election of Rajya Sabha members	procedure established by law (Art 21)	

One tile per source: the first line of each tile is the feature most often asked.

★★★ **Distribution of powers** between Centre and States (three lists) rests on the **Government of India Act 1935**, not on the 1909, 1919 or 1947 Acts.

★★★ **Fundamental Rights** and **judicial review**: from the **USA** (its Bill of Rights).

★★★ **Directive Principles**: from **Ireland** (1937 Constitution), which had taken the idea from **Spain**.

★★ The **Preamble** itself: the idea of opening with a preamble, and the words 'We the People', come from the **USA**.

Remember it: Australia's three Cs: Concurrent List, Commerce (freedom of trade), Combined (joint) sitting. **Ireland's DNP**: Directive principles, Nomination to Rajya Sabha, President's election.

⚠ **Exam trap: Emergency provisions** as a scheme come from the **1935 Act**; only the **suspension of Fundamental Rights** during an emergency comes from **Germany**. '**Procedure established by law**' is Japanese; 'due process' is American and is not in the text, though courts read it in after **Maneka Gandhi (1978)**.

Quick check

1. The Directive Principles were borrowed from which country?
2. Which source gave the Concurrent List? And the amendment procedure?
3. Fundamental Rights and judicial review came from where?

Answer: 1. Ireland · 2. Australia; South Africa · 3. the USA

Asked in past papers (14)

UPSC 2012 The distribution of powers between the Centre and the States in the Indian Constitution is based on the scheme provided in the
(a) Morley-Minto Reforms, 1909 (b) Montagu-Chelmsford Act, 1919 (c) Government of India Act, 1935
(d) Indian Independence Act, 1947
Answer: (c) Government of India Act, 1935. The Union, State and Concurrent Lists derive from the Government of India Act, 1935

UPSC 2013 With reference to Indian History, the Members of the Constituent Assembly from the Provinces were
(a) directly elected by the people of those Provinces
(b) nominated by the Indian National Congress and the Muslim League
(c) elected by the Provincial Legislative Assemblies
(d) selected by the Government for their expertise in constitutional matters
Answer: (c) elected by the Provincial Legislative Assemblies. Provincial members of the Constituent Assembly were elected by provincial assemblies

UPSC 2018 In the Federation established by The Government of India Act of 1935, residuary powers were given to the
(a) Federal Legislature (b) Governor General (c) Provincial Legislature (d) Provincial Governors
Answer: (b) Governor General. The Government of India Act 1935 vested residuary powers in the Governor-General; Under the Constitution, residuary powers belong to Parliament (Article 248)

UPSC 2018 Which of the following are regarded as the main features of the "Rule of Law" ?
1. Limitation of powers
2. Equality before law
3. People's responsibility to the Government
4. Liberty and civil rights
Select the correct answer using the code given below :
(a) 1 and 3 only (b) 2 and 4 only (c) 1, 2 and 4 only (d) 1, 2, 3 and 4
Answer: (c) 1, 2 and 4 only. Rule of law: limited power, equality before law and protection of rights

UPSC 2023 Consider the following statements in respect of the Constitution Day :
Statement-I :
The Constitution Day is celebrated on 26th November every year to promote constitutional values among citizens.
Statement-II :
On 26th November, 1949, the Constituent Assembly of India set up a Drafting Committee under the Chairmanship of Dr. B. R. Ambedkar to prepare a Draft Constitution of India.
Which one of the following is correct in respect of the above statements?
(a) Both Statement-I and Statement-II are correct and Statement-II is the correct explanation for Statement-I
(b) Both Statement-I and Statement-II are correct and Statement-II is not the correct explanation for Statement-I
(c) Statement-I is correct but Statement-II is incorrect (d) Statement-I is incorrect but Statement-II is correct
Answer: (c) Statement-I is correct but Statement-II is incorrect. The Constituent Assembly adopted the Constitution on 26 November 1949; The Drafting Committee under B. R. Ambedkar was set up on 29 August 1947

UPSC 2024 Who was the Provisional President of the Constituent Assembly before Dr. Rajendra Prasad took over ?
(a) C. Rajagopalachari (b) Dr. B.R. Ambedkar (c) T.T. Krishnamachari (d) Dr. Sachchidananda Sinha
Answer: (d) Dr. Sachchidananda Sinha. Dr Sachchidananda Sinha was the provisional President of the Constituent Assembly

BPSC 60th-62nd Constitution Day of India is celebrated on
(a) 26th October (b) 26th November (c) 26th January (d) 15th August
(e) None of the above/More than one of the above
Answer: (b) 26th November. Constitution Day, 26 November, marks the Constitution's adoption in 1949

BPSC 66th Which Act is not the landmark in the development of the Constitution during the British Rule?
(a) The Regulating Act, 1773 (b) The Charter Act, 1833 (c) The Government of India Act, 1919
(d) The Protection of Civil Rights Act, 1955 (e) None of the above/More than one of the above
Answer: (d) The Protection of Civil Rights Act, 1955. Regulating Act 1773 began British parliamentary control over the East India Company; Protection of Civil Rights Act 1955 is a post-independence law enforcing Article 17

BPSC 67th re-exam Dr. Rajendra Prasad was elected the Chairman of the Constituent Assembly in
(a) December 1946 AD (b) September 1946 AD (c) October 1946 AD (d) November 1946 AD
(e) None of the above/More than one of the above
Answer: (a) December 1946 AD. Rajendra Prasad was elected President of the Constituent Assembly on 11 December 1946

BPSC 68th The phrase 'equality before law' used in Article 14 of the Indian Constitution has been borrowed from the Constitution of
(a) Britain (b) USA (c) France (d) More than one of the above (e) None of the above
Answer: (a) Britain. Equality before law comes from British rule of law; equal protection from the US

BPSC 68th What was the duration in the making of the Indian Constitution?
(a) 1 year 10 months and 12 days (b) 2 years 10 months and 5 days (c) 2 years 11 months and 18 days
(d) More than one of the above (e) None of the above
Answer: (c) 2 years 11 months and 18 days. The Constituent Assembly took 2 years, 11 months and 18 days to make the Constitution

BPSC 69th The concept of the Directive Principles of State Policy in the Indian Constitution was borrowed from the Constitution of
(a) England (b) Switzerland (c) Ireland (d) None of the above
Answer: (c) Ireland. Directive Principles of State Policy were borrowed from the Irish Constitution

BPSC 69th From which country, the Indian Constitution has taken reference for the idea of the Fundamental Rights?
(a) Ireland (b) United States of America (c) United Kingdom (d) Canada
Answer: (b) United States of America. Fundamental Rights and judicial review were borrowed from the US Constitution

BPSC 70th Indian National Flag was adopted by the Constituent Assembly on which date ?
(a) 24 January 1950 (b) 26 November 1950 (c) 22 July 1947 (d) 26 January 1950
Answer: (c) 22 July 1947. The Constituent Assembly adopted the national flag on 22 July 1947

Test yourself (12)

1. Who moved the Objectives Resolution in the Constituent Assembly?
(a) Rajendra Prasad (b) Jawaharlal Nehru (c) B.R. Ambedkar (d) Sardar Patel

2. Which pair is wrongly matched?
(a) Regulating Act 1773: Supreme Court at Calcutta (b) Charter Act 1833: Governor-General of India
(c) Indian Councils Act 1909: dyarchy in the provinces (d) GoI Act 1858: Secretary of State for India

3. The Federal Court provided for by the Government of India Act 1935 began work in
(a) 1935 (b) 1937 (c) 1947 (d) 1950

4. After Partition, the strength of the Constituent Assembly was
(a) 389 (b) 299 (c) 296 (d) 324

5. Who among the following was NOT a member of the Drafting Committee?
(a) K.M. Munshi (b) T.T. Krishnamachari (c) Jawaharlal Nehru (d) Syed Mohammad Saadullah

6. K.C. Wheare described the Indian Constitution as
(a) cooperative federalism (b) quasi-federal (c) bargaining federalism (d) a confederation

7. The Concurrent List in the Indian Constitution is modelled on the Constitution of
(a) Canada (b) Australia (c) USA (d) Ireland

8. The voting age was lowered from 21 to 18 years by the
(a) 42nd Amendment (b) 44th Amendment (c) 61st Amendment (d) 73rd Amendment

9. Which of these provisions came into force on 26 November 1949 itself?
(a) Citizenship (b) Fundamental Rights (c) Directive Principles (d) Emergency provisions

10. Consider the following statements:
1. The members of the Constituent Assembly from the provinces were elected indirectly by the provincial legislative assemblies.
2. The Constituent Assembly was set up under the Cripps Mission proposals of 1942.
3. Dr Sachchidananda Sinha was elected the permanent President of the Assembly on 11 December 1946.
Which of the statements given above is/are correct?
(a) 1 only (b) 1 and 2 only (c) 2 and 3 only (d) 1, 2 and 3

11. Consider the following pairs:
Act : Provision
1. Charter Act 1853 : civil services opened to open competition
2. Indian Councils Act 1892 : separate electorates for Muslims
3. Government of India Act 1919 : bicameral central legislature
How many of the above pairs are correctly matched?
(a) Only one (b) Only two (c) All three (d) None

12. A new subject, unknown in 1950, finds no place in any of the three lists of the Seventh Schedule. Both a State Legislature and Parliament want to make a law on it. Who can legislate?
(a) Only the State Legislature, as residuary powers rest with the States
(b) Both, with the Union law prevailing if the two conflict (c) Only Parliament, under Article 248
(d) Neither, until an amendment adds the subject to a list

Answers: 1. (b) Nehru moved it on 13 December 1946; it was adopted on 22 January 1947. · 2. (c) Dyarchy in the provinces came with the GoI Act 1919; the 1909 Act brought separate electorates. · 3. (b) It was set up in 1937; the Supreme Court replaced it in January 1950. · 4. (b) 389 seats under the Cabinet Mission Plan fell to 299 (229 provinces + 70 princely States). · 5. (c) Nehru chaired the Union Powers, Union Constitution and States Committees, not the Drafting Committee. · 6. (b) Cooperative federalism is Granville Austin's phrase; bargaining federalism is Morris-Jones's. · 7. (b) Australia gave the Concurrent List, freedom of trade and the joint sitting. · 8. (c) The 61st Amendment Act, 1988 changed Art 326. · 9. (a) Art 394 brought citizenship (Art 5 to 9), elections, the provisional Parliament and a few others into force at once; the rest waited for 26 January 1950. · 10. (a) Provincial members were elected indirectly by the provincial assemblies; the Assembly came from the Cabinet Mission Plan (1946), not Cripps (1942), and Sinha was only provisional President, Prasad being elected on 11 December 1946. · 11. (b) Pairs 1 and 3 are right; separate electorates for Muslims came with the 1909 Morley-Minto Act, not the 1892 Act. · 12. (c) Residuary powers belong to Parliament (Art 248, Entry 97 of the Union List); leaving them with the States is the US and Australian pattern, and the 1935 Act gave them to the Governor-General.

CHAPTER 2

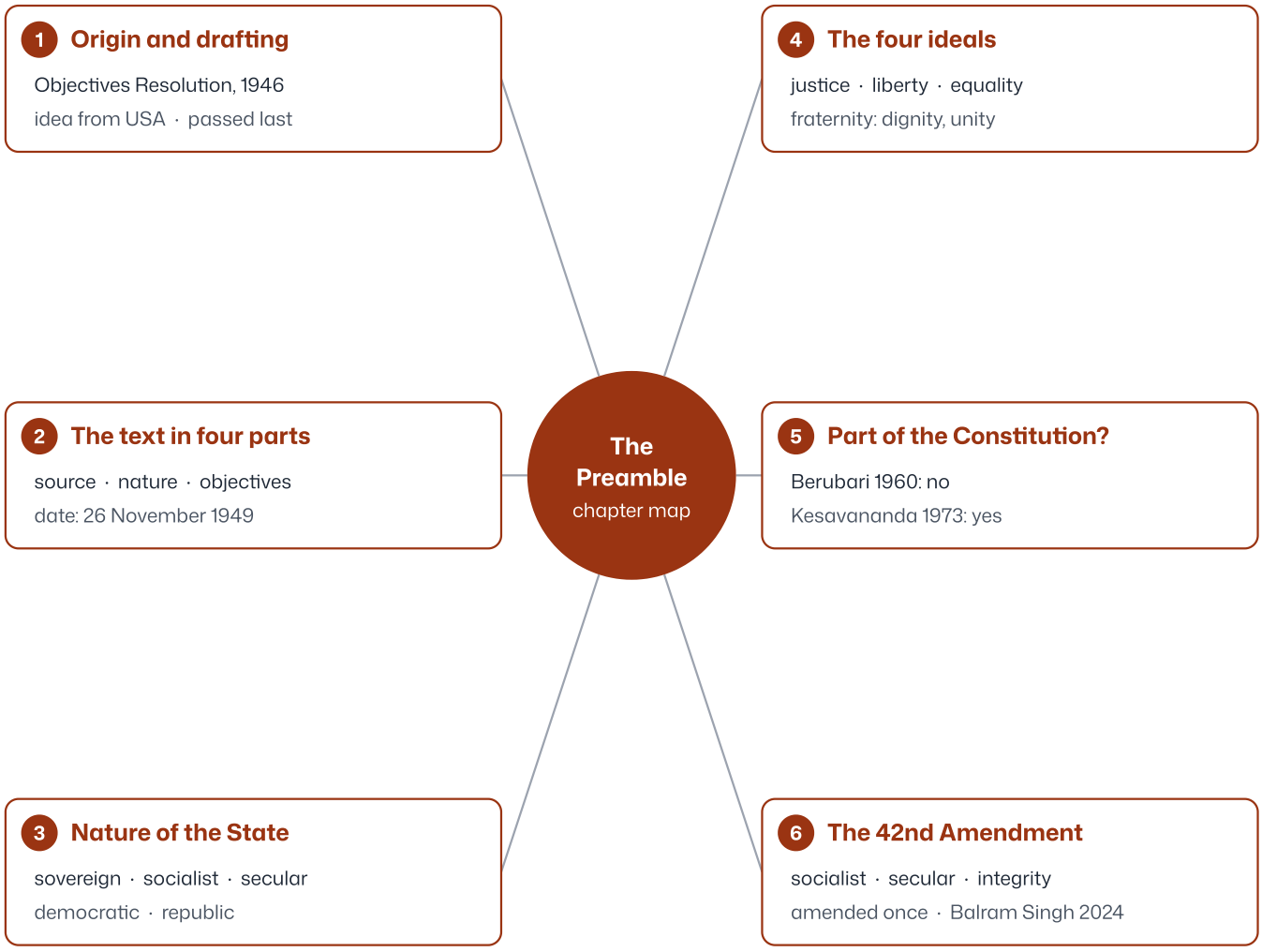
The Preamble

The words added in 1976, India's status on 26 January 1950, what the Preamble does and does not contain, and whether it is part of the Constitution (Berubari, Kesavananda) are asked every few years.

Asked 7 times in past papers: UPSC 5 · BPSC 2

≈ 22 min to read ≈ 5 min to revise ★★★

Revise on: Day 1 | Day 3 | Day 7 | Day 21



Revision card

1. Preamble = **source** (We, the people of India) + **nature** (Sovereign Socialist Secular Democratic Republic) + **objectives** (justice, liberty, equality, fraternity) + **date** (**26 November 1949**).
2. Based on Nehru's **Objectives Resolution** (moved 13 Dec 1946, adopted 22 Jan 1947); opening with a preamble is a **US** idea.
3. On **26 January 1950** India was a '**Sovereign Democratic Republic**'.
4. Amended **once**: the **42nd Amendment (1976)** added **socialist, secular** and **integrity**.
5. **Justice**: social, economic, political. **Liberty**: thought, expression, belief, faith, worship. **Equality**: of status and of opportunity. **Fraternity**: dignity of the individual, unity and integrity of the Nation.
6. Justice, liberty, equality are **secured**; fraternity is **promoted**.
7. **Economic** appears only with **justice**; there is no 'economic liberty'. Economic justice is in the **Preamble and the Directive Principles**.
8. Liberty, equality, fraternity: **France**; justice (social, economic, political): **Russian Revolution**.
9. **Berubari (1960)**: not part of the Constitution; **Kesavananda (1973)**: part of it; **LIC (1995)**: integral part.
10. Part of the Constitution but **not enforceable** by courts on its own; neither a source of power nor a limit on it.
11. '**Key to the minds of the makers**' (Supreme Court); 'identity card' (Palkhivala); 'political horoscope' (K.M. Munshi); 'key-note' (Ernest Barker).
12. **S.R. Bommai (1994)**: secularism is basic structure. **Balram Singh (2024)**: petitions against 'socialist' and 'secular' dismissed.

What a preamble is and how ours was written

Objectives Resolution

13 Dec 1946

passed last

US idea

key to the makers' minds

A preamble is the **introduction** placed before the Articles. Ours packs the philosophy of the whole Constitution into one sentence: who gives it, what kind of State it creates, what that State must aim at, and when it was adopted. Courts cannot enforce it directly, but they read unclear provisions in its light.

★★★ **Objectives Resolution**: moved by **Jawaharlal Nehru** on **13 December 1946**, adopted unanimously on **22 January 1947**. The Preamble grew out of it.

★★ The resolution spoke of an '**Independent Sovereign Republic**' whose authority flows from **the people**, and promised safeguards for **minorities**, backward and tribal areas, and depressed classes.

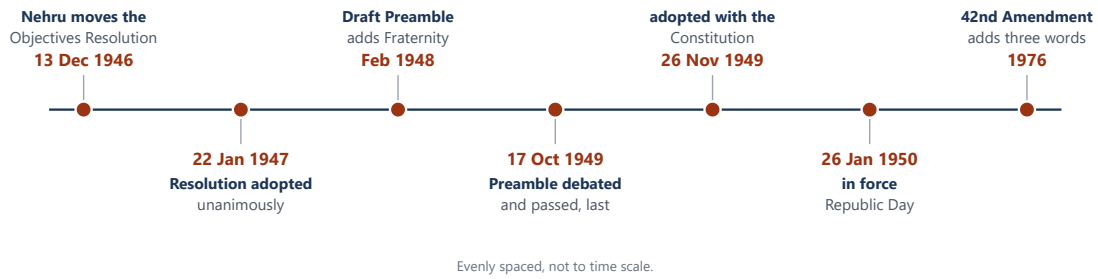
★★ **Fraternity** was not in the resolution; the **Drafting Committee** added it in the draft Preamble (February 1948).

★★ The Assembly took up the Preamble **last**, on **17 October 1949**, so that it would match the Constitution already settled. A motion by **H.V. Kamath** to open with 'In the name of God' was voted down.

★★★ Adopted with the rest of the Constitution on **26 November 1949** (the date written into it); in force from **26 January 1950**.

★★★ **Idea of a preamble**: the **US Constitution** was the first to begin with one, opening with 'We the People'.

★ In the handwritten original, the Preamble page was decorated by **Beohar Rammanohar Sinha**; **Prem Behari Narain Raizada** wrote the English text.



From Nehru's resolution to the 42nd Amendment: the Preamble's own dates.

How the Preamble has been described ★★

Who	Description
Supreme Court (Berubari, 1960)	a key to open the minds of the makers
Ernest Barker	the 'key-note' to the Constitution
N.A. Palkhivala	the 'identity card' of the Constitution
K.M. Munshi	the 'political horoscope' of our sovereign democratic republic
Thakurdas Bhargava	the 'soul' and most precious part of the Constitution
M. Hidayatullah	like the US Declaration of Independence, but more: the soul of our Constitution

⚠ **Exam trap:** 'The **mind of the makers**' points to the **Preamble**, not to the Fundamental Rights or the Directive Principles.

Remember it: SNOD sums up the Preamble: **S**ource (We, the people), **N**ature (the five words), **O**bjectives (four ideals), **D**ate (26 Nov 1949).

Quick check

1. Who moved the Objectives Resolution, and on what date?
2. Which country's constitution first began with a preamble?
3. Which date is written in the Preamble?

Answer: 1. Nehru, 13 December 1946 · 2. the USA · 3. 26 November 1949

The words of the Preamble, line by line

We, the people

SSSDR order

secure vs promote

26 Nov 1949

give to ourselves

Read the Preamble as one sentence spoken by the people of India. It opens with **who** is speaking, then says **what kind of State** they are making, **what it must secure**, and **when and how** they adopt the Constitution.



The Preamble as it reads today, in its four parts. The words in colour were added in 1976.

★★★ **'We, the people of India'**: the authority behind the Constitution is **the people** (popular sovereignty), not a king and not the British Parliament.

★★★ **Order of the five words**: **Sovereign, Socialist, Secular, Democratic, Republic**.

★★★ The people resolve to **secure** to all citizens **justice, liberty and equality**, and to **promote** among them all **fraternity**.

★★★ **Fraternity** assures two things: the **dignity of the individual** and the **unity and integrity of the Nation**.

★★ **Enacting words**: 'in our Constituent Assembly this twenty-sixth day of November, 1949, do hereby **adopt, enact and give to ourselves** this Constitution'.

★★ '**Give to ourselves**' makes the Constitution **self-given**, unlike the **GoI Act 1935**, which the British Parliament passed.

★★ Words that are **not** in the Preamble: **federal**, **welfare**, **parliamentary**, **economic liberty**, **economic equality**.

Remember it: The two 1976 words sit **inside** the original three like a filling: Sovereign **[Socialist Secular]** Democratic Republic. Take the filling out and you get the 1950 text.

⚠ **Exam trap:** Options often shuffle the order ('Sovereign Democratic Secular Socialist Republic'). The real order puts **socialist** and **secular** between sovereign and democratic.

Quick check

1. Which two of the five words stand in the middle of the order?
2. Fraternity assures which two things?
3. Which ideals are 'secured' and which is 'promoted'?

Answer: 1. socialist and secular (added 1976) · 2. dignity of the individual; unity and integrity of the Nation · 3. justice, liberty, equality secured; fraternity promoted

Sovereign, socialist, secular, democratic, republic

sovereign

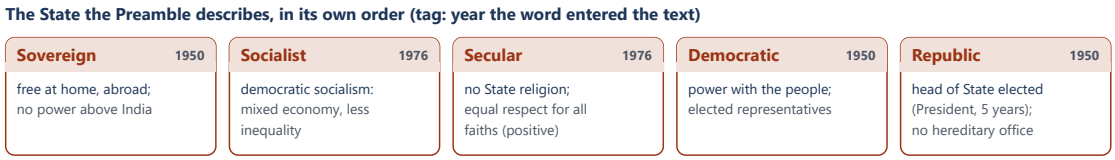
democratic socialism

positive secularism

S.R. Bommai 1994

republic: elected head

These five words describe the **nature of the Indian State**. Three were there in 1949; 'socialist' and 'secular' were written in by the 42nd Amendment, though the ideas were in the Constitution from the start (Directive Principles, Art 25 to 28).



The five words in the Preamble's order, each with the year it entered the text.

★★★ **Sovereign**: India decides its own **internal and external** affairs; no outside power stands above it. It is not a dependency or dominion.

★★ Membership of the **Commonwealth** or the **UN** does not limit sovereignty; the British monarch is only the symbolic head of the Commonwealth.

★★ India may **cede** territory, but that needs a **constitutional amendment** (Berubari reference, 1960; the **9th Amendment**).

★★★ **Socialist** (1976): **democratic socialism**, reducing inequality through law and welfare while keeping elections and private property; a **mixed economy**, not State ownership of everything.

★★ Indian socialism blends **Marxian** and **Gandhian** ideas. The aim is older than the word: the Congress **Avadi session (1955)** adopted a 'socialistic pattern of society'.

★ **D.S. Nakara (1983)**: the Supreme Court said socialism means a decent life and security for working people.

★★★ **Secular** (1976): the State has **no religion of its own** and treats all faiths equally (**sarva dharma sambhav**). Indian secularism is **positive**: the State may reform religious practice (Art 17, 25(2)), unlike a strict wall between State and religion.

★★★ **S.R. Bommai (1994)**: secularism is part of the **basic structure**.

★★ Neither '**socialist**' nor '**secular**' is defined anywhere in the Constitution.

★★ **Democratic**: power rests with the people, who rule through **elected representatives** (indirect, parliamentary democracy) on **universal adult franchise** (Art 326). The word covers political, social and economic democracy.

★ **Direct democracy** devices (referendum, initiative, recall, plebiscite) are typical of **Switzerland**; India uses none of them at the national level. The **Gram Sabha** comes nearest.

★★★ **Republic**: the head of State is **elected**, not hereditary. India's President is elected **indirectly** for **five years**. It also means **no privileged class**: every public office is open to every citizen.

★★ **Britain** is a democracy but **not a republic** (a hereditary monarch is head of State); the USA is both, with a directly elected President.

⚠ **Exam trap:** Commonwealth membership does **not** reduce India's sovereignty, and 'socialist' does **not** mean State ownership of all property.

Remember it: King or no king? Britain: democracy with a king, so not a republic. India: democracy with an elected President, so both.

Quick check

1. Which case held secularism to be part of the basic structure?
2. What kind of socialism does the Preamble mean?
3. What makes India a republic?

Answer: 1. S.R. Bommai (1994) · 2. democratic socialism, a mixed economy · 3. an elected (not hereditary) head of State

Justice, liberty, equality, fraternity

justice: 3 kinds

liberty: 5 items

status, opportunity

economic justice

French Revolution

The four ideals are the Constitution's goals. Each is filled in by later Parts: **justice** mostly by the Directive Principles, **liberty** and **equality** mostly by the Fundamental Rights, and **fraternity** by single citizenship, the end of untouchability and the duties of citizens.

SECURED to all citizens			PROMOTED among them all
Justice	**Liberty**	**Equality**	**Fraternity**
social economic political	of thought of expression of belief of faith of worship	of status of opportunity	**assuring:** dignity of the individual unity and integrity of the Nation
from the Russian Revolution, 1917	from the French Revolution, 1789	from the French Revolution, 1789	from the French Revolution, 1789

The four ideals, what each contains, and where the idea came from.

★★★ **Justice**: **social, economic and political**. Social: no unequal treatment for caste, colour, race, religion or sex; economic: narrowing gaps in income and wealth; political: equal political rights and equal access to office.

★★★ **Economic justice** is a goal of both the **Preamble** and the **Directive Principles** (Art 38 asks the State to build an order of social, economic and political justice; Art 39 spells out economic aims).

★ Social and economic justice together are called **distributive justice**.

★★★ **Liberty** of **thought, expression, belief, faith and worship**: secured mainly by **Art 19, 21 and 25 to 28**.

★★ Liberty is not licence: it works within the **reasonable restrictions** the Constitution allows.

★★★ **Equality** of **status** and of **opportunity**: no special privileges for any section, and equal chances for all.

★★ Three sides of equality: **civic** (Art 14 to 18), **political** (Art 325, 326) and **economic** (Art 39(a) livelihood, 39(d) equal pay for equal work).

★★ **Fraternity**: a sense of **brotherhood** among all Indians, built through **single citizenship**, the abolition of untouchability (**Art 17**) and the duty to promote harmony (**Art 51A(e)**). 'And integrity' was added in 1976.

★★ **Ambedkar** called liberty, equality and fraternity a '**union of trinity**': take away one and democracy fails.

★★★ **Sources**: liberty, equality, fraternity from the **French Revolution (1789)**; justice (social, economic, political) from the **Russian Revolution (1917)**.

⚠ **Exam trap: 'Economic liberty'** is **not** in the Preamble: 'economic' appears only with **justice**. Liberty has exactly five items; **vocation** and **association** are not among them.

Remember it: 'Economic' travels with **justice** only. Liberty's five: **T-E-B-F-W**, 'Think, Express, Believe, have Faith, Worship'.

Quick check

1. Which three kinds of justice does the Preamble name?
2. Economic justice is provided in which two places?
3. Name the five liberties.

Answer: 1. social, economic, political · 2. the Preamble and the Directive Principles · 3. thought, expression, belief, faith, worship

Is the Preamble part of the Constitution?

Berubari 1960

Kesavananda 1973

LIC 1995

not justiciable

aid to interpretation

The Supreme Court first said no, then yes. Today the position is settled: the Preamble **is part of the Constitution**, but it **cannot be enforced** in a court by itself. Its job is to guide the reading of the rest.

★★★ **In re Berubari Union (1960)**: the Preamble is **not** a part of the Constitution, though it is a key to the minds of the makers. This was a **presidential reference (Art 143)** on transferring Berubari to East Pakistan; the court said ceding land needs an amendment, which led to the **9th Amendment (1960)**.

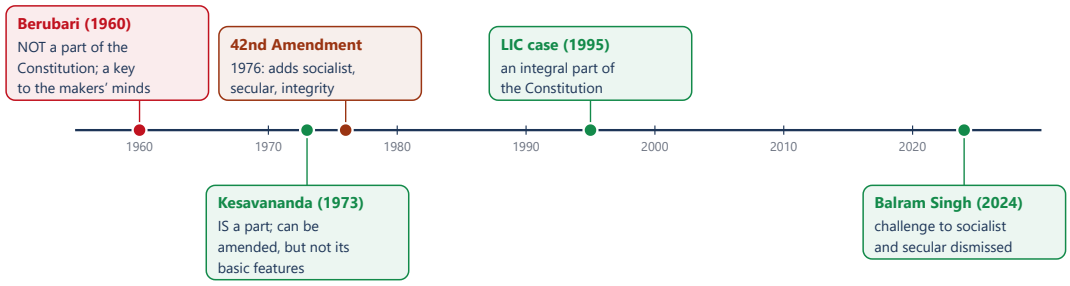
★★★ **Kesavananda Bharati (1973)**: the Preamble **is** a part of the Constitution; the Berubari view was rejected. The court noted that the Assembly debated and passed it like any other provision.

★★ **LIC of India case (1995)**: the Supreme Court again called it an **integral part** of the Constitution.

★★★ **Not justiciable**: no court can enforce the Preamble on its own. It is neither a **source of power** for the legislature nor a **limit** on it; powers come from the specific Articles.

★★ **Use**: courts turn to it when a provision is **ambiguous**; it cannot override clear words of the text.

★★ The Kesavananda judges drew several **basic features** from it: republican and democratic government, secular character, dignity of the individual, unity and integrity of the nation.



Years to scale. Red: not part; green: part of the Constitution, or upheld.

Rulings on the Preamble, with the 42nd Amendment between them.

⚠ **Exam trap:** The exact answer: the Preamble is 'a part of the Constitution but has **no legal effect independently** of other parts'. 'Not a part' was the Berubari view (overruled); 'same legal effect as any other part' is also wrong.

Remember it: **B**erubari kept it **B**ehind the door (outside); **K**esavananda **K**ept it inside.

Quick check

1. Which case first said the Preamble is not part of the Constitution? Which reversed it?
2. Can a court enforce the Preamble by itself?
3. When do courts use the Preamble?

Answer: 1. Berubari (1960); Kesavananda Bharati (1973) · 2. no, it is not justiciable · 3. to interpret an ambiguous provision

Amending the Preamble: the 42nd Amendment

Art 368

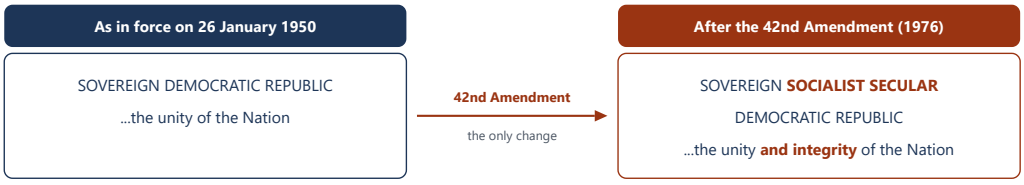
amended once

1976

unity and integrity

Balram Singh 2024

Being part of the Constitution, the Preamble can be amended under **Art 368**, but its **basic features** cannot be destroyed (Kesavananda). It has been amended **only once**, in 1976, during the Emergency.



The only change ever made: the 1950 wording and today's wording, additions in colour.

★★★ **42nd Amendment Act, 1976**: 'Sovereign Democratic Republic' became 'Sovereign **Socialist Secular** Democratic Republic', and 'unity of the Nation' became 'unity **and integrity** of the Nation'.

★★★ So on **26 January 1950** India was a '**Sovereign Democratic Republic**'.

★★ The 42nd Amendment, made on the **Swaran Singh Committee**'s advice, changed so much that it is called the '**mini-Constitution**'.

★★ The post-Emergency **44th Amendment (1978)** undid much of the 42nd but **kept** all three words.

⋆ A 1978 bill tried to **define** 'secular' and 'socialist'; the **Rajya Sabha** did not pass those definitions, so the words remain undefined.

⋆⋆⋆ **Balram Singh v. Union of India (25 November 2024)**: the Supreme Court **dismissed** petitions against 'socialist' and 'secular'. The adoption date in the Preamble does not bar amendment under Art 368; 'socialist' does not tie elected governments to one economic policy; 'secular' means the State neither favours nor discriminates against any religion.

⚠ **Exam trap:** Three words, not two: the 42nd added **socialist, secular** and **integrity**. 'Sovereign', 'democratic', 'republic' and 'unity' are **original**.

Remember it: S-S-I in '76: Socialist, Secular, Integrity, the only three words the Preamble ever gained.

Quick check

1. Exact status of India on 26 January 1950, as per the Preamble?
2. Which three words did the 42nd Amendment add?
3. Which 2024 case upheld those words?

Answer: 1. a Sovereign Democratic Republic · 2. socialist, secular, integrity · 3. Balram Singh v. Union of India

Asked in past papers (7)

UPSC 2013 'Economic Justice' as one of the objectives of the Indian Constitution has been provided in
(a) the Preamble and the Fundamental Rights (b) the Preamble and the Directive Principles of State Policy
(c) the Fundamental Rights and the Directive Principles of State Policy (d) None of the above
Answer: (b) the Preamble and the Directive Principles of State Policy. Economic justice appears in the Preamble and in the Directive Principles

UPSC 2017 Which one of the following objectives is not embodied in the Preamble to the Constitution of India ?
(a) Liberty of thought (b) Economic liberty (c) Liberty of expression (d) Liberty of belief
Answer: (b) Economic liberty. The Preamble secures liberty of thought, expression, belief, faith and worship; The Preamble secures social, economic and political justice

UPSC 2017 The mind of the makers of the Constitution of India is reflected in which of the following ?
(a) The Preamble (b) The Fundamental Rights (c) The Directive Principles of State Policy
(d) The Fundamental Duties
Answer: (a) The Preamble. The Preamble is regarded as the key to the minds of the Constitution's makers

UPSC 2020 The Preamble to the Constitution of India is
(a) a part of the Constitution but has no legal effect
(b) not a part of the Constitution and has no legal effect either
(c) a part of the Constitution and has the same legal effect as any other part
(d) a part of the Constitution but has no legal effect independently of other parts
Answer: (d) a part of the Constitution but has no legal effect independently of other parts. The Preamble is part of the Constitution but is not enforceable in court on its own; Berubari (1960) said the Preamble was not part; Kesavananda (1973) held it is

UPSC 2021 What was the exact constitutional status of India on 26th January, 1950?
(a) A Democratic Republic (b) A Sovereign Democratic Republic
(c) A Sovereign Secular Democratic Republic (d) A Sovereign Socialist Secular Democratic Republic
Answer: (b) A Sovereign Democratic Republic. The original Preamble described India as a 'Sovereign Democratic Republic'; The 42nd Amendment, 1976 added 'Socialist', 'Secular' and 'Integrity' to the Preamble

BPSC 60th-62nd The expression 'Socialist' was introduced in the Preamble of Indian Constitution by which amendment ?
(a) 42nd Amendment (b) 44th Amendment (c) 46th Amendment (d) 74th Amendment
(e) None of the above/More than one of the above
Answer: (a) 42nd Amendment. The 42nd Amendment (1976) added Socialist, Secular and Integrity to the Preamble

BPSC 70th Which two words have been incorporated in the Preamble by 42nd Amendment ?
(a) Republic and secular (b) Democratic and socialist (c) Secular and socialist
(d) Socialist and sovereign
Answer: (c) Secular and socialist. The 42nd Amendment, 1976 added 'Socialist', 'Secular' and 'Integrity' to the Preamble

Test yourself (11)

1. Which words were added to the Preamble by the 42nd Amendment?
(a) Socialist, secular, integrity (b) Socialist, democratic, unity (c) Secular, republic, integrity
(d) Sovereign, socialist, fraternity

2. In which case did the Supreme Court hold that the Preamble is a part of the Constitution?
(a) Berubari Union (b) Golaknath (c) Kesavananda Bharati (d) Minerva Mills

3. Which of the following is NOT among the liberties named in the Preamble?
(a) Thought (b) Belief (c) Vocation (d) Worship

4. The date mentioned in the Preamble is
(a) 26 January 1950 (b) 26 November 1949 (c) 15 August 1947 (d) 22 January 1947

5. The ideals of liberty, equality and fraternity in the Preamble were inspired by the
(a) American Revolution (b) French Revolution (c) Russian Revolution (d) Irish Constitution

6. Who described the Preamble as the 'identity card' of the Constitution?
(a) K.M. Munshi (b) Ernest Barker (c) N.A. Palkhivala (d) Thakurdas Bhargava

7. In which case did the Supreme Court hold secularism to be a basic feature of the Constitution?
(a) S.R. Bommai (b) Maneka Gandhi (c) Indra Sawhney (d) Golaknath

8. Consider: 1. The Preamble can be amended under Art 368. 2. The Preamble is enforceable in courts. Which is/are correct?
(a) 1 only (b) 2 only (c) Both 1 and 2 (d) Neither 1 nor 2

9. Consider the following statements about the Preamble:
1. 'Fraternity' was part of Nehru's Objectives Resolution.
2. The Constituent Assembly took up the Preamble last, after the rest of the text was settled.
3. The 44th Amendment removed 'socialist' and 'secular' from the Preamble.
Which of the statements given above is/are correct?
(a) 1 only (b) 2 only (c) 1 and 3 only (d) 1, 2 and 3

10. Consider the following statements:
1. The Preamble names 'economic liberty' among its ideals.
2. The Preamble secures fraternity and promotes justice.
3. The words 'federal' and 'welfare' appear in the Preamble.
How many of the above statements are correct?
(a) Only one (b) Only two (c) All three (d) None

11. A citizen challenges a new law only on the ground that it goes against the Preamble's ideal of economic justice; the law breaks no Article of the Constitution. What should the court do?
(a) Strike it down, as the Preamble is part of the Constitution and binds Parliament like any Article
(b) Ignore the Preamble, since it lies outside the Constitution
(c) Refer the question to the President under Article 143 (d) Not strike it down on that ground alone

Answers: 1. (a) Sovereign, democratic, republic and unity are original; 1976 added socialist, secular and integrity. · 2. (c) Kesavananda (1973) reversed the Berubari (1960) view. · 3. (c) The five are thought, expression, belief, faith and worship. · 4. (b) The Preamble records adoption on 26 November 1949. · 5. (b) The French Revolution (1789); justice (social, economic, political) comes from the Russian Revolution. · 6. (c) Munshi called it a 'political horoscope'; Barker, the 'key-note'. · 7. (a) S.R. Bommai (1994). · 8. (a) Amendable (Kesavananda; done once in 1976) but not justiciable. · 9. (b) The Preamble was taken up last (17 October 1949); the Drafting Committee added fraternity in 1948, and the 44th Amendment kept the words added in 1976. · 10. (d) 'Economic' goes only with justice; justice, liberty and equality are secured while fraternity is promoted (statement 2 reverses this); 'federal' and 'welfare' are not in the text. · 11. (d) The Preamble is part of the Constitution (Kesavananda) but not enforceable by itself; courts use it only to read an unclear provision, and the Berubari view that it lies outside was overruled.

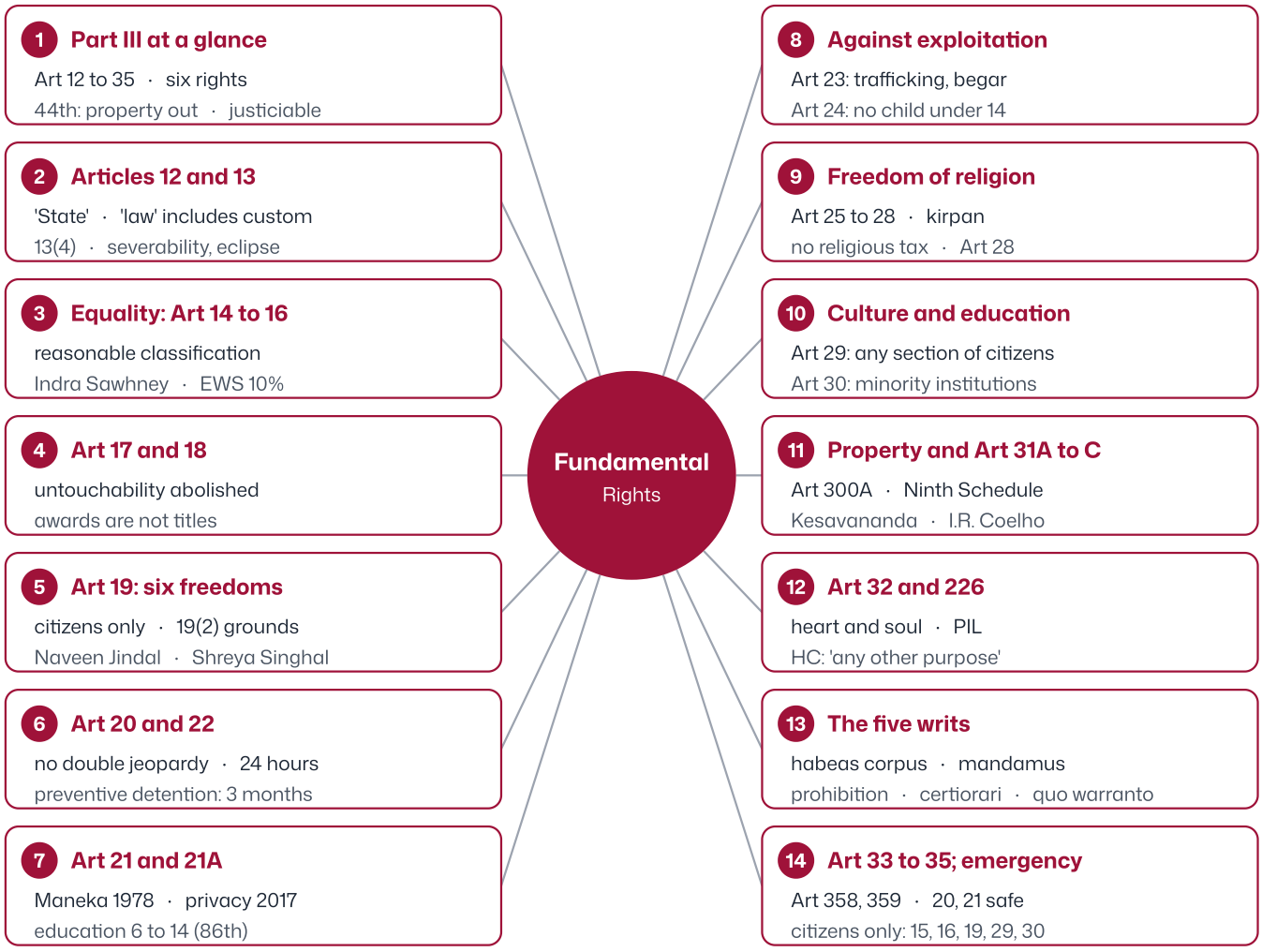
CHAPTER 5

Fundamental Rights and Writs

Article numbers (14, 17, 19, 21, 32), which rights only citizens enjoy, rights read into Article 21 (privacy, choice of spouse), Article 13 'law', property under Article 300A and the five writs are asked every year.

Asked 21 times in past papers: UPSC 15 · BPSC 6

≈ 1 h 04 min to read ≈ 15 min to revise ★★★ Revise on: Day 1 | Day 3 | Day 7 | Day 21



Revision card

1. Part III, Art 12 to 35: six Fundamental Rights (property removed by the 44th Amendment, 1978; now a legal right of every person under Art 300A).
2. Art 13(3): 'law' includes ordinance, order, bye-law, rule, regulation, notification and custom or usage; Art 13(4): a constitutional amendment is not 'law'.
3. Art 14: equality before law and equal protection for every person; unguided discretionary power and arbitrariness violate it.
4. Art 15 bars discrimination on religion, race, caste, sex, place of birth; Art 16 adds descent and residence for public jobs. Indra Sawhney (1992): creamy layer out, 50% ceiling.
5. Art 17 abolishes untouchability (Right to Equality); Art 18 abolishes titles; Bharat Ratna and Padma awards are not titles (Balaji Raghavan 1996).
6. Art 19: six freedoms for citizens only; flying the National Flag is part of 19(1)(a) (Naveen Jindal 2004).
7. Art 20: no ex post facto criminal law, no double jeopardy, no self-incrimination. Art 22: magistrate within 24 hours; preventive detention up to 3 months without an Advisory Board.
8. Art 21: Maneka Gandhi (1978) made procedure 'fair, just and reasonable'; privacy (Puttaswamy 2017) and the right to marry a person of one's choice are part of Art 21.
9. Art 21A: free and compulsory education for 6 to 14 years (86th Amendment, 2002; RTE Act 2009).
10. Right against Exploitation = Art 23 (trafficking, begar, forced labour) + Art 24 (no child under 14 in factories, mines, hazardous work).
11. Citizens only: Art 15, 16, 19, 29, 30. Everyone (foreigners too): Art 14, 20, 21, 21A, 22, 23 to 28.
12. Art 32 is the 'heart and soul' (Ambedkar); Art 226 lets High Courts issue writs for any other purpose too.
13. Writs: habeas corpus (any person may apply), mandamus (public duty; not against a private body or company), prohibition (stops a pending case), certiorari (quashes a decided case), quo warranto (any person may apply).
14. Emergency: Art 358 suspends Art 19 in war or external aggression; Art 359 suspends enforcement of other rights, but never Art 20 and 21.

Part III at a glance

Part III

Art 12 to 35

six rights

44th Amendment

justiciable

Magna Carta

Fundamental Rights are **limits on the power of the State**, written into the Constitution so that no ordinary majority can take them away. They are 'fundamental' because the supreme law guarantees them and a person can go straight to the Supreme Court to enforce them.

★★★ **Part III, Art 12 to 35**, often called the **Magna Carta of India**; the idea is borrowed from the **US Bill of Rights**.

★★ **Roots**: the Nehru Report (1928) and the **Karachi session of the Congress (1931)**, presided over by Sardar Patel, which adopted a resolution on Fundamental Rights. In the Constituent Assembly the Advisory Committee on rights and minorities was chaired by **Sardar Patel**, and its sub-committee on Fundamental Rights by **J.B. Kripalani**.

★★★ **Originally seven** rights; the **right to property** was removed by the **44th Amendment (1978)**, leaving **six**.

★★ **Justiciable**: enforceable by the **Supreme Court (Art 32)** and the **High Courts (Art 226)**, unlike the Directive Principles.

★★ **Not absolute**: the State may impose **reasonable restrictions**, and the courts decide whether a restriction is reasonable.

★★ **Who enjoys them**: some only **citizens** (Art 15, 16, 19, 29, 30), the rest **every person**, foreigners included. Most are limits on the State; a few also bind private persons (Art 15(2), 17, 23, 24).

★★ **Amendable**: Parliament may amend them under Art 368, but not so as to destroy the **basic structure** (Kesavananda Bharati, 1973).

★★ **Emergency**: they can be suspended during a National Emergency, **except Art 20 and 21** (44th Amendment).

The six Fundamental Rights ★★★

Right	Articles	Core idea
Right to Equality	14 to 18	Equality before law, no discrimination, equal chance in public jobs, no untouchability, no titles
Right to Freedom	19 to 22	Six freedoms; protection in conviction; life and liberty; education; safeguards on arrest
Right against Exploitation	23 and 24	No trafficking or forced labour; no child under 14 in hazardous work
Right to Freedom of Religion	25 to 28	Conscience and worship; denominations; no religious tax; religious instruction
Cultural and Educational Rights	29 and 30	Conserve language and culture; minority educational institutions
Right to Constitutional Remedies	32	Move the Supreme Court for enforcement by writs



Part III laid out article by article, each block as wide as the number of articles it holds. The six rights (filled) sit between the general articles (12 and 13) and the limits (33 to 35); Art 31 itself was repealed in 1978.

Remember it: Where each right ends: 18, 22, 24, 28, 30, 32. Equality ends at 18, Freedom at 22, Exploitation at 24, Religion at 28, Culture at 30, Remedies is 32.

Quick check

1. Which Part and Articles contain the Fundamental Rights?
2. Which right was removed, and by which amendment?
3. Which two courts can enforce Fundamental Rights, under which Articles?

Answer: 1. Part III, Art 12 to 35 · 2. right to property, 44th Amendment (1978) · 3. Supreme Court (Art 32), High Courts (Art 226)

Articles 12 and 13: who is the State, what is law

Art 12 'State'

other authorities

Art 13(3) 'law'

custom or usage

13(4)

eclipse, severability

A right is a claim against someone. Part III is mainly a claim against the **State**, so Art 12 defines the State widely. Art 13 then makes any law that breaks a Fundamental Right **void**; this is the express basis of **judicial review**.

★★ **Art 12, 'State'**: the **Government and Parliament of India**, the **Government and Legislature of each State**, all **local authorities** (municipalities, panchayats) and **other authorities** within India or under the control of the Government of India.

★★ **'Other authorities'**: bodies that are instruments or agencies of the government, judged by financial, functional and administrative control (Ajay Hasia, 1981): for example LIC, ONGC and government companies. BCCI is not 'State' (Zee Telefilms, 2005), though High Courts can reach it under Art 226.

★★ **Art 13(1)**: laws in force before 26 January 1950 are void **to the extent** they conflict with Fundamental Rights. **Art 13(2)**: the State shall make no law that takes away or abridges them; such a law is void to that extent.

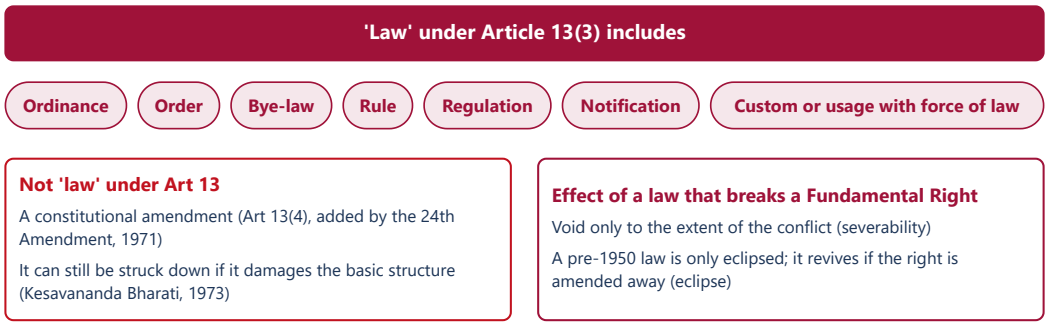
★★★ **Art 13(3), 'law'** includes an **Ordinance, order, bye-law, rule, regulation, notification**, and **custom or usage** having the force of law in India.

★★★ **Art 13(4)** (24th Amendment, 1971): an amendment of the Constitution under Art 368 is **not 'law'** for Art 13. Amendments can still be struck down if they damage the basic structure (Kesavananda Bharati, 1973).

★★ **Doctrine of severability**: only the part of a law that violates a right is struck down, if it can be separated from the rest.

★★ **Doctrine of eclipse**: a pre-1950 law that violates a right is not dead but overshadowed; if the right is later amended, the law revives (Bhikaji Narain, 1955).

★ **No waiver**: a person cannot give up a Fundamental Right, even voluntarily (Basheshar Nath, 1959).



What counts as 'law' under Art 13(3), what does not, and what happens to a law that breaks a Fundamental Right.

⚠ **Exam trap: Custom or usage** with the force of law is 'law' under Art 13(3), so a custom that violates a Fundamental Right is void. A view that 'law' covers ordinances, orders, rules and regulations **but not custom** is **wrong as a whole**: custom is named in the same clause. A constitutional amendment is **not** 'law' under Art 13.

☑ Quick check

1. Does 'law' in Art 13 include custom or usage?
2. Which clause says a constitutional amendment is not 'law', and which amendment added it?
3. A pre-1950 law that conflicts with a right revives if the right is amended. Name the doctrine.

Answer: 1. yes, custom or usage having the force of law (13(3)) · 2. Art 13(4), 24th Amendment (1971) · 3. doctrine of eclipse

Right to Equality: Articles 14, 15 and 16

Art 14

reasonable classification

Art 15 grounds

Art 16(4), (4A)

Indra Sawhney 1992

EWS 10%

Equality does not mean treating everyone the same; it means treating **equals alike** and allowing the State to treat unequals differently for a sound reason. That is why special laws for women and children, and reservations, sit inside the equality articles rather than against them.

★★★ **Art 14**: the State shall not deny to **any person equality before the law** (British idea, negative: nobody is above the law) or the **equal protection of the laws** (American idea, positive: equal treatment in equal circumstances) within India.

★★ **Reasonable classification** is allowed, class legislation is not. A classification must rest on an **intelligible differentia** and have a **rational nexus** with the object of the law (State of West Bengal v Anwar Ali Sarkar, 1952).

★★★ **Arbitrariness violates Art 14** (E.P. Royappa, 1974): a law that gives the executive **unguided and uncontrolled discretionary power** is struck down under Art 14.

★ **Exceptions**: the President and Governors are immune from criminal proceedings during their term (Art 361); legislators are protected for what they say in the House (Art 105, 194); foreign sovereigns and diplomats are immune.

★★★ **Art 15(1)**: the State shall not discriminate against any **citizen** on grounds **only** of **religion, race, caste, sex or place of birth**.

★★ **Art 15(2)**: no citizen can be barred, on those grounds, from **shops, public restaurants, hotels, places of public entertainment, wells, tanks, bathing ghats, roads** and public resorts; this binds **private persons** too.

★★ **Art 15(3)** allows special provisions for **women and children**; **15(4)** for socially and educationally backward classes, SCs and STs (**1st Amendment, 1951**, after the Champakam Dorairajan case); **15(5)** reservation in educational institutions, including private ones but not minority ones (**93rd Amendment, 2005**); **15(6)** up to **10% for economically weaker sections** (**103rd Amendment, 2019**, upheld in Janhit Abhiyan, November 2022).

★★★ **Art 16(1), (2)**: equality of opportunity in **public employment** for **citizens**; no discrimination on religion, race, caste, sex, **descent**, place of birth or **residence**.

★★ **Art 16(3)**: only **Parliament** may prescribe **residence** as a condition for certain jobs in a State or UT.

★★★ **Art 16(4)**: reservation of posts for backward classes not adequately represented. **16(4A)**: reservation in **promotion** for SCs and STs (**77th Amendment, 1995**), with consequential seniority (85th, 2001). **16(4B)**: unfilled reserved vacancies carried forward outside the 50% cap (81st, 2000). **16(5)**: posts in religious bodies may go to members of that religion. **16(6)**: EWS, up to 10% (103rd).

★★★ **Indra Sawhney (1992, the Mandal case)**: upheld **27% reservation for OBCs**, excluded the **creamy layer**, set a **50% ceiling** on total reservation as a rule, and barred reservation in promotions (later restored for SCs and STs by the 77th Amendment).

★★ **Later cases**: M. Nagaraj (2006) upheld Art 16(4A) with conditions; **State of Punjab v Davinder Singh (1 August 2024)** allowed States to **sub-classify** SCs and STs for reservation.

★★ **Art 335** (Part XVI): claims of SCs and STs to services must be considered **consistently with the efficiency of administration**. Courts read Art 16(4) and 16(4A) as limited by it. The Constitution does **not define** 'efficiency of administration'; the 82nd Amendment (2000) allowed relaxed qualifying marks for SCs and STs in promotion.

Grounds on which discrimination is barred

	Art 15(1): State action	Art 16(2): public jobs	Art 29(2): State-aided education
Religion	●	●	●
Race	●	●	●
Caste	●	●	●
Sex	●	●	—
Place of birth	●	●	—
Descent	—	●	—
Residence	—	●	—
Language	—	—	●

Filled dot: ground listed in that clause. Dash: not listed.

Grounds on which discrimination is barred. Art 16 adds 'descent' and 'residence' to the five grounds of Art 15; Art 29(2), on admission to State-aided institutions, adds 'language'.

Remember it: Art 15 = 'RRCSP': Religion, Race, Caste, Sex, Place of birth. **Art 16 = RRCSP + D + R**: Descent and Residence. Sixteen is bigger than fifteen by two grounds.

⚠ **Exam trap:** Art 14 protects **every person** (a foreign national or a company too); Art 15 and 16 protect only **citizens**. 'Language' is not a ground in Art 15 or 16.

Quick check

1. A law gives an officer unguided, uncontrolled discretion. Which Article does it violate?
2. Which two grounds does Art 16 add to those in Art 15?
3. Name the 1992 case that set the 50% ceiling and excluded the creamy layer.

Answer: 1. Article 14 · 2. descent and residence · 3. Indra Sawhney (Mandal case)

Articles 17 and 18: untouchability and titles

Art 17

Protection of Civil Rights Act

Art 18

military, academic

Balaji Raghavan 1996

Padma awards

Two social evils were ended by the Constitution itself: untouchability, which denied equal dignity, and hereditary titles such as Rai Bahadur, which created artificial ranks among citizens. Both sit in the **Right to Equality**.

★★★ **Art 17**: **untouchability is abolished** and its practice in any form is forbidden; enforcing any disability arising out of it is an **offence** punishable by law. It falls under the **Right to Equality**.

★★ **Not defined**: the word 'untouchability' is not defined in the Constitution or in the Act. The **Untouchability (Offences) Act 1955** was renamed the **Protection of Civil Rights Act** in 1976; the **SC and ST (Prevention of Atrocities) Act 1989** adds further protection.

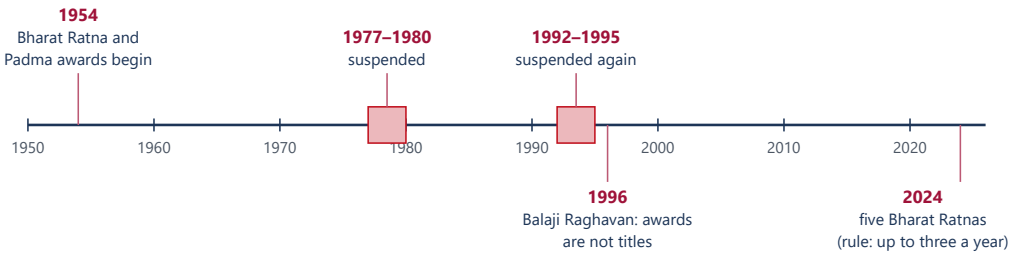
★★ **Absolute right**: Art 17 has no exceptions and applies against **private persons** too.

★★★ **Art 18(1)**: the State shall confer **no title**, except **military or academic distinctions**. **18(2)**: no citizen shall accept a title from a foreign State.

★ **Art 18(3), (4)**: a foreigner holding an office of profit or trust under the State needs the **President's consent** to accept a foreign title, and no holder of such an office may accept any present, emolument or office from a foreign State without that consent.

★★★ **National awards are not titles** (Balaji Raghavan v Union of India, 1996): the Bharat Ratna and the Padma Vibhushan, Padma Bhushan and Padma Shri are valid, but must **not be used as a prefix or suffix** to a name.

★★ **Award facts**: instituted in **1954**; suspended **twice**, 1977 to 1980 and 1992 to 1995. The Bharat Ratna is normally given to at most **three** persons a year; five were announced in 2024.



National awards on a time line drawn to scale: begun in 1954, suspended in 1977 to 1980 and again in 1992 to 1995, held in 1996 not to be titles under Art 18.

⚠ **Exam trap:** Untouchability is in the **Right to Equality** (Art 17), not the Right against Exploitation. 'Padma awards were suspended only once' and 'up to five Bharat Ratnas a year' are both false.

Quick check

1. Which Article abolishes untouchability, and under which category of rights?
2. Which distinctions may the State still confer under Art 18?
3. Are Padma awards 'titles' barred by Art 18?

Answer: 1. Art 17; Right to Equality · 2. military and academic · 3. no (Balaji Raghavan, 1996), but not to be used as prefix or suffix

Article 19: six freedoms of citizens

Art 19(1)(a) to (g)

citizens only

19(2) grounds

Naveen Jindal 2004

Shreya Singhal 2015

reasonable restriction

Art 19 gives citizens the freedoms a democracy needs: to speak, meet, organise, move, settle and earn a living. Each freedom comes with a matching clause that lists the **only grounds** on which the State may restrict it, and every restriction must be **reasonable**.

The six freedoms of Article 19(1) ★★★

Clause	Freedom	Restriction clause
19(1)(a)	Speech and expression	19(2)
19(1)(b)	Assemble peaceably and without arms	19(3)
19(1)(c)	Form associations, unions or co-operative societies	19(4)
19(1)(d)	Move freely throughout India	19(5)
19(1)(e)	Reside and settle in any part of India	19(5)
19(1)(g)	Practise any profession, occupation, trade or business	19(6)

★★★ **Citizens only**: foreigners cannot claim Art 19. A **British citizen** living in India therefore has no Fundamental Right to trade or profession, though he has equality before law and life and liberty.

★★ **Changes**: **19(1)(f)**, the right to property, was deleted by the **44th Amendment (1978)**; '**co-operative societies**' was added to 19(1)(c) by the **97th Amendment (2011)**; '**sovereignty and integrity of India**' was added as a ground by the **16th Amendment (1963)**; 'public order', 'friendly relations' and 'incitement' by the **1st Amendment (1951)**.

★★ **Grounds under 19(2)** for speech: sovereignty and integrity of India, security of the State, friendly relations with foreign States, public order, decency or morality, contempt of court, defamation, incitement to an offence.

★★★ **Speech and expression includes**: freedom of the **press** (Romesh Thappar, 1950; there is no separate press clause), the **right to information** (Raj Narain, 1975), the right to **fly the National Flag** on one's own building as a mark of expression (**Union of India v Naveen Jindal, 2004**), the **right to silence** (Bijoe Emmanuel, 1986), commercial advertisement and expression over the **internet** (Anuradha Bhasin, 2020).

★★★ **Shreya Singhal (2015)**: struck down **Section 66A** of the IT Act, which punished vaguely 'offensive' online posts, as violating 19(1)(a).

★★ **Electoral bonds** (ADR v Union of India, **15 February 2024**): the scheme was struck down because it violated voters' **right to information** under 19(1)(a).

★★ **Sedition**: Section 124A of the IPC was kept in abeyance by the Supreme Court in May 2022; the **Bharatiya Nyaya Sanhita, 2023** (in force from **1 July 2024**) has no offence called sedition; its Section 152 punishes acts endangering the sovereignty, unity and integrity of India.

★★ **Limits**: there is **no Fundamental Right to strike** (T.K. Rangarajan, 2003); protests must be at designated places, not by occupying public roads indefinitely (Amit Sahni, 2020).

★★★ **Reasonableness**: a restriction must strike a **balance** between individual freedom and the **interest of the general public** (State of Madras v V.G. Row, 1952). Courts weigh the purpose, the extent of the harm, and **prevailing social values and needs**; a law that carries out a Directive Principle is more readily held reasonable, but Directive Principles cannot be used to bypass Fundamental Rights.

	(a) Speech, expression	(b) Assembly	(c) Association	(d) Movement	(e) Residence	(g) Profession, trade
Sovereignty and integrity of India	●	●	●			
Security of the State	●					
Friendly relations with other States	●					
Public order	●	●	●			
Decency or morality	●		●			
Contempt, defamation, incitement	●					
Interests of the general public				●	●	●
Protecting Scheduled Tribes				●	●	
Qualifications; State monopoly						●

Filled dot: the State may restrict that freedom on that ground (clauses 19(2) to 19(6)). Clause (f), property, was deleted in 1978.

Which ground may limit which freedom. Speech carries the longest list (19(2)); movement and residence can be limited for the general public or to protect Scheduled Tribes; trade can require qualifications or give way to a State monopoly.

⚠ **Exam trap:** Hoisting the National Flag on a private building is a right under **Art 19(1)(a)**, not Art 14 or 21. The **freedom of the press** is not written separately; it is part of 19(1)(a).

💡 **Remember it:** Six freedoms as one day of a citizen: **Speak** (a), **Gather** (b), **Join** (c), **Travel** (d), **Settle** (e), **Earn** (g). The missing letter (f) is property, removed in 1978.

☑ Quick check

1. Can a foreign national claim the freedom of trade under Art 19?
2. Flying the National Flag on a private building is protected by which clause?
3. Which 2015 case struck down Section 66A of the IT Act?

Answer: 1. no; Art 19 is for citizens only · 2. Art 19(1)(a) (Naveen Jindal, 2004) · 3. Shreya Singhal

Articles 20 and 22: conviction, arrest and detention

ex post facto

double jeopardy

self-incrimination

24 hours

preventive detention

Advisory Board

These articles protect a person against the State's sharpest power: to arrest, prosecute and punish. Art 20 protects anyone accused of an offence; Art 22 protects anyone arrested or detained. They protect **every person**, not only citizens.

★★★ **Art 20(1), no ex post facto criminal law**: no conviction for an act that was not an offence when it was done, and no penalty greater than the law allowed then. It covers **criminal** laws only; civil and tax laws can be retrospective.

★★★ **Art 20(2), no double jeopardy**: no one shall be **prosecuted and punished** for the same offence more than once. It applies to courts and judicial tribunals, not to departmental inquiries.

★★★ **Art 20(3), no self-incrimination**: no accused person shall be compelled to be a witness against himself. It covers oral and documentary testimony, not fingerprints, blood or handwriting samples (Kathi Kalu Oghad, 1961). Forced **narco-analysis, polygraph and brain-mapping** tests violate it (Selvi, 2010).

★★ **Art 20 cannot be suspended** even during an emergency (44th Amendment).

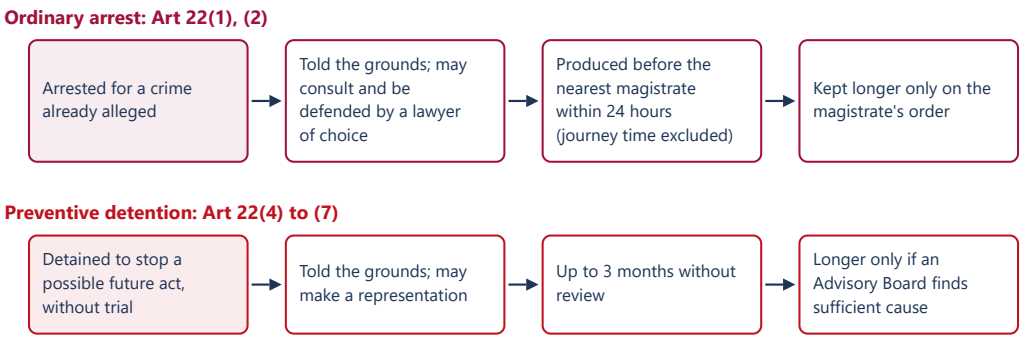
★★★ **Art 22(1), (2), ordinary arrest**: the person must be told the **grounds** as soon as may be; may **consult and be defended by a lawyer** of choice; must be produced before the **nearest magistrate within 24 hours**, excluding journey time; and cannot be held longer without the magistrate's order. The Bharatiya Nagarik Suraksha Sanhita, 2023 (which replaced the CrPC from 1 July 2024) repeats the 24-hour rule.

★★ **Art 22(3)**: these safeguards do **not** apply to an **enemy alien** or to a person held under a **preventive detention** law.

★★★ **Preventive detention**: detention to stop a person from doing something in future, without trial. No detention beyond **3 months** unless an **Advisory Board** (members qualified to be High Court judges) reports sufficient cause; the grounds must be told (except facts against the public interest) and the detenu may make a **representation**.

★★ **44th Amendment (1978)** would cut the period to 2 months, but that clause has **never been brought into force**.

★★ **Who may legislate**: **Parliament alone** for defence, foreign affairs and the security of India; Parliament and States both for security of a State, public order and essential supplies. Examples: **National Security Act 1980**, **COFEPOSA 1974**.



Art 22(3): the safeguards of the first lane do not apply to an enemy alien or to a person held under a preventive detention law.

Arrest for a crime and preventive detention follow different safeguards under Art 22.

⚠ **Exam trap:** Art 20(3) protects against being **forced to testify**, not against giving fingerprints or blood. Double jeopardy needs both **prosecution and punishment** earlier; an acquittal or a departmental penalty does not bar a trial.

Quick check

1. Name the three protections in Art 20.
2. Within how many hours must an arrested person be produced before a magistrate?
3. Beyond how long does preventive detention need an Advisory Board's report?

Answer: 1. no ex post facto criminal law, no double jeopardy, no self-incrimination · 2. 24 hours, excluding journey time · 3. 3 months

Article 21 and 21A: life, liberty and education

procedure established by law

Maneka Gandhi 1978

due process

Puttaswamy 2017

choice of spouse

Art 21A: 6 to 14

Art 21 is one sentence: no person shall be deprived of his **life or personal liberty** except according to **procedure established by law**. In 1950 the Court read it narrowly; since 1978 the procedure must be **fair, just and reasonable**, and 'life' means a **life with dignity**. Most new rights since then have been found inside Art 21.

★★ **A.K. Gopalan (1950)**: narrow view: any procedure laid down by a valid law is enough, and Art 19, 21 and 22 are read separately.

★★★ **Maneka Gandhi (1978)**: the procedure must be **fair, just and reasonable**, not arbitrary; Art 14, 19 and 21 are read together (the 'golden triangle'). In effect India moved close to **due process**.

★★★ **Two phrases**: '**procedure established by law**' comes from the **Japanese** Constitution and asks only whether a valid law was followed; '**due process of law**' comes from the **US** and lets courts test whether the law and its procedure are fair, that is, whether they meet the **principles of natural justice**.

★★★ **Right to privacy**: **K.S. Puttaswamy v Union of India (24 August 2017)**, nine judges, unanimous: privacy is intrinsic to **life and personal liberty under Art 21** and to the freedoms of Part III. It led to the Digital Personal Data Protection Act 2023.

★★★ **Right to marry a person of one's choice** is part of **Art 21** (Shafin Jahan, 2018, the Hadiya case).

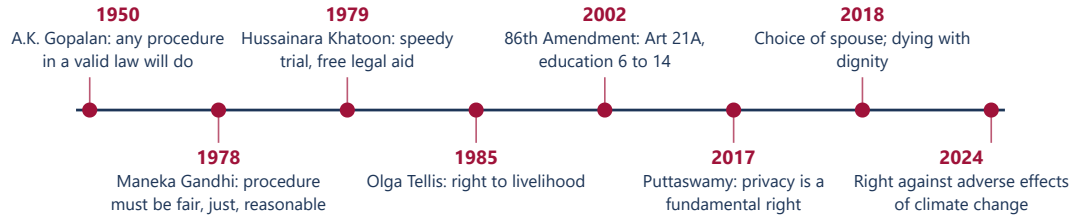
★★★ **Other rights read into Art 21**: dignity; **livelihood** (Olga Tellis, 1985); **speedy trial and free legal aid** (Hussainara Khatoon, 1979); clean environment and water; shelter; **emergency medical aid** (Parmanand Katara, 1989); against custodial torture and with arrest guidelines (D.K. Basu, 1997); **sleep** (Ramlila Maidan, 2012); **travel abroad** (Maneka Gandhi); **die with dignity**, passive euthanasia and living wills (Common Cause, 2018); against the **adverse effects of climate change** (M.K. Ranjitsinh, 2024).

★★ **Navtej Singh Johar (2018)**: consensual same-sex relations between adults decriminalised (Section 377 read down) under Art 14, 15, 19 and 21. **Supriyo Chakraborty (October 2023)**: there is no Fundamental Right to marry for same-sex couples; the matter is for Parliament.

★★ **ADM Jabalpur (1976)** had held that no one could go to court for Art 21 during the Emergency; Puttaswamy (2017) declared it wrongly decided, and the 44th Amendment had already made Art 20 and 21 non-suspendable.

★★★ **Art 21A**: the State shall provide **free and compulsory education** to all children aged **6 to 14** in a manner the State may by law decide. Added by the **86th Amendment (2002)**; the **RTE Act 2009** came into force on **1 April 2010**. It reserves **25%** of seats in private unaided schools for disadvantaged children; minority schools are exempt (Pramati, 2014).

★ **86th Amendment** also rewrote Art 45 (early childhood care below 6) and added Fundamental Duty 51A(k) for parents.



How Art 21 grew: from 'any procedure in a valid law' (1950) to a long list of rights read into life and personal liberty.

Remember it: Maneka made Art 21 'FJR': Fair, Just, Reasonable. Gopalan read it like a rule book; Maneka read it like a promise.

⚠ **Exam trap:** Privacy and the choice of a spouse are protected by **Art 21**, not by Art 19, 15 or 25. At heart, 'due process of law' means the **principles of natural justice**, not merely 'procedure established by law'.

Quick check

1. Under which Article has the Supreme Court placed the right to privacy?
2. Which 1978 case said procedure under Art 21 must be fair, just and reasonable?
3. Art 21A: which ages, which amendment?

Answer: 1. Article 21 (Puttaswamy, 2017) · 2. Maneka Gandhi · 3. 6 to 14 years; 86th Amendment (2002)

Right against Exploitation: Articles 23 and 24

Art 23

begar, trafficking

minimum wage

Art 23(2)

Art 24: under 14

These two articles target exploitation by anyone, the State or private employers: buying and selling people, making them work for nothing, and putting young children into dangerous work.

★★★ **Art 23(1)**: prohibits **traffic in human beings**, **begar** (forced work without pay) and other forms of **forced labour**; breaking this is an **offence** punishable by law. It protects citizens and foreigners, against the State and **private persons**.

★★ **Paying less than the minimum wage** is forced labour under Art 23 (PUDR v Union of India, 1982, the Asiad workers' case).

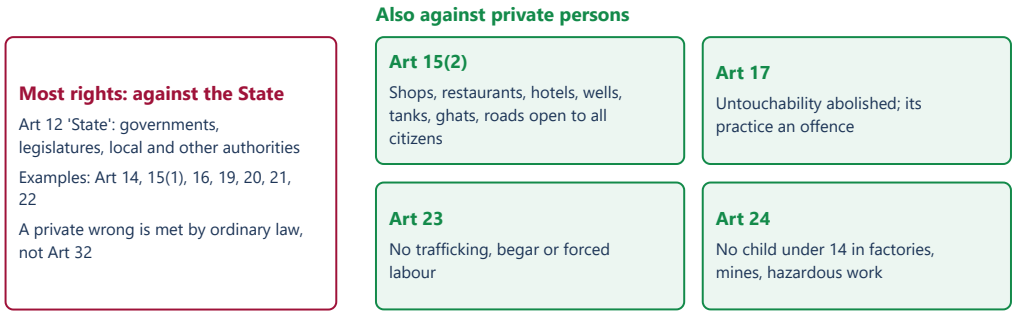
★★ **Art 23(2)**: the State may impose **compulsory service for public purposes**, such as military or social service, without discrimination on religion, race, caste or class.

★★ **Laws**: Immoral Traffic (Prevention) Act 1956; **Bonded Labour System (Abolition) Act 1976**.

★★★ **Art 24**: no child **below 14 years** shall be employed in any **factory, mine** or other **hazardous** employment.

★★ **Child and Adolescent Labour (Prohibition and Regulation) Act 1986**, as amended in **2016**: no child below 14 in **any** occupation (except helping a family enterprise after school, or as a child artist), and no adolescent of 14 to 18 in hazardous work.

★★★ **What is not in this category**: abolition of untouchability (Art 17, Right to Equality) and protection of minorities' interests (Art 29 and 30, Cultural and Educational Rights).



Most Fundamental Rights restrain only the State. Four also apply against private persons: Art 15(2), 17, 23 and 24.

Remember it: 23 = no Trading, no Trapping in labour; 24 = no child under 14. The two numbers sit next to each other, like 14 years and 24.

Quick check

1. Which two Articles make up the Right against Exploitation?
2. Below what age is employment in factories and mines barred by Art 24?
3. Name the four rights that apply even against private persons.

Answer: 1. Art 23 and 24 · 2. 14 years · 3. Art 15(2), 17, 23, 24

Freedom of Religion: Articles 25 to 28

Art 25: conscience

propagate ≠ convert

Art 26: denominations

Art 27: no tax

Art 28: instruction

Indian secularism means the State has **no religion of its own** and treats all religions equally, yet it may regulate the **secular** side of religious activity and carry out **social reform**. Art 25 is for individuals, Art 26 for religious groups, Art 27 for the taxpayer and Art 28 for the classroom.

★★★ **Art 25(1)**: all **persons** have freedom of **conscience** and the right freely to **profess, practise and propagate** religion, subject to **public order, morality, health** and the other provisions of Part III.

★★ **Propagate is not convert**: the right to spread one's religion does not include a right to convert another person (Rev. Stainislaus, 1977); laws against conversion by force or fraud were upheld.

★★ **Art 25(2)**: the State may regulate economic, financial, political or other **secular** activities linked to religion, provide for social welfare and reform, and throw open **Hindu religious institutions of a public character** to all classes of Hindus. Explanation I: wearing and carrying **kirpans** is part of the Sikh religion. Explanation II: for this clause, Hindus include **Sikhs, Jains and Buddhists**.

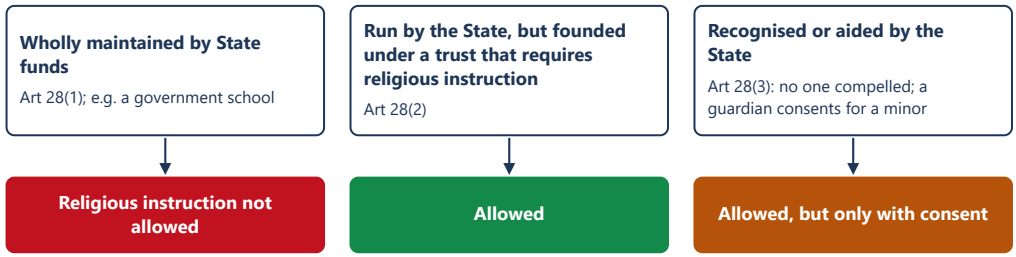
★ **Essential religious practice** test: only practices essential to a religion get protection (Shirur Mutt, 1954).

★★★ **Art 26**: every **religious denomination** may establish and maintain institutions for religious and charitable purposes, manage its own affairs in matters of religion, and own, acquire and administer property according to law; subject to public order, morality and health.

★★★ **Art 27**: no person can be compelled to pay **taxes** whose proceeds are specifically used to promote or maintain a particular religion. A **fee** for a service is allowed.

★★★ **Art 28**: no religious instruction in institutions **wholly maintained out of State funds**; this does not apply to an institution run by the State but founded under a trust that requires such instruction; in institutions **recognised or aided** by the State, nobody may be compelled to attend religious instruction or worship without consent (a guardian's for a minor).

★★ **Bijoe Emmanuel (1986)**: children who stood respectfully but did not sing the National Anthem for religious reasons could not be expelled (Art 19(1)(a) and 25).



Article 28 sorts educational institutions into three kinds; whether religious instruction is allowed depends on who pays and who founded the institution.

Remember it: 25 Person, 26 Group, 27 Purse, 28 Classroom.

⚠ **Exam trap:** Art 25 protects every **person**, Art 26 a **denomination**. Art 27 bars a **tax** for a religion, not a **fee**.

Quick check

1. On which three grounds can freedom of religion be restricted?
2. Does the right to propagate include a right to convert others?
3. In which institutions is religious instruction completely barred?

Answer: 1. public order, morality, health · 2. no (Rev. Stainislaus, 1977) · 3. those wholly maintained out of State funds (Art 28(1))

Cultural and Educational Rights: Articles 29 and 30

Art 29(1)

Art 29(2)

Art 30(1)

national minorities

15-Point Programme

Art 331 ended 2020

A democracy run by majority vote needs a guarantee that smaller groups will not lose their language, script or culture. Art 29 protects **any section of citizens** with a distinct culture; Art 30 lets **minorities** run their own schools and colleges.

★★ **Art 29(1)**: any **section of citizens** with a distinct **language, script or culture** has the right to **conserve** it. It covers majority groups as well as minorities.

★★★ **Art 29(2)**: no **citizen** can be denied admission to an institution maintained or aided by the State on grounds only of **religion, race, caste or language**.

★★★ **Art 30(1)**: **all minorities, religious or linguistic**, have the right to **establish and administer** educational institutions of their choice.

★★ **Art 30(1A)** (44th Amendment): if the State acquires a minority institution's property, the compensation must not defeat the right. **Art 30(2)**: no discrimination in grants because an institution is run by a minority.

★★ **Minority** is not defined in the Constitution; it is decided **State by State** (T.M.A. Pai, 2002). The State may still regulate standards, fees and admissions (P.A. Inamdar, 2005).

★★★ **National minorities** notified under the National Commission for Minorities Act 1992: **Muslims, Christians, Sikhs, Buddhists, Parsis** (1993) and **Jains** (2014). Benefits include Art 30 institutions and schemes such as the **Prime Minister's New 15-Point Programme** for the welfare of minorities (2006).

★★★ **No Lok Sabha nomination** for any religious minority. Art 331 allowed the President to nominate up to two **Anglo-Indians**; that provision lapsed on **25 January 2020** because the **104th Amendment (2019)** did not extend it.

	Article 29	Article 30
Who holds it	Any section of citizens with a distinct language, script or culture	All minorities, religious or linguistic
What it gives	Right to conserve that language, script or culture; no denial of admission to State-run or aided institutions on religion, race, caste or language	Right to establish and administer educational institutions of their choice; no discrimination in grant-in-aid
Majority covered?	Yes, any section of citizens	No, minorities only
Citizens only?	Yes	Yes; who is a minority is decided State by State

Article 29 against Article 30: who holds each right and what it gives.

⚠ **Exam trap:** Being a notified minority does **not** bring an automatic seat or nomination in the Lok Sabha; it brings Art 30 institutions and welfare schemes such as the 15-Point Programme.

☑ Quick check

1. Which Article lets minorities establish and administer educational institutions?
2. Art 29(2) bars denial of admission on which four grounds?
3. Name the six notified national minorities.

Answer: 1. Article 30(1) · 2. religion, race, caste, language · 3. Muslims, Christians, Sikhs, Buddhists, Parsis, Jains

Property and the saving clauses: Articles 31, 31A to 31C

Art 300A

44th Amendment

Art 31A, 31B

Ninth Schedule

Art 31C

I.R. Coelho 2007

The right to property clashed with land reform from the start. Parliament kept amending the Constitution to shield reform laws from the courts, the courts kept testing those amendments, and in 1978 property left Part III altogether.

★★ **In 1950** property was a Fundamental Right under **Art 19(1)(f)** and **Art 31**.

★★★ **44th Amendment (1978)** repealed both. Property is now a **constitutional (legal) right under Art 300A** in Part XII: 'No person shall be deprived of his property save by authority of law.' It belongs to **every person**, not only citizens, and the remedy lies in the High Court under Art 226, not in Art 32.

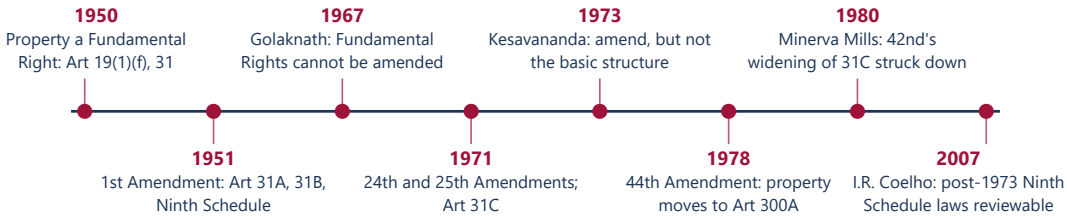
★★ **Only a law can take property**, not a mere executive order; the Supreme Court has also called it a human right (Vidya Devi, 2020).

★★ **Art 31A** (1st Amendment, 1951): saves laws on acquisition of estates and similar reforms from challenge under Art 14 and 19.

★★★ **Art 31B and the Ninth Schedule** (1st Amendment, 1951): Acts placed in the Ninth Schedule cannot be challenged for violating Fundamental Rights. **I.R. Coelho (2007)**: laws added after **24 April 1973** (the Kesavananda judgment) can be reviewed if they damage the basic structure.

★★★ **Art 31C** (25th Amendment, 1971): laws giving effect to **Art 39(b) and (c)** cannot be challenged under Art 14 or 19. The 42nd Amendment widened it to all Directive Principles; **Minerva Mills (1980)** struck down that widening.

★★ **Golaknath (1967)** held that Parliament could not amend Fundamental Rights; the **24th Amendment (1971)** reversed it, and **Kesavananda Bharati (1973)**, a 13-judge bench deciding 7:6, held that Parliament can amend any part but not the basic structure.



The property and saving-clause story, from a Fundamental Right in 1950 to Art 300A in 1978 and judicial review of the Ninth Schedule in 2007.

⚠ **Exam trap:** Property today is **neither a Fundamental Right nor a right of citizens only**: it is a legal (constitutional) right of **any person** under Art 300A.

☑ Quick check

1. Under which Article is the right to property protected today, and for whom?
2. Which amendment created Art 31A, 31B and the Ninth Schedule?
3. Ninth Schedule laws added after which date can be reviewed (I.R. Coelho)?

Answer: 1. Art 300A; every person · 2. 1st Amendment (1951) · 3. 24 April 1973

Right to Constitutional Remedies: Articles 32 and 226

Art 32

heart and soul

Art 226: any other purpose

PIL

Art 139

basic structure

A right without a remedy is only a promise. Art 32 makes the **remedy itself a Fundamental Right**: anyone whose Fundamental Right is violated can go straight to the Supreme Court. Ambedkar called it the **heart and soul** of the Constitution.

★★★ **Art 32(1)**: the right to move the **Supreme Court** by appropriate proceedings for enforcing Fundamental Rights is **guaranteed**. Ambedkar: it is 'the very soul of the Constitution and the very heart of it'.

★★ **Art 32(2)**: the Supreme Court can issue directions, orders or **writs**: **habeas corpus, mandamus, prohibition, certiorari and quo warranto**.

★★ **Art 32(3)**: Parliament may empower other courts to issue these writs within their local limits (not done so far). **Art 32(4)**: the right cannot be suspended except as the Constitution provides (Art 359).

★★★ **Art 226**: **High Courts** can issue writs for Fundamental Rights **and 'for any other purpose'** (ordinary legal rights), so their writ power is **wider** than the Supreme Court's; but it is **discretionary** and is not itself a Fundamental Right.

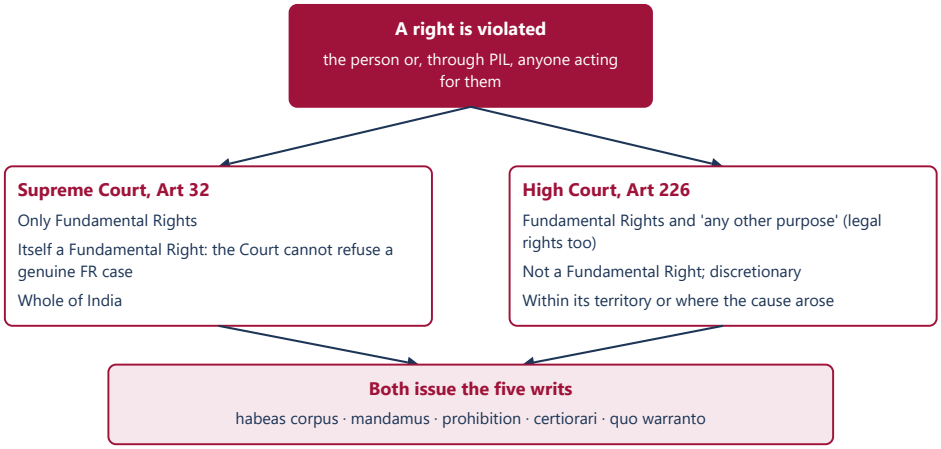
★★ **Judicial review under Art 32 and 226** is part of the **basic structure** (L. Chandra Kumar, 1997).

★★★ **Public Interest Litigation (PIL)**: the court relaxed **locus standi** so that any public-spirited person can move it on behalf of those who cannot (S.P. Gupta, 1981); Justices **P.N. Bhagwati** and **V.R. Krishna Iyer** shaped it; even a letter can be treated as a petition. Hussainara Khatoon (1979) is often called the first PIL.

★ **Art 139**: Parliament may give the Supreme Court power to issue writs for purposes other than Fundamental Rights.

Supreme Court (Art 32) and High Court (Art 226) ★★

Point	Art 32	Art 226
Rights enforced	Fundamental Rights only	Fundamental Rights and other legal rights
Is the remedy a Fundamental Right?	Yes	No
Can the court refuse?	Not when a Fundamental Right is shown to be violated	Yes, it is discretionary
Reach	Whole of India	Its own territory, or where the cause of action arose



Two doors to the same five writs: the Supreme Court under Art 32 for Fundamental Rights, the High Court under Art 226 for those and other legal rights.



Dr B.R. Ambedkar, chairman of the Drafting Committee, who called Article 32 the heart and soul of the Constitution. Image: Unknown author, Wikimedia Commons, public domain

⚠ **Exam trap:** The **High Court's** writ power is wider in **scope** (any legal right), while the right to go to the **Supreme Court** is itself a Fundamental Right. Do not reverse the two.

☑ Quick check

1. Which Article did Ambedkar call the heart and soul of the Constitution?
2. Why is a High Court's writ power wider than the Supreme Court's?
3. Which 1981 case relaxed locus standi for PIL?

Answer: 1. Article 32 · 2. Art 226 covers 'any other purpose', not just Fundamental Rights · 3. S.P. Gupta

The five writs

habeas corpus

mandamus

prohibition

certiorari

quo warranto

locus standi

Writs are the court's commands, inherited from English law as 'prerogative writs'. Each one answers a different wrong: an unlawful detention, a duty not done, a court going beyond its power, or an office held without right.

The five writs ★★★

Writ	Meaning	Issued for	Not issued against
Habeas corpus	'To have the body'	Produce a detained person and justify the detention; lies against public authorities and private persons	Lawful detention; detention for contempt of court or of a legislature; detention by a competent court; detention outside the court's jurisdiction
Mandamus	'We command'	Order a public official, public body, corporation, lower court, tribunal or government to perform a public duty it has failed to do	A private person or body (unless entrusted with a public duty); a company, even a government company (Praga Tools, 1969); the President or a Governor; a discretionary duty
Prohibition	'To forbid'	Order a lower court or tribunal to stop proceedings beyond its jurisdiction, while the case is pending	Administrative or legislative bodies; private persons
Certiorari	'To be certified' or 'informed'	Quash an order a lower court or tribunal has already passed beyond its powers, or call up the case; since 1991 also against administrative authorities affecting rights	Legislative bodies; private persons
Quo warranto	'By what authority'	Ask a person holding a substantive public office, created by statute or the Constitution, to show his right to it	Ministerial offices; private offices

★★★ **Who may apply**: usually only an **aggrieved person**; for **habeas corpus** and **quo warranto** any person may apply, the first on behalf of the detainee and the second as a public-minded citizen.

★★★ **Prohibition vs certiorari**: prohibition is **preventive**, issued while proceedings are **pending**; certiorari is **curative**, issued **after** an order is passed, so it is called the '**postmortem**' writ.

★★★ **Mandamus** lies only to enforce a **public duty**: not against a private organisation unless it is entrusted with a public duty, and not against a company, even a government company, for its ordinary obligations.

★★ **Habeas corpus** is the strongest guard of personal liberty; it lies even against **private persons** holding someone unlawfully.

The wrong	The writ	What it orders
Someone is held without legal authority	**Habeas corpus**	'have the body': produce the person and justify the detention
A public authority will not do its legal duty	**Mandamus**	'we command': perform the public duty
A lower court or tribunal is about to exceed its jurisdiction	**Prohibition**	'to forbid': stop the pending case
A lower court or tribunal has already decided beyond its powers	**Certiorari**	'to be informed': quash the order or call up the case
A person holds a public office without the right to it	**Quo warranto**	'by what authority': justify the claim or leave

Match the wrong to the writ: each writ answers one kind of wrong.



The Supreme Court of India, New Delhi, which issues writs under Article 32. Image: Subhashish Panigrahi, Wikimedia Commons, CC BY-SA 4.0

Remember it: Five writs in five words: 'Body, Command, Stop, Quash, Authority'. Habeas corpus brings the body, mandamus commands, prohibition stops, certiorari quashes, quo warranto asks by what authority.

⚠ **Exam trap:** A writ of **prohibition** goes to a **lower court**, not to a government officer or to a legislature. The 'postmortem' writ is **certiorari**, not prohibition.

Quick check

1. Which two writs can be sought by any person, not only the aggrieved?
2. Which writ stops a lower court midway, and which quashes its decided order?
3. Does mandamus lie against a private body?

Answer: 1. habeas corpus and quo warranto · 2. prohibition; certiorari · 3. no, unless it is entrusted with a public duty

Articles 33 to 35, emergencies, and who enjoys which right

Art 33: forces

Art 34: martial law

The last articles of Part III set the limits: forces that need discipline, areas under martial law, and emergencies. They also make sure that only **Parliament**, not each State, can make the laws that carry out key rights, so the rights mean the same everywhere in India.

Art 35: Parliament

Art 358

Art 359

citizens only

★★ **Art 33**: **Parliament** may restrict or abrogate the Fundamental Rights of the **armed forces, paramilitary forces, police, intelligence agencies** and similar bodies to keep discipline.

★★ **Art 34**: rights may be restricted while **martial law** is in force in an area; Parliament may **indemnify** officials for acts done to restore order there. The Constitution does not define martial law.

★★ **Art 35**: only **Parliament** may make laws on matters under Art 16(3), 32(3), 33 and 34, and laws prescribing punishment for acts made offences in Part III, such as untouchability (Art 17) and forced labour (Art 23).

★ **Art 35A**, inserted by a 1954 Presidential order for permanent residents of Jammu and Kashmir, ceased to apply in August 2019.

★★★ **Art 358**: when a National Emergency is proclaimed on the ground of **war or external aggression** (not armed rebellion), **Art 19 is suspended automatically** for its duration.

★★★ **Art 359**: the President may by order suspend the right to **move the courts** for enforcing specified Fundamental Rights, but **never Art 20 and 21** (44th Amendment, 1978).

★★★ **Citizens only**: Art **15, 16, 19, 29 and 30**. **Every person**, foreigners included: Art **14, 20, 21, 21A, 22, 23, 24, 25, 26, 27 and 28** (Art 22 does not protect an enemy alien).



Rights of citizens only, and rights of every person. A foreign national in India has equality before law, life and liberty and freedom of religion, but not the Art 19 freedoms.

⚠ **Exam trap:** Freedom of speech and the rights of minorities (Art 29, 30) are **citizens-only**; equality before law and protection of life and liberty are available to **foreigners** too.

☑ Quick check

1. Which Article suspends Art 19 automatically, and in which kind of emergency?
2. Which two Articles can never be suspended under Art 359?
3. List the five citizens-only Fundamental Rights articles.

Answer: 1. Art 358; war or external aggression · 2. Art 20 and 21 · 3. 15, 16, 19, 29, 30

Asked in past papers (21)

UPSC 2011 In India, if a religious sect/community is given the status of a national minority, what special advantages it is entitled to ?
1. It can establish and administer exclusive educational institutions.
2. The President of India automatically nominates a representative of the community to Lok Sabha.
3. It can derive benefits from the Prime Minister's 15-Point Programme.
Which of the statements given above is/are correct ?
(a) 1 only (b) 2 and 3 only (c) 1 and 3 only (d) 1, 2 and 3
Answer: (c) 1 and 3 only. Article 30: minorities may establish and administer educational institutions; Article 331 nomination to the Lok Sabha covered only the Anglo-Indian community

UPSC 2017 Which of the following are envisaged by the Right against Exploitation in the Constitution of India ?
1. Prohibition of traffic in human beings and forced labour
2. Abolition of untouchability
3. Protection of the interests of minorities
4. Prohibition of employment of children in factories and mines
Select the correct answer using the code given below :
(a) 1, 2 and 4 only (b) 2, 3 and 4 only (c) 1 and 4 only (d) 1, 2, 3 and 4
Answer: (c) 1 and 4 only. Right against Exploitation: Article 23 bans human trafficking and forced labour; Article 24 bans employing children below 14 in factories, mines and hazardous work

UPSC 2018 Right to Privacy is protected as an intrinsic part of Right to Life and Personal Liberty. Which of the following in the Constitution of India correctly and appropriately imply the above statement ?
(a) Article 14 and the provisions under the 42nd Amendment to the Constitution
(b) Article 17 and the Directive Principles of State Policy in Part IV
(c) Article 21 and the freedoms guaranteed in Part III
(d) Article 24 and the provisions under the 44th Amendment to the Constitution
Answer: (c) Article 21 and the freedoms guaranteed in Part III. The right to privacy is protected by Article 21 and the freedoms in Part III

UPSC 2019 Which Article of the Constitution of India safeguards one's right to marry the person of one's choice?
(a) Article 19 (b) Article 21 (c) Article 25 (d) Article 29
Answer: (b) Article 21. The right to marry a person of one's choice is part of Article 21

UPSC 2020 Which one of the following categories of Fundamental Rights incorporates protection against untouchability as a form of discrimination ?
(a) Right against Exploitation (b) Right to Freedom (c) Right to Constitutional Remedies
(d) Right to Equality
Answer: (d) Right to Equality. Article 17 abolishes untouchability under the Right to Equality (Articles 14-18)

UPSC 2021 'Right to Privacy' is protected under which Article of the Constitution of India?
(a) Article 15 (b) Article 19 (c) Article 21 (d) Article 29
Answer: (c) Article 21. The right to privacy is protected by Article 21 and the freedoms in Part III

UPSC 2021 A legislation which confers on the executive or administrative authority an unguided and uncontrolled discretionary power in the matter of application of law violates which one of the following Articles of the Constitution of India?
(a) Article 14 (b) Article 28 (c) Article 32 (d) Article 44
Answer: (a) Article 14. Article 14 strikes down arbitrary laws, including unguided discretionary power

UPSC 2021 What is the position of the Right to Property in India?
(a) Legal right available to citizens only (b) Legal right available to any person
(c) Fundamental Right available to citizens only (d) Neither Fundamental Right nor legal right
Answer: (b) Legal right available to any person. Article 300A: the right to property is a constitutional legal right of every person; The 44th Amendment (1978) removed property from the Fundamental Rights

UPSC 2021 Consider the following statements in respect of Bharat Ratna and Padma Awards :
1. Bharat Ratna and Padma Awards are titles under the Article 18(1) of the Constitution of India.
2. Padma Awards, which were instituted in the year 1954, were suspended only once.
3. The number of Bharat Ratna Awards is restricted to a maximum of five in a particular year.
Which of the above statements are not correct?
(a) 1 and 2 only (b) 2 and 3 only (c) 1 and 3 only (d) 1, 2 and 3
Answer: (d) 1, 2 and 3. National awards like Bharat Ratna are not 'titles' barred by Article 18; Bharat Ratna rules cap the award at three a year

UPSC 2022 With reference to the writs issued by the Courts in India, consider the following statements :
1. Mandamus will not lie against a private organisation unless it is entrusted with a public duty.
2. Mandamus will not lie against a Company even though it may be a Government Company.
3. Any public minded person can be a petitioner to move the Court to obtain the writ of Quo Warranto.
Which of the statements given above are correct ?
(a) 1 and 2 only (b) 2 and 3 only (c) 1 and 3 only (d) 1, 2 and 3
Answer: (d) 1, 2 and 3. Mandamus lies against a public authority, or a private body with a public duty; Any person, not only an aggrieved one, may seek a writ of quo warranto

UPSC 2023 In essence, what does 'Due Process of Law' mean?
(a) The principle of natural justice (b) The procedure established by law (c) Fair application of law
(d) Equality before law
Answer: (a) The principle of natural justice. Due process of law tests whether a law and its procedure are fair, just and reasonable; Maneka Gandhi (1978) read fairness into 'procedure established by law' in Article 21

UPSC 2023 Consider the following statements :
Statement-I :
The Supreme Court of India has held in some judgements that the reservation policies made under Article 16(4) of the Constitution of India would be limited by Article 335 for maintenance of efficiency of administration.
Statement-II :
Article 335 of the Constitution of India defines the term 'efficiency of administration'.
Which one of the following is correct in respect of the above statements?
(a) Both Statement-I and Statement-II are correct and Statement-II is the correct explanation for Statement-I
(b) Both Statement-I and Statement-II are correct and Statement-II is not the correct explanation for Statement-I
(c) Statement-I is correct but Statement-II is incorrect (d) Statement-I is incorrect but Statement-II is correct
Answer: (c) Statement-I is correct but Statement-II is incorrect. Article 335: SC/ST claims in services must square with efficiency of administration; Article 335 mentions but does not define 'efficiency of administration'

UPSC 2024 Under which of the following Articles of the Constitution of India, has the Supreme Court of India placed the Right to Privacy ?
(a) Article 15 (b) Article 16 (c) Article 19 (d) Article 21
Answer: (d) Article 21. Puttaswamy (2017): privacy is a fundamental right, rooted mainly in Article 21

UPSC 2024 A Writ of Prohibition is an order issued by the Supreme Court or High Courts to :
(a) a government officer prohibiting him from taking a particular action.
(b) the Parliament/Legislative Assembly to pass a law on Prohibition.
(c) the lower court prohibiting continuation of proceedings in a case.
(d) the Government prohibiting it from following an unconstitutional policy.
Answer: (c) the lower court prohibiting continuation of proceedings in a case.. Prohibition is issued by a higher court to stop a lower court exceeding jurisdiction

UPSC 2026 'X' was addressing a seminar on the meaning of the term 'law' as provided under Article 13, Part III of the Constitution of India. 'X' explained that the meaning of the term 'law' in the Constitution of India was very comprehensive. It included ordinances, orders and even rules and regulations. 'Y' pointed out that the term 'law' in Article 13 also included custom or usage having in the territory of India the force of law, to which 'X' was not convinced.
Based on the above, select the correct conclusion from the options given below :
(a) 'X' is correct in the interpretation of law, including the view on non-inclusion of custom.
(b) The view of 'Y' that 'law' included custom is not correct. (c) The views of both 'X' and 'Y' are correct.
(d) The view of only 'Y' is correct.
Answer: (d) The view of only 'Y' is correct.. Article 13(3): 'law' includes ordinances, rules, regulations and custom or usage

BPSC 60th-62nd The Supreme Court has held that hoisting the National Flag atop the private buildings is a fundamental right of every citizen under :
(a) Article 14 of the Constitution (b) Article 19 (1)(a) of the Constitution (c) Article 21 of the Constitution
(d) Article 25 of the Constitution (e) None of the above/More than one of the above
Answer: (b) Article 19 (1)(a) of the Constitution. Flying the national flag is part of free expression under Article 19(1)(a)

BPSC 60th-62nd Choose the fundamental rights available to Indian Citizen but not to aliens :
I. Freedom of Speech and Expression
II. Equality Before the Law
III. Right of Minorities
IV. Protection of Life and Liberty
(a) I and III (b) I and IV (c) II and IV (d) II and III (e) None of the above/More than one of the above
Answer: (a) I and III. Articles 15, 16, 19, 29 and 30 are available only to citizens; Articles 14 and 21 are available to all persons, including foreigners

BPSC 65th Which one of the following constitutional remedies is also known as 'postmortem'?
(a) Prohibition (b) Mandamus (c) Certiorari (d) Quo warranto
(e) None of the above/More than one of the above
Answer: (c) Certiorari. Certiorari quashes an order already passed; prohibition stops proceedings midway

BPSC 69th Untouchability is abolished by which Article of the Indian Constitution?
(a) Article 14 (b) Article 15 (c) Article 17 (d) Article 22
Answer: (c) Article 17. Article 17 abolishes untouchability and makes its practice an offence

BPSC 70th re-exam A British Citizen staying in India can not claim right to
(a) Freedom of trade and profession (b) Equality before law (c) Protection of life and personal liberty
(d) Freedom of religion
Answer: (a) Freedom of trade and profession. Articles 15, 16, 19, 29 and 30 are for citizens only; most other rights cover all persons

BPSC 71st The constitution of India provides for reasonable restrictions on Fundamental Rights but reasonableness must keep in mind that :
1) The interest of the general public is safeguarded
2) Prevailing social value and also social needs are not bar
3) Directive principles can be bypassed
4) Collective good is not greater
Out of these :
(a) 1 and 2 are correct (b) 2 and 3 are correct (c) Only 4 is correct (d) Only 1 is correct
Answer: (a) 1 and 2 are correct. Reasonable restrictions on Fundamental Rights must serve the general public interest; A restriction that furthers a Directive Principle can be held reasonable

Test yourself (13)

1. Which of the following Fundamental Rights is available to a foreign national living in India?
(a) Freedom of speech and expression (b) Equality of opportunity in public employment
(c) Protection of life and personal liberty (d) Right to conserve a distinct language and script

2. The term 'law' in Article 13 does not include
(a) an Ordinance (b) a custom having the force of law (c) a notification
(d) an amendment of the Constitution under Article 368

3. Which of the following can be enforced against private individuals as well as the State?
(a) Article 14 (b) Article 17 (c) Article 19 (d) Article 21

4. Consider: 1. Art 20 2. Art 21 3. Art 19 4. Art 25. Which cannot be suspended even during a National Emergency?
(a) 1 and 2 only (b) 2 and 3 only (c) 1, 2 and 4 only (d) 3 and 4 only

5. A High Court can issue writs under Article 226
(a) only for Fundamental Rights (b) for Fundamental Rights and for any other purpose
(c) only when the Supreme Court refers a case (d) only against private persons

6. A person is appointed to a statutory public office though he is not qualified for it. The appropriate writ is
(a) mandamus (b) certiorari (c) quo warranto (d) prohibition

7. Which amendment made education for children aged 6 to 14 a Fundamental Right?
(a) 42nd Amendment (b) 44th Amendment (c) 86th Amendment (d) 93rd Amendment

8. In Indra Sawhney (1992), the Supreme Court held that
(a) reservation in jobs is unconstitutional
(b) the creamy layer among OBCs must be excluded and total reservation should ordinarily not exceed 50%
(c) reservation can be given only on economic grounds (d) reservation in promotions is a Fundamental Right

9. Hoisting the National Flag on a private building has been held to be part of
(a) Article 14 (b) Article 19(1)(a) (c) Article 21 (d) Article 25

10. Right to property in India today is
(a) a Fundamental Right of citizens only (b) a Fundamental Right of all persons
(c) a constitutional legal right of every person (d) neither a constitutional nor a legal right

11. Consider the following statements:
1. Article 17, which abolishes untouchability, is part of the Right to Equality.
2. Article 15 bars discrimination on grounds of descent and residence.
3. Article 14 protects a foreign national living in India.
Which of the statements given above is/are correct?
(a) 1 only (b) 1 and 2 only (c) 1 and 3 only (d) 1, 2 and 3

12. Consider the following pairs:
Writ : What it does
1. Habeas corpus : asks that a detained person be produced and the detention justified
2. Certiorari : stops a lower court midway while the case is still pending
3. Quo warranto : asks by what authority a person holds a public office
How many of the above pairs are correctly matched?
(a) Only one (b) Only two (c) All three (d) None

13. A citizen of Nepal working in Delhi is arrested and kept in a police lock-up for three days without being produced before a magistrate. His employer, not a relative, files a petition in the Supreme Court. Which of the following is correct?

(a) The petition fails, since the Article 22 safeguards on arrest protect only citizens of India

(b) The petition fails, since only the detained person himself may apply for habeas corpus

(c) He must first go to the High Court, since foreigners cannot use Article 32 at all

(d) Habeas corpus can issue; any person may apply on behalf of the detainee

Answers: 1. (c) Art 21 protects every person; Art 19, 16 and 29 are for citizens only. · 2. (d) Art 13(4), added by the 24th Amendment, excludes constitutional amendments. · 3. (b) Art 17 (untouchability) applies against private persons; so do Art 15(2), 23 and 24. · 4. (a) After the 44th Amendment, Art 359 cannot suspend enforcement of Art 20 and 21. · 5. (b) Art 226 covers Fundamental Rights and other legal rights, so it is wider than Art 32 in scope. · 6. (c) Quo warranto asks by what authority a person holds a public office; any person may seek it. · 7. (c) The 86th Amendment (2002) inserted Art 21A. · 8. (b) The Mandal case upheld 27% OBC quota with creamy-layer exclusion and a 50% ceiling. · 9. (b) Union of India v Naveen Jindal (2004): flying the flag is an expression protected by Art 19(1)(a). · 10. (c) The 44th Amendment (1978) moved it to Art 300A, which protects every person. · 11. (c) Descent and residence are the two grounds Article 16 adds for public jobs; Article 15 has only religion, race, caste, sex and place of birth. · 12. (b) Pair 2 describes prohibition; certiorari quashes an order already passed, which is why it is called the 'postmortem' writ. · 13. (d) Article 22 protects every person except an enemy alien, and habeas corpus is one of the two writs any person may seek.