

**PRESENTATION
BY**

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Polity

Polity

Constitution

-Legal document

-Principles and

Functions of govt.

Government basis

-Union

-State

-Local self government

(Panchayat, Municipality)

Elements of state

- Territory
- Population
- Government
- sovereignty

Sovereignty

Supreme decision making power

Internal sovereignty	External sovereignty
Law of land is binding on every individual of state.	Any state should be able to take any foreign decision without any external pressure.

Functions of state

1. Law making

↓
Legislature

↙
Lok sabha

↘
Rajya Sabha

2. Law implementation

↓
Executive

↙
Permanent

-civil servant

↘
Temporary

-ministers

3. Law adjudication

↓
Judiciary

(Dispute settlement)

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Constitution Assembly

- Election for the CA was held in July 1946.
- Members of the CA -> elected by Provisional Assembly.
- Muslim league boycotted - demand for separate electorate.
- First session- 9 december 1946
- Interim/acting President (for 2 days)- Dr Sachidanand Sinha
- 11 dec 1946 -> Rajendra Prasad (first president of CA)

Major Committees chairman

- Drafting chairman- BR Ambedkar
- Union - Nehru
- State - Nehru
- Provisional - Sardar Vallabhai Patel

- Enacting clause- 26 November 1949
- Some provisions of the constitution were adopted on 26 nov 1949 like citizenship.
- Rest of the provisions of the constitution came into force on 26 jan 1950.

	Initially	Now
Articles	395	485
Parts	22	25
Schedules	8	12

Schedule no.	Year	Amendment
9th	1951	1st
10th	1985	52nd
11th	1992	73rd
12th	1992	74th

Majority

1. Simple majority

- More than half of people present and voting for
- Wherever the constitution is silent- simple majority is used

2. Absolute majority

- Each and every member should be present on the voting day.

3. Effective majority

- For removal of:
 - ❖ Vice President of India
 - ❖ Presiding officer of the house i.e, deputy speaker of Lok sabha
 - ❖ Deputy chairman of legislative council

4. Special majority (two-third majority)

- Article 368- amendment of Indian constitution
- Removal of judges of supreme court, high court, CAG (Comptroller & auditor general)
- Requesting Parliament to create/abolish legislative council for state
- Article 61- Impeachment of President (removal of President)

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<u>Written constitution</u>	<u>Unwritten constitution</u>
Provisions of the const. are codified/ systematically arranged. (eg. India)	Provisions are not codified. (eg. United Kingdom)
Enacted by a group of people or a body	Evolving / changing (day by day)
Supremacy of the const.	Parliamentary supremacy

Government of India Act 1935

1. Administrative structure of center & state
2. Office of governor
3. Idea of federalism
4. Emergency provision
5. Supreme court of India

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US

1. Preamble
2. Fundamental rights
3. Equal protection of law
4. Independence of judiciary
5. Judicial review
6. Vice President- Chairman of Rajya Sabha

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Britain

1. Parliamentary form of government (Rajya Sabha & Lok Sabha)
2. Single citizenship
3. Rule of law
4. Office of CAG
5. Writ (Command)

Ireland

1. Directive Principle of State Policy (DPSP)
2. President election

Canada

1. Federation with strong entres
2. Residuary Powers

Schedule VII

Union list State list Concurrent list

Germany

1. Emergency Provision lies in central government
2. Suspension of fundamental right during emergency

Australia

1. Cooperative federalism & concurrent list

Doctrine of separation of power (DOSOP)

- Given by French Philosopher- Montesquieu
- If 3 functions of state (law making, implementation, adjudication) lies with single organ-> It will lead to dictatorship.
- In India, DOSOP is not possible fully because ministers are part of legislature.
- But in presidential form of government like US, doctrine of separation of power is specifically followed.

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Doctrine of checks and balance

- Every organ of govt. Keeps an eye on every another organ.
- In US case- All treaties & appointments made by US President has to be rectified by Senate (Legislature).
- US legislature can pass a resolution to remove judge of supreme court & President of US.
- Executive check on legislature. Any bill pass by US legislature has to be signed by President. The president has absolute power to withhold the bill called as veto power.
- Judiciary control on executive and legislature. A bill passed by legislature on an executive decision can be declared as null and void, if it is not in accordance with constitution.

Features of True Federation

1. Written constitution
2. Supremacy of constitution
3. Rigid constitution
4. Division of power
5. Bicameral legislature
6. Independence of judiciary

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Distinct features of India

1. Single citizenship.
2. **Article 3**- Parliament can alter the boundary of state.
3. During national emergency, distribution of power b/w center & state is suspended.
4. More subject in union list.
5. If there exist a law on a subject in concurrent list by both center & state. Center's law will be prevailed.
6. Residuary power lies with center.
7. Governor (executive head of state) is appointed by center and he is answerable only to center.
8. More tax subject lies with center.

Federation

- Group of non sovereign units (Kerala, Tamil Nadu etc)
- No unit can move apart

Co- Federation

- Group of non sovereign units (European union, ASEAN, SAARC)
- Units can move apart.

Preamble

- It is not mandatory to have a preamble but it is customary to have a preamble.
- It consists of the summary and philosophy of the const.
- It gives a bird eye view of the const.
- It denotes or showcases the supremacy of the people i.e, we the people of India.
- It is not an imposition by any foreign power. We have adopted our constitution through our representative in constitution assembly.
- The preamble was amended only once by 42nd amendment 1976.
- Originally the constitution had 3 words- Sovereign, Democratic & Republic.
- 2 new words were added i.e, Socialist & Secularism.
- In the original constitution, unity was only written. Now, it has been changed into Unity & Integrity.

Socialism- state owned distribution and production to balance the gap between have and have nots

Democracy- socialism should be attained through democratic means.

Republic- there should be an elected head of state , should not be hereditary monarch.

Secularism- religious neutralism on the part of state (religious equality).

Article 15 - It prohibits the state from discriminating among the citizens on the grounds of religion along with any other ground.

Article 16 - It prohibits the state from discriminating among the citizens on the grounds of religion along with any other ground at public employment place (eg. govt. jobs/offices).

Article 326 - Right to vote irrespective of any religion.

Article 25 to 28 - Right to freedom of Religion.

Democracy

- **Initiative** - It is a device by which people can initiate the laws to be made.
- **Referendum** - It is a device by which law made by the government is referred to the people for their approval.
- **Recall** - It is a device by which elected representative can be called back if the majority wishes.
- **Plebiscite** - It is a device by which views of people can be taken to ascertain their opinion on a matter of political importance.
- **For example**- In France case, the French President can refer constitution amendment bill passed by French Legislature to the people by national referendum.
- The French President can also refer an international treaty or agreement signed by French executive to the people in national referendum.

Features of Indian Democracy

- Presence of more than one political party.
- Regular election based on universal adult suffrage (right to vote).
- Freedom of press (Journalism).
- Rights enjoyed by the people.
- Rule of majority but minority are also respected.
- Liberty - Freedom of thoughts, expression, belief, faith and worship.
- Fartinity - concept of universal Brotherhood (we all are sons and daughters of same soil). Given by Vasudev Kutumbakam.

Part 1 - Union and its territories

Part 2 - Citizenship

Part 3 - Fundamental Rights

Part 4 - DPSP

Part 5 - Union

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Part I - Union & its Territories

- The Indian Union is not the result of an agreement among the units.
- The states in India have not being created by ny agreement. It has been created by law of land.
- Article 1 of Indian constitution - India is indestructible union , so the union cannot be destroyed.
- The union of India consists of 28 states & 9 Union territories.

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Process of creation of new state-

1. A bill in this regard is drafted by the Department of state, ministry of home affairs.
2. The bill is first sent to the President for his recommendation.
3. The President after recommending the bill has to sent it to the concerned state, which has to give its views in specific period of time.
4. After the lapse of time given by the President, it is assumed that the state has given its view. After that the bill is presented in Parliament.
5. The view of the state is not binding on the Parliament.

6. If the bill undergoes large number of changes in the content, it can be referred to the state once again.

7. The bill has to be passed by simple majority in both the houses of Parliament (Rajya Sabha & Lok Sabha) and after President gives his assent a new state is created.

Article 3 - The states in India are destructible.

Summary of Article 1 & 3 -> India is indestructible union with destructible states.

Linguistic organisation of State

- The organisation of the state by the constitution assembly was considered as an agreement keeping in view the wide gap between the states in form of population, area, linguistic diversity as well as uneven development.
- In 1948, central government accounted a commission headed by Justice Dhar of Allahabad High Court to look into the aspect of linguistic reorganisation of state. It held that the states can be reorganised on the basis of history, geography for administrative convenience.
- J.V.P. committee (Jawaharlal Nehru, Vallabhai Patel, Pattabhi Sitaram Iyer).
- The Indian National Congress constituted an assembly of its members. The committee consisted of Jawaharlal Nehru, Vallabhai Patel, Pattabhi Sitaram Iyer.

- J.V.P. committee outrightly rejected reorganisation of states on the basis of languages but said matter can be taken into consideration in future.
- In 1953, Andhra Pradesh was the first state to be created on the basis of language.
- In 1953, central govt. created a state reorganisation commission headed by Justice Faisal Ali. The commission suggested reorganisation of states on the basis of languages.
- In 1956, the Parliament passed reorganisation representative bill which created 14 states and 6 union territories.

Advantages of linguistic state

- Cultural unity among the people of the state.
- Before 1956, English was the language used for administrative purpose, which was not understood by majority of people. So linguistic reorganisation of states has led to development of vernacular languages & regional languages.

Disadvantages of linguistic state

- Under development of national language.
- Feeling of regionalism.

Part II - Citizenship

- A citizen is an individual who enjoy full membership of a political community and legal rights . He has political rights also.
- Article 5-10 -> talks about citizenship
- ❖ Who on the date of commencement of the constitution were citizens of India by migration, by domicile and anglo Indians.
- ❖ Single citizenship.
- ❖ Indian citizen cannot hold citizenship of any other country simultaneously.
- Article 11 -> provides the parliament the law by which Indian Citizenship can be acquired or lost.

Indian citizenship can be acquired by 5 ways -

1. By Birth

- A person born in India or time of his/her birth, if one or both parent are Indian citizen, then the person will get Indian Citizenship by birth.
- It is also known as **Law of Soil** and **Jus Soil** (Latin nomenclature).

2. By descent

- A person born outside India and at time of his/her birth, if both the parent or one of the parent is Indian Citizen then the child will get Indian Citizenship.
- Latin nomenclature- **Jus Sanguine**.

3. By registration

- Indian origin person - residing in India for past 7 years.
- Citizen of commonwealth state who are married to Indian.
- Minor child of an Indian parent.

In case of registration- these people can apply for Indian citizenship. Such people have to fulfill the residential qualification of 5 consecutive years & 90 days per calendar year.

4. By naturalisation

- Any person not falling under the above mentioned categories (birth, descent, registration) can also applied for Indian citizenship.
- Such people have to fulfill the residential qualification of 10 consecutive years & 90 days per calendar year. Eg. Mother Teresa

5. By incorporation of a new territory

- If a new territory is acquired by India, its people are offered Indian citizenship, if they accept it the govt. is bound them to provide Indian Citizenship.

Modes by which Indian Citizenship can be lost-

1. **Renunciation**- if a person voluntarily surrender the Indian Citizenship on acquiring citizenship of any other country.
2. **Termination** - if a person acquire a citizenship of any other country but thus not voluntary surrender the Indian Citizenship and government of India comes to know about it then his/her citizenship can be terminated.
3. **Deprivation** - A person can be deprived of Indian Citizenship by order of govt. under following conditions:
 - ❖ The certificate of registration and naturalisation has been acquired by means of fraud or by giving wrong facts.

- ❖ If a person is convicted at least 2 years of imprisonment within 5 years of acquiring Indian Citizenship.
- ❖ If a person, during a war in which India is partying illegally contacts with an enemy.
- ❖ If a person is living out of India for past 7 years, he have not shown any interest in returning to India nor he is part of any educational institution, nor he is employee under any govt. Organisation then his citizenship can be deprived.

Process of deprivation - A person can be deprived from his Indian Citizenship on recommendation of a committee who has held judicial office in the country for at least 10 years.

Part III - Fundamental Rights

- The claim of an individual on an authority. These are the rights without which no human can be at his/her best.
- Fundamental rights are required for the development of personality of an individual.
- Natural rights are absolute rights-> not given by any authority/state. It is adhered to ones life when they are born. Since it is not given by any state/authority no one has right to take this right.
- Also called as in-eligible rights. Like we cannot stop a tree from bearing a fruit. Similarly no individual can be deprived of his/her natural rights.
- During the time of second world war, the world community joined hands to form United Nation Organisation.

- The objective of UN is to stop future wars and to promote international peace and security.
- The UN general assembly adopted universal declaration of human rights on 10th december 1948.
- Those human rights incorporated in part 3 of Indian Constitution which enjoy special sanction of law are termed as Fundamental Rights (FR).
- All FR are human rights but all human rights are not FR.
- Article 12-> the state includes the parliament of India, government, legislature of each state, local bodies within the territory of India & under the control of India.
- According to Article 12, Judiciary is not part of the state in reference to Part 3 of Indian Constitution.

Fundamental rights are enforceable and justiciable

- An individual can approach Judiciary including highest court of law, supreme court for enforcement of fundamental rights.
- Fundamental rights are negative obligations on the part of state because most of the FR are negatively worded. For eg. The state shall not discriminate

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Judicial review

- Power of judiciary, review a law made by legislature or an executive decision to declare it as null and void, if it is not in accordance with provisions of the constitution.
- Concept was evolved from US in 1803 Marbury Madison case, in which the US supreme court declared an act passed by US legislature and signed by US executive as null and void.
- The chief justice Marshall said that the US constitution is supreme law of land.
- In India, only high court and supreme court can conduct judicial review.

Doctrine of severability

- If any provision of an act is inconsistent with fundamental right, that provision will be declared as null and void not the entire act.

Doctrine of eclipse

- The supreme court in Bhikaji Narain vs State of MP case 1957 gave doctrine of eclipse.
- The supreme court held that if a law is inconsistent with fundamental right, the entire law may not consider be a deadlock but it will be overshadow by fundamental right. The eclipse part may get revived again if there is an amendment to the fundamental right and the conflict with the law ends.

- In Shankari Prasad vs Union Of India case and Sajjan Singh vs State of Rajasthan case- The supreme court held that the Parliament has power to amend fundamental rights.

Doctrine of Basic Structure of Constitution

- In Keshvanan Bharati vs State of Kerala Case 1973- Supreme court gave a new judicial innovation i.e basic structure of doctrine.
- The court said parliament has power to amend any part of the constitution but basic structure should not be disturbed.
- The court in this case did not elaborate on what constitutes the basic structure. But through various judgement of the court we have come to know basic structure include matters like-

- ❖ Sovereignty of country
- ❖ Secularism
- ❖ Federalism
- ❖ Socialism
- ❖ Rule of law
- ❖ Independence of Judiciary
- ❖ Judicial review

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<u>Fundamental rights</u>	<u>Article</u>
Right to equality	14-18
Right to freedom	19-22
Right against exploitation	23 & 24
Right to freedom of religion	25-28
Cultural & educational right	29 & 30
Constitutional remedies	32

Right to equality (Article 14-18)

Article 14- equality before law. Equal protection of laws.

- This means no one is above law, all are equal in eyes of law.
- Latin nomenclature- Les Supremious (Supremacy of Law).
- Exceptions -
- ❖ The President and the Governor are not answerable in court of law for any administrative decision taken by them.
- ❖ No criminal proceedings can be initiated against president & governor during their term of office.
- ❖ Foreign diplomats and foreign dignitaries are not subjected to law of land.

Article 15

It prohibits the state from discriminating on the grounds of religion, caste, place of birth, sex along with any other grounds.

Exceptions -

- ❖ State can make special provisions for women and children.
- ❖ State can make any special provisions for advancement of socially, educationally and economically backward classes.
- ❖ State can also create reservation for socially and educationally backward classes in educational institutions.

Article 16

It prohibits the state from discriminating among the citizens on the grounds of religion, caste, place of birth, sex along with any other grounds at public employment place

Exceptions -

- ❖ Parliament can make a law prescribing resident as a criteria for employment in certain jobs in a particular state or union territory.
- ❖ Special provisions for backward classes like SC/ST/OBC/EWS

Article 17 - Right against untouchability. It prohibits untouchability and declares it as an offence under law.

No exceptions

Article 18

- Abolishes titles and prohibits the state from conferring titles on any individuals but military and academic distinctions are allowed like Dr, Er, Co, Major etc.
- In Balaji Raghavan case- supreme court held that national awards are not titles but they are meritorious awards given to individuals on rendering meritorious services towards society or state.
- These awards should not be used as suffix or prefix to the name of an individual.
- No individual can accept any title from any foreign state.

Right to freedom (Article 19-22)

Article 19- Right to freedom of speech and expression

- Right to give speeches.
- Right to put hoardings and banners.
- Freedom of press
- Right to information
- Right to criticise other and right to answer once criticism.
- Right to keep silence
- Right to hoist Indian flag

Exception- restriction can be put on the above mentioned things on security of nation and sovereignty of nation to maintain public order.

- Right to form assembly ,association & union (like- welfare union, trade union etc).
- In armed and para military forces, they can have welfare association but cannot have trade union.
- Right to have any occupation. The government can put reasonable restrictions on certain occupation for public interest like manufacturing of crackers, arms (weapons), liquor, chemical substances etc.

Article 20

- In criminal cases, the punishment will have a prospective effect.
- In civil cases- Retrospective effect
- State shall not practice double jeopardy. A person cannot be punished twice for a same crime.
- State shall not compel an individual to give self incriminating evidences.
- The supreme court has given an order - Narco analysis and Brain Mapping cannot be considered as an evidence.
- Narco analysis, Brain Mapping and lie detection test can be conducted with prior consent of court and this can be used to collect evidence.

Article 21 - Right to life

No one has to be deprived of right to life and personal liberty except under procedure established by law.

Interpretation of A21

- Right to have dignified life
- Right to have shelter
- Right of an accident victim to get a medical aid.
- Right to have a speedy trial.
- Right to live in a clean environment.
- Under trials should not be kept with victims

Procedure established by law

- If there is a law related to this case.
- If the law is made by a competent authority (parliament, legislature).
- If the law is made by correct procedure or not.
- Whether the law is reasonable or not.

Principle of natural justice

- No one can be judge of his/her own case.
- No one can be punished unheard.
- No authority shall act in a biased manner.

Article 21 A- Right to Education

- It was added by 86th amendment act 2002 i.e free and complementary education for children between 6 to 14 years of age.

Article 22

Protection in case of arrest or detention in certain cases.

Rights during an arrest:

- A person has to be informed on the grounds of which he is arrested.
- A person should be allowed to defend himself using an advocate /lawyer of his/her own choice.
- The arrested person shall be produced before nearest magistrate within 24 hours of arrest.
- This 24 hours excludes travelling time.

Exceptions

- ❖ The above mentioned rights are not available to anyone who is arrested on the grounds of preventive detention.

- ❖ **Preventive detention**- No crime has been committed, the person has been arrested on the basis of suspicion.
- ❖ Person arrested under preventive detention can not be held beyond 3 months. If a person has to be held/detained beyond 3 months, a recommendation of advisory board/committee is required.

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Right against exploitation (Article 23&24)

Article 23 - Trafficking human beings and begging

- Trafficking - engaging in slavery or compelling an individual or children to do immoral act.
- Begging - forced labour without compensation
- **Exception** - The state can compel an individual to render the service in public interest.

For example-

1. During the time of war people can be forced to work in auxiliary units.
2. Election duty of government employees.
3. Anganwadi workers/teachers- carry out survey, polio campaign etc.

Article 24

- Prohibits employment of children below 14 years of age in factories and in hazardous conditions or in any occupation. 14-18 years of children cannot work in hazardous conditions.
- It is an act to prohibit the engagement of children in all occupation and to prohibit employment of adolescence in hazardous occupation.
- The adolescent are children who are completed 14 years of age but not completed 18 years of age. A child has been defined as person who has not completed 14 years of age.

Exception -

- ❖ A child working in his family enterprises other than hazardous occupation or process is not a crime.
- ❖ A child can also work as an artist in audio-video, entertainment, sports activity except in circus.

Right to freedom of religion (Article 25-28)

Article 25 - right to practice

A person can follow the rituals of a religion.

A person has right to profess, practice and propagate a religion.

Practice- follow rituals of a religion.

Profess- to spell out tenants of a religion.

Propagate - means to spell out tenants of a religion but for the purpose of educating others.

Article 25 A - Right to freedom of conscience

Inner freedom of an individual to follow a particular religion.

Exceptions - the state can restrict freedom of religion to maintain public order, morality and health.

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Article 26 - Right of denominations

Denomination- group of people following a particular religion.

A26 holds that subject to public order, morality, health every religious denominations shall have their own rights.

Rights

- To establish and maintain religious institution for charitable purpose.
- Every religious denomination can managed their own religious affairs.
- Every religious institution have right to acquire movable and immovable property.

Article 27

- Holds that no person shall be compelled to pay any taxes (religious taxes).
- The proceed of which are appropriated in payment of expenses for promotion and maintenance of particular religion & religious denominations.

Article 28

- Provides where the religious instructions can be given specifically in educational institutions.
- Any educational institutions wholly maintain out of state funds- there no religious instructions can be given.
- But in other educational institutions religious instruction can be given.

Cultural & Educational Rights (Article 29&30)

Article 29

- Every section of Indian Citizen has the right to conserve Indian culture and language.
- Culture includes religion, language and religious scripts.

Article 30

- States that how minority group or community can maintain its minority character.
- Whether minority groups on the basis of language or religion have right to establish & administer educational institutions.

- This minority groups has property rights also.
- While funding the educational institutions, the government of India cannot discriminate on the grounds that the institution is managed by minority or not.

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Constitutional Remedies (Article 32)

- Holds that an individual can move to supreme court for enforcement of Fundamental Rights.
- Dr. BR Ambedkar describe constitutional remedies as fundamental to all fundamental rights. Without this right all fundamental right are meaningless.
- A32 and A226 authorises supreme court and high court to issue writs for enforcement of fundamental rights.
- Types -
 1. Habeous corpus
 2. Mandamus
 3. Writ of prohibition
 4. Certiorari
 5. Quo Warranto

Habeous corpus

- It can be issued to a state or to an individual for illegal detainment.
- It is issued to protect personal liberty of an individual. If it is issued, the person has to be produced before court
- The court will ascertain the ground of detention, if the detention is found illegal then the court order release of the person.

Mandamus

- It is issued to only government organisation or government official. This writ is commanding in nature asking the govt. authority to do certain things or not to do certain things.
- Private organisation cannot issued this writ
- Exception - President of India & Governor do not come under this writ.

Writ of prohibition

- It can be issued by a higher judiciary to a lower judiciary.
- Such writs can be issued on absence of judiciary or extension of jurisdiction or violation of principle of natural justice.

Certiorari

- This writ is exactly same as writ of prohibition but writ of prohibition is issued when the case is ongoing or pending before the court.
- But certiorari is issued after the judgement is given and even the judgement is found illegal can be declared as null and void.

Quo warrantu

- Such writ can be issued only to a person holding a public office.

- It is issued to ascertain whether the person is legally qualified to hold office or not.
- If it is issued- the person has to provide his legality of appointment.
- If the appointment is found illegal the person will be asked to leave the office.

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Part IV- DPSP

- Directive principle of state policy
- 3 principles-
- ❖ Socialist
- ❖ Gandhian
- ❖ liberal

Socialist principle

- The state shall strive to promote social and economic order and political justice.
- The state shall control ownership, production and distribution of certain goods.
- Prevention of concentration of wealth in fewer hands.

- Equal pay for equal work- for men & women.
- Right to work
- Wages to MGNREGA workers
- Old Age pension
- Maternity leave
- Good conditions for work
- Early childhood care or children below 6 years of age.
- Providing living wages.
- Participation of workers in management of industry (42nd amendment 1976).

Gandhian Principle

- Organisation of village panchayat.
- Promotion of cottage industry or cooperative society.
- Protecting economic and educational rights of SC/ST and other minorities.
- Prohibiting consumption of intoxicating drinks like alcohol and other harmful

Substances.

- Prohibiting slaughter of milch animals (Article 48).

Western Liberal Principle

- Uniform civil code
- Protection of environment, guarding wildlife and forest.
- Protection of monuments and places of national importance.
- Separation of judiciary from executive .
- International peace & security.

Part IV A- Fundamental duties

- Added by 42nd amendment act 1976 on recommendation of Swaran Singh Committee.
- Formed by central government.
- The committee said that people should be aware of their rights as well as their duties too.
- It contains only one article i.e 51 A.
- Fundamental duties- roots in Indian culture and tradition.
- 11th fundamental duty i.e 51 A (K) - It holds that it is a duty of parent/guardian to provide opportunities of education to child.

Part V - The Union

Funds of India

1. Consolidated Fund Of India

Article 266, clause I

- Largest fund of govt. of India.
- Source of money- tax collected, loan raised, income received by govt. of India.
- Only Parliament of India has authority to withdraw money from this fund.

2. Public account of India

- Article 266, clause II
- PF, savings of the money from employees and all other types of money received by govt. of India.
- Only ministers can use this fund.

3. Contingency fund of India

- Article 267
- Provided by law.
- To meet any emergency situation/crisis.
- It was created by contingency fund act 1951.
- Earlier limit- 50 crore
- Present limit- 500 crore

- It is at disposal of President to meet any emergency, when parliament is not in session.
- When the parliament comes back to the session the money withdrawn by the order of President is transferred from consolidated fund to the contingency fund.

Budget

Steps -

1. Introduction - in Lok Sabha by Finance Minister.
2. General discussion
3. Demand for grants
4. Voting on demand of grants

5. Scrutiny by department related standing committee. (Total 24)

6. Appropriation bill

7. Finance bill

Demand for grants (asking for money)- All expenditure from consolidated fund of India are to be voted by Lok Sabha and are submitted in form of demand for grants. It is presented in respect to each ministry of department (Article 113).

Salary of President and allowances, government schemes- money is utilised by demand for grants.

Appropriation bill- after demand of grant are scrutinized and voted by Lok Sabha. They needed to be given a law format. The appropriation bill is the law format for demand of grant. Without enactment of such law no money can be withdrawn from consolidated fund of India.

Finance bill - according to Article 102 finance bill permits imposition, alternation, abolition, regulation and remission of taxes.

Vote on account- if election is about to come and there is a chance of change of government in that case a complete budget is not released instead vote on account is released for small duration of time.

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President of India

- Article 52- states that, there shall be a president of India.
- Article 53- states that the executive power of the union rest with the president who can discharged this power personally or through subordinate officers (civil servants- IAS, IPS).
- Election deposit for President Election- Rs. 15,000
- In order to get back election deposit, the candidate must get at least 1/6th of vote.
- Article 54- elected members of Lok Sabha, Rajya Sabha and elected MLAs vote for Presidential election.
- According to the 70th amendment act 1992 the voting rights was given to MLAs of Delhi and Puducherry for the first time.
- In 1997- they voted for the first time.

- According to Article 71- holds that disputes regarding election of President and Vice President is to be heard by the Supreme Court of India and decision of supreme court will be final.
- A petition in this regard can only be filed by the candidate , only after election process is over.
- Term of president office- 5 years
- Chief justice of Supreme court gives oath to the President of India. President gives his resignation to Vice President of India.

Qualifications of President

- Citizen of India
- Age- 35
- He should be eligible to contest election for Lok Sabha.
- He should not hold any office of profit.

- In the office of profit- the office of Vice President and governor, minister of union and state is not considered as office of profit

President of India can be impeached before term of his office, if he violates the Indian Constitution.

Process of Impeachment

- The resolution to remove the President can be kept in either house of the parliament (Lok Sabha/Rajya Sabha).
- The resolution must be supported by 1/4th of member.
- 14 day notice is given to the President in which president can keep his opinion.
- Voting will take place on this issue and the resolution has to be passed by a special majority i.e 2/3rd majority of the member present and voting.

- After passing the bill in the first house, the bill will be transferred into the second house where the 2nd house act as an investigation house.
- The president will be given a chance to represent himself, by self or with the help of an advocate of his choice.
- If the bill is passed by special majority in second house also then the hon'ble president of India will be impeached.

Powers of president

1. Administrative power

- Executive head of union.
- He has the power of removal and appointment of PM of India, other ministers, governor, judge of high court & supreme court, CAG, members of UPSc, election commission.

2. Legislative power

- Gives final assent to a bill passed by Lok Sabha(L/S) and Rajya Sabha(R/S).
- Summons (to call meeting) and Prorogue (to end)- session of L/S and R/S.
- President of India dissolves the L/S.
- He addresses the joint session of both the houses of parliament which is the first session of the year.
- He can send messages to the parliament.
- He has the power to promulgate the ordinance.
- Once the parliament is back to the session, within 6 weeks or reassembly of the house the parliament must pass ordinance given by President.

3. Judicial power of the President

- He can give pardons, respite, remit or commute one judgement with another.

4. Military power

- Supreme commander of 3 forces.
- He is sole authority to declare war and peace.

5. Diplomatic power

- He can appoint indian diplomats to other countries like ambassador.

6. Veto power

- After the bill is passed by the parliament, the president in case of non money bill or non constitutional amendment bill can send it back to parliament for reconsideration only once. This is called suspensive veto.
- Secondly, the president can declare withholding the assent- Pocket veto.
- Since there is no definite period of time for pocket veto. It can be an absolute veto also.

Vice president of India

- In the election of vice president of India both elected and nominated members can vote i.e elected MPs+nominated MPs +elected MLAs + nominated MLAs + members of legislative council.

Qualifications

- Citizen of India
- Age - 35
- Eligible to become member of Rajya Sabha
- He must not hold office of profit. The office of governor and minister of state- not considered as office of state.

Powers and functions

- He has no functions to perform as vice president of India but he is ex-officio chairman of Rajya Sabha.
- When there is vacancy of officer of President or the President has gone on long leave, vice president take over.
- When the vice president acts like a president of india- he no longer act as chairman of Rajya Sabha, at the same time he enjoys all the powers and privileges of President.

Removal procedure

- Article 67 B- consist of provision of removal of vice president of India.
- The resolution in this regard can only be presented in Rajya Sabha.
- Notice of 14 days if given to vice president .
- Resolution has to be passed by effective majority in Rajya Sabha.
- Lok Sabha has to pass this resolution- simple majority.

Attorney General of India

- Constitutional office- Article 76
- Also known as legal officer of India.
- Appointed by- President
- He should be eligible to be appointed as judge of supreme court.
- No fixed salary.
- He give legal advice to govt. of India.

Special Powers of Attorney General

- He has the right of audience in all courts of the country.
- He has the right to take part in parliament process without right to vote.
- He can be appointed as member of parliamentary committee under Article 88.

- He is supported by 2 solicitor general (appointed by Ministry of Law & Justice).

Supported by 4 additional solicitor general

- The attorney general of India can practice as a private advocate but cannot stand in a case against government.

Plutus IAS

Council of states (Rajya Sabha)

- Federal chamber.
- Maximum strength- 250
- Present strength- 245
- 12 members are nominated by President having special knowledge in the field of art, science, literature & social service.
- Rest of the members- elected by MLAs of state
- Term of members- 6 year
- One third retires after every 2 years.
- It is a permanent house.

Lok Sabha

- Maximum strength- 552
- Present strength- 545
- 2 members nominated from anglo Indian community by the President of India.
- Term of office- 5 years
- It can be dissolved before 5 years.
- It can be extended , not more than 1 year in case of emergency.

Plutus IAS