Q1. Constitution of India

The Constitution of India is the supreme law of India. The document lays down the framework that demarcates fundamental political code, structure, procedures, powers, and duties of government institutions and sets out fundamental rights, directive principles, and the duties of citizens. It is the longest written national constitution in the world.

It imparts constitutional supremacy (not parliamentary supremacy, since it was created by a constituent assembly rather than Parliament) and was adopted by its people with a declaration in its preamble.[8] Parliament cannot override the constitution.

It was adopted by the Constituent Assembly of India on 26 November 1949 and became effective on 26 January 1950.[9] The constitution replaced the Government of India Act 1935 as the country's fundamental governing document, and the Dominion of India became the Republic of India. To ensure constitutional autochthony, its framers repealed prior acts of the British parliament in Article 395.[10] India celebrates its constitution on 26 January as Republic Day.[11]

The constitution declares India a sovereign, socialist, secular,[12] and democratic republic, assures its citizens justice, equality, and liberty, and endeavours to promote fraternity.[13] The original 1950 constitution is preserved in a helium-filled case at the Parliament House in New Delhi. The words "secular" and "socialist" were added to the preamble by 42nd amendment act in 1976 during the Emergency**.**

Background

Babasaheb Ambedkar, chairman of the drafting committee, presenting the final draft of the Indian constitution to Constituent Assembly president Rajendra Prasad on 25 November 1949

In 1928, the All Parties Conference convened a committee in Lucknow to prepare the Constitution of India, which was known as the Nehru Report[15]t of the colonial India was under British rule from 1857 to 1947. From 1947 to 1950, the same legislation continued to be implemented as India was a dominion of Britain for these three years, as each princely state was convinced by Sardar Patel and V.P.Menon to sign the articles of integration with India, and the British government continued to be responsible for the external security of the country.[16] Thus, the constitution of India repealed the Indian Independence Act 1947 and Government of India Act 1935 when it became effective on 26 January 1950. India ceased to be a dominion of the British Crown and became a sovereign, democratic and republic with the constitution. Articles 5, 6, 7, 8, 9, 60, 324, 366, 367, 379, 380, 388, 391, 392, 393, and 394 of the constitution came into force on 26 November 1949, and the remaining articles became effective on 26 January 1950.[17]

Previous legislation

The constitution was drawn from a number of sources. Mindful of India's needs and conditions, its framers borrowed features of previous legislation such as the Government of India Act 1858, the Indian Councils Acts of 1861, 1892 and 1909, the Government of India Acts 1919 and 1935, and the Indian Independence Act 1947. The latter, which led to the creation of India and Pakistan, divided the former Constituent Assembly in two. The Amendment act of 1935 is also a very important step for making the constitution for two new born countries. Each new assembly had sovereign power to draft and enact a new constitution for the separate states.[18]

Constituent Assembly

1950 Constituent Assembly meetinguy the Constituent Assembly, which was elected by elected members of the provincial assemblies.[19] The 389-member assembly (reduced to 299 after the partition of India) took almost three years to draft the constitution holding eleven sessions over a 165-day period.[5][18]

Having studied the constitutions of about 60 countries, Ambedkar was considered a wise constitutional expert. Ambedkar is recognised as the "Father of the Constitution of India".[20][21] In the constitution assembly, a member of the drafting committee, T. T. Krishnamachari said:

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

The Legislature and amendments

Article 368 dictates the procedure for constitutional amendments. Amendments are additions, variations or repeal of any part of the constitution by Parliament.[65] An amendment bill must be passed by each house of Parliament by a two-thirds majority of its total membership when at least two-thirds are present and vote. Certain amendments pertaining to the constitution's federal nature must also be ratified by a majority of state legislatures.

Unlike ordinary bills in accordance with Article 245 (except for money bills), there is no provision for a joint session of the Lok Sabha and Rajya Sabha to pass a constitutional amendment. During a parliamentary recess, the president cannot promulgate ordinances under his legislative powers under Article 123, Chapter III.

Despite the supermajority requirement for amendments to pass, the Indian constitution is the world's most frequently-amended national governing document.[66] The constitution is so specific in spelling out government powers that many amendments address issues dealt with by statute in other democracies.

In 2000, the Justice Manepalli Narayana Rao Venkatachaliah Commission was formed to examine a constitutional update. The commission submitted its report on 31 March 2002. However, the recommendations of this report have not been accepted by the consecutive governments.

The government of India establishes term-based law commissions to recommend legal reforms, facilitating the rule of law.

Limitations

In Kesavananda Bharati v. State of Kerala, the Supreme Court ruled that an amendment cannot destroy what it seeks to modify; it cannot tinker with the constitution's basic structure or framework, which are immutable. Such an amendment will be declared invalid, although no part of the constitution is protected from amendment; the basic structure doctrine does not protect any one provision of the constitution. According to the doctrine, the constitution's basic features (when "read as a whole") cannot be abridged or abolished. These "basic features" have not been fully defined,[60] and whether a particular provision of the constitution is a "basic feature" is decided by the courts.[67]

The *Kesavananda Bharati v. State of Kerala* decision laid down the constitution's basic structure:[1]

1. Supremacy of the constitution
2. Republican, democratic form of government
3. Its secular nature
4. Separation of powers
5. Its federal character[1]

This implies that Parliament can only amend the constitution to the limit of its basic structure. The Supreme Court or a high court may declare the amendment null and void if this is violated, after a judicial review. This is typical of parliamentary governments, where the judiciary checks parliamentary power.

In its 1967 Golak Nath v. State of Punjab decision, the Supreme Court ruled that the state of Punjab could not restrict any fundamental rights protected by the basic structure doctrine.[68] The extent of land ownership and practice of a profession, in this case, were considered fundamental rights.[69] The ruling was overturned with the ratification of the 24th Amendment in 1971.[69]

The judiciary

The judiciary is the final arbiter of the constitution.[70] Its duty (mandated by the constitution) is to act as a watchdog, preventing any legislative or executive act from overstepping constitutional bounds.[71] The judiciary protects the fundamental rights of the people (enshrined in the constitution) from infringement by any state body, and balances the conflicting exercise of power between the central government and a state (or states).

The courts are expected to remain unaffected by pressure exerted by other branches of the state, citizens or interest groups. An independent judiciary has been held as a basic feature of the constitution,[72][73] which cannot be changed by the legislature or the executive.[74] Article 50 of the Constitution provides that the state must take measures to separate the judiciary from the executive in the public services.

Judicial review

Judicial review was adopted by the constitution of India from judicial review in the United States.[75] In the Indian constitution, judicial review is dealt with in Article 13. The constitution is the supreme power of the nation, and governs all laws. According to **Article 13**:

1. All pre-constitutional laws, if they conflict wholly or in part with the constitution, shall have all conflicting provisions deemed ineffective until an amendment to the constitution ends the

conflict; the law will again come into force if it is compatible with the constitution as amended (the Doctrine of Eclipse).[76]

2. Laws made after the adoption of the constitution must be compatible with it, or they will be deemed void ab initio.
3. In such situations, the Supreme Court (or a high court) determines if a law is in conformity with the constitution. If such an interpretation is not possible because of inconsistency (and where separation is possible), the provision which is inconsistent with the constitution is considered void. In addition to Article 13, Articles 32, 226 and 227 provide the constitutional basis for judicial review.[77]

Due to the adoption of the Thirty-eighth Amendment, the Supreme Court was not allowed to preside over any laws adopted during a state of emergency which infringe fundamental rights under article 32 (the right to constitutional remedies).[78] The Forty-second Amendment widened Article 31C and added Articles 368(4) and 368(5), stating that any law passed by Parliament could not be challenged in court. The Supreme Court ruled in Minerva Mills v. Union of India that judicial review is a basic characteristic of the constitution, overturning Articles 368(4), 368(5) and 31C.[79]

The Executive

Chapter 1 of the Constitution of India creates a parliamentary system, with a Prime Minister who, in practice, exercises most executive power. The prime minister must have the support of a majority of the members of the Lok Sabha, or lower House of Parliament. If the Prime Minister does not have the support of a majority, the Lok Sabha can pass a motion of no confidence, removing the Prime Minister from office. Thus the Prime Minister is the member of parliament who leads the majority party or a coalition comprising a majority.[80] The Prime Minister governs with the aid of a Council of Ministers, which the Prime Minister appoints and whose members head ministries. Importantly, Article 75 establishes that "the Council of Ministers shall be collectively responsible to the House of the People" or Lok Sabha.[81] The Lok Sabha interprets this article to mean that the entire Council of Ministers can be subjected to a no confidence motion.[82] If a no confidence motion succeeds, the entire Council of Ministers must resign.

Despite the Prime Minister exercising executive power in practice, the constitution bestows all the national government's executive power in the office of the President.[83] This de jure power is not exercised in reality, however. Article 74 requires the President follow the "aid and advice" of the Council, headed by the Prime Minister.[84] In practice, this means that President's role is mostly ceremonial, with the Prime Minister exercising executive power because the President is obligated to act on the Prime Minister's wishes.[85] The President does retain the power to ask the Council to reconsider its advice, however, an action the President may take publicly. The Council is not required to make any changes before resubmitting the advice to the President, in which case the President is constitutionally required to adhere to it, overriding the President's discretion.[84] Previous Presidents have used this occasion to make public statements about their reasoning for sending a decision back to the Council, in an attempt to sway public opinion.[85] This system, with an executive who only possesses nominal power and an official "advisor" who possess actual power, is based on the British system and is a result of colonial influences on India before and during the writing of its constitution.[86][87]

The President is chosen by an electoral college composed of the members of both the national and state legislatures. Article 55 outlines the specifics of the electoral college. Half of the votes in the electoral college are assigned to state representatives in proportion to the population of each state and the other half are assigned to the national representatives. The voting is conducted using a secret, single transferable vote.[88]

While the Constitution gives the legislative powers to the two Houses of Parliament, Article 111 requires the President's signature for a bill to become law. Just as with the advice of the Council, the President can refuse to sign and send it back to the Parliament, but the Parliament can in turn send it back to the President who must then sign it.[89]

Dismissal of the Prime Minister

Despite the President's mandate to obey the advice of the Prime Minister and the Council, Article 75 declares that both "shall hold office during the pleasure of the President."[81] This means the President has the constitutional power to dismiss the Prime Minister or Council at anytime. If the Prime Minister still retained a majority vote in the Lok Sabha, however, this could trigger a constitutional crisis because the same article of the Constitution states that the Council of Ministers is responsible to the Lok Sabha and must command a majority in it. In practice the issue has never arisen, though President Zail Singh threatened to remove Prime Minister Rajiv Gandhi from office in 1987.[90]

Presidential Power to Legislate

When either or both Houses of Parliament are not in session, the Prime Minister, acting via the President, can unilaterally exercise the legislative power, creating ordinances that have the force of law. These ordinances expire six weeks after Parliament reconvenes or sooner if both Houses disapprove.[91] The Constitution declares that ordinances should only be issued when circumstances arise that require "immediate action." Because this term is not defined, governments have begun abusing the ordinance system to enact laws that could not pass both Houses of Parliament, according to some commentators.[92] This appears to be more common with divided government; when the Prime Minister's party controls the lower house but not the upper house, ordinances can be used to avoid needing the approval of the opposition in the upper house. In recent years, around ten ordinances have been passed annually, though at the peak of their use, over 30 were passed in a single year.[93] Ordinances can vary widely on their topic; recent examples of ordinances include items as varied as modifications to land owner rights, emergency responses to the COVID-19 pandemic, and changes to banking regulations.

Q3. History background of Indian Constitution

The history of the Constitution of India is very insightful as it explains exactly how it came into being. It also explains why India chose the Parliamentary form of democracy in its modern form.

The British came to India in the 17th century initially for trading only. Eventually, after slowly gaining more power, they attained the rights to collect revenue and govern themselves. In order to do this, they enacted various laws, rules and regulations.

According to the Charter Act of 1833, the Governor General of Bengal became the Governor General of India. It also created a Central Legislature, which, in a way, made the British supreme rulers of India.

The rule of the Company itself finally ended with the Government of India Act in 1858. As a result, the British Crown became ruler of India and administered the country through its government.

The Indian Councils Acts of 1861, 1892 and 1909 started giving representation to Indians in the Viceroy's councils. They also restored legislative powers back to some provinces. In other words, they adopted decentralization of powers between the Centre and the provinces.

The constitution of India was adopted on the 26 November 1949. However, it came to effect on the 26 January 1950. It was adopted by the Constitution Assembly. Dr. B. R. Ambedkar, the chairman of the Drafting Committee, is widely considered to be the architect of the Constitution of India. After, the adoption of the constitution, The Union of India became the contemporary and modern Republic of India.

Before 1947, India was divided into two main entities – The British India which consisted of 11 provinces and the Princely states ruled by Indian princes under subsidiary alliance policy. The two entities merged together to form the Indian Union, but many of the legacy systems in British India is followed even now. The historical underpinnings and evolution of the India Constitution can be traced to many Regulations and Acts passed before Indian Independence

Making of the Indian Constitution

In 1934, M.N.Roy put forward the idea of Constituent Assembly for India for the first time. He was a pioneer of the communist movement in India. The Indian National Congress in 1935 officially demanded the Constituent Assembly to frame the Indian Constitution. On behalf of INC in the Year 1938, Jawaharlal Nehru declared that the constitution of free India must be framed without any outside interference, by the Constituent Assembly elected on the basis of an Adult franchise.

Working of the Constituent Assembly

It held its first meeting on December 9, 1946. The Muslim League insisted on a separate state of Pakistan and boycotted the meeting. The meeting was attended by only 211 members, Dr. Sachchidananda Sinha, the oldest member, was elected as the temporary President of the Assembly. After some time, Dr Rajendra Prasad was elected as the President of the Assembly and H.C. Mukherjee and V.T. Krishnamachari both were elected as the Vice-Presidents of the Assembly.

Indian Constitution Preamble

The term 'Preamble' refers to the preface or introduction to the Indian Constitution. It contains the essence of the Constitution. The Preamble of the Indian Constitution is also called the 'identity card of the Constitution.' It is based on the 'Objectives Resolution', drafted and moved by Pandit Nehru, and adopted by the Constituent Assembly and it has been amended by the 42nd Constitutional Amendment Act of 1976, which added three new words–Socialist, Secular and Integrity.

Ingredients of the Preamble

The Preamble reveals four ingredients:

1. Source of the authority of the Indian Constitution-It states that the Constitution derives its authority from the people of India.

2. Nature of Indian State- Preamble declares India to be of a socialists, sovereign, democratic, secular and republican polity.

Sno	Committee	Chairman
1	Union Powers Committee	Jawaharlal Nehru
2	Union Constitution Committee	Jawaharlal Nehru
3	Provincial Constitution Committee	Sardar Patel
4	Drafting Committee	Dr B.R. Ambedkar
5	Advisory Committee on Fundamental Rights, Minorities and Tribal and Excluded Areas	Sardar Patel.
6	Rules of Procedure Committee	Dr Rajendra Prasad
7	States Committee (Committee for Negotiating with States)	Jawaharlal Nehru
8	Steering Committee	Dr Rajendra Prasad

3. Objectives of the Indian Constitution- It specifies liberty, justice, equality and fraternity as the objectives.

Indian Constitution- Committee

The Constituent Assembly appointed many committees to deal with different duties and tasks of Indian Constitution-making. Out of these, there were eight major committees and the others were minor committees.

Major Committees

Drafting Committee

Among all the committees, the most important committee was the Drafting Committee, which was set up on August 29, 1947.Drafting Committee preparing a draft of the new Indian Constitution. It consisted of seven members.

Sno	Members
1	Dr. B.R. Ambedkar (Chairman)
2	N. Gopalaswamy Ayyangar
3	Alladi Krishnaswamy Ayyar
4	Dr. K.M. Munshi
5	Syed Mohammad Saadullah
6	N. Madhava Rau (He replaced B.L. Mitter who resigned due to ill-health)
7	T.T. Krishnamachari (He replaced D.P. Khaitan who died in 1948)

Historical Evolution of the Indian Constitution

There are various layers in the background of the Indian Constitution:

- Regulating Act 1773
- Pitt's India Act 1784
- Charter Act of 1813
- Charter Act of 1833
- Charter Act of 1853

- Government of India Act 1858
- Indian Councils Act 1861
- India Councils Act 1892
- Morley-Minto Reforms 1909
- Montague-Chelmsford Reforms 1919
- Government of India Act 1935
- Indian Independence Act 1947

These acts were in some way instrumental for the development of the Indian Constitution.

History of Indian Constitution – Regulating Act 1773

- First time the British Parliament resorted to regulating the affairs of the East India Company.
- The Governor of Bengal was made the Governor-General of Bengal (Warren Hastings).
- An Executive Council of the Governor-General was created with 4 members.
- Centralised the administration with the Presidencies of Madras and Bombay being made subordinate to the Bengal Presidency.
- Supreme Court was established at Calcutta as the Apex Court in 1774.
- Prohibited company officials from engaging in private trade and from accepting gifts from Indians.

History of Indian Constitution – Pitt's India Act 1784

- Commercial and political functions of the company separated. The Court of Directors managed the commercial activities while the Board of Control managed political affairs.
- The company territories in India were called 'British possession in India'.
- Governor's Councils were set up in Madras and Bombay as well.

Read more about Pitt's India Act 1784 in the linked article.

History of Indian Constitution – Charter Act 1813

- This act ended the East India Company's monopoly over trade with India except in tea and opium. Trade with India was open to all British subjects.

Read more about the Charter Act 1813 in the linked article.

History of Indian Constitution – Charter Act 1833

- Governor-General of Bengal was designated the Governor-General of India (Lord William Bentinck).
- The legislative powers of the Bombay and Madras Presidencies were removed.
- This act ended the commercial activities of the company and it was transformed into an administrative body.

History of Indian Constitution – Charter Act 1853

- The legislative and executive powers of the Governor-General's Council were separated.
- A Central Legislative Council was created of 6 members out of which 4 were appointed by the provisional governments of Madras, Bombay, Agra and Bengal.
- The Indian civil service was opened as a means to recruit officers for administration through open competition.

Read more about the Charter Act 1853 in the linked article.

History of Indian Constitution – Government of India Act 1858

- After the 1857 revolt, the rule of the company was ended and the British possessions in India came directly under the British Crown.
- The office of the Secretary of State for India was created. He was assisted by a 15-member Council of India.
- The Indian administration was under his authority and the Viceroy was his agent. The Governor-General was designated the Viceroy as well (Lord Canning).
- The Court of Directors and the Board of Control were abolished.

Read more about the Government of India Act 1858 in the linked article.

History of Indian Constitution – Indian Councils Act 1861

- Indians were given representation in the Viceroy's Councils. 3 Indians entered the Legislative Council.
- Provisions were made for the entry of Indians in the Viceroy's Executive council also as non-official members.
- Portfolio system was recognised.
- Decentralisation initiated with the presidencies of Madras and Bombay being restored their legislative powers.

Read more about the Indian Councils Act 1861 in the linked article.

History of Indian Constitution – Indian Councils Act 1892

- Indirect elections (nominations) were introduced.
- Legislative Councils expanded. Gave more functions to the legislative councils such as the discussion of budget and questioning the executive.

History of Indian Constitution – Indian Councils Act 1909 (Morley-Minto Reforms)

- Direct elections to the legislative councils were introduced for the first time.
- Central Legislative Council became the Imperial Legislative Council.
- The number of members of the legislative council was increased from 16 to 60.

- The concept of the separate communal electorate was accepted.
- For the first time, an Indian was made a member of the Viceroy's Executive Council. (Satyendra Prasad Sinha – Law Member).

History of Indian Constitution – Government of India Act 1919 (Montague-Chelmsford Reforms)

- Central and provincial subjects were separated.
- Diarchy was introduced in the provincial governments with executive councillors being in charge of the reserved list and the ministers in charge of the transferred list of subjects.
- The ministers were nominated from among the elected members of the legislative council and were responsible to the legislature.
- A bicameral legislature was introduced for the first time at the centre. (Legislative council and legislative assembly later to become Rajya Sabha and Lok Sabha respectively).
- It mandated 3 members of the Viceroy's executive council to be Indians.
- This act provided for the first time, the establishment of a public service commission in India.
- This act extended the right to vote and with this, about 10% of the population

History of Indian Constitution – Government of India Act 1935

- An all-India Federation was proposed which would consist of British India and the princely states. This never materialised though.
- Subjects were divided between the centre and the provinces. Centre was in charge of the Federal List, provinces in charge of the Provincial List and there was a Concurrent List which both catered to.
- Diarchy was abolished at the provincial level and introduced at the centre.
- More autonomy was accorded to the provinces and in 6 out of 11 provinces, the bicameral legislature was introduced.
- A federal court was established and the Indian Council abolished.
- Burma and Aden were severed off from India.
- This act provided for the establishment of the RBI.
- This Act continued until it was replaced by the new Indian Constitution.

Read more about the Government of India Act 1935 in the linked article.

History of Indian Constitution – Indian Independence Act 1947

- India was declared independent and sovereign.
- The Viceroy and the Governors were made constitutional (nominal) heads.
- Set up responsible governments at the centre and the provinces.

Q2. <u>The Salient Features Of The Indian Constitution</u>

Following are the important features of the constitution of India, which makes it special in many aspects -

1. **Lengthiest Written Constitution**

The Indian Constitution is one of the lengthiest detailed constitutions in the world. There are 12 schedules and 448 articles in our Constitution. The Indian Constitution has incorporated various articles by taking inspiration from the various constitutions around the world.

2. **Blend Of Rigidity And Flexibility**

The Indian Constitution is neither completely rigid nor completely flexible, but a mix of both. Article 368 provides for two types of amendments -

1. Amendment through a special majority, i.e. two-thirds majority of the members of each House present and voting, and a majority (50%) of the total membership of each House.
2. Some other provisions can be amended by a special majority of the Parliament and with the ratification by half the states.

3. **Federal System With A Unitary Bias**

Indian Constitution is that it is a federation with a strong centralizing tendency. The constitution of India is neither federal nor unitary but is a mix of both.

Unitary Features	Federal Features
The division of powers is not equal. The center has more powers than the state which is evident from the fact that the Union list contains more matters than the State list.	It is a written Constitution which is an essential feature of every country following the federal system.
The federations like the U.S.A have the right to frame their own constitution, which is not possible in India as the entire country follows the Single constitution.	The supremacy of the constitution is always protected.
There is a single system of Courts that enforces both the Central and State laws.	
There is no equal representation of States in the houses of Parliament which is not the same in federations like the U.S.A.	

4. **Parliamentary Form Of Government**

The framers of our Constitution preferred a parliamentary system of government. Our newly christened democracy could not afford any confrontations between the executive and the legislature.

This could happen only when they were separate and independent of each other.

the President of India is the constitutional head of the Union Executive, but he exercises the executive power vested in him, in accordance with the advice of the Union Council of Ministers.

The real executive power thus vests with the Council of Ministers with the Prime Minister as the head.

The Council of Ministers is collectively responsible to the Lok Sabha. The same is true of the relationship between the Governors and the Council of Ministers in the States.

5. Integrated And Independent Judiciary

- The Judiciary ensures the proper functioning of the constitution and the enforcement of various provisions of the Constitution.
- The Constitution makers ensured that the Judiciary had to be independent and hence unbiased.

There are various provisions in the Constitution that ensure the independence of the judiciary:

- The appointment of Judges is independent and there is no involvement of any executive authorities.
- The tenure of Judges is secured.
- The removal of judges from their tenures must be also based on the constitutional provisions.

6. Fundamental Rights

The Indian Constitution guarantees 6 Fundamental Rights:

- Right to Equality (Article 14-18)
- Right to Freedom (Article 19-22)
- Right against Exploitation (Article 23-24)
- Right to Freedom of Religion (Article 25-28)
- Cultural and Educational Rights (Article 29-30)
- Right to Constitutional Remedies (Article 32)

7. Directive Principles Of State Policy

- Part IV of the Indian Constitution deals with the Directive Principles of State Policy.
- It is the duty of every State to apply these principles while making any new legislation.
- The Directive Principles of State Policy is similar to the 'Instrument of Instructions' that is in the Government of India Act 1935.
- They are basically instructions to the legislature and executive that have to be followed while framing new legislation by the State.

8. Fundamental Duties

- The Swaran Singh Committee of 1976 added a list of 11 Fundamental Duties in the constitution by adding a new Part-IVA and Article-51A in the constitution.
- Swaran Singh Committee was formed in 1976 after the internal emergency of 1975 which recommended adding a list of Fundamental Duties which every citizen of India should abide by.

- The 11 Fundamental Duties act as a moral obligation on every citizen of India and these Fundamental Duties are non-justiciable in nature i.e., one cannot move to court if someone is not obliging its duty as a citizen of India.
- The new Part IVA with Article 51A was added in the Constitution of India and it was inspired by the Constitution of the USSR.

9. Secularism

- The Constitution of India stands for a secular state, i.e. it gives equal importance to all religions.
- It also does not uphold any particular religion as the official state religion. The Western concept of secularism connotes a complete separation between religion and the State.
- This concept is inapplicable in the Indian situation where the society is multireligious.
- Hence, the Indian Constitution embodies the positive concept of secularism, i.e. giving equal respect to all religions and protecting all religions equally.

10. Universal Adult Franchise

- The concept of Universal Adult Franchise/Adult suffrage allows every citizen of India who is above eighteen years the right to vote in democratic elections.
- Any adult who is eligible to vote should not be discriminated against on the basis of gender, caste and religion.
- This provision was added in the **61st amendment which is also known as the Constitution Act, 1988, which changed the voting age from 21 to 18.**

Q.4 <u>Fundamental Duties</u>

The 11 Fundamental Duties of Indian Citizens: Fundamental Rights, Directive Principles of State Policy, and Fundamental Duties' are parts of the Indian Constitution that spell out the states' fundamental obligations to its inhabitants, as well as the citizens' duties and rights to the state. These parts are regarded as essential to the constitution, which was drafted by the Constituent Assembly of India between 1947 and 1949.

The Fundamental Duties are described as all citizens' moral duties to contribute to the promotion of patriotism and the preservation of India's unity. Individuals and the nation are both affected by the obligations outlined in Part IV–A of the Constitution. They, like the Directive Principles, are not enforceable by courts until legislative law makes them so.

Fundamental Duties in Indian Citizens: A look at the history

The Indian independence movement aimed to attain the principles of liberty and social welfare as the aims of an independent Indian state, which gave birth to the Fundamental Rights and Directive Principles. Civil rights were an essential component of the Indian independence struggle, with one of the INC's goals being to eliminate discrimination between British rulers and their Indian people. Between

1917 and 1919, the INC adopted resolutions that expressly stated this desire. Indians' rights to equality before the law, free expression, and jury trials were among the claims made in these resolutions.

The 1946 Cabinet Mission to India suggested a Constituent Assembly that would create a Constitution for India as part of the power transition process during the last phases of the British Raj. According to the Cabinet Mission's concept, the Assembly would have an Advisory Committee that would counsel it on the nature and scope of basic rights, minorities' protection, and tribal governance. As a result, the Advisory Committee was established. In February 1947, a twelve-member subcommittee on Fundamental Rights was established under the chairmanship of J. B. Kripalani. By April 1947, the subcommittee had finished drafting the Fundamental Rights and had presented its report to the Committee. Later that month, the Committee presented it to the Assembly, which debated and reviewed the rights over the next year, eventually adopting most of the versions by December 1948. The Directive Ideas, which were also prepared by the subcommittee on Fundamental Rights, espoused the socialist concepts of the Indian independence struggle and were influenced by comparable principles in the Irish Constitution. The 42nd Amendment, which was ratified in 1976, adds the Fundamental Duties to the Constitution.

11 Fundamental Duties of India

1. Abide by the Constitution and respect national flag & National Anthem
2. Follow ideals of the freedom struggle
3. Protect sovereignty & integrity of India
4. Defend the country and render national services when called upon
5. Sprit of common brotherhood
6. Preserve composite culture
7. Preserve natural environment
8. Develop scientific temper
9. Safeguard public property
10. Strive for excellence
11. Duty fo all parents/guardians to send their children in the age group of 6-14 years to school.

Right to equality

The Right to Equality is one of the chief guarantees of the Constitution. It is embodied in Articles 14–16, which collectively encompass the general principles of equality before law and non-discrimination [13] and Articles 17–18 which collectively encompass further the philosophy of social equality.

Article 14[

Article 14 guarantees equality before law as well as equal protection of the law to all people within the territory of India. This includes the equal subjection of all persons to the authority of law, as well as equal treatment of persons in similar circumstances.[15] The latter permits the State to classify persons for legitimate purposes, provided there is a reasonable basis for the same, meaning that the classification is required to be non-arbitrary, based on a method of intelligible differentiation among

those sought to be classified, as well as have a rational relation to the object sought to be achieved by the classification.

Article 15[

Article 15 prohibits discrimination on the grounds of religion, race, caste, sex, place of birth, and also gender or any of them. This right can be enforced against the State as well as private individuals, with regard to free access to places of public entertainment or places of public resort maintained partly or wholly out of State funds.[16] However, the State is not precluded from making special provisions for women and children or any socially and educationally backward classes of citizens, including the Scheduled Castes and Scheduled Tribes. This exception has been provided since the classes of people mentioned are considered deprived and in need of special protection.[17]

Article 16

Article 16 guarantees equality of opportunity in matters of public employment and prevents the State from discriminating against anyone in matters of employment on the grounds only of religion, race, caste, sex, descent, place of birth, place of residence or income. It creates exceptions for the implementation of measures of affirmative action for the benefit of any backward class of citizens in order to ensure adequate representation in public service, as well as reservation of an office of any religious institution for a person professing that particular religion.[18]

Article 17

Article 17 abolishes the practice of untouchability in any form, making it an offense punishable by law. The Protection of Civil Rights Act, 1955 was enacted by Parliament to further this objective.[14]

Article 18[

Article 18 prohibits the State from conferring any titles other than military or academic distinctions, and the citizens of India cannot accept titles from a foreign state. Thus, Indian aristocratic titles and title of nobility conferred by the British have been abolished. However, military and academic distinctions can be conferred on the citizens of India. The awards of Bharat Ratna and Padma Vibhushan cannot be used by the recipient as a title and do not, accordingly, come within the constitutional prohibition".[19][20] The Supreme Court, on 15 December 1995, upheld the validity of such awards.[21]

Q5. Part IV of the Indian Constitution

Part 4 of the Indian Constitution consists of all the DPSP (Directive Principles of State Policy). It covers the Articles from 36 to 51.

Article 36 of Part IV defines the term "**State**" as the one, who has to keep in mind all the DPSP before formulating any policy or law for the country. The definition of "State" in the part IV will be the same as that of Part III, unless the context otherwise requires a change in it. In Article 37 the nature of DPSP has been defined. DPSPs are non-justiciable.

Features

- DPSP are not enforceable in a court of law.
- They were made non-justifiable considering that the State may not have enough resources to implement all of them or it may even come up with some better and progressive laws.
- It consists of all the ideals which the State should follow and keep in mind while formulating policies and enacting laws for the country.
- The DPSPs are like a collection of instructions and directions, which were issued under the Government of India Act, 1935, to the Governors of the colonies of India.
- It constitutes a very comprehensive economic, social and political guidelines or principles and tips for a modern democratic State that aimed towards inculcating the ideals of justice, liberty, equality and fraternity as given in the preamble. The Preamble consists of all the objectives that needs to be achieved through the Constitution.
- Adding DPSP was all about creating a "welfare state" which works for the individuals of the country which was absent during the colonial era.

Article 36

- Article 36 contains the definition of **State**.
- Unless the context otherwise requires, the definition of "the State" is the same as it is given in Part III which covers Fundamental Rights.
- The definition given in Article 12 shall apply in this part as well which says that the State includes:
    - The Government of India
    - The Parliament of India
    - The Government of each of the States
    - The Legislature of each of the States
    - All the authorities whether local or any other which are the part of Indian territory or under the control of the government.

Article 37

- Article 37 mentions the two important characteristics of DPSP, and they are:
    - It is not enforceable in any court of Law.
    - And they are very basic and essential for the governance of the country.

The provisions mentioned in this part shall not be enforceable in any court and the principles laid down in this part are fundamental for the governance of the country. The State must make laws according to it because the ultimate aim of the State is the welfare of its citizens.

Importance of DPSP

DPSP covers the Articles 36-51 in Part IV of the constitution.

It mentions protection of women of the country, environmental conservation, rural growth and development, decentralisation of power, uniform civil code, etc. which are considered some of the essentials in making laws for a "welfare state".

Although non-justiciable, they provide a set of guidelines for the Government for its functioning in the country.

Significance of DPSP

- Directive Principles are non-justiciable but these are backed by *vox populi* (voice of the people), which is the real sanction behind every law in reality.
- DPSP gives the philosophical foundations of a welfare system. These principles makes it a responsibility of the State to secure it through welfare legislation.
- Their nature is more of moral ideals. They constitute a moral code for the State but this does not reduce their value as moral principles are very important and the absence of it may hamper the growth of a society. A state is run by its people and the Government is always formed and managed by them, so it's really important to have a set of standards for making laws in the country.
- Directive Principles act as a guide for the government which helps them in making policies and laws for the purpose of securing justice and welfare in the State.
- DPSP are like a source of continuity in the Governance of the country because in a democratic system, the Governments change after regular elections and every new government makes different policies and laws for the country. The presence of such guidelines is really important because it ensures that every Government will follow the set of principles in the form of DPSP while formulating its laws.
- Directive Principles can be called as the positive directions for the State which helps in securing social and economical dimensions of democracy. DPSP are supplementary to Fundamental Rights which offers political rights and other freedoms. They both are nothing without each other as one provides social and economic democracy and the other, political rights.
- Directive Principles of State Policy make it possible for people to measure the worth of a government and its working. A Government which doesn't consider these principles can be rejected on this ground by the people in favour of a government which gives due importance to the task of securing these Directive Principles in the state.
- The Directive Principles constitute a manifesto of a Nation. These reflect the ideas and views which were there in the mind of the drafters while drafting the constitution. These reflected

the philosophy behind the making of the Constitution and hence provide useful information to the courts in interpreting the existing provisions in the Constitution and in coming up with better laws and policies.

- The Directive Principles do not seem to be very rigid in their meanings and this helps the State in interpreting and applying these principles in accordance with the situation prevailing at a given time.

Thus, the inclusion of Part IV which contains the Directive Principles of State Policy proved to be very useful for the country. The Directive Principles provide good foundations for welfare state. The securing of Directive Principles helped in completing the requirements of a democratic system. It supplemented the Fundamental Rights of the people and built a State characterized by these four pillars – **Justice, Liberty, Equality, and Fraternity**.

Implementation of Directive Principles of State Policy

There are some acts and policies from 1950 onwards which had been implemented to give effect to these Directive Principles. They are as follows:

- The Minimum Wages Act (1948)
- Child Labour Prohibition and Regulation Act (1986)
- The Maternity Benefit Act (1961)
- Equal Remuneration Act (1976)
- Handloom Board, Handicrafts Board, Coir Board, Silk Board, etc. have been set up for the development of cottage industries in the country.
- Integrated Rural Development Programme (1978)
- Jawahar Rozgar Yojana (1989)
- Swarnajayanti Gram Swarozgar Yojana (1999)
- Sampoorna Gram Rozgar Yojana (2001)
- Mahatma Gandhi National Rural Employment Guarantee Programmes (2006)
- The National Forest Policy (1988)
- Article 21-A was inserted by the 86th amendment, making free education for children below the age of 14 compulsory.
- Prevention of Atrocities Act safeguarding the interests of SCs and STs.
- Several Land Reform Acts.

Q6. Parliamentary System of Government

India chose a parliamentary form of government primarily because the constitution-makers were greatly influenced by the system in England. Another reason the founding fathers saw was that the

parliamentary model would only work to accommodate the varied and diverse groups within our population. Also, the strict separation of powers in the presidential system would cause conflicts between the two branches, the executive and the legislature, which our newly-independent country could ill-afford.

There are more parliamentary forms of government in the world than there are presidencies. In this system, the parliament is generally supreme and the executive is responsible to the legislature. It is also known as the Cabinet form of government, and also 'Responsible Government'.

Features of the parliamentary system

1. **Close relationship between the legislature and the executive:** Here, the Prime Minister along with the Council of Ministers form the executive and the Parliament is the legislature. The PM and the ministers are elected from the members of parliament, implying that the executive emerges out of the legislature.
2. **Executive responsible to the legislature:** The executive is responsible to the legislature. There is a collective responsibility, that is, each minister's responsibility is the responsibility of the whole Council.
3. **Dual executive:** There are two executives – the real executive and the titular executive. The nominal executive is the head of state (president or monarch) while the real executive is the Prime Minister, who is the head of government.
4. **Secrecy of procedure:** A prerequisite of this form of government is that cabinet proceedings are secret and not meant to be divulged to the public.
5. **Leadership of the Prime Minister:** The leader of this form of government is the Prime Minister. Generally, the leader of the party that wins a majority in the lower house is appointed as the PM.
6. **Bicameral Legislature:** Most parliamentary democracies follow bicameral legislature.
7. **No fixed tenure:** The term of the government depends on its majority support in the lower house. If the government does not win a vote of no confidence, the council of ministers has to resign. Elections will be held and a new government is formed.

Although India follows this system chiefly influenced by the British model, there are a few differences between the Indian and British systems. They are:

- In India, the PM can be from either the Rajya Sabha or the Lok Sabha. In Britain, the PM will always be from the lower house, the House of Commons.
- In Britain, the speaker once appointed, formally resigns from his/her political party. In India, the speaker continues to be a member of his/her party though he/she is expected to be impartial in the proceedings.
- The concept of a shadow cabinet is absent in India. In Britain, the opposition forms a shadow cabinet that scrutinises the actions and policies of the government. It also offers alternative programmes.

Merits of Parliamentary System

The advantages of the parliamentary system are as follows:

- **Better coordination between the executive and the legislature:** Since the executive is a part of the legislature, and generally the majority of the legislature support the government, it is easier to pass laws and implement them.
- **Prevents authoritarianism:** Since the executive is responsible to the legislature, and can vote it out in a motion of no confidence, there is no authoritarianism. Also, unlike the presidential system, power is not concentrated in one hand.
- **Responsible government:** The members of the legislature can ask questions and discuss matters of public interest and put pressure on the government. The parliament can check the activities of the executive.
- **Representing diverse groups:** In this system, the parliament offers representation to diverse groups of the country. This is especially important for a country like India.
- **Flexibility:** There is flexibility in the system as the PM can be changed easily if needed. During the Second World War, the British PM Neville Chamberlain was replaced by Winston Churchill. This is unlike the presidential system where he/she can be replaced only after the entire term or in case of impeachment/incapacity.

Demerits of Parliamentary System

The disadvantages of the parliamentary system are as follows:

- **No separation of powers:** Since there is no genuine separation of powers, the legislature cannot always hold the executive responsible. This is especially true if the government has a good majority in the house. Also, because of anti-defection rules, legislators cannot exercise their free will and vote as per their understanding and opinions. They have to follow the party whip.
- **Unqualified legislators:** The system creates legislators whose intention is to enter the executive only. They are largely unqualified to legislate.
- **Instability:** Since the governments sustain only as long as they can prove a majority in the house, there is instability if there is no single-largest party after the elections. Coalition governments are generally quite unstable and short-lived. Because of this, the executive has to focus on how to stay in power rather than worry about the state of affairs/welfare of the people.
- **Ministers:** The executive should belong to the ruling party. This rules out the hiring of industry experts for the job.
- **Failure to take a prompt decision:** Since there is no fixed tenure enjoyed by the Council of Ministers, it often hesitates from taking bold and long-term policy decisions.
- **Party politics:** Party politics is more evident in the parliamentary system where partisan interests drive politicians more than national interests.

Control by the bureaucracy: Civil servants exercise a lot of power. They advise the ministers on various matters and are also not.

Q.7 <u>Emergency Provisions</u>

a) The National Emergency

- A national emergency can be declared based on war, external aggression, or armed rebellion. The term 'proclamation of emergency' is used in the Constitution to describe such a situation.
- Article 352 states that the President can declare a national emergency when the security of India or a part of it is threatened by war or external aggression or armed rebellion.
- The President has the authority to issue a proclamation for the entire country or for a specific region. (This was inserted by the 42nd Constitutional Amendment Act in 1976)
- Every proclamation made under article 352 (except a proclamation revoking the previous proclamation) should be laid before each house of parliament and must be approved by them with the special majority,
    - i.e., by a majority of the total membership of that house and by a majority of not less than 2/3rd of the members of that house present and voting.
- Emergency under Article 352 was proclaimed 3 times so far (in 1962, 1971, and 1975)
    - In 1962 and 1971 due to external aggression
    - In 1975 due to internal disturbance

b) Constitutional Emergency/President's Rule

- Section 93 of the Government of India Act, 1935 is the foundation for Article 356 of the Indian Constitution.
- If the President is satisfied that the state government administration is not in accordance with the provisions of the constitution, then he can declare President's rule in any part of the country under Article 356. Some instances when the President's rule is imposed are:
    - Council of Ministers lost the majority in the assembly
    - State administration fail to maintain peace and public order
    - State administration against secular values [S.R Bommai case]
    - Failure to comply with directions given under Article 365 is also a ground to invoke Article 356
- A proclamation of this nature must be presented to both Houses of Parliament for approval, just as a declaration of national emergency must be.
- Unless revoked, a proclamation that has been approved will cease to be effective six months after it was issued.

c) Financial Emergency

- The word emergency can be described as an unexpectedly occurring situation that causes public authorities to act instantly within their particular powers. An emergency is due to the breakdown of the administrative machinery that triggers or allows the government to urgently respond.
- The Emergency Provisions are detailed in Part XVIII (Article 352-360) of the Indian Constitution. Its goal is to safeguard the state's sovereignty, unity, and integrity, as well as its security. During a national emergency, the federal government assumes absolute authority, and the states are entirely under its control. It converts the federal government into a unitary government without the need for a formal constitutional amendment.

Amendments of the Indian Constitution –What is Article 368?

Article 368 of the Indian Constitution mentions two types of amendments to the Indian Constitution. One type of amendment is by a special majority of the Parliament (Lok Sabha & Rajya Sabha) and the second type of the amendment is the by a special majority of the Parliament with the ratification by half of the total states. The topic, 'Types of Amendments' comes under Indian Polity syllabus of the IAS Exam and this article will provide you with the details on it along with the Constitutional Amendment Process in India details.

Article 368 of the Indian Constitution provides the procedure of Amendment. Indian Constitution is neither rigid nor flexible because under Article 368 the Constitution can be amended by a simple majority or by the special majority and by the majority of not less than 2/3 members of each house. Indian Constitution is both rigid as well as flexible i.e. it is difficult to amend but practically flexible. As per Article 368 of Indian Constitution, an Amendment can be introduced in either of the houses, later it can be passed by a special majority or by a simple majority. Later if the bill is passed by the majority it will be sent to the President for his assent.

In 69 years of the Constitution, 103 Amendments are already done. The 42nd Amendment is considered as the mini-Constitution, the terms socialist, secular, integrity was inserted through it. The First Amendment was done in the year 1950, itself.

However, in my views, the court by giving the judgements tries to increase their powers and put express limitations on the parliament. The Article 368 is silent on the matter whether the parliament has the power to amend the basic structure or not, but that also does not mean that the Article 368 put the limitation regarding the Amendment of basic structure as well as Part III of the Constitution.

Immediately after the decision of the Supreme court in Kesavanada Bharti and Indira Gandhi case, the parliament introduced the 42nd Amendment and added the word secular and socialist in the preamble and added clause 4 and 5 to the Article 368 of the Constitution. It indirectly declares that there is no limitation in the power of the parliament regarding the Amendment. Even after the judgement of the Supreme Court, the parliament has the unrestricted power to change or repeal any part of the Constitution. Thus this Amendment creates a question regarding the supremacy i.e. who is supreme Parliament or Supreme Court? Through this Amendment, the parliament declared the concept of basic structure invented by the Supreme Court is vague and unlawful

To define constitutional amendment process, Article 368 of Part XX of Constitution of India provides for two types of amendments.

1. By a special majority of Parliament
2. By a special majority of the Parliament with the ratification by half of the total states

But, some other articles provide for the amendment of certain provisions of the Constitution by a simple majority of Parliament, that is, a majority of the members of each House present and voting (similar to the ordinary legislative process). Notably, these amendments are not deemed to be amendments of the Constitution for the purposes of Article 368.

Any of these amendments follow a certain procedure. Hence, this article will talk in detail about the types of amendments in the Indian Constitution, the Constitutional Amendment Process and the scope of amendability.

Procedure for Amending Indian Constitution - Key Concepts

- The Indian Constitution is a unique mixture of rigidity as well as flexibility. In this regard **Article 368 of the Constitution provides for two different methods of amendment**.
- The **first method is the flexible method**, under which the Parliament may unilaterally amend certain articles of the Constitution.
- The **United Kingdom having an unwritten constitution is the best example of an extremely flexible Constitution** and there is no distinction between the legislative power and constituent power. Both types of laws can be passed with the same ordinary process of legislation.
- The **other method is the rigid method**, which requires that after the parliament has passed the constitutional amendment bill it is sent to the state legislature at least 1/2 of them should ratify it by way of a resolution only then the Constitution stands amended.
- For example, **the US Constitution is a written Constitution**, the power to amend the constitution is either vested in a body other than the ordinary legislature or it is vested in the ordinary legislature, subject to a special procedure of amendment.
- A private member's bill or a minister's bill must be introduced to modify the constitution. The **president's approval is not required**. It can be **carried out in any home**. It **requires a special majority** of two-thirds of the members of the House present and voting, as well as a majority (that is, more than 50%) of the overall membership of the House.
- A similar procedure is followed in the other house before being referred to the president for his assent. It requires the President's mandatory consent.
- If an amendment affects the federal aspects of the constitution, it must be approved by a simple majority of state legislatures before being brought to the president for assent. An ordinance cannot modify the constitution. There is also no provision for joint sitting in the event of a disagreement.

Types of Amendments in Indian Constitution

The list of types of amendments can be found below. There are three ways in which the Constitution can be amended:

1. Amendment by simple majority of the Parliament
2. Amendment by special majority of the Parliament
3. Amendment by special majority of the Parliament and the ratification of at least half of the state legislatures.

A brief description of the above types of amendments of the Indian Constitution has been laid down below.

1. By Simple Majority of Parliament

A number of provisions in the Constitution can be amended by a simple majority of the two houses of Parliament outside the scope of Article 368. These provisions include:

- Admission or establishment of new states.
- Formation of new states and alteration of areas, boundaries or names of existing states.
- Abolition or creation of legislative councils in states.
- Second Schedule-emoluments,
- Allowances, privileges and so on of the president, the governors, the Speakers, judges, etc.
- Quorum in Parliament.
- Salaries and allowances of the members of Parliament.
- Rules of procedure in Parliament.
- Privileges of the Parliament, its members and its committees.
- Use of the English language in Parliament.
- Number of puisne judges in the Supreme Court.
- Conferment of more jurisdiction on the Supreme Court.
- Citizenship-acquisition and termination.
- Elections to Parliament and state legislatures.
- Delimitation of constituencies.
- Union territories
- Fifth Schedule-administration of scheduled areas and scheduled tribes.
- Sixth Schedule-administration of tribal areas.

2. By Special Majority of Parliament

- The majority of the provisions in the Constitution need to be amended by a special majority of the Parliament, that is, a majority (that is, more than 50 percent) of the total membership of each House and a majority of two-thirds of the members of each House present and voting. The expression 'total membership' means the total number of members comprising the House irrespective of the fact whether there are vacancies or absentees.
- The special majority is required only for voting at the third reading stage of the bill but by way of abundant caution, the requirement for the special majority has been provided for in the rules of the Houses in respect of all the effective stages of the bill.
- The provisions which can be amended by this way include (i) Fundamental Rights; (ii) Directive Principles of State Policy; and (iii) All other provisions which are not covered by the first and third categories.

3. By Special Majority of Parliament and Consent of States

Those provisions of the Constitution which are related to the federal structure of the polity can be amended by a special majority of the Parliament and also with the consent of half of the state

legislatures by a simple majority. If one or some or all the remaining states take no action on the bill, it does not matter; the moment half of the states give their consent, the formality is completed. There is no time limit within which the states should give their consent to the bill. The following provisions can be amended in this way:

- Election of the President and its manner.
- Extent of the executive power of the Union and the states.
- Supreme Court and high courts.
- Distribution of legislative powers between
- the Union and the states.
- Any of the lists in the Seventh Schedule.
- Representation of states in Parliament.
- Power of Parliament to amend the Constitution and its procedure (Article 368 itself).

Criticism

- States are unable to propose amendments. Some sections of the law can be changed by standard legislative procedures. States are not given a time limit to approve the legislation.
- Due to the ambiguous amendment mechanism, there is a lot of room for judicial review in this process.
- For amending aspects of the federal system, only half of the states must be consulted.

Q1. Constitutionalism

Constitutionalism has prescriptive and descriptive uses. Law professor Gerhard Casper captured this aspect of the term in noting, "Constitutionalism has both descriptive and prescriptive connotations. Used descriptively, it refers chiefly to the historical struggle for constitutional recognition of the people's right to 'consent' and certain other rights, freedoms, and privileges. Used prescriptively, its meaning incorporates those features of government seen as the essential elements of the... Constitution".[4]

Constitutionalism vs. Constitution

The study of constitutions is not necessarily synonymous with the study of constitutionalism. Although frequently conflated, there are crucial differences. A discussion of this difference appears in legal historian Christian G. Fritz's *American Sovereigns: The People and America's Constitutional Tradition Before the Civil War*,[9] a study of the early history of American constitutionalism. Fritz notes that an analyst could approach the study of historic events focusing on issues that entailed "constitutional questions" and that this differs from a focus that involves "questions of constitutionalism."[10] Constitutional questions involve the analyst in examining how the constitution was interpreted and applied to distribute power and authority as the new nation struggled with problems of war and peace, taxation and representation. However,

These political and constitutional controversies also posed questions of constitutionalism—how to identify the collective sovereign, what powers the sovereign possessed, and how one recognized when that sovereign acted. Unlike constitutional questions, questions of constitutionalism could not be answered by reference to given constitutional text or even judicial opinions. Rather, they were open-ended questions drawing upon competing views Americans developed after Independence about the sovereignty of the people and the ongoing role of the people to monitor the constitutional order that rested on their sovereign authority.[10]

A similar distinction was drawn by British constitutional scholar A.V. Dicey in assessing Britain's unwritten constitution. Dicey noted a difference between the "conventions of the constitution" and the "law of the constitution". The "essential distinction" between the two concepts was that the law of the constitution was made up of "rules enforced or recognised by the Courts", making up "a body of 'laws' in the proper sense of that term." In contrast, the conventions of the constitution consisted "of customs, practices, maxims, or precepts which are not enforced or recognised by the Courts" but "make up a body not of laws, but of constitutional or political ethics".[11]

Constitutionalism by nation

Used descriptively, the concept of constitutionalism can refer chiefly to the historical struggle for constitutional recognition of the people's right to "consent" and certain other rights, freedoms, and privileges.[4] On the other hand, the prescriptive approach to constitutionalism addresses what a constitution should be. Two observations might be offered about its prescriptive use.

- There is often confusion in equating the presence of a written constitution with the conclusion that a state or polity is one based upon constitutionalism. As noted by David Fellman, constitutionalism "should not be taken to mean that if a state has a constitution, it is necessarily committed to the idea of constitutionalism. In a very real sense... every state may be said to have a constitution, since every state has institutions which are at the very least expected to be permanent, and every state has established ways of doing things". But even with a "formal written document labelled 'constitution' which includes the provisions customarily found in such a document, it does not follow that it is committed to constitutionalism...."[21]

- Often the word "constitutionalism" is used in a rhetorical sense, as a political argument that equates the views of the speaker or writer with a preferred view of the constitution. For instance, University of Maryland Constitutional History Professor Herman Belz's critical assessment of expansive constitutional construction notes that "constitutionalism... ought to be recognized as a distinctive ideology and approach to political life.... Constitutionalism not only establishes the institutional and intellectual framework, but it also supplies much of the rhetorical currency with which political transactions are carried on."[22] Similarly, Georgetown University Law Center Professor Louis Michael Seidman noted as well the confluence of political rhetoric with arguments supposedly rooted in constitutionalism. In assessing the "meaning that critical scholars attributed to constitutional law in the late twentieth century," Professor Seidman notes a "new order... characterized most prominently by extremely aggressive use of legal argument and rhetoric" and as a result "powerful legal actors are willing to advance arguments previously thought out-of-bounds. They have, in short, used legal reasoning to do exactly what crits claim legal reasoning always does—put the lipstick of disinterested constitutionalism on the pig of raw politics."[23]

Q2. <u>Historical Evolution of the Indian Constitution</u>

There are various layers in the background of the Indian Constitution:

- Regulating Act 1773
- Pitt's India Act 1784
- Charter Act of 1813
- Charter Act of 1833
- Charter Act of 1853
- Government of India Act 1858
- Indian Councils Act 1861
- India Councils Act 1892
- Morley-Minto Reforms 1909
- Montague-Chelmsford Reforms 1919
- Government of India Act 1935
- Indian Independence Act 1947

These acts were in some way instrumental for the development of the Indian Constitution.

Regulating Act 1773

- First time the British Parliament resorted to regulating the affairs of the East India Company.
- The Governor of Bengal was made the Governor-General of Bengal (Warren Hastings).
- An Executive Council of the Governor-General was created with 4 members.
- Centralised the administration with the Presidencies of Madras and Bombay being made subordinate to the Bengal Presidency.
- Supreme Court was established at Calcutta as the Apex Court in 1774.

- Prohibited company officials from engaging in private trade and from accepting gifts from Indians.

Pitt's India Act 1784

- Commercial and political functions of the company separated. The Court of Directors managed the commercial activities while the Board of Control managed political affairs.
- The company territories in India were called 'British possession in India'.
- Governor's Councils were set up in Madras and Bombay as well.

Read more about Pitt's India Act 1784 in the linked article.

Charter Act 1813

- This act ended the East India Company's monopoly over trade with India except in tea and opium. Trade with India was open to all British subjects.

Read more about the Charter Act 1813 in the linked article.

Charter Act 1833

- Governor-General of Bengal was designated the Governor-General of India (Lord William Bentinck).
- The legislative powers of the Bombay and Madras Presidencies were removed.
- This act ended the commercial activities of the company and it was transformed into an administrative body.

Charter Act 1853

- The legislative and executive powers of the Governor-General's Council were separated.
- A Central Legislative Council was created of 6 members out of which 4 were appointed by the provisional governments of Madras, Bombay, Agra and Bengal.
- The Indian civil service was opened as a means to recruit officers for administration through open competition.

Read more about the Charter Act 1853 in the linked article.

Government of India Act 1858

- After the 1857 revolt, the rule of the company was ended and the British possessions in India came directly under the British Crown.
- The office of the Secretary of State for India was created. He was assisted by a 15-member Council of India.
- The Indian administration was under his authority and the Viceroy was his agent. The Governor-General was designated the Viceroy as well (Lord Canning).
- The Court of Directors and the Board of Control were abolished.

Read more about the Government of India Act 1858 in the linked article.

Indian Councils Act 1861

- Indians were given representation in the Viceroy's Councils. 3 Indians entered the Legislative Council.
- Provisions were made for the entry of Indians in the Viceroy's Executive council also as non-official members.
- Portfolio system was recognized.
- Decentralization initiated with the presidencies of Madras and Bombay being restored their legislative powers.

Read more about the Indian Councils Act 1861 in the linked article.

Indian Councils Act 1892

- Indirect elections (nominations) were introduced.
- Legislative Councils expanded. Gave more functions to the legislative councils such as the discussion of budget and questioning the executive.

Indian Councils Act 1909 (Morley-Minto Reforms)

- Direct elections to the legislative councils were introduced for the first time.
- Central Legislative Council became the Imperial Legislative Council.
- The number of members of the legislative council was increased from 16 to 60.
- The concept of the separate communal electorate was accepted.
- For the first time, an Indian was made a member of the Viceroy's Executive Council. (Satyendra Prasad Sinha – Law Member).

Government of India Act 1919 (Montague-Chelmsford Reforms)

- Central and provincial subjects were separated.
- Diarchy was introduced in the provincial governments with executive councillors being in charge of the reserved list and the ministers in charge of the transferred list of subjects.
- The ministers were nominated from among the elected members of the legislative council and were responsible to the legislature.
- A bicameral legislature was introduced for the first time at the centre. (Legislative council and legislative assembly later to become Rajya Sabha and Lok Sabha respectively).
- It mandated 3 members of the Viceroy's executive council to be Indians.
- This act provided for the first time, the establishment of a public service commission in India.
- This act extended the right to vote and with this, about 10% of the population

Government of India Act 1935

- An all-India Federation was proposed which would consist of British India and the princely states. This never materialised though.

- Subjects were divided between the centre and the provinces. Centre was in charge of the Federal List, provinces in charge of the Provincial List and there was a Concurrent List which both catered to.
- Diarchy was abolished at the provincial level and introduced at the centre.
- More autonomy was accorded to the provinces and in 6 out of 11 provinces, the bicameral legislature was introduced.
- A federal court was established and the Indian Council abolished.
- Burma and Aden were severed off from India.
- This act provided for the establishment of the RBI.
- This Act continued until it was replaced by the new Indian Constitution.

Read more about the Government of India Act 1935 in the linked article.

Indian Independence Act 1947

- India was declared independent and sovereign.
- The Viceroy and the Governors were made constitutional (nominal) heads.
- Set up responsible governments at the centre and the provinces.

Q4. <u>The Salient Features of the Indian Constitution</u>

Following are the important features of the constitution of India, which makes it special in many aspects -

1. **Lengthiest Written Constitution**

The Indian Constitution is one of the lengthiest detailed constitutions in the world. There are 12 schedules and 448 articles in our Constitution. The Indian Constitution has incorporated various articles by taking inspiration from the various constitutions around the world.

2. **Blend of Rigidity and Flexibility**

The Indian Constitution is neither completely rigid nor completely flexible, but a mix of both. Article 368 provides for two types of amendments -

1. Amendment through a special majority, i.e. two-thirds majority of the members of each House present and voting, and a majority (50%) of the total membership of each House.
2. Some other provisions can be amended by a special majority of the Parliament and with the ratification by half the states.

3. **Federal System with a Unitary Bias**

Indian Constitution is that it is a federation with a strong centralizing tendency. The constitution of India is neither federal nor unitary but is a mix of both.

Unitary Features	Federal Features
The division of powers is not equal. The center has more powers than the state which is evident from the fact that the Union list contains more matters than the State list.	It is a written Constitution which is an essential feature of every country following the federal system.
The federations like the U.S.A have the right to frame their own constitution, which is not possible in India as the entire country follows the Single constitution.	The supremacy of the constitution is always protected.
There is a single system of Courts that enforces both the Central and State laws.	
There is no equal representation of States in the houses of Parliament which is not the same in federations like the U.S.A.	

4. Parliamentary Form of Government

The framers of our Constitution preferred a parliamentary system of government. Our newly christened democracy could not afford any confrontations between the executive and the legislature.

This could happen only when they were separate and independent of each other.

the President of India is the constitutional head of the Union Executive, but he exercises the executive power vested in him, in accordance with the advice of the Union Council of Ministers.

The real executive power thus vests with the Council of Ministers with the Prime Minister as the head.

The Council of Ministers is collectively responsible to the Lok Sabha. The same is true of the relationship between the Governors and the Council of Ministers in the States.

5. Integrated and Independent Judiciary

- The Judiciary ensures the proper functioning of the constitution and the enforcement of various provisions of the Constitution.
- The Constitution makers ensured that the Judiciary had to be independent and hence unbiased.

There are various provisions in the Constitution that ensure the independence of the judiciary:

- The appointment of Judges is independent and there is no involvement of any executive authorities.
- The tenure of Judges is secured.
- The removal of judges from their tenures must be also based on the constitutional provisions.

6. Fundamental Rights

The Indian Constitution guarantees 6 Fundamental Rights:

- Right to Equality (Article 14-18)

- Right to Freedom (Article 19-22)
- Right against Exploitation (Article 23-24)
- Right to Freedom of Religion (Article 25-28)
- Cultural and Educational Rights (Article 29-30)
- Right to Constitutional Remedies (Article 32)

7. Directive Principles of State Policy

- Part IV of the Indian Constitution deals with the Directive Principles of State Policy.
- It is the duty of every State to apply these principles while making any new legislation.
- The Directive Principles of State Policy is similar to the 'Instrument of Instructions' that is in the Government of India Act 1935.
- They are basically instructions to the legislature and executive that have to be followed while framing new legislation by the State.

8. Fundamental Duties

- The Swaran Singh Committee of 1976 added a list of 11 Fundamental Duties in the constitution by adding a new Part-IVA and Article-51A in the constitution.
- Swaran Singh Committee was formed in 1976 after the internal emergency of 1975 which recommended adding a list of Fundamental Duties which every citizen of India should abide by.
- The 11 Fundamental Duties act as a moral obligation on every citizen of India and these Fundamental Duties are non-justiciable in nature i.e., one cannot move to court if someone is not obliging its duty as a citizen of India.
- The new Part IVA with Article 51A was added in the Constitution of India and it was inspired by the Constitution of the USSR.

9. Secularism

- The Constitution of India stands for a secular state, i.e. it gives equal importance to all religions.
- It also does not uphold any particular religion as the official state religion. The Western concept of secularism connotes a complete separation between religion and the State.
- This concept is inapplicable in the Indian situation where the society is multireligious.
- Hence, the Indian Constitution embodies the positive concept of secularism, i.e. giving equal respect to all religions and protecting all religions equally.

10. Universal Adult Franchise

- The concept of Universal Adult Franchise/Adult suffrage allows every citizen of India who is above eighteen years the right to vote in democratic elections.
- Any adult who is eligible to vote should not be discriminated against on the basis of gender, caste and religion.
- This provision was added in the **61st amendment which is also known as the Constitution Act, 1988, which changed the voting age from 21 to 18.**

Q3. FUNDAMENTAL RIGHTS

The **Fundamental Rights in India** enshrined in the Part III (Article 12-35) of the Constitution of India guarantee civil liberties such that all Indians can lead their lives in peace and harmony as India. These rights are known as "fundamental" as they are most essential for all-round development i.e., material, intellectual, moral and spiritual and protected by fundamental law of the land i.e. constitution.

These include individual rights common to most liberal democracies, such as equality before law, freedom of speech and expression, freedom of association and peaceful assembly, freedom to practice religion, and the right to constitutional remedies for the protection of civil rights by means of writs such as habeas corpus. Violations of these rights result in punishments as prescribed in the Indian Penal Code, subject to discretion of the judiciary. The Fundamental Rights are defined as basic human freedoms which every Indian citizen has the right to enjoy for a proper and harmonious development of personality. These rights universally apply to all citizens, irrespective of race, place of birth, religion, caste, creed, color or sex. They are enforceable by the courts, subject to certain restrictions. The Rights have their origins in many sources, including England's Bill of Rights, the United States Bill of Rights and France's Declaration of the Rights of Man.

The six fundamental rights are:

1. Right to equality (Article 14–18)
2. Right to freedom (Article 19–22)
3. Right against exploitation (Article 23–24)
4. Right to freedom of religion (Article 25–28)
5. Cultural and educational rights (Article 29–30)
6. Right to constitutional remedies (Article 32)

Rights literally mean those freedoms which are essential for personal good as well as the good of the community. The rights guaranteed under the Constitution of India are fundamental as they have been incorporated into the *Fundamental Law of the Land* and are enforceable in a court of law. However, this does not mean that they are absolute or that they are immune from Constitutional amendment.

Fundamental rights for Indians have also been aimed at overturning the inequalities of pre-independence social practices. Specifically, they have also been used to abolish untouchability and hence prohibit discrimination on the grounds of religion, race, caste, sex, or place of birth. They also forbid trafficking of human beings and forced labour. They also protect cultural and educational rights of ethnic and religious minorities by allowing them to preserve their languages and also establish and administer their own education institutions. When the Constitution of India came into force it basically gave seven fundamental rights to its citizens. However, Right to Property was removed as a Fundamental Right through 44th Constitutional Amendment in 1978.

1. Right to equality

The Right to Equality is one of the chief guarantees of the Constitution. It is embodied in Articles 14–16, which collectively encompass the general principles of equality before law and non-discrimination [13] and Articles 17–18 which collectively encompass further the philosophy of social equality.

Article 14[

Article 14 guarantees equality before law as well as equal protection of the law to all people within the territory of India. This includes the equal subjection of all persons to the authority of law, as well as

equal treatment of persons in similar circumstances.[15] The latter permits the State to classify persons for legitimate purposes, provided there is a reasonable basis for the same, meaning that the classification is required to be non-arbitrary, based on a method of intelligible differentiation among those sought to be classified, as well as have a rational relation to the object sought to be achieved by the classification.

Article 15[

Article 15 prohibits discrimination on the grounds of religion, race, caste, sex, place of birth, and also gender or any of them. This right can be enforced against the State as well as private individuals, with regard to free access to places of public entertainment or places of public resort maintained partly or wholly out of State funds.[16] However, the State is not precluded from making special provisions for women and children or any socially and educationally backward classes of citizens, including the Scheduled Castes and Scheduled Tribes. This exception has been provided since the classes of people mentioned are considered deprived and in need of special protection.[17]

Article 16

Article 16 guarantees equality of opportunity in matters of public employment and prevents the State from discriminating against anyone in matters of employment on the grounds only of religion, race, caste, sex, descent, place of birth, place of residence or income. It creates exceptions for the implementation of measures of affirmative action for the benefit of any backward class of citizens in order to ensure adequate representation in public service, as well as reservation of an office of any religious institution for a person professing that particular religion.[18]

Article 17

Article 17 abolishes the practice of untouchability in any form, making it an offense punishable by law. The Protection of Civil Rights Act, 1955 was enacted by Parliament to further this objective.[14]

Article 18[

Article 18 prohibits the State from conferring any titles other than military or academic distinctions, and the citizens of India cannot accept titles from a foreign state. Thus, Indian aristocratic titles and title of nobility conferred by the British have been abolished. However, military and academic distinctions can be conferred on the citizens of India. The awards of *Bharat Ratna* and *Padma Vibhushan* cannot be used by the recipient as a title and do not, accordingly, come within the constitutional prohibition".[19][20] The Supreme Court, on 15 December 1995, upheld the validity of such awards.[21]

2. Right to freedom

The Right to Freedom is covered in Article 19 to 22, with the view of guaranteeing individual rights that were considered vital by the framers of the Constitution, and these Articles also include certain restrictions that may be imposed by the State on individual liberty under specified conditions. Article 19 guarantees six freedoms in the nature of civil rights, which are available only to citizens of India.[22][23] These include the freedom of speech and expression, freedom of assembly without arms, freedom of association, freedom of movement throughout the territory of our country, freedom to reside and settle in any part of the country of India and the freedom to practice any profession. All these freedoms are subject to reasonable restrictions that may be imposed on them by the State, listed under Article 19 itself. The grounds for imposing these restrictions vary according to the freedom sought to be restricted and include national security, public order, decency and morality, contempt of court, incitement to offences and defamation. The State is also empowered, in the interests of the general public to nationalize any trade, industry or service to the exclusion of the citizens.[24]

The freedoms guaranteed by Article 19 are further sought to be protected by Articles 20–22.[25] The scope of these articles, particularly with respect to the doctrine of due process, was heavily debated by the Constituent Assembly. It was argued, especially by Benegal Narsing Rau, that the incorporation of such a clause would hamper social legislation and cause procedural difficulties in maintaining order, and therefore it ought to be excluded from the Constitution altogether.[26] The Constituent Assembly in 1948 eventually omitted the phrase "due process" in favor of "procedure established by law".[27] As a result, Article 21, which prevents the encroachment of life or personal liberty by the State except in accordance with the procedure established by law, was, until 1978, construed narrowly as being restricted to executive action. However, in 1978, the Supreme Court in the case of *Maneka Gandhi v. Union of India* extended the protection of Article 21 to legislative action, holding that any law laying down a procedure must be just, fair and reasonable,[28] and effectively reading due process into Article 21.[29] In the same case, the Supreme Court also ruled that "life" under Article 21 meant more than a mere "animal existence"; it would include the right to live with human dignity and all other aspects which made life "meaningful, complete and worth living".[30] Subsequent judicial interpretation has broadened the scope of Article 21 to include within it a number of rights including those to livelihood, good health,[31] clean environment, water,[32] speedy trial[33] and humanitarian treatment while imprisoned.[34][35] The right to education at elementary level has been made one of the Fundamental Rights under Article 21A by the 86th Constitutional amendment of 2002.[36] Article 20 provides protection from conviction for offences in certain respects, including the rights against ex post facto laws, double jeopardy and freedom from self-incrimination.[37] Article 22 provides specific rights to arrested and detained persons, in particular the rights to be informed of the grounds of arrest, consult a lawyer of one's own choice, be produced before a magistrate within 24 hours of the arrest, and the freedom not to be detained beyond that period without an order of the magistrate.[38] The Constitution also authorizes the State to make laws providing for preventive detention, subject to certain other safeguards present in Article 22.[39] The provisions pertaining to preventive detention were discussed with scepticism and misgivings by the Constituent Assembly, and were reluctantly approved after a few amendments in 1949.[40] Article 22 provides that when a person is detained under any law of preventive detention, the State can detain such person without trial for only three months, and any detention for a longer period must be authorised by an Advisory Board. The person being detained also has the right to be informed about the grounds of detention, and be permitted to make a representation against it, at the earliest opportunity.[41]

Right to information (RTI)[

Right to information has been given the status of a fundamental right under Article 19(1) of the Constitution in 2005. Article 19 (1) under which every citizen has freedom of speech and expression and the right to know how the government works, what roles it plays, what its functions are, and so on.[42]

3. Right against exploitation

The Right against Exploitation contained in Articles 23–24, lays down certain provisions to prevent exploitation of the weaker sections of the society by individuals or the State.[43] Article 23 prohibits human trafficking, making it an offence punishable by law, and also prohibits forced labour or any act of compelling a person to work without wages where he was legally entitled not to work or to receive remuneration for it. However, it permits the State to impose compulsory service for public purposes, including conscription and community service.[44][45] The Bonded Labour System (Abolition) Act, 1976, has been enacted by Parliament to give effect to this Article.[46] Article 24 prohibits the

employment of children below the age of 14 years in factories, mines and other hazardous jobs. Parliament has enacted the Child Labour (Prohibition and Regulation) Act, 1986, providing regulations for the abolition of, and penalties for employing, child labour, as well as provisions for rehabilitation of former child labourers.[47]

4. Right to freedom of religion

The Right to Freedom of Religion, covered in Articles 25–28, provides religious freedom to all citizens and ensures a secular state in India. According to the Constitution, there is no official State religion, and the State is required to treat all religions equally, impartially and neutrally.[48]

- Article 25 guarantees all persons the freedom of conscience and the right to preach, practice and propagate any religion of their choice. This right is, however, subject to public order, morality and health, and the power of the State to take measures for social welfare and reform.[49] The right to propagate, however, does not include the right to convert another individual, since it would amount to an infringement of the other's right to freedom of conscience.[50]
- Article 26 guarantees all religious denominations and sects, subject to public order, morality and health, to manage their own affairs in matters of religion, set up institutions of their own for charitable or religious purposes, and own, acquire and manage a property in accordance with law. These provisions do not derogate from the State's power to acquire property belonging to a religious denomination.[51] The State is also empowered to regulate any economic, political or other secular activity associated with religious practice.[48]
- Article 27 guarantees that no one can be compelled to pay taxes for the promotion of any particular religion or religious institution.[52]
- Article 28 prohibits religious instruction in a wholly State-funded educational institution, and educational institutions receiving aid from the State cannot compel any of their members to receive religious instruction or attend religious worship without their (or their guardian's) consent.[48]

Right to life[

The Constitution guarantees the right to life and personal liberty, which in turn cites specific provisions in which these rights are applied and enforced:

- Protection with respect to a conviction for offences is guaranteed under the right to life and personal liberty. According to Article 20, no one can be awarded punishment which is more than what the law of the land prescribes at the time of commission of the crime. This legal axiom is based on the principle that no criminal law can be made retrospective, that is, for an act to become an offence, the essential condition is that it should have been an offence legally at the time of committing it. Moreover, no person accused of any offence shall be compelled to be a witness against himself. Compulsion in this article refers to what in law is called duress (injury, beating or unlawful imprisonment to make a person do something that he may not want to do). This article is known as a safeguard against self-incrimination. The other principle enshrined in this article is known as the principle of double jeopardy, that is, no person can be convicted twice for the same offence, which has been derived from Anglo-Saxon law. This principle was first established in the Magna Carta.
- Protection of life and personal liberty is also stated under the right to life and personal liberty. Article 21 declares that no citizen can be denied his life and liberty except by due process of law. This means that a person's life and personal liberty can be disputed only if that person has

committed a crime. However, the right to life does not include the right to die and hence, suicide or any attempt thereof, is deemed an offence (attempted suicide being interpreted as a crime has seen many debates. The Supreme Court of India gave a landmark ruling in 1994. The court repealed section 309 of the Indian penal code, under which people attempting suicide could face prosecution and prison terms of up to one year).[53] In 1996, another Supreme Court ruling nullified the earlier one.[54] But with the passage of the Mental Healthcare Bill 2017, attempted suicide has been decriminalised.[55] "Personal liberty" includes all the freedoms which are not included in Article 19 (that is, the six freedoms). The right to travel abroad is also covered under "personal liberty" in Article 21.[56]

- In 2002, through the 86th Amendment Act, Article 21A was incorporated. It made the right to primary education part of the right to freedom, stating that the state would provide free and compulsory education to children from six to fourteen years of age.[36] Six years after an amendment was made in the Indian Constitution, the Union Cabinet cleared the Right to Education Bill in 2008.[57]
- Rights of a person arrested under ordinary circumstances is laid down in the right to life and personal liberty. No one can be arrested without being told the grounds for his arrest. If arrested, the person has the right to defend himself through a lawyer of his choice. Also, an arrested citizen has to be brought before the nearest magistrate within 24 hours. The rights of a person arrested under ordinary circumstances are not available to an enemy alien. They are also not available to persons under any law providing for preventive detention. Under preventive detention, the government can imprison a person for a maximum of three months. It means that if the government feels that a person being at liberty can be a threat to the law and order or to the unity and integrity of the nation, it can detain or arrest that person to prevent him/her from doing this possible harm. After three months, such a case is to be brought before an advisory board for review, unless specific legislation(s) by Parliament regarding preventive detention do(es) not necessitate scrutiny by such an advisory board.

5. Cultural and educational rights

The Cultural and Educational rights, given in Articles 29 and 30, are measures to protect the rights of cultural, linguistic and religious minorities, by enabling them to conserve their heritage and protecting them against discrimination.[58]

- Article 29 grants any section of citizens having a distinct language, script culture of its own, the right to conserve and develop the same, and thus safeguards the rights of minorities by preventing the State from imposing any external culture on them.[58][59] It also prohibits discrimination against any citizen for admission into any educational institutions maintained or aided by the State, on the grounds only of religion, race, caste, language or any of them. However, this is subject to reservation of a reasonable number of seats by the State for socially and educationally backward classes, as well as reservation of up to, 50 percent of seats in any educational institution run by a minority community for citizens belonging to that community.[60]
- Article 30 confers upon all religious and linguistic minorities the right to set up and administer educational institutions of their choice in order to preserve and develop their own culture, and prohibits the State, while granting aid, from discriminating against any institution on the basis of the fact that it is administered by a religious or cultural minority.[59] The term "minority", while not defined in the Constitution, has been interpreted by the Supreme Court to mean any community which numerically forms less than 50% of the population of the state in which it seeks to avail the right under Article 30. In order to claim the right, it is essential that the educational institution must

have been established as well as administered by a religious or linguistic minority. Further, the right under Article 30 can be availed of even if the educational institution established does not confine itself to the teaching of the religion or language of the minority concerned, or a majority of students in that institution do not belong to such minority.[61] This right is subject to the power of the State to impose reasonable regulations regarding educational standards, conditions of service of employees, fee structure, and the utilisation of any aid granted by it.[62]

6. Right to constitutional remedies

Article 32 provides a guaranteed remedy, in the form of a Fundamental Right itself, for enforcement of all the other Fundamental Rights, and the Supreme Court is designated as the protector of these rights by the Constitution.[63] The Supreme Court has been empowered to issue writs, namely *habeas corpus*, *mandamus*, *prohibition*, *certiorari* and *quo warranto*, for the enforcement of the Fundamental Rights, while the High Courts have been empowered under Article 226 – which is not a Fundamental Right in itself – to issue these prerogative writs even in cases not involving the violation of Fundamental Rights.[64] The Supreme Court has the jurisdiction to enforce the Fundamental Rights even against private bodies, and in case of any violation, award compensation as well to the affected individual. Exercise of jurisdiction by the Supreme Court can also be *suo motu* or on the basis of a public interest litigation. This right cannot be suspended, except under the provisions of Article 226, when a state of emergency is declared.[63]

The father of the Indian constitution, and polymath, B. R. Ambedkar wanted a specific guarantee of fundamental rights expressly incorporated in the constitution so that it could be easily enforced. He drafted this Article 32.[65] B. R. Ambedkar had said,

"If I was asked to name any particular article in this Constitution as the most important – an article without which this Constitution would be a nullity – I could not refer to any other article except this one (Article 32). It is the very soul of the Constitution and the very heart of it."

During the Constituent Assembly debates in December 1948, Dr. Babasaheb Ambedkar had said that the rights invested with the Supreme Court through this Article could not be taken away unless the Constitution itself is amended and hence it was 'one of the greatest safeguards that can be provided for the safety and security of the individual'.

Significance and characteristics

The fundamental rights were included in the constitution because they were considered essential for the development of the personality of every individual and to preserve human dignity. The writers of the constitution regarded democracy of no avail if civil liberties, like freedom of speech and religion, were not recognised and protected by the State.[5] According to them, "democracy" is, in essence, a government by opinion and therefore, the means of formulating public opinion should be secured to the people of a democratic nation. For this purpose, the constitution guaranteed to all the citizens of India the freedom of speech and expression and various other freedoms in the form of the fundamental rights.[6]

All people, irrespective of race, religion, caste or gender, have been given the right to petition the Supreme Court or the High Courts for the enforcement of their fundamental rights. It is not necessary that the aggrieved party has to be the one to do so. Poverty-stricken people may not have the means to do so and therefore, in the public interest, anyone can commence litigation in the court on

their behalf. This is known as "public interest litigation".[7] In some cases, High Court judges have acted suo moto on their own on the basis of newspaper reports.

These fundamental rights help not only in protection but also the prevention of gross violations of human rights. They emphasise on the fundamental unity of India by guaranteeing to all citizens the access and use of the same facilities, irrespective of background. Some fundamental rights apply for persons of any nationality whereas others are available only to the citizens of India. The right to life and personal liberty is available to all people and so is the right to freedom of religion. On the other hand, freedoms of speech and expression, and freedom to reside and settle in any part of the country are reserved for citizens alone, including non-resident Indian citizens.[8] The right to equality in matters of public employment cannot be conferred to overseas citizens of India.[9]

Fundamental rights primarily protect individuals from any arbitrary state actions, but some rights are enforceable against individuals.[10] For instance, the Constitution abolishes untouchability and also prohibits *begar*. These provisions act as a check both on state action as well as the action of private individuals. However, these rights are not absolute or uncontrolled and are subject to reasonable restrictions as necessary for the protection of general welfare. They can also be selectively curtailed. The Supreme Court has ruled[11] that all provisions of the Constitution, including fundamental rights, can be amended, but that Parliament cannot alter the basic structure of the constitution. Since the fundamental rights can be altered only by a constitutional amendment, their inclusion is a check not only on the executive branch but also on the Parliament and state legislatures.[12]

A state of national emergency has an adverse effect on these rights. Under such a state, the rights conferred by Article 19 (freedoms of speech, assembly and movement, etc.) remain suspended. Hence, in such a situation, the legislature may make laws that go against the rights given in Article 19. The President may by order suspend the right to move the court for the enforcement of other rights as well.

Q5. <u>Directive Principles of State Policy (DPSP</u>)

The Directive Principles of State Policy (DPSP) has been taken from the **Irish constitution** and enumerated in Part IV of the Indian Constitution.

The concept behind the DPSP is to create a '***Welfare State***'. In other words, the motive behind the inclusion of DPSP is not establishing political democracy rather, it's about establishing social and economic democracy in the state. These are some basic principles or instructions or guidelines for the government while formulating laws/policies of the country and in executing them.

Importance of DPSP

DPSP covers the Articles 36-51 in Part IV of the constitution.

It mentions protection of women of the country, environmental conservation, rural growth and development, decentralisation of power, uniform civil code, etc. which are considered some of the essentials in making laws for a “welfare state”.

Although non-justiciable, they provide a set of guidelines for the Government for its functioning in the country.

Significance of DPSP

- Directive Principles are non-justiciable but these are backed by *vox populi* (voice of the people), which is the real sanction behind every law in reality.
- DPSP gives the philosophical foundations of a welfare system. These principles makes it a responsibility of the State to secure it through welfare legislation.
- Their nature is more of moral ideals. They constitute a moral code for the State but this does not reduce their value as moral principles are very important and the absence of it may hamper the growth of a society. A state is run by its people and the Government is always formed and managed by them, so it’s really important to have a set of standards for making laws in the country.
- Directive Principles act as a guide for the government which helps them in making policies and laws for the purpose of securing justice and welfare in the State.
- DPSP are like a source of continuity in the Governance of the country because in a democratic system, the Governments change after regular elections and every new government makes different policies and laws for the country. The presence of such guidelines is really important because it ensures that every Government will follow the set of principles in the form of DPSP while formulating its laws.
- Directive Principles can be called as the positive directions for the State which helps in securing social and economical dimensions of democracy. DPSP are supplementary to Fundamental Rights which offers political rights and other freedoms. They both are nothing without each other as one provides social and economic democracy and the other, political rights.
- Directive Principles of State Policy make it possible for people to measure the worth of a government and its working. A Government which doesn’t consider these principles can be rejected on this ground by the people in favour of a government which gives due importance to the task of securing these Directive Principles in the state.
- The Directive Principles constitute a manifesto of a Nation. These reflect the ideas and views which were there in the mind of the drafters while drafting the constitution. These reflected the philosophy behind the making of the Constitution and hence provide useful information

to the courts in interpreting the existing provisions in the Constitution and in coming up with better laws and policies.

- The Directive Principles do not seem to be very rigid in their meanings and this helps the State in interpreting and applying these principles in accordance with the situation prevailing at a given time.

Thus, the inclusion of Part IV which contains the Directive Principles of State Policy proved to be very useful for the country. The Directive Principles provide good foundations for welfare state. The securing of Directive Principles helped in completing the requirements of a democratic system. It supplemented the Fundamental Rights of the people and built a State characterized by these four pillars – **Justice, Liberty, Equality, and Fraternity**.

Implementation of Directive Principles of State Policy

There are some acts and policies from 1950 onwards which had been implemented to give effect to these Directive Principles. They are as follows:

- The Minimum Wages Act (1948)
- Child Labour Prohibition and Regulation Act (1986)
- The Maternity Benefit Act (1961)
- Equal Remuneration Act (1976)
- Handloom Board, Handicrafts Board, Coir Board, Silk Board, etc. have been set up for the development of cottage industries in the country.
- Integrated Rural Development Programme (1978)
- Jawahar Rozgar Yojana (1989)
- Swarnajayanti Gram Swarozgar Yojana (1999)
- Sampoorna Gram Rozgar Yojana (2001)
- Mahatma Gandhi National Rural Employment Guarantee Programmes (2006)
- The National Forest Policy (1988)
- Article 21-A was inserted by the 86th amendment, making free education for children below the age of 14 compulsory.
- Prevention of Atrocities Act safeguarding the interests of SCs and STs.
- Several Land Reform Acts.

Classification of DPSP

Socialist principles

- These principles follow the ideology of "**Socialism**" and lay down the framework of India.
- Its ultimate aim is to provide social and economic justice to all its citizens so that the state can fulfil the criteria required for a welfare state.
- The articles in DPSP which follows the socialist principles are – Article 38, Article 39, Article 39 A, Article 41, Article 42, Article 43, Article 43 A and Article 47.

Gandhian Principles

- These principles reflect the programme of reconstruction ideology propagated by Gandhi throughout the national movement. In order to fulfil his dreams, some of his concepts have been included in the form of DPSP.
- They direct the State through these articles – Article 40, Article 43, Article 43 B, Article 46, Article 47 and Article 48.

Liberal-intellectual Principles

- These principles follow the 'Liberalism' ideology.
- The articles which follow this approach in DPSP are – Article 44, Article 45, Article 48, Article 48 A, Article 49, Article 50 and Article 51.

Q6. President of India

The Indian President is the head of the state and he is also called the first citizen of India. He is a part of Union Executive, provisions of which are dealt with Article 52-78 including articles related to President (Article 52-62). Under these articles, information on how a President is elected, his powers and functions, and also his impeachment process is given.

President is a vital part of Union Executive which again is important for the IAS Exam and its three stages – Prelims, Mains and Interview.

This article will mention in detail about the President of India, how a president is elected, his qualifications, a term of office, impeachment process, pardoning power of President and vacancy in his office. All this with reference to the UPSC CSE Syllabus

Powers and functions of the President of India

Executive Powers of President

1. For every executive action that the Indian government takes, is to be taken in his name
2. He may/may not make rules to simplify the transaction of business of the central government
3. He appoints the attorney general of India and determines his remuneration
4. He appoints the following people:

    1. Comptroller and Auditor General of India (CAG)
    2. Chief Election Commissioner and other Election Commissioners
    3. Chairman and members of the Union Public Service Commission
    4. State Governors
    5. Finance Commission of India chairman and members
5. He seeks administrative information from the Union government
6. He requires PM to submit, for consideration of the council of ministers, any matter on which a decision has been taken by a minister but, which has not been considered by the council
7. He appoints National Commissions of:
    1. Scheduled Castes (Read about National Commission for Scheduled Castes in the linked article.)
    2. Scheduled Tribes Read about (National Commission for Scheduled Tribes in the linked article.)
    3. Other Backward Classes (Read about National Commission for Backward Classes in the linked article.)
8. He appoints inter-state council
9. He appoints administrators of union territories
10. He can declare any area as a scheduled area and has powers with respect to the administration of scheduled areas and tribal areas

Legislative Powers of President

1. He summons or prorogues Parliament and dissolve the Lok Sabha
2. He summons a joint sitting of Lok Sabha and Rajya Sabha in case of deadlock
3. He addresses the Indian Parliament at the commencement of the first session after every general election
4. He appoints speaker, deputy speaker of Lok Sabha, and chairman/deputy chairman of Rajya Sabha when the seats fall vacant (to know the difference between Lok Sabha and Rajya Sabha check the linked article.)
5. He nominates 12 members of the Rajya Sabha
6. He can nominate two members to the Lok Sabha from the Anglo-Indian Community
7. He consults the Election Commission of India on questions of disqualifications of MPs.
8. He recommends/ permits the introduction of certain types of bills (to read on how a bill is passed in the Indian Parliament, check the linked article.)
9. He promulgates ordinances
10. He lays the following reports before the Parliament:
    1. Comptroller and Auditor General
    2. Union Public Service Commission
    3. Finance Commission, etc.

Financial Powers of President

1. To introduce the money bill, his prior recommendation is a must
2. He causes Union Budget to be laid before the Parliament
3. To make a demand for grants, his recommendation is a pre-requisite
4. Contingency Fund of India is under his control
5. He constitutes the Finance Commission every five years

Judicial Powers of President

1. Appointment of Chief Justice and Supreme Court/High Court Judges are on him
2. He takes advice from the Supreme Court, however, the advice is not binding on him
3. He has **pardoning power**: Under article 72, he has been conferred with power to grant pardon against punishment for an offence against union law, punishment by a martial court, or death sentence.

Note: Pardoning powers of the president includes the following types:

- **Pardon** with the grant of pardon convicts both conviction and sentence completely absolved
- **Commutation** with this nature of the punishment of the convict can be changed
- **Remission** reduces the term of the imprisonment
- **Respite** awards lesser punishment than original punishment by looking at the special condition of a convict
- **Reprieve** stays the execution of the awarded sentence for a temporary period

Diplomatic Powers of President

1. International Treaties and agreements that are approved by the Parliament are negotiated and concluded in his name
2. He is the representative of India in international forums and affairs

Military Powers of President

He is the commander of the defence forces of India. He appoints:

1. Chief of the Army
2. Chief of the Navy
3. Chief of the Air Force

Emergency Powers of President

He deals with three types of emergencies given in the Indian Constitution:

1. National Emergency (Article 352)
2. President's Rule (Article 356 & 365)
3. Financial Emergency (Article 360)

Q.7 <u>Emergency Provisions</u>

a) The National Emergency

- A national emergency can be declared based on war, external aggression, or armed rebellion. The term 'proclamation of emergency' is used in the Constitution to describe such a situation.
- Article 352 states that the President can declare a national emergency when the security of India or a part of it is threatened by war or external aggression or armed rebellion.
- The President has the authority to issue a proclamation for the entire country or for a specific region. (This was inserted by the 42nd Constitutional Amendment Act in 1976)
- Every proclamation made under article 352 (except a proclamation revoking the previous proclamation) should be laid before each house of parliament and must be approved by them with the special majority,
    - i.e., by a majority of the total membership of that house and by a majority of not less than 2/3rd of the members of that house present and voting.
- Emergency under Article 352 was proclaimed 3 times so far (in 1962, 1971, and 1975)
    - In 1962 and 1971 due to external aggression
    - In 1975 due to internal disturbance

b) Constitutional Emergency/President's Rule

- Section 93 of the Government of India Act, 1935 is the foundation for Article 356 of the Indian Constitution.
- If the President is satisfied that the state government administration is not in accordance with the provisions of the constitution, then he can declare President's rule in any part of the country under Article 356. Some instances when the President's rule is imposed are:
    - Council of Ministers lost the majority in the assembly
    - State administration fail to maintain peace and public order
    - State administration against secular values [S.R Bommai case]
    - Failure to comply with directions given under Article 365 is also a ground to invoke Article 356
- A proclamation of this nature must be presented to both Houses of Parliament for approval, just as a declaration of national emergency must be.
- Unless revoked, a proclamation that has been approved will cease to be effective six months after it was issued.

c) Financial Emergency

- The word emergency can be described as an unexpectedly occurring situation that causes public authorities to act instantly within their particular powers. An emergency is due to the breakdown of the administrative machinery that triggers or allows the government to urgently respond.
- The Emergency Provisions are detailed in Part XVIII (Article 352-360) of the Indian Constitution. Its goal is to safeguard the state's sovereignty, unity, and integrity, as well as its security. During a national emergency, the federal government assumes absolute authority, and the states are entirely under its control. It converts the federal government into a unitary government without the need for a formal constitutional amendment.

Q8. Local self-government

Local self-government implies the transference of the power to rule to the lowest rungs of the political order. It is a form of democratic decentralization where the participation of even the grass root level of the society is ensured in the process of administration.

History of local administration

The village panchayat, as a system of administration, began in the British days, as their offer to satisfy the demands for local autonomy. They opened up the governance of the lowest levels to the citizens. The GoI act, 1935 also authorizes the provinces to enact legislations.

Even though such minor forms of local governance was evident in India, the framers of the constitutions, unsatisfied with the existing provisions, included **Article 40** among the Directive Principles, whereby:

"The state shall take steps to organize village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government."

Later, the conceptualisation of the system of local self-government in India took place through the formation and effort of four important committees from the year 1957 to 1986. It will be helpful if we take a look at the committee and the important recommendations put forward by them.

1. Balwant Rai Mehta Committee (1957)

Originally appointed by the Government of India to examine the working of two of its earlier programs, the committee submitted its report in November 1957, in which the term '**democratic decentralization**' first appears.

The important recommendations are:

- Establishment of a three-tier Panchayati Raj system – gram panchayat at village level (direct election), panchayat Samiti at the block level and Zila Parishad at the district level (indirect election).
- District Collector to be the chairman of Zila Parishad.
- Transfer of resources and power to these bodies to be ensured.

The existent National Development Council accepted the recommendations. However, it did not insist on a single, definite pattern to be followed in the establishment of these institutions. Rather, it allowed the states to devise their own patterns, while the broad fundamentals were to be the same throughout the country.

Rajasthan (1959) adopted the system first, followed by Andhra Pradesh in the same year. Some states even went ahead to create four-tier systems and **Nyaya panchayats**, which served as judicial **bodies.**

2. Ashok Mehta Committee (1977-1978)

The committee was constituted by the Janata government of the time to study Panchayati Raj institutions. Out of a total of 132 recommendations made by it, the most important ones are:

- Three-tier system to be replaced by a two-tier system.
- Political parties should participate at all levels in the elections.
- Compulsory powers of taxation to be given to these institutions.
- Zila Parishad to be made responsible for planning at the state level.
- A minister for Panchayati Raj to be appointed by the state council of ministers.
- **Constitutional recognition to be given to Panchayati Raj institutions.**

Unfortunately, the Janata government collapsed before action could be taken on these recommendations.

3. G V K Rao Commitee (1985)

Appointed by the Planning Commission, the committee concluded that the developmental procedures were gradually being taken away from the local self-government institutions, resulting in a system comparable to **'grass without roots'.**

- Zila Parishad to be given prime importance and all developmental programs at that level to be handed to it.
- Post of DDC (District Development Commissioner) to be created acting as the chief executive officer of the Zila Parishad.
- Regular elections to be held

4. L M Singhvi Commitee (1986)

Constituted by the Rajiv Gandhi government on 'Revitalisation of Panchayati Raj institutions for Democracy and Development', its important recommendations are:

- Constitutional recognition for PRI institutions.
- Nyaya Panchayats to be established for clusters of villages

Though the 64th Constitutional Amendment bill was introduced in the Lok Sabha in 1989 itself, Rajya Sabha opposed it. It was only during the Narasimha Rao government's term that the idea finally became a reality in the form of the **73rd and 74th Constitutional Amendment acts, 1992**.

Panchayati Raj System under 73rd and 74th Constitutional Amendment acts, 1992

The acts of 1992 added two new parts IX and IX-A to the constitution. It also added two new schedules – 11 and 12 which contains the lists of functional items of **Panchayats and Municipalities.** It provides for a three-tier system of **Panchayati Raj** in every state – at the village, intermediate and district levels.

What are Panchayats and Municipalities?

- Panchayat and Municipality are the generic terms for the governing body at the local level. Both exist as three tier systems – at the lower, intermediate and upper levels.
- The 73rd Constitutional Amendment act provides for a ***Gram Sabha*** as the foundation of the Panchayati Raj system. It is essentially a village assembly consisting of all the registered voters in the area of the panchayat. The state has the power to determine what kind of powers it can exercise, and what functions it has to perform at the village level.
- The 74th Constitutional Amendment act provides for three types of Municipalities:
    1. **Nagar Panchayat** for a transitional area between a rural and urban area.
    2. **Municipal Council** for a small urban area.
    3. **Municipal Corporation** for a large urban area.
- Municipalities represent **urban local self-government.**
- Most of the provisions of the two acts are parallel, differing only in the fact that they are being applied to either a Panchayat or a Municipality respectively.
- Each Gram sabha is the meeting of a particular constituency called *ward.*
- Each ward has a representative chosen from among the people themselves by *direct election*.
- The chairperson of the Panchayat or Municipality at the intermediate and district level are elected from among these representatives at the immediately lower level by *indirect election*.

Types of Urban Local Government

There are eight types of urban local governments currently existing in India:

1. Municipal Corporations.
2. Municipality.
3. Notified area committee.
4. Town area committee.
5. Cantonment board.
6. Township.
7. Port trust.
8. Special purpose agency.

How are the elections held in the local government bodies?

- seats of representatives of local bodies are filled by people chosen through *direct elections.*
- The conduct of elections is vested in the hands of the State election commission.
- The chairpersons at the intermediate and district levels shall be elected *indirectly from among the elected representatives at the immediately lower level.*
- At the lowest level, the chairperson shall be elected in a mode defined by the state legislature.
- Seats are reserved for SC and ST proportional to their population.

- Out of these reserved seats, not less than one-third shall be further reserved for women.
- There should be a blanket reservation of one-third seats for women in all the constituencies taken together too (which can include the already reserved seats for SC and ST).
- The acts bar the interference of courts in any issue relating to the election to local bodies.

What are the Qualifications needed to be a member of the Panchayat or Municipality?

Any person who is qualified to be a member of the state legislature is eligible to be a member of the Panchayat or Municipality.

"But he shall not be disqualified on the ground that he is less than 25 years of age if he has attained the age of 21 years"

This means that unlike the state legislature, a person needs to attain only 21 years of age to be a member of panchayat/municipality.

What is the duration of the Local Government bodies?

- The local governing bodies are elected for a term of five years.
- Fresh elections should be conducted before the expiry of the five-year term.
- If the panchayat/municipality is dissolved before the expiry of its term, elections shall be conducted within six months and the new panchayat/municipality will hold office for the remainder of the term if the term has more than six months duration.
- And for another five years if the remaining term is less than six months.

What are the Powers invested on these Local Government bodies?

The powers of local bodies are not exclusively defined. They can be tailor-fitted by the state governments according to the environment of the states.In general, the State governments can assign powers to Panchayats and Municipalities that may enable them to prepare plans for economic development and social justice. They may also be authorized to levy, collect, or appropriate taxes.

The **Difference between the 73rd and 74th Amendments Act** is that the 73rd Amendment brought the Panchayati Raj System to rural India; the 74th Amendment brought the Municipality system to urban India. The 73rd and 74th Amendments Act was passed in the year 1992. Both the 73rd and 74th amendments are extremely important to the Indian constitution as well as its populace.

Difference between 73rd and 74th Amendment Acts

The major ***difference between the 73rd and 74th Amendments Act*** are listed in the table given below:

73rd Amendment Act	74th Amendment Act
It brought the **Panchayati Raj System** to rural India.	It brought the Municipality system to urban India.
It laid down a three-tier system that shall comprise to be the Panchayati Raj.	It gives provisions for establishing three types of municipalities in every state- Nagar panchayat, municipal council, and municipal corporation.
This made the **Gram Sabha** the fundamental basis of the Panchayat Raj system to perform the duties and responsibilities assigned by the State Governments.	The **President of India** assented to this act on 20 April 1993.
The amendment provides for a three-tier Panchayat Raj system at the village, intermediate, and district levels.	It came into force on 1 June 1993.
It added Part IX to the Indian Constitution.	It added Part IX-A to the **Indian Constitution**.
It contains Articles 243 to 243-O.	It contains Articles 243 P – 243 ZG.