

# UNIT I

## Introduction

The constitution was passed by the Constituent Assembly on 26 Nov 1949 and is fully applicable since 26 Jan 1950. Thanks to the help of Prof. K.B. Agrawal, the ICL-Edition of the Constitution now incorporates all amendments until and including the 78th amendment (1995) [30 Aug 1995]; there are no newer amendments until Dec 1996. Amendments after Dec 1996 have not yet been included.

India is a federal democratic republic of 25 states and seven Union Territories. Each state is administered by a Governor appointed by the President while each Union Territory is administered by the President through a Minister. The bicameral parliament is composed of the Council of States, Rajya Sabha, and the House of the People, Lok Sabha. The Council of States will consist of 250 members out of which the President of India will nominate 12 persons having special knowledge or practical experience in respect of literature, art, science and social service. The remaining 238 seats are to be filled in by the persons to be elected by the legislative assemblies of their respective states in staggered re-elections of one-third every second year. The House of People is composed of 550 members, i.e., 530 members from the States and 20 members from the Union Territories.

The states of Bihar, Jammu and Kashmir, Karnataka, Maharashtra, and Uttar Pradesh have bicameral legislatures while the other 20 states have unicameral legislatures. Upper houses (Legislative Councils) are re-elected to one-third of their members every two years. Legislative Assemblies are chosen by direct election.

There are some extraordinary features of the Indian system of government. For example, the Constitution encourages the states to introduce the prohibition. The states of Andhra Pradesh, Manipur, and Haryana have already banned the production, possession, and consumption of alcohol.

### Commencement:

The provisions relating to Citizenship, elections, provisional Parliament, temporary and transitional positions were given immediate effect on The 26<sup>th</sup> Nov.1949. While the rest of the Constitution came into force on the 26<sup>th</sup> Jan. 1950. And this date is referred to in the Constitution as The Date of its Commencement.

## Making of The Constitution

The Constituent Assembly which had been elected for undivided India and held its first sitting on 9<sup>th</sup> Dec.1946, re-assembled on the 14<sup>th</sup> August 1947, as The Sovereign Constituent Assembly for the dominion of India. In regard to its composition the members were elected by indirect election by the members of The Provisional Legislative Assemblies (lower house only). According to the schemes recommended by the Cabinet the essentials of the Schemes were as follows: -

1. Each Province and each Indian State or group of States were allotted the total no. of seats proportional to their respective population roughly in the ratio of 1:1000000. As a result The Provinces were to elect 292 members while the Indian States were allotted a minimum of 93 seats.
2. The seats in each Province were distributed among the three main communities, Muslims, Sikh and general, in proportion to their respective populations.
3. Members of each community in the Provisional Legislative Assembly elected their own representatives by the method of proportional representations with single transferable vote.
4. The method of selection in the case of representatives of Indian States was to be determined by consultation.

Unfortunately as a result of a partition under the plan of June 3, 1947. The territories, which fell under Pakistan and those members who were part of The Constituent Assembly, ceased to be members of the Constituent Assembly, which re-assembled on the 31<sup>st</sup> Oct.1947. The members of the house was reduced to 299 of these 284 was actually present on the 26<sup>th</sup> Nov. 1949 and appended their signature to the Constitution as finally passed.

Historical retrospect Events Prior to the Framing of the Constitutions Battle of Plassey 1757. Battle of Buxar 1764. After these two battles the East India Co Became the rulers.

Mile stones in the Development of Constitution:

### **1. Mile stones in the Development of Constitution**

The Regulating Act 1773. The Charter Act 1793. The Charter Act 1813. The charter Act 1833. The charter Act 1853.

### **2. British Paramountcy End of company rule:**

British Paramountcy End of company rule The First war of independence 1857. The Govt. of India Act 1858. The Indian Councils Act 1861. Formation of Indian National Congress in 1885. The Indian Councils Act 1892. The split of Congress and demand for swaraj ( self - Rule)

### **3. Congress in Extremist phase:**

Congress in Extremist phase The Govt. of India Act 1909. The Govt. of India Act 1919. Jallian wallah Bagh tragedy 1919.

### **4. Advent of Gandhiji:**

Advent of Gandhiji Non Co-operation Movement 1920. Simon Commission 1927. Nehru Report 1928. Civil disobedience 1930.

### **5. Govt. of India Act 1935 Back bone of our Present Constitution:**

Govt. of India Act 1935 Back bone of our Present Constitution Federation and provincial autonomy. Dyarchy at the centre. A bicameral Central legislature created. Distribution of powers between centre and provinces.

### **6. Demand for a constituent assembly :**

Demand for a constituent assembly The Act of 1935 failed to satisfy the Indian aspirations. In 1938, Pandit Nehru formulated the demand for constituent assembly.

### **7. Cripps Mission Acceptance of demand:**

Cripps Mission Acceptance of demand Cripps mission came in 1942 and recognised the demand that. a constitution to be framed by an elected constituent assembly. India to be given a dominion status. Cripps proposal were rejected Gandhi ji started Quit India Movement in 1942.

### **8. Cabinet Mission 1946 formation of Constituent assembly:**

Cabinet Mission 1946 formation of Constituent assembly The cabinet mission provided for an indirectly elected Constituent assembly. The assembly consisted of total 389 members. 292 to be elected from provinces. 93 to be nominated from princely states. 4 to be nominated from chief comm. Areas.

### **9. Joint Constitution assembly for India & Pakistan.:**

Joint Constitution assembly for India & Pakistan. The first meeting of the consembly was held on Dec. 9, 1946. But it was boycotted by Muslim league. Muslim league demanded a separate assembly for Pakistan.

### **10. Mountbatten plan Indian independence Act 1947.:**

Mountbatten plan Indian independence Act 1947. On 26 th July 1947 Governor General Lord Mountbatten announced the setting up of a separate constituent Assembly for Pakistan.

### **11. Constituent assembly of India:**

Constituent assembly of India On 14 th August 1947 the Sovereign con-semblly for India reassembled. Dr Rajinder Prasad was elected its President. Seven member drafting committee formed. Dr. B.R. Ambedkar acted as chairman of drafting committee.

### **12. Drafting of Constitution. :**

It took 2 years, 11 months, and 18 days in framing the Constitution. The Constitution was enacted and adopted on 26 th November 1949. Some of the provisions relating to citizenship, elections, provisional parliament etc came into force on the same day. Remaining provisions came into force on 26 th January 1950.

The Constitution of India has some distinct and unique features as compared to other constitutions to the world. As Dr. B.R. Ambedkar, the Chairman of the Drafting Committee puts it, the framers had tried to accumulate and accommodate the best features of other constitutions, keeping in view the peculiar problems and needs of our country.

### **Salient features of the Constitution of India.**

The following are the salient features of the Constitution of India.

## **1. Longest written constitution**

Indian Constitution can be called the largest written constitution in the world because of its contents. In its original form, it consisted of 395 Articles and 8 Schedules to which additions have been made through subsequent amendments. At present it contains 395 Articles and 12 Schedules, and more than 80 amendments. There are various factors responsible for the long size of the constitution. One major factor was that the framers of the constitution borrowed provisions from several sources and several other constitutions of the world.

They have followed and reproduced the Government of India Act 1935 in providing matters of administrative detail. Secondly, it was necessary to make provisions for peculiar problems of India like scheduled castes, Scheduled Tribes and backward regions. Thirdly, provisions were made for elaborate centre-state relations in all aspects of their administrative and other activities. Fourthly, the size of the constitution became bulky, as provisions regarding the state administration were also included. Further, a detail list of individual rights, directive principles of state policy and the details of administration procedure were laid down to make the Constitution clear and unambiguous for the ordinary citizen. Thus, the Constitution of India became an exhaustive and lengthy one.

## **(2) Partly Rigid and Partly Flexible**

The Constitution of India is neither purely rigid nor purely flexible. There is a harmonious blend of rigidity and flexibility. Some parts of the Constitution can be amended by the ordinary law-making process by Parliament. Certain provisions can be amended, only when a Bill for that purpose is passed in each house of Parliament by a majority of the total membership of that house and, by a majority of not less than two-thirds of the members of that house present and voting. Then there are certain other provisions which can be amended by the second method described above and are ratified by the legislatures of not less than one-half of the states before being presented to the President for his assent. It must also be noted that the power to initiate bills for amendment lies in Parliament alone, and not in the state legislatures.

## **3) A Democratic Republic**

India is a democratic republic. It means that sovereignty rests with the people of India. They govern themselves through their representatives elected on the basis of universal adult franchise. The President of India, the highest official of the state is elected for a fixed term. Although, India is a sovereign republic, yet it continues to be a member of the Commonwealth of Nations with the British Monarch as its head. Her membership of the Commonwealth does not compromise her position as a sovereign republic. The commonwealth is an association of free and independent nations. The British Monarch is only a symbolic head of that association.

## **4) Parliamentary System of Government**

India has adopted the Parliamentary system as found in Britain. In this system, the executive is responsible to the legislature, and remains in power only as long as it enjoys the confidence of the legislature. The president of India, who remains in office for five years is the nominal, titular or constitutional head. The Union Council of Ministers with the Prime Minister as its head is drawn from the legislature. It is collectively responsible to the House of People (Lok Sabha), and has to resign as soon as it loses the confidence of that house. The President, the nominal executive shall exercise his powers according to the advice of the Union Council of Ministers, the real executive. In the states also, the government is Parliamentary in nature.

## **5) A Federation**

Article 1 of the Constitution of India says: - "India, that is Bharat shall be a Union of States." Though the word 'Federation' is not used, the government is federal. A state is federal when (a) there are two sets of governments and there is distribution of powers between the two, (b) there is a written constitution, which is the supreme law of the land and (c) there is an independent judiciary to interpret the constitution and settle disputes between the centre and the states. All these features are present in India. There are two sets of government, one at the centre, the other at state level and the distribution of powers between them is quite detailed in our Constitution. The Constitution of India is written and the supreme law of the land. At the apex of single integrated judicial system, stands the Supreme Court which is independent from the control of the executive and the legislature.

## **6) Fundamental Rights**

"A state is known by the rights it maintains", remarked Prof. H.J. Laski. The constitution of India affirms the basic principle that every individual is entitled to enjoy certain basic rights and part III of the Constitution deals with those rights which are known as fundamental rights. Originally there were seven categories of rights, but now they are six in number. They are (i) Right to equality, (ii) Right to freedom, (iii) Right against exploitation, (iv) Right to freedom of Religion, v) Cultural and Educational rights and vi) Right to constitutional remedies. Right to property (Article-31) originally a fundamental right has been omitted by the 44th Amendment Act. 1978. It is now a legal right.

## **7) Directive Principles of State Policy**

A novel feature of the Constitution is that it contains a chapter in the Directive Principles of State Policy. These principles are in the nature of directives to the government to implement them for establishing social and economic democracy in the country.

It embodies important principles like adequate means to livelihood, equal pay for both men and women, distribution of wealth so as to subserve the common good, free and compulsory primary education, right to work, public assistance in case of old age, unemployment, sickness and disablement, the organisation of village Panchayats, special care to the economically back ward sections of the people etc. Most of these principles could help in making India welfare state. Though not justiciable. These principles have been stated as; "fundamental in the governance of the country".

### **8) Fundamental Duties**

A new part IV (A) after the Directive Principles of State Policy was incorporated in the constitution by the 42nd Amendment, 1976 for fundamental duties. These duties are:

- i) To abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
- ii) To cherish and follow the noble ideals, which inspired our national struggle for freedom;
- iii) To uphold and protect the sovereignty, unity and integrity of India;
- iv) To defend the country and render national service when called upon to do so;
- v) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic, regional or sectional diversities, to renounce practices derogatory to the dignity of woman;
- vi) to value and preserve the rich heritage of our composite culture;
- vii) to protect and improve the natural environments including forests, lakes, rivers and wild life and to have compassion for living creatures;
- viii) to develop scientific temper, humanism and the spirit of inquiry and reform;
- ix) to safeguard public property and to abjure violence;
- x) to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of Endeavour and achievement.

The purpose of incorporating these duties in the Constitution is just to remind the people that while enjoying their right as citizens, should also perform their duties for rights and duties are correlative.

### **9) Secular State**

A secular state is neither religious nor irreligious, or anti-religious. Rather it is quite neutral in matters of religion. India being a land of many religions, the founding fathers of the Constitution thought it proper to make it a secular state. India is a secular state, because it makes no discrimination between individuals on the basis of religion. Neither it encourages nor discourages any religion. On the contrary, right to freedom of religion is ensured in the Constitution and people belonging to any religious group have the right to profess, practice or propagate any religion they like.

### **10) An Independent Judiciary**

The judiciary occupies an important place in our Constitution and it is also made independent of the legislature and the executive. The Supreme Court of India stands at the apex of single integrated judicial system. It acts as protector of fundamental rights of Indian citizens and guardian of the Constitution. If any law passed by the legislature or action taken by the executive contravenes the provisions of the Constitution, they can be declared as null and void by the Supreme Court. Thus, it has the power of judicial review. But judicial review in India constitutes a middle path between the American judicial supremacy in one hand and British Parliamentary supremacy in the other.

### **11) Single Citizenship**

The Constitution of India recognises only single citizenship. In the United States, there is provision of dual citizenship. In India, we are citizens of India only, not of the respective states to which we belong. This provision would help in promoting unity and integrity of the nation.

# PREAMBLE TO THE CONSTITUTION OF INDIA & FUNDAMENTAL RIGHTS

## PARTS OF THE CONSTITUTION

The Constitution of India covers a total of 395 Articles in 22 parts. The parts of the Indian Constitution are mentioned below:

- Part I - The Union and its Territory
- Part II - Citizenship
- Part III - Fundamental Rights
- Part IV - Directive Principles of State Policy
- Part IVA - Fundamental Duties
- Part V - The Union
- Part VI - The States
- Part VII - The States in Part B of the First Schedule
- Part VIII - The Union Territories
- Part IX - Panchayats
- Part IXA - Municipalities
- Part X - The Scheduled and Tribal Areas
- Part XI - Relations Between The Union and The States
- Part XII - Finance, Property, Contracts and Suits
- Part XIII - Trade, Commerce and Intercourse within The Territory of India
- Part XIV - Services Under The Union and The States
- Part XIVA - Tribunals
- Part XV- Elections
- Part XVI - Special Provisions Relating to Certain Classes
- Part XVII - Official Language
- Part XVIII - Emergency Provisions
- Part XIX - Miscellaneous
- Part XX - Amendment of the Constitution
- Part XXI - Temporary, Transitional and Special Provisions
- Part XXII - Short Title, Commencement, Authoritative Text in Hindi and Repeals

## SCHEDULES TO INDIAN CONSTITUTION

Schedules to the Constitution of India can be added through the amendments to it. There are twelve schedules to Constitution of India, which are effective at present, are given below:

- **First Schedule**: This schedule is about the States and Union Territories of India.
  - **Second Schedule**: In this Schedule, provisions made to the President and the Governors of States, Speaker and the Deputy Speaker of the House of the People, the Chairman and the Deputy Chairman of the Council of States, the Speaker and the Deputy Speaker of the Legislative Assembly, the Chairman and the Deputy Chairman of the Legislative Council of a State, the Judges of the Supreme Court and of the High Courts and the Comptroller and Auditor-General of India
  - **Third Schedule**: Forms of Oaths or Affirmations are mentioned in this Schedule.
  - **Fourth Schedule**: This Schedule specifies the allocation of seats in the Council of States.
  - **Fifth Schedule**: Provisions as to the Administration and Control of Scheduled Areas and Scheduled Tribes are mentioned in this Schedule. The amendment of the schedule is also included in the Part D of the Schedule.
  - **Sixth Schedule**: This Schedule deals with the provisions as to the Administration of Tribal Areas in the States of Assam, Meghalaya, Tripura and Mizoram.
  - **Seventh Schedule**: The List I or the Union List, List II or the State List and List III or the Concurrent List are included in this Schedule.
  - **Eighth Schedule**: The 22 languages selected as the official languages of India are mentioned in this Schedule.
  - **Ninth Schedule**: Validation of certain Acts and Regulations is dealt with in this Schedule
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- **Tenth Schedule**: Provisions as to disqualification on ground of defection for the Members of Parliament and Members of the State Legislatures are mentioned in this Schedule.
- **Eleventh Schedule**: This Schedule talks about the powers, authority and responsibilities of Panchayats
- **Twelfth Schedule**: Powers, authority and responsibilities of Municipalities are defined in this Schedule.

## **PREAMBLE**

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens:

JUSTICE, social, economic and political;

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

EQUALITY of status and of opportunity;  
and to promote among them all

FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation;

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

## **FUNDAMENTAL RIGHTS:**

The Fundamental Rights are defined as the basic human rights of all citizens. These rights, defined in Part III of the Constitution, apply irrespective of race, place of birth, religion, caste, creed or gender. They are enforceable by the courts, subject to specific restrictions.

### **Six Fundamental Rights**

- Right to Equality
- Right to Particular freedoms
- Right against Exploitation
- Right to freedom of religion
- Cultural and educational rights
- Right to Constitutional remedies

### **Right to Equality**

**14. Equality before law.**—The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

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

(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them,

(3) Nothing in this article shall prevent the State from making any special provision for women and children.

(4) Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

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

(1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence

or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

(3) Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory prior to such employment or appointment.

**17. Abolition of Untouchability.**—Untouchability<sup>66</sup> is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of —Untouchability<sup>66</sup> shall be an offence punishable in accordance with law.

**18. Abolition of titles.**—(1) No title, not being a military or academic distinction, shall be conferred by the State.

(2) No citizen of India shall accept any title from any foreign State.

(3) No person who is not a citizen of India shall, while he holds any office of profit or trust under the State, accept without the consent of the President any title from any foreign State.

(4) No person holding any office of profit or trust under the State shall, without the consent of the President, accept any present, emolument, or office of any kind from or under any foreign State.

### **Right to Freedom**

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

(1) All citizens shall have the right—

- (a) to freedom of speech and expression;
- (b) to assemble peaceably and without arms;
- (c) to form associations or unions;
- (d) to move freely throughout the territory of India;
- (e) to reside and settle in any part of the territory of India; and
- (g) to practice any profession, or to carry on any occupation, trade or business.

(2) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.

(3) Nothing in sub-clause (b) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

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

No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the Act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.

(1) No person shall be prosecuted and punished for the same offence more than once.

(3) No person accused of any offence shall be compelled to be a witness against himself.

**21. Protection of life and personal liberty.**—No person shall be deprived of his life or personal liberty except according to procedure established by law.

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

(1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice.

(2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.

## **Right against Exploitation**

**23. Prohibition of traffic in human beings and forced labour.**—(1) Traffic in human beings and *begar* and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

(2) Nothing in this article shall prevent the State from imposing compulsory service for public purposes, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them.

**24. Prohibition of employment of children in factories, etc.** —No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

## **Right to Freedom of Religion**

**25. Freedom of conscience and free profession, practice and propagation of religion.**—(1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law—

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;

(b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.

**26. Freedom to manage religious affairs.**—Subject to public order, morality and health, every religious denomination or any section thereof shall have the right —

to establish and maintain institutions for religious and charitable purposes; to manage its own affairs in matters of religion; to own and acquire movable and immovable property; and (d) to administer such property in accordance with law.

**27. Freedom as to payment of taxes for promotion of any particular religion.**—No person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination.

**28. Freedom as to attendance at religious instruction or religious worship in certain educational institutions.**—

(1) No religious instruction shall be provided in any educational institution wholly maintained out of State funds.

(2) Nothing in clause (1) shall apply to an educational institution which is administered by the State but has been established under any endowment or trust which requires that religious instruction shall be imparted in such institution.

(3) No person attending any educational institution recognised by the State or receiving aid out of State funds shall be required to take part in any religious instruction that may be imparted in such institution or to attend any religious worship that may be conducted in such institution or in any premises attached thereto unless such person or, if such person is a minor, his guardian has given his consent thereto.

## **Cultural and Educational Rights**

**29. Protection of interests of minorities.**—

(1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.

(2) No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.

**30. Right of minorities to establish and administer educational institutions.** —



(1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.

(2) The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language.

### **31A. Saving of laws providing for acquisition of estates, etc.—**

(1) Notwithstanding anything contained in article 13, no law providing for—

(a) the acquisition by the State of any estate or of any rights therein or the extinguishment or modification of any such rights, or

(b) The taking over of the management of any property by the State for a limited period either in the public interest or in order to secure the proper management of the property, or

(c) the amalgamation of two or more corporations either in the public interest or in order to secure the proper management of any of the corporations, or

(d) the extinguishment or modification of any rights of managing agents, secretaries and treasurers, managing directors, directors or managers of corporations, or of any voting rights of shareholders

### **Right to Constitutional Remedies**

#### **32. Remedies for enforcement of rights conferred by this Part.—**

(1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed

(2) The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of *habeas corpus*, *mandamus*, prohibition, *quo warranto* and *certiorari*, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part.

(3) Without prejudice to the powers conferred on the Supreme Court by clauses (1) and (2), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2).

(4) The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution.

#### **33. Power of Parliament to modify the rights conferred by this Part in their application to Forces, etc.—**Parliament may, by law, determine to what extent any of the rights conferred by this Part shall, in their application to,—

(a) the members of the Armed Forces; or

(b) the members of the Forces charged with the maintenance of public order; or

(c) persons employed in any bureau or other organisation established by the State for purposes of intelligence or counter intelligence; or

(d) persons employed in, or in connection with, the telecommunication systems set up for the purposes of any Force, bureau or organisation referred to in clauses (a) to

(c),

be restricted or abrogated so as to ensure the proper discharge of their duties and the maintenance of discipline among them

#### **34. Restriction on rights conferred by this Part while martial law is in force in any area.—**

Notwithstanding anything in the foregoing provisions of this Part, Parliament may by law indemnify any person in the service of the Union or of a State or any other person in respect of any act done by him in connection with the maintenance or restoration of order in any area within the territory of India where martial law was in force or validate any sentence passed, punishment inflicted, forfeiture ordered or other act done under martial law in such area.

#### **35. Legislation to give effect to the provisions of this Part.—**notwithstanding anything in this Constitution,—Parliament shall have, and the Legislature of a State shall not have, power to make laws.