



INDIAN CONSTITUTION

Date _____

Saathi

Govt of India Act 1858

The whole hierarchy of government was formed.

Crown → Queen + Parliament (UK)

↓ → Boundary + Population
Secretary of State (UK)

Governor General (India)

↓

Provincial Executives.

Essential Features:

- 1) The administration of the country was not only Unitary but rigidly centralised.
- 2) There was no separation of functions and all the authority for the governance of India whether it is civil and military or executive or legislature was vested with the governor general.
- 3) The control of the secretary of state over the Indian Administration was absolute.
- 4) The entire machinery of administration was bureaucratic totally unconcerned about public opinion in India.

Indian Councils Act 1861

Indian Council Act 1892

Indian Councils 1861

It introduced a grain of popular elements in so far as it provided that the governor general of executive which was so long composed exclusively of officials should include certain non-official members while transacting legislative as legislative council.

Effective powers of general general under the Act are as follows:

- ① giving prior sanction to bills relating to certain matters without which they could be introduced in the legislative council.
- ② Vetoing the bills after they were passed or reserving them for consideration of the crown.
- ③ Legislating by ordinance which were to have the same authority as Acts by the legislative council.

Indian Councils Act 1892

- ① Though the majority of official members were retained the nonofficial members of the Indian legislative councils were henceforth to be nominated by the Bengal Chamber of Commerce and the provincial legislative councils and members of provincial council by local bodies.
- ② The Council were to have the power to discuss annual budget and of addressing questions to the executives.

Morley Minto Reforms - 1909 (Indian Councils Act)

Lord Minto and Lord Morley

Under this provisions and seats were marked under religion.

In 1886 INC created. 1909 → asking greater autonomy - participate in decision making process. - elections must take place.

Morley - Secretary Minto → Viceroy

All regions were divided on ~~region~~ religion.

- The changes relating to the provincial council were now more advanced. The size of this council was enlarged by including elected non-official members so that the official majority was gone. ~~This~~ An element of election was also introduced in the legislative at the center but the official majority was maintained.
- For the first time, separate representation of the Muslim as well as the Hindu community was created and thus sowed the seeds of separation and communalism, that eventually led to partition of India.

Montagu - Chelmsford Report

Grant of India Act 1919.

- For the first time the concept of home rule was established.
- The British Government made a declaration on 20th August 1917 that the policy of ~~the~~ his majesty's government was that of a cooperation.

- Date _____
- ① Dyarchy in provincial over the provinces.
 - ② Relaxation of central control over Finance, Defence, External Affairs.
 - ③ Indian legislature made more representative (now called cast & religion)

Simon Commission 1927.

→ The main feature of this system introduced was to perpetuate the communal divide between the muslim and non-muslim community by prescribing communal award which was issued by Ramsay McDonald's, but after tremendous backlash the British Government had to take it back.

Crown of India Act 1935

- ① Federation and provincial autonomy: Dyarchy at the center.
- ② Distribution of legislative powers between the center and provinces.

Crown of India Act 1947

→ Abolition of ~~soverignty~~ sovereignty and responsibility of the British Government.

- The crown no longer the source of authority
- Two dominions created ~~namely~~ namely Pakistan and India.
- Governor General and the provincial governors ^{are} constitutional head.
- Sovereignty of the dominion legislature.

COI Assignment

Ans

Court of India Act 1935

Court of India Act 1947

- Q1. Critically analyse Indian Councils Act 1858 & 1861
- Q2. Discuss the historical backgrounds of the Acts of 1909 & 1919
- Q3. Differentiate between Court of India Act, 1935 and Indian Independence Act 1947

Preamble tells us the preface of the Constitution

Constitution was drafted 26th November 1949

+ 2 months

force → 26th January 1950

→ 286
B R Ambedkar, chairman
committee head

The Preamble

We the people of India having solemnly resolved to constitute India into a sovereign, ~~social~~ socialist, ~~secular~~ secular, democratic, republic and to secure to all its citizens Justice - Social, Economic and ~~Liberal~~ 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, unity and integrity of the nation

In our constituent assembly, this 26th day of November 1949 do hereby adopt, enact and give to ourselves this constitution.

Article - 14

Equality before the law

Equal protection of laws.

This concept has been taken from Dicey's Second Corollary. An individual will be treated alike in the same situation depending on the reason behind the act.

Equality before the law

Any individual inside or otherwise in the territory of India will be treated alike with equity.

Article - 15

Prohibition of discrimination on grounds of religion race, caste, sex, sexuality or place of birth.

Article - 15

15(1) - State shall not discriminate any citizen on grounds only of religion.

15(2)(a) " copy of 15(1)

on conditions with regard to:

- 15(2)(a) Access to shop, restaurant, hotels and places of public entertainment.

(b) The use of wells, tanks, bathing ghat, roads and places of public resort maintained ^{with} ~~only~~ or partially out of state fund or dedicated to the use of general public.

15(3) - nothing in this article shall prevent the state from making any special provision for women or children.

15(4) - ..

for backward classes, SCs, STs.

Article - 16

Equality of opportunity in matters of public employment

16(1) - There shall be equality of opportunities^{for all citizens} in matters relating to employment or appointment to any office under the state.

16(2) - No citizen shall on ~~any~~ grounds of religion — place of birth or any of them be ineligible for, or discriminated against in respect of any employment or office under the state.

16(3) - Nothing shall prevent the parliament from making any law prescribing in regard to a class or classes of employment or appointment to an office under the government or any local or other authority within a state or union territory. Any ~~general~~ requirement has to reside within the state or UT prior to such employment or appointment.

16(4) - Nothing in the article ~~should~~ prevent the state from making any provision in favour of any backward class of citizens.

Abolition of untouchability

Untouchability is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of untouchability shall be an offence, punishable in accordance of law.

Article 18: Abolition of titles

Features of Article 18:

- The ban operates only against the State. It does not prevent other public institution such as universities to confer titles or honours by way of honouring their leaders or men of merit.
- The state is not debarred from awarding military or academic distinctions even though they may be used as title.
- The state is not prevented from conferring any distinction or award for social service which cannot be used as a title such as Bharat Ratna, Padma Award.

Question

→ Critically analyse Article 14 ~~&~~^{to} Article 18. Punctuate your answer with appropriate ~~court~~^{court & statute} references.

Article 19 : The Six freedoms

19(1) → All citizens shall have the right

19(1)(a) To freedom of speech and expression

19(1)(b) To assemble peaceably and without ~~force~~ arms.

19(1)(c) To form association or unions

19(1)(d) To move freely throughout the territory of India

19(1)(e) To reside and settle in any part of territory of India.

19(1)(g) To practice any profession or to carry on any occupation, trade or business.

Article 20 :

Protection in respect of conviction for offences.

20(1) No person shall be convicted of any offence except for ~~violence~~ 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, enforced at the time of commission of the offence.

20(2) No person shall be prosecuted and punished for the same offence more than once.

20(3) No person accused of any offence shall be compelled to be a witness against himself.

29/8/22

Article -21 : Freedom of person

The first part of article deals with no person can be deprived of his liberty except according to law.

Second part deals with by laying down certain specific safeguards against arbitrary arrest or detention.

The second part (Article - 22 contd.) →

Right to life means:

Right not be subjected to bonded labour and to be rehabilitated after release.

Right to livelihood:

Right to decent environment

Right to appropriate life Insurance policy

Right to handle good health

Right to food, shelter, water, education, medical care.

Prisoner's right to have necessities of life.

Right to speedy fair or open trials

Right of women and other gender minorities to be treated with dignities.

Right to privacy

Right to go abroad

Right against solitary confinement

Right against barfetters and handcuffing

Right to legal aid

Right against delayed execution

Right against custodial violence

Right against public hanging

Right to health and medical aid of workers

Right to ~~not~~ doctor's assistance

Right to economic environment

Right to freedom from noise pollution

Right to reputation

Right to family pension.

Right to decent burial and cremation.

Right to hearing information

Right to hearing.

Right to appeal from judgement of conviction

Article 22: Preventive detention.

Right

When a person has been arrested under the law of preventive detention:

- i) The govt. is entitled to detain such person in custody only for 3 months. If it sees to detain the arrested person for more than 3 months it must obtain a report from an advisory board.
- ii) The person so detained shall as soon as may be informed of the grounds of his detention except excepting the facts which the detaining authority considers ~~the~~ to be against the public interest disclosed.
- iii) A person detained must have the earliest opportunity of making a representation against the order of detention.

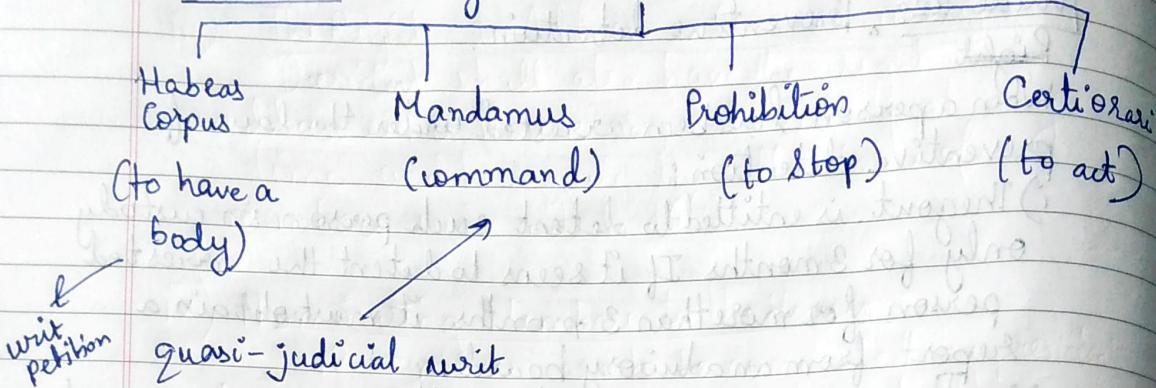
→ Article - 30(~~(f)(g)~~) ~~The religi~~: Establishment of religious institution.

(1)(a) : Such communities shall have right to establish and administer education institution of its choice and the State shall not grant aid to educational institutions, discriminate against such an educational institution, maintained by a minority community, on the ground that it is under the management of a religious community.

Full compensation has to be paid in the state ~~which~~
seeks to acquire the property of minority
educational institution.

Article 31 : Right to property
It is abolished.

Article 32: Right to Constitutional Remedies



1. Habeas Corpus: The word Habeas Corpus, literally mean to have a body. By this writ, therefore the court secures the body of a person who has been imprisoned to be brought before itself to obtain knowledge of the reason why he has been imprisoned and set him free if there is no lawful justification for the imprisonment.

2. Mandamus: It literally means command. It demands activity on the part of the body or person to whom it is addressed. It commands the person to perform some public or quasi-public legal duty which he has refused to perform and the performance of which cannot be enforced by any other, adequate legal remedy.

Date _____ / _____ / _____

Prohibition: It is a writ issued by a ~~by~~ Supreme Court or the high-court to an inferior court forbidding latter to continue proceedings. Therein in excess of ~~less~~ its jurisdiction or to usurp a jurisdiction with which it is not legally vested.

Certiorari: It is the writ applicable only against judicial officers, therein which the lower court have faith to act. This writ is also issued by Supreme Court of India and the High Court of the States. This ~~writ~~ is issued only when there is hardly any movement in the cases ^{under a} ~~or~~ specific officer.

Military powers of Indian President are divided into 2 parts:

- i) He is the Supreme command of the defence forces, but the const. lays down that the exercise of this power, shall be regulated by law under article 53(2).
- ii) The enjoyings that certain act cannot be done without the authority of law, it must be held that such act cannot be done by the president without approaching parliament for sanction, raising, training and maintenance under article 114(3).

Legislative powers:

- i) Summoning, Prorogation, Dissolution:

President shall have the power to summon or prorogue the houses of the parliament & to dissolve lower house. He shall also have the power to summon a joint sitting of both the houses of parliament in case of a deadlock between them, under article 85, 108.

ii) The Opening Address:

President shall address both the houses of parliament assembled together at the 1st session after each general election to the house of the people and at the commencement of the 1st session, of each year and inform parliament of the causes of its summon under article 87.

iii) The Right to Address and send messages:

President shall also have the right to address either house or joint sitting at any time and to require the attendance of members under article 86(1).

iv) Nominating Members to the Houses:

12 members are to be nominated by president from persons having special knowledge or practical experience of literature, science, art and social service, under Article 80(1). The president is also empowered to nominate not more than 2 members to the house of the people from the Anglo-Indian community. If he is of the opinion that the Anglo-Indian community is not adequately represented under Article 331.

v) Laying reports:

If it is the duty of the president to present reports to the Parliament

- 1) Financial reports
- 2) The report of the auditor general relating to the accounts of the government of India
- 3) The recommendation made by finance commission
- 4) The report of UPSC

Date _____ / _____ / _____

explaining the reasons there any advice of the commission has not been accepted.

- v) The report of the special officer for SCs and STs.
- vi) The report of the commission on the backward class.
- vii) The report of the special officer for linguistic minorities.

6) Previous sanction to legislation

The constitution requires the previous sanction or recommendation of the president for introducing legislation on some matters.

These matters are:

- i) Under article 3 of the Constitution a bill for the formation of new states or the alteration of the boundaries.
- ii) Under article 31(A)(i) a bill providing any of the matters specified under the provision 1-31(A)(i).
- iii) Under article 110(1) → the money bill.
- iv) A bill which would involve expenditure from the consolidated fund of India.
- v) a bill affecting taxation in which states are interested.

g) Assent to legislation and Veto.

The president shall be entitled to take one of the following :-

- i) He may declare its ascent to the bill.
- ii) He may declare that he withdraws his assent to the bill.
- iii) He may in the case of bills other than money bills return the bill ~~for~~ of reconsideration of the houses, under article 111.