

THE CONSTITUTION OF INDIA
Subject Code –HS 13

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UNIT 1

1. Evolution of Indian Constitution.

1. Gandhiji's Declaration - 1922.

In the year 1922, while giving a speech regarding 'Swaraj'; Gandhiji indicated about the formation of a Constitution by Indians themselves. This event is treated as the starting point in the evolution of Indian Constitution.

2. Nehru report and all parties' conference- 1928.

In 1928, an all parties meet was convened in Lahore under the chairmanship of Motilal Nehru and through the final document of the meeting; Indians demanded some fundamental rights from Britishers.

3. Government of India Act -1935.

Govt. of India Act was enacted by British Parliament to provide some rights to Indians and is regarded as a direct source of Indian Constitution.

4. Cripps mission -1942

British Parliament sent Stafford Cripps to India with a proposal to grant independence to Indians post second world war. The major Indian political parties rejected the proposal and demanded immediate independence and as a result Cripps mission failed.

5. Quit India movement -1942

Soon after the failure of Cripps mission, people of India started the famous Quit India movement seeking immediate independence.

Cabinet Mission – 1946

As a result of quit India movement and many other political changes, Britain finally decided to grant independence to India and appointed a commission named cabinet mission to provide recommendations for the transfer of political authority to India.

6. Election to constituent assembly -1946

As per the directions given by Cabinet Mission, election was conducted and a constituent assembly got elected. However, a difference of opinion broke out between INC and Muslim league about the composition of constituent assembly, and to resolve the crisis Lord Mount Batten was appointed.

7. Mountbatten's plan – 1947
To settle the crisis regarding composition of constituent assembly, Lord Mount Batten put forward a plan and it contained three main suggestions.
 1. Partition of British India into two independent countries on communal lines.
 2. Division of Punjab and Bengal between the two nations.
 3. Separate constituent assemblies for the two new nations.Based on the above plan the nation got divided into two independent nations namely India and Pakistan.
8. Indian independence Act 1947
Through the enactment of Indian Independence Act, the division of nation received official recognition.
9. Indian Independence Day – 15th August, 1947 – On this historic day India has become an Independent nation and two hundred years of British rule came to an end.
10. Preparation of draft Indian Constitution -1948.
Immediately after independence the Constituent assembly members of India gathered together for drafting the Constitution. In 1948 the drafting committee submitted the draft of Indian Constitution to the constituent assembly.
11. Adoption of Constitution by the constituent assembly – 26th November, 1949. – On this day the constituent assembly adopted the original Constitution.
12. Republic day – 26th January, 1950.
This historic day is regarded as the commencement date of Indian Constitution.

The important committees of constituent assembly

India attained independence on 15th august 1947. Immediately after that the Constituent assembly members started drafting Indian Constitution, the supreme law of the land.

The Constituent assembly contained 22 sub committees.

The important committees and the chairmen are as follows:

Chairman of constituent assembly- Dr. Rajendra Prasad

Drafting committee – Dr. B.R Ambedkar

Steering Committee and union powers committee- Jawaharlal Nehru.

Committee on fundamental rights and minorities – Sardar Vallabhbhai Patel.

States committee- Dr. Rajendra Prasad .

Constitutional advisor – B.N. Rao.

The constituent assembly adopted Constitution of India on 26th November 1949.

2. Salient features of Indian Constitution.

1. Cream of several Constitutions.

Fundamental rights	Constitution of U.S.A
Parliamentary system of Governance	Constitution of U.K
Directive Principles of state Policies	Constitution of Ireland.
Emergency Provisions	Constitution of Germany and Government of India Act 1935

2. The lengthiest hand written Constitution.

The Constitution initially contained 395 Articles, divided into 22 parts and 9 schedules

At present there are 470 Articles, divided into 25 parts and 12 schedules

104 amendments.

3. Partly flexible and partly rigid – In terms of amendment Indian Constitution is partly flexible and partly rigid. Some Articles can be amended easily at the same time amendment of some other Articles is difficult.

Till date the Constitution got amended 104 times.

4. Single citizenship.

5. Independent judiciary.

6. Special provisions for backward class people.

3. The Preamble.

Ideals contained in Preamble.	Rights guaranteed through the Preamble.
1. sovereignty 2. socialism 3. secularism 4. democracy 5. republic	1. Justice- social, economic and political 2. Liberty – of thoughts, expression, belief, faith and worship. 3. Equality of status and of opportunity. 4. fraternity

	5. Dignity of individual. 6. Unity and Integrity of nation.
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Preamble is treated as the very soul of Indian Constitution. It is regarded as the introduction of the Constitution of India and is also known as the key to open the minds of makers of the Constitution.

Preamble begins with the terms ‘We the people of India’ which indicates that the source of the Constitution is people of India and it derives the power from the ‘will’ of the people. Preamble contains the various ideals guaranteed through the Constitution namely sovereign, socialist secular, democratic and republic.

Sovereign state: When the supreme power is vested with the nation itself it is called a sovereign state. A sovereign state is totally independent both internally and externally also there is no superior authority to control it.

Socialist state: In a socialist state the means of production such as land, labor, capital and organization will be fully or partially under the control of government and exploitation of workers will not be there.

Secular state: A nation which maintains a neutral attitude towards all religions is known as a secular state. There is no state religion in a secular state and all religions are treated equally with equal respect.

Democratic state: A democratic country is governed by a government which is elected by the people, composed of the people and functions for the people.

Republic: In a republic the head of the nation will be an elected person and there will not be special privilege to anyone.

Preamble also states the rights conferred by the Constitution to the people of India such as Justice, liberty, equality, fraternity, unity & integrity.

Justice: economic social and political,

Liberty: of thought, expression, belief, faith and worship

Equality: of status and opportunities

Fraternity assuming the **dignity** of individual and the **unity & integrity** of the nation.

Preamble is a part and parcel of the Constitution. It is not a separate part or an additional part. Preamble can be amended like any other Article.

Preamble got amended only once through 42nd amendment and three key words such as socialist, secular and integrity were incorporated.

4. Fundamental Rights. (Article 12 – 35) – Part III

(Classified into six groups)

Groups	Fundamental rights	Articles
1	Right to equality	14 -18
2	Right to freedom	19-22
3	Rights against exploitation	23-24
4	Right to freedom of religion	25-28
5	Cultural and educational rights	29-30
6	Right to Constitutional remedy	32-35

A. Right to equality (Article 14-18)

Article	Fundamental rights	Exceptions
14	Equality before law and equal protection before law.	President, PM, governors, ambassadors, judges etc. enjoys special privilege in their official capacity.
15	Prohibition of discrimination of citizens based on religion, race, caste, creed, gender etc.	15(3)- special provisions for women and children. 15(4)- special provisions for socially and economically backward classes of people and SC&ST.
16	Equality of opportunity in public employment	16(3)- reservation in favour of residents 16(4) - reservation in favour of backward classes of people . 16(4)(A) - reservation in favour of SC&ST in promotions.
17	Abolition of untouchability.	No exceptions.
18	Abolition of titles.	Military and academic distinctions.

Article 12- Defines the term ‘state’.

Elements of state

- 1.The union government and Parliament of India.
 2. All the state governments and state legislatures
 3. All the local authorities and other authorities with In the territory of India. (e.g. panchayats, municipalities, electricity boards, universities etc.)
 4. All the authorities under the control of government of India (e. g. Indian embassies)
- A. R. Anthulay vs. S. R. Nayak – Judiciary is also part of state.

The concept of state

The state is bound to protect the fundamental rights.

The state cannot violate the fundamental rights guaranteed by the Constitution.

The Constitution provides certain safe guards against the infringement of fundamental rights by the state.

Fundamental rights are not absolute. State can impose reasonable restrictions.

Judicial review

Article 13 – “*The state shall not make any law which takes away or abridges the fundamental rights.*”

Supreme Court of India has the power to review a law made by the legislature or an action taken by the executive.

A law which violates the Constitution is void – ‘Ultra-vires’ (beyond power or authority)

Using the power of judicial review provided in Article 13, judiciary can strike down a legislation which is un- constitutional.

principles of Equality (Art. 14-18) guaranteed under the Constitution with the exceptions.

Articles 14 to 18 deals with the principles related to the right to equality.

Article 14 guarantees equality before law and equal protection before law to everyone within the territory of India.

Exceptions: Some privileges are attached to the President of India, PM, governors, judges and foreign envoys in their official capacity.

Article 361: this article provides special immunity to the President of India and governors. According to this article, no action can be taken against the President

or a governor for the commission of a crime, while holding the office. This immunity is attached only to them in their official capacity and not in their personal capacity.

Difference between ‘Equality before law’ and ‘Equal protection before law’.

Article 14 guarantees equality before law and equal protection of laws to every person in the country. The protections guaranteed under this article can be claimed by everyone in India including citizens and foreigners. The concept of equality before law is similar to that of A.V Dicey’s ‘Rule of Law’ which states that ‘no man is above the law and every person, irrespective of his rank or status, is subjected to the ordinary law of the land and is amenable to the jurisdiction of ordinary courts’. It also emphasizes absence of privilege to anyone.

According to equal protection of laws, all persons who are similarly placed shall be treated alike or equals should be treated alike and equals and un - equals shall not be bracketed together. Thus article 14 permits reasonable classification of people, objects etc. for the purpose of making legislation. However the article prohibits ‘class legislation’, which treats equals and un equals together.

The reasonableness of the classification can be measured through the twin test called ‘Rational nexus’ and ‘Intelligible differentia’.

Rational nexus - The classification must be based on some reasonable grounds and there must be some rationale or logic behind it.

Intelligible differentia – An ordinary prudent man or a person with normal intellectual ability must be able to understand the reason behind the classification.
Air India V Nergesh Meerza.

Issue: Difference I treatment to different class of people amounts to violation of Art.14.

Petitioner – Air India

Respondent- Nergesh Meerza

Facts: Nergesh Meerza was an air hostess in Air India, which is a government owned company. ‘Indian air lines regulations’, the bylaw of Air India contained three arbitrary provisions regarding the retirement of female flight attendants as given below. An air hostess has to retire:

1. Upon attaining 35 years (as opposed to 58 for their male counterparts) or
2. If getting married within 4 years from the date of appointment or
3. Upon first pregnancy.

Nergesh Meerza challenged these conditions, alleging that they are against Article 14 of Indian Constitution and filed a petition in Allahabad High Court.

Judgment given by the High Court was in favour of Nergesh Meerza, hence Air India filed an appeal in Supreme Court.

SC in its verdict held that Art. 14 forbid hostile discrimination but not reasonable classification. Equal protection clause is getting violated where equals are treated differently without any reasonable basis.

SC also observed that India airlines regulations clearly violated Article 14 and different terms and conditions for the retirement of female and male flight attendants were un- reasonable.

Article 15 prohibits the state from discriminating citizens of India, based on their religion, race, caste, gender, place of birth etc.

Exceptions:

Article 15(3) provides for special provisions in favour of women and children.

Article 15(4) permits the state to adopt special measures for socially and educationally backward classes in the society.

Article 15(6) empowers the state to adopt some special measures in favour of economically backward class people and the provision was added through 103rd amendment.

Article 16 guarantees equality of opportunity in matters related to public employment to all citizens of India. However special provision can be taken by the state in favour of residents, backward classes and SC& ST.

Exceptions:

Article 16(3) permits the state to reserve some seats in favour of residents.

16(4) permit the state to reserve some seats in favour of socially and educationally backward classes of the society and also in favour of SC&ST.

Article 16(4) (A) permits the state to reserve seats in favour of SC&ST during promotions in public employment. This provision was added into the Constitution through 77th amendment in 1995, to overcome the verdict given by SC in Indra Sawhney V Union of India (Mandal Commission case).

Article 16(6) empowers the government to reserve some seats in favour of economically backward class people in matters related to public employment and the provision was added through 103rd amendment.

Indra Sawhney vs. Union of India (Mandal commission case)

Petitioner: Indra Sahwney

Respondent : Union of India

Facts: In the year 1979, Janatha Dal government headed by PM Morarji Desai appointed a commission for identifying the backward classes in India and also for providing recommendations for their advancement. The chairman of the commission was B.P .Mandal. The Commission identified 3743 castes as socially

and educationally backward and recommended to provide 27% reservation in favour of backward classes in government jobs.

Due to various political changes, Mandal Commission report did not get implementation for many years. In 1989, Janatha Dal government headed by V.P Singh came into power and took initiatives to implement Mandal commission report by giving 27% reservation in favour of backward classes. The nation witnessed a violent anti-reservation movement across the country, as a result the government collapsed.

In 1991, a new government came into power, Narasimha Rao as the PM. The government took measures for providing 27% reservation by issuing an official memorandum. Many petitions were filed against implementation of Mandal commission report in Supreme Court and after considering the petitions SC gave its verdict.

Judgment

1. 27% reservation in favour of backward classes is constitutional
2. While identifying backward classes, creamy layer (socially and educationally advanced persons within the class) shall be excluded.
3. No reservation during promotions (only for initial appointment)

Government wanted to dilute the judgment hence brought 77th amendment in the year 1995 and added a new clause i.e. Article 16(4)(A). As per this article the state can reserve seats in favour of Scheduled Caste and scheduled Tribe members in matters related to promotion in public employment.

Article 17 abolishes the social evil called untouchability and it is the only fundamental right with no practical restrictions.

For the irradiation of untouchability the Parliament of India has enacted a legislation known as Protection of civil rights Act, 1955.

Article 18 prohibits the state from conferring titles to the people in India. Academic distinctions such as PhD., Adv. Dr. Etc and military titles like major, colonel etc. are exempted from the purview of this article.

Conferment of titles like Bharat Ratna, Padma Bhushan etc is also exempted.

Article 18(2) - Citizens of India cannot accept titles from foreign nations.

Article 18(3) - Non citizens, who are holding office of profit under the state, cannot accept titles from foreign countries. However they can accept titles with special permission from the President.

B. Right to freedom - (19-22)

Article 19- Six fundamental freedoms.

Article 20- Rights available to an accused person (Protection against Ex- post facto law, double jeopardy and self incrimination)

Article 21- Right to life and personal liberty.

Article 21 A - Right to education

Article 22- Rights available to an arrested person.

Article 19- the six fundamental freedoms

Article	Fundamental freedoms	Reasonable restrictions.
19(1)(a)	Freedom of speech and expression	Article 19(2)- In the interest of sovereignty and integrity of India, security of the state, friendly relationship with a foreign state, public order, decency and morality, incitement of an offence, contempt of court.
19(1)(b)	Freedom to assemble peacefully without arms	Article 19 (3) - in the interest of sovereignty and integrity of India, public order.
19(1)(c)	Freedom to form associations	Article 19 (4) - in the interest of sovereignty and integrity of India, public order, morality.
19(1)(d)	Freedom to move freely throughout the territory of India	Article 19 (5) - in the interest of general public, in the interest of scheduled tribes.
19(1)(e)	Freedom to reside and settle in any part of India.	Article 19 (5) - in the interest of general public, in the interest of scheduled tribes
19(1)(g)	Freedom to practice any profession, carry on any trade or business	Article 19 (6) - in the interest of general public, technical qualifications required for professions, nationalization.

Article 19 guarantees six fundamental freedoms to the citizens of India. The freedoms are incorporated in article 19(1) and can be claimed only by the citizens of India. The freedoms are not absolute. The state can impose reasonable restrictions on them.

Case law connected with Article 19(1)(a):

Bijoe Emmanuel V. State of Kerala. (National Anthem Case)

Petitioner : Bijoe Emmanuel

Respondent : State of Kerala

Facts: Govt. of Kerala made it mandatory for the students to sing national anthem in educational institutions. Bijoe Emmanuel and two other students who were followers of Jehovah's witnesses a particular sect of Christianity, refused to sing national anthem as their religious belief prevented from doing so. Students were expelled from the school alleging that they insulted national anthem. Students approached High Court of Kerala but the court agreed with the expulsion.

Students preferred an appeal in SC challenging the judgment of Kerala HC. After considering the appeal, Supreme Court in its land mark judgment declared that freedom of speech and expression also includes freedom of silence. The apex court also observed that the expulsion order made by the school violated the student's fundamental rights.

Article 20- The right s available to an accused person.

20(1)	Protection against ex-post facto law.
20(2)	Protection against double jeopardy.
20(3)	Protection against self incrimination.

Protection against Ex-post facto law.

Article 20(1) is about rights against ex-post facto law which means that the state cannot make a criminal law with retrospective effect. According to this article an accused person shall be punished for an offence committed by him, only in accordance with the law which was prevailing at the time of commission of the crime. A new criminal law or an increased punishment is not applicable for a past crime.

Protection against Double jeopardy.

Article 20(2) provides right against double jeopardy which says that a person shall be prosecuted and punished for an offence committed by him only once.

The grounds for claiming the defense of double- jeopardy:

1 There must be an accused person

2 Prosecution must have been taken place against the person in a competent court.

3. The court must have convicted the person.

If all the conditions are satisfied a second prosecution on the same offence is completely prohibited.

Protection against Self incrimination.

Article 20(3) protects the accused from self incrimination. According to this article a person shall not be compelled to become a witness against himself. The

state cannot impose compulsion on an accused person to reveal information in his personal knowledge.

However collecting the finger print, handwriting sample, photograph etc. of an accused person will not amount to self incrimination.

Article 21 - Right to life and personal liberty.

Article 21 guarantees right to life and personal liberty to citizens as well as foreigners.

Article 21 states that no person shall be deprived of his life and personal liberty except according to the procedure established by the law. According to this article the state can interfere with the life and personal liberty of the people only on the following conditions:

1. There should be law which permits such interference.
2. The law must provide a procedure which is just, reasonable and fair.

Important case laws pertaining to Article 21

Maneka Gandhi v Union of India –The SC held that ‘right to travel abroad is a fundamental right’.

Petitioner – Maneka Gandhi

Respondent – Union of India

Facts

The petitioner in this case Maneka Gandhi was about to travel abroad and her passport got impounded by the passport authority, using the provisions of Indian passport Act1967. Maneka Gandhi made a request to the regional passport officer to inform her about the reason for the impoundment. Passport authority declined her request and refused to give the reason. She filed a petition before SC, challenging the action of passport authority being volatile of article 21.

Judgment

The Supreme Court held that the action of passport authority violated article 21. The procedure adopted by the authority for impounding the passport was not reasonable and was against the principles of natural justice.

Murali Deora v Union of India – The SC held that ‘public smoking is an indirect derivation of right to life and personal liberty of passive smokers and no smokers’.

M.C Mehta v Union of India- in this case Sc decided that ‘right to live in a pollution free environment’ is part of Article 21.

Common cause v Union of India – Supreme Court held that ‘right to die with dignity’ is part of article 21. Through this case SC legalized passive euthanasia in India.

Article 21-A - Right to education.

Article 21-A was added through 86th amendment in 2002, which states that right to education is a fundamental right. It is the duty of the government to provide free and compulsory education to all children in India in between the ages of 6 to 14 years.

J.P Unnikrishnan v State of Andra Pradesh

Even before the incorporation of Article 21- A in to the Constitution, Supreme Court through this case said that ‘right to education is a fundamental right’.

Article 22- Rights available to an arrested person

Article 22 of the Constitution guarantees certain fundamental rights to an arrested person. The special provisions are as follows:

1. Immediately after the arrest, the authority shall inform the grounds of arrest to the arrested person.
2. Arrested person shall be provided with a reasonable opportunity to meet his advocate and defend his case.
3. An arrested person shall be produced before the magistrate within 24 hours of the arrest.
4. The authority shall not keep an arrested person under custody beyond 24 hours without the permission of the magistrate. Custody period can be extended only with the consent of the magistrate.

Exceptions: The rights given in Article 22 cannot be claimed by an alien enemy and also by a person who is under preventive detention.

C. Rights against exploitation.

Article 23	Prohibits traffic in human beings, begar and all forms of forced labor.
Article 24	Prohibits employment of children below the age of 14, in hazardous industries.

Article 23 and 24 protect citizens from exploitation.

Article 23 prohibits traffic in human beings such as selling or buying of humans like animals or goods, ‘Begar’(unpaid work assigned by the landlords to their tenants) and all other forms of forced labor. This article also prevents social evils such as slavery, devadasi system, sati system, immoral traffic in women and children etc.

Exceptions: Rigorous imprisonment, compulsory work imposed by the government for social and military purposes.

Article 24 prevents employment of children below the age of 14 in hazardous industries such as factories mines etc.

D. Right to freedom of religion

Article 25	Freedom to practice , profess and propagate the religion
Article 26	Freedom to manage religious affairs.
Article 27	Freedom from tax for the promotion of any particular religion.
Article 28	Prohibition of religious instructions in state aided institutions.

The rights pertaining to freedom of religion guaranteed under the Constitution of India.

Article 25 to 28 of the Constitution deal with the freedom of religion.

Article 25 guarantees every person the right to profess, practice and propagate his religion.

Article 26 confers various rights to the religious groups such as the right to establish and manage religious institutions for religious or charitable purposes. These institutions are also permitted to own and acquire properties both movable and immovable.

Article 27 provides freedom from paying tax for the promotion of any particular religion. According to this article, state cannot use tax money collected from public for the promotion of any religion.

Article 28 prohibits religious instructions in state aided educational institutions.

As per this provision, in an educational institution which is fully maintained out of government fund religious instructions are totally prohibited. Whereas , if an educational institution is partly maintained out of government fund religious instructions can be given but the students shall not be compelled to attend such teachings.

Restrictions: Right to freedom of religion is not absolute and the state can impose reasonable restrictions upon the enjoyment of religious freedom in the interest of public order, public health and morality.

E. Cultural and educational rights

Article 29	Right of minorities to establish and manage educational institutions.
Article 30	Right of religious and linguistic minorities to establish educational institutions.

Significance of educational and cultural rights

Article 29 and 30 provides many constitutional provisions for safeguarding the interest of minorities.

Article 29- Every section of citizens, who are residing in the territory of India, with their own distinct language, script or culture can adopt measures for protecting the same.

For claiming the rights guaranteed under article 29, the following conditions are to be satisfied:

- 1) The person must belong to a minority community.
- 2) Must be residing in India.
- 3) The community must have its own distinct language, script or culture.

Article 30- every religious and linguistic group in India can establish educational institutions for the protection of their religion or language.

Article 30 recognizes only religious and linguistic minorities in India. a community can be treated as a linguistic minority if their mother tongue is different from the language spoken by majority in a state.

Religious minorities- In India, Christians, Janis, Muslims, Parsees, and Buddhists etc. are listed as religious minorities.

F. Constitutional Remedies – Article 32

↓
(4 sections)

Section 1	Freedom to approach SC in case of violation of fundamental rights.
Section 2	Power of SC to issue writs, namely habeas corpus, mandamus, certiorari, prohibition and quo-warranto.
Section 3	Empowers the Parliament to confer power of issuing writs on any other court.
Section 4	Conditions under which this right can be suspended.

- Article 226 empowers the High Courts to issue writs.

Significance of Constitutional Remedies (WRITS)

“Article 32, which is termed as the heart and soul of Indian Constitution, makes the enshrined fundamental rights meaningful”. Substantiate the statement.

Article 32 is known as the Heart and soul of Indian Constitution. It provides constitutional remedies for the reinforcement of fundamental rights which are violated by the state. Article 32 is the most cardinal article of the Constitution which makes the enshrined fundamental rights meaningful. It confers vast powers

on the SC to protect the fundamental rights of the people and provide remedial measures in the form of Writs namely Habeas Corpus, Mandamus, Certiorari, Prohibition and Quo Warranto. By virtue of article 226 HCs also can issue writs. Both Supreme Court and High Courts have concurrent jurisdiction in issuing WRITS which means an affected person can approach either the SC or a High Court for getting the remedy.

More over constitutional remedies can be claimed only when the fundamental rights are violated by the state. WRITs cannot be issued against a private person. (Exception - Habeas Corpus)

Writ of Habeas Corpus- The meaning of the terms Habeas corpus is ‘ produce the body’. This WRIT can be issued by SC and HCs for releasing a person from illegal custody.

Habeas Corpus can be issued against a person who detains another illegally or without any lawful justification. This is the only writ which can be issued against a private person as well as the state. More over this writ can be filed for any number of times.

‘**Mandamus**’ is a writ which can be issued against a public authority to compel it to do its duty or to direct the authority to refrain from an unauthorized action.

Conditions for issue of mandamus

1. There should be a public authority with a public duty and the duty must be a compulsory one.
2. The authority is negligent and not willing to do its duty.
3. The negligence of the authority is getting resulted in the violation of people’s fundamental rights.

If all the conditions are satisfied, an affected person can approach judiciary and get the writ of mandamus.

Prohibition and Certiorari are judicial writs which are issued against subordinate courts for limiting them in their jurisdictions.

Certiorari means ‘we wish to be informed’. This WRIT can be issued by SC or by a High Court to quash or nullify an erroneous judgment made by a subordinate court.

Prohibition- Writ of Prohibition can be issued against a subordinate court when it is about to make a wrong judgment. Thus by issuing writ of prohibition, a lower court can be prevented from making a wrong judgment.

Writ of Quo- Warranto is issued against a person who holds a public office without authority

UNIT II

1. Directive Principles of State Policy – Part IV (Article 36 to 51)

- Fundamental Principles for the governance of the country.
- Directions to the state.
- The provisions contained in DPSP shall not be enforceable by any court.

Part IV of the Constitution of India contains a long list of directive principles which are to be taken into consideration by the state for the establishment of a welfare state. DPSPs were adopted from the Constitution of Ireland. Directive principles are non justiciable hence they are not enforceable before any court of law, but for the good governance of the country, these principles are to be followed by the state. Articles 36 -51 deal with the DPSPs.

Article	Directive Principle
36	Definition of state- For the purpose of DPSPs the term state shall have the same meaning given in article 12.
37	Application of DPSP- directive principles are non justiciable.
38	Social order.
39	Equality between men and women regarding adequate means of livelihood, prevention of concentration of wealth, equal pay for equal work for both men and women, provisions to maintain the health and strength of workers , youth, children etc.
39 A	Equal justice and free legal aid.
40	Organization of village panchayats.
41	Right to work, to education and to public assistance.
42	Just and humane conditions of work and maternity relief.
43	Living wages for workers.
44	Uniform civil code for the citizens.
45	Early childhood care and education to children below the age of six.
46.	Promotion of educational and economic interests of SC & ST and other weaker sections.
47	To raise the level of nutrition, standard of living and public health.
48	Organization of agriculture and animal husbandry.
48 A	Protection and improvement of environment, forest and wild life.
49	Protection of monuments, places and objects of national importance.

50	Separation of judiciary from executive.
51	Promotion of international peace and security.

2. Fundamental Duties (Article 51A) – Part IV A.

- There are 11 fundamental duties, to be followed by the citizens of India.
- Voluntary duties – citizens shall adhere to these duties voluntarily.
- No enforceability before court of law.

The Constitution of India in its part IV -A contains certain duties which are to be observed by the citizens of India. These duties are to be voluntarily observed by the citizens so that they can contribute to the rapid progress of the nation. There are 11 fundamental duties ,listed in clauses ‘a to k’ of article 51-A. Out of the 11 duties, the first 10 duties were incorporated into the Constitution by virtue of 42nd amendment and the 11th duty was added through 86th amendment in 2002. The duties were added into the Constitution as per the recommendations of Swaran Singh Committee.

List of fundamental duties

Article 51 (A) (a) -To abide by the Constitution, respect its ideals, institutions, national flag and national anthem

Article 51 (A) (b) – To cherish and follow the noble ideals which inspired our national struggle for freedom.

Article 51 (A) (c) – To uphold and protect the sovereignty, unity and integrity of nation.

Article 51 (A) (d) – To defend the country and render national service when called upon to do so.

Article 51 (A) (e) – To promote harmony and spirit of common brotherhood. Citizens have to refrain themselves from practices which are derogatory to the dignity of women.

Article 51 (A) (f) – To value and preserve the rich heritage of our composite culture.

Article 51 (A) (g) – To protect the natural environment including forests, lakes and rivers and to have compassion for living creatures.

Article 51 (A) (h) - To promote scientific temper, humanism, spirit of enquiry and reforms.

Article 51 (A) (i) – To protect public property and abjure violence.

Article 51 (A) (j) – To strive towards excellence in all spheres of individual or collective activity so that the nation constantly rises to higher levels of endeavor and achievements.

Article 51 (A) (k) – Citizens who are parents or guardians shall provide all educational opportunities to their children or wards in between the ages of 6 to 14.

3 Special constitutional provisions for SC & ST.

Art 340-Appointment of commission by the President of India for investigating about socially and economically backward classes of people.

Art 330- reservation of seats in Lok Sabha.

Art 332- reservation of seats in State Legislative Assemblies.

Art 243(D) and 243(T), reservation of seats in panchayats and municipalities respectively.

Art 15(4)- special provisions for the advancement of socially and economically backward classes of people.

Art 16(4)- reservation of appointments in public employment in favour of backward classes.

Art 16(4-A)- reservation of appointments in promotions related to public employment in favour of backward classes.

Art 17 along with Protection of Civil Rights Act 1955 abolishes untouchability.

Art 19(5) imposes reasonable restrictions upon the freedom of movement and freedom of residence to safe guard the interests of Scheduled Tribes.

Art 46- direct the state to take special care about the socio-economic interests of backward classes.

4 Special provisions for women.

Art 15(3) - empowers the state to take special measures for the protection and upliftment of women.

Art 23- prevents traffic in human being which implies immoral traffic of women.

Art 39-advocates equal pay for equal work for both men and women.

Art 42- directs the state to provide maternity relives to women workers.

Art 51(A)(e)- imposes a duty upon the citizens to renounce practices which are derogatory to the dignity of women.

Art 243(D) and 243(T), reservation of seats in panchayats and municipalities respectively.

5 Special constitutional Provisions in favour of children.

Art 21-A- state that right to education is a fundamental right. It also confers right to free and compulsory education to all children in between the age of 6 to 14 years.

Art 51(A)(k)- imposes a duty upon the citizens who are parents or guardians to provide educational opportunities to their children or wards.

Art45- early childhood care and free and compulsory education to children upto the age of 6.

Art 24- prevents employment of children in hazardous industries.