

20/10/2022

# INDIAN CONSTITUTION

## UNIT - I

### \* constitution:-

→ The basic principles & laws of a 'nation', 'state', or 'social group' that determine the 'powers' and 'duties' of the government and guarantee certain rights to the people in it.

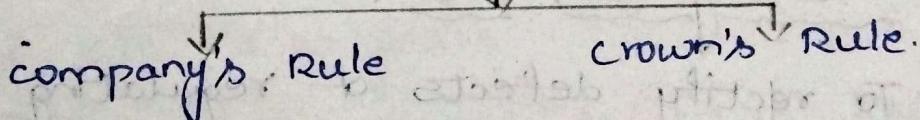
### \* Indian constitution:-

→ The constitution of India [Bharatiya-samvidhan] is the supreme law of India.

→ It is the longest written constitution of any country on earth.

### \* Historical Evolution :-

#### Historical Evolution



#### company's Rule :-

##### ① → The Regulating Act of 1773 :-

→ British decided to regulate the activities of "EIC [East India company]"

→ In 1773, it laid the foundations of central administration in India.

- They designated the 'Governor of Bengal' as the 'Governor General of Bengal'.
  - First Governor General was <sup>'Warren'</sup> William Hastings.
  - They also assisted 4 members' and term as 'council'.
  - They gave powers to governor general to control 'civil' & 'military' of British provision.
  - Bengal, Bihar and Orissa also monitored by Governor general.
  - The British govt provided for the establishment of a supreme court at Calcutta (1774) comprising '1 chief justice' & '3 judges.'
- ② → Amending Act, 1781 :-
- To rectify defects of regulating act of 1773, the British parliament passed this "Act of Settlement" or "Declaratory Act, 1781".
  - They established relations b/w supreme court & the Governor general in council.

③ → Pitt's India Act, 1784:

- All Indian affairs came under control of British govt in Britain.
- They distinguished affairs of EIC into 'Political' & 'commercial' bodies.
- 'commercial affairs' are under control of 'court of Directors'.
- A new body called 'Board of control' [6 members] was created to manage 'political affairs'.
- Board of control has power to monitor Bihar, Bengal, Odisha.
- Governor General assistants were reduced to 3 from 4.

④ → charter Act - 1813:

- It extended the trading 'licence power' of EIC to 20 years.
- It also changed the 'financial affairs' of EIC.

They were

- (i) The 'salaries' of Board of control should be paid by EIC.
- (ii) The '10%' profit of EIC should be given as dividend to British govt.

## ⑤ ➡ charter Act, 1813:-

- It ended 'monopoly' of EIC in India except 'trade with China' & 'trade in Tea' with India.
- For the first time, British Govt gave 'job opportunities' in EIC to Indians also.
- 'christian Machineries' were also established.
- British Govt released funds to develop 'religious' and 'educational activities' in India.

## ⑥ ➡ charter Act, 1833 :-

- Final step towards 'centralization'.
- 'Governor general of Bengal' became 'Governor General of India' [Lord William Bentinck].
- It deprived Governors of Bombay & Madras of their legislative powers.
- The laws made under previous acts were known as 'Regulations', while the laws made under this act were 'Acts'.
- It ended the activities of EIC as a commercial body, making it a purely administrative body.
- Introduced 'law member' [Macaulay] in Governor General's council.

⑦

## Charter Act, 1853:-

- Separated legislative & executive functions of the Governor General's council.
- Provided for addition of 6 new members called legislative councilors to the council known as Indian (central) legislative council.
- It introduced local representation in Indian legislative council for the first time.
- Introduced an open competition for civil services.
- The covenanted civil service was thus thrown open to Indians also.

\* Crown's Rule :-

① Indian Council Act, 1861 :- (Viceroy)

→ Viceroy nominated 'non-official members'.

→ 3 members of them were 'Indians'.

① 'Raja of Banaras'

② 'Maharaja of Patiala'

③ 'Sir Dinkar Rao'

→ Viceroy → To frame the 'rules of Business'.

→ To issue the 'ordinance' during 'emergency'.

② Indian Council Act, 1892 :- (Council)

→ They classified three categories.

① 'Executive council' [Governing / Administering]  
viceroy

② 'Legislative council'

③ 'Provincial legislative' [Non-official members  
— nominated by Bengal chamber of commerce]

→ Ex :- Direct elections - 'Legislative'  
Indirect elections - 'provincial.'

→ The power of 'executive council' was they can involve in Budget planning.

③ Indian Council Act, 1909 :- (Morley-Minto Reform)

→ They introduced the element of election to Legislative council.

→ Provincial legislative members > legi council.

- Electorate for muslims.
- viceroy nominated Indian [satyendra prasad sinha] as a law member (official)

④ Government of India Act, 1919 :- [Montague - chelmsford Reform]

- They thought about 'Responsible Government'.
- They appointed an Indian as 'High commissioner of India' - office - London.
- They introduced 'Bicameralism' [Parliament  $\leftarrow$  LS  $\rightarrow$  RS]
- They introduced 'communist party' by sikhs.
- They developed 'centre-state' Relations.  
[state & union].

⑤ Government of India Act, 1935:-

- They introduced 'RBI' - Balance the Money flow.
- All the 'Residuary powers' given to 'viceroy'  
 $\downarrow$   
Emergency
- Ex Lockdown during pandemic - president
- Representative Institutions - sc, st, workers sections, Labours.

→ Federal court was established in 1937.

→ Federal public ex:  
Joint

- ⑥ Indian Independence Act, 1947
- Aug 15, 1947 → gave freedom.
  - India & Pakistan separated.
  - constitute Assembly - Drafting committee
    - ↓
    - chairman :- "Dr. Rajendra Prasad"
    - ↓
    - chairman :- "Dr. B.R. Ambedkar"

→ Initially we have 342 Articles, at present 448 Articles.

\* Salient features of Indian constitution:

- ① 'sovereign' - Independent
- ② 'social' - Public works
- ③ 'Republic' - Freedom
- ④ 'Democratic' - Rule by the people
- ⑤ 'secular' - Anti-religious
- ⑥ 'Fundamental' rights & duties - 6 & 11
- ⑦ 'Directive' principles of state policies (DPSP)
- ⑧ 'Fraternity' - Brotherhood rel. b/w states.
- ⑨ 'federal' - Unity in Diversity
- ⑩ 'Judicial' - It is an independent body.
- ⑪ 'single citizenship' - both state & union rules.
- ⑫ 'Bicameralism' - Governing by two bodies L.S R.S
- ⑬ 'single constitution for union & state'
- ⑭ 'Universal Adults' - Above 18 years, they can elect.

- \* Fundamental Rights :-
  - (1) Right to Equality [Religious, caste]
  - (2) Right to Freedom [Many aspects]
  - (3) Right to Religious aspects
  - (4) Right against Exploitation. [Women trafficking etc]
  - (5) constitutional Remedies [changes in I.C.]
  - (6) Right to children and culture.
  - (7) Right to Property [Now removed].

- \* Sources of Indian constitution:-

→ our constitution came into

'Existence' date : on 26<sup>th</sup> Nov, 1949

'Execution' date : on 26<sup>th</sup> Jan, 1950

→ I.C. → constituent assembly - Governing  
 → I.C. → Drafting committee - Dr. B.R. Ambedkar

- ① From Indian Government Act, 1935 :-

→ 'Federal scheme' - unity in Diversity

→ 'Office of Governor' - Time period 6 years.

→ 'Judiciary' - Independent from executive system

→ 'Public service commissions'

→ Results releasing, exams conducting etc.

→ 'Emergency provisions'

→ Extending lock down

→ 'Administrative details'

## ② constitution of Canada :-

can I know FED's ADD-RESS.

- 'federal' structure
- Appointment of state governor [from other]
- Advisory judicial jurisdiction 'power' of supreme court [chief Justice].
- Residuary powers - Residors.  
union list, state list, concurrent list

## ③ constitution of U.S.A :-

President needs Funds for Removal of Present vice President & Judges in U.S.A

- 'President of India' required. [Impeachment]
- removal, treats him as supreme commander
- 'Fundamental Rights' adopted from U.S.A
- 'Removal' of supreme court & high court judges.
- 'Judicial review' - supreme court must located at capital of country.
- 'Preamble' [Preface] was adopted.
- 'Role of vice president'

## ④ constitution of Ireland :-

Ele's DP is No I.

- Election procedure for Indian presidency
- Directive principles of state policy
- Nomination of members of Rajya Sabha

⑤ constitution of U.K :-

Sin Bi is a complex Law.

- 'single citizenship'
- 'Bicameralism' [parliament  $\leftrightarrow$  L.S. R.S.]
- office of 'comptroller' & 'Auditor' General.
- 'Law making procedure' (legislative).

⑥ constitution of Germany :- [Emergency]

- suspension of fundamental rights during emergency. [Violation].
- Right to Live
- Right to education

⑦ constitution of France :-

French Revolution

- 'Republic system'

⑧ constitution of Russia :-

- socialistic country - F.R.
- 'Fundamental duties'
- 'Five year plan' - (2011)

⑨ constitution of Africa :- [A]

- Amendment of constitution [changing, adding].

⑩ constitution of Japan :- [SC]

- Functions of supreme court.

## (1) constitution of Australia & ACT

- 'concurrent list'
- Free from 'Trade' & 'service'

## (2) constitution of British / British & Writs

- Emergency demands.

~~At Jai Bheem movie scene.~~

- \* I.C. :-
  - Parts - 22, 25
  - Articles - 395, 448
  - Schedules - 8, 12

## \* Features of Indian constitution:

### \* Preamble :-

- It is Latin word 'Preambulus'.
  - 'Introduction'
  - 'Preface'
  - 'Objective'
  - 'Purpose'
  - 'Ideology'
- } Articles

- Elements :- We the people - source

- Nature :- Socialist, Democratic, Secular, Republic, Sovereign.

- objectives :- Liberty, Justice, Equality, Fraternity & Integrity.

Nature  
① 'socialist' → we the people.

② 'democratic' → By the people [electing]

③ 'secular' → Anti Religious

④ 'Republic' → Independent

⑤ 'Sovereign' → Exceptions for others, only we involve in our matter / issues.

### Objectives:

① Liberty → Fundamental right

② Justice → court related

③ Equality → All are equal

④ Fraternity → Brotherhood

⑤ Integrity →

\* Is preamble really amended? (Yes) -

### A) case:

→ 'Kesavaanda Bharati' vs State of Kerala, 1973

→ He filed a 'property Right case' in 'supreme court'.

→ It became a conflict b/w 'parliament' and 'supreme court'.

→ Finally concluded that 'supreme court' has all powers to check 'parliament decisions'.

→ Majority of changes in I.C was happened through '42<sup>nd</sup> amendment'.

→ We can't spoil 'Main structure doctrine'.

→ Hence preamble amended [preamble].

\* → We have parts - 25  
Articles - 448  
Schedules - 12.

### \* Part I :-

→ It's about 'union (state/country) & its territories'.

→ Here 'Articles 1-4' are appears.

Article-1 :- Name & its territories.

Schedule - 1 :- India/Bharat, A.P

Territories :- ↗ State - Elections

↘ Union Territories.

↓  
(Governor ruling)

Article-2 :-

→ It's about 'establishment of a new state' which is 'not within the territories of India'.

Ex :- 'Sikkim'.

Article-3 :-

→ Establishment of a 'new state' 'within the territories of India'.

conditions :-

→ More than 2 states combine to form a new state.

→ More than 2 states split from single state.

Ex :- A.P & T.S.

### Article-4 :-

→ whenever article 2 & article -3 happened,

(i) Naming of a new state & Territories  
[Article-1].

(ii) seats in parliament [added].

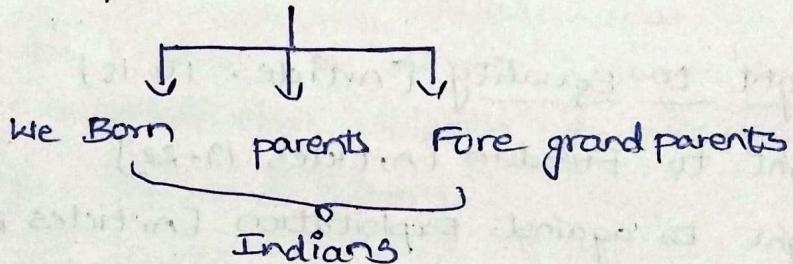
### \* Part-II :-

→ It is about 'citizenship'

→ It conserves Articles from '5' to '11.'

#### Article-5 :-

→ citizenship on commencement of I.C - 26 Jan, 1950



#### Article-6 :-

→ citizenship on a person who migrated from 'pak → India' before '19<sup>th</sup> July, 1948' → Indians.

→ The people who entered after this deadline,  
have 'register process' - Indian govt - 6 months stay

#### Article-7 :-

→ people migrated from 'India' to 'pak' - Not Indians

#### Article-8 :-

→ Indian origin but 'residing outside' the country - people are Indians.

#### Article-9 :- voluntarily cancel the citizenship

Article-10 :- No continuance of register process because for newly born baby [Indian] due to their fore fathers/parents.

Article-11 :- Parliament's power to regulate 'citizenship rights'.

\* Part-III :- Fundamental Rights.

→ It's about 'Fundamental Rights'.

→ These are 'Justiciable'.

→ It contains 'Articles' from, 12 - 35.

① Right to Equality. [Articles 14-18]

② Right to Freedom [Articles 19-22]

③ Right to against Exploitation [Articles 23-24]

④ Right to Freedom Religion [Articles 25-28]

⑤ cultural & educated Rights [Articles 29-30]

X ⑥ Property Right [Article 31] X

⑦ constitutional Remedies [Articles 32-35].

Article-12 :-

Govt & Parliament

→ state ← Govt & state legislature

All authorities → control of territories of in

Article-13 :-

→ F.R's are Justiciable, we can file a case on persons [Article-12] whenever F.R's are violated.

## ① Right to Equality :- [14-18]

Article-14 :- All are 'Equal' before 'Law.'

Article-15 :- Prohibition of 'discrimination'

Gender  
Caste  
colour  
Religion  
status  
place

Article-16 :- Equal distribution of opportunities.

### [Reservations]

Article-17 :- 'Untouchability' prohibition.

Article-18 :- Prohibition of 'Titles'.

## ② Right to Freedom :- [19-22]

Article-19 :- Speech

Association  
Meetings - strikes  
move within the country  
settle at any place within country  
Profession - state

Article-20 :- Freedom of 'offences' [ Lawyer, Bail ]  
other than 'violation of principles' of I.C.

Article-21 :- Personal Liberty.

Article-21(A) :- Right to 'Education'

Article-22 :- Freedom of 'offences' - 'Bail' & 'protection'

## ③ Right against Exploitation :- [23-24]

Article-23 :- 'Forced Labour' & 'Women Traffic'.

Article-24 :- Prohibition of 'child Labour' in factory.

## ④ Right to Freedom of Religion :- [25-28]

Article-25 :- Freedom of choosing Religion & Profession.

Article-26 :- manage 'Religious affairs' charitable trusts & orphanages.

Article-27 :- Relaxation of Tax - Donating funds to religious Institutions.

Article-28 :- Freedom to worship any religion [god]  
in Educational institutions.

## ⑤ Cultural & Educational Rights [29-30]

→ For Minorities - (Less percent people) like Muslim, Sikhs, Buddhists, Christians - - -

Article-29 :- cultural rights [wearing Burkhas - - -]

Article-30 :- Educational Rights [Bible, Quran reading]

## ⑥ constitutional Remedies [32-35]

Article-32 :- 'Parliament' having authority to make changes in, F.R's.

Article-33 :- Enforcement of Rights [Emergency].

Article-34 :- Restrictions on Rights [Twitter comments]

Article-35 :- Parliament can make a Law.

## \* Part-IV :- Directive principles of state policy [DPSJ]

→ Articles from [36-51] (36), (37)

→ classification  
Based on (Nature) → socialistic : 38, 39, 41, 42, 43, 47A  
→ Gandhian : 40, 43<sup>B</sup>, 46, 47, 48, 48-A  
→ Liberal - Intellectual : 44, 45, 49, 50, 51

Article-36 :- Same as Article-19.

Article-37 :- Nature → Non-Judiciable.

### ① socialistic :- [socio-economic principles]

Article-38 :- To promote the people socially secure through Justice ← Social  
Economic  
Political.

Article-39 :- ① Equal pay for Men & Women for equal work.

② Equal distribution of material Resources.

③ Protection of health of women & children

Article-42 :- 'Pregnant Ladies' - Good working conditions & Maternity Relief.

Article-41 :- Old age people, unemployed & physically disabled.

Article-43 :- Minimum wage to satisfy their Basic Needs. } Workers

Article-43(A) : Workers participation in management for decision making.

### ② Gandhian principles :-

→ ('Non violence', 'self-governing system', 'weaker sections')

Article-40 :- 'self-governing system' through 'panchayati raj' system.

Article-45(B) : cottages in Rural Areas.

Article-46 : Economic & Educational Benefits for weaker sections - SC's & ST's.

Article-47 : Prohibition of consumption of intoxicating drinks & drugs.

Article-48 : (cow) - Breeds Improvement

Article-48(A) : Protection of forest

### ③ Liberal-Intellectual Principles +

Group on roads  
↳ 44 section

Article-44 : uniform civil codes for all citizens.

Article-45 : Early childhood care & their education  
↳ Anganwadi

Article-49 : Protection of Monuments through (museums)

Article-50 : separation of Judiciary from executive

51A(a)

51A(b)

51A(c)

Article-51 : National peace & safety. [Military] ↳ 51A(c)

\* Part III A = Fundamental Duties (II) - (Article-51A)