

CONSTITUTION OF INDIA (COI)

(BNC501/ BNC601)

Unit 1-

Introduction and Basic Information about Indian Constitution: Meaning of the constitution law and constitutionalism, Historical Background of the Constituent Assembly, Government of India Act of 1935 and Indian Independence Act of 1947, Enforcement of the Constitution, Indian Constitution and its Salient Features, The Preamble of the Constitution, Fundamental Rights, Fundamental Duties, Directive Principles of State Policy, Parliamentary System, Federal System, Centre-State Relations, Amendment of the Constitutional Powers and Procedure, The historical perspectives of the constitutional amendments in India, Emergency Provisions: National Emergency, President Rule, Financial Emergency, and Local Self Government – Constitutional Scheme in India.

Introduction and Basic Information about Indian Constitution

Meaning of Constitution:

The Constitution of India is the **highest law** in independent India. It is the **longest written constitution** of any democratic country in the world.

A constitution is the main law of a country that explains how the **government will work**, what powers different parts of the government have, and the basic principles the society will follow.

Constitutionalism:

The doctrine or system of government in which governing power is constrained by **enforceable laws**, and power is distributed with **checks and balances** to ensure the protection of the fundamental rights of individuals and groups.

Historical Background of the Constituent Assembly

Constituent Assembly

The Constituent Assembly of India was formed in 1946 to draft the country's Constitution, based on recommendations from the Cabinet Mission. It had 389 members, representing both British India and the Princely States. The first meeting took place on December 9, 1946, with Dr. Sachchidananda Sinha as the temporary Chairman. Dr. Rajendra Prasad was later elected as the President on December 11, 1946.

The Assembly worked for about three years and became India's first parliament after independence.

The Constitution of India was created by the Constituent Assembly, which began its work in December 1946 and completed it in just under three years. After the partition, the Assembly had 299 members who carefully discussed each clause.

The Constitution was adopted on November 26, 1949, and came into effect on January 26, 1950. November 26 is now celebrated as Constitution Day, and January 26 as Republic Day.

Functions of the Constituent Assembly:

1. Framed the Constitution of India.
2. Enacted laws and participated in key decision-making processes.
3. Adopted the National Flag on July 22, 1947.
4. Elected Dr. Rajendra Prasad as India's first President on January 24, 1950.
5. Adopted the National Anthem on January 24, 1950.
6. Adopted the National Song on January 24, 1950.

Government of India Act 1935

The Government of India Act of 1935, passed by the British Parliament, was its longest act at the time. It was split into the Government of India Act and the Government of Burma Act. The act drew from sources like the Simon Commission report and the Third Round Table Conference. It ended the dyarchy system from the 1919 Act and proposed an Indian Federation of British provinces and princely states, though the federation never materialized due to lack of participation from the princely states.

Salient features

1. Abolished provincial dyarchy and introduced dyarchy at the center.
2. British Parliament remained supreme.
3. Separated Burma from India.
4. Proposed an All India Federation with British India and princely states.
5. Provided strong protections for minorities.

Indian Independence Act of 1947

The Indian Independence Act, passed by the British Parliament on 18 July 1947, created two independent Dominions: India and Pakistan. British provinces joined either India or Pakistan based on their majority religion (Hindu or Muslim). The princely states were free to choose between the two. India gained independence on 15 August 1947.

Salient features

1. It established two dominion states: India and Pakistan.
2. British authority over princely states ended, allowing them to join either India or Pakistan or remain independent.
3. The constituent assemblies of both states could create their own constitutions.
4. The British government no longer had control over the dominions.

Indian Constitution and its Salient Features

Salient Features:

- 1. Written Constitution:** It is a formal, written document.
- 2. Lengthy Document:** It is one of the longest constitutions in the world.
- 3. Diverse Sources:** It is derived from various sources.
- 4. Single Citizenship:** All Indians are citizens of India, regardless of where they live.
- 5. Flexible:** It can be amended more easily compared to rigid constitutions.
- 6. Universal Adult Franchise:** Every adult citizen has the right to vote.
- 7. Fundamental Rights:** Guarantees essential rights to all citizens.

The Preamble of the Constitution

A preamble is an **introductory statement** in a document that explains the **document's philosophy and objectives**.

In a Constitution, it presents the **intention of its framers, the history behind its creation, and the core values and principles of the nation**.

Key Terms:

- **We, the people of India:** Indicates that the power lies with the people.
- **Sovereign:** India has independent authority and is not controlled by any outside power.
- **Socialist:** Aims for socialist goals through democratic means, allowing both private and public sectors.
- **Secular:** All religions receive equal respect and protection from the state.
- **Democratic:** The Constitution derives its authority from the will of the people, expressed through elections.
- **Republic:** The head of the state is elected, with the President of India serving in this role.

Fundamental Rights

Fundamental rights are the **basic human rights** enshrined in the Constitution of India which are guaranteed to all citizens. They are applied **without discrimination on the basis of race, religion, gender, etc.**

There are **6 Fundamental rights** which are given by the Indian constitution.

1) Right to Equality :

The constitutional articles related to right to equality are mentioned in **Articles 14 - 18**. It guarantees equal rights for everyone, irrespective of religion, gender, caste, race or place of birth.

2) Right to Freedom :

The constitutional articles related to right to freedom are mentioned in **Articles 19 - 22**. Freedom is the most important ideals of any democratic society. The Indian Constitution guarantees freedom to citizens.

3) Right against exploitation :

The constitutional articles related to right against exploitation are mentioned in **Articles 23 - 24**. This right implies the prohibition of traffic in human beings, begar, and other forms of forced labour.

4) Right to Freedom of Religion :

The constitutional articles related to right to freedom of religion are mentioned in **Articles 25 - 28**. Every person has the right to freely practice his or her faith, establish and maintain religious and charitable institutions.

5) Cultural and Educational Rights :

The constitutional articles related to cultural and educational rights are mentioned in **Articles 29 - 30**. These rights protect the rights of religious, cultural and linguistic minorities, by facilitating them to preserve their heritage and culture.

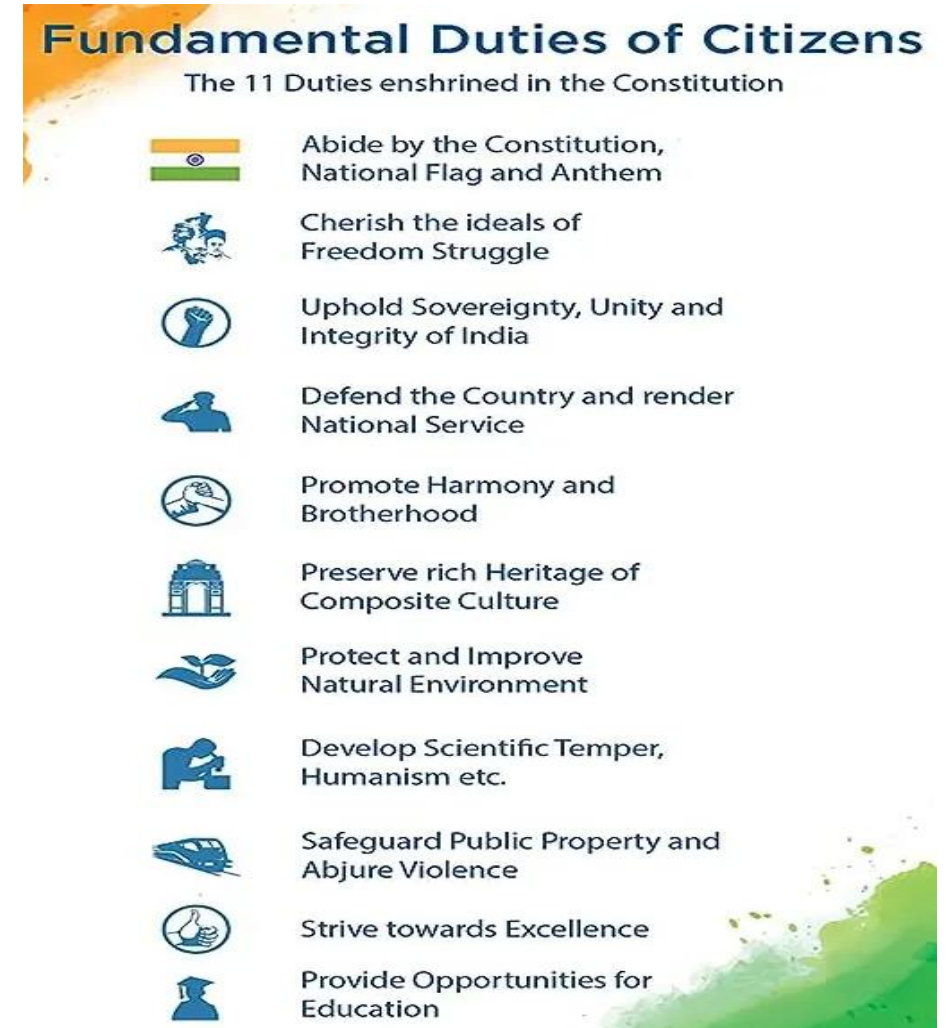
6) Right to Constitutional Remedies :

The constitutional articles related to right to constitutional remedies are mentioned in **Articles 32**. The Constitution guarantees remedies if citizens' fundamental rights are violated.

Fundamental duties

Fundamental duties are a set of responsibilities that Indian citizens have towards their society, nation, and fellow citizens.

The list of 11 Fundamental Duties under article 51-A to be obeyed by every Indian citizen is given as:



Directive Principles of State Policy

The Indian Constitution did not originally categorize the Directive Principles of State Policy (DPSPs), but they are generally classified into three types based on their content and direction:

Socialistic Principles: Emphasizes equal opportunity and socio-economic justice

Gandhian Principles: Includes articles such as organizing village panchayats and promoting cottage industries

Liberal-Intellectual Principles: Focuses on individual rights and liberties

The DPSP are found in Part IV of the Constitution of India, from Articles 36 to 51.

Parliamentary System in India

India is a federal democratic republic with a parliamentary government similar to the UK's. Its legislative branch includes the President, the Rajya Sabha (the upper house), and the Lok Sabha (the lower house).

Features

1. Nominal and Real Head: The head of state, like the President, has a ceremonial role and is the nominal executive.

The Prime Minister is the real head of government.

Article 75 allows the President to appoint the Prime Minister, who leads a council of ministers to advise the President (as stated in Article 74).

2. Executive in Legislature: The executive is part of the legislature. To be a member of the executive, a person must be in Parliament. If not, they can serve as a minister for up to six months.

3. Majority Party Rule: The party with the most seats in the Lok Sabha forms the government. The President invites the leader of this party to be the Prime Minister and appoints other ministers on the Prime Minister's advice.

4. Parliamentary Opposition: Since no party has a full majority, the opposition is important for keeping the government in check and preventing misuse of power.

Federal system

A federal state has two **levels of government**: one at the **central level** and another at the **state level**.

A federal system also **includes three key features**:

- i. A written constitution
- ii. A division of powers between the central and state governments
- iii. Judicial supremacy to interpret the constitution.

Centre-State Relations

Centre-state relations in India are the dynamic of how the central government and state governments share powers and responsibilities.

The Indian Constitution's federal system divides legislative, executive, and financial powers between the center and the states.

The **administrative relations** between the central and state governments are explained in Articles 256 to 263 of the Constitution. These ensure cooperation between the two while keeping the country united.

For **legislative subjects**, the Constitution divides them into three lists: the **Union List** (for the central government), the **State List** (for state governments), and the **Concurrent List** (for both).

The **judicial system** is a single system for the whole country, applying both central and state laws, with no separate courts for each.

Amendment of the Constitutional Powers and Procedure

Article 368 of the Constitution allows Parliament to amend the Constitution.

The process is:

1. An amendment bill is introduced in either House of Parliament (not in state legislatures) by any member, without needing the President's approval.
2. The bill must be passed by a two-thirds majority in both Houses.
3. If the bill affects federal provisions, half of the states must approve it.
4. Once passed by Parliament and the states (if needed), the bill is sent to the President, who must give approval.
5. After the President's assent, the bill becomes law, and the Constitution is amended.

Emergency provisions in Indian Constitution

The Indian Constitution allows the President to declare three types of emergencies:

1. National Emergency (Article 352):

- Declared when India's security is threatened by war, external aggression, or armed rebellion.
- Requires approval by a special majority in Parliament.
- The Lok Sabha can revoke it if requested by at least 1/10th of its members.

2. State Emergency (President's Rule) (Article 356):

- Imposed when a state fails to function according to the Constitution.
- The central government governs the state through the Governor.

3. Financial Emergency (Article 360):

- Declared when India's financial stability is threatened.
- It has never been used in India.

Local self-government

Local self-government in India is a system where local bodies are elected by the people to manage the affairs of local communities.

It is the third tier of government in India, below the state and central governments.

Local self-government in India operates through:

Urban areas: Managed by municipalities and municipal corporations.

Rural areas: Governed by Zila Parishads, block samitis, and panchayats.

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Unit 2-

Union Executive and State Executive: Powers of Indian Parliament , Functions of **Rajya Sabha**, Functions of **Lok Sabha**, Powers and Functions of the President, Comparison of powers of Indian President with the United States, Powers and Functions of the Prime Minister, Judiciary – The Independence of the Supreme Court, Appointment of Judges, Judicial Review, **Public Interest Litigation**, Judicial Activism, **LokPal**, **Lok Ayukta**, **The Lokpal and Lok ayuktas Act 2013**, State Executives – Powers and Functions of the Governor, Powers and Functions of the Chief Minister, Functions of State Cabinet, Functions of State Legislature, Functions of High Court and Subordinate Courts.

Powers of Indian Parliament

1. **Legislative Powers:** The Parliament **makes laws** for the entire country. Subjects are divided into three lists: **Union, State, and Concurrent**. In the Concurrent List, Parliament's law overrides state law.
2. **Executive Powers:** The **government is responsible to Parliament** for its actions. Parliament controls this through committees, question hour, and zero hour.
3. **Financial Powers:** Parliament **approves the budget** and monitors the **government's financial activities** through committees.
4. **Constituent Powers:** Parliament can **amend the Constitution** and make **new laws**.
5. **Judicial Powers:** Parliament can **impeach the President, remove judges, and punish members for violations**.
6. **Electoral Powers:** Parliament helps **elect the President, Vice-President, and important officers like the Speaker and Deputy Speaker**.
7. **Other Powers:** Parliament can discuss **national and international issues**, declare emergencies, change state boundaries, and create or abolish state legislatures.

Rajya Sabha (Council of States)

The **Rajya Sabha** is the **Upper House** of the Indian Parliament, with a **maximum of 250 members**.

- **238 members** represent States and Union Territories, while **12 members** are nominated by the President for their expertise in fields like art, science, and social service.
- The current strength is **245 members**.
- Rajya Sabha is a **permanent body** that doesn't dissolve, but one-third of its members retire **every two years**.
- Members serve **six-year terms** and can be re-elected.
- Members are elected by **State Legislative Assemblies** through proportional representation using a single transferable vote system.

Lok Sabha (House of the People)

The **Lok Sabha** is the **lower house** of Parliament in India, **elected by the people** through voting.

1. It can have up to **552 members**, including representatives from states and union territories.
2. The President can nominate **two members** from the Anglo-Indian community.
3. The number of seats for each state is based on its population.
4. Members serve for **five years**, unless the Lok Sabha is **dissolved** earlier.

Category	Rajya Sabha	Lok Sabha
Legislative	Equal power with Lok Sabha for ordinary laws; bills can be introduced here.	Dominant in law-making due to larger membership. Most bills are introduced here.
Financial	Cannot introduce money bills; only suggest changes to money bills, but Lok Sabha has the final say.	Superior in financial matters; can introduce money bills. Rajya Sabha can only delay money bills for 14 days.
Executive	Cannot dismiss the Council of Ministers.	Can dismiss the Council of Ministers by a vote of no-confidence.
Amendment	Can amend the Constitution with Lok Sabha by passing with a 2/3 majority.	Shares power to amend the Constitution with Rajya Sabha.
Electoral	Participates in the election of the President and Vice-President. Elects Deputy Chairman.	Participates in the election of the President and Vice-President. Elects Speaker and Deputy Speaker.
Judicial	Can impeach the President with Lok Sabha. Can remove judges of Supreme and High Courts, and Vice-President.	Can impeach President and judges, and discipline its own members.
Emergency Powers	Must approve any emergency declarations made by the President.	Must approve any emergency declarations made by the President. If dissolved during an emergency, Rajya Sabha approval is needed.

Powers and Functions of the President

Power	Details
Executive Powers	<ul style="list-style-type: none">- Head of Union government.- Appoints key officials (PM, judges, etc.).
Legislative Powers	<ul style="list-style-type: none">- Addresses Parliament sessions.- Summons or dissolves Lok Sabha.- Approves all laws.
Diplomatic Powers	<ul style="list-style-type: none">- Represents India internationally.- Signs treaties (with Parliament approval).
Financial Powers	<ul style="list-style-type: none">- Approves money bills.- Presents Union Budget.- Sets up Finance Commission.
Military Powers	<ul style="list-style-type: none">- Supreme commander of the Armed Forces.- Declares war/peace (with Parliament).
Judicial Powers	<ul style="list-style-type: none">- Appoints Chief Justice and judges.
Emergency Powers	<ul style="list-style-type: none">- Declares emergencies: national, constitutional breakdown, or financial crisis.

Comparison of Powers of Indian President with the United States

Topic	US President	Indian President
How they are elected	Chosen directly by people	Chosen indirectly (not by people directly)
Advantage	Stable government, no coalition problems	Can face issues from coalition politics
Head of	Head of both country and government	Only head of the country (symbolic role)
Power	Real power to make decisions	Mostly a figurehead, not much real power
Term length	4 years, can only be re-elected once	5 years, can be re-elected many times

Powers and Functions of the Prime Minister

The Prime Minister is the **head of the Indian government** and is appointed by the **President** after a party wins the general election.

Power/Role	What it Means
Leader of the Country	Main leader of the government.
Assigns Minister Jobs	Decides which ministers handle what.
Leads Cabinet Meetings	Runs meetings with top ministers.
Represents India Abroad	Attends international meetings.
Connects President and Cabinet	Shares decisions with the President.
Main Advisor to President	Gives advice to the President.
Can Remove Ministers	Can recommend a minister's dismissal.
Can End Government	Resigning can collapse the government.

Judiciary

Appointment of Judges	Qualifications	Procedure
District Courts	1. Advocate for 7+ years.	1. Consult Governor and High Court judges (Article 233).
	2. Not in other Union or State services.	2. High Courts control district court judges (Article 235).
	3. Recommended by the High Court.	
High Courts	1. Citizen of India.	1. Appointed by President's warrant (Article 217).
	2. Held a judicial office in India for 10+ years.	2. Consult Chief Justice of India and State Governor.
	3. Advocate in High Court for 10+ years.	3. Consult Chief Justice of the High Court for other judges.
Supreme Court	1. Citizen of India.	1. Appointed by President after consultation (Article 124).
	2. Below 65 years of age.	2. Collegium system used for appointments.
	3. Judge of High Courts for 5+ years.	3. Maximum of 7 judges can be appointed (can increase as needed).
	4. Advocate in High Court for 10+ years.	4. Consult Chief Justice of India, other Supreme Court judges, and sometimes High Court judges.
	5. Distinguished jurist in the opinion of the President.	

Judicial Review

Judicial Review is when a court checks if a decision or action is lawful.

Judicial activism

Judicial activism is when the judiciary actively protects citizens' rights and the country's legal system.

Public Interest Litigation (PIL)

Public Interest Litigation (PIL) allows individuals to file cases in court to protect the public interest on issues like pollution, terrorism, and road safety.

While not formally defined in law, PIL is interpreted by judges to address matters affecting the public. It empowers citizens to seek justice through judicial activism. However, the petitioner must prove the case is genuinely in the public interest. Common issues under PIL include bonded labor, neglected children, wage exploitation, atrocities against women, and environmental pollution.

LokPal , Lok Ayukta

Aspect	Lokpal	Lokayukta
What It Is	A body that fights corruption at the national level.	A body that fights corruption at the state level.
How It Was Created	Made by the Lokpal and Lokayuktas Act in 2013.	Created by laws made by state governments.
Who It Covers	Looks into complaints against the Prime Minister, Ministers, Members of Parliament, and central government officials.	Looks into complaints against state-level politicians and officials.
Who Appoints It	Appointed by the President of India.	Appointed by the Governor of the state.
Who Is In It	Has one chairperson and up to 8 members, with half being judges.	Usually has one main person (Lokayukta) or a small team.
How Long They Serve	Serves for 5 years or until they are 70 years old.	Term varies by state rules.

Lokpal and Lok Ayuktas Act, 2013

The **Lokpal and Lokayuktas Act, 2013** is an anti-corruption law in India. It aims to set up the Lokpal at the national level and Lokayuktas in states to investigate corruption allegations against high-ranking public officials, including the Prime Minister, ministers, MPs, and Group A officials.

Key Features:

1. Lokpal at the Centre and Lokayuktas in states.
2. States must set up Lokayuktas within 365 days of the Act.
3. Lokpal will have a chairperson and up to 8 members, with 50% being judicial members.
4. Half of the Lokpal members must be from SC/ST/OBC, minorities, or women.
5. Selection committee includes the Prime Minister, Speaker, Chief Justice of India, and others.

State Executive

The State Executive consists of the Chief Minister, the Council of Ministers and the Governor.

Powers and Functions of the Governor

Category	Powers and Functions
Executive Powers	<ol style="list-style-type: none">1. Executes state decisions.2. Appoints Chief Minister, Ministers, Advocate General.3. Recommends President's rule.
Legislative Powers	<ol style="list-style-type: none">1. Can dissolve or summon the legislature.2. Approves or returns bills.3. Addresses legislature.
Financial Powers	<ol style="list-style-type: none">1. Oversees state budget.2. Controls money bills and Contingency Fund.3. Forms Finance Commission.
Judicial Powers	<ol style="list-style-type: none">1. Can pardon or reduce sentences.2. Helps appoint judges.3. Manages judicial appointments.

Powers and Functions of the Chief Minister

Category	Powers and Functions
In Relation to Council of Ministers	<ol style="list-style-type: none">1. Recommends appointment of ministers.2. Assigns or reshuffles portfolios.3. Leads meetings and controls activities.4. Can ask a minister to resign.
In Relation to Governor	<ol style="list-style-type: none">1. Informs Governor about government decisions.2. Provides advice for appointments (Advocate-General, PSC, etc.).3. Reports administrative matters when asked.
In Relation to State Legislature	<ol style="list-style-type: none">1. Advises Governor on summoning or dissolving the legislature.2. Announces government policies in the House.
Other Functions	<ol style="list-style-type: none">1. Chairs State Planning Board.2. Vice-chairperson of Zonal Council.3. Member of Inter-State and National Development Councils.

State Legislature

The State Legislature makes laws at the state level. It can be unicameral (Legislative Assembly) or bicameral (Legislative Assembly and Legislative Council). The Legislative Assembly creates laws, controls state finances, and oversees the executive. The Legislative Council is advisory and reviews laws. Both houses help elect the President and amend the Constitution in specific areas.

Functions of State Legislature

- It makes laws on state matters and can make laws on shared matters if they don't conflict with Parliament.
- It controls the Council of Ministers.
- It manages the state's finances.
- It has the power to change the constitution.
- It elects and can remove the Speaker and Deputy Speaker.

Functions of High Court and Subordinate Courts.

Court Type	Key Functions
High Court	Original Jurisdiction: Handles civil and criminal cases within its city (e.g., Calcutta, Bombay, Madras). Issues writs to enforce fundamental rights.
	Appellate Jurisdiction: Hears appeals from lower courts in civil, criminal, and constitutional cases.
	Court of Record: Judgments serve as legal precedents. Can punish contempt of court.
	Administrative Powers: Oversees subordinate courts, sets rules, transfers cases, manages court staff.
	Judicial Review: Can declare laws unconstitutional.
Subordinate Court	Certification: Certifies cases for appeal to the Supreme Court.
	Civil Courts: Handle property and civil disputes as per the Civil Procedure Code.
	Criminal Courts: Handle criminal cases (e.g., murder, robbery) under the Criminal Procedure Code and Indian Penal Code.
	Grading: Courts are classified by the severity of disputes (civil) or crimes (criminal).

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(BNC501/ BNC601)

Unit 3-

Introduction and Basic Information about Legal System: The Legal System: **Sources of Law** and the Court Structure: Enacted law -Acts of Parliament are of primary legislation, Common Law or Case law, Principles taken from decisions of judges constitute binding legal rules. **The Court System in India** and Foreign Courtiers (District Court, District Consumer Forum, **Tribunals**, High Courts, Supreme Court). **Arbitration**: As an alternative to resolving disputes in the normal courts, parties who are in dispute can agree that this will instead be referred to arbitration. Contract law, **Tort**, Law at workplace.

Law

Law is a system of rules to keep society **organized and peaceful**. It helps prevent unethical behavior. The term 'Law' comes from 'Lag,' meaning "specific." Law means rules a country enforces to guide people's actions.

Main Functions of Law

1. To ensure justice.
2. To promote equality.
3. To keep things fair.
4. To maintain order.

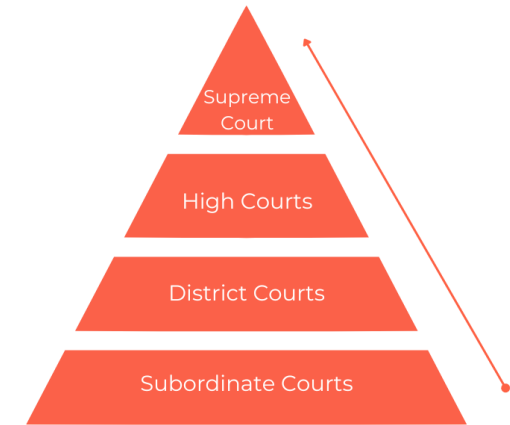
Sources of law

- 1. Legislation** – Laws created by the government, like acts and statutes.
- 2. Customs** – Traditional practices recognized as law in some cases.
- 3. Judicial Precedents** – Past court decisions that guide future cases.
- 4. Justice, Equity, and Good Conscience** – Principles of fairness applied when no specific law exists.
- 5. Conventional Law** – International treaties and agreements followed by India.

Court Structure in India

1. **Supreme Court** – Highest court; binding on all.
2. **High Courts** – Bind lower courts within the state.
3. **District Courts** – Handle serious cases in districts.
4. **Subordinate Courts** – Deal with minor local cases.

HIERARCHY OF COURTS IN INDIA



Acts of Parliament

Acts of Parliament, or primary legislation, are laws passed by the legislative body. Parliament can allow others to make laws through an Act. An Act defines the purpose of a specific law. Delegated legislation gives others the authority to add details to an Act. Authorized individuals create laws based on the guidelines set by the Act.

Enacted Law

The process of making a law begins with the **ministry drafting a Bill**, which is then revised based on feedback. After the **Cabinet approves the Bill**, it is introduced in **Parliament** and read **three times**. A committee may review the Bill and suggest changes. The Bill is then discussed, amended, and voted on by Parliament. If both **Houses pass the Bill**, it is sent to the **President for approval**. Once the President agrees, the Bill becomes a **law**.

Common Law or Case Law

Common Law is a system of law based on **court decisions** rather than written laws. Its authority comes from long-standing practices and the acceptance of people. It originated in England. Common Law becomes clear only when explained in a judgment. It includes rules derived from court decisions and legal principles, as well as traditions, customs, and reasoning methods.

Principles taken from decisions of judges constitute binding legal rules

Judicial precedent means that judges make decisions based on past cases. They follow similar previous cases when making decisions, adhering to the principle of "stare decisis," which means "stand by the decision already made."

Precedents are followed because judicial decisions are assumed to be correct, and using them helps build confidence in the judicial system. This process ensures that decisions are fair and just.

The rules of judicial precedent are as follows: **Lower courts are required to follow decisions made by higher courts, while higher courts generally follow their own past decisions in related matters.**

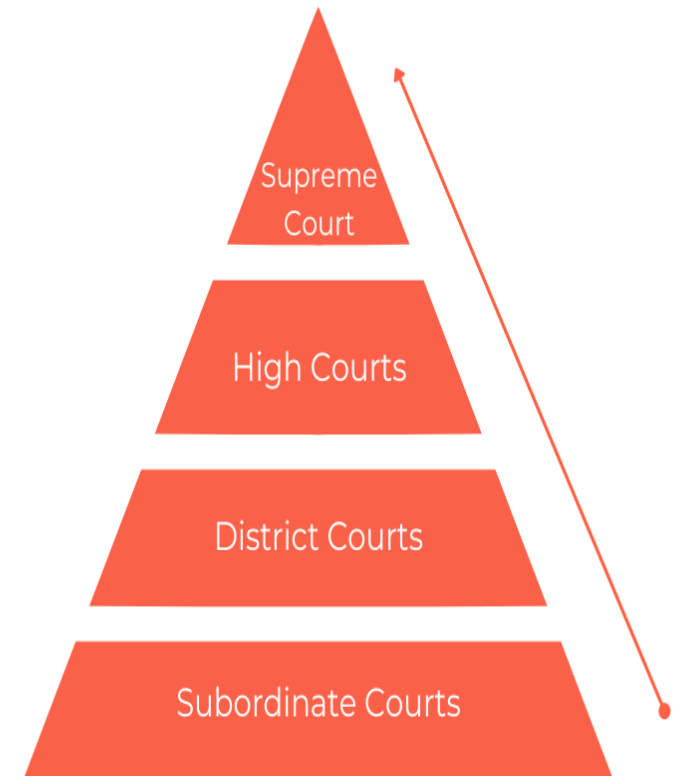
The Court System in India

The Indian judicial system is one unified system. It is divided into two parts: **superior judiciary (Supreme Court and High Courts)** and **subordinate judiciary (lower courts under High Courts)**. The Supreme Court is the highest court, led by the Chief Justice of India. There are 24 High Courts in India, each serving one state, though some cover multiple states or Union Territories. Each state is divided into districts, with a District Court in each. District Courts handle most civil and criminal cases. Additionally, tribunals and commissions are set up to handle specific legal matters.

Court hierarchy in India:

- 1. Supreme Court**
- 2. High Court**
- 3. District Court**
- 4. Subordinate Courts**

HIERARCHY OF COURTS IN INDIA



District Courts in India

District courts in India handle justice at the **district level**, with the District and Sessions Judge being the highest authority. They deal with **civil and criminal cases**. The District Judge is appointed by the **state Governor**, and Additional or Assistant District Judges may be appointed to share the workload.

District Consumer Forum

The **Consumer Protection Act (CPA)** establishes a 3-tier system for quick and affordable resolution of consumer disputes at the **National, State, and District levels**. The District Consumer Forum handles complaints with claims under Rs. 20 lakh. Consumers can file complaints at the district court with the required documents.

Tribunals

A Tribunal is a **quasi-judicial body** for resolving disputes, particularly in areas like **administration and taxes**. It was added to the Indian Constitution by the 42nd Amendment in 1976. Tribunals handle disputes, determine rights, and review decisions.

Need for Tribunals:

1. To reduce court case backlogs.
2. To handle specialized cases.
3. To ease court burdens.
4. To address issues in areas like the environment, armed forces, and taxes.

High Courts

The High Courts in India are the highest judicial bodies at the **state level**, with 25 courts across the country. They have original, appellate, power of superintendence, and court of record jurisdictions. They primarily handle appeals and writ petitions under Articles 226 and 227.

Supreme Court

The Supreme Court of India is the **highest court in the country**, with a **Chief Justice and up to 34 judges**. It hears appeals, resolves disputes between governments, and provides advisory opinions. Its decisions are binding on all courts. It protects citizens' rights and is known as the "**Guardian of the Constitution**."

Arbitration

Arbitration is a private, flexible process for resolving **disputes outside of court**, where parties agree to abide by the decision. An expert called an **arbitrator** is chosen to resolve the issue. The decision, known as an arbitral award, is binding and enforceable like a court judgment.

Types of Arbitration:

- 1. Domestic Arbitration:** Involves Indian parties and is conducted in India with Indian rules.
- 2. Foreign Arbitration:** Involves proceedings outside India, with the award enforced in India.

Contract Law

The **Indian Contract Act, 1872** governs contracts in India. A contract is an agreement enforceable by law. For an agreement to be a contract, it must have offer and acceptance, consideration, parties with capacity, free consent, and a lawful object.

Essential elements of a contract:

1. **Offer and Acceptance:** One person makes an offer, the other accepts.
2. **Consideration:** Something given in return, making the agreement enforceable.
3. **Capacity:** Only adults with sound mind can contract.
4. **Consent:** Agreement must be free from coercion or fraud.
5. **Unlawful Agreements:** Contracts with illegal purposes are void.
6. **Contingent Contract:** Dependent on a future event.
7. **Discharge of Contract:** Contract ends by performance, agreement, impossibility, or breach.
8. **Damages:** Compensation for loss caused by breach.

Tort

Tort is a **civil wrong**, either intentional or accidental, that causes **harm to someone**.

There are three types of torts:

1. **Intentional Tort**: The defendant causes harm on purpose.
2. **Negligence**: The defendant is careless, harming the victim.
3. **Strict Liability**: No need to prove intent or carelessness; the defendant is liable for the harm caused.

Law at workplace

1. **Factories Act, 1948**: Ensures health, safety, and welfare of workers in factories with provisions on working hours, leave, and overtime. Applies to factories with 10+ workers using power or 20+ without power.
2. **Shops and Commercial Establishments Act**: Covers working conditions, hours, and leave for employees in shops and commercial establishments.
3. **Employee's Compensation Act, 1923**: Provides compensation to workers for injuries or death during employment.
4. **Weekly Holiday Act, 1942**: Requires weekly holidays for employees in shops, restaurants, and theatres.

CONSTITUTION OF INDIA (COI)

(BNC501/ BNC601)

Unit 4-

Election provisions, Emergency provisions, Amendment of the constitution: Election Commission of India-composition, powers and functions and electoral process. Types of emergency-grounds, procedure, duration and effects. Amendment of the constitution- meaning, procedure and limitations.

Election Provisions

The **Indian Constitution** has detailed rules about how elections should be conducted. These rules ensure that elections are fair and free.

Election Commission of India

Composition:

- The Election Commission of India is an independent body responsible for conducting elections.
- It consists of a **Chief Election Commissioner (CEC)** and other Election Commissioners as appointed by the President.

Powers and Functions:

- **Conducting Elections:**

It organizes elections for the **President, Vice-President, Parliament (Lok Sabha and Rajya Sabha), and State Legislative Assemblies.**

- **Supervision:**

It supervises the **entire election process**, from preparing the voters' list to counting votes.

- **Model Code of Conduct:**

It ensures that political parties and candidates **follow certain rules** during elections to maintain fairness.

- **Dispute Resolution:**

It **resolves disputes** related to elections, such as eligibility of candidates and issues with voting.

- **Voter Education:**

It promotes **voter awareness and participation.**

Electoral Process:

•Preparation of Voter List:

The Election Commission prepares and updates the list of eligible voters.

•Nomination of Candidates:

Candidates who want to contest the election must file their nomination.

•Campaigning:

Political parties and candidates campaign to win support from voters.

•Voting:

On election day, voters go to polling booths to cast their votes.

•Counting and Declaration of Results:

After voting, the votes are counted, and results are declared.

Emergency Provisions

The Constitution of India provides special powers to the central government to deal with emergencies. There are **three types of emergencies**, each with specific grounds, procedures, durations, and effects:

Types of Emergency

1. National Emergency (Article 352)

1. Grounds:

This can be declared if there is **a threat to the country due to war, external aggression, or armed rebellion.**

2. Procedure:

1. The President can declare a National Emergency based on a **written request from the Prime Minister and his Cabinet.**
2. The declaration must be approved by both **Houses of Parliament** within **one month.**

3. Duration:

1. Once approved, it lasts for **six months** and can be extended indefinitely with parliamentary approval every six months.

4. Effects:

1. **Fundamental Rights** (like the freedom of speech) can be restricted.
2. The central government **gains more power** over the states.

2. State Emergency (President's Rule, Article 356)

1. Grounds:

It can be imposed if the President believes that the state government is **unable to function** according to the Constitution (often due to a breakdown of law and order or political instability).

2. Procedure:

1. The President declares it, usually based on a report from the **state's Governor**.
2. It must be approved by Parliament within **two months**.

3. Duration:

1. It can last for **six months** and can be extended up to a maximum of **three years** with parliamentary approval every six months.

4. Effects:

1. The state government is dissolved, and the central government takes direct control of the state.
2. The State Legislative Assembly may be suspended or dissolved.

3. Financial Emergency (Article 360)

1. Grounds:

It can be declared if the financial stability or credit of India or any part of it is threatened.

2. Procedure:

1. The President declares it, but there is no need for parliamentary approval.

3. Duration:

1. It remains in force until the President decides to revoke it.

4. Effects:

1. The central government can direct states on how to use their finances.
2. The salaries of government employees, including judges, can be reduced.

Amendment of the Constitution

The Constitution of India is not rigid and can be amended to meet the changing needs of society. However, there are specific rules for making amendments to ensure stability.

Meaning of Amendment

- An **amendment** is a **change or addition** made to the Constitution to update or improve it.

Procedure for Amendment (Article 368)

There are **three main ways** to amend the Constitution:

1.Simple Majority:

1. Some amendments can be passed by a **simple majority of members present and voting in each House of Parliament**. This is used for changes like renaming states or altering the boundaries of states.

2. Special Majority:

1. Most amendments require a **special majority**, which means **two-thirds of the members present and voting**, plus more than half of the total membership of each House of Parliament.

3. Special Majority with State Ratification:

1. Some amendments need not only a **special majority** in Parliament but also approval by at least **half of the state legislatures** (e.g., amendments affecting federal structure, like the distribution of powers between the Union and States).

Limitations of Amendment

Basic Structure Doctrine:

The Supreme Court has ruled that Parliament cannot change the "**basic structure**" of the Constitution (like the fundamental rights or the principles of democracy, secularism, federalism, etc.). This ensures that the core values of the Constitution remain intact.

CONSTITUTION OF INDIA (COI)

(BNC501/ BNC601)

Unit 5-

Business Organizations and E-Governance: Sole Traders, Partnerships, Companies: **The Company's Act:** Introduction, Formation of a Company, **Memorandum of Association, Articles of Association, Prospectus**, Shares, Directors, General Meetings and Proceedings, Auditor, **Winding up**. E-Governance and role of engineers in E-Governance, Need for reformed engineering serving at the Union and State level, Role of I.T. professionals in Judiciary, Problem of Alienation and Secessionism in few states creating hurdles in Industrial development

Sole Traders (Sole Proprietorship)

A **sole trader** is a business **owned and run by one person**. The owner and business are the same legally, and the business is not always registered. It is best for small or medium businesses.

Legal Aspects & Liability:

- 1.No **special legal rules** apply; minimal formalities.
- 2.The owner bears **all risks** and enjoys all profits.
- 3.The owner's **liability is unlimited**.

Advantages:

- 1.**Easy to Start:** **Minimal paperwork**; owner's personal ID can serve as the business ID.
- 2.**Full Control:** The owner makes **all decisions**.
- 3.**Profit:** The owner keeps **all profits**.
- 4.**Privacy:** **No need** to share business details with others.

Disadvantages:

- 1.**Unlimited Liability:** Personal assets may be used to **pay business debts**.
- 2.**Funding Issues:** Hard to **get loans** compared to registered companies.
- 3.**Taxation:** Can result in **higher taxes**.

Partnership

A **partnership** is a business where **two or more people** share ownership, profits, and liabilities. It operates under the **Indian Partnership Act, 1932**.

Features:

- 1. Formation:** Requires a **legal agreement** between partners.
- 2. Unlimited Liability:** Partners are **personally responsible** for the firm's debts.
- 3. Discontinuity:** The business dissolves **if a partner dies**, retires, or goes bankrupt.

Types of Partners:

- 1. Active Partner:** Participates **in business and shares** profits.
- 2. Dormant Partner:** Only invests; **doesn't manage** daily tasks.
- 3. Secret Partner:** Involved **in profits and management** but remains unknown publicly.

Advantages:

- 1. Easy to Start:** Needs only a **partnership deed**.
- 2. More Funds:** Easier to **raise funds** than sole proprietorships.

Disadvantages:

- 1. Unlimited Liability:** All partners are **responsible for losses**.
- 2. Limited Members:** Maximum **of 20 partners**.

The Company's Act

The **Companies Act, 2013** is a law in India that sets rules for forming, running, and closing companies. It applies to all types of companies and focuses on better governance and shareholder rights.

Key Features:

1. More power for shareholders
2. Role of women on company boards
3. Corporate Social Responsibility (CSR)
4. Special court for company cases (NCLT)
5. Changing auditors regularly
6. Simpler merger and closing process

Steps to Start a Company

- **Choose a unique name** and check its availability.
- Get the name approved by the **Registrar of Companies (RoC)**.
- Write the company's **Memorandum (MOA)** and **Articles (AOA)**.
- Fill and submit necessary forms with required documents online.
- Pay the registration fees and send signed copies to RoC.
- Get the **Certificate of Incorporation**, which makes the company official.

Memorandum of Association (MOA)

The **MOA** is a document that explains:

- **What the company does** (its objectives).
- **Its name**, location, and capital details.
- **Liability** of its members.

It is like a rulebook that sets limits on what the company can do.

Articles of Association (AOA)

The **AOA** is another document that explains:

- **How the company operates internally**, like rules for meetings, appointments, and managing finances.
- It is more about day-to-day operations and can be easily updated by passing a resolution.

Difference Between MOA and AOA

MOA	AOA
Explains what the company can do.	Explains how the company runs daily.
Hard to change (requires approval).	Easier to change.
Sets boundaries the company cannot cross.	Covers details within those boundaries.

Prospectus

A prospectus is a document issued by a company to invite the public to invest in its shares or debentures.

Contents of a Prospectus:

1. Company name, address, directors, and key officers.
2. Details of the share issue and purpose of raising funds.
3. Financial performance reports.
4. Statements about legal compliance.

Types of Prospectus:

1. **Abridged Prospectus:** A short summary of the full prospectus.
2. **Deemed Prospectus:** Issued when securities are sold to the public indirectly.
3. **Shelf Prospectus:** Allows multiple issues of securities without reissuing a new prospectus.
4. **Red Herring Prospectus:** Incomplete prospectus used before finalizing the issue price.

Shares

- A share is a **unit of ownership** in a company, representing a portion of the company's assets.
- Shares are movable properties and can be transferred according to the company's rules.

Directors/Board of Directors

- A director manages the **company's affairs** per the Companies Act, 2013.
- The Board of Directors is responsible for making decisions in the company's best interest.

- **Types of Directors:**

1. Residential Director
2. Independent Director
3. Small Shareholders Director
4. Women Director
5. Additional Director
6. Alternate Director
7. Shadow Director
8. Nominee Director

Annual General Meeting (AGM)

- A yearly meeting for **company shareholders**, mandatory for all companies.
- First AGM must be held within 18 months of incorporation.
- No more than 15 months should pass between two AGMs.

Minutes of Proceedings of General Meeting

- Minutes are written records of what happened at **the meeting, signed** and kept by the company.
- They must be completed within 30 days of the meeting and are legally binding.

Auditor's Role

- An auditor checks the **company's financial records** and ensures accuracy.

- **Types of Auditors:**

1. **External Auditor:** Independent auditor hired by the company.
2. **Internal Auditor:** Company employee auditing internal financial controls.

Winding Up (Liquidation) Process

- The process of **ending a company's existence**, selling assets, paying off debts, and distributing any remaining funds.
- Steps:
 1. Appoint a liquidator to manage the winding-up process.
 2. Liquidator sells assets, pays debts, and distributes the remaining amount to members.
 3. The company is dissolved and removed from the company register if all assets and debts are settled.

E-Governance

- E-governance is the use of IT to improve **government services**, making governance simpler, accountable, and transparent.
- **Types of E-Governance:**
 1. **G2C (Government to Citizens):** Delivers services to citizens efficiently.
 2. **G2B (Government to Business):** Improves business-government interactions.
 3. **G2E (Government to Employees):** Enhances government-employee communication.
 4. **G2G (Government to Government):** Facilitates smooth inter-governmental operations.

Advantages of E-Governance:

- Improves government service delivery.
- Reduces corruption and paperwork.

Role of Engineers in E-Governance

- Engineers help implement e-governance by developing software, understanding cyber laws, and ensuring processes comply with regulations.

Need for Re-engineering

- To improve government operations and adapt to technological progress, re-engineering is needed to redesign workflows for better performance.

Use of Technology in Judiciary:

- Technology helps manage case files, reduces delays, and improves efficiency in courts.
- Role of IT Professionals: Manage court software, design systems for case tracking, and maintain digital records.

Alienation:

- Alienation refers to the feeling of disconnection and dehumanization, especially in a capitalist work system.

Secession:

- Secession is the act of a group or region leaving a larger political entity to form its own independent state.