

# 1. Habeas corpus writ

The habeas corpus writ is a legal remedy that safeguards an individual's right to personal liberty and prevents unlawful detention or imprisonment. The term "habeas corpus" is Latin for "you shall have the body," which signifies the purpose of the writ – to bring a detained person before a court to determine the legality of their detention.

The writ of habeas corpus is a fundamental right enshrined in many legal systems around the world, including in the Indian Constitution (Article 21). It serves as a protection against arbitrary or unlawful arrest or detention by the government or any other authority.

When a person is detained, arrested, or imprisoned, and their detention is believed to be unlawful, they or someone on their behalf can approach the court by filing a petition for a habeas corpus writ. The writ is typically directed to the person or authority responsible for the detention, commanding them to produce the detained individual before the court on a specified date and time.

Upon receiving the writ, the court will examine the legality of the detention and the grounds on which the person is held in custody. The court will inquire whether the detention complies with the applicable laws and whether the person's rights have been violated. The primary purpose of the inquiry is to determine whether there is a valid legal basis for the detention or whether it is arbitrary or unlawful.

If the court finds that the detention is lawful, the person will be remanded back to custody. However, if the court determines that the detention is illegal, it will order the immediate release of the person and may take appropriate actions against the authorities responsible for the unlawful detention.

The writ of habeas corpus acts as a crucial safeguard against unlawful detention and is a vital tool for upholding the right to personal liberty. It ensures that no individual is deprived of their freedom without just cause and provides a means for challenging illegal detentions and protecting civil liberties.

## 2. Mandamus writ

A mandamus writ is a legal remedy issued by a court of law, typically a higher court, to command a lower court, public official, corporation, or other administrative authority to perform a specific duty that is within their legal authority and is their obligation to perform. The term "mandamus" is Latin for "we command."

The purpose of a mandamus writ is to ensure that government officials or public authorities act according to their prescribed legal duties and do not exceed their jurisdiction or act in an arbitrary or unlawful manner. It is a discretionary remedy, and the court will issue a mandamus writ only when certain conditions are met.

To obtain a mandamus writ, the following conditions must generally be satisfied:

1. **Clear Legal Right:** The petitioner seeking the writ must have a clear legal right to the performance of the duty sought. This means that the petitioner must show that the duty is legally enforceable and not merely a discretionary action.
2. **Specific Duty:** The duty sought to be enforced must be specific and not vague. It should be a clear-cut obligation of the respondent authority.
3. **No Alternative Remedy:** The petitioner must demonstrate that there is no other adequate legal remedy available to address the issue.

4. Absence of Malafide: The petitioner should not have any personal interest or ulterior motive in seeking the writ, and the respondent should not have acted with malafide intent.
5. Public Duty: The duty sought to be enforced should be a public duty and not a private obligation.

When these conditions are satisfied, the court may issue the mandamus writ, commanding the respondent authority to perform its duty as required by law. Failure to comply with the writ may result in contempt of court proceedings against the non-complying authority.

It is important to note that the availability and issuance of mandamus writs may vary based on the legal system and jurisdiction. In some countries, the concept of mandamus may be different, and the specific requirements for obtaining the writ may vary.

### **3. "Quo warranto" writ**

The "quo warranto" writ is a legal remedy that is used to question the authority or right of a person holding a public office or position. The term "quo warranto" is Latin for "by what authority" or "by what warrant." The writ is aimed at determining whether the individual has the legal right, qualification, or authority to hold the office they are occupying.

When a person is believed to be wrongfully holding a public office or position, any interested person or the state can file a petition for a quo warranto writ in a court of law. The writ is typically directed against the person occupying the office, and it demands that they prove their legal right or qualification to hold the position.

The court, upon receiving the petition, will examine the eligibility and qualifications required for holding the particular office. The court will inquire into whether the individual meets those qualifications or if there is any legal impediment that disqualifies them from holding the office. If the court finds that the person is not legally entitled to hold the office, it may issue the quo warranto writ, declaring the office as vacant.

The quo warranto writ is an essential mechanism for upholding the rule of law and ensuring that public offices are filled by individuals who meet the required qualifications. It prevents the wrongful occupation of public offices by unauthorized persons or those who do not possess the necessary qualifications.

It is worth noting that the availability and scope of quo warranto writs may vary based on the legal system and jurisdiction. In some countries, the concept of quo warranto may be different, and the specific requirements for obtaining the writ may vary.

## **4. Certiorari writ**

The certiorari writ is a legal remedy used to seek judicial review of a decision made by a lower court, tribunal, or administrative authority. The term "certiorari" is Latin for "to be informed" or "to be made certain." The writ is issued by a higher court to review the proceedings of a lower court or administrative body and determine whether they have acted within their jurisdiction or have committed errors of law.

The purpose of the certiorari writ is to correct errors of jurisdiction or law and ensure that lower courts or administrative bodies adhere to the correct legal

principles in making their decisions. It is a discretionary remedy, and the higher court may grant or deny the writ based on the merits of the case.

When a person or party is aggrieved by a decision of a lower court or administrative authority and believes that there are errors in the decision-making process or that the authority acted beyond its jurisdiction, they can file a petition for a certiorari writ in the higher court. The writ is typically directed against the lower court or authority that made the decision.

Upon receiving the petition, the higher court will review the record of the proceedings conducted by the lower court or authority. The court will examine whether there was any legal error, lack of jurisdiction, or violation of principles of natural justice in the decision-making process. If the higher court finds that there are grounds for judicial review, it may issue the certiorari writ, quashing the decision of the lower court or authority.

The certiorari writ is an essential tool for maintaining the rule of law and ensuring that lower courts and administrative bodies act within their prescribed powers and do not violate the rights of individuals or parties. It helps prevent miscarriage of justice and provides a mechanism for parties to challenge erroneous decisions made by lower authorities.

As with other writs, the availability and scope of certiorari writs may vary based on the legal system and jurisdiction. Different countries may have specific rules and procedures governing the use of the writ.

## **5. Prohibition writ**

The prohibition writ is a legal remedy used to prevent a lower court, tribunal, or administrative authority from exceeding its jurisdiction or acting beyond its legal authority. The term "prohibition" signifies that the writ prohibits the lower court or authority from proceeding with a particular matter.

The purpose of the prohibition writ is to ensure that lower courts and authorities stay within their prescribed powers and do not act arbitrarily or unlawfully. It is a

discretionary remedy, and the higher court may grant or deny the writ based on the merits of the case.

When a person or party believes that a lower court or authority is acting beyond its jurisdiction or has no legal authority to deal with a particular matter, they can file a petition for a prohibition writ in the higher court. The writ is typically directed against the lower court or authority, commanding them to refrain from proceeding with the matter in question.

Upon receiving the petition, the higher court will review the jurisdiction and legal authority of the lower court or authority. The court will determine whether the lower court or authority has acted beyond its prescribed powers or has acted in violation of the law. If the higher court finds that there are grounds for judicial intervention, it may issue the prohibition writ, directing the lower court or authority to cease proceedings on the matter.

The prohibition writ is an important safeguard against the misuse of power by lower courts and authorities. It helps ensure that legal proceedings are conducted according to the law and that no one is deprived of their rights due to actions beyond the scope of the lower court's authority.

As with other writs, the availability and scope of prohibition writs may vary based on the legal system and jurisdiction. Different countries may have specific rules and procedures governing the use of the writ.

## **6. Article 368 of the Indian Constitution**

Article 368 of the Indian Constitution deals with the power of the Parliament to amend the Constitution. It outlines the procedure for amending various provisions of the Constitution. Here is the text of Article 368:

"Article 368: Power of Parliament to amend the Constitution and procedure therefor

(1) Notwithstanding anything in this Constitution, Parliament may, in the exercise of its constituent power, amend by way of addition, variation, or repeal any provision of this Constitution in accordance with the procedure laid down in this article.

(2) An amendment of this Constitution may be initiated only by the introduction of a Bill for the purpose in either House of Parliament, and when the Bill is passed in each House by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting, it shall be presented to the President who shall give his assent to the Bill and thereupon, the Constitution shall stand amended in accordance with the terms of the Bill:

Provided that if such an amendment seeks to make any change in

(a) Article 54, Article 55, Article 73, Article 162 or Article 241, or

(b) Chapter IV of Part V, Chapter V of Part VI, or Chapter I of Part XI, or

(c) any of the Lists in the Seventh Schedule, or

(d) the representation of States in Parliament, or

(e) the provisions of this article,

the amendment shall also require to be ratified by the Legislatures of not less than one-half of the States by resolutions to that effect passed by those Legislatures before the Bill making provision for such amendment is presented to the President for assent.

(3) Nothing in Article 13 shall apply to any amendment made under this article.

(4) No amendment of this Constitution (including the provisions of Part III) made or purporting to have been made under this article whether before or after the

commencement of Section 55 of the Constitution (Forty-second Amendment) Act, 1976) shall be called in question in any court on any ground.

(5) For the removal of doubts, it is hereby declared that there shall be no limitation whatever on the constituent power of Parliament to amend by way of addition, variation, or repeal the provisions of this Constitution under this article."

In summary, Article 368 gives the Parliament the power to amend the Constitution by way of addition, variation, or repeal. The process for amending the Constitution requires that a constitutional amendment bill must be introduced and passed by both Houses of Parliament with a special majority (two-thirds of the members present and voting). Certain amendments that impact specific provisions mentioned in the proviso require ratification by the Legislatures of at least half of the Indian states. Additionally, any amendment made under Article 368 is not subject to judicial review under Article 13, and there is no limitation on the constituent power of Parliament to amend the Constitution.

## **7. Article 370**

Article 370 was a provision in the Indian Constitution that granted special autonomous status to the region of Jammu and Kashmir. It was a temporary provision designed to give the state a certain degree of autonomy and flexibility in governing its internal affairs. Here's an overview of Article 370:

1. **Historical context:** Article 370 was included in the Indian Constitution in 1949 to provide a legal framework for the integration of the princely state of Jammu and Kashmir into the newly independent India. Maharaja Hari Singh, the ruler of Jammu and Kashmir at that time, signed the Instrument of Accession to India in 1947, allowing India's jurisdiction over the state in defense, foreign affairs, and communications.
2. **Special Status:** Article 370 granted Jammu and Kashmir a considerable degree of autonomy. Under this provision, the state had its own constitution, a separate flag, and considerable independence in framing



laws and policies, except in matters related to defense, communications, finance, and foreign affairs, which remained under the jurisdiction of the Indian government.

3. **Modification and Erosion:** Over the years, several modifications were made to Article 370 through presidential orders and constitutional amendments, which gradually eroded its special status. The Indian government argued that these changes were necessary for the development and integration of Jammu and Kashmir into the rest of the country.
4. **Abrogation:** On August 5, 2019, the Indian government, led by the Bharatiya Janata Party (BJP) and Prime Minister Narendra Modi, took a significant step and abrogated Article 370 through a presidential order and a subsequent parliamentary act. This move resulted in the reorganization of the state into two separate Union Territories - Jammu and Kashmir, and Ladakh. The Union Territory of Jammu and Kashmir now has a Legislative Assembly, while Ladakh does not.

The abrogation of Article 370 was a highly controversial move, with both supporters and critics expressing strong views on its implications for the region's political, social, and economic future. Proponents argued that it would lead to increased development and integration of the region with the rest of India, while opponents were concerned about the potential impact on the unique identity and autonomy of Jammu and Kashmir.

It's essential to note that situations and legal provisions may have evolved after my last update in September 2021, so I recommend checking more recent and reliable sources for the latest developments.

## **8. Chandra Bhavan Boarding**

"Chandra Bhavan Boarding and Lodging and Another v. The State of Mysore and Another." It was decided by the Supreme Court of India on September 29, 1969.

Case Background: In this case, the petitioners were running a boarding and lodging house called "Chandra Bhavan" in the city of Bangalore, which was then part of the State of Mysore (now Karnataka). The State of Mysore passed an order directing the closure of Chandra Bhavan as it was allegedly being used for immoral and illegal activities.

The petitioners challenged the order of closure, contending that it violated their fundamental rights under the Indian Constitution.

Supreme Court's Decision: The Supreme Court, in its judgment, examined the constitutional validity of the order passed by the State of Mysore to close Chandra Bhavan. The court held that the right to carry on a trade or business is a fundamental right under Article 19(1)(g) of the Indian Constitution. However, this right is not absolute and can be subject to reasonable restrictions in the interests of the general public.

The court further emphasized that the state government has the authority to take measures to prevent immoral and illegal activities, even if it involves closing down establishments, provided that such action is taken in public interest and is not arbitrary.

In this particular case, the court found that the closure order was based on specific evidence of immoral and illegal activities taking place at Chandra Bhavan, and thus, it was a reasonable restriction on the petitioners' right to carry on their business.

Therefore, the Supreme Court upheld the validity of the order of closure passed by the State of Mysore against Chandra Bhavan Boarding and Lodging.

This case has been an essential precedent in determining the balance between fundamental rights and the state's power to regulate and impose restrictions in the interest of public order, morality, and the general welfare.

## **9. Directive Principles of State Policy.**

The Directive Principles of State Policy (DPSP) are a set of guidelines or principles given in Part IV (Articles 36-51) of the Indian Constitution. These principles are intended to guide the government in making laws and policies and achieving the social, economic, and political ideals of the state. Unlike Fundamental Rights, which are justiciable and enforceable through courts, DPSPs are non-justiciable, meaning they cannot be directly enforced in courts.

The DPSPs are inspired by the Directive Principles of Ireland and aim to establish a welfare state, promote social justice, and ensure the overall development of the nation. They encompass a wide range of subjects and have been grouped under the following categories:

1. **Social Justice:** DPSPs under this category focus on securing social and economic equality, opportunities for livelihood, and the protection of vulnerable sections of society. They include provisions for equal pay for equal work, opportunities for education, and promoting the welfare of Scheduled Castes, Scheduled Tribes, and other backward classes.
2. **Economic Justice:** These principles aim to promote economic well-being, reduce inequalities, and foster a cooperative economy. They call for the equitable distribution of resources, the prevention of concentration of wealth, and the protection of workers' rights.
3. **Gandhian Principles:** These principles are based on the ideals of Mahatma Gandhi and advocate decentralization of power, rural development, and self-sufficiency at the grassroots level.
4. **International Relations:** DPSPs related to international relations emphasize promoting international peace and cooperation, respect for international law, and the settlement of international disputes through peaceful means.
5. **Environmental Protection:** These principles focus on protecting and improving the environment and the welfare of animals.

Though non-justiciable, the DPSPs have influenced many important laws and policies in India. Courts often consider them while interpreting laws and resolving disputes. While the government is not legally bound to follow them, it is expected to make efforts to implement them in governance and policymaking to achieve the larger social and economic objectives of the Constitution. The DPSPs are considered an essential part of the Indian Constitution's social and political fabric, embodying the vision of an inclusive and just society.

# 10. Doctrine of Eclipse

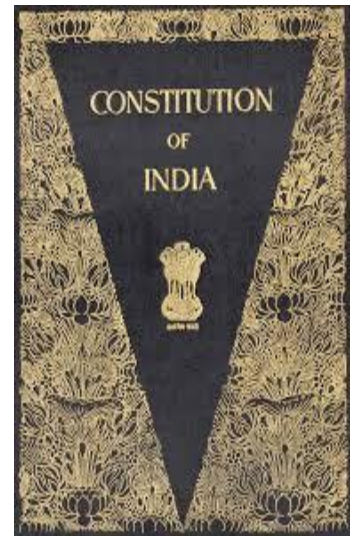
The "doctrine of eclipse" is a legal principle that pertains to the constitutional validity of laws in India. It is based on the concept of the supremacy of the Constitution and the idea that certain pre-constitutional laws, which may have been inconsistent with the fundamental rights guaranteed by the Constitution, can be revived or "eclipsed" and given effect once the inconsistency is removed.

Here's a brief explanation of the doctrine of eclipse:

1. **Supremacy of the Constitution:** In India, the Constitution is the supreme law of the land. Any law, whether existing before the adoption of the Constitution or enacted afterward, must conform to the constitutional provisions, including fundamental rights.
2. **Inconsistent Pre-constitutional Laws:** Before the adoption of the Indian Constitution in 1950, there were laws in force in British India that may have been inconsistent with the fundamental rights later enshrined in the Constitution. When the Constitution came into effect, these laws were considered to be inconsistent with the new constitutional provisions.
3. **Doctrine of Eclipse:** The doctrine of eclipse states that pre-constitutional laws that were inconsistent with the fundamental rights continue to exist but remain in a dormant or "eclipsed" state after the Constitution comes into force. This means that these laws are not null and void but are unenforceable as long as the inconsistency with the fundamental rights persists.
4. **Removal of Inconsistency:** If any provision of a pre-constitutional law is later amended, repealed, or modified in a way that removes its inconsistency with the fundamental rights, the law is no longer eclipsed. It revives and becomes fully operative and enforceable.

5. **Non-obstante Clause:** The doctrine of eclipse is based on the principle that the Constitution is a living and evolving document. Article 13 of the Indian Constitution contains a non-obstante clause, which states that any law that violates fundamental rights is void to the extent of the inconsistency. However, the doctrine of eclipse makes an exception to this general rule for pre-constitutional laws.

The doctrine of eclipse is essential in determining the constitutional validity of pre-constitutional laws and understanding how the Constitution interacts with the existing legal framework. It emphasizes the idea that the Constitution is the supreme law of the land and that all laws must conform to its provisions, especially the fundamental rights guaranteed to the citizens.



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# Historical Background of Indian Constitution

## 11. Background of Indian Constitution

In 1928, the All Parties Conference convened a committee in Lucknow to prepare the Constitution of India, which was known as the Nehru Report.

Most of India was under direct British rule from 1857 to 1947. Upon independence it became clear a new constitution was needed to be created. But for that the all of India needed to be brought into the union. This meant the the Princely States needed to be convinced to become a part of the Indian union. Either by force or diplomacy. Sardar Vallabhai Patel and V.P Menon did this unenviable task. Until this happened India was still legally a dominion under the British, responsible for external security

Thus, the [constitution of India](#) repealed the Indian Independence Act 1947 and Government of India Act 1935 when it became effective on 26 January 1950. India ceased to be a dominion of the British Crown and became a sovereign democratic republic with the constitution.

### Historical Evolution of the Indian Constitution

There are various layers in the background of the Indian Constitution:

- Regulating Act 1773
- Pitt's India Act 1784
- Charter Act of 1813
- Charter Act of 1833
- Charter Act of 1853
- Government of India Act 1858
- Indian Councils Act 1861
- India Councils Act 1892
- Morley-Minto Reforms 1909
- Montague-Chelmsford Reforms 1919
- Government of India Act 1935

- Indian Independence Act 1947

These acts were in some way instrumental for the development of the Indian Constitution.

## History of Indian Constitution – Regulating Act 1773

- First time the British Parliament resorted to regulating the affairs of the East India Company.
- The Governor of Bengal was made the Governor-General of Bengal ([Warren Hastings](#)).
- An Executive Council of the Governor-General was created with 4 members.
- Centralised the administration with the Presidencies of Madras and Bombay being made subordinate to the Bengal Presidency.
- Supreme Court was established at Calcutta as the Apex Court in 1774.
- Prohibited company officials from engaging in private trade and from accepting gifts from Indians.

## History of Indian Constitution – Pitt's India Act 1784

- Commercial and political functions of the company separated. The Court of Directors managed the commercial activities while the Board of Control managed political affairs.
- The company territories in India were called 'British possession in India'.
- Governor's Councils were set up in Madras and Bombay as well.

Read more about [Pitt's India Act 1784](#) in the linked article.

## History of Indian Constitution – Charter Act 1813

- This act ended the East India Company's monopoly over trade with India except in tea and opium. Trade with India was open to all British subjects.

## History of Indian Constitution – Charter Act 1833

- Governor-General of Bengal was designated the Governor-General of India ([Lord William Bentinck](#)).
- The legislative powers of the Bombay and Madras Presidencies were removed.



- This act ended the commercial activities of the company and it was transformed into an administrative body.

## **History of Indian Constitution – Charter Act 1853**

- The legislative and executive powers of the Governor-General's Council were separated.
- A Central Legislative Council was created of 6 members out of which 4 were appointed by the provisional governments of Madras, Bombay, Agra and Bengal.
- The Indian civil service was opened as a means to recruit officers for administration through open competition.

## **History of Indian Constitution – Government of India Act 1858**

- After the [1857 revolt](#), the rule of the company was ended and the British possessions in India came directly under the British Crown.
- The office of the Secretary of State for India was created. He was assisted by a 15-member Council of India.
- The Indian administration was under his authority and the Viceroy was his agent. The Governor-General was designated the Viceroy as well ([Lord Canning](#)).
- The Court of Directors and the Board of Control were abolished.

## **History of Indian Constitution – Indian Councils Act 1861**

- Indians were given representation in the Viceroy's Councils. 3 Indians entered the Legislative Council.
- Provisions were made for the entry of Indians in the Viceroy's Executive council also as non-official members.
- Portfolio system was recognised.
- Decentralisation initiated with the presidencies of Madras and Bombay being restored their legislative powers.

## **History of Indian Constitution – Indian Councils Act 1892**

- Indirect elections (nominations) were introduced.
- Legislative Councils expanded. Gave more functions to the legislative councils such as the discussion of budget and questioning the executive.

## **History of Indian Constitution – Indian Councils Act 1909 (Morley–Minto Reforms)**

- Direct elections to the legislative councils were introduced for the first time.
- Central Legislative Council became the Imperial Legislative Council.
- The number of members of the legislative council was increased from 16 to 60.
- The concept of the separate communal electorate was accepted.
- For the first time, an Indian was made a member of the Viceroy's Executive Council. (Satyendra Prasad Sinha – Law Member).

## **History of Indian Constitution – Government of India Act 1919 (Montague–Chelmsford Reforms)**

- Central and provincial subjects were separated.
- Diarchy was introduced in the provincial governments with executive councillors being in charge of the reserved list and the ministers in charge of the transferred list of subjects.
- The ministers were nominated from among the elected members of the legislative council and were responsible to the legislature.
- A bicameral legislature was introduced for the first time at the centre. (Legislative council and legislative assembly later to become Rajya Sabha and Lok Sabha respectively).
- It mandated 3 members of the Viceroy's executive council to be Indians.
- This act provided for the first time, the establishment of a public service commission in India.
- This act extended the right to vote and with this, about 10% of the population acquired voting rights.

## **History of Indian Constitution – Government of India Act 1935**

- An all-India Federation was proposed which would consist of British India and the princely states. This never materialised though.
- Subjects were divided between the centre and the provinces. Centre was in charge of the Federal List, provinces in charge of the Provincial List and there was a Concurrent List which both catered to.
- Diarchy was abolished at the provincial level and introduced at the centre.

- More autonomy was accorded to the provinces and in 6 out of 11 provinces, the bicameral legislature was introduced.
- A federal court was established and the Indian Council abolished.
- Burma and Aden were severed off from India.
- This act provided for the establishment of the RBI.
- This Act continued until it was replaced by the new Indian Constitution.

## **History of Indian Constitution – Indian Independence Act 1947**

- India was declared independent and sovereign.
- The Viceroy and the Governors were made constitutional (nominal) heads.
- Set up responsible governments at the centre and the provinces.
- Assigned both legislative and executive powers to the Constituent Assembly of India.

### **Conclusion**

The topic, 'Historical Background of Indian Constitution,' or 'History of Indian Constitution' is important from the perspective of both history and polity subjects asked in the IAS Exam. Hence, aspirants should be well-versed with the historical and political evolution of the Indian Constitution.



Constitutional Development of India is a detailed analysis of how the Constitution of India has evolved from the past to the current. This article helps one to briefly understand the Development of Indian Constitution starting from Regulating Act of 1773 till the time when the Constitution of India came into effect in 1950.

### **Constitutional Development of India – UPSC Notes:- \**

The origin and growth of the Indian Constitution have its roots in Indian history during the British period. From 1773 onwards, various Acts were passed by the British Government for the governance of India. None of them, however, satisfied Indian aspirations mainly because they were imposed by the alien rulers.

The period of historical British Constitutional experiments in India can be divided into two phases:

1. **Phase 1**– Constitutional experiment during the rule of the East India Company (1773–1857)
2. **Phase 2** – Constitutional experiments under the British Crown (1857–1947)

# **Constitutional Development – East India Company Rule (1773 – 1857)**

From 1757 to 1857, 5 major laws were created to regulate the functioning of British East India Company and to help them rule over India. The details of these 5 Acts are mentioned below.

## **Regulating Act of 1773**

The process of Centralization in India was initiated through the Regulating Act of 1773.

1. This is the first Act passed by the British Parliament to control and regulate the affairs of the East India Company in India.
2. As per this Act, the Governor of Bengal was made the Governor-General.
3. Warren Hastings was the first Governor-General of India.
4. This Act made Governors of Bombay and Madras subordinate to the Governor of Bengal.
5. The Governor-General was given the power to make rules and regulations.
6. The Governor-General was assisted by a Council of 4 members.
7. The number of Directors in the Company was fixed at 4.
8. The Governor-General had to follow the orders of the Directors of the Company.
9. Revenue of the company should be reported by The Court of Directors, who were the governing body of the company
10. A Supreme Court was established at Calcutta in 1774, as per the provisions of [Regulating Act 1773](#).
11. The Supreme Court had a Chief Justice and 3 Assistant Judges.

## **Pitts India Act of 1784**

In the Constitutional history of India, this Act brought in many significant changes.

1. As per this Act of 1784, the territories of East India Company was called as the "British Possessions in India"
2. As per this Act, a joint Government of British India run by the Crown and Company was established. The government had the ultimate power and authority.

3. A Court of Directors was formed for Commercial Operations and 6 member Board of Control were appointed for Political affairs as per provisions of [Pitts India Act 1784](#).
4. Governor General's Council was reduced from 4 members to 3 members.
5. Governors Councils were established in Bombay and Madras.

## **Charter Act of 1813**

1. It brought an end to the monopoly of East India Company, over trade with India.
2. Trade with India was opened for all British Citizens with the exception of Tea Trade.

Learn more about the [Charter Act of 1813](#) in the given link.

## **Charter Act of 1833**

1. Governor-General of Bengal became the Governor-General of India.
2. Lord William Bentick was the 1st Governor-General of India.
3. East India Company ended as a mere administrative body, it was no longer a commercial body.
4. The Governor-General was given full control over revenue, civil and military.
5. [Charter Act of 1833](#) was the final step in the Process of Centralization in India, a process that began with the Regulating Act of 1773.

## **Charter Act of 1853**

1. Civil Service Examination was introduced. It was a competitive examination for recruitment into the civil services.
2. Executive and Legislative functions of the Governor-General were separated.
3. This Act provided for the addition of 6 new members to the Legislative Council, 4 members were appointed by Provisional Governments of Bengal, Bombay, Madras and Agra.
4. As per provisions of [Charter Act of 1853](#) Governor General's Legislative Council came to be known as the Central Legislative Council.
5. The Central Legislative Council started functioning as a Mini-Parliament. It adopted the same procedures of the British Parliament.

# Constitutional Development – Rule under the British Crown (1857–1947)

This begins the 2nd phase of the Constitutional development under the British Crown.

## Government of India Act of 1858

1. [Government of India Act of 1858](#) passed by British Parliament, brought an end to the rule of East India Company. The powers were transferred to the British Crown.
2. The Secretary of State for India was given the powers and duties of the former Court of Directors. He Controlled the Indian Administration through the Viceroy of India.
3. The Secretary of State for India was assisted by the Council of India. This Council had 15 members. The Council was an advisory body.
4. Governor-General of India was made the Viceroy of India.
5. Lord Canning was the 1st Viceroy of India.

## Indian Council Act of 1861

1. Indians were nominated as non-official members for the 1st time in the Legislative Council of Viceroy.
2. Legislative Councils were established in Provinces and Centre.
3. Legislative powers of the Provinces of Bombay and Madras were restored.
4. Legislative Councils were started in the Provinces of Punjab, North-Western Frontier Province (NWFP), Bengal.

For more information on the [Indian Council Act of 1861](#), visit the given link.

## Indian Council Act of 1892

1. The size of the Legislative Council was increased.
2. The Legislative Council was given more power, they had the power to deliberate on the Budget and could pose questions to the Executive.
3. Indirect elections were introduced for the 1st time.
4. The Principal of Representation was introduced as per provisions given in the [Indian Council Act of 1892](#).

## **Indian Councils Act, 1909 – Morley Minto Reforms**

1. Indian Councils Act of 1909 is commonly known as Morley Minto Reforms.
2. For the 1st time, Direct elections were introduced for the Legislative Councils.
3. The Central Legislative Council was renamed as the Imperial Legislative Council.
4. The Communal representation system was introduced by giving separate electorate. It was a system where seats were reserved only for Muslims and only Muslims would be polled.
5. For the first time, Indians were appointed to the Executive Council of Viceroy. Satyendra Sinha was the law member.

Aspirants can learn more about [Morley Minto Reforms](#) in the given link.

## **Government of India Act, 1919 – Montagu Chelmsford Reforms**

1. Government of India Act, 1919 was also known as the Montagu Chelmsford reforms.
2. Bicameralism was introduced for the 1st time.
3. Provincial and Central Subjects were separated.
4. Dyarchy, a scheme of Dual Governance was introduced in the Provincial Subjects, it was divided into Reserved and Transferred. The transferred list included agriculture, health, education, and supervision of the local government. The Transferred list was given to the Government of Ministers answerable to Provincial Council. The reserved list included communications, foreign affairs, defence; this transferred list was under the control of Viceroy.
5. Out of 6 members in Viceroy's Executive Council, 3 of them were Indians.
6. The Act provided provisions for the establishment of the Public Service Commission in India for the first time.
7. Communal Representation extended to Christians, Anglo-Indians, Sikhs.
8. The franchise was given to a limited population which was based on people who had taxable income, had property and paid land revenue of Rs 3000.
9. [Montagu Chelmsford Reforms](#) made provision for setting up a statutory commission at the end of 10 years to look into the working of the Government.

## **Government of India Act 1935**



This was the longest and last constitutional measure introduced by British India. It was the result of multiple round table conferences and a report by the Simon Commission.

1. Bicameralism was introduced in 6 Provinces (Bengal, Bombay, Madras, Assam, Bihar, United Provinces) out of 11 provinces.
2. The Legislature in the provinces were enlarged.
3. As per the Act, the powers were divided into Federal List, Provincial List and Concurrent List.
4. Provincial autonomy was introduced in the Provinces by abolishing the Dyarchy.
5. There was provision for the adoption of Dyarchy at the Centre.
6. Provided provisions for establishing Federal Court, Reserve Bank of India (RBI).
7. There was provision for the establishment of All India Federation consisting of Provinces and the Princely States as units.
8. Due to the length of [Government of India Act 1935](#), it was divided into 2 separate Acts.

## **Cripps Mission – 1942**

In 1942 Cripps Mission was sent to India under the leadership of Sir Stafford Cripps. Some of the proposals given by the Cripps Mission are given below.

1. Dominion status would be given to India, after the 2nd World War.
2. Once the Second World War ends, an elected body would be set up in India for framing of Indian Constitution.
3. The even the Indian States would participate in the Constitution-making body.
4. Almost all the Parties and sections in India rejected the proposals given by the [Cripps Mission](#).

## **Cabinet Mission – 1946**

Some of the main proposals of the Cabinet Mission plan was

1. The Indian States and British Provinces would combine to form Union of India
2. A Constituent Assembly would be established consisting of 389 members.
3. 14 members from Major political parties would form an interim government
4. A representative body would be formed named as the Constituent Assembly.

5. Until the Constitution was framed, the Constituent Assembly would act as the Dominion Legislature.
6. Until the Constitution was framed, India would be administered as per the Government of India Act, 1935.

Candidates can learn more about [Cabinet Mission 1946](#) in the given link.

## **Mountbatten Plan – Indian Independence Act – 1947**

1. British India was partitioned into India and Pakistan with effect from 15th August 1947.
2. Conferred complete legislative authority to the Constituent Assembly.
3. Established Governments in both Provinces and States.

For more information on [Mountbatten Plan – Indian Independence Act 1947](#), visit the given link.

## **Key Timelines – Constitution of Independent India**

1. The Constitution of India was drawn up by the Constituent Assembly. Constituent Assembly took almost 3 years to complete the task of drafting the Constitution for Independent India.
2. [Constituent Assembly](#) met for the first time on Dec. 9, 1946.
3. On 14th August 1947; there was a proposal for the creation of committees.
4. The Drafting Committee was established on 29th August 1947 and the Constituent Assembly starts the process of writing the Constitution
5. Dr Rajendra Prasad as the President prepared the Draft of the new constitution of Independent India in February 1948.
6. The Constitution was adopted on Nov. 26, 1949
7. The Constitution came into effect on Jan. 26, 1950, making India a Republic.
8. On that day, the Assembly ceased to exist, transforming itself into the Provisional Parliament of India until a new Parliament was constituted in 1952.
9. It is the longest written constitution in the world containing 395 Articles and 12 Schedules.

# **12. How a Constitution is Useful to Engineering Graduates**

A constitution, specifically in the context of a country's legal framework, may not have a direct impact on engineering graduates in their day-to-day work. However, understanding and appreciating the importance of a constitution can be valuable for engineering graduates in several ways:

1. **Rule of Law and Governance:** A constitution defines the structure of governance, the distribution of powers, and the fundamental rights and responsibilities of citizens. This provides a stable and predictable environment for engineering graduates to work and innovate within the legal and regulatory framework.
2. **Protection of Individual Rights:** Constitutions often enshrine individual rights and freedoms. This can be significant for engineering graduates as they have the freedom to express their ideas, work on projects, and collaborate without fear of undue interference from the government or other entities.
3. **Property Rights and Intellectual Property:** Constitutions often protect private property rights, which is essential in an innovation-driven field like engineering. It ensures that engineers' inventions and intellectual property are safeguarded, encouraging further research and development.
4. **Contracts and Legal Obligations:** Engineering graduates frequently enter into contracts and agreements during their professional careers. A constitution provides the underlying legal framework that upholds the sanctity of contracts and ensures that they are enforceable, providing a reliable basis for business dealings.
5. **Stability and Investment Climate:** A well-established constitution contributes to political stability and a favorable investment climate. This can attract foreign investment and promote economic growth, leading to more opportunities for engineers in various sectors.
6. **Ethical Considerations:** Understanding constitutional values, such as equality and justice, can help engineering graduates make more informed

ethical decisions in their projects and career choices. It fosters a sense of responsibility towards the wider society and environment.

7. **Advocacy and Public Policy:** Knowledge of the constitution enables engineering graduates to participate in debates and discussions about public policies, regulations, and laws that may impact their profession or the broader technological landscape.
8. **Innovation and Research:** Constitutional protection of academic freedom and free speech can be crucial for engineering graduates engaged in research and development. It fosters an environment where they can explore new ideas and technologies without fear of censorship or repression.
9. **Social Responsibility:** Understanding the Constitution and the broader legal system can promote social responsibility among engineering graduates. They can advocate for sustainable and inclusive practices that align with constitutional values.

In summary, while a constitution might not have a direct impact on the technical aspects of an engineering graduate's work, its presence provides the necessary legal and social infrastructure that fosters an environment for professional growth, innovation, and societal contributions. It instils a sense of stability, individual rights, and ethical considerations that are essential for a flourishing engineering career.

## 13. Indian Constitution

**Course Code:**

**Year and Semester:** III - I L T P C **Prerequisites:** Basics of Sciences 2 0 0 0

**Course Objectives:**

1. To Enable the student to understand the importance of the constitution
2. To understand the structure of executive, legislature, and judiciary
3. To understand the philosophy of fundamental rights and duties
4. To understand the autonomous nature of constitutional bodies like the Supreme Court and high court controller and auditor general of India and the election commission of India.
5. To understand the central and state relation financial and administrative.

## **UNIT-I**

Introduction to Indian Constitution: Constitution' meaning of the term, Indian Constitution - Sources and constitutional history, Features - Citizenship, Preamble, Fundamental Rights and Duties, Directive Principles of State Policy.

### **LEARNING OUTCOMES:**

After completion of this unit student will

- Understand the concept of Indian constitution
- Apply the knowledge on directive principle of state policy
- Analyse the History, features of Indian constitution
- Evaluate Preamble Fundamental Rights and Duties

## **UNIT-II**

Union Government and its Administration Structure of the Indian Union: Federalism, Centre- State relationship, President: Role, power and position, PM and Council of ministers, Cabinet and Central Secretariat, Lok Sabha, Rajya Sabha, The Supreme Court and High Court: Powers and Functions;

### **LEARNING OUTCOMES:** - After completion of this unit student will

- Understand the structure of Indian government
- Differentiate between the state and central government
- Explain the role of President and Prime Minister

- Know the Structure of supreme court and High court

## **UNIT-III**

State Government and its Administration Governor - Role and Position - CM and Council of ministers, State Secretariat: Organization, Structure and Functions

**LEARNING OUTCOMES:** - After completion of this unit student will

- Understand the structure of state government
- Analyse the role Governor and Chief Minister
- Explain the role of state Secretariat
- Differentiate between structure and functions of state secretariat

## **UNIT-IV**

Local Administration - District's Administration Head - Role and Importance, Municipalities - Mayor and role of Elected Representative - CEO of Municipal Corporation Panchayats: Functions  
PRI: Zila Panchayat, Elected officials and their roles, CEO Zila Panchayat: Block level  
Organizational Hierarchy - (Different departments), Village level - Role of Elected and Appointed officials - Importance of grass root democracy

**LEARNING OUTCOMES:** - After completion of this unit student will

- Understand the local Administration
- Compare and contrast district administration role and importance
- Analyse the role of Myer and elected representatives of Municipalities
- Evaluate Zilla panchayat block level organisation

## **UNIT-V**

Election Commission: Election Commission- Role of Chief Election Commissioner and Election Commissioner at State Election Commission: Functions of Commissions for the welfare of SC/ST/OBC and women

**LEARNING OUTCOMES:** - After completion of this unit student will

- Know the role of Election Commission apply knowledge
- Contrast and compare the role of Chief Election commissioner and Commissioner ate
- Analyse role of state election commission
- Evaluate various commissions of viz SC/ST/OBC and women

**REFERENCES:**

1. Durga Das Basu, Introduction to the Constitution of India, Prentice – Hall of India Pvt.Ltd.. New Delhi  
2. Subash Kashyap, Indian Constitution, National Book Trust, 3. J.A. Siwach, Dynamics of Indian Government & Politics, 4. D.C. Gupta, Indian Government and Politics, 5. H.M.Sreevai, Constitutional Law of India, 4th edition in 3 volumes (Universal Law Publication), 6. J.C. Johari, Indian Government and Politics Hans, 7. J. Raj Indian Government and Politics, 8. M.V. Pylee, Indian Constitution Durga Das Basu, Human Rights in Constitutional Law, Prentice – Hall of India Pvt.Ltd.. New Delhi, 9. Noorani, A.G., (South Asia Human Rights Documentation Centre), Challenges to Civil Right), Challenges to Civil Rights Guarantees in India, Oxford University Press 2012.

**E-RESOURCES:**

1. [nptel.ac.in/courses/109104074/8](http://nptel.ac.in/courses/109104074/8)
2. [nptel.ac.in/courses/109104045/](http://nptel.ac.in/courses/109104045/)
3. [nptel.ac.in/courses/101104065/](http://nptel.ac.in/courses/101104065/)
4. [www.hss.iitb.ac.in/en/lecture-details](http://www.hss.iitb.ac.in/en/lecture-details)
5. [www.iitb.ac.in/en/event/2nd-lecture-institute-lecture-series-Indian-constitution](http://www.iitb.ac.in/en/event/2nd-lecture-institute-lecture-series-Indian-constitution)  
Professor & Lawyer Puttu Guru Prasad  
S&H Department, VIVA-VVIT, 9394969898

## 14. "Indira Gandhi v. Raj Narain,"

The case you are referring to is "Indira Gandhi v. Raj Narain," which is one of the most significant legal and political cases in the history of India. It is often simply referred to as the "Indira Gandhi election case."

Background: In 1971, Indira Gandhi, the then-Prime Minister of India, led the Indian National Congress (R) party in the general elections. Raj Narain, a candidate from the opposition, contested against her from the Rae Bareilly constituency in the state of Uttar Pradesh.

Raj Narain alleged that Indira Gandhi had committed several electoral malpractices during the election campaign, including using government resources for campaigning and seeking votes in the name of religion. He filed an election petition challenging Indira Gandhi's election to the Lok Sabha (lower house of the Indian Parliament) from Rae Bareilly.

Key Issue: The primary issue before the court was whether Indira Gandhi's election from Rae Bareilly was valid, considering the allegations of electoral malpractices against her.

Supreme Court's Decision: The case reached the Allahabad High Court, which, after hearing the evidence, found Indira Gandhi guilty of corrupt practices during the election campaign. The court declared her election from Rae Bareilly void and disqualified her from holding any public office for six years.

Indira Gandhi challenged the High Court's decision before the Supreme Court of India. The case was heard by a bench of five judges.

In 1975, the Supreme Court upheld the High Court's decision, ruling that Indira Gandhi was indeed guilty of corrupt practices during the election and her election from Rae Bareilly was invalid.

Impact: The judgment had far-reaching consequences on the political landscape of India. Indira Gandhi's disqualification led to a political crisis, and she declared a state of Emergency in India on June 25, 1975. During the Emergency, civil liberties were suspended, and many political opponents were arrested. The period of



Emergency was marked by significant curtailment of democratic rights and dissent.

However, in 1977, after the Emergency was lifted, fresh elections were held, and the Congress party led by Indira Gandhi was defeated. The Janata Party, a coalition of opposition parties, came to power. Indira Gandhi's political fortunes changed, and she returned to power in 1980.

The Indira Gandhi election case and the subsequent events had a profound impact on Indian politics and democracy. It reinforced the judiciary's role as a guardian of the Constitution and democratic principles and highlighted the significance of free and fair elections in India's democratic system.

## **15. Introduction to Indian Constitution**

The Indian Constitution is the supreme law of India, adopted on January 26, 1950, and it came into effect on the same day, marking the transformation of India into a sovereign, socialist, secular, and democratic republic. It is the lengthiest written constitution in the world, consisting of a Preamble and 470 Articles (as of its adoption). The Constitution lays down the framework for the governance of the country, defines the structure of the government, and enshrines the rights and responsibilities of citizens.

The Constitution of India was drafted by a Constituent Assembly, which was established in 1946 to create the fundamental law of the country following India's independence from British colonial rule. Dr. B.R. Ambedkar, a prominent jurist and social reformer, chaired the drafting committee, and the Assembly consisted of representatives from various regions, communities, and backgrounds.

## Key Features of the Indian Constitution:

1. **Preamble:** The Preamble to the Indian Constitution declares India to be a sovereign, socialist, secular, and democratic republic that seeks to secure justice, equality, liberty, and fraternity for all citizens.
2. **Federal System:** India has a federal system of government, where powers are divided between the central government and the state governments. However, the Constitution gives more powers to the central government in certain matters.
3. **Fundamental Rights:** Part III of the Constitution contains the Fundamental Rights, which guarantee individual rights and liberties, such as the right to equality, freedom of speech, right to life and personal liberty, and protection against discrimination.
4. **Directive Principles of State Policy (DPSP):** Part IV of the Constitution contains the DPSPs, which are non-justiciable principles that guide the government in formulating policies for social justice, economic welfare, and the overall development of the nation.
5. **Fundamental Duties:** Part IV-A of the Constitution contains the Fundamental Duties, which are moral obligations of citizens to uphold the integrity of the nation, promote harmony, and respect national symbols.
6. **Independent Judiciary:** The Constitution establishes an independent and integrated judiciary with the Supreme Court at the apex. The judiciary has the power of judicial review to examine the constitutionality of laws and executive actions.
7. **Parliamentary System:** India follows a parliamentary system of government, where the President is the ceremonial head of state, and the Prime Minister is the head of government. The real executive power is vested in the Council of Ministers, headed by the Prime Minister.
8. **Secularism:** The Indian Constitution enshrines secularism, ensuring that the state does not promote or discriminate against any particular religion.

The Indian Constitution has been amended several times since its adoption to address emerging challenges and changing societal needs. It continues to evolve while staying true to its core principles of democracy, equality, and justice for all citizens. It remains the foundation of India's governance and reflects the nation's commitment to a democratic and inclusive society.

# 16. **Kesavananda Bharati**

# **vs. State of Kerala-**

# **1973**

Kesavananda Bharati v. State of Kerala, often referred to as the Kesavananda Bharati case, is a landmark judgment in Indian constitutional history. It was decided by a 13-judge bench of the Supreme Court of India and delivered on April 24, 1973. The case is considered one of the most significant in Indian jurisprudence as it established the Doctrine of Basic Structure, which limits the amending power of the Parliament under Article 368 of the Indian Constitution.

**Background:** The case arose from the Kerala government's attempts to enforce land reform measures on the property of the Sree Padmanabhaswamy Temple in Trivandrum, Kerala. The head of the temple, Kesavananda Bharati, challenged the constitutional validity of the Kerala Land Reform Act, 1963, which sought to impose restrictions on the temple's landholdings. The main contention of the petitioners was that the Act violated the temple's fundamental right to hold property under Article 26(b) of the Constitution.

However, the case took an unexpected turn when the Supreme Court, during the course of the hearings, decided to examine the larger question of the extent of Parliament's power to amend the Constitution under Article 368.

**Key Arguments and Issues:** The primary issue before the court was whether the Parliament's amending power was absolute and unlimited, or if there were any inherent limitations on the scope of constitutional amendments. The petitioner's case was that the amending power was not absolute and that certain essential features of the Constitution could not be altered or destroyed.

The main argument raised by the petitioner was that the fundamental rights, particularly those enshrined in Part III of the Constitution, formed part of the "basic structure" of the Constitution and were beyond the Parliament's amending power.

**Court's Decision and Doctrine of Basic Structure:** The Supreme Court, after extensive deliberations, ruled in Favor of Kesavananda Bharati by a narrow majority of 7-6. However, the court did not accept the petitioner's argument that all fundamental rights were part of the basic structure. Instead, it held that while the Parliament had the power to amend the Constitution under Article 368, this power was not absolute and was subject to certain implied limitations.

The court introduced the concept of the "basic structure" of the Constitution, which referred to the core and essential features of the Constitution that could not be amended. These features included the supremacy of the Constitution, the federal structure, the democratic form of government, the rule of law, the independence of the judiciary, and the essential features of fundamental rights.

While the court did not provide an exhaustive list of what constituted the basic structure, it set a precedent that certain fundamental principles were beyond the reach of the Parliament's amending power.

**Significance:** The Kesavananda Bharati case had a profound impact on the Indian constitutional system. It established the Doctrine of Basic Structure, which has acted as a safeguard against arbitrary changes to the Constitution, ensuring the preservation of its core values and principles. This landmark judgment reinforced the idea that while the Constitution could be amended to adapt to changing circumstances, it should not be altered in a manner that undermined its basic foundations and fundamental principles.

# 17. Notes on Preamble of Indian Constitution.

The Preamble to the Indian Constitution is an introductory statement that sets out the basic ideals, objectives, and philosophy of the Constitution. It serves as the guiding spirit behind the entire Constitution and reflects the aspirations and values of the people of India. The Preamble reads as follows:

"We, the people of India, having solemnly resolved to constitute India into a Sovereign Socialist Secular Democratic Republic and to secure to all its citizens:

Justice, social, economic and political;

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

Equality of status and opportunity;

and to promote among them all

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

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

Now, let's break down the key components and their meanings:

1. **We, the people of India:** It emphasizes that the Constitution derives its authority from the people of India. It establishes that the power and governance in the country are vested in the hands of the citizens.
2. **Sovereign:** India is an independent nation, not subject to the control of any external authority. It signifies that India has the right to make its decisions and determine its destiny.
3. **Socialist:** The term "Socialist" was added by the 42nd Amendment Act of 1976. It reflects India's commitment to creating a society that aims to reduce inequalities of income, eliminate exploitation, and ensure social and economic justice for all.

4. **Secular:** India is a secular state, which means it does not have an official state religion. The state treats all religions with equal respect and does not favor or discriminate against any particular religion.
5. **Democratic:** India follows a democratic form of government, where the power is vested in the hands of the people, who elect their representatives through free and fair elections.
6. **Republic:** India is a republic, not a monarchy. The head of the state is an elected representative, i.e., the President, and not a hereditary monarch.

The Preamble also highlights the objectives to be achieved by the Indian state, which are:

1. **Justice, social, economic and political:** This implies the quest for social, economic, and political justice for all citizens, irrespective of their socio-economic background.
2. **Liberty of thought, expression, belief, faith, and worship:** It ensures fundamental freedoms and rights that allow citizens to express their ideas, beliefs, and faith freely.
3. **Equality of status and opportunity:** This refers to the guarantee of equal treatment and opportunities for all citizens without discrimination based on caste, religion, gender, or any other factor.
4. **Fraternity assuring the dignity of the individual and the unity and integrity of the Nation:** This emphasizes fostering a sense of brotherhood among the citizens, promoting unity and integrity of the nation, and respecting the dignity of every individual.

The Preamble serves as a moral and philosophical compass for the Indian Constitution, guiding lawmakers, the judiciary, and the citizens in their pursuit of justice, liberty, equality, and fraternity. It embodies the collective vision of the founding fathers of the Indian Constitution for an inclusive, just, and democratic society.

# 18. objective principles

Pandit Jawaharlal Nehru, the first Prime Minister of India, played a crucial role in shaping the nation's policies and guiding its development after independence. He emphasized several objective principles to achieve his vision for India. Some of the key objective principles proposed by Jawaharlal Nehru were:

1. **Socialism:** Nehru was a strong advocate of democratic socialism. He believed in reducing socio-economic inequalities and ensuring social justice for all citizens. He aimed to build a welfare state that would provide essential services and opportunities to the people, particularly the marginalized sections of society.
2. **Secularism:** Nehru firmly believed in the principle of secularism, which means the separation of religion from the affairs of the state. He envisioned India as a nation where people of all religions and beliefs could coexist harmoniously, and the government would treat all religions equally without favoring any particular religion.
3. **Non-alignment:** Nehru was one of the key architects of the Non-Aligned Movement (NAM), which advocated for countries to pursue an independent foreign policy and not align themselves with any major power bloc during the Cold War. Non-alignment aimed to maintain India's sovereignty and promote peace and cooperation among nations.
4. **National Unity and Integration:** Nehru worked towards fostering national unity and integrating the diverse regions, cultures, and languages of India into a strong and united nation. He emphasized the importance of

recognizing and respecting India's rich diversity while promoting a sense of common identity as Indians.

5. **Industrialization and Modernization:** Nehru stressed the need for industrialization and modernization to achieve economic self-sufficiency and reduce poverty. He believed in the role of a mixed economy, with a balance of public and private sectors, to promote industrial growth and generate employment opportunities.
6. **Democratic Governance:** Nehru was committed to democratic governance and the rule of law. He supported a parliamentary form of government with free and fair elections, a strong judiciary, and independent institutions to ensure transparency and accountability.
7. **Education and Science:** Nehru placed great importance on education and scientific temper. He believed that education was vital for individual growth and national development. He encouraged scientific research and believed in harnessing science and technology for the progress of the country.
8. **Women's Empowerment:** Nehru advocated for gender equality and women's empowerment. He recognized the importance of women's participation in nation-building and worked towards improving women's education and socio-economic status.

These objective principles outlined by Jawaharlal Nehru helped shape India's policies and institutions in its early years after independence and continue to influence the country's values and aspirations to this day.

## **19. S.R. Bommai v. Union of India**



"S.R. Bommai v. Union of India" is a significant landmark case in Indian constitutional law that dealt with the power of the central government to impose President's Rule (now known as Governor's Rule) in states of India under Article 356 of the Indian Constitution. The case is officially known as S.R. Bommai v. Union of India and was decided by the Supreme Court of India in 1994.

Background: Article 356 of the Indian Constitution empowers the President of India to dismiss a state government and impose direct central rule (President's Rule) if the President is satisfied that the state government cannot be carried on in accordance with the provisions of the Constitution. However, this power has been frequently criticized for its potential misuse and the central government's ability to dismiss state governments on political grounds.

In the early 1990s, there were several instances where the central government invoked Article 356 and dismissed state governments. One such case was the dismissal of the government in Karnataka in 1989.

Case Details: In 1989, the Governor of Karnataka recommended the imposition of President's Rule in the state on the grounds of alleged constitutional breakdown. The central government, led by the National Front coalition, accepted the recommendation, and President's Rule was imposed in Karnataka. S.R. Bommai, the Chief Minister of Karnataka at that time, challenged the imposition of President's Rule in the Supreme Court.

Supreme Court's Decision: The case was heard by a nine-judge bench of the Supreme Court, which delivered its landmark judgment in 1994. The court laid down several important principles and guidelines regarding the exercise of power under Article 356. Some key points from the judgment are:

1. **Limited Scope of Judicial Review:** The court held that the President's satisfaction under Article 356 is not immune from judicial review. The court can examine whether the satisfaction of the President was based on relevant material and was not arbitrary.
2. **State Government's Loss of Majority:** The court ruled that the loss of majority by a state government is a valid ground for imposing President's Rule. However, the Governor must ascertain the loss of majority on the floor of the legislative assembly through a floor test.
3. **Non-Constitutional Grounds:** The court held that imposition of President's Rule on grounds other than those specified in Article 356, such as political considerations or party differences, would be unconstitutional.
4. **Obligation to Give Reasons:** The court mandated that the central government must provide reasons for imposing President's Rule, and the reasons should be communicated to the state government.
5. **Time Limit for Revocation:** The court ruled that President's Rule should not be prolonged, and the central government must take steps to revoke it at the earliest once normalcy is restored.

Impact: The Bommai judgment significantly curtailed the central government's discretionary powers under Article 356 and strengthened the federal principles of the Indian Constitution. It placed substantial checks on the central government's ability to dismiss state governments and emphasized the importance of parliamentary democracy and the role of the elected representatives in a federal system.

The judgment has been crucial in preventing the misuse of Article 356 and ensuring that President's Rule is imposed only in exceptional circumstances and as a last resort when there is a genuine breakdown of constitutional machinery in a state.

## 20. **"Shah Bano case"**

The "Shah Bano case" was a landmark legal case in India that dealt with the issue of maintenance (alimony) for divorced Muslim women. The case had significant implications for the rights of Muslim women and the debate around personal laws and gender justice in India.

Background: In 1978, Shah Bano, a 62-year-old Muslim woman from Indore, Madhya Pradesh, was divorced by her husband through the triple talaq method, which is an instant divorce practice under Muslim personal law. After the divorce, Shah Bano sought maintenance from her husband for her and their five children, as she was unable to support herself financially.

Key Issue: The main issue before the court was whether Muslim women were entitled to claim maintenance under the provisions of the Criminal Procedure Code (CrPC), which applies to all Indian citizens regardless of their religion.

Court's Decision: The case was heard by the Supreme Court of India in 1985. The court ruled in favor of Shah Bano, stating that she was entitled to maintenance under Section 125 of the Criminal Procedure Code, which provides maintenance to all needy individuals, regardless of their religion.

The court held that personal laws, including Muslim personal law, could not override the provisions of the CrPC in matters of maintenance for women. It

emphasized that gender justice and equality were fundamental rights enshrined in the Indian Constitution and that these rights should be upheld irrespective of religious considerations.

Impact: The Shah Bano case sparked significant controversy and debate in India. While some hailed the judgment as a victory for women's rights and gender equality, others viewed it as an interference in Muslim personal law and a threat to religious autonomy.

In response to the public and political pressure, the Indian Parliament passed the Muslim Women (Protection of Rights on Divorce) Act in 1986. This Act nullified the Supreme Court's decision in the Shah Bano case and restored the pre-existing practice of providing maintenance only during the iddat period (three months after divorce) under Muslim personal law.

The Shah Bano case and the subsequent legislation brought attention to the need for reforming Muslim personal laws in India and addressing gender disparities. The issue of triple talaq and the rights of Muslim women continued to be debated for many years, and in 2019, the Indian government passed the Muslim Women (Protection of Rights on Marriage) Act, which criminalized the practice of instant triple talaq.

It is essential to note that the legal landscape and developments on this issue may have evolved since my last update in September 2021, and I recommend checking more recent sources for any updates or changes related to the Shah Bano case and its implications.

## **21. State of Rajasthan v. Sajjan Singh**

The case is officially referred to as the State of Rajasthan v. Sajjan Singh, and it is often cited as an important decision related to land acquisition and compensation.

**Case Background:** The case revolves around the acquisition of land by the State of Rajasthan for a public purpose. In the process of acquiring the land, the state authorities offered compensation to the landowners based on the prevailing rates. However, the landowners, including Sajjan Singh, contested the adequacy of the compensation and sought higher compensation based on the market value of the land.

**Key Issue:** The main issue before the Supreme Court was whether the landowners were entitled to receive higher compensation than the one offered by the state government.

**Supreme Court's Decision:** In its landmark judgment in 1985, the Supreme Court held that when the government acquires land for public purposes, it must pay compensation that is equivalent to the market value of the land. The court emphasized that landowners should not be deprived of their valuable property without fair and just compensation.

The court also ruled that the market value of the land should be determined as of the date of the government's acquisition notification. This means that any increase in land value that occurred after the notification would not be taken into account for the purpose of determining compensation.

**Impact:** The judgment in Sajjan Singh v. State of Rajasthan has had a significant impact on land acquisition practices in India. It established the principle that landowners are entitled to receive fair and just compensation for their acquired land, equivalent to the market value of the land at the time of acquisition.

The decision has been cited in subsequent cases and has influenced land acquisition laws and policies in India. It reaffirmed the importance of protecting property rights and ensuring that the process of land acquisition is conducted in a just and equitable manner.

## 22. The Berubari case

The Berubari case was a landmark legal dispute in India that revolved around the interpretation and implementation of the Indo-Pak Boundary Agreement of 1958. The case played a crucial role in determining the boundary between India and Pakistan and the sovereignty of the Berubari Union in the state of West Bengal.

Here's a brief overview of the Berubari case:

**Background:** In the aftermath of India's independence from British colonial rule in 1947, the Radcliffe Line was drawn to demarcate the boundaries between India and Pakistan. However, there were several border disputes between the two countries, including the territory of Berubari in the Jalpaiguri district of West Bengal, India.

The Berubari Union, with a majority Hindu population, was situated on the eastern side of the River Torsha, which was the de facto boundary between India and East Pakistan (now Bangladesh). The area was claimed by both India and Pakistan, leading to tensions and disputes.

**Indo-Pak Boundary Agreement of 1958:** To resolve these boundary issues, India and Pakistan signed the Indo-Pak Boundary Agreement in 1958. The agreement stated that the two countries would transfer small enclaves of land to each other to settle territorial disputes. As part of the agreement, India agreed to transfer Berubari and several other enclaves to Pakistan.

**Constitutional Challenge and Berubari Case:** The Indian government sought to implement the Indo-Pak Boundary Agreement by enacting the 9th Constitutional Amendment Act in 1960. However, the validity of the amendment was challenged in the Supreme Court of India on the grounds that it violated the basic structure of the Constitution.

The case reached the Supreme Court in 1960 and was heard by a full bench of 13 judges. The central issue in the case was whether the agreement to cede territory could be done without amending the Preamble, which mentioned India as a sovereign, socialist, secular, and democratic republic, and without affecting the basic structure of the Constitution.

**Supreme Court's Decision:** In 1960, the Supreme Court delivered its judgment in the Berubari Union case. The court held that the agreement to cede territory could not be implemented without amending the Preamble of the Constitution. Since amending the Preamble required the support of the majority of states in India's federal system, and not all states had given their consent, the court ruled that the 9th Constitutional Amendment Act was unconstitutional.

**Consequences:** As a result of the Supreme Court's decision, the Indo-Pak Boundary Agreement of 1958 could not be implemented, and the status quo was maintained in the disputed territories, including Berubari. The case reaffirmed the doctrine of the basic structure of the Constitution, which states that certain fundamental features of the Constitution cannot be amended or altered without the consent of the majority of states.

The Berubari case remains an essential legal precedent in Indian constitutional law and has had a lasting impact on how constitutional amendments are approached and interpreted in the country.

# 23. The Doctrine of Basic Structure

The Doctrine of Basic Structure is a significant legal principle in Indian constitutional law that was established by the Supreme Court of India. It essentially states that there are certain fundamental features or essential elements of the Indian Constitution that cannot be amended or abrogated by the Parliament through its amending power under Article 368 of the Constitution.

The concept of Basic Structure emerged from the landmark case of *Kesavananda Bharati v. State of Kerala* (1973), which was a critical turning point in Indian constitutional jurisprudence. The case involved a challenge to the 24th Amendment Act, which sought to curtail the power of judicial review by limiting the scope of the Fundamental Rights in India.

The Supreme Court, in its ruling, declared that while the Parliament had the power to amend the Constitution, it could not alter its "basic structure." The Court, however, did not provide an exhaustive list of what constitutes the basic structure, as it was considered to be a flexible and evolving concept.

Over the years, various judgments have highlighted some elements that are generally considered part of the basic structure. These include:

1. **Supremacy of the Constitution:** The Constitution is the supreme law of the land, and all laws, including constitutional amendments, must conform to its provisions.

2. **Republican and Democratic form of Government:** India's democratic system of governance, with elected representatives and periodic elections, is considered part of the basic structure.
3. **Rule of Law:** The principle that all individuals, including the government, are subject to and equal before the law.
4. **Judicial Review:** The power of the judiciary to review and strike down laws that are inconsistent with the Constitution.
5. **Separation of Powers:** The division of powers between the Legislature, Executive, and Judiciary to ensure a system of checks and balances.
6. **Federal Character:** The distribution of powers between the central and state governments and the preservation of the federal structure.
7. **Sovereign, Socialist, Secular, and Democratic Nature of India:** The principles enshrined in the Preamble, which reflect the core values of the Indian Constitution.
8. **Fundamental Rights:** The basic human rights guaranteed to citizens, which cannot be taken away or abrogated by an amendment.

It is essential to note that the concept of Basic Structure provides a safeguard against any arbitrary changes to the Constitution, ensuring that the core principles and values of the Constitution remain intact. However, the precise definition and scope of the Basic Structure continue to be a subject of debate and interpretation in Indian constitutional jurisprudence.

## 24. The Golaknath Case

## **Summary of the Golaknath Case (1967)**

### **The Case:**

A certain family in Punjab – Henry and William Golaknath owned 500 acres of farmland. However, in 1953, the Punjab government came up with the Punjab Security and Land Tenures Act. As per the Act, a person can own only 30 Standard acres (or 60 ordinary acres) of land. Hence the Golaknath family was ordered to forgo the excess land and was allowed to keep only 30 acres of the said land ( a few acres apart from the 30 acres of land would go to the tenants).

The Golaknath family went to court, challenging the validity of the 1953 Act. The family's main argument was-

The 1953 law obstructed their right to own property as enshrined in Article 19(1)(f).

The law further prevented them from going ahead with a profession of their choice.

The law threatened their right to get equal protection, as stated in Article 14 of the Indian Constitution.

On top of that, the family also urged the court to declare the 17th Amendment ( through which the 1953 law came into being) as unlawful.



## **The Judgement:**

Justice Subba Rao came to the conclusion that the 17th Amendment violated the fundamental rights of acquiring any land and indulging in any lawful profession granted to the Indian citizens by the Constitution. However, since he used the Doctrine of Prospective Overruling, the Supreme Court's ruling did not affect the validity of the 17th Amendment and hence the 1953 law. However, Justice Subba Rao added that from then on, the Parliament would have no power to make any amendment to Part III of the Constitution that deals with the fundamental rights of the citizens.

The Golaknath case, also known as I.C. Golaknath & Ors. v. State of Punjab & Anrs., is a landmark judgment by the Supreme Court of India delivered on February 27, 1967. It is one of the most significant cases in Indian constitutional history and has had far-reaching implications for the interpretation of the Indian Constitution, particularly regarding the Parliament's power to amend it.

**Background:** The case arose from the constitutional validity of the 17th Amendment Act, 1964 and the 1st Amendment Act, 1951. The issue at the heart of the case was whether the Parliament of India had the power to amend fundamental rights, including the right to property, which was guaranteed under Part III of the Indian Constitution.

**Key Issue:** The main issue before the Supreme Court was whether fundamental rights, particularly the right to property (Article 19(1)(f) and Article 31), could be amended by the Parliament or were they beyond the scope of amendment powers.

**Supreme Court's Decision:** In a landmark decision, the Supreme Court ruled that fundamental rights, including the right to property, were not amendable by the Parliament. The court held that the power to amend the Constitution, as provided under Article 368, was limited and did not extend to the power to amend the fundamental rights guaranteed under Part III of the Constitution.

The court's ruling was based on a literal interpretation of Article 368, which gave the Parliament the power to amend the Constitution but did not explicitly mention that it could amend fundamental rights. Therefore, the court concluded that the Parliament's power to amend the Constitution did not extend to the power to amend fundamental rights.

**Impact:** The Golaknath case was a significant setback to the government's efforts to bring about social and economic reforms through constitutional amendments. It upheld the sanctity of fundamental rights and ensured that they could not be easily diluted or amended by the Parliament.

In response to the Golaknath judgment, the Indian government introduced the 24th Amendment Act in 1971, which amended Article 13 and Article 368 of the Constitution to make it clear that the Parliament had the power to amend any part of the Constitution, including fundamental rights.

Subsequent judgments, most notably the Kesavananda Bharati case in 1973, further clarified the extent of the Parliament's amending power. The Kesavananda Bharati case established the "basic structure doctrine," stating that while the Parliament had wide powers to amend the Constitution, it could not alter its "basic structure" or the essential features that form its foundation.

The Golaknath case and the subsequent developments have played a significant role in shaping the interpretation of the amending power of the Parliament and the protection of fundamental rights in the Indian constitutional framework.

## 25. The Right against Exploitation

**The Right against Exploitation** is a fundamental right guaranteed to all citizens of India under Part III of the Indian Constitution (Article 23 and Article 24). It is designed to protect individuals, especially vulnerable sections of society, from various forms of exploitation and forced labor. The right against exploitation reflects the commitment of the Indian Constitution to uphold human dignity and social justice.

Key elements of the Right against Exploitation are as follows:

1. **Prohibition of Traffic in Human Beings and Forced Labor (Article 23):** Article 23 prohibits trafficking in human beings and begar (forced labor). It states that trafficking in human beings, including forced labor or any other similar forms of exploitation, is prohibited, and any contravention of this provision shall be an offense punishable by law.
2. **Prohibition of Employment of Children in Certain Employments (Article 24):** Article 24 prohibits the employment of children below the age of fourteen years in factories, mines, or any other hazardous employment. It ensures that children are not subject to exploitative labor practices and are protected from engaging in work that may be detrimental to their health and development.

The right against exploitation is an essential component of the broader framework of fundamental rights in India. It aims to protect individuals, particularly vulnerable groups such as children and those trafficked for forced labor, from degrading and inhumane practices. By guaranteeing this right, the Constitution seeks to establish a just and humane society that upholds the dignity and rights of every citizen.

The enforcement and protection of the right against exploitation are crucial to combatting various forms of modern-day slavery, child labor, and human trafficking. The Indian government, civil society organizations, and the judiciary play a critical role in ensuring the effective implementation of this right and safeguarding the vulnerable sections of society from exploitation and forced labor.

## **26. The Rights of Minorities**

The Right of Minorities is an important aspect of the right to equality and non-discrimination enshrined in the Indian Constitution. It aims to protect the interests and rights of religious, linguistic, and cultural minorities in India. The Constitution recognizes that India is a diverse country with various religious, linguistic, and cultural communities, and it guarantees certain safeguards and protections to ensure the well-being and preservation of minority communities.

Key elements of the Rights of Minorities are as follows:

1. **Right to Preserve Culture and Language:** The Constitution grants minorities the right to conserve their distinct culture, language, and script. This includes the right to establish and administer educational institutions of their choice to protect and promote their language and culture.
2. **Protection of Religious Freedom:** The right to religious freedom is not limited to minorities alone but applies to all citizens. However, the Constitution specifically ensures that minorities have the right to profess, practice, and propagate their religion freely without discrimination.
3. **Non-discrimination:** The Constitution guarantees that no citizen can be discriminated against on the grounds of religion, race, caste, sex, or place of

birth. This ensures that minority communities are not subjected to unfair treatment or prejudice.

4. Representation in Educational Institutions: The Constitution provides for the right of minorities to establish and administer educational institutions of their choice. This allows minorities to have representation in educational institutions that promote their culture, language, and values.
5. Minority Rights under Article 29 and Article 30: Article 29 of the Constitution safeguards the interests of minorities by providing protection against denial of admission to educational institutions on grounds of religion, race, caste, language, or any other discrimination. Article 30 grants religious and linguistic minorities the right to establish and administer educational institutions of their choice.
6. Cultural and Educational Rights: The Constitution acknowledges and protects the cultural and educational rights of minorities to conserve their unique identity.

The right of minorities in India is an integral part of the broader framework of fundamental rights and principles of justice and equality. It reflects the commitment of the Indian Constitution to pluralism and the coexistence of diverse religious, linguistic, and cultural communities in the country.

It is essential to note that while the Constitution provides safeguards and protections to minorities, there are still challenges in fully implementing and ensuring the effective realization of these rights. The Indian government, civil society organizations, and the judiciary play a critical role in upholding and protecting the rights of minority communities and promoting a culture of tolerance and inclusivity in the country.

# 27. The Right to Constitutional Remedies

The Right to Constitutional Remedies, also known as the "heart and soul" of the Indian Constitution, is provided under Article 32 and Article 226. It is one of the fundamental rights guaranteed to all citizens of India. The right empowers individuals to approach the judiciary for the enforcement of their other fundamental rights and seeks to ensure that these rights are not merely symbolic but are effectively protected and enforced.

Key features of the Right to Constitutional Remedies:

1. **Right to Move to the Supreme Court (Article 32):** Article 32 grants the right to move the Supreme Court of India directly for the enforcement of fundamental rights. Any citizen can approach the Supreme Court if they believe that their fundamental rights have been violated or are under threat.
2. **Right to Move to High Courts (Article 226):** Article 226 provides a similar right, but it applies to the High Courts of the respective states. Citizens can approach the High Court for the enforcement of their fundamental rights within the state's jurisdiction.
3. **Writs for Enforcement:** The Right to Constitutional Remedies empowers the Supreme Court and High Courts to issue specific writs for the enforcement of fundamental rights. These writs include Habeas Corpus (to produce an individual unlawfully detained), Mandamus (to command a public official to perform a duty), Prohibition (to prevent an inferior court from exceeding its jurisdiction), Certiorari (to quash the decision of an inferior court), and Quo Warranto (to inquire into the legality of holding a public office).
4. **Judicial Review:** The Right to Constitutional Remedies gives the judiciary the power of judicial review. It enables the courts to examine the constitutionality of laws and executive actions and strike down those that violate fundamental rights.
5. **Access to Justice:** The Right to Constitutional Remedies ensures that citizens have easy access to justice. It is a mechanism through which citizens can seek redressal against violations of their fundamental rights and protect their liberties.
6. **Enforcing Directive Principles:** While the fundamental rights are enforceable through the Right to Constitutional Remedies, the Directive Principles of State Policy (Part IV of the Constitution) are not directly enforceable. However, courts may use the Right to Constitutional Remedies to ensure that laws and policies are in conformity with the Directive Principles.

The Right to Constitutional Remedies is a critical safeguard in India's democratic system. It empowers citizens to hold the government and other authorities accountable for any violations of their fundamental rights and ensures the protection of individual liberties. It also acts as a check on the misuse of power and upholds the rule of law in the country. The right plays a vital role in maintaining the balance of power and preserving the constitutional framework in India.

# 28. The Right to Equality

The right to equality is a fundamental right enshrined in the Indian Constitution under Article 14 to Article 18. It is one of the core pillars of the Indian democracy and a fundamental principle of justice and fairness. The right to equality ensures that all individuals, irrespective of their background, are treated equally before the law and are not discriminated against based on various factors.

Key elements of the right to equality are as follows:

1. **Equality before the Law (Article 14):** Article 14 states that the State shall not deny any person equality before the law or the equal protection of the laws within the territory of India. This means that the law should treat all individuals alike, and there should be no discrimination in the application of the law.
2. **Prohibition of Discrimination (Article 15):** Article 15 prohibits discrimination on the grounds of religion, race, caste, sex, or place of birth. It ensures that the State cannot discriminate against citizens based on these criteria and guarantees equal opportunities for all.
3. **Equality of Opportunity in Public Employment (Article 16):** Article 16 guarantees equality of opportunity in matters of public employment. It prohibits discrimination in public employment based on religion, race, caste, sex, descent, place of birth, or residence. It also ensures that there will be no preference given to any particular group in government employment.
4. **Abolition of Untouchability (Article 17):** Article 17 abolishes the practice of untouchability in any form. It declares that untouchability is a punishable offense and prohibits its practice in any form.

5. **Abolition of Titles (Article 18):** Article 18 prohibits the State from conferring any titles, except military or academic distinctions, on individuals. It aims to avoid social distinctions based on titles and honors.

The right to equality is a foundational principle that reflects the values of a democratic and inclusive society. It aims to ensure that all individuals have equal opportunities, are treated with dignity, and have access to justice. The Indian judiciary has played a significant role in interpreting and upholding the right to equality, and several landmark judgments have been delivered to safeguard this fundamental right. It is important to note that the right to equality is not an absolute right and can be subject to reasonable restrictions in certain circumstances, as specified in the Constitution.

## **29. The Right to Freedom of Conscience**

The right to freedom of conscience is an essential aspect of the right to freedom of religion, which is enshrined in Article 25 of the Indian Constitution. It guarantees to all individuals the right to freely profess, practice, and propagate their religion of choice. The right to freedom of conscience ensures that every person has the liberty to hold and manifest their religious beliefs and opinions without interference from the state or others.

Key elements of the right to freedom of conscience:

1. **Freedom to Profess Religion:** Article 25 guarantees the freedom of individuals to profess any religion or belief of their choice. It includes the right to believe in a religion or follow spiritual and philosophical principles without external coercion or compulsion.
2. **Freedom to Practice Religion:** The right to freedom of conscience also encompasses the freedom to practice one's religion. It ensures that individuals have the right to observe religious rituals, ceremonies, and customs according to their beliefs.
3. **Freedom to Propagate Religion:** Article 25 also provides the right to propagate and spread one's religion. However, this right is not absolute and is subject to public order, morality, and health, and it does not give individuals the right to forcefully convert others to their religion.
4. **Protection of Conscience:** The right to freedom of conscience safeguards individuals from being compelled to follow or support a religion against their will. It ensures that no one can be forced to adopt or participate in religious practices that are contrary to their beliefs.
5. **Secularism:** The right to freedom of conscience is rooted in the principle of secularism, which is one of the basic features of the Indian Constitution. The state is expected to be neutral and



impartial in matters of religion and should not favor or discriminate against any particular religion.

6. Reasonable Restrictions: While the right to freedom of conscience is fundamental, it is not absolute. The Constitution allows for reasonable restrictions on the exercise of this right in the interest of public order, morality, and the health of citizens.

The right to freedom of conscience is crucial for promoting religious harmony and respecting the diversity of beliefs in a multicultural and multi-religious country like India. It ensures that individuals have the autonomy to follow their religious beliefs and practices without fear of persecution or discrimination. The Indian judiciary has played a vital role in interpreting and upholding this right to ensure its effective implementation and protection for all citizens.

## 30. The Right to Freedom

The Right to Freedom is a fundamental right guaranteed to all citizens of India under Part III of the Indian Constitution (Article 19 to Article 22). It is one of the most crucial and cherished rights that forms the bedrock of individual liberties in a democratic society. The Right to Freedom encompasses several essential freedoms that are vital for the well-being and dignity of citizens.

Key elements of the Right to Freedom are as follows:

1. Freedom of Speech and Expression (Article 19(1)(a)): This right allows citizens the freedom to express their thoughts, opinions, and ideas through speech, writing, printing, or other forms of communication. However, this right is subject to reasonable restrictions in the interest of public order, decency, morality, security, and friendly relations with foreign states.
2. Freedom to Assemble Peacefully and Without Arms (Article 19(1)(b)): This right ensures that citizens can gather together peacefully to express their views and opinions, hold meetings, and organize peaceful protests. However, this right is subject to reasonable restrictions in the interest of public order and the sovereignty and integrity of India.
3. Freedom to Form Associations or Unions (Article 19(1)(c)): Citizens have the right to form associations, unions, or societies to pursue common interests and objectives. However, this right is subject to reasonable restrictions in the interest of public order or morality.

4. Freedom to Move Freely Throughout the Territory of India (Article 19(1)(d)): This right allows citizens to move freely within the country and reside in any part of India. However, this right can be restricted in the interest of the general public, the protection of scheduled tribes, and the preservation of cultural and historical monuments.
5. Freedom to Practice Any Profession or Occupation (Article 19(1)(g)): This right guarantees citizens the freedom to choose any profession, occupation, trade, or business of their choice. However, this right is subject to reasonable restrictions in the interest of the general public.
6. Protection in Respect of Conviction for Offenses (Article 20): This article provides certain safeguards to accused persons against double jeopardy, self-incrimination, and retrospective criminal laws.
7. Protection of Life and Personal Liberty (Article 21): Article 21 guarantees the right to life and personal liberty. It ensures that no person shall be deprived of their life or personal liberty except according to the procedure established by law.

The Right to Freedom is not absolute and can be restricted under specific circumstances to maintain public order, protect the interests of the state, or preserve the rights of others. However, any restriction imposed on these freedoms must be reasonable and conform to the principles of fairness and justice. The judiciary plays a crucial role in interpreting and safeguarding these rights and ensuring their proper implementation in Indian society.

## **31. The sources of the Indian Constitution**

The sources of the Indian Constitution are the various documents, laws, and historical events that influenced the drafting and framing of the Constitution. The Indian Constitution draws from a wide range of sources, including:

1. Government of India Act, 1935: The Government of India Act, 1935, was the most important and comprehensive constitutional document of British India. It provided the framework for the functioning of the government, the distribution of powers between the center and provinces, and administrative details. Many provisions of the Government of India Act, 1935, were incorporated into the Indian Constitution.

2. Indian Independence Act, 1947: The Indian Independence Act, 1947, marked the end of British colonial rule in India and the partition of British India into India and Pakistan. It provided the legal basis for the establishment of two separate dominions and the transfer of powers from the British Crown to the newly formed governments of India and Pakistan.
3. Constituent Assembly Debates: The debates and discussions held in the Constituent Assembly while drafting the Constitution were a significant source of ideas and principles that shaped the final document. Eminent leaders and experts from various fields actively participated in these debates and contributed to the Constitution's content.
4. Government of India Act, 1919: The Government of India Act, 1919, introduced the concept of provincial autonomy and separate electorates. Although it was not entirely successful in meeting its objectives, some of its provisions influenced the framing of the Indian Constitution.
5. Universal Declaration of Human Rights: The Universal Declaration of Human Rights adopted by the United Nations in 1948 served as an important reference point for incorporating fundamental rights and liberties in the Indian Constitution.
6. Constitutional Models of Other Countries: The Constitution of India was influenced by various constitutional models of other countries. For instance, the parliamentary system of government was inspired by the British model, while the federal structure drew from the United States.
7. Reports of Committees: The Constituent Assembly relied on the reports and recommendations of various committees, such as the Union Powers Committee, the Provincial Constitution Committee, and the Drafting Committee (headed by Dr. B.R. Ambedkar), while formulating the Constitution.
8. Social and Cultural Values: The Indian Constitution reflects the social and cultural diversity of India and incorporates principles such as secularism, social justice, and fundamental duties.

These sources, along with the vision and wisdom of the members of the Constituent Assembly, contributed to the framing of the Indian Constitution, making it one of the most comprehensive and unique constitutions in the world.

## **32. Types of Termination of Indian Citizenship according to the Citizenship act 1955**

The Citizenship Act of 1955, as amended, provides for various ways in which Indian citizenship can be terminated. The types of termination of Indian citizenship are as follows:

1. **Renunciation:** A person of full age and capacity who is an Indian citizen by registration or naturalization can renounce Indian citizenship. They must make a declaration in the prescribed manner, indicating their intention to

renounce Indian citizenship. Once the declaration is registered, the person ceases to be an Indian citizen.

2. **Termination by Acquisition of Foreign Citizenship:** If an Indian citizen voluntarily acquires the citizenship of another country, their Indian citizenship automatically ceases. In such cases, they may become a citizen of the other country through naturalization or any other means, leading to the termination of their Indian citizenship.
3. **Deprivation:** The government may deprive a person of their Indian citizenship if it is satisfied that they obtained citizenship through fraud, false representation, or concealment of material facts. However, such deprivation can only occur after giving the person an opportunity to be heard.
4. **Termination of Overseas Citizens of India (OCI):** Overseas Citizens of India, who are individuals with certain ancestral connections to India but not full citizens, can also lose their OCI status if they violate certain provisions of the Citizenship Act or any other law in force.

It is essential to note that the Citizenship Act has undergone amendments over the years, and the termination of Indian citizenship provisions might be subject to changes.

For the most current and accurate information, it is advised to refer to the latest version of the Citizenship Act and its amendments.