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# The Constitution of India

*as amended by*

**The Constitution (Ninety-sixth Amendment) Act, 2011**

*and*

**The Orissa (Alteration of Name) Act, 2011 (15 of 2011)**

**2012**

**BARE ACT  
WITH SHORT NOTES**

Price ₹ 120

**11. Parliament to regulate the right of citizenship by law.**—Nothing in the foregoing provisions of this Part shall derogate from the power of Parliament to make any provision with respect to the acquisition and termination of citizenship and all other matters relating to citizenship.

### PART III FUNDAMENTAL RIGHTS

#### *General*

**12. Definition.**—In this part, unless the context otherwise requires, “the State” includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.

**13. Laws inconsistent with or in derogation of the fundamental rights.**—

(1) All laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void.

(2) The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void.

(3) In this article, unless the context otherwise requires,—

- (a) “law” includes any Ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of law;
- (b) “laws in force” includes laws passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed, notwithstanding that any such law or any part thereof may not be then in operation either at all or in particular areas.

<sup>1</sup>[(4) Nothing in this article shall apply to any amendment of this Constitution made under article 368.]

#### COMMENTS

(i) The fundamental rights, enshrined in Part III of the Constitution, are inherent and cannot be extinguished by any constitutional or statutory provision. Any law that abrogates or abridges such rights would be violative of the basic structure doctrine; *State of West Bengal v. Committee for Protection of Democratic Rights, West Bengal*, AIR 2010 SC 1476.

(ii) The “basic features” of the Constitution cannot be amended by exercising the power of amendment under article 368; *Keshavananda Bharati v. State of Kerala*, AIR 1973 SC 1461; *Minerva Mills Ltd. v. Union of India*, AIR 1980 SC 1789; *Waman Rao v. Union of India*, AIR 1981 SC 271; *Srinivasa v. State of Karnataka*, AIR 1987 SC 1518.

#### *Right to Equality*

**14. Equality before law.**—The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

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1. Ins. by the Constitution (Twenty-fourth Amendment) Act, 1971, sec. 2 (w.e.f. 5-11-1971).

**15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.**—(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to—

- (a) access to shops, public restaurants, hotels and places of public entertainment; or
- (b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of general public.

(3) Nothing in this article shall prevent the State from making any special provision for women and children.

<sup>1</sup>[(4) Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.]

<sup>2</sup>[(5) Nothing in this article or in sub-clause (g) of clause (1) of article 19 shall prevent the State from making any special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30.]

#### COMMENTS

Article 15(4) is only an enabling provision and it is for the respective States either to enact a legislation or issue an executive instruction providing reservation. Article 15(4) is discretionary and no writ can be issued to effect reservation. Such special provision may be made not only by the Legislature but also by the executive; *Dr. Gulshan Prakash v. State of Haryana*, AIR 2010 SC 288.

**16. Equality of opportunity in matters of public employment.**—(1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

(3) Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office <sup>3</sup>[under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory] prior to such employment or appointment.

1. Added by the Constitution (First Amendment) Act, 1951, sec. 2 (w.e.f. 18-6-1951).

2. Ins. by the Constitution (Ninety-third Amendment) Act, 2005, sec. 2 (w.e.f. 20-1-2006).

3. Subs. by the Constitution (Seventh Amendment) Act, 1956, sec. 29 and Sch., for certain words (w.e.f. 1-11-1956).

(4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.

<sup>1</sup>[(4A) Nothing in this article shall prevent the State from making any provision for reservation <sup>2</sup>[in matters of promotion, with consequential seniority, to any class] or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State.]

<sup>3</sup>[(4B) Nothing in this article shall prevent the State from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) or clause (4A) as a separate class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty per cent. reservation on total number of vacancies of that year.]

(5) Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

#### COMMENTS

It is an accepted legal position that the right of eligible employees to be considered for promotion is virtually a part of their fundamental right guaranteed under article 16. The guarantee of a fair consideration in matters of promotion under article 16 virtually flows from guarantee of equality under article 14 of the Constitution; *Union of India v. Hemraj Singh Chauhan*, AIR 2010 SC 1682.

**17. Abolition of untouchability.**—“Untouchability” is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of “Untouchability” shall be an offence punishable in accordance with law.

**18. Abolition of titles.**—(1) No title, not being a military or academic distinction, shall be conferred by the State.

(2) No citizen of India shall accept any title from any foreign State.

(3) No person who is not a citizen of India shall, while he holds any office of profit or trust under the State, accept without the consent of the President any title from any foreign State.

(4) No person holding any office of profit or trust under the State shall, without the consent of the President, accept any present, emolument, or office of any kind from or under any foreign State.

1. Ins. by the Constitution (Seventy-seventh Amendment) Act, 1995, sec. 2 (w.e.f. 17-6-1995).

2. Subs. by the Constitution (Eighty-fifth Amendment) Act, 2001, sec. 2, for “in matters of promotion to any class” (w.r.e.f. 17-6-1995).

3. Ins. by the Constitution (Eighty-first Amendment) Act, 2000, sec. 2 (w.e.f. 9-6-2000).

*Right to Freedom*

19. Protection of certain rights regarding freedom of speech, etc.—(1) All citizens shall have the right—

- (a) to freedom of speech and expression;
  - (b) to assemble peaceably and without arms;
  - (c) to form associations or unions;
  - (d) to move freely throughout the territory of India;
  - (e) to reside and settle in any part of the territory of India; <sup>1</sup>[and]
- <sup>2</sup>[\*\*\*]
- (g) to practise any profession, or to carry on any occupation, trade or business.

<sup>3</sup>[(2) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of <sup>4</sup>[the sovereignty and integrity of India,] the security of the State, friendly relations with Foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence.]

(3) Nothing in sub-clause (b) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of <sup>5</sup>[the sovereignty and integrity of India or] public order, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

(4) Nothing in sub-clause (c) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of <sup>5</sup>[the sovereignty and integrity of India or] public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

(5) Nothing in <sup>6</sup>[sub-clauses (d) and (e)] of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or for the protection of the interests of any Scheduled Tribe.

(6) Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law

1. Ins. by the Constitution (Forty-fourth Amendment) Act, 1978, sec. 2(a)(i) (w.e.f. 20-6-1979).

2. Sub-clause (f) omitted by the Constitution (Forty-fourth Amendment) Act, 1978, sec. 2(a)(ii) (w.e.f. 20-6-1979).

3. Subs. by the Constitution (First Amendment) Act, 1951, sec. 3(a), for clause (2) (with retrospective effect).

4. Ins. by the Constitution (Sixteenth Amendment) Act, 1963, sec. 2(a) (w.e.f. 5-10-1963).

5. Ins. by the Constitution (Sixteenth Amendment) Act, 1963, sec. 2(b) (w.e.f. 5-10-1963).

6. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, sec. 2(b), for "sub-clauses (d), (e) and (f)" (w.e.f. 20-6-1979).

imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause, and, in particular, [nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to,—

- (i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or
- (ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise].

**20. Protection in respect of conviction for offences.**—(1) No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.

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

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

#### COMMENTS

It is trite law that the sentence impossible on the date of commission of the offence has to determine the sentence impossible on completion of trial. This proposition is clear even on a bare reading of article 20(1). Under article 20(1) what is prohibited is the conviction and sentence in criminal proceedings under *ex post facto* law; *Ravinder Singh v. State of Himachal Pradesh*, AIR 2010 SC 199.

**21. Protection of life and personal liberty.**—No person shall be deprived of his life or personal liberty except according to procedure established by law.

#### COMMENTS

(i) The woman's right to make reproductive choices is also a dimension of "personal liberty" as understood under article 21. It is important to recognise that reproductive choices can be exercised to procreate as well as to abstain from procreating. The crucial consideration is that a woman's right to privacy, dignity and bodily integrity should be respected. This means that there should be no restriction whatsoever on the exercise of reproduction choices such as a woman's right to refuse participation in sexual activity or alternatively the insistence on use of contraceptive methods. Furthermore, women are also free to choose birth control methods such as undergoing sterilisation procedures. Taken to their logical conclusion, reproductive rights include a woman's entitlement to carry a pregnancy to its full term, to give birth and to subsequently raise children. However, in the case of pregnant women there is also a 'compelling State interest' in protecting the life of the prospective child; *Suchita Srivastava v. Chandigarh Administration*, AIR 2010 SC 235.

(ii) Assurance of a fair trial is the first imperative of the dispensation of justice; *Police Commr., Delhi v. Registrar Delhi High Court*, AIR 1997 SC 95.

(iii) Right to livelihood is an integral facet of the right to life; *Narendra Kumar v. State of Haryana*, JT (1994) 2 SC 94.

1. Subs. by the Constitution (First Amendment) Act, 1951, sec. 3(b), for certain words (w.e.f. 18-6-1951).

<sup>1</sup>[21A. Right to education.—The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.]

22. Protection against arrest and detention in certain cases.—(1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice.

(2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.

(3) Nothing in clauses (1) and (2) shall apply—

- (a) to any person who for the time being is an enemy alien; or
- (b) to any person who is arrested or detained under any law providing for preventive detention.

(4) No law providing for preventive detention shall authorise the detention of a person for a longer period than three months unless—

- (a) an Advisory Board consisting of persons who are, or have been, or are qualified to be appointed as, Judges of a High Court has reported before the expiration of the said period of three months that there is in its opinion sufficient cause for such detention:

Provided that nothing in this sub-clause shall authorise the detention of any person beyond the maximum period prescribed by any law made by Parliament under sub-clause (b) of clause (7); or

- (b) such person is detained in accordance with the provisions of any law made by Parliament under sub-clauses (a) and (b) of clause (7).

(5) When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order.

(6) Nothing in clause (5) shall require the authority making any such order as is referred to in that clause to disclose facts which such authority considers to be against the public interest to disclose.

(7) Parliament may by law prescribe—

- (a) the circumstances under which, and the class or classes of cases in which, a person may be detained for a period longer than three months under any law providing for preventive detention without obtaining the opinion of an Advisory Board in accordance with the provisions of sub-clause (a) of clause (4);

1. Ins. by the Constitution (Eighty-sixth Amendment) Act, 2002, sec. 2 (w.e.f. 1-4-2010).  
2. On the enforcement of section 3 of the Constitution (Forty-fourth Amendment) Act, 1978, article 22 shall stand amended as directed in section 3 of that Act. (Ed.—So far no date has been notified for the enforcement of section 3).

- (b) the maximum period for which any person may in any class or classes of cases be detained under any law providing for preventive detention; and
- (c) the procedure to be followed by an Advisory Board in an inquiry under sub-clause (a) of clause (4).

*Right against Exploitation*

**23. Prohibition of traffic in human beings and forced labour.**—(1) Traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

(2) Nothing in this article shall prevent the State from imposing compulsory service for public purposes, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them.

**24. Prohibition of employment of children in factories, etc.**—No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

*Right to Freedom of Religion 25 to 28*

✓ **25. Freedom of conscience and free profession, practice and propagation of religion.**—(1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law—

- (a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;
- (b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.

*Explanation I.*—The wearing and carrying of *kirpans* shall be deemed to be included in the profession of the Sikh religion.

*Explanation II.*—In sub-clause (b) of clause (2), the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly.

**26. Freedom to manage religious affairs.**—Subject to public order, morality and health, every religious denomination or any section thereof shall have the right—

- (a) to establish and maintain institutions for religious and charitable purposes;
- (b) to manage its own affairs in matters of religion;
- (c) to own and acquire movable and immovable property; and
- (d) to administer such property in accordance with law.

27. Freedom as to payment of taxes for promotion of any particular religion.—No person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination.

28. Freedom as to attendance at religious instruction or religious worship in certain educational institutions.—(1) No religious instruction shall be provided in any educational institution wholly maintained out of State funds.

(2) Nothing in clause (1) shall apply to an educational institution which is administered by the State but has been established under any endowment or trust which requires that religious instruction shall be imparted in such institution.

(3) No person attending any educational institution recognised by the State or receiving aid out of State funds shall be required to take part in any religious instruction that may be imparted in such institution or to attend any religious worship that may be conducted in such institution or in any premises attached thereto unless such person or, if such person is a minor, his guardian has given his consent thereto.

#### Cultural and Educational Rights

Language Script etc.

29. Protection of interests of minorities.—(1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.

(2) No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.

30. Right of minorities to establish and administer educational institutions.—  
(1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.

<sup>1</sup>[(1A) In making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority, referred to in clause (1), the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause.]

(2) The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language.

<sup>2</sup>[\*\*\*]

<sup>3</sup>[31. Compulsory acquisition of property.—[Rep. by the Constitution (Forty-fourth Amendment) Act, 1978, sec. 6 (w.e.f. 20-6-1979).]]

1. Ins. by the Constitution (Forty-fourth Amendment) Act, 1978, sec. 4 (w.e.f. 20-6-1979).
2. The sub-heading "Right to Property" omitted by the Constitution (Forty-fourth Amendment) Act, 1978, sec. 5 (w.e.f. 20-6-1979).
3. Article 31 was earlier amended by the Constitution (Fourth Amendment) Act, 1955, sec. 2 (w.e.f. 27-4-1955) and by the Constitution (Twenty-fifth Amendment) Act, 1971, sec. 2 (w.e.f. 20-4-1972).

<sup>1</sup>[Saving of Certain Laws]

<sup>2</sup>[31A. Saving of laws providing for acquisition of estates, etc.—

<sup>3</sup>[(1) Notwithstanding anything contained in article 13, no law providing for—

- (a) the acquisition by the State of any estate or of any rights therein or the extinguishment or modification of any such rights, or
- (b) the taking over of the management of any property by the State for a limited period either in the public interest or in order to secure the proper management of the property, or
- (c) the amalgamation of two or more corporations either in the public interest or in order to secure the proper management of any of the corporations, or
- (d) the extinguishment or modification of any rights of managing agents, secretaries and treasurers, managing directors, directors or managers of corporations, or of any voting rights of shareholders thereof, or
- (e) the extinguishment or modification of any rights accruing by virtue of any agreement, lease or licence for the purpose of searching for, or winning, any mineral or mineral oil, or the premature termination or cancellation of any such agreement, lease or licence,

shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by <sup>4</sup>[article 14 or article 19]:

Provided that where such law is a law made by the Legislature of a State, the provisions of this article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent:]

<sup>5</sup>[Provided further that where any law makes any provision for the acquisition by the State of any estate and where any land comprised therein is held by a person under his personal cultivation, it shall not be lawful for the State to acquire any portion of such land as is within the ceiling limit applicable to him under any law for the time being in force or any building or structure standing thereon or appurtenant thereto, unless the law relating to the acquisition of such land, building or structure, provides for payment of compensation at a rate which shall not be less than the market value thereof.]

(2) In this article,—

<sup>6</sup>[(a) the expression "estate" shall, in relation to any local area, have the same meaning as that expression or its local equivalent has in the

1. Ins. by the Constitution (Forty-second Amendment) Act, 1976, sec. 3 (w.e.f. 3-1-1977).
2. Ins. by the Constitution (First Amendment) Act, 1951, sec. 4 (with retrospective effect).
3. Subs. by the Constitution (Fourth Amendment) Act, 1955, sec. 3(a), for clause (1) (with retrospective effect).
4. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, sec. 7, for "article 14, article 19 or article 31" (w.e.f. 20-6-1979).
5. Ins. by the Constitution (Seventeenth Amendment) Act, 1964, sec. 2(i) (w.e.f. 20-6-1964).
6. Subs. by the Constitution (Seventeenth Amendment) Act, 1964, sec. 2(ii), for sub-clause (a) (with retrospective effect). Earlier clause (a) was amended by the Constitution (Fourth Amendment) Act, 1955, sec. 3(b)(i) (with retrospective effect) and by the Constitution (Seventh Amendment) Act, 1956, sec. 29 and Sch. (w.e.f. 1-11-1956).

existing law relating to land tenures in force in that area and shall also include—

- (i) any *jagir, inam* or *muafi* or other similar grant and in the States of<sup>1</sup> [Tamil Nadu] and Kerala, any *janmam* right;
- (ii) any land held under *ryotwari* settlement;
- (iii) any land held or let for purposes of agriculture or for purposes ancillary thereto, including waste land, forest land, land for pasture or sites of buildings and other structures occupied by cultivators of land, agricultural labourers and village artisans;]
- (b) the expression "rights", in relation to an estate, shall include any rights vesting in a proprietor, sub-proprietor, under-proprietor, tenure-holder,<sup>2</sup> [*raiyat, under-raiyat*] or other intermediary and any rights or privileges in respect of land revenue.]

<sup>3</sup>[31B. Validation of certain Acts and Regulations.—Without prejudice to the generality of the provisions contained in article 31A, none of the Acts and Regulations specified in the Ninth Schedule nor any of the provision thereof shall be deemed to be void, or ever to have become void, on the ground that such Act, Regulation or provision is inconsistent with, or takes away or abridges any of the rights conferred by, any provisions of this Part, and notwithstanding any judgment, decree or order of any court or tribunal to the contrary, each of the said Acts and Regulations shall, subject to the power of any competent Legislature to repeal or amend it, continue in force.]

<sup>4</sup>[31C. Saving of laws giving effect to certain directive principles.—Notwithstanding anything contained in article 13, no law giving effect to the policy of the State towards securing<sup>5</sup> [all or any of the principles laid down in Part IV] shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by<sup>6</sup> [article 14 or article 19]<sup>7</sup> [*and no law containing a declaration that it is for giving effect to such policy shall be called in question in any court on the ground that it does not give effect to such policy*]:

Provided that where such law is made by the Legislature of a State, the provisions of this article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent.]

1. Subs. by the Madras State (Alteration of Name) Act, 1968 (53 of 1968), sec. 4, for "Madras" (w.e.f. 14-1-1969).
2. Ins. by the Constitution (Fourth Amendment) Act, 1955, sec. 3(b)(ii) (with retrospective effect).
3. Ins. by the Constitution (First Amendment) Act, 1951, sec. 5 (w.e.f. 18-6-1951).
4. Ins. by the Constitution (Twenty-fifth Amendment) Act, 1971, sec. 3 (w.e.f. 20-4-1972).
5. Subs. by the Constitution (Forty-second Amendment) Act, 1976, sec. 4, for "the principles specified in clause (b) or clause (c) of article 39" (w.e.f. 3-1-1977). Section 4 has been declared invalid by the Supreme Court in *Minerva Mills Ltd. v. Union of India*, (1980) 2 SCC 591.
6. Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, sec. 8, for "article 14, article 19 or article 31" (w.e.f. 20-6-1979).
7. In *Keshavananda Bharati v. The State of Kerala*, 1973 Supp SCR 1: (1973) 4 SCC 225: AIR 1973 SC 1461, the Supreme Court held the provision in italics to be invalid.

<sup>1</sup>[31D. Saving of laws in respect of anti-national activities.—[Rep. by the Constitution (Forty-third Amendment) Act, 1977, section 2 (w.e.f. 13-4-1978).]]

#### *Right to Constitutional Remedies*

32. Remedies for enforcement of rights conferred by this Part.—(1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed.

(2) The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of *habeas corpus*, *mandamus*, *prohibition*, *quo warranto* and *certiorari*, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part.

(3) Without prejudice to the powers conferred on the Supreme Court by clauses (1) and (2), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2).

(4) The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution.

#### COMMENTS

(i) Except for a writ of *quo warranto*, PIL is not maintainable in service matters. For issuance of writ of *quo warranto* the High Court has to satisfy that the appointment is contrary to the statutory rules. Suitability or otherwise of a candidate for appointment to a post in Government service is the function of the appointing authority and not of the court unless the appointment is contrary to statutory provisions/rules; *Hari Bansh Lal v. Sahodar Prasad Mahto*, AIR 2010 SC 3515.

(ii) The remedies evolved by way of writ jurisdiction are of an extraordinary nature. They cannot be granted as a matter of due course to provide redressal in situations where statutory remedies are available; *Kunga Nima Lepcha v. State of Sikkim*, AIR 2010 SC 1671.

(iii) Judicial review under articles 32 and 226 is a basic feature of the Constitution beyond the pale of amendability; *Kihota v. Zachilhu*, AIR 1993 SC 412.

(iv) Writ of *certiorari* may be issued where the law under which the decision was given is void; *Himmat Lal v. State of Madhya Pradesh*, AIR 1954 SC 403.

<sup>2</sup>[32A. Constitutional validity of State laws not to be considered in proceedings under article 32.—[Rep. by the Constitution (Forty-third Amendment) Act, 1977, sec. 3 (w.e.f. 13-4-1978).]]

<sup>3</sup>[33. Power of Parliament to modify the rights conferred by this Part in their application to Forces, etc.—Parliament may, by law, determine to what extent any of the rights conferred by this Part shall, in their application to,—

- (a) the members of the Armed Forces; or
- (b) the members of the Forces charged with the maintenance of public order; or

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1. Article 31D was earlier inserted by the Constitution (Forty-second Amendment) Act, 1976, sec. 5 (w.e.f. 3-1-1977).
  2. Article 32A was earlier inserted by the Constitution (Forty-second Amendment) Act, 1976, sec. 6 (w.e.f. 1-2-1977).
  3. Subs. by the Constitution (Fiftieth Amendment) Act, 1984, sec. 2, for article 33 (w.e.f. 11-9-1984).

- (c) persons employed in any bureau or other organisation established by the State for purposes of intelligence or counter intelligence; or
- (d) persons employed in, or in connection with, the telecommunication systems set up for the purposes of any Force, bureau or organisation referred to in clauses (a) to (c),

be restricted or abrogated so as to ensure the proper discharge of their duties and the maintenance of discipline among them.]

**34. Restriction on rights conferred by this Part while martial law is in force in any area.**—Notwithstanding anything in the foregoing provisions of this Part, Parliament may by law indemnify any person in the service of the Union or of a State or any other person in respect of any act done by him in connection with the maintenance or restoration of order in any area within the territory of India where martial law was in force or validate any sentence passed, punishment inflicted, forfeiture ordered or other act done under martial law in such area.

**35. Legislation to give effect to the provisions of this Part.**—Notwithstanding anything in this Constitution,—

- (a) Parliament shall have, and the Legislature of a State shall not have, power to make laws—
  - (i) with respect to any of the matters which under clause (3) of article 16, clause (3) of article 32, article 33 and article 34 may be provided for by law made by Parliament; and
  - (ii) for prescribing punishment for those acts which are declared to be offences under this Part,

and Parliament shall, as soon as may be after the commencement of this Constitution, make laws for prescribing punishment for the acts referred to in sub-clause (ii);

- (b) any law in force immediately before the commencement of this Constitution in the territory of India with respect to any of the matters referred to in sub-clause (i) of clause (a) or providing for punishment for any act referred to in sub-clause (ii) of that clause shall, subject to the terms thereof and to any adaptations and modifications that may be made therein under article 372, continue in force until altered or repealed or amended by Parliament.

*Explanation.*—In this article, the expression “law in force” has the same meaning as in article 372.

#### PART IV DIRECTIVE PRINCIPLES OF STATE POLICY

**36. Definition.**—In this Part, unless the context otherwise requires, “the State” has the same meaning as in Part III.

**37. Application of the principles contained in this Part.**—The provisions contained in this Part shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.

**38. State to secure a social order for the promotion of welfare of the people.—**  
<sup>1</sup>[(1) The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.

<sup>2</sup>[(2) The State shall, in particular, strive to minimise the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.]

**39. Certain principles of policy to be followed by the State.—**The State shall, in particular, direct its policy towards securing—

- (a) that the citizens, men and women equally, have the right to an adequate means of livelihood;
- (b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;
- (c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;
- (d) that there is equal pay for equal work for both men and women;
- (e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;
- <sup>3</sup>[(f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.]

<sup>4</sup>[39A. **Equal justice and free legal aid.—**The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.]

**40. Organisation of village panchayats.—**The State shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government.

**41. Right to work, to education and to public assistance in certain cases.—**The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

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1. Article 38 renumbered as clause (1) thereof by the Constitution (Forty-fourth Amendment) Act, 1978, sec. 9 (w.e.f. 20-6-1979).
  2. Ins. by the Constitution (Forty-fourth Amendment) Act, 1978, sec. 9 (w.e.f. 20-6-1979).
  3. Subs. by the Constitution (Forty-second Amendment) Act, 1976, sec. 7, for clause (f) (w.e.f. 3-1-1977).
  4. Ins. by the Constitution (Forty-second Amendment) Act, 1976, sec. 8 (w.e.f. 3-1-1977).

**42. Provision for just and humane conditions of work and maternity relief.—**  
The State shall make provision for securing just and humane conditions of work and for maternity relief.

**43. Living wage, etc., for workers.—**The State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or co-operative basis in rural areas.

<sup>1</sup>[**43A. Participation of workers in management of industries.—**The State shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organisations engaged in any industry.]

**44. Uniform civil code for the citizens.—**The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.

#### COMMENTS

Uniform law for all persons may be desirable. But its enactment in one go may be counter-productive to the unity of the nation; *Pannalal Bansilal Patil v. State of Andhra Pradesh*, AIR 1996 SC 1023.

<sup>2</sup>[**45. Provision for early childhood care and education to children below the age of six years.—**The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years.]

**46. Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections.—**The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

**47. Duty of the State to raise the level of nutrition and the standard of living and to improve public health.—**The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.

**48. Organisation of agriculture and animal husbandry.—**The State shall endeavour to organise agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter of cows and calves and other milch and draught cattle.

1. Ins. by the Constitution (Forty-second Amendment) Act, 1976, sec. 9 (w.e.f. 3-1-1977).

2. Subs. by the Constitution (Eighty-sixth Amendment) Act, 2002, sec. 3, for article 45 (w.e.f. 1-4-2010).

<sup>1</sup>[48A. **Protection and improvement of environment and safeguarding of forests and wild life.**—The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.]

**49. Protection of monuments and places and objects of national importance.**—It shall be the obligation of the State to protect every monument or place or object of artistic or historic interest, <sup>2</sup>[declared by or under law made by Parliament] to be of national importance, from spoilation, disfigurement, destruction, removal, disposal or export, as the case may be.

**50. Separation of judiciary from executive.**—The State shall take steps to separate the judiciary from the executive in the public services of the State.

**51. Promotion of international peace and security.**—The State shall endeavour to—

- (a) promote international peace and security;
- (b) maintain just and honourable relations between nations;
- (c) foster respect for international law and treaty obligations in the dealings of organised peoples with one another; and
- (d) encourage settlement of international disputes by arbitration.

### <sup>3</sup>[PART IVA

### FUNDAMENTAL DUTIES

**51A. Fundamental duties.**—It shall be the duty of every citizen of India—

- (a) to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
- (b) to cherish and follow the noble ideals which inspired our national struggle for freedom;
- (c) to uphold and protect the sovereignty, unity and integrity of India;
- (d) to defend the country and render national service when called upon to do so;
- (e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;
- (f) to value and preserve the rich heritage of our composite culture;
- (g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;
- (h) to develop the scientific temper, humanism and the spirit of inquiry and reform;
- (i) to safeguard public property and to abjure violence;

1. Ins. by the Constitution (Forty-second Amendment) Act, 1976, sec. 10 (w.e.f. 3-1-1977).
2. Subs. by the Constitution (Seventh Amendment) Act, 1956, sec. 27, for "declared by Parliament by law" (w.e.f. 1-11-1956).
3. Part IVA (containing article 51A) ins. by the Constitution (Forty-second Amendment) Act, 1976, sec. 11 (w.e.f. 3-1-1977).

Article 55]

- (j) to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement.]  
1[(k) who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years.]

**COMMENTS**

Provisions as to fundamental duties cannot be enforced by writs. They can be promoted only by constitutional methods. But they can be used for interpreting ambiguous statutes; See *Mumbai Kamgar Sabha v. Abdulbhai*, AIR 1976 SC 1455; *Surya v. Union of India*, AIR 1982 Raj 1.

**PART V  
THE UNION****CHAPTER I  
THE EXECUTIVE*****The President and Vice-President***

**52. The President of India.**—There shall be a President of India.

**53. Executive power of the Union.**—(1) The executive power of the Union shall be vested in the President and shall be exercised by him either directly or through officers subordinate to him in accordance with this Constitution.

(2) Without prejudice to the generality of the foregoing provision, the supreme command of the Defence Forces of the Union shall be vested in the President and the exercise thereof shall be regulated by law.

(3) Nothing in this article shall—

- (a) be deemed to transfer to the President any functions conferred by any existing law on the Government of any State or other authority; or
- (b) prevent Parliament from conferring by law functions on authorities other than the President.

**54. Election of President.**—The President shall be elected by the members of an electoral college consisting of—

- (a) the elected members of both Houses of Parliament; and
- (b) the elected members of the Legislative Assemblies of the States.

<sup>2</sup>[*Explanation.*—In this article and in article 55, "State" includes the National Capital Territory of Delhi and the Union Territory of Pondicherry.]

**55. Manner of election of President.**—(1) As far as practicable, there shall be uniformity in the scale of representation of the different States at the election of the President.

(2) For the purpose of securing such uniformity among the States *inter se* as well as parity between the States as a whole and the Union, the number of votes

1. Added by the Constitution (Eighty-sixth Amendment) Act, 2002, sec. 4 (w.e.f. 1-4-2010).

2. Ins. by the Constitution (Seventieth Amendment) Act, 1992, sec. 2 (w.e.f. 1-6-1995).