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INDIAN POLITY

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Regulating Act of 1773

Significance

- British decided to regulate East India Company
- demarcated the Political and Administrative functions of Company
- laid foundations for central administration in India

Features

- Governor of Bengal was designated as Governor general of Bengal
- Governors of Bombay and Madras became subordinate to Governor general
- Executive council of 4 members was formed to assist Governor general
- Officers were prohibited from private trade

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Important facts

- First Governor General: Warren Hastings
- Supreme court was established in Calcutta
  - One chief Justice
  - Three judges

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Pitts India Act 1784

Features

- demarcated the political and commercial functions of the company
- Commercial affairs to be managed by Court of Directors
- Political affairs to be managed by a newly formed Board of control
- Board of control can supervise the operations of government and revenue
- British government got complete control over company's affairs

Charter Act 1833

Features

- Governor general of Bengal was designated as Governor general of India
- Bombay and Madras presidencies lost their legislative powers
- Governor general got complete control over civil and military affairs
- Law member was added as fourth member to the Governor General's Council
- Law Commission was constituted
- laws made from these act were named as acts
  - previously called as regulations
- East India company has to end its commercial activities
  - It merely became an Administrative body

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Important facts

- First Governor general of India: Lord William Bentick
- This act tried but failed to introduce open competition for civil services

Charter Act 1853

Features

- A separate governor was appointed for Bengal
- Extended the company's rule to possess Indian territories
  - no specification of tenure
- Separated the legislative and executive functions of Governor General's council
- Open competition was introduced to recruit for civil services
  - Macaulay committee was appointed in 1854
- Number of court directors were reduced from 24 to 18
- Legislation became a separate entity
  - Central Legislative Council was formed
    - Six legislative members
    - Local representation for the first time in Legislative council
    - 4 members from local provincial governments
      - Madras
      - Bombay
      - Bengal
      - Agra
    - 2 members appointed by British
  - it functioned as mini-parliament in making laws

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Government of India Act 1858

Features

- East India company was abolished
- Court of Directors and Board of control were abolished
- Governor General of India was designated as Viceroy of India
- Office of the "Secretary of state" was formed
  - secretary was the member of British cabinet
- A 15 member council was formed as an advisory body with Secretary of state as Chairman

Facts

- Also called as "Act for the good government of India"
- First viceroy of India
  - Lord Canning
  - direct representative of British crown

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Indian Councils Act 1861

Features

- Legislative powers of Bombay and Madras were restored
- Viceroy can appoint Indians as non-official members of his council
- new legislative councils were established at
  - Bengal 1862
  - NWFP 1866
  - Punjab 1897
- Viceroy was empowered to make rules and orders
- Viceroy can issue ordinances during emergency
  - no need for support from legislative council
  - valid for 6 months from promulgation

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Facts

- Lord canning nominated three Indians to his Legislative council
  - Maharaja of Patiala
  - Raja of Benares
  - Sir Dinkar Rao
- Portfolio system got importance after this act

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Indian Council Act 1892

Features

- increased the number of members in non-official council
- legislative members can discuss budget and ask questions
- nomination system for non-official members
  - Viceroy can appoint non-official members for Central Legislative council
  - Governors can appoint non-official members for Provincial Legislative council

Indian Councils Act 1909

Features

- Central legislative council was expanded from 16 to 60 members
- Members count in Provincial assembly was not constant
- Members in councils were empowered to ask Supplementary questions and move resolutions on budget
- Provincial legislative councils was allowed to have non-official majority
- Indian were admitted in executive councils of Viceroy and Governor
- System of communal representation was introduced
  - Separate electorate system
    - Muslims can vote only for Muslims
    - also provided for local bodies and Zamindars
  - Introduced by Lord Minto
    - Became the "Father of Communal electorate"

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Facts

- This act is also called as Morley-Minto reforms
  - Lord Morley - Secretary of state
  - Lord Minto - Viceroy of India
- Satyendra Prasad Sinha
  - First Indian to join Viceroy's executive council
  - appointed as law member

Government of India Act 1919

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Facts

- Also known as Montagu-Chelmsford reforms
  - Montagu - Secretary of state
  - Chelmsford - Viceroy of India
- British declared the act as "introduction of responsible government in India"

Features

- Provincial subjects were divided into two
  - 1) Reserved subjects
    - Administered by governor along with his executive council
    - not responsible to the legislative council
  - 2) Transferred subjects
    - Administered by governor with the aid of ministers
    - ministers are responsible to the legislative council
  - Central and Provincial legislatures were authorized to make laws on their respective subjects
  - This system is popularly know as "Dyarchy"
- Budget
  - Provincial budgets were separated from Central budget
  - Provincial legislatures were empowered to enact their budgets
- Provision for establishment of Public service commission
- Office of "High Commissioner for India" was setup in London
  - transferred some functions of secretary of state to commissioner
- Legislature
  - Central Legislative Council was replaced by Bicameral legislature
    - Upper house or Council of State
    - Lower house or Legislative assembly
  - Direct elections was introduced for electing members for legislature
  - Fanchise was limited to affluent people on the basis of property, tax and education
  - Separate electorates were introduced for
    - Sikhs
    - Anglo-Indians
    - Indian Christians
    - Europeans

Simon Commission

Commission

- Statutory Commission
- 7 members
- Constituted to report the impact of new constitution on India
- Chairman: Sir John Simon
- Submission of report: 1930

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Recommendations

- Abolition of Dyarchy
- Continuation of communal electorate
- Establishment of federation of British India and Provinces
- Responsible government in provinces

Reasons for Boycott of commission

- all members in commission were British
- Commission was appointed two years before schedule

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Communal Award

Features

- Scheme for Representation of minorities
- Announced by Ramsay MacDonald(British PM)
- Separate electorates were extended to Scheduled castes
- Gandhiji's fast led to Poona pact
  - Hindus to have Joint electorate
  - reserved seats for Scheduled castes

Government of India Act 1935

Features

- Legislature
  - Six bicameral legislatures were introduced with restrictions
    - 1) Bengal
    - 2) Bombay
    - 3) Madras
    - 4) Assam
    - 5) Bihar
    - 6) United provinces
  - Extended Franchise to 10 percent of people
  - Extended the separate electorate to
    - 1) Scheduled castes
    - 2) Labourers
    - 3) Women
- Composition of Act
  - 10 Schedules
  - 321 sections
- Provisioned for establishment of RBI
- Abolished the Council of India
- Provisions for establishment of
  - 1) Federal Public Service commission
  - 2) Provincial Public service commissions
  - 3) Joint Public commissions
- Administration
  - Provision for All India Federation(Provinces+Princely states)
    - federation was not formed
    - princely states did not join
  - Dyarchy was abolished at provinces but allowed at the centre
  - Divided the powers into three lists
    - 1) Federal list — 59 items
    - 2) Provincial list — 54 items
    - 3) Concurrent list — 36 items
  - Introduced responsible government in Provinces
    - Governors should act according to the advice of ministers
    - Came to effect in 1937 but discontinued in 1939

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Indian Independence Act 1947

Features

- Provisioned for Partition of India
- British dropped its title "Emperor of India"
- abolished the
  - office of viceroy
  - office of secretary of state
- Governor general was given powers to assent or Veto the Bill
- Discontinued the appointment of members for civil services
- Ended British rule in India and India became a Sovereign state
- Provisioned for governance of India by Government of India act 1935 at will
- Granted freedom to Princely states to either join or remain independent
- Empowered constituent assembly as a sovereign body to frame and adopt their own constitution

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Constituent Assembly

Background

- First proposed by M. N. Roy in 1934
- Indian National Congress demanded for Constituent assembly in 1935
- Demand was accepted in principle in August offer of 1940
- Cripps proposals were rejected due to territorial ambitions of Muslim League
- Cabinet mission plan proposed a scheme acceptable by both parties

Functioning

- First meeting: 9-Dec-1946
  - Muslim league boycotted
- Constituted with two Bodies
  - Legislative body
    - Chaired by G V Mavlankar
    - to prepare constitution for free India
  - Constituent Body
    - Chaired by Dr Rajendra Prasad
    - to make ordinary laws
- Constituent assembly functioned till 26-Nov-1949
- Summary
  - 11 sessions over 2 Years, 11 months and 18 days
  - Final session took place on 24-Jan-1950
  - continued as provisional parliament of India from 26-Jan-1950 till 1951-52

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Important persons

- Temporary president - Sachidanand Sinha
- Permanent president - Dr. Rajendra Prasad (from 11-Dec-1946)
- Vice President - H C Mukherjee (from 11-Dec-1946)
- Constitutional Advisor - B. N. Rau

Composition of constituent assembly

- Total strength of the Assembly - 389
  - 296 - British India
    - 292 - provinces
    - 4 - Chief commissioner's provinces
  - 93 - Princely states
- Seats were allotted in proportion to the population
- Elections were conducted by proportional representation by means of single transferable vote
- Representatives of princely states were nominated by their respective heads of princely states
- Seats were decided among the three principal communities
  - General(Other than Sikhs and Muslims)
  - Muslims
  - Sikhs

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Committees of constituent assembly

Major committees

- Union powers committee: Jawaharlal Nehru
- Union Constitution committee: Jawaharlal Nehru
- States committee: Jawaharlal Nehru
- Drafting committee: Dr. Ambedkar
- Rules of procedure committee: Dr. Rajendra prasad
- Steering Committee: Dr. Rajendra prasad
- Provincial Constitution committee: Sardar Patel
- Advisory committee on Fundamental rights and minorities: Sardar Patel
- Fundamental rights Sub-committee: J B Kriplani
- Minorities sub-committee: H C Mukherjee

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Minor committees

- Committee on functions of constituent assembly: G V Mavlankar
- Order of Business committee: K M Munshi
- House committee: Pattabi Sitaramayya
- Flag committee: Dr. Rajendra Prasad
- Finance and staff committee: Dr. Rajendra Prasad
- Committee on Chief commissioners provinces: Pattabhi Sitaramayya

Constitution

- Composition
  - Original constitution
    - Preamble
    - 395 Articles
    - 22 Parts
    - 8 schedules
- Provisions borrowed
  - Government of India Act 1935
    - Public service commission
    - Emergency provisions
    - Office of the governor
    - Judiciary
    - Federal structure
  - Australian constitution
    - Concurrent list
    - Joint sitting of the houses
    - Freedom of Trade, commerce and intercourse
  - British constitution
    - Parliamentary form of government
    - Bicameral system
    - Cabinet system
    - Legislative procedure
    - Single citizenship
    - Rule of law
    - Parliamentary privileges
  - Canadian constitution
    - Federal form of government
    - Residuary powers on the centre
    - Advisory jurisdiction of the Supreme court
  - French constitution
    - Republic
    - Liberty, equality and fraternity in the preamble
  - Irish constitution
    - Directive principles of state policy
    - Procedure of Presidential election
    - Nomination system of Rajya sabha
  - Japanese constitution
    - Procedure established by law
  - South African constitution
    - Election procedure of Rajya sabha members
    - Procedure for amendment of the constitution
  - Soviet constitution
    - Fundamental duties
    - Social, economic and political justice in the Preamble
  - US constitution
    - Fundamental rights
    - Independent judiciary
    - Impeachment procedure of President
    - Procedure for removal of Vice-president
    - Procedure for removal of Supreme court and High court judges
    - Judicial review
  - Weimar constitution(Germany)
    - Suspension of Fundamental rights during emergency

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Preamble

Background

- Literally means "Preface of the constitution"
- Created based on the 'objectives resolution' by Pandit Nehru

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Important facts

- Preamble is non-Justiciable(not enforceable in any court)
- Elements in Preamble cannot be altered under article 368
- As per supreme court Preamble is a part of constitution
- 42nd constitutional amendment act of 1976 added three words to the preamble
  - Socialist
  - Secular
  - Integrity

Elements of Preamble

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- **Sovereign**
  - India is an independent state
    - no one can exercise authority over it
  - India is neither a dependency nor a Dominion of any other nation
- **Socialist**
  - Added by 42nd amendment act of 1976
  - India follows Democratic Socialism
    - means of production and distribution are owned and regulated by both State and Public
    - Mixed economy is a feature of democratic socialism
  - Indian socialism is a blend of Marxism and Gandhism
- **Secular**
  - Added by 42nd amendment act of 1976
  - no national religion for the country
  - all religions have same status and support from the state
- **Justice**
  - Three forms of Justice
    - Social justice
      - no discrimination in social factors such as race, religion, caste etc...
    - Political justice
      - equal access to political offices
      - equal voice in government
    - Economic justice
      - equal opportunities for economic growth
  - ensured through Fundamental rights and DPSP
- **Equality**
  - equal opportunities for all individuals without discrimination
  - three forms
    - Civic equality
      - ensured through fundamental rights
    - Political equality
      - Article 325
      - Article 326
    - Economic equality
      - DPSP
- **Liberty**
  - Freedom of
    - thought
    - expression
    - belief
    - faith
    - worship
  - ensured through fundamental rights
- **Fraternity**
  - Brotherhood(Friendship and mutual support)
  - assures
    - dignity of the individual
    - unity and integrity of the nation
  - is ensured through
    - Single citizenship
    - Article 1 - Union of States
    - Article 51A of Fundamental duties
- **Democratic**
  - India follows "Representative Parliamentary democracy"
    - it is an Indirect form of democracy
    - people elect representatives to exercise the functions of government
  - executive is responsible to the legislature for all its policies and actions
  - features of democracy
    - Universal Adult Franchise
    - Independent Judiciary
    - rule of law
    - Periodic elections
- **Republic**
  - Political sovereignty is vested on people
  - Head of the state is President
    - President of India is elected Indirectly
  - all public offices are opened to public without any class discriminations

Union and its Territory Part I

- Article 1
  - "India, that is Bharat, shall be a Union of States."
  - States have no right to secede from the union
  - Classification of Indian territories
    - 1) Territories of states
    - 2) Union territories
    - 3) Territories acquired by India
    - specified in the First Schedule
- Article 2
  - Parliament can admit or establish new states
- Article 3
  - Parliament can
    - form a new State by
      - uniting two or more States or parts of States
      - separation of territory from any State
      - uniting any territory to a part of any State
    - increase the area of any State
    - diminish the area of any State
    - alter the boundaries of any State
    - alter the name of any State
  - Procedure of bill
    - Step 1: Bill is sent to the concerned state to express its views within a specified period
    - Opinion of the state is not binding in nature
    - President may accept or reject the opinion
    - Step 2: Bill is introduced in the Parliament after the recommendation of President
    - Bill can be introduced in either House of Parliament
    - Step 3: Finally the bill is passed by simple majority

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Commissions on State formation

- Dhar Commission
  - Linguistic Provinces Commission 1948
  - Chairman: S K Dhar
  - to find possibilities to reorganize the states on linguistic basis
  - Report recommended to reorganize the states based on ease of administration
- JVP committee
  - Linguistic Provinces committee 1948
  - to find possibilities to reorganize the states on linguistic basis
  - Members
    - Jawaharlal Nehru
    - Vallahbhai Patel
    - Pattabhi Sitaramayya
  - This report also rejected the state formation on linguistic basis
- Fazl Ali Commission
  - States Reorganization Commission 1953
  - Members
    - Fazl Ali(Chairman)
    - K M Panikkar
    - H N Kunzru
  - accepted state formation on linguistic basis but not as a sole factor
  - Suggested the abolition of four part classification of states(Parts A, B, C and D)
  - Suggested creation of 16 states and 3 Centrally administered territories

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Citizenship Part II

- **Article 5**
  - Every person domiciled in Indian territory are citizens of India if
    - a) born in the territory of India
    - b) either of his parents was born in the territory of India
    - c) ordinarily resident in the territory of India for not less than five years
- **Article 6**
  - Persons migrated from Pakistan to territory of India are citizens of India if
    - a) he or either of his parents or any of his grandparents was born in India
    - b) migrated before 19 July, 1948 and an ordinarily citizen from migration
    - c) migrated on or after 19 July, 1948 and registered as a citizen of India by a Government officer
- **Article 7**
  - A person is not a citizen of India if
    - migrated to Pakistan after the first day of March, 1947
- **Article 8**
  - Persons ordinarily residing in any country outside India are citizens of India if
    - he has been registered as a citizen of India by the diplomatic or consular representative of India
- **Article 9**
  - A person is not a citizen of India if
    - he has voluntarily acquired the citizenship of any foreign State
- **Article 10**
  - Every person is a citizen of India under the provisions of any law made by Parliament,
- **Article 11**
  - Parliament has powers to make any provision with respect to
    - the acquisition and termination of citizenship
    - all other matters relating to citizenship.

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Acquisition of Citizenship (Citizenship Act 1955)

- Citizenship by birth
  - Every person can acquire citizenship by birth if
    - a) born on or after the 26 January 1950
      - but before the 1st of July 1987.
    - b) born on or after the 1st of July 1987
      - but before the commencement of the Citizenship (Amendment) Act, 2003
      - and either of whose parents is a citizen of India at the time of his birth
    - c) born after the commencement of the Citizenship (Amendment) Act, 2003 if
      - both of his parents are citizens of India
      - one of whose parents is a citizen of India and the other is not an illegal migrant
    - Cannot acquire citizenship by birth if
      - parents are envoys or foreign diplomats
      - parents are enemy aliens
- Citizenship by naturalisation
  - citizenship by naturalisation is granted if
    - a) the person is not an illegal migrant
    - b) the person satisfies the qualifications for naturalisation under the provisions of the Third Schedule
    - c) the person has rendered distinguished service in the fields of science,philosophy, art, literature, world peace or human progress
- Citizenship by incorporation of territory
- Citizenship by descent
  - Person born outside India shall be a citizen of India if
    - a) born on or after 26th January, 1950 but before 10th Dec 1992, If his father is a citizen of India
    - b) born on or after 10th December 1992, if either of his parents is a citizen of India at the time of his birth
- Citizenship by registration, if
  - person is of Indian origin and is a resident in any country or place outside undivided India
  - person is of Indian origin and resided in India for seven years
  - person is married to a citizen of India and resided in India for seven years
  - they are minor children of persons who are citizens of India
  - person is of full age and capacity whose parents are registered as citizens of India
  - persons' either of his parents was earlier citizen of independent India, and resided in India for one year
  - person is registered as an overseas citizen of India for five years, and resided in India for 1 year

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Citizenship act 1955

- Background
  - An Act to provide for the acquisition and determination of Indian citizenship
  - The act has been amended four times during 1986, 1992, 2003 and 2005
- Acquisition of Citizenship
  - Citizenship by birth
  - Citizenship by descent
  - Citizenship by naturalisation
  - Citizenship by registration
  - Citizenship by incorporation of territory
- Termination of Citizenship
  - Renunciation of citizenship
  - Termination of citizenship
  - Deprivation of citizenship
- Glossary
  - Minor
    - person who has not attained the age of 18 years
  - illegal migrant
    - foreigner without a valid passport
    - foreigner who remains beyond the permitted period of time
  - overseas citizen of India
    - Citizen of Indian origin being a citizen of a specified country
    - person registered as an overseas citizen of India by the Central Government under section 7 A
  - undivided India
    - India as defined in the Government of India Act, 1935
  - ordinarily resident in India if
    - resided in India throughout the period of twelve months immediately before making an application
    - resided in India during the eight years immediately preceding the said period of twelve months for a period of not less than six years.

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Termination of Citizenship

- Renunciation of citizenship
  - any citizen of India of full age and capacity can renounce his Indian Citizenship
  - declaration has to be registered by the prescribed authority
  - declaration of renunciation is withheld during any war engaging India
  - every minor child of the renounced person will also cease to be a citizen of India
  - such child can again become a citizen of India by declaration within one year after attaining full age
- Termination of citizenship
  - Any person voluntarily acquiring the citizenship of another country will cease to be a citizen of India
- Deprivation of citizenship
  - Central Government may, by order, deprive any citizen of Indian citizenship, if
    - a) registration or certificate of naturalisation was obtained by means of fraud
    - b) citizen has shown himself by act or speech to be disloyal or disaffected towards the Constitution of India
    - c) unlawfully traded or engaged in any business to assist an enemy during the war
    - d) citizen is sentenced for two years in any country within five years of registration or naturalisation
    - e) citizen stays out of India for a continuous period of seven years without any educational or official purpose

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Fundamental rights

Composition

- Part III
  - Articles 12 to 35
    - Initially 7 articles
    - At present 6 articles
    - 'Article 31 - Right to property' has been removed
      - 44th amendment act 1978
      - it is now a legal right under article 300A of Part XII

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Articles

- Article 12 — Definition of state
- Article 13 — Laws inconsistent with or in derogation of the fundamental rights
- Articles 14 to 18 — Right to Equality
- Articles 19 to 22 — Right to freedom
- Articles 23 & 24 — Rights against exploitation
- Article 25 to 28 — Right to freedom of Religion
- Articles 29 & 30 — Cultural and Educational rights
- Article 32 — Right to Constitutional remedies
- Article 33 — Power of Parliament to modify the rights in Part III
- Article 34 — Restriction on rights during martial law in force
- Article 35 — Legislation to give effect to the provisions of Part III

Characteristics of Fundamental Rights

- Fundamental rights are not absolute rights
  - they are qualified in nature
  - State can impose restrictions as per court standards
- Fundamental rights are not permanent
  - they can be amended by constitutional amendment
- Fundamental rights can be suspended during emergency
- Fundamental rights are Justiciable
  - People can move the courts in case of violation
- Guaranteed by Supreme court
  - aggrieved person can approach the Supreme court directly
  - no need to appeal to the subordinate courts

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Article 12 "the State"

The term "State" comprises of

- Government and Parliament of India
- Government and the Legislature of each of the States
- all local or other authorities within the territory of India
- all local or other authorities under the control of the Government of India.

Article 13

- Laws inconsistent with fundamental rights
  - laws inconsistent with the provisions of Part III are deemed to be void
  - any "law" made by State which takes away or abridges the rights under Part III are void
- the term "Law" includes
  - Ordinances
    - An authoritative order
  - Orders
    - a written direction of a court or judge
  - bye-laws
    - a regulation made by a local authority or corporation.
  - Rules
  - Regulations
    - A rule or directive made and maintained by an authority
  - Notifications
  - Custom laws
    - laws established by or based on custom rather than common law or statute.

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Right to Equality Articles 14 to 18

Article 14 - Equality before law

- State shall not deny to any person equality before the law
- State shall not deny to any person equal protection of the laws

Article 15 - Prohibition of discrimination

- State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth
- No citizen shall, on grounds only of religion, race, caste, sex or place of birth is restricted
  - i) to access shops, public restaurants, hotels and places of public entertainment
  - ii) to use of wells, tanks, bathing ghats, roads and places of public resort maintained out of State funds
- Special case: State is not prohibited from making
  - special provisions for advancement of socially and economically backward classes
  - special provisions for women and children

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Article 16 - Equality of opportunity

- No citizen shall, on grounds only of religion, race, caste, sex or place of birth is discriminated for employment
- all citizens must have equal opportunity for employment to any office under the State.
- Special case
  - State is not prohibited from making special provisions for reservation or promotions of backward classes
  - State cannot impose restrictions on religious institutions regarding election of their official from same religion

Article 17 - Abolition of Untouchability

- Practice of Untouchability in any form is forbidden.
- Untouchability is an offence punishable in accordance with law

Article 18 - Abolition of titles.

- State shall not confer any titles(except military & academic titles)
- Citizen of India shall not accept any title from any foreign State.
- Foreign nationals holding office of profit under Indian government cannot accept any present, emolument, or office of any kind from or under any foreign State without the consent of President
- Foreign nationals holding office of profit under Indian government can accept foreign titles only after the consent of President

Right to Freedom Article 19 to 22

- Article 19
  - All citizens have the right to
    - a) freedom of speech and expression
    - b) assemble peaceably and without arms
    - c) form associations or unions
    - d) move freely throughout the territory of India
    - e) reside and settle in any part of the territory of India
    - g) practise any profession, or to carry on any occupation, trade or business
  - Exceptions
    - Rights 19(d) and 19(e) can be restricted for the protection of Scheduled Tribes
    - right under article 19(g) doesn't prevent State from making any law
      - to demand professional or technical qualifications for practising any profession or occupation, trade or business
      - to control any trade, business, industry or service, whether to the exclusion, complete or partial by the State

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- Article 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
    - subjected to a penalty greater than the crime 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
- Article 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.
- Article 21 A
  - Right to education
  - The State shall provide free and compulsory education to all children of the age of six to fourteen years
  - Inserted by 86th Constitution Amendment Act, 2002
  - Right of Children to free and compulsory education(RTE) Act, 2009
- Article 22
  - Protection against arrest and detention in certain cases
  - (1) No person who is arrested shall be
    - detained in custody without being informed
    - denied the right to consult and to be defended by, a legal practitioner of his choice.
  - (2) Prisoner
    - shall be produced in court within a period of twenty-four hours after arrest
      - excluding the time for journey to the court
    - shall not be detained in custody beyond the said period without the authority of a magistrate
  - Exceptions
    - Article 22(1) and 22(2) doesn't apply to
      - enemy aliens
      - persons arrested or detained under preventive detention
    - Preventive detention
      - "the imprisonment of a person to prevent him from committing further offences"
      - No law can authorise preventive detention for a period longer than three months
      - In order to extend the period of Preventive detention longer than three months
        - an Advisory body consisting of high court judges shall be constituted
        - detained person shall be given an opportunity to defend in court

Right against Exploitation Articles 23 & 24

Article 23

"Prohibition of traffic in human beings and forced labour."

- Traffic in human beings, beggary and other similar forms of forced labour are prohibited
- Exception
  - State can impose compulsory service for public purposes

Article 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

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Right to Freedom of Religion Articles 25 to 28

Article 25

Freedom of conscience and free profession, practice and propagation of religion.

(1) all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion

(2) this article does not prevent the State from making laws to

a) regulate or restrict any economic, financial, political or secular activities associated with religious practices

(b) provide for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.

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Article 26

Religious denominations have rights

(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

(d) to administer such property in accordance with law.

Article 27

No person shall be compelled to pay any taxes for the promotion or maintenance of any particular religion or religious denomination

Article 28

(1) No religious instruction shall be provided in any educational institution wholly maintained out of State funds.

(2) Educational institutions administered by the State but established under any endowment or trust shall impart religious instruction

(3) Educational institution recognised by the State or receiving aid out of State funds shall

a) not demand any person to take part in any religious instructions

b) not demand any person to attend any religious worship without his will.

c) if such person is a minor, his guardian has to given his consent to attend any religious worship.

Cultural and Educational Rights Articles 29 & 30

Article 29

- 1) right to conserve the
  - Distinct language
  - Script
  - Culture
- (2) Educational institutions maintained or aided out of state funds cannot deny admission on grounds of
  - religion
  - race
  - caste
  - language

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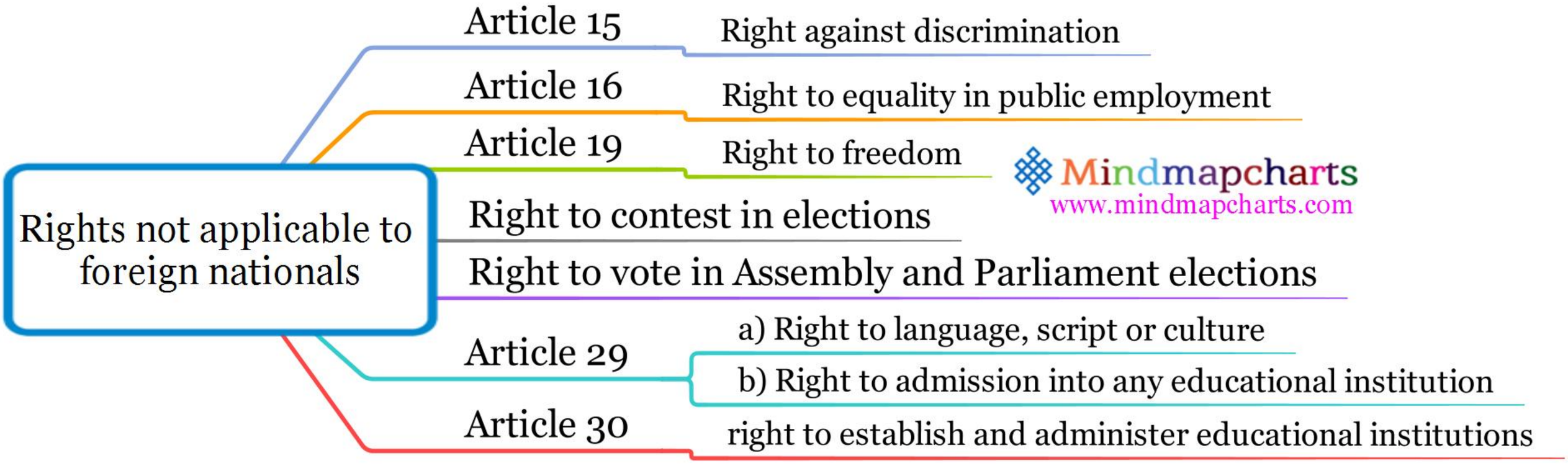
Article 30

- (1) Minorities have right to establish and administer educational institutions based on religion or language.
- (2) State shall not discriminate any minority educational institutions based on religion or language.


Rights not applicable to foreign nationals
Article 15
Right against discrimination
Article 16
Right to equality in public employment
Article 19
Right to freedom
Right to contest in elections
Right to vote in Assembly and Parliament elections
Article 29
a) Right to language, script or culture
b) Right to admission into any educational institution
Article 30
right to establish and administer educational institutions
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Right to Constitutional Remedies

Article 32

- (1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights is guaranteed.
- (2) The Supreme Court can issue directions or orders or writs for the enforcement of rights.
- (3) Parliament may by law empower any other court to exercise 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.

Writs

- habeas corpus
- mandamus
- prohibition
- quo warranto
- certiorari

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Directive Principles of State Policy Articles 37 to 51

- **Article 37** — Directive principles are not enforceable by any court
  - these principles are fundamental in the governance of the country
  - the State shall apply these principles in making laws.
- **Article 38**
  - (1) The State shall strive to promote the welfare of the people by securing and promoting a social order
  - (2) The State shall strive to minimise the inequalities in income and eliminate inequalities in status, facilities and opportunities
- **Article 39** — Certain principles of policy to be followed by the State.
  - The State shall direct its policy to secure
    - (a) that the citizens, men and women equally, have the right to an adequate means of livelihood
    - (b) the even distribution and control of material resources of the community 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) the men, women and children from being abused or forced by economic necessity to enter a vocation unsuited to their age or strength
    - (f) that children are
      - given opportunities and facilities to develop in a healthy manner
      - provided with freedom and dignity
      - protected against exploitation and against moral and material abandonment

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- **Article 39A** — Equal justice and free legal aid.
  - State shall provide free legal aid, by suitable legislation or schemes or in any other way, to ensure justice to all its citizens.
- **Article 40** — Organisation of village panchayats
  - State shall organise panchayats and empower them function as units of self-government.
- **Article 41** — Right to work, education and public assistance in certain cases.
  - State shall make provisions for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and other disabilities.
- **Article 42** — Provision for just and humane conditions of work and maternity relief.
  - The State shall make provisions for securing just and humane conditions of work and for maternity relief.
- **Article 43**
  - State shall endeavour
    - to secure a decent standard of life by providing work to all the workers, agricultural, industrial or otherwise
    - full enjoyment of leisure and social and cultural opportunities
    - to promote cottage industries on an individual or co-operative basis in rural areas.
- **Article 43A** — State shall make provisions to secure the participation of workers in the management of undertakings, establishments or other organisations engaged in any industry
- **Article 44** — State shall secure for its citizens a uniform civil code throughout the territory of India.
- **Article 45** — Provision for free and compulsory education for children.
- **Article 46** — Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections.
- **Article 47**
  - Duty of the State
    - to raise the level of nutrition and the standard of living and to improve public health.
    - to prohibit the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.
- **Article 48**
  - State shall endeavour
    - to organize agriculture and animal husbandry
    - to take steps for preserving and improving the breeds
    - to prohibit the slaughter of cows and calves and other milch and draught cattle
- **Article 48 A** — Protection and improvement of environment and safeguarding of forests and wildlife.
  - The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country
- **Article 49** — Protection of monuments and places and objects of national importance.
  - State is obligated to protect every monument or place or object of artistic or historic interest to be of national importance
- **Article 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.
- **Article 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 organized peoples with one another
    - (d) encourage settlement of international disputes by arbitration.

Fundamental Duties
Part IV A
Article 51 A

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It is 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
  - 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 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
- (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
- (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.

The President

- **Article 52**
  - There shall be a President of India.
- **Article 53**
  - Executive power of the Union.
  - (1) The executive power of the Union
    - shall be vested in the President
    - shall be exercised by him either directly or through officers subordinate to him in accordance with the Constitution.
  - (2) Supreme command of the Defence Forces of the Union is vested in the President
- **Article 54**
  - Election of President
  - President is elected by the members of an electoral college
  - electoral college consists of
    - (b) elected members of the Legislative Assemblies of the States.
    - (a) elected members of both Houses of Parliament
- **Article 55**
  - Process of election
  - (1) States are represented uniformly in the election of the President.
  - (2) Vote calculation
  - (3) The election of the President is held
    - by the system of "proportional representation by means of the single transferable vote"
    - using a secret ballot.
- **Article 56**
  - Term of office of President
  - (1) Tenure
    - 5 years from the date on which he enters upon his office
    - The President may
      - (a) by writing under his hand addressed to the Vice-President, resign his office
      - (b) for violation of the Constitution, be removed from office by impeachment in the manner provided in article 61
      - (c) notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.
  - (2) President must communicate his resignation to the Speaker of the House of the People.
- **Article 57**
  - Eligibility for re-election.
  - A person who held or holds office as President is eligible for re-election to that office.
- **Article 58**
  - Qualifications for election as President.
  - (1) A person is eligible for presidential election if he
    - (a) is a citizen of India
    - (b) has completed the age of 35 years
    - (c) is qualified for election as a member of the House of the People.
  - (2) A person is not be eligible for election if he holds any office of profit
    - under the Government of India
    - under the Government of any State
    - under any local or other authority subject to the control of any of the said Governments.
    - Exceptions - Any sitting
      - President
      - Vice-President
      - Governor
      - Minister either for the Union or for any State.

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- **Article 59**
  - Conditions of President's office
  - (1) The President shall
    - not be a member of either House of Parliament or of a House of the Legislature of any State
    - vacate his seat(if he is a member of either of the House) on the date on which he enters upon his office as President.
  - (2) The President shall not hold any other office of profit.
  - (3) The President shall be
    - entitled without payment of rent to the use of his official residences
    - entitled to such emoluments, allowances and privileges as may be determined by Parliament by law
    - entitled to emoluments, allowances and privileges through special provisions as are specified in the Second Schedule
  - (4) The emoluments and allowances of the President shall not be diminished during his term of office.
- **Article 62**
  - vacancy in the office of President
  - (1) Election for vacancy caused by the expiration of the term shall be completed before the expiration of the term.
  - (2) An election to fill a vacancy in the office of President
    - may arise due to death, resignation or removal, or otherwise
    - shall be held within six months from, the date of occurrence of the vacancy

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Impeachment of President

Article 61

Procedure for impeachment of the President.

- (1) the charge for president's impeachment shall be preferred by either House of Parliament.
- (2) No such charge shall be preferred unless
  - (a) resolution is moved after at least fourteen days' notice in writing signed by not less than one-fourth of the total number of members of the House
  - (b) such resolution has been passed by a majority of not less than two-thirds of the total membership of the House
- (3) President has the right to appear and to be represented at the investigation initiated by either of the house.
- (4) majority of not less than two-thirds of the total membership of the House(which investigated the case) is required to remove the President from his office

Vice-President

- **Article 64**
  - Vice-President shall be ex-officio Chairman of the Council of States.
  - Vice-President shall not
    - hold any other office of profit
    - perform the duties of the office of Chairman of the Council of States while acting as President
    - be entitled to any salary or allowance payable to the Chairman of the Council of States while acting as president
- **Article 65**
  - (1) If the vacancy in the office of the President is due to his death, resignation or removal, or otherwise, Vice-President shall act as President until the election of new President.
  - (2) Vice-President shall discharge President's functions owing to his absence, illness or any other cause.
  - (3) Vice-President while acting as President
    - have all the powers and immunities of the President
    - is entitled to such emoluments, allowances and privileges of the president
- **Article 66**
  - Election of Vice-President.
  - (1) The Vice-President is elected
    - through electoral college consisting of the members of both Houses of Parliament
    - by the system of proportional representation by means of the single transferable vote
    - by voting in secret ballot.
  - (2) The Vice-President shall
    - not be a member of either House of Parliament
    - not be a member of a House of the Legislature of any State
    - vacate his seat(if he is a member of either of the House) on the date on which he enters upon his office as Vice-President.
  - (3) A person is eligible for election as Vice-President if
    - (a) he is a citizen of India
    - (b) he has completed the age of thirty-five years
    - (c) he is qualified for election as a member of the Council of States.
  - (4) A person is not eligible for Vice-President election, if he holds any office of profit
    - under the Government of India
    - under the Government of any State
    - under any local or other authority subject to the control of Government.
    - Exceptions
      - President
      - Vice-President
      - Governor
      - Minister either for the Union or for any State
  - Election disputes regarding the election of Vice-president are settled with Supreme court.

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- **Article 67**
  - Terms of office of Vice-President
  - Term of office: 5 years
  - (a) a Vice-President may, by writing under his hand addressed to the President, resign his office
  - (b) a Vice-President may be removed from his office
    - by a resolution of the Council of States passed by a majority of all the then members of the Council and agreed to by the House of the People
    - such resolution shall be moved only after at least fourteen days' notice has been given of the intention to move the resolution
  - (c) Vice-President, irrespective of the expiration of his term, continue to hold office until his successor enters upon his office.
- **Article 68**
  - (1) An election to fill a vacancy caused by the expiration of the term of office of Vice-President shall be completed before the expiration of the term.
  - (2) An election to fill a vacancy in the office of Vice-President
    - may occur due to death, resignation or removal, or otherwise
    - shall be held as soon as possible after the occurrence of the vacancy
- **Article 70**
  - Discharge of President's functions in other contingencies.
  - Parliament may make special provisions for discharge the functions of the President during contingency.

Election rules for President and Vice-President

Article 71

- (1) disputes arising out in connection with election of a President or Vice-President
  - is inquired and decided by the Supreme Court
  - decisions taken by the supreme court is final
- (2) If the President or Vice-President election is declared void by the Supreme Court
  - acts done by him during his tenure shall not be invalidated by that declaration
- (3) Parliament may by law regulate any matter relating to or connected with the election of a President or Vice-President.
- (4) Vacancy among the members of the electoral college does not effect the president or Vice presidential election

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Council of Ministers

Article 74

- (1) There shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President
- President shall, in the exercise of his functions, act in accordance with advice of council of ministers
  - President may require the Council of Ministers to reconsider such advice
  - President shall act in accordance with the advice tendered after such reconsideration
- (2) advice tendered by Ministers to the President shall not be inquired into in any court.

Article 75

- (1) The Prime Minister is appointed by the President and the other Ministers are appointed by the President on the advice of the Prime Minister.
- (1A) The total number of Ministers, including the Prime Minister, in the Council of Ministers shall not exceed fifteen per cent of the total number of members of the House of the People.
- (2) The Ministers shall hold office during the pleasure of the President.
  - President can remove the minister on the advice of Prime minister
- (3) The Council of Ministers are collectively responsible to the House of the People.
  - All ministers are responsible to the house of people for their acts
  - Any minister not abiding the Cabinet decisions should resign
- (4) The President administers the oaths of office and of secrecy to Prime minister as per Third Schedule.
- (5) Any Minister who is not a member in either House of Parliament for a period of six consecutive months ceases to be a Minister.
- A person who is not a member of either house of parliament can be appointed as Prime minister for 6 months
- Within this period of 6 months, the Prime minister must become a member of either house of the parliament.
- (6) The salaries and allowances of Ministers is specified in the Second Schedule.

Article 77

Conduct of Government Business

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- (1) All executive action of the Government of India are expressed to be taken in the name of the President.
- (2) Orders and other instruments
  - made and executed in the name of the President are authenticated
  - Validity of an such orders or instruments cannot be challenged
- (3) The President shall make rules
  - for the more convenient transaction of the business of the Government of India
  - for the allocation among Ministers of the said business.

Article 78

Duties of Prime minister

- a) Prime minister has to communicate to the President
  - all decisions of the Council of Ministers relating to the administration of the affairs of the Union
  - all decisions of the Council of Ministers relating to the proposals for legislation
- b) Upon Presidents' call, Prime minister has to furnish
  - the information relating to the administration of the affairs of the Union
  - the information relating to the proposals for legislation
- (c) President can require a Minister to submit his decision on any matter, which has not yet been considered by the Council.

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Attorney-General for India

Article 76

- (1) Appointment
  - Attorney-General for India is appointed by the President.
  - Qualifications
    - a person should have qualifications to be appointed as a Judge of the Supreme Court
- (2) Duties of the Attorney-General
  - to aid and advice the Government of India upon such legal matters assigned to him by the President,
  - to discharge the functions conferred on him by or under this Constitution or any other law for the time being in force.
- (3) Audience in courts
  - In the performance of his duties the Attorney-General shall have right of audience in all courts in the territory of India.
- (4) The Attorney-General
  - shall hold office during the pleasure of the President
  - shall receive such remuneration as the President may determine.

Duties of the Prime Minister

Article 78

- a) Prime minister has to communicate to the President
  - all decisions of the Council of Ministers relating to the administration of the affairs of the Union
  - all decisions of the Council of Ministers relating to the proposals for legislation
- b) Upon Presidents' call, Prime minister has to furnish
  - the information relating to the administration of the affairs of the Union
  - the information relating to the proposals for legislation
- (c) President can require a Minister to submit his decision on any matter, which has not yet been considered by the Council.

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PARLIAMENT

Article 79

Constitution of Parliament

Parliament consists of
- 1) President
- 2) Council of States or Upper house or Rajya sabha
- 3) House of the People or Lower house or Lok sabha

Article 80

Composition of the Council of States Max: 238+12 = 250

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Council of States consists of
- (a) 12 persons nominated by president, having special knowledge or practical experience in
  - Literature
  - Science
  - Art
  - Social service
- (b) not more than 238 representatives of the States and Union territories.
  - The representatives of states are
    - elected by the elected members of the Legislative Assembly of the State
    - elected in accordance with the system of proportional representation by means of single transferable vote.
  - The representatives of the Union territories
    - shall be chosen in such manner as Parliament may by law prescribe.

Seats for representatives of the States and Union territories are allocated in accordance with the Fourth Schedule.

Article 81

Composition of the House of the People Max: 530+20+2 = 552

House of the People consists of
- (a) not more than 530 members chosen by direct election from territorial constituencies in the States
- (b) not more than 20 members to represent the Union territories, chosen in such manner as Parliament may by law provide.
- (c) 2 members are nominated by the president from Anglo-Indian community

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Readjustment after each census.

Article 82

- Upon the completion of each census
  - allocation of seats in the House of the People to the States are readjusted
  - division of each State into territorial constituencies is readjusted
- Until the census to be taken in the year 2026
  - (i) the allocation of seats in the House of People to the States will be readjusted on the basis of the 1971 census.
  - (ii) the division of each State into territorial constituencies will be readjusted on the basis of 2001 census.

Duration of Houses of Parliament

Article 83

(1) Duration of Council of states

- The Council of States or Rajya sabha shall not be subject to dissolution
- One-third of the members retire on the expiration of every second year

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(2) Duration of House of the People

- The House of people or Lok sabha can be dissolved
- Lok sabha has the term of 5 years from the date of its first meeting
- Exception
  - Duration may be extended by Parliament by law in case of Emergency in operation
  - Parliament by law can extend the period not exceeding one year at a time
  - cannot extend beyond a period of six months after the cease of proclamation

Qualification for membership of Parliament.

Article 84

Qualifications for membership of Parliament.

- Qualified, if
  - (a) he is a citizen of India
  - (b) he is
    - in the case of a seat in the Council of States, not less than 30 years of age
    - in the case of a seat in the House of the People, not less than twenty-five years of age
  - (c) he possesses such other qualifications as may be prescribed in that behalf by or under any law made by Parliament.
- Not qualified, if
  - (a) he holds any office of profit under government
  - (b) he is of unsound mind and stands so declared by a court
  - (c) he is a undischarged insolvent
  - (d) he is disqualified under a law made by the Parliament
  - (e) he is disqualified under Anti-defection law of Tenth schedule

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Article 85

Sessions of Parliament

- (1) The
  - President shall summon each House of Parliament to meet at such time and place as he thinks fit
  - time between the last sitting of the first session and first sitting of the next session should not exceed six months
- (2) The President may from time to time
  - (a) prorogue the Houses or either House
  - (b) dissolve the House of the People.

Special address by the President

Article 87

- The President addresses both Houses of Parliament assembled together
- President addresses joint assembly at the commencement of
  - first session of each year
  - first session after each general election

Article 88

- Rights of Ministers and Attorney-General as respects Houses.
- Ministers and the Attorney-Generals have right to speak
- They can take part in the proceedings of
  - any joint sitting of the Houses
  - either House
  - any committee of Parliament being its member

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Officers of Parliament

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Council of states

- Chairman and Deputy Chairman
  - Article 89
    - (1) The Vice-President of India is the ex-officio Chairman of the Council of States.
    - (2) The Council of States shall choose a member of the Council to be Deputy Chairman
  - Article 90
    - Vacation and resignation of, and removal from, the office of Deputy Chairman.
    - Deputy Chairman
      - (a) shall vacate his office if he ceases to be a member of the Council
      - (b) may at any time, by writing under his hand addressed to the Chairman, resign his office
      - (c) may be removed from his office by a resolution of the Council passed by a majority of all the then members of the Council
  - Article 91
    - Deputy Chairman acts as chairman
      - When the office of Chairman is vacant
      - during any period when the Vice-President is acting as President
  - Article 92
    - The Chairman or the Deputy Chairman cannot preside or vote while a resolution for his removal from office is under consideration.

House of the People

- Speaker and Deputy Speaker
  - Article 93
    - House of the People shall choose the Speaker and Deputy Speaker
  - Article 94
    - Vacation and resignation of, and removal from, the offices of Speaker and Deputy Speaker.
    - Speaker or Deputy Speaker
      - (a) shall vacate his office if he ceases to be a member of the House of the People
      - (b) may at any time, by writing under his hand addressed
        - if such member is the Speaker, to the Deputy Speaker
        - if such member is the Deputy Speaker, to the Speaker, resign his office
      - (c) may be removed from his office by a resolution of the House of the People passed by a majority of all the then members of the House:
    - whenever the House of the People is dissolved, the Speaker shall not vacate his office until immediately before its next meeting
  - Article 95
    - Powers of the Deputy Speaker
    - (1) While the office of Speaker is vacant
      - Deputy Speaker acts as speaker
      - President may appoint another person for the purpose in the absence of deputy speaker
  - Article 96
    - (1) The Speaker or the Deputy Speaker cannot preside while a resolution for his removal from office is under consideration.
    - (2) The Speaker shall take part in the proceedings and he is entitled to vote only in the first instance but not in the case of an equality of votes.

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Conduct of Business in Parliament

Article 100

- (1) all questions at any sitting of the Houses shall be determined
  - by a majority of votes of the members present and voting
- The Chairman or Speaker, or person acting as such
  - shall not vote in the first instance
  - can only exercise a casting vote in the case of an equality of votes.
- (2) Either House of Parliament have power to act irrespective of the vacancy in the membership.
- (3) one-tenth of the total number of members of the House(quorum) is required to constitute a meeting in either House of Parliament.
- (4) Chairman or Speaker, or person acting as such can either adjourn the House or suspend the meeting until there is a quorum

Disqualifications of Members of Parliament

- Article 101
  - Vacation of seats
  - No person shall be a member of
    - both Houses of Parliament
    - both Parliament and House of the Legislature of a State
  - A seat becomes vacant if
    - he is disqualified under article 102
    - the member resigns by writing under his hand addressed to the chairman or Speaker
    - the member is absent for sixty days without permission of the House
- Article 102
  - Disqualifications for membership
  - A member of either House of Parliament shall be disqualified
    - (a) if he holds any office of profit
    - (b) if he is of unsound mind and stands so declared by a competent court
    - (c) if he is an undischarged insolvent
    - (d) if he
      - is not a citizen of India
      - has voluntarily acquired the citizenship of a foreign State
      - is under any acknowledgment of allegiance or adherence to a foreign State

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- Article 103
  - Decision on questions as to disqualifications of members.
  - Disqualification of a member under article 102 is referred for the decision of the President and his decision is final.
  - the President shall obtain the opinion of the Election Commission and act accordingly
- Article 104
  - Penalty for sitting and voting before making oath or affirmation under article 99 or when not qualified or when disqualified.

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Powers, Privileges and Immunities of Parliament and its Members

Article 105

- (1) there shall be freedom of speech in Parliament.
- (2) No member of Parliament shall be
  - liable to any proceedings in any court
    - in respect of anything said in Parliament or any committee
    - for any vote given by him in Parliament or any committee
  - liable for the publications of Parliament of any report, paper, votes or proceedings.

Legislative Procedure

Article 107

- Provisions as to introduction and passing of Bills.
- Subject to the provisions of articles 109 and 117, a Bill may originate in either House of Parliament.
- A Bill
  - pending in Parliament shall not lapse by reason of the prorogation of the Houses.
  - pending in the Council of States which has not been passed by the House of the People shall not lapse on a dissolution of the House of the People.
  - lapses on dissolution of the House of the People, if
    - the bill is pending in the House of the People
    - the bill is already passed by the House of the People but pending in the Council of States

Article 108

- Joint sitting of both Houses in certain cases.
- President may summon for a joint sitting, If
  - the Bill is passed by one House but rejected by the other House
  - the bill is passed by one House but the other House has disagreed as to the amendments to be made in the Bill
  - the Bill is passed by one House but not passed in the other house for more than six months from the date of the reception of the Bill
  - nothing in this clause shall apply to a Money Bill.
- If President intends of summoning a joint sitting, neither House shall proceed further with the Bill

Article 109

- Special procedure in respect of Money Bills.
- A Money Bill shall not be introduced in the Council of States.
- (2)
  - Money Bill, passed by the House of the People is sent to the Council of States for its recommendations
  - Council of States shall return the Bill to the House of the People with its recommendations, within a period of fourteen days from the date of its receipt of the Bill.
  - House of the People may either accept or reject all or any of the recommendations of the Council of States.
- If a Money Bill is not returned to the House of the People within fourteen days, it shall be deemed to have been passed by both Houses in its original form

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Article 110

- Definition of "Money Bills".
- a bill is deemed to be a Money Bill if it deals with
  - (a) imposition, abolition, remission, alteration or regulation of any tax
  - (b)
    - regulation of the borrowing of money
    - giving of any guarantee by the Government of India
    - any financial obligations undertaken or to be undertaken by the Government of India
  - (c) the custody of the
    - Consolidated Fund of India
    - Contingency Fund of India
    - payment or withdrawal of money from any such Fund
  - (d) appropriation of money out of the Consolidated Fund of India
  - (e) expenditures on the Consolidated Fund of India
  - (f)
    - the receipt of money on account of
      - public account of India
      - Consolidated Fund of India
    - the audit of the accounts of the Union or of a State
- A Bill shall not be deemed to be a Money Bill by reason only that it provides
  - for the imposition of fines or other pecuniary penalties
  - for the demand or payment of fees for licences or fees for services rendered
  - for tax provisions by any local authority or body for local purposes.
- If any question arises whether a Bill is a Money Bill or not, the decision of the Speaker of the House of the People is final.

Article 111

- Assent to Bills
- Any Bill passed by the Houses of Parliament is sent to the President for his assent
- President may
  - assent the bill at the first instance
  - or return the Bill, if it is not a Money Bill
- A bill
  - returned by President can be passed by the houses with or without amendment
  - so passed is presented to the President for assent, the President shall not withhold assent therefrom.

Procedure in Financial Matters

Article 112

Annual financial statement

- (1) Every financial year, the President lays the Annual Financial Statement before both the Houses of Parliament
- (2) The estimates of expenditure constitutes
  - (a) expenditure charged upon the Consolidated Fund of India
  - (b) expenditure proposed to be made from the Consolidated Fund of India
- (3) Expenditure charged on the Consolidated Fund of India
  - (a) the emoluments and allowances of the President
  - (b) the salaries and allowances of
    - the Chairman and the Deputy Chairman of the Council of States
    - the Speaker and the Deputy Speaker of the House of the People
  - (c) Debt charges of Government
  - (d)
    - salaries, allowances and pensions of Judges of the Supreme Court
    - salary, allowances and pensions of the Comptroller and Auditor-General
    - Pensions to the Judges of High Court

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Article 113

Procedure in Parliament with respect to estimates

- (1) expenditure charged upon the Consolidated Fund of India
  - shall not be submitted to the vote of Parliament
  - shall be discussed by the parliament
- (2) other expenditure charged from consolidated fund of India are submitted in the form of demands for grants to the House of the People
- House of the People have power
  - to assent, or to refuse to assent, to any demand
  - to assent to any demand subject to a reduction of the amount specified therein.
- (3) No demand for a grant shall be made except on the recommendation of the President

Article 114

Appropriation Bills

- (1) Appropriation bill is introduced for the appropriation of funds from the Consolidated Fund of India
- (2) Bills cannot be amended
  - to vary the amount or alter the destination of any grant
  - to vary the amount of any expenditure charged on the Consolidated Fund of India

Article 115

Supplementary, additional or excess grants

- The President shall lay before both the Houses of Parliament another statement for excess grants

Article 116

Votes on account,votes of credit and exceptional grants

- The House of the People have power
  - (a) to make any grant in advance
  - (b) to make a grant for meeting an unexpected demand upon the magnitude or the indefinite character of the service
  - (c) to make an exceptional grant which forms no part of the current service of any financial year

Procedures of Parliament

Article 118

Rules of procedure

- Each House of Parliament may make rules for conduct of its business.
- President makes rules for conduct of joint sittings in consultation with the heads of both the houses of parliament
- Joint sittings of the two Houses are presided by the Speaker of the House of the People

Article 120

Business in Parliament shall be transacted in Hindi or in English

- Any member who cannot adequately express himself in Hindi or in English can address the House in his mother-tongue

Article 121

Restriction on discussion in Parliament.

- No discussion shall take place in Parliament regarding the conduct of any Judge of Supreme Court or High Court

Article 122

Courts not to inquire into proceedings of Parliament.

- (1) The validity of proceedings in Parliament cannot be questioned on the grounds of irregularity of procedure.
- (2) No officer or member of Parliament shall be subjected to the jurisdiction of any court.

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Legislative powers of the President

Article 123

Power of President to promulgate Ordinances during recess of Parliament.

(1) When both Houses of Parliament are not in session, President may promulgate Ordinances as the circumstances appear to him to require

(2) An Ordinance promulgated under this article shall have the same force and effect as an Act of Parliament

such Ordinances

- must be laid before both Houses of Parliament
- cease to operate at the expiration of six weeks from the reassembly of Parliament
- may be withdrawn at any time by the President.

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Supreme court

- **Article 124**
  - Establishment and constitution of Supreme Court
  - Supreme Court of India shall be constituted with a Chief Justice and not more than seven other Judges.
  - Judges of the Supreme Court are appointed by President in consultation with the Judges of the Supreme Court and of the High Courts in the States.
  - Judge shall hold the office until he attains the age of sixty-five years
  - Removal of Judges
    - a Judge may, by writing under his hand addressed to the President, resign his office
  - Chief Justice of India must be consulted in the case of appointment of a Judge other than the Chief Justice
  - A person is qualified for appointment as a Judge of the Supreme Court, if
    - he is a citizen of India
    - he has been for at least five years a Judge of a High Court or of two or more such Courts in succession
    - has been for at least ten years an advocate of a High Court or of two or more such Courts in succession
    - he is, in the opinion of the President, a distinguished jurist.
  - A Judge of the Supreme Court can only be removed by an order of the President on the ground of proved misbehaviour or incapacity.
  - No person who has held office as a Judge of the Supreme Court shall plead or act in any court or before any authority within the territory of India.
- **Article 125**
  - Salaries of the Judges of the Supreme Court is specified in the Second Schedule.
- **Article 126**
  - Appointment of acting Chief Justice
  - When the office of Chief Justice of India is vacant or unable to perform the duties of his office, President may appoint a judge for the purpose
- **Article 127**
  - Appointment of ad hoc Judges.
  - Chief Justice of India can appoint a judge, with the consent of the President and in consultation with the Chief Justice of the High Court concerned
- **Article 128**
  - Attendance of retired Judges at sittings of the Supreme Court
  - Chief Justice of India with the consent of the President, can request a retired Judge of the Supreme Court or High Court, to sit and act as a Judge of the Supreme Court
- **Article 129**
  - Supreme Court to be a court of record.
  - Acts and proceedings of the supreme court are permanently recorded
  - It has all the powers to fine or imprison persons for contempt
- **Article 131**
  - Original jurisdiction of the Supreme Court.
  - Supreme Court has original jurisdiction in any dispute
    - (a) between the Government of India and one or more States
    - (b) between the Government of India and any State or States on one side and one or more other States on the other
    - (c) between two or more States
- **Article 131A**
  - Exclusive jurisdiction of the Supreme Court
  - Supreme Court has exclusive jurisdiction in regard to questions as to constitutional validity of Central laws.
- **Article 132**
  - Appellate jurisdiction of Supreme Court in appeals from High Courts in certain cases.
  - A case can be appealed to the Supreme Court, if the High Court case involves the interpretation of Constitution
- **Article 133**
  - Appellate jurisdiction of Supreme Court in appeals from High Courts in regard to civil matters.
  - An appeal shall lie to the Supreme Court from any judgment, decree or final order in a civil proceeding of a High Court
  - (a) that the case involves a substantial question of law of general importance
  - (b) that in the opinion of the High Court the said question needs to be decided by the Supreme Court.
- **Article 134**
  - Appellate jurisdiction of Supreme Court in regard to criminal matters.
  - An appeal shall lie to the Supreme Court from any judgment, final order or sentence in a criminal proceeding of a High Court
  - if the High Court
    - (a) has on appeal reversed an order of acquittal of an accused person and sentenced him to death
    - (b) has withdrawn for trial before itself any case from any court subordinate to its authority and convicted the accused person and sentenced him to death
    - (c) certifies under article 134A that the case is a fit one for appeal to the Supreme Court
- **Article 136**
  - Special leave to appeal by the Supreme Court.
  - Supreme Court may grant special leave to appeal from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any court or tribunal
  - Supreme court cannot exercise special leave on Armed Forces.
- **Article 137**
  - Review of judgements or orders by the Supreme Court.
  - Supreme Court has power to review any judgment pronounced or order made by it.

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Comptroller and Auditor-General

- Article 148
  - Comptroller and Auditor-General of India is appointed by the President
  - salaries and allowances of the Comptroller and Auditor-General are specified in the Second Schedule
  - Removal
    - In the manner similar to the removal of Judge of the Supreme Court.
  - The Comptroller and Auditor-General is not eligible for further office under the Government after retirement
  - Administrative expenses of the office of the CAG are charged upon the Consolidated Fund of India.
- Article 149
  - Duties and powers of the Comptroller and Auditor-General.
  - The Comptroller and Auditor-General deals with the accounts of
    - the Union
    - the States
    - any other authority or body prescribed by Parliament
- Article 150
  - The accounts of the Union and of the States are kept in the form as prescribed by the President, on the advice of CAG
- Article 151
  - Audit reports
  - The reports of the CAG on the accounts of the Union are submitted to the President, who in turn lays them before each House of Parliament.
  - The reports of the CAG on the accounts of a State are submitted to the Governor, who in turn lays them before the Legislature of the State

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The Governor

- **Article 153**
  - There shall be a Governor for each State
  - Same person can be appointed as the Governor for two or more States
- **Article 154**
  - Executive power of State.
  - Executive power of the State is vested in the Governor
- **Article 155**
  - Appointment of Governor.
  - Governor of a State is appointed by the President
- **Article 156**
  - Term of office of Governor.
  - The Governor holds office during the pleasure of the President.
  - Governor may resign his office by addressing his resignation to the President
  - Governor shall hold office
    - for a term of five years from the date on which he enters upon his office
    - until his successor enters upon his office, regardless of expiration of his term.
- **Article 157**
  - Qualifications for appointment as Governor.
  - A person is eligible for appointment as Governor, if
    - he is a citizen of India
    - he has completed the age of thirty-five years.
- **Article 158**
  - Conditions of Governor's office.
  - Governor shall not be a
    - member of either House of Parliament
    - member of a House of the Legislature of any State
  - he must vacate his seat in the House before entering his office as Governor.
  - Governor shall not hold any other office of profit.
  - Governor is entitled to emoluments, allowances and privileges as specified in the Second Schedule.
  - The emoluments and allowances of the Governor shall not be diminished during his term of office.
- **Article 160**
  - President may discharge the functions of the Governor during contingency
- **Article 161**
  - Power of Governor to grant pardons
  - Governor of a State have power
    - to grant pardons, reprieves, respites or remissions of punishment
    - to suspend, remit or commute the sentence of a person

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Council of Ministers of State

Article 163

- Council of Ministers to aid and advise Governor.
- Council of Ministers with the Chief Minister at the head, aid and advise the Governor in the exercise of his functions
- Validity of Governor's acts under his discretionary powers cannot be questioned
- Advice tendered by Ministers to the Governor cannot be inquired into in any court.

Article 164

- Other provisions as to Ministers
- Appointments
  - Chief Minister is appointed by the Governor
  - Other Ministers are appointed by the Governor on the advice of Chief Minister
  - Ministers hold office during the pleasure of Governor
  - The total number of Ministers in a State cannot exceed 15% of the total number of members of Legislative Assembly
  - Number of Ministers, including the Chief Minister in a State shall not be less than twelve
- Council of Ministers are collectively responsible to the Legislative Assembly of the State
- If a Minister is not a member of the Legislature of the State for any period of six consecutive months, ceases to be a Minister.
- The salaries and allowances of Ministers are specified in the Second Schedule.

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Advocate-General

Article 165

- Appointment and other conditions of Advocate General
- Governor of each State appoints a person to be Advocate-General for the State.
- Advocate General should have qualifications to be appointed a Judge of a High Court
- Duty of the Advocate-General is
  - to advice the Government of State on legal matters
  - to perform the legal duties referred or assigned to him by the Governor
- Advocate-General holds his office during the pleasure of the Governor
- Advocate General receives his remuneration as the Governor may determine.

Conduct of Government Business of State

Article 166

- Conduct of business of the Government of a State
- All executive actions of the Government of a State are taken in the name of the Governor.
- Orders and other instruments made and executed in the name of the Governor cannot be questioned.

Article 167

- Duties of Chief Minister in furnishing of information to Governor
- It is the duty of the Chief Minister
  - to communicate to the Governor
    - all decisions on administrative affairs of the State
    - all proposals for legislation
  - on Governor's advice to require a Minister to submit his decision on any matter, which has not yet been considered by the Council.
- It is the duty of the Chief Minister upon Governor's call
  - to furnish the information relating to the administrative affairs
  - to furnish the information relating to the proposals for legislation

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The State Legislature

- **Article 168**
  - Constitution of Legislatures in States.
  - State Legislature consists of
    - Governor
    - Legislative Assembly
    - Legislative Council
- **Article 169**
  - Abolition or creation of Legislative Councils in States.
  - Resolution has to be passed by
    - majority of the total membership of the Assembly
    - and majority of not less than two-thirds of the members of the Assembly present and voting
- **Article 170**
  - Composition of the Legislative Assemblies
  - Legislative Assembly of a State consists of
    - not more than five hundred members chosen by direct election
    - not less than sixty members chosen by direct election
  - States are divided into territorial constituencies to maintain the ratio between the population and the number of seats
  - Territorial constituencies shall be readjusted after the completion of census
  - Until the first census to be taken after the year 2026
    - seats may be readjusted on the basis of 1971 census
    - territorial constituencies may be readjusted on the basis of 2001 census
- **Article 171**
  - Composition of the Legislative Councils
  - The total number of members in the Legislative Council
    - shall not exceed one-third of members in the Legislative Assembly of that State
    - shall in no case be less than forty
  - Election of members
    - one-third are elected by electorates consisting of members of
      - municipalities
      - district boards
      - other local authorities in the State
    - one-twelfth are elected by electorates consisting of
      - graduates of any university
    - one-twelfth are elected by electorates consisting
      - of teachers not lower than that of a secondary school level
    - one-third are elected by
      - members of the Legislative Assembly of the State
    - members of Legislative Assembly are not eligible for membership in council
    - Governor appoints the remaining people from the fields of
      - science
      - Literature
      - co-operative movement
      - social service
      - art
- **Article 172**
  - Duration of State Legislatures
  - Duration of Legislative Assembly
    - The Legislative Assembly can be dissolved
    - Legislative Assembly has the term of 5 years from the date of its first meeting
    - Exception
      - Duration may be extended by Parliament by law in case of Emergency in operation
      - Parliament by law can extend the period not exceeding one year at a time
      - cannot extend beyond a period of six months after the cease of proclamation
  - Duration of Legislative Council
    - The Legislative council shall not be subject to dissolution
    - One-third of the members retire on the expiration of every second year
- **Article 173**
  - Qualifications for membership of State Legislature
  - Qualified, if
    - (a) he is a citizen of India
    - (b) he is
      - in the case of a seat in the Legislative Council, not less than 30 years of age
      - in the case of a seat in the Legislative assembly, not less than 25 years of age
    - (c) he possesses such other qualifications as may be prescribed in that behalf by or under any law made by Parliament.
- **Article 174**
  - Sessions of State Legislature
  - The
    - Governor shall summon each House of Legislature to meet at such time and place as he thinks fit
    - time between the last sitting of the first session and first sitting of the next session should not exceed six months
  - The Governor may from time to time
    - (a) prorogue the Houses or either House
    - (b) dissolve the Legislative assembly.
- **Article 176**
  - The Governor addresses both Houses of Legislature assembled together
  - Governor addresses joint assembly or Legislative assembly alone at the commencement of
    - first session of each year
    - first session after each general election
- **Article 177**
  - Rights of Ministers and Advocate-General as respects Houses.
  - Ministers and the Advocate-Generals have right to speak in the Legislature
  - They can take part in the proceedings of
    - any joint sitting of the Houses
    - either House
    - any committee of Legislature being its member
  - Advocate-General is not entitled to vote

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Officers of the State Legislature

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Legislative Assembly

The Speaker and Deputy Speaker of the Legislative Assembly

- **Article 178**
  - Legislative Assembly shall choose the Speaker and Deputy Speaker
- **Article 179**
  - Vacation and resignation of, and removal from, the offices of Speaker and Deputy Speaker.
  - Speaker or Deputy Speaker
    - (a) shall vacate his office if he ceases to be a member of the Legislative assembly
    - (b) may at any time, by writing under his hand addressed
      - if such member is the Speaker, to the Deputy Speaker
      - if such member is the Deputy Speaker, to the Speaker, resign his office
    - (c) may be removed from his office by a resolution of the Assembly passed by a majority of all the then members of the Assembly
  - whenever the Legislative assembly is dissolved, the Speaker shall not vacate his office until immediately before its next meeting
- **Article 180**
  - Powers of the Deputy Speaker or other person to perform the duties of the office of, or to act as, Speaker.
  - While the office of Speaker is vacant
    - Deputy Speaker acts as speaker
    - Governor may appoint another person for the purpose in the absence of deputy speaker
- **Article 181**
  - The Speaker or the Deputy Speaker cannot preside while a resolution for his removal from office is under consideration.
  - The Speaker shall take part in the proceedings and he is entitled to vote only in the first instance but not in the case of an equality of votes.

Legislative Council

Chairman and Deputy Chairman

- **Article 182**
  - Legislative Council shall choose the Speaker and Deputy Speaker
- **Article 183**
  - Vacation and resignation of, and removal from, the offices of Chairman and Deputy Chairman.
  - Chairman or Deputy Chairman
    - (a) shall vacate his office if he ceases to be a member of the Legislative Council
    - (b) may at any time, by writing under his hand addressed
      - if such member is the Chairman, to the Deputy Chairman
      - if such member is the Deputy Chairman, to the Chairman, resign his office
    - (c) may be removed from his office by a resolution of the Council passed by a majority of all the then members of the Council
- **Article 184**
  - Power of the Deputy Chairman or other person to perform the duties of the office of, or to act as, Chairman.
  - While the office of Chairman is vacant
    - Deputy Chairman acts as Chairman
    - Governor may appoint another person for the purpose in the absence of deputy Chairman
- **Article 185**
  - The Chairman or the Deputy Chairman cannot preside while a resolution for his removal from office is under consideration.
  - The Chairman shall take part in the proceedings and he is entitled to vote only in the first instance but not in the case of an equality of votes.

Conduct of Business in Legislature

Article 189

- All questions at any sitting of the Houses shall be determined
  - by a majority of votes of the members present and voting
- The Chairman or Speaker, or person acting as such
  - shall not vote in the first instance
  - can only exercise a casting vote in the case of an equality of votes.
- Either House of Legislature have power to act irrespective of the vacancy in the membership.
- Quorum to constitute a meeting in either House of Legislature
  - One-tenth of the total number of members of the House
  - or Ten members of the House, whichever is greater
- Chairman or Speaker, or person acting as such can either adjourn the House or suspend the meeting until there is a quorum

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Disqualifications of Members in State Legislature

- **Article 190**
  - Vacation of seats
  - No person shall be a member of
    - both Houses of State Legislature
    - Legislatures of two or more States
  - A seat becomes vacant if
    - the member resigns by writing under his hand addressed to the chairman or Speaker
    - the member is absent for sixty days without permission of the House
- **Article 191**
  - Disqualifications for membership
  - A member of either House of State Legislature shall be disqualified
    - if he holds any office of profit as specified in the first schedule
    - if he is of unsound mind and stands so declared by a competent court
    - if he is an undischarged insolvent
    - if he
      - is not a citizen of India
      - has voluntarily acquired the citizenship of a foreign State
      - is under any acknowledgment of allegiance or adherence to a foreign State
    - if he is disqualified under the Tenth Schedule
- **Article 192**
  - Decision on questions as to disqualifications of members.
  - Disqualification of a member under article 191 is referred for the decision of the Governor and his decision is final.
  - the Governor shall obtain the opinion of the Election Commission and act accordingly
- **Article 193**
  - Penalty for sitting and voting before making oath or affirmation under article 188 or when not qualified or when disqualified.
  - Penalty of five hundred rupees to be recovered as a debt due to the State

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Legislative Procedure of State

Article 196

- Provisions as to introduction and passing of Bills.
- a Bill may originate in either House of the Legislature of a State which has a Legislative Council
- A Bill pending in the Legislature of a State shall not lapse by reason of the prorogation of the House
- A Bill pending in the Legislative Council of a State which has not been passed by the Legislative Assembly shall not lapse on a dissolution of the Assembly.
- A Bill pending or passed in the Legislative Assembly of a State but pending in the Legislative Council, shall lapse on a dissolution of the Assembly

Article 197

- Restriction on powers of Legislative Council as to Bills other than Money Bills
- (1) A Bill passed by the Legislative Assembly of a State is transmitted to the Legislative Council
- If Legislative Council
  - (a) rejects the Bill
  - (b) three months elapse without the Bill being passed
  - (c) passes the Bill with amendments to which the Legislative Assembly does not agree
- the Legislative Assembly may, pass the Bill again in the same or in any subsequent session with or without such amendments
- Legislative assembly then transmits the Bill as so passed to the Legislative Council
- (2) If after a Bill passed for the second time by the Legislative Assembly and transmitted to the Legislative Council
- In the Legislative council
  - (a) the Bill is rejected
  - (b) more than one month elapses without the Bill being passed
  - (c) Bill is passed with amendments to which the Legislative Assembly does not agree
- the Bill is deemed to be passed by the Houses of the Legislature of the State with or without amendments

Article 198

- Special procedure in respect of Money Bills.
- (1) A Money Bill shall not be introduced in a Legislative Council
- Legislative Council shall within a period of fourteen days, return the Bill to the Legislative Assembly with its recommendations
- Legislative Assembly may accept or reject all or any of the recommendations of the Legislative Council
- If Legislative Council does not return the bill to the Legislative Assembly within fourteen days, it shall be deemed to have been passed by both Houses

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Assent to Bills in State Legislature

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Article 200

- Assent to Bills
  - Any Bill passed by the Legislature of the state is sent to the Governor for his assent
  - Governor may
    - assent the bill at the first instance
    - or return the Bill, if it is not a Money Bill
    - or reserve the Bill for the consideration of the President
  - A bill
    - returned by Governor can be passed by the houses with or without amendment
    - so passed is presented to the Governor for assent, the Governor shall not withhold assent therefrom.
    - Governor shall reserve the bill for consideration of the President, if it became law, so derogate powers of the High Court

Article 201

- Bills reserved for consideration
  - When a Bill is reserved by a Governor for the President, the President shall
    - assent to the Bill
    - direct the Governor to return the Bill to the House
  - The returned bill is reconsidered by the House within the period of Six months
  - if the bill is again passed by the House with or without amendment, it shall be presented again to the President for his consideration.

Procedure in Financial Matters in state legislature

Article 202

Annual financial statement

(1) Every financial year, the Governor lays the Annual Financial Statement before the Legislature of state

(2) The estimates of expenditure constitutes
- (a) expenditure charged upon the Consolidated Fund of India
- (b) expenditure proposed to be made from the Consolidated Fund of India

(3) Expenditure charged on the Consolidated Fund of India
- the emoluments and allowances of the Governor
- the salaries and allowances of
  - the Chairman and the Deputy Chairman of the Legislative Council
  - the Speaker and the Deputy Speaker of Legislative Assembly
- Debt charges of Government
- salaries, allowances and pensions of Judges of the High Court
- any sum required to satisfy any judgment, decree or award of any court or arbitrary tribunal

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Article 203

Procedure in Legislature with respect to estimates

Expenditure charged upon the Consolidated Fund of India
- shall not be submitted to the vote of Legislative assembly
- shall be discussed by the Legislative assembly

Other expenditure charged from consolidated fund of India are submitted in the form of demands for grants to the Legislative assembly

House of the People have power
- to assent, or to refuse to assent, to any demand
- to assent to any demand subject to a reduction of the amount specified therein.

No demand for a grant shall be made except on the recommendation of the Governor

Article 204

Appropriation Bills

(1) Appropriation bill is introduced for the appropriation of funds from the Consolidated Fund of India

(2) Bills cannot be amended
- to vary the amount or alter the destination of any grant
- to vary the amount of any expenditure charged on the Consolidated Fund of India

Article 205

Supplementary, additional or excess grants

The Governor shall lay before the Legislative assembly, another statement for excess grants

Article 206

Votes on account,votes of credit and exceptional grants

The Legislative assembly have power
- (a) to make any grant in advance
- (b) to make a grant for meeting an unexpected demand upon the magnitude or the indefinite character of the service
- (c) to make an exceptional grant which forms no part of the current service of any financial year

Procedures of Legislature of state

Article 208

Rules of procedure

Each House of the Legislature of State may make rules for conduct of its business.

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Article 210

Business in Parliament shall be transacted in official language or languages of the State, Hindi or in English

Any member who cannot adequately express himself in Hindi or in English can address the House in his mother-tongue

Article 211

Restriction on discussion in Legislature of state.

No discussion shall take place in the Legislature of State regarding the conduct of any Judge of Supreme Court or High Court

Article 212

Courts not to inquire into proceedings of Legislature

The validity of proceedings in Legislature cannot be questioned on the grounds of irregularity of procedure.

No officer or member of Legislature shall be subjected to the jurisdiction of any court.

Legislative power of the governor

Article 213

- Power of Governor to promulgate Ordinances during recess of Legislature.
- When both Houses of the Legislature of state is not in session, Governor may promulgate Ordinances in following circumstances
- (2) An Ordinance promulgated under this article shall have the same force and effect as an Act of Legislature of the State assented to by the Governor
- such Ordinances
  - must be laid before the Legislature of state
  - cease to operate at the expiration of six weeks from the reassembly of the Legislature of state
  - cease to operate, if before the expiration of the period, a resolution disapproving it is passed by the Legislative Assembly
  - may be withdrawn at any time by the Governor

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High courts

- Article 214
  - There shall be a High Court for each State
- Article 215
  - High Courts to be courts of record
  - It has all the powers to fine or imprison persons for contempt
- Article 216
  - Chief justice and Judges of the High Court are appointed by president
- Article 217
  - In case of Appointment of chief justice, President consults
    - Chief Justice of India
    - Governor of the State
  - In the case of appointment of a Judge other than the Chief Justice, President consults
    - Chief Justice of the High Court
  - Judges can hold the office until he attains the age of sixty two years
  - A person is qualified for appointment as a Judge of the High Court, if
    - he is a citizen of India
    - has for at least ten years held a judicial office in the territory of India
    - has for at least ten years been an advocate of a High Court
    - he is, in the opinion of the President, a distinguished jurist.

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- 218
  - Permanent Judges of High Court can plead only in the Supreme Court and other High Courts.
- Article 222
  - Transfer of a Judge from one High Court to another
  - President consults with the Chief Justice of India to transfer a Judge from one High Court to any other High Court
- Article 223
  - Appointment of acting Chief Justice
  - Acting judge is appointed by President to perform the functions of Chief Justice
- Article 226
  - Power of High Courts to issue certain writs
  - High Court have power to issue orders or writs to any person or authority, any Government within those territories.
  - Writ jurisdiction of High court is wider than Supreme court
  - High courts can issue writs in the nature of
    - habeas corpus
    - mandamus
    - prohibition
    - quo warranto
    - certiorari
- Article 227
  - Power of superintendence over all courts by the High Court
  - High Courts have superintendence over all courts and tribunals throughout the territories under its jurisdiction
  - High Court may
    - (a) call for returns from such courts
    - (b) make general rules and prescribe forms for regulating the practice and proceedings of such courts
  - High Courts do not have superintendence over any court or tribunal constituted by Armed Forces
- Article 230
  - Extension of jurisdiction of High Courts to Union territories.
  - Parliament may by law extend or exclude the jurisdiction of a High Court to Union territory

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Subordinate courts

Article 233

- Appointment of district judges.
- District judges are appointed by the Governor of the State in consultation with the High Court
- Eligibility
  - Practiced for seven years as advocate
  - and recommended by the High Court for appointment

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UNION TERRITORIES

Article 239

- Administration of Union territories
  - Union territories are administered by the President through an administrator
  - Administrators are appointed by the President with such designation as he may specify.
  - President may appoint the Governor of a State as the administrator of an adjoining Union territory

PANCHAYATS PART IX

- **Article 243A**
  - Gram Sabha
    - Powers and functions of Gram Sabha are determined by the Legislature of a State
- **Article 243B**
  - Constitution of Panchayats.
    - There shall be constituted in every State, Panchayats at
      - village level
      - intermediate level
      - district level
- **Article 243C**
  - Composition of Panchayats
- **Article 243D**
  - Reservation of seats.
    - Seats are reserved for
      - (a) the Scheduled Castes
      - (b) the Scheduled Tribes
    - One-third of the total number of seats are reserved for women(includes the SC and ST reservation)
    - One-third of the total number of seats are reserved for women belonging to the SC or ST
    - Offices of the Chairpersons in the Panchayats are reserved for SC, ST and women
    - One-third of total number of offices of Chairpersons in the Panchayats are reserved for women
- **Article 243E**
  - Duration of Panchayats
    - Five years
    - amendment of any law does not cause dissolution of Panchayat at any level
- **Article 243F**
  - Disqualifications for membership
    - A person is not eligible to be a member of a Panchayat if
      - if he has not attained the age of twenty-one years
      - disqualified by or under any law made by the Legislature of the State.
- **Article 243G**
  - Powers, authority and responsibilities of Panchayats.
    - Legislature of a State may, by law, devolve powers and responsibilities upon Panchayats
    - With this powers Panchayats can
      - prepare plans for economic development and social justice
      - implement the schemes for economic development and social justice
- **Article 243H**
  - Powers to impose taxes by, and Funds of, the Panchayats
    - Legislature of a State may, by law
      - (a) authorise a Panchayat to levy, collect and appropriate taxes, duties, tolls and fees
      - (b) assign to a Panchayat such taxes, duties, tolls and fees levied and collected by the State Government
      - (c) provide for making such grants-in-aid to the Panchayats from the Consolidated Fund of the State
      - (d) provide for constitution of Funds for crediting all moneys received, respectively, by or on behalf of the Panchayats
- **Article 243I**
  - Constitution of Finance Commission to review financial position.
    - Governor of a State at the expiry of every fifth year, constitute a Finance Commission to review the financial position of the Panchayats
- **Article 243J**
  - Audit of accounts of Panchayats
- **Article 243K**
  - Elections to the Panchayats
    - Elections to the Panchayats are conducted by the State Election Commission
    - conditions of service and tenure of office of the State Election Commissioner is determined by the Governor
    - State Election Commissioner can only be removed in the manner similar to the removal of a Judge of a High Court

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MUNICIPALITIES PART IXA

- **Article 243Q**
  - Constitution of Municipalities
  - There shall be constituted in every State
    - (a) a Nagar Panchayat for a transitional area
    - (b) a Municipal Council for a smaller urban area
    - (c) a Municipal Corporation for a larger urban area
- **Article 243R**
  - Composition of Municipalities
  - Seats in the Municipalities are filled through direct election from the territorial constituencies
  - Municipal areas are divided into territorial constituencies known as wards
  - Members represented by state legislature for municipality include
    - (i) persons having special knowledge or experience in Municipal administration(not have the right to vote in the meetings)
    - (ii) the members of the House of the People and the members of the Legislative Assembly of the State
    - (iii) the members of the Council of States and the members of the Legislative Council of the State
- **Article 243 S**
  - Constitution and composition of Wards Committees, etc.
  - Wards Committees are constituted in the territorial area of a Municipality having a population of three lakhs or more.
- **Article 243T**
  - Reservation of seats
  - Seats are reserved for the Scheduled Castes and the Scheduled Tribes in every Municipality
  - One-third of the total number of seats are reserved for women belonging to Scheduled Castes or Scheduled Tribes.
  - One-third of the total number of seats to be filled by direct election in every Municipality shall be reserved for women(includes women reservations of SC and ST)
  - Offices of Chairpersons in the Municipalities are reserved for Scheduled Castes, the Scheduled Tribes and women
- **Article 243 U**
  - Duration of Municipalities
  - Five years
  - No amendment of any law shall have the effect of causing dissolution of a Municipality at any level
- **Article 243V**
  - Disqualifications for membership.
- **Article 243W**
  - Powers, authority and responsibilities of Municipalities
  - Legislature of a State may, by law, endow powers and authority to enable them to function as institutions of self-government
  - Legislature of state devolves powers and responsibilities upon Municipalities to
    - prepare plans for economic development and social justice
    - perform its functions and implement the schemes as listed in the Twelfth Schedule
- **Article 243X**
  - Power to impose taxes by, and Funds of, the Municipalities
  - Legislature of a State may, by law
    - (a) authorise a Municipality to levy, collect and appropriate such taxes, duties, tolls and fees
    - (b) assign to a Municipality taxes, duties, tolls and fees levied and collected by the State Government
    - (c) provide for making such grants-in-aid to the Municipalities from the Consolidated Fund of the State
- **Article 243Y**
  - Finance Commission
- **Article 243Z**
  - Audit of accounts of Municipalities

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THE SCHEDULED AND TRIBAL AREAS PART X

Article 244

- Administration of Scheduled Areas and Tribal Areas.
- The provisions of the Fifth Schedule doesn't apply to the States of Assam , Meghalaya, Tripura and Mizoram
- The provisions of the Sixth Schedule shall apply to the administration of the tribal areas in the States of Assam, Meghalaya, Tripura and Mizoram

Legislative relations between the Union and the States

- **Article 245**
  - Extent of laws made by Parliament and by the Legislatures of States.
  - Parliament may make laws for the whole or any part of the territory of India
  - Legislature of a State may make laws for the whole or any part of the State.
  - No law made by Parliament shall be deemed to be invalid on the ground that it would have extra-territorial operation.
- **Article 246**
  - Subject-matter of laws made by Parliament and by the Legislatures of States.
  - Parliament has exclusive power to make laws in Union List(List I in the Seventh Schedule).
  - Legislature of any State has exclusive power to make laws in the "State List"(List II in the Seventh Schedule).
  - Parliament and Legislature of any State, have power to make laws in Concurrent List(List III in the Seventh Schedule)
- **Article 247**
  - Power of Parliament to provide for the establishment of certain additional courts.
  - Parliament may by law provide for the establishment of any additional courts
- **Article 248**
  - Residuary powers of legislation
  - Parliament has exclusive power of making any law imposing a tax not mentioned in Concurrent List or State List.
- **Article 249**
  - Power of Parliament to legislate with respect to a matter in the State List in the national interest.
  - If, it is necessary or expedient in the national interest the Parliament may make laws with respect to any matter enumerated in the State List
  - Council of States has to declare by resolution supported by not less than two thirds of the members present and voting to enact laws in state list.
  - Such resolutions remain in force for a period not exceeding one year
- **Article 250**
  - Power of Parliament to legislate in State List if a Proclamation of Emergency is in operation.
  - A law made by Parliament during Proclamation of Emergency ceases on the expiration of a period of six months after the Proclamation
- **Article 253**
  - Legislation for giving effect to international agreements
  - Parliament has power to make any law for implementing any treaty, agreement or convention with any other country or countries
- **Article 254**
  - Inconsistency between laws made by Parliament and laws made by the Legislatures of States.
  - Laws made by the Legislature of the State are deemed to be void if, they are repugnant to the laws made by parliament.

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Administrative relations between Union and States

- **Article 256**
  - Obligation of States and the Union.
  - The executive power of State shall be exercised in compliance with the laws made byParliament
- **Article 257**
  - Control of the Union over States in certain cases.
  - Executive power of the Union shall extend to give directions to a State
    - not to impede or prejudice the exercise of the executive power of the Union
    - to the construction and maintenance of means of communication in the direction of national or military importance
    - to take measures for the protection of the railways within the State.

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- **Article 258**
  - Power of the Union to confer powers, etc., on States in certain cases
  - President may, with the consent of the Government of a State, entrust functions on the state in relation to any matter to which the executive power of the Union extends.
- **Article 258 A**
  - Power of the States to entrust functions to the Union.
  - Governor of a State may, with the consent of the Government of India, entrust functions in relation to any matter to which the executive power of the State extends
- **Article 262**
  - Adjudication of disputes relating to waters of inter-State rivers or river valleys.
  - Parliament may by law provide for the adjudication of any dispute with respect to
    - use of the waters
    - distribution of the waters
    - control of the waters
  - Neither the Supreme Court nor any other court shall exercise jurisdiction in respect of any Inter-state water disputes
- **Article 263**
  - Provisions with respect to an inter-State Council.
  - President by order may establish an inter-state Council to
    - (a) inquire into and advise upon disputes among states
    - (b) investigate and discuss the subjects in common interest
    - (c) making recommendations on any subject for the better co-ordination of policy

FINANCE

- **Article 265**
  - No tax shall be levied or collected except by authority of law.
- **Article 266**
  - Consolidated Funds and public accounts of India and of the States.
  - Consolidated Fund of India Comprises
    - all revenues received by the Government of India
    - all loans raised by the Government by the issue of treasury bills
    - loans or ways and means advances and all moneys received by the Government in repayment of loans
  - Consolidated Fund of the State comprises
    - all revenues received by the Government of a State
    - all loans raised by that Government by the issue of treasury bills
    - loans or ways and means advances and all moneys received by that Government in repayment of loans
  - All other public moneys received by or on behalf of the Government of India or the Government of a State belongs to Public account of India or the public account of the State
- **Article 267**
  - Contingency Fund of India
    - Contingency Fund of India is established by the Parliament by law.
    - It is established to meet any unforeseen expenditure pending authorisation by Parliament by law under article 115 or article 116.
    - Contingency Fund of India is placed at the disposal of the President
  - Contingency Fund of the State
    - Legislature of a State may by law establish a Contingency Fund
    - Contingency Fund of a state is placed at the disposal of the Governor of the state
    - It is established to meet any unforeseen expenditure pending authorisation by Legislature of the State by law under article 205 or article 206.
- **Article 268**
  - Duties levied by the Union but collected and appropriated by the States.
  - Stamp duties and such duties of excise on medicinal and toilet preparations are levied by the Union but collected and appropriated by the States.
- **Article 268A**
  - Service tax levied by Union and collected and appropriated by the Union and the States.
- **Article 269**
  - Taxes levied and collected by the Union but assigned to the States.
  - 1) Taxes on the sale or purchase of goods
    - doesn't include sale or purchase of newspapers
  - 2) Taxes on the consignment of goods
- **Article 270**
  - Taxes levied and distributed between the Union and the States.
  - 1) All taxes and duties in the Union List, except the duties and taxes in articles 268 and 269
  - 2) Surcharge on taxes and duties under article 271
  - 3) Any cess levied for specific purposes under any law made by Parliament
  - Distributed as prescribed by the President by order as per recommendations of the Finance Commission
- **Article 271**
  - Surcharge on certain duties and taxes for purposes of the Union.
  - Parliament may at any time increase any of the duties or taxes by a surcharge
  - all proceeds from surcharges are added to the Consolidated Fund of India.
- **Article 273**
  - Grants in lieu of export duty on jute and jute products.
- **Article 274**
  - Prior recommendation of President is required to Bills affecting taxation in which States are interested.
- **Article 275**
  - Grants from the Union to certain States.
  - Grants-in-aid shall be charged on the Consolidated Fund of India by law
  - Parliament by law may determine different sums for different States
- **Article 276**
  - Taxes on professions, trades, callings and employments.
- **Article 285**
  - Exemption of property of the Union from State taxation
  - The property of the Union are exempted from all taxes imposed by a State
- **Article 286**
  - Restrictions as to imposition of tax on the sale or purchase of goods.
  - No law of a State shall impose, or authorise the imposition of a tax
    - (a) on the sale or purchase of goods outside the State
    - (b) on import of the goods into or export of the goods out of, the territory of India.
- **Article 287**
  - Exemption from taxes on electricity
  - no law of a State shall impose, or authorise the imposition of, a tax on the consumption or sale of electricity
- **Article 289**
  - Exemption of property and income of a State from Union taxation.
  - Clause(1): The property and income of a State shall be exempt from Union taxation.
  - Nothing in clause (1) shall prevent the Union from imposing, or authorising the imposition of, any tax to such extent

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Finance Commission

Article 280

- At the expiration of every fifth year the President, by order constitutes a Finance Commission
- Finance commission is constituted with a Chairman and four other members
- All members of the commission are appointed by the President.

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Finance Commission recommends to the President on

- a) the distribution of the net proceeds of taxes between the Union and the States
- b) the principles governing the grants in-aid of the revenues of the States out of the Consolidated Fund of India
- c) the measures needed to augment the Consolidated Fund of a State to supplement the resources of the Panchayats
- d) the measures needed to augment the Consolidated Fund of a State to supplement the resources of the Municipalities
- e) any other matter referred to the Commission by the President in the interests of sound finance.

Article 281

- Recommendations of the Finance Commission.
- President shall cause every recommendation made by the Finance Commission to be laid before each House of Parliament.
- President lays the recommendations together with an explanatory memorandum as to the action taken thereon

Borrowing

Article 292

Borrowing by the Government of India.

- Union has the executive power to borrow upon the security of the Consolidated Fund of India
- Limits and Guarantees are fixed by the Parliament by law from time to time

Article 293

Borrowing by States

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- State has the executive power to borrow within the territory of India upon the security of the Consolidated Fund of India
- Limits and Guarantees are fixed by the Legislature of State by law from time to time
- A State may not without the consent of the Government of India raise any loan if there is still outstanding any part of a loan which has been made to the State by the Government of India

Trade, Commerce and Intercourse within the territory of India

- **Article 301**
  - Trade, commerce and intercourse throughout the territory of India shall be free.
- **Article 302**
  - Power of Parliament to impose restrictions on trade, commerce and intercourse
  - Parliament may by law impose restrictions on the freedom of trade, commerce or intercourse in the public interest.
- **Article 303**
  - Restrictions on the legislative powers of the Union and of the States with regard to trade and commerce.
  - Parliament nor the Legislature of a State shall have power to make any law discriminating states in any of the Lists in the Seventh Schedule.
  - Parliament may make law in case of scarcity of goods in any part of the territory of India.
- **Article 304**
  - Restrictions on trade, commerce and intercourse among States
  - Legislature of a State may by law impose any tax on goods imported from other States or Union territories to which similar goods produced in that State
  - Such bills shall not be introduced or moved in the Legislature of a State without the previous sanction of the President.

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PUBLIC SERVICE COMMISSIONS

Article 315

- Public Service Commissions for the Union and for the States.
- There shall be a Public Service Commission for the Union and a Public Service Commission for each State.
- Two or more States may agree together to form Joint Public Service Commission
- Public Service Commission for the Union, if requested so to do by the Governor of a State, may, with the approval of the President, agree to serve all or any of the needs of the State

Article 316

- Appointment and term of office of members.
- The Chairman and other members of the Union or a Joint Public Service Commission are appointed by the President
- The Chairman and other members of the State Public Service Commission are appointed by the Governor of the State
- If the office of the Chairman of the Commission becomes vacant, his duties are performed by one of the other members of the Commission
- Tenure
  - Union Commission
    - six years from the date on which he enters upon his office
    - until he attains the age of sixty-five years
  - State or Joint Commission
    - six years from the date on which he enters upon his office
    - until he attains the age of sixty-two years
- Resignation
  - Members of Union or Joint Commission resign by writing to the President
  - Members of the State Commission resign by writing to the Governor of the State
- Member of a Public Service Commission may be removed from his office in the manner provided in clause (1) or clause (3) of article 317.
- Members of Public Service Commission are not eligible for re-appointment after expiration of their term of office

Article 317

- Removal of a member of a Public Service Commission
- Chairman or any other member of a Public Service Commission shall only be removed by the order of the President after inquired by the Supreme court
- Suspension of a member of a Public Service Commission
- Chairman or any other member of the Commission, may be suspend from office
  - by the President, in the case of the Union Commission or a Joint Commission
  - by the Governor in the case of a State Commission
- President has to pass orders on receipt of the report of the Supreme Court to suspend the member of a commission
- President may by order remove the Chairman or any other member of a Public Service Commission, if he
- (a) is adjudged an insolvent
- (b) engages during his term of office in any paid employment outside the duties of his office
- (c) is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body.

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Article 320

- Functions of Public Service Commissions.
- Functions
  - to conduct examinations for appointments to the Union and State services
  - to assist two or more States in joint recruitment of candidates with special qualifications
  - to advise on any matter so referred to them by the President or Governor of the State
- The Union or State Public Service Commission shall be consulted
- (a) on all matters relating to methods of recruitment to civil services and for civil posts
- (b) on the principles to be followed in
  - making appointments and promotions to civil services
  - the transfer of candidates from one service to another
  - the suitability of candidates for such appointments, promotions or transfers
- (c) on all disciplinary matters
- (d) on any claim for the award of a pension

Article 322

- Expenses of Public Service Commissions.
- The expenses of the Union Public Service Commission are charged on the Consolidated Fund of India
- The expenses of the State Public Service Commission are charged on the Consolidated Fund of the State.

Article 323

- Reports of Public Service Commissions.
- Union Commission annually submits a report on the work done by the Commission to the President
- President lays the report in the parliament with his recommendations
- State or Joint Commission annually submits a report on the work done by the Commission to the Governor
- Governor of the state lays the report in the Legislature of State with his recommendations

Tribunals

Article 323A

- Administrative tribunals
- Administrative tribunals may by law adjudicate or trial disputes related to recruitment and conditions of services of Public services
- This article empowers to establish
  - administrative tribunal for the Union
  - administrative tribunal for each State or for two or more States

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Article 323B

- Tribunals for other matters
- Tribunals may be established on following matters
- (a) levy, assessment, collection and enforcement of any tax
- (b) foreign exchange, import and export across customs frontiers
- (c) industrial and labour disputes
- (d) land reforms
- (e) ceiling on urban property
- (f) elections to either House of Parliament or the House or either House of the Legislature of a State
- (g) production, procurement, supply and distribution of food-stuffs
- (h) rent, its regulation and control and tenancy issues

ELECTIONS

- **Article 324**
  - Superintendence, direction and control of elections to be vested in an Election Commission.
  - Election commission conducts all elections to the
    - Parliament
    - Legislature of every State
    - offices of President and Vice-President
  - Composition of election commission
    - Chief Election Commissioner
    - Other Election Commissioners, if any, as the President may from time to time fix
  - Appointments
    - All appointments are made on behalf of Parliament by the President.
    - President may also appoint Regional Commissioners, after consultation with the Election Commission
  - Service conditions of Election Commissioners and Regional Commissioners are determined by the President
  - Chief Election Commissioner can only be removed in the manner similar to the removal of the Judge of the Supreme Court
  - Any other Election or Regional Commissioner shall be removed only on the recommendation of the Chief Election Commissioner.
- **Article 325**
  - No person to be ineligible for inclusion in, or to claim to be included in a special, electoral roll on grounds of religion, race, caste or sex.
- **Article 326**
  - Elections to the House of the People and to the Legislative Assemblies of States to be on the basis of adult suffrage.
  - every person who is a citizen of India and not less than eighteen years of age is entitled to be registered as a voter.
  - Grounds of disqualification
    - non-residence
    - unsoundness of mind
    - crime
    - Corrupt
    - illegal practice
- **Article 327**
  - Power of Parliament to make provision with respect to elections to Legislatures.
  - Parliament may by law make provision to
    - preparation of electoral rolls
    - delimitation of constituencies
    - all other matters necessary to ensure, due constitution of such House or Houses.
- **Article 328**
  - Power of Legislature of a State to make provision with respect to elections to such Legislature
- **Article 329**
  - Bar to interference by courts in electoral matters.
  - Any law relating to the delimitation of constituencies or the allotment of seats shall not be called in question in any court
  - No election to either House of Parliament or either House of the Legislature of a State shall be called in question except by an election petition

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National Commission for Scheduled Castes

Article 338

- There shall be a Commission for the Scheduled Castes to be known as the National Commission for the Scheduled Castes.
- Composition of commission
  - Chairperson
  - Vice-Chairperson
  - three other Members
- Conditions of service and tenure of office are determined by the President by rule
- The Chairperson, Vice-Chairperson and other Members of the Commission are appointed by the President
- The Commission has the power to regulate its own procedure.
- Duties of the Commission
  - (a) to investigate and monitor all matters relating to the safeguards provided for the Scheduled Castes
  - (b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Castes
  - (c) to participate and advise on the planning process of socio-economic development of the Scheduled Castes
  - (d) to annually submit reports upon the working of the safeguards to the President
  - (e) to make recommendations to be taken by the Union or any State for effective implementation of safeguards
  - (f) to discharge other functions in relation to the protection, welfare and development and advancement of the Scheduled Castes
- The President lays the reports before each House of Parliament with his recommendations
- A copy of report is forwarded to the Governor if, State Government is concerned with the issue

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National Commission for Scheduled Tribes.

Article 338A

- National Commission for Scheduled Tribes.
- There shall be a Commission for the Scheduled Tribes to be known as the National Commission for the Scheduled Tribes.
- Composition of Commission
  - Chairperson
  - Vice-Chairperson
  - three other Members
- Conditions of service and tenure of office are determined by the President by rule
- The Chairperson, Vice-Chairperson and other Members of the Commission are appointed by the President
- The Commission has the power to regulate its own procedure.
- Duties of the Commission
  - (a) to investigate and monitor all matters relating to the safeguards provided for the Scheduled Tribes
  - (b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Tribes
  - (c) to participate and advise on the planning process of socio-economic development of the Scheduled Tribes
  - (d) to annually submit reports upon the working of the safeguards to the President
  - (e) to make recommendations to be taken by the Union or any State for effective implementation of safeguards
  - (f) to discharge other functions in relation to the protection, welfare and development and advancement of the Scheduled Tribes
- The President lays the reports before each House of Parliament with his recommendations
- A copy of report is forwarded to the Governor if, State Government is concerned with the issue

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Language of the Union.

- **Article 343**
  - Official language of the Union.
  - Official language of the Union: Hindi in Devanagari script.
  - Form of numerals for official purposes: international form of Indian numerals.
- **Article 345**
  - Official language or languages of a State.
  - Legislature of a State may by law adopt any one or more of the languages in use in the State or Hindi as official language
  - Until the Legislature of the State otherwise provides by law, the English language shall continue to be used for official purposes within the State
- **Article 346**
  - Official language for communication between one State and another or between a State and the Union.
- **Article 347**
  - Special provision relating to language spoken by a section of the population of a State.
- **Article 348**
  - Language to be used in the Supreme Court and in the High Courts and for Acts, Bills, etc.
  - Until Parliament by law otherwise provides, English will be used in
    - (a) all proceedings in the Supreme Court and in every High Court
    - (b) the authoritative texts
      - (i) of all Bills to be introduced or amendments
      - (ii) of all Acts passed by Parliament or the Legislature of a State
      - of all Ordinances promulgated by the President or the Governor
      - (iii) of all orders, rules, regulations and bye-laws
  - Governor with the consent President may authorise the use of Hindi or any other language in the High Court having its principal seat in that State

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Emergency provisions

- **Article 352**
  - Proclamation of Emergency
  - President may proclaim emergency if he is satisfied that a grave emergency exists whereby the security of India is threatened by
    - War
    - External aggression
    - Armed rebellion
  - Proclamation under this article is commonly termed as "National emergency"
  - President may declare emergency in respect of the whole of India or a part of territory as may be specified in the Proclamation
  - Proclamation of emergency may be varied or revoked by a subsequent Proclamation.
  - The President cannot issue or vary a Proclamation unless Union Cabinet communicates such a Proclamation to him in writing.
  - Proclamation ceases to operate at the expiration of one month, unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament
  - Proclamation shall cease to operate at the expiration of thirty days from the date on which the House of the People first sits after its reconstitution, if
  - a) Dissolution of the House of the People takes place during the period of one month
  - b) Proclamation is issued at a time when the House of the People has been dissolved
  - c) Resolution approving the Proclamation has been passed by the Council of States, but not passed by the House of the People
  - A Proclamation is valid for six months from the date of the passing of the second of the resolutions approving the Proclamation
  - if resolution approving the continuance in force of such a Proclamation is passed by both Houses of Parliament the Proclamation shall continue in force for a further period of six months
  - Resolution are passed by either House of Parliament only 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.
  - Special sitting of the House is held if, one-tenth of the total number of members of the House of the People move a resolution for disapproving Proclamation
  - The resolution has to be given
    - (a) to the Speaker, if the House is in session
    - (b) to the President, if the House is not in session
  - Special sitting of the House shall be held within fourteen days from the receipt of such notice by the Speaker or President
- **Article 353**
  - Effect of Proclamation of Emergency.
  - While a Proclamation of Emergency is in operation
    - (a) the executive power of the Union shall extend to the giving of directions to any State
    - (b) the power of Parliament to make laws with respect to any matter extends beyond the Union List
  - Emergency provisions shall also extend to any State other than a State in which Proclamation of Emergency is in operation
- **Article 354**
  - Application of provisions relating to distribution of revenues while a Proclamation of Emergency is in operation.
- **Article 355**
  - It is the duty of the Union to protect States against external aggression and internal disturbance.
- **Article 356**
  - Provisions in case of failure of constitutional machinery in States.
  - President, on receipt of a report from the Governor may proclaim, if, he is satisfied that the Government of the State cannot be carried on in accordance with the provisions of Constitution
  - Proclamation under this article is commonly termed as "Presidents rule" or "Constitutional emergency"
  - President may by Proclamation
    - (a) assume to himself all or any of the functions of the Government of the State and powers of Governor
    - (b) declare that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament
    - (c) make provisions for suspending in whole or in part the operation of any provisions of Constitution relating to any body or authority in the State
  - President cannot assume to himself any of the powers vested in or exercisable by a High Court
  - President cannot suspend in whole or in part the operation of any provision of this Constitution relating to High Courts.
  - Proclamation ceases to operate at the expiration of two months, unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament
  - Proclamation shall cease to operate at the expiration of thirty days from the date on which the House of the People first sits after its reconstitution, if
  - a) Dissolution of the House of the People takes place during the period of two months
  - b) Proclamation is issued at a time when the House of the People has been dissolved
  - c) Resolution approving the Proclamation has been passed by the Council of States, but not passed by the House of the People
  - A Proclamation is valid for six months from the date of the passing of the second of the resolutions approving the Proclamation
  - No such Proclamation shall in any case remain in force for more than three years
  - A resolution to continue the force of a Proclamation beyond the expiration of one year shall not be passed by either House of Parliament unless
  - (a) a Proclamation of Emergency is in operation, in the whole of India or any part of the State, at the time of the passing of such resolution
  - (b) the Election Commission certifies that the continuance in force of Proclamation is necessary on account of difficulties in holding general elections to the Legislative Assembly of the State concerned
- **Article 357**
  - Exercise of legislative powers under Proclamation issued under article 356.
  - Powers of the Legislature of the State are exercisable by or under the authority of Parliament
- **Article 358**
  - Suspension of provisions of article 19 during emergencies.
  - Fundamental rights are suspended automatically during national emergency(except emergency due to armed rebellion)
- **Article 359**
  - Enforcement of the rights conferred under Part III are Suspended during emergencies.
  - Rights under articles 20 and 21 are not restricted
- **Article 360**
  - Provisions as to financial emergency.
  - President may Proclaim emergency, if the financial stability or credit of India or of any part of the territory threatened
  - Proclamation
    - (a) may be revoked or varied by a subsequent Proclamation
    - (b) shall be laid before each House of Parliament
    - (c) shall cease to operate at the expiration of two months if not approved by resolutions of both Houses of Parliament
  - During the period of Proclamation, the executive authority of the Union extend to give directions to any State to observe such canons of financial propriety
  - (a) any such direction may include
    - (i) a provision requiring the reduction of salaries and allowances of all class of persons
    - (ii) reservation of Money Bills or other Bills for the consideration of the President
  - President may issue directions for the reduction of salaries and allowances of all or any class of persons serving in the Union including the Judges of the Supreme Court and the High Courts.

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PART XIX

Article 361

Protection of President and Governors

- President or Governor is not answerable to any court for the exercise and performance of the powers and duties of his office
- Conduct of President may be brought under review by any court, tribunal or body by either House of Parliament for investigation of a charge under article 61
- Criminal proceedings cannot be instituted or continued against the President or Governor, in any court during his term of office.
- No process for the arrest or imprisonment of the President or Governor, shall issue from any court during his term of office.
- No civil proceedings shall be instituted, until the expiration of two months next after notice in writing has been delivered to the President or Governor.

Article 361A

Protection of publication of proceedings of Parliament and State Legislatures.

- No person is liable to any proceedings, civil or criminal for publication of any true proceedings of Parliament or Legislature of a State in a newspaper.
- Proceedings of a secret sitting of Parliament or Legislature of a State cannot be published in newspaper.

Article 363A

Recognition granted to Rulers of Indian States to cease and privy purses to be abolished.

Article 365

Effect of failure to comply with, or to give effect to, directions given by the Union.

- Where any State has failed to comply with, or to give effect to, any directions given in the exercise of the executive power of the Union under any of the provisions of this Constitution, it shall be lawful for the President to hold that a situation has arisen in which the Government of the State cannot be carried on in accordance with the provisions of this Constitution.

Amendment of the constitution PART XX

Article 368

Power of Parliament to amend the Constitution and procedure therefor.

Parliament has constituent powers to amend by way of addition, variation or repeal any provision of the Constitution.

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Amendment procedure

- Step 1: Bill for the purpose has to be introduced in either House of Parliament
- Bill can be introduced by a minister or a private member
- Step 2: Bill has to be passed in each House by a majority of the total membership of that House.
- Majority to pass the bill shall not be less than two-thirds of the members of that House present and voting(special majority)
- In case of disagreement between the two houses, there is no provision to hold joint sitting.
- Step 3: Finally the bill is presented to the President who shall give his assent to the Bill.
- With the assent of President , the Constitution shall stand amended in accordance with the terms of the Bill
- Amendment shall also require to be ratified by the Legislatures of not less than one-half of the States in following cases
  - (a) article 54, article 55, article 73, article 162 or article 241
  - (b) Chapter IV of Part V, Chapter V of Part VI, or Chapter I of Part XI
  - (c) any of the Lists in the Seventh Schedule
  - (d) the representation of States in Parliament
  - (e) the provisions of this article