CERTIFICATE PROGRAMME IN INDIAN CONSTITUTION AND POLITY

Introduction to the Constitution of India

Course I

SURYA KUMAR BHUYAN SCHOOL OF SOCIAL SCIENCES

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COURSE INTRODUCTION

The first course of the Certificate Programme in Indian Constitution and Polity is titled “Introduction to the Constitution of India”.

It is designed to help the learners to have an understanding of the ideological basis and functioning of the political system of India. The functioning of the Indian political system is based on a written Constitution, which is the basic and fundamental law of the land. The Constitution subscribes to the principles of popular sovereignty and democracy. The course, “Introduction to the Constitution of India” begins by exploring the historical background of the the Indian Constitution and then proceeds to discuss the framing of the Indian Constitution. Thereafter, the course discusses the philosophy and ideals of the Indian Constitution and then goes on to describe its salient features. Significantly, the course also disccuses the provision of citizenship in India . India being a democracy, it guarantees certain fundamental rights to its citizens. It also expects its citizens to perform certain duties in the interest of the welfare of the nation. Hence, the course discusses the Fundamental Rights and Fundamental Duties of the citizens of India. India being a welfare state, the Constitution has incorporated some instructions to the State in the form of Directive Principles of State Policy for achieving socio-economic welfare. These Directive Principles of State Policy have been discussed in the course. The constitution of a democratic country has to respond to the changing needs and aspirations of the people as may be required from time to time. The Indian Constitution too can be amended. Accordingly, the course discusses the amendment procedure of the Indian Constitution. The concept of basic structure of the Indian Constitution is also discussed in the course.

While going through the units of the block, you will find that each unit is further divided into certain sections and sub-sections, wherever necessary, for your better understanding. Again, each unit carries certain *activities* after every section. These “ACTIVITIES” will provide you the opportunity to practically apply your own thoughts based on the knowledge gained through reading the text in a particular section. Besides, in order to give you additional information on certain relevant topics, you will find a category called “LET US KNOW” after the sections in each unit. Another category that has been included at the end of each section of a particular unit is “CHECK YOUR PROGRESS”. The purpose of this category is to help you to asses for yourself as to how thoroughly you have understood a particular section. You can then match your answers with “ANSWERS TO CHECK YOUR PROGRESS” given at the end of each unit. Further more, the category called “MODEL QUESTIONS” is intended to give you a hint of the kind of questions you are likely to get in the examination.

UNIT 1: CONSTITUTIONAL HISTORY

UNIT STRUCTURE

2.1 Learning Objectives

2.2 Introduction

2.3 Historical Background of the Indian Constitution

2.4 Let Us Sum Up

2.5 Further Reading

2.6 Answers to Check Your Progress

2.7 Model Questions

2.1 LEARNING OBJECTIVES

After going through this unit you will be able to:

- discuss the historical background of the Indian Constitution
- discuss important Acts such as the Regulating Act of 1773, the Pitt's India Act of 1784, Charter Acts of 1813, 1833, 1853, Government of India Acts of 1858, Indian Councils Act of 1861, 1892 and 1909
- discuss the important Acts such as the Government of India Act of 1919 and the Government of India Act 1935
- explain the events leading up to the transfer of power from the British Crown to the Indian Government.

2.2 INTRODUCTION

In India, the Constitution is regarded as the supreme law of the land. The constitutional development of India was a gradual and evolutionary process that unfolded over nearly two centuries of colonial rule. The journey reflects the long struggle of the Indian people for self-governance and democracy. It culminated in the adoption of the Constitution of India on 26th November 1949, which came into force on 26th January 1950. In this context, it is worth mentioning that a number of Acts were passed by the British government during the colonial period. In order to understand the constitutional history of India, it is important for us to discuss

these Acts because these Acts laid the foundational framework on which India's modern governance system evolved.

2.3 HISTORICAL BACKGROUND OF THE INDIAN CONSTITUTION

We all know that on 15th August, 1947, British rule came to an end and after the partition of the country, power was transferred to the two independent countries, namely, India and Pakistan. With the coming into effect of the Constitution on 26th January, 1950, India became a sovereign and democratic republic. It is very important to discuss the constitutional background of the Indian Constitution. By the middle of the nineteenth century most of India was controlled by the British, either directly by the East India Company or through the system of treaties and alliances with the Princely States. During this period, certain measures of constitutional reforms were introduced. In this section we will discuss the various Rules and Acts passed during the British regime which have had a profound influence on the framing of the Indian Constitution.

- **The Regulating Act of 1773**

During the reign of Warren Hastings, the Regulating Act of 1773 was passed. The Regulating Act initiated the process of centralization in India. Some of the important provisions of this Act were:

(i) The Governor of Bengal was made the Governor General. The first man to be appointed to this post was Warren Hastings. A Council, consisting of four members, was created to assist the Governor General.

(ii) (ii) The Governor General and the Council were empowered to make rules and regulations and issue of ordinance for maintaining order within the Company's territories in India.

(iii) (iii) The Governor General and the Council were empowered to control the Presidency Governments.

(iv) (iv) This Regulating Act also provided for the establishment of a Supreme Court with wide jurisdictions. The Supreme Court consisted of a Chief Justice and three other judges.

- **Pitt's India Act, 1784**

Another important Act passed during the Colonial rule was the Pitt's India Act of 1784. For the first time, this Act referred the Company's territory in India as 'the British Possession in India'. This Act led to the reorganisation of East India Company's Government in India and it created a dual authority. It created the Board of Control (BOC) which consisted of the Chancellor of Exchequer, one Secretary of State and four Privy Councillors. This Act also led to the formation of the Court of Directors (COD) and in case of jurisdiction, the BOC was given superior power over the COD. Again this Act also provided that the Governor General's Council was to consist of three members.

- **Charter Act of 1813**

The Charter Act of 1813 was another landmark in the process of constitutional development of India. The Act was enacted on the eve of the end of the lease of 20 years granted to the East India Company. This Act renewed the Company's lease for another 20 years. But at the same time, it reduced the Company's monopoly of trade with India, except for the trade of tea. The Act opened the Indian trade to all the British subjects. The Act tried to impose certain regulations on the Company. It provided that the Company had to maintain two separate accounts for its commercial transaction and territorial possessions. The Act also allowed the Missionaries to come to India and settle down with the purpose of introducing reforms among the Indians. This Charter Act increased the power of the Board of Control regarding the power of supervision and control. It empowered the Board of Control to make rules and regulations for the civil and military servants of the Company.

- **Charter Act of 1833**

The Charter Act of 1833 ended East India Company's monopoly over trade in India in 1834. The Act provided that the Company had to administer Indian territories 'in trust for His Majesty's heirs and successors'. The Act also created one integrated Government under the Governor General instead of three independent Presidencies. One important provision of the Act was that it introduced the system of legislative centralisation in India. Under this provision the Governor General-in-Council was given the power to make laws, rules and regulations across the Indian territories under Company's possession. The Charter Act of 1833 led to certain important changes in the composition of the Board of Control. Provision was made for the appointment of other ministers like the Lord President of the Council, the Lord Privy Seal, the First Lord of the Treasury, the Principal Secretaries of State, the Chancellor of the Exchequer etc in the Board of Control. The Act also provided for the constitution of a Law Commission and empowered the Governor General to appoint the members of the Law Commission.

- **Charter Act of 1853**

The Charter Act of 1853 was an important Act which brought certain important changes in the governance system of India. This Act separated the legislative body from the executive body. For this purpose the Act provided for the establishment of a Legislative Council which was to be constituted of the Governor General, Executive Councillors, the Chief Justice and one of the Judges of the Supreme Court of Bengal. Four members who are servants of the Company are also to be appointed as the members of the Legislative Council. The Charter Act empowered the Crown to appoint a Law Commission in England. This Law Commission was to examine the reports of the Indian Law Commission and make necessary recommendations for legislation. The Charter Act also increased the strength of the Council of the Governor General for legislative purpose.

CHECK YOUR PROGRESS

Q.1: In which year the Pitt's India Act was enacted?

.....

Q.2: Which Act introduced legislative centralism in India?

.....

Q.3: Mention any two provisions of the Regulating Act of 1773.

.....

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.....

.....

- **The Government of India Act of 1858**

The British Parliament passed the Government of India Act of 1858. Through this Act control over India was transferred from the East India Company to the British Crown and thus India came under the direct rule of the British Government. The Act of 1858 laid down the structure of government in India. The Act created the office of the Viceroy of India who was to be assisted by an Executive Council. Through this Act the Board of Control and the Court of Directors were abolished and the powers of these agencies were transferred to the Secretary of State for India and the Indian Council. The Indian Council was to be headed by the Secretary of State for India.

- **Indian Councils Act of 1861**

The Indian Councils Act of 1861 was passed by the British Parliament. It introduced certain reforms in the governance system of India. The Indian Councils Act of 1861 turned the Viceroy of India's office into a cabinet based on the portfolio system. This Act also led to legislative decentralisation in India. This Act restored to the Legislative Councils of Bombay and Madras Presidencies the power of making laws. Similar legislative councils were also created in other provinces. All the measures, enacted by the Legislative Councils, could become Act only after receiving consent by the Governor-General. Thus the Act provided absolute veto power to the Governor-General regarding enactment of laws. This Act also empowered the Governor-General to issue ordinance and to create new provinces for legislative purpose. The Indian Councils Act of 1861 increased the strength of the Governor-General's Executive Council by adding one Law member and thus the total number of the Council was five. Thus this Act brought about major changes in the representative institutions in India.

- **Indian Councils Act of 1892**

The British Parliament passed Indian Councils Act of 1892 and the principle of indirect election was introduced. The elected members could ask questions and seek other information from the Government regarding matter of public importance. This Act increased the strength of the Central and provincial legislative councils by increasing the number of the Additional Members. The Indian Councils Act of 1892 also enlarged the jurisdiction of the legislative councils. The legislative councils were provided the power to discuss financial matters under certain conditions. Thus, the Indian Council Act of 1892 is of great importance in the process of constitutional development of India, since it provided the foundation of representative government by introducing the principle of indirect election.

- **The Indian Councils Act or the Morley- Minto Reforms of 1909**

The Indian Councils Act of 1909, more popularly known as Morley-Minto Reforms of 1909 is a significant event in the constitutional history of India. The Act provided for enlargement of the size of the central and provincial legislative councils. The powers and functions of the central and provincial councils were also increased, specially in financial matters. The members of the Councils were empowered to move resolutions in the Councils. However, the resolutions were to be in a particular format as defined by the Government. Another provision of the Act was that it introduced the system of disqualification on any member of the legislative councils who was found as political offender. The Indian Councils Act of 1909 provided for three types of electorates. These three types of electorates were- General Electorate, Class Electorate and Special Electorate. The General Electorate comprised the non-official members of the Provincial Legislative Councils, Municipal and

District Board. The Class Electorate was composed of the landholders' constituencies and Mohammedans and the Special Electorate consisted of the Presidency Corporations, the Universities, Chambers of Commerce, Port Trusts, Planting and Trade interests, etc. One important thing to be mentioned here is that this Act, for the first time, provided appointment of Indians to the Executive Councils at the Centre and at the provinces. Lord Sinha was the first Indian who got the opportunity to be appointed as the Law Member of the Governor-General's Executive Council.

The Indian Councils Act of 1909 was criticised on the ground that the main purpose of the Act was to pursue the policy of Divide and Rule in India. That is why, it introduced special electorate for the Muslims.

CHECK YOUR PROGRESS

Q.4: Which Act transferred the control over India from the East India Company to the British Crown?

.....

Q.5: Which Act introduced legislative decentralisation in India?

.....

Q.6: In India, during the colonial period, the principle of indirect election was introduced in the year ..... (Fill in the blank)

- **Government of India Act of 1919**

  The British Parliament passed the Government of India Act of 1919 which is also known as Montague-Chelmsford Reforms. The Act made many important changes in the Central and provincial Governments. The Act introduced a bicameral legislature at the centre. The two Houses were- Legislative Assembly (Lower House) and Council of States (Upper House). The powers and functions of both the Houses were also increased. The number of Indian members in the Executive Council of the Governor General was raised from one to three. The system of direct election was introduced.

  The Government of India Act, 1919 made many changes in the provincial Government too. A system of Dyarchy (a system of dual government) was introduced in the Provinces. The subjects which were dealt with by the Provincial Government were divided into two sets: Transferred and Reserved Subjects. The Governor

administered the Reserved Subjects (such as Finance, law enforcement, and land revenue) with the help of the Ministers chosen by him from the elected members of the legislature. The Transferred Subjects (such as education, public health, agriculture, and local self-government) were administered by elected Indian representatives. The Governor General could shift a subject from the Transferred to the Reserved Part.

The Act created two Lists of Subjects (departments) and divided them into Central and Provincial Governments. The Central List included the subjects such as Defence, Currency, Commerce, Communication, Telegraph, Foreign Relations, Customs, Civil and criminal law etc. which were given to the Central Government. On the other hand, the Provincial List included such subjects which were of provincial interest, such as Local-Self Government, Education, Public Works, Agriculture, Public Health, Revenue, Irrigation, Water Supplies, etc. These were given to the provincial Government. The Act created a post of a High Commissioner for India. The term of his office was six years. The Act of 1919 was an important landmark in the constitutional development of India and opened a new era of responsible Government.

- **Nehru Report, 1928**

On 19th May, 1928 an All Party Conference was held to discuss the various issues relating desires and demands of the people of India. After the Conference a Committee was formed under the Chairmanship of Shri Motilal Nehru. The Committee prepared and published a report in August, 1928. This Report is known as the Nehru Report. Some of the important recommendations of the Nehru Report were-

(i) The Committee recommended that India should be given dominion status (an autonomous nation within the British Empire) and that the Government would derive all power and authority from the people of the country.

(ii) India should have its own Constitution and secularism should be its basic feature.

(iii) The Committee also recommended for federal structure of government for India and a bicameral legislature at the central level.

(iv) The provision of communal electorate, which was provided by the Morley-Minto Reforms of 1909, was to be abolished and joint electorate with special reservation for minorities should be introduced.

(v) The Constitution should provide fundamental rights to the people of India.

(vi) The Committee also recommended that the Supreme Court should be the Court of Final Appeal in India.

The Indian National Congress in its Calcutta Session held in December, 1928 accepted the Nehru Report. This Report had a profound influence on the development of the constitutional process in India.

- **Simon Commission Report, 1930**

  In 1927, a Commission was appointed to explore the possibility of developing a representative government in India. This Commission was chaired by Sir John Simon and the Commission was known as the Simon Commission. The Commission published its report in the year 1930. The Commission recommended that dyarchy should be abolished in the provinces and the provinces should be provided full autonomy including the department of law and order. To ensure autonomy of the provinces the Commission recommended for the constitution of provincial fund so that provinces could get adequate fund. The Commission also recommended the enlargement of the provincial legislature. The Commission recommended for reconstitution of the central legislature. The Commission was of the view that the central legislature should be bicameral one consisting of the Federal Assembly (Lower House) and the Council of State (Upper House). The commission was of the view that the Federal Assembly was to be constituted on the basis of the representation of the provinces and other areas of British India in proportion to their population and the members were to be chosen mainly be direct elections. Regarding the tenure, the Commission recommended that the Federal Assembly and the Council of State should have the tenure of five and seven years respectively. The Commission recommended creation of a federal structure for India. Regarding judiciary, the Commission recommended the High Courts should be placed under the administrative control of the Government of India.

CHECK YOUR PROGRESS

Q.7: The Government of India Act, 1919 introduced a bicameral legislature at the centre. (True/False)

.....

Q.8: Mention two recommendations of the Nehru Report, 1928.

.....

.....

.....

.....

Q.9: What was the tenure of the Federal Assembly as recommended by the Simon Commission?

.....

- **Government of India Act of 1935**

  The British Parliament passed the Government of India Act of 1935 which was so valuable and important that most provisions of this Act were taken by the framers of the Indian Constitution. The British Parliament passed the Government of India Act 1935 after discussion on the Simon Commission Report in the three Round Table Conferences held in 1930, 1931 and 1932. The Act was a very lengthy written document. The Act proposed to form an All India Federation. All the provinces were to be members of a federation.

  The Government of India Act, 1935 kept the supremacy of the British Parliament intact. The Act clearly stated that the British Parliament was the ultimate authority which had the right to decide the time and the nature of the Dominion Status to be achieved by India. The Government of India Act of 1935 provided a bicameral legislature at the Centre consisting of Federal assembly (Lower House) and Council of States (Upper House). The Act introduced Dyarchy system at the Centre. The Central Subjects were divided into the Reserved and the Transferred subjects. The Act provided for the division of powers by creating Federal list, Provincial List, Concurrent List and also a provision for Residuary Subjects. The Act established a Federal Court at Delhi. The Federal Court would have both Original and Appellate jurisdictions. The Federal Court was to decide inter-state disputes and also heard appeals against the decisions of the High Courts. However, the final court remained with the Privy Council. The system of Dyarchy in the provinces was replaced by provincial autonomy. The popular Ministers, who were to be appointed by the Governor from among the members of the Provincial Legislature, were to be given the responsibility of administering the province. The Ministers were to be responsible to the provincial legislature. The Act introduced a bicameral legislature (viz,

Legislative Assembly and Legislative Council) in six out of total eleven provinces. The Legislative Council was the Upper Chamber and the Legislative Assembly was the Lower Chamber. A Federal Public Service Commission was established.

LET US KNOW

Two main provisions of the Government of India Act, 1935 were:

(i) the introduction of a federal polity in India, and
(ii) the establishment of Provincial autonomy in the British Indian Provinces.

LET US KNOW

At present, six Indian States have bicameral Legislatures. They are:

i) Andhra Pradesh

ii) Telangana

iii) Bihar

iv) Karnataka

v) Maharashtra

vi) Uttar Pradesh

- **The Cripps Mission**

In 1942, the Cripps Mission was sent to India from Great Britain under the leadership of Sir Stafford Cripps. The Cripps Mission arrived in India on March 22, 1942. Some of the proposals of the Mission included the grant of dominion status to India after the Second World War and the setting up of an elected body for framing a Constitution for India after the World War II. The Indian states would have the right to participate in the constitution making body. The Cripps Mission recommended that until the framing of the Constitution, the British Government would retain full authority over India's defence, as part of its World War II strategy.

However, the Cripps proposals were rejected by almost all political parties and sections in India including the Indian National Congress and the Muslim League on different grounds.

- **The Cabinet Mission Plan, 1946**

After the end of the World War II in 1945, the political scenario of Great Britain also experienced changes. In the election of 1945 the Labour Party, for the first time, defeated the Conservative Party. Clement Attlee of the Labour Party became the Prime Minister of Great Britain. This Government of Britain was sympathetic to the cause of India, regarding its independence. With a view to discuss the various aspects regarding constitutional settlement in India, British Prime Minister Attlee sent a high power Cabinet Mission in 1946 to India. The members of this Mission were- Lord Pethick Lawrence, Sir Stafford Cripps and Mr. A.V. Alexander. This Cabinet Mission also had detailed discussion with the Indian leaders and the British authorities in India. After discussion the Mission provided some proposals for giving India a new constitutional set up. The chief proposals of the Cabinet Mission Plan were -

i) To establish a Union of India consisting of the British Provinces and Indian Princely States.

ii) The Union of India would deal with subjects like foreign affairs, defence and communication, etc.

iii) The Union would have an executive and a legislature constituted from British India and the States' representatives.

iv) The Provinces would be categorised under three Groups- Group A, Group B and Group C. Group A would consist of Madras, Bombay, U.P, Bihar, Central Province and Orissa. Panjab, North West Frontier Province and Sindh would come under Group B and Group C would consist of Bengal and Assam.

v) All provinces would be free to form Groups with their own executives and legislatures.

vi) To establish a Constituent Assembly to draft the constitution for India. The members of the Constituent Assembly were to be elected by the Provincial Assemblies of the Provinces.

vii) An interim Government was to be set up with fourteen representatives of the major Political Parties.

Initially, the proposals were accepted by the Indian National Congress but the Muslim League under the leadership of Md. Ali Zinnah rejected the proposals and left the Interim Government.

Disagreement and conflict between the Congress and Muslim League continued. At this juncture, Lord Mountbatten, the Viceroy of India, proposed a plan to Divide India into two parts- India and Pakistan. The Congress and Muslim League accepted the plan. On the basis of the Mountbatten Plan, the British Parliament passed the Indian Independence Act on July 18, 1947 and ultimately on August 15, 1947 India became an independent nation. According to the proposals of the Cabinet Mission Plan, a Constituent Assembly was formed as a representative body. It was accepted that the Constituent Assembly would act as the Dominion Legislature until the Constitution was framed and India was administered according to the provisions of the Government of India Act, 1935 with some necessary modifications.

LET US KNOW

The Indian Constitution is federal in structure. But, the Constitution describes India "as a Union of States". Article 1 of the Indian Constitution says that India shall be a Union of States.

CHECK YOUR PROGRESS

Q. 10: Under which Act was a Federal Court established?

.....

Q. 11: Which Plan proposed the plan to divide India into two parts- India and Pakistan?

......

Q. 12: Which Party formed the Government in Great Britain in the elections of 1945?

......

Q. 13: Mention two proposals of the Cabinet Mission Plan.

......
.....
.....
.....

Q.14: When did the British Parliament pass the Indian Independence Act ?

……

2.4 LET US SUM UP

- Adoption of the Indian Constitution has a long history. A number of Acts enacted during the colonial period had contributed in this process.
- Some of the important Acts which have influenced the constitutional development of India were the Regulating Act of 1773, Pitt's India Act of 1784, Charter Acts of 1813, 1833 and 1853.
- The Government of India Act of 1858 transferred the power to govern India from the Company to the British Crown and henceforth India came under the direct rule of the British government. The Indian Councils Act of 1861 introduced certain reforms in the governance system of India.
- The Indian Council Act of 1892 is of great importance in the process of constitutional development of India. It introduced the principle of indirect election in India.
- The Indian Councils Act of 1909, more popularly known as Morley-Minto Reforms of 1909, is a significant event in the constitutional history of India. This Act of 1909 provided for three types of electorates, such as General Electorate, Class Electorate and Special Electorate.
- The British Parliament passed the Government of India Act of 1919 which introduced a bicameral legislature at the centre. This Act introduced the system of in the Provinces.
- The British Parliament passed the Government of India Act of 1935 which was so valuable and important that most provisions of this Act were taken by the framers of the Indian Constitution.
- Reports of some Commissions, constituted during that time, also contributed in the process of constitutional development in India. Some of these Reports were- the Nehru Report of 1928, Simon Commission Report of 1930, Cripps Mission Report of 1942, Cabinet Mission Report of 1946.
- The British Parliament passed the Indian Independence Act on July 18, 1947 and ultimately on August 15, 1947 India became an independent nation. The Constituent Assembly of India framed the Constitution for free India.

2.5 FURTHER READING

1) Chander, Prakash.(2000). *Indian Government and Politics*. New Delhi: Cosmos Bookhive Pvt. Ltd.

2) Ghai, K.K.(2007). *Indian Government and Politics*. New Delhi: Kalyani Publishers.

3) Pylee, M,V. (2006). *Constitutional Government in India.* New Delhi: S. Chand and Company.

2.6 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q. No 1: 1784

Ans to Q. No 2: The Charter Act of 1833

Ans to Q. No 3: (i) The Governor of Bengal was made the Governor General. A Council, consisting of four members, was created to assist the Governor General.

(ii) The Governor General and the Council were empowered to make rules and regulations and issue of ordinance for maintaining order within the Company's territories in India.

Ans to Q. No 4: The Government of India Act of 1858

Ans to Q. No 5: The Indian Councils Act of 1861

Ans to Q. No 6: 1892

Ans To Q. No.7: True

Ans To Q. No.8: (i) The Committee recommended that India should be given dominion status. In India Government would derive all power and authority from the people of the country.

(ii)

India should have its own Constitution and secularism should be its basic feature.

Ans To Q. No.9: Five years

Ans To Q. No.10: Government of India Act of 1935

Ans To Q. No.11: Mountbatten Plan

Ans To Q. No.12: Labour Party

Ans To Q. No.13: (i) To establish a Union of India consisting of British Provinces and Indian States.

(ii) To establish a Constituent Assembly to draft the constitution for India. The members of the Constituent Assembly were to be elected by the Provincial Assemblies of the Provinces.

Ans to Q no.14: July 18, 1947

2.7 MODEL QUESTIONS

A. Very Short Questions

Q.1: Who was the first Governor General of Bengal?

Q.2: Which Act introduced Special Electorate for the Muslim community?

Q.3: State the composition of the Board of Control as provided by the Pitt's India Act, 1784.

Q.4: Mention any four subjects included in the Central List as recommended by the Government of India Act 1919.

B. Short Questions (answer each question in around 150 words)

Q.1: Write a short note on the Regulating Act of 1773.

Q.2: Write briefly about the changes introduced by the Indian Councils Act of 1861 in India.

Q.3: Write about the three categories of electorates as provided by the Indian Councils Act or the Morley- Minto Reforms of 1909.

Q.4: Write a short note on the Simon Commission Report of 1930.

C. Long Questions (answer each question in around 300-500 words)

Q.1: Discuss the process of constitutional development in India from the period 1773 to 1909.

Q.2: Explain the contribution of the Government of India Acts of 1919 and 1935 in the constitutional development process of India.

Q.3: Discuss the constitutional development process of India from the period 1919 to 1947.

UNIT 2: MAKING OF THE INDIAN CONSTITUTION

UNIT STRUCTURE

2.1 Learning Objectives

2.2 Introduction

2.3 Making of the Indian Constitution

2.4 Formation of the Constituent Assembly

2.5 Drafting Committee

2.6 Adoption of the Constitution of India

2.7 Let Us Sum Up

2.8 Further Reading

2.9 Answers to Check Your Progress

2.10 Model Questions

2.1 LEARNING OBJECTIVES

After going through this unit you will be able to-

- explain the formation of Constituent Assembly
- examine the role of the Drafting Committee
- discuss the process of adoption of the Constitution of India.

2.2 INTRODUCTION

The making of the Indian Constitution was the culmination of a long historical process rooted in India's colonial experience and the national movement for freedom. Decades of British rule had introduced constitutional ideas through various Acts and reforms, but these remained limited, centralised, and largely unrepresentative of Indian aspirations. The growing demand for self-rule, democratic governance, and the protection of fundamental rights found expression through the freedom struggle led by the Indian National Congress and other nationalist forces. During the time of the First World War, Bal Gangadhar Tilak and Annie Besant had launched the Home Rule Movement. It is considered to be one of the milestones in the development of the constitutional process in India. Against the backdrop of

the transfer of power, the trauma of Partition, and the challenge of uniting a vast, diverse society, the Constituent Assembly was entrusted with the task of framing a Constitution that would reflect the ideals of justice, liberty, equality, and fraternity. In this unit, we shall discuss the making of the Indian Constitution with special reference to the role of the Constituent Assembly and the Drafting Committee.

2.3 MAKING OF INDIAN CONSTITUTION

During the Indian Freedom Movement, nationalist leaders consistently demanded the formation of a Constituent Assembly to frame a Constitution for a free and sovereign India, reflecting the will and aspirations of its people. This long-standing demand, first formally articulated in the 1930s, materialised after prolonged struggle when the Constituent Assembly of India was constituted under the Cabinet Mission Plan of 1946. The Constituent Assembly, a truly representative body of the people of India, held its first meeting on 9 December 1946 under the temporary chairmanship of Dr. Sachchidananda Sinha. It functioned for nearly three years, through eleven sessions and extensive committee deliberations, under the leadership of Dr. B. R. Ambedkar as Chairman of the Drafting Committee. As a result of its sustained and meticulous efforts, the Constitution of India was adopted on 26 November 1949 and came into force on 26 January 1950. Often described as a “borrowed Constitution,” the Indian Constitution is distinguished by the wisdom of its framers, who carefully assimilated the best features of various constitutions of the world—such as those of the UK, USA, Ireland, and Canada—while creatively adapting and modifying them to suit India’s unique social, cultural, and political conditions.

2.4 FORMATION OF THE CONSTITUENT ASSEMBLY

In India, during the first half of the 20th century, the demand for self-determination was raised with a new vigour. The 33rd session of the Indian National Congress, held in December 1918, passed the resolution that the Indians should have the right to self-determination and for that India must have a Constitution of its own. In 1924, Motilal Nehru raised the demand for a “scheme of a Constitution for India. The Bombay session of the Indian National Congress, held in the year 1927, again passed a resolution that the Congress Working Committee should frame the Constitution for India in consultation

with the elected members of the Central and Provincial Legislatures. In 1934, M.N. Roy, for the first time, raised the demand for a Constituent Assembly to frame the Constitution for India. The Swaraj Party further raised this demand in the same year. The Indian National Congress repeated this demand in a resolution passed at the Faizpur Session on December 28, 1936. In 1939, the Working Committee of the Indian National Congress passed a resolution asserting for India's independence and formation of a Constituent Assembly.

The idea of a Constituent Assembly for India was first formally discussed during the Cripps Mission of March 1942, when Sir Stafford Cripps presented proposals on behalf of His Majesty's Government in India. The British government aimed to secure the co-operation of the Indian National Congress during World War II, as Britain was facing a serious threat from Japan. The Congress, however, found most of Cripps' proposals inadequate and rejected them, although the concept of a Constituent Assembly continued to gain support.

After the end of World War II, the Labour Party formed the British government and accepted the principle of India's independence. The British sent the Cabinet Mission to India in 1946 to negotiate the transfer of power. The Cabinet Mission plan proposed the formation of a Constituent Assembly to draft the Constitution of free India.

The Constituent Assembly was to consist of representatives from provinces, princely states, and communities, with seats distributed roughly in proportion to population and communal representation ensured. Elections under the Cabinet Mission Plan were held in July 1946. Out of 210 general seats, the Indian National Congress won 199, while the Muslim League captured 73 of 78 Muslim seats. Eminent leaders, administrators, jurists, and public figures from various walks of life were elected to the Assembly.

The Constituent Assembly was scheduled to meet on 9 December 1946. Dr. Sachidanand Sinha served as its temporary chairman, and on 11 December 1946, Dr. Rajendra Prasad was elected as permanent chairman. The Muslim League later boycotted the Assembly, demanding a separate Constituent Assembly for Muslim-majority areas and the creation of Pakistan. This demand was accepted in the Mountbatten Plan, which led to the partition of India.

Following partition, the composition of the Assembly changed: the total strength reduced from 389 to 299 members, with representatives from princely states decreasing from 93 to 70 and those from British India and Chief Commissioners' provinces declining from 296 to 229. The Assembly created several committees, the most important of which was the Drafting Committee, chaired by Dr. B.R. Ambedkar, responsible for preparing the Constitution.

Objectives Resolution:

On 13 December, 1946 Jawaharlal Nehru moved the Objective Resolution which provided the ideological foundation of the Indian Constitution. The Constituent Assembly in its first two sessions devoted itself to the framing of the Objective Resolution. The Constituent Assembly adopted the Objectives Resolution on 22 January, 1947. The Resolution stated that—

- This Constituent Assembly declares its firm and solemn resolve to proclaim India as an Independent Sovereign Republic and to draw up for her future governance a constitution.
- Wherein the territories that now comprise British India, the territories that now form the Indian States, and such other parts of India as are outside British India and the state as well as such other territories as are willing to be constituted into the Independent Sovereign India, shall be a Union of them all.
- Wherein all powers and authority of the sovereign Independent India, its constituent parts and organs of government are derived from the people
- Wherein shall be guaranteed and secured to all the people of India Justice, social, political and economic; Equality of status, of opportunity and before the law; Freedom of thought, expression, belief, faith, worship, vocation, association and action, subject to law and public morality.
- Wherein adequate safeguards shall be provided for minorities, backward and tribal areas and depressed and other backward classes.
- Wherein shall be maintained the integrity of the territory of the Republic and its Sovereign rights on land, sea, and air according to justice and the law of civilized nations.
- This ancient land attains its rightful and honoured place in the world and makes it a full and willing contribution to the promotion of world peace and the welfare of mankind.

It is evident that the Objective resolution highlighted the basic requirement of the people which were deliberately needed by the Indian citizens for their betterment.

CHECK YOUR PROGRESS

Q.1: Who launched the Home Rule Movement in India?

.....

Q.2: `In which year was the Faizpur Session of Indian National Congress held?

.....

Q.3: Jawaharlal Nehru moved the objective resolution on ..... (Fill in the blank)

Q.4: Who was the permanent chairperson of the Constituent Assembly?

.....

Q.5: In which year did the Cabinet Mission come to India?

.....

Q.6: Write briefly about the formation of the Constituent Assembly.

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.....

2.5 DRAFTING COMMITTEE

There were a number of Committees within the ambit of Constituent Assembly. The most important of all the Committees was the Drafting Committee. The task of preparing a draft of the Constitution, in accordance with the decisions taken on the reports of the various committees, was entrusted to the Drafting Committee under the Chairmanship of Dr. B.R. Ambedkar. The Drafting Committee was constituted on 29th August, 1947 and originally consisted of the following members— Dr. B.R Ambedkar (Chairman), Sir N. Gopalaswami Ayyangar, Sir Alladi Krishnaswamy Ayyar, Dr. K.M Munshi, Sir Sayed Muhammad Saadulla, B.L. Mitter and D.P. Khaitan. Subsequently, Sir N. Madhava Rau replaced B.L. Mitter who resigned due to ill health and Sri T.T. Krishnamachari replaced D.P. Khaitan after his death. Under the Chairmanship of Dr. B.R. Ambedkar, the Drafting Committee submitted the Draft Constitution consisting of 315 Articles and 8 Schedules before the Constituent Assembly. The Drafting Committee embodied the decision of the Assembly with alternative and additional proposals in the form of a “Draft Constitution of India”, which was published in February 1948. It took the Constituent Assembly less than six months to prepare the draft. The Draft Constitution contained 315 Articles and 8 Schedules. At the second stage of its consideration, the

draft was considered Article by Article. In the process of scrutiny, 7,635 amendments to various Articles had been received. Of these 2,473 were actually moved and discussed. The rest were either withdrawn or overlapped with each other. The Constituent Assembly met for 114 days to devote itself to the consideration of the draft constitution. After extensive debates, revisions, and additions, the final version of the Constitution with 395 Articles and 8 Schedules was adopted by the Constituent Assembly on November 26, 1949.

LET US KNOW

The Constituent Assembly constituted different Committees to deal with different aspects of the Constitution. Among these, one of the committees constituted was the North-East Frontier Tribal Areas and Assam, Excluded and Partially Excluded Areas Sub-Committee under Sri Gopinath Bordoloi.

2.6 ADOPTION OF CONSTITUTION OF INDIA

The report submitted by the various committees were considered by the Constituent Assembly at the plenary session and most of the decisions were unanimously taken. The Constituent Assembly held eleven plenary sessions. Since the task of preparing the draft of the Constitution was entrusted upon the Drafting Committee, the Committee submitted its report on 21st February, 1948. A sufficient time gap was allowed to enable the people, the press as well as the provincial legislatures to hold free and frank discussions on the report. The Drafting Committee presented a draft constitution to the Constituent Assembly which started a general discussion on the draft constitution on 4th November, 1948. The second reading on the draft constitution was completed by the Assembly on 17th October, 1949. The Constituent Assembly finally adopted the Constitution on 26th November, 1949 and the President of the Assembly formally assigned his signature to the Constitution. Thus the Constituent Assembly which held its first meeting on 9th December, 1946, took two years, 11 months and 18 days to complete the work.

It goes to the credit of the Constituent Assembly that despite various tensions prevailing in the country at the time of the enactment of the Constitution, it succeeded in providing a Constitution which received unanimous support from the various sections of the society and thus succeeded in maintaining the unity of the country.

The adoption of the Constitution of India was indeed an event of great constitutional significance and Dr. Rajendra Prasad, the president of the Constituent Assembly expressed satisfaction over the stupendous job accomplished by the Assembly.

Eminent scholar of the Indian Constitution Professor Granville Austin describes the adoption of the Constitution of India as “the greatest political venture since Philadelphia” referring to the adoption of the Constitution of the USA in 1787 in the Philadelphia Convention.

CHECK YOUR PROGRESS

Q.7: Who was the chairperson of Drafting Committee of Indian Constitution?

.....

Q.8: Mention the names of the members of the Drafting Committee of Indian Constitution.

.....
.....
.....

Q.9: The constitution of India was adopted on ..... (Fill in the blank)

Q.10: Who opined “The adoption of the Constitution of India is the greatest political venture since Philadelphia”?

.....

2.7 LET US SUM UP

- In India the demand for the Constitution was raised during the freedom movement. During the time of the First World War, Bal Gangadhar Tilak and Annie Besant had launched a Home Rule Movement. It is considered to be one of the milestones in the development of the constitutional process in India. With the effort of Motilal Nehru, for the first time, a systematic demand was made for the adoption of a Constitution for the Indians.
- In India, the demand for a Constituent Assembly was for the first time made by M.N Roy in 1934. The Swaraj Party further raised this demand in the same year. The Indian National Congress repeated this demand in a resolution passed at the Faizpur Session on December 28, 1936. In 1939, Working Committee of the Indian National Congress passed a resolution asserting for India’s independence and formation of a Constituent Assembly.

- The Constituent Assembly of India consisted of the representatives of the dominant communities of India, seats being distributed among the different provinces and states roughly in the ratio of one member to a million of the population. The election to the Constituent Assembly was held under the Cabinet Mission Plane in July 1946. Out of 210 general seats, the Congress won 199 and the Muslim League captured 73 seats out of a total of 78 Muslim seats.
- The Constituent Assembly met first on 9th December, 1946 under Dr. Sachidanand Sinha and on 11th December, 1946 and it elected Dr. Rajendra Prasad as its permanent chairperson. The Constituent Assembly had a number of committees and the most important was the Drafting Committee.
- On 13 December, 1946 Jawaharlal Nehru moved the Objective Resolution which provides the ideological foundation of the Indian Constitution.
- The task of preparing a draft of the Constitution, in accordance with the decisions taken on the reports of the various committees of the Constituent Assembly, was entrusted upon the Drafting Committee under the Chairmanship of Dr. B.R. Ambedkar.
- The Constituent Assembly finally adopted the Constitution on 26th November, 1949 and the President of the Assembly formally assigned his signature to the Constitution. The Constituent Assembly which held its first meeting on 9th December, 1946, took two years, 11 months and 18 days to complete the work.

2.8 FURTHER READING

1) Chander, Prakash.(2000). *Indian Government and Politics*. New Delhi: Cosmos Bookhive Pvt. Ltd.

2) Ghai, K.K.(2007). *Indian Government and Politics*. New Delhi: Kalyani Publishers.

3) Kapur, Anup Chand and Misra, K.K. (2006). *Select Constitutions.* New Delhi : S. Chand and Company.

4) Pylee, M,V. (2006). *Constitutional Government in India.* New Delhi: S. Chand and Company.

2.9 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No 1: Annie Besant and Bal Gangadhar Tilak

Ans to Q. No 2: 1936

Ans to Q. No 3: 13th December, 1946.

Ans to Q No 4: Dr. Rajendra Prasad

Ans to Q No 5: 1946

Ans to Q No 6: The Constituent Assembly of India consisted of the representative of the dominant communities of India, seats being distributed among the different provinces and states roughly in the ratio of one member to a million of the population. The election to the constituent assembly was held under the Cabinet Mission Plane in July 1946. Out of 210 general seats, the congress won 199 and the Muslim League captured 73 seats out of a total of 78 Muslim seats. To the constituent assembly many top ranking Congress and Muslim League leaders, eminent statesman, administrators, eminent Jurists and public man drawn from all walks of life were elected.

Ans to Q No 7: Dr. B.R. Ambedkar

Ans to Q No 8: Dr. B.R Ambedkar (Chairman), Sir N. Gopalaswami Ayyangar, Sir Alladi Krishnaswamy Ayyar, Dr. K.M Munshi, Sir Sayed Muhammad Saadulla, B.L. Mitter and D.P. Khaitan. Subsequently, Sir N. Madhava Rau replaced B.L. Mitter who resigned due to ill health and Sri T.T. Krishnamachari replaced D.P. Khaitan after his death.

Ans to Q No 9: 26th November, 1949

Ans to Q No 10: Professor Granville Austin

2.10 MODEL QUESTIONS

A) Very Short Questions:

Q.1: In which year was the Bombay session of the Indian National Congress held?

Q.2: How many seats were captured by the Indian National Congress in the election to the Constituent Assembly?

Q.3: Mention the names of any two members of the Drafting Committee.

B) Short Questions (Answer each question in about 150 words)

Q. 1: Write a short note on the Objectives Resolution.

Q. 2: Write briefly about the Composition of the Constituent Assembly.

C) Long Questions (Answer each question in about 300-500 words)

Q. 1: Examine the role of the Drafting Committee in the framing of the Indian Constitution.

Q. 2: Analyse the process of adoption of the Indian Constitution.

UNIT 3: PHILOSOPHY AND IDEALS OF THE INDIAN CONSTITUTION

UNIT STRUCTURE

3.1 Learning Objectives
3.2 Introduction
3.3 Philosophy and Ideals of the Indian Constitution
    3.3.1 The Preamble
3.4 Sources of the Indian Constitution
3.5 Let Us Sum Up
3.6 Further Reading
3.7 Answers to Check Your Progress
3.8 Model Questions

3.1 LEARNING OBJECTIVES

After going through this unit, you will be able to :

- discuss the Philosophy and ideals of the Indian Constitution
- discuss the sources of the Indian Constitution.

3.2 INTRODUCTION

The Indian freedom struggle, particularly under the leadership of Mahatma Gandhi, deeply influenced the country's social and political life and helped shape the main ideals that guided the fight for independence. In keeping with these ideals, Jawaharlal Nehru introduced the Objectives Resolution on 13th December 1946. After a full discussion and debate, the Constituent Assembly passed the Objectives Resolution on January 22, 1947. The resolution clearly laid down the ideological foundations and values of the Indian Constitution. The Preamble to the Indian Constitution embodies all the ideals which were listed in the Objectives Resolution. In this unit, we shall discuss the philosophy and ideals of the Indian Constitution as incorporated in the Preamble to the Constitution of India.

3.3 PHILOSOPHY AND IDEALS OF THE INDIAN CONSTITUTION

The philosophy and ideals of the Indian Constitution are reflected in the Preamble to the Constitution of India. Our Constitution may be said to be an expansion and explanation of

the Preamble. Supreme Court Chief Justice, Justice Subba Rao opined, “Preamble contains, in a nutshell, its ideals and its aspirations.” To understand the philosophy and ideals of the Indian Constitution, we must know the Preamble in the first place. Let us define and analyze the Preamble to the Indian Constitution.

3.3.1 The Preamble

The Oxford Advanced Learner’s Dictionary defines the word “Preamble” as an introduction to a book or a written document. The Constitution of India starts with a Preamble. It is the most precious part of the Constitution. It is the soul of the Constitution. The Preamble of the Indian Constitution says:

“WE, THE PEOPLE OF INDIA having solemnly resolved to constitute India into a SOVEREIGN, SOCIALIST, SECULAR, DEMOCRATIC REPUBLIC and to secure to all its citizens: JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith and worship; EQUALITY of status and opportunity; and to promote among them all FRATERNITY assuring the dignity of the individual and the unity and integrity of the nation;

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.”

From the Preamble we can understand the philosophy and ideals of the Indian Constitution. The philosophy and ideals of the Indian Constitution are discussed as follows:

- **Popular Sovereignty:** The Preamble begins with the words “We the people of India……” and ends with the words “……adopt, enact and give to ourselves this Constitution”. It indicates that ultimate sovereignty lies with the people of India who collectively constitute the supreme source of authority in the country. The Constitution is regarded as the supreme law of the state, but the supreme power of the state is vested upon the people of India.
- **India as a Sovereign state:** The Preamble declares India as a sovereign state. It is free from any external control. No foreign power can interfere in the internal affairs of India. India can determine her foreign affairs according to her free will.
- **India as a Socialist state:** The word ‘Socialist’ has been added in the Preamble by the 42nd Amendment in 1976. It means the Constitution of India has a great objective to secure social and economic equality and fair distribution of wealth among all sections of people in the country. By inserting the term ‘socialist’, it has not only brought a feeling of equal status among the people but also strengthened the philosophical foundation of the Indian Constitution. Some socialistic

principles are also distinctly reflected in the Articles 39, 41, 42 and 43 which are incorporated in the Directive Principles of State Policy.

- Ø **India as a Secular state:** The word 'Secular' has been included in the Preamble by the 42nd Amendment in 1976. The characteristic of Indian secularism is that India does not recognize any religion as the official or state religion and treats all religions equally. Moreover, different communities in India have the right to practise their own faiths. Thus, secularism is one of the ideals of the Indian Constitution.
- Ø **India as a Democratic state:** The Preamble describes India as a democratic state. The prime philosophy and ideal of the Indian Constitution is to make India a democratic state. India is regarded as the largest democratic state in the world. According to Abraham Lincoln, "Democracy is by the people, for the people and of the people." The Constitution of India has established a parliamentary democracy in India marked by universal adult franchise, periodic election to choose the government, majority rule, rule of law, decentralization of power, rule of law, independence of the judiciary, etc.
- Ø **India as a Republic:** The Preamble declares India to be a *republic*. What it means is that the Head of the State in India, that is the President of India, is an elected head. He is not a hereditary ruler. The President of India who is the Chief Executive and nominal head of our country is indirectly elected by the people.
- Ø **To ensure Justice:** Justice implies that the Government will try to promote the welfare of all the sections of the people. The Preamble provides for three types of Justice- social, economic and political. To ensure social justice the Constitution has made special arrangements for the weaker sections of the society, abolished untouchability, provided free education up to a certain standard, etc. With a view to providing political justice, the Constitution has introduced the principle of universal adult franchise and has given an equal right to all adult citizens to be elected or appointed to public services. Economic justice implies that the Constitution seeks to ensure economic security for the common people and to do way with unequal distribution of income and wealth.
- Ø **To ensure Liberty:** The other important philosophy and ideal of the Indian Constitution is to ensure liberty to its citizens for the all round development of their personality. Accordingly, the Preamble provides for liberty of thought, expression, belief, faith and worship. The Constitution of India provides a number of Fundamental Rights to the citizens and also protects theses rights.

- **To ensure Equality:** Equality is the basis of a democratic state. Equality is necessary for the development of a society. Hence, the term 'equality' has been inserted in the Preamble to our Constitution. Equality has been guaranteed by the 'Rule of Law'. To establish equality, our Constitution has provided for the Right to Equality as a Fundamental Right. The Indian Constitution ensures equality before the eyes of law to all persons, citizens and non- citizens. The Constitution also prohibits discrimination on grounds of religion, race, caste, sex, place of birth or any of them.
- **To promote Fraternity among the people:** The term fraternity has been incorporated in the Preamble as a means of assuring the dignity of the individual and the unity and integrity of the nation. The term 'dignity of the individual' means that the personality of the individual should be recognized, because, the recognition of the personality and the dignity of the individual is an essential condition to promote fraternity among the people. To promote fraternity and a feeling of brotherhood among the people, certain attempts have been made for the removal of social distinctions and inequalities based on caste, class, creed, language, religion, region, etc. Without unity among its citizens, a state could not be successful. The framers of the Indian Constitution were fully aware of the diversities prevailing in the country. Accordingly, the word integrity was added in the Preamble by the 42nd Amendment to emphasize the fundamental unity of the country against the divisive forces of regionalism, communalism and the like.
- **India as a Welfare state:** India is committed to the ideal of a welfare state and must establish socio- economic justice. The Preamble lays the foundation of a welfare state in India. Acharya Kripalini, who was the President of the Indian National Congress, said, "The Preamble contains the mystic principle of a welfare state." India is committed to democracy and respects individual liberty, providing to all her citizens, the equality of status and opportunity. The Directive Principles of State Policy involving social, economic, political and cultural goals are like instructions to the state. They, aim at establishing a welfare state in India.

The Preamble to the Indian Constitution has a great significance. It is important to mention here that, in the 'Biruberi Case' (AIR1960 SC 845) the Supreme Court held that the Preamble is not a part of the Constitution. But the famous 'Keshavananda Bharti – vs. - State of Kerala' (AIR 1973 SC 1461) has held that the Preamble is a part of the Constitution. It was also held in this case that, the Preamble could be amended by the Parliament under Article 368 but the 'Basic Structure' of the Constitution could

not be changed. Thus, the Preamble can be amended but our Parliament cannot amend the Constitution in a way that it damages or destroys the objectives specified in the Preamble.

LET US KNOW

According to A. V. Dicey , the British jurist and constitutional theorist, Rule of Law has three meanings-

- No man can be punished except for a breach of law
- No man is above the law
- The general principles of the Constitution are the result of judicial decisions

ACTIVITY 3.1

Try to find out the names of a few republics in the world.

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CHECK YOUR PROGRESS

Q 1: By which amendment have the words 'Secular', 'Socialist' and 'integrity' been included in the Preamble ?

.....

Q.2: The supreme source of authority as enshrined in the Preamble to the Constitution of India is the people of India. (True/False)

.....

Q.3: Why is India called a Republic?

.....

.....

Q.4: The 'Keshavananda Bharti – vs. - State of Kerala' (AIR 1973 SC 1461) case has held that the Preamble is not a part of the Constitution. (True/False)

.....

Q.5: Discuss the concept of justice as incorporated in the Preamble to the Constitution of India.

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3.4 SOURCES OF THE INDIAN CONSTITUTION

The Indian Constitution is drawn from many sources. Keeping in mind the needs and conditions of India the framers of the Indian Constitution borrowed different features freely from the different constitutions of the world. Therefore, some critics have described the Indian Constitution as a “bag of borrowings” and a “hotch potch Constitution”.

The sources of the Indian Constitution are:

- **The British Constitution**: The British Constitution influenced a lot on framers of the Constitution of India. The Parliamentary form of Government, the Cabinet System of Government, the superior position of the lower House as compared to the Upper House and the rule of law etc. were adopted by the framers of the Indian Constitution from the British constitution. In India, like the King of Britain, the head of the State, i.e. the President is only a nominal head and actually the real executive power is exercised by the Prime Minister with the help of the Council of Ministers who are accountable to the Parliament.
- **The Constitution of the United States of America:** The Fundamental Rights which are incorporated in the Part III of the Indian Constitution are based on the “Bill of Rights” of the United States of America. The concept of independent, impartial and unitary form of Judiciary and the functions of the Vice President of India are borrowed from the Constitution of the United States of America.
- **The Constitution of Canada**: The term ‘Union of India’ which is in Article 1 of the Indian Constitution is taken from the Canadian Constitution. The framers of the Indian Constitution have borrowed our federal system from Canada though some of its features have been taken from the Australian and South African constitutions. Like the Canadian Constitution, in India, the Residuary powers have been vested in the hands of the Central Government.
- **The Irish Constitution**: Our Constitution provides for the Directive Principles of State Policy under Part IV of the Constitution. These are derived from the Irish Constitution. The provision of nomination of certain members to the Rajya Sabha (Upper House) from different fields like, art, culture, science, social services etc. are taken from the Irish Constitution.

- **The Constitution of South Africa**: The framers of the Indian Constitution were also greatly influenced by the Constitution of South Africa. The procedure of amendment and the provisions relating to the election of Rajya Sabha members reflect the influence of the Constitution of South Africa.
- **The Constitution of Germany**: The power of the President to suspend the Fundamental Rights during emergency was adopted from the Weimer Constitution of Germany.
- **The Government of India Act, 1935**: The Government of India Act, 1935 is the biggest source of our Constitution. The framers of the Indian Constitution have adopted many provisions from this Act. The relations between the Union and the States and the three lists (Union, State and Concurrent) dividing governmental powers between them were taken from that Act. According to Prof. Jennings, "The Constitution derives directly from the Government of India Act, 1935, from which in fact many of its provisions are copied almost textually."

CHECK YOUR PROGRESS

Q.6: The Parliamentary form of Government is borrowed from the Constitution of ..... (Fill in the Blanks).

Q.7: Mention the important provisions taken from the Constitution of the United States.

.....

.....

Q.8: Write the name of the Act which greatly influenced the framing of the Constitution of India.

.....

Q.9: Why the Indian Constitution is called a "bag of borrowings"? (within 50 words)

.....

.....

3.5 LET US SUM UP

- The Indian Constitution is drawn from many sources. Keeping in mind the needs and conditions of India the framers of the Indian Constitution borrowed different features freely from the different constitutions of the world.
- The main sources which have influenced the framing of the Indian Constitution include the British Constitution, the US Constitution, the Constitution of Canada, the Irish Constitution, the Constitution of South Africa, the Constitution of Germany and the Government of India Act, 1935.
- The British Constitution influenced a lot on framers of the Constitution of India. The Parliamentary form of Government, the Cabinet System of Government, etc., were adopted by the framers of the Indian Constitution from the British Constitution. Similarly, the Fundamental Rights which are incorporated in the Part III of the Indian Constitution are based on the "Bill of Rights" of the United States of America.
- The term 'Union of India' which is in Article 1 of the Indian Constitution is taken from the Canadian Constitution. The framers of the Indian Constitution have borrowed our federal system from Canada though some of its features have been taken from the Australian and South African constitutions.
- Our Constitution provides for the Directive Principles of State Policy under Part IV of the Constitution. These are derived from the Irish Constitution.
- The framers of the Indian Constitution were also greatly influenced by the Constitution of South Africa . Again, the power of the President to suspend the Fundamental Rights during emergency was adopted from the Weimer Constitution of Germany.
- The Government of India Act, 1935 is the biggest source of our Constitution. The framers of the Indian Constitution have adopted many provisions from this Act. The relations between the Union and the States and the three lists (Union, State and Concurrent) dividing governmental powers between them were taken from that Act.
- The Preamble begins with the words "We the people of India……" and ends with the words "……adopt, enact and give to ourselves this Constitution". It indicates that ultimate sovereignty lies with the people of India who collectively constitute the supreme source of authority in the country. The Preamble declares India as a sovereign state. It is free from any external control.

- The word 'Socialist' has been added in the Preamble by the 42nd Amendment in 1976. It means the Constitution of India has a great objective to secure social and economic equality and fair distribution of wealth among all sections of people in the country.
- The word 'Secular' has been included in the Preamble by the 42nd Amendment in 1976. The characteristic of Indian secularism is that India does not recognize any religion as the official or state religion and treats all religions equally.
- The Preamble describes India as a democratic state. The prime philosophy and ideal of the Indian Constitution is to make India a democratic state.
- The Preamble declares India to be a *republic*. What it means is that the Head of the State in India, that is the President of India, is an elected head. He is not a hereditary ruler.
- Justice implies that the Government will try to promote social, economic and political justice for the welfare of all sections of the society.
- The other important philosophy and ideal of the Indian Constitution is to ensure liberty to its citizens for the all round development of their personality.
- The term 'equality' has been inserted in the Preamble to our Constitution. The Indian Constitution ensures equality before the eyes of law to all persons, citizens and non-citizens.
- The term fraternity has been incorporated in the Preamble as a means of assuring the dignity of the individual and the unity and integrity of the nation.

3.6 FURTHER READING

1) Chander, Prakash.(2000). *Indian Government and Politics*. New Delhi :Cosmos Bookhive Pvt. Ltd.
2) Ghai, K.K.(2007). *Indian Government and Politics*.New Delhi: Kalyani Publishers.
3) Kapur, Anup Chand and Misra, K.K. (2006). *Select Constitutions*.New Delhi : S. Chand and Company.
4) Pylee, M,V. (2006). *Constitutional Government in India.* New Delhi:S. Chand and Company.

3.7 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No 1: By the 42nd Amendment in 1976.

Ans to Q No 2: True

Ans to Q No 3: The Head of the State in India, i.e., the President of India, is an elected head. He is not a hereditary ruler. Therefore India is called a Republic.

Ans to Q No 4: False

Ans to Q No 5: Justice implies that the Government will try to promote social, economic and political justice.To ensure social justice the Constitution has made special arrangements for the weaker sections of the society, abolished untouchability,etc. With a view to providing political justice, the Constitution gives the right to vote and be elected to all adult citizens. On the economic front, justice implies that the Constitution seeks to ensure economic security for the common people.

Ans to Q No 6: The British Constitution

Ans to Q No 7:. 1) The Fundamental Rights which are incorporated in the Part III of the Indian Constitution is based on the United States "Bill of Rights".

2) The concept of independent, impartial and unitary form of Judiciary

Ans to Q No 8: The Government of India Act, 1935

Ans to Q No 9: The framers of the Indian Constitution borrowed different features freely from the different constitutions of the world because of the needs and conditions of India. The important provisions are taken from the British Constitution, the Constitution of U.S.A., and constitution of Canada, South Africa etc. and the Government of India Act, 1935. Therefore, the Indian Constitution is called a "bag of borrowings".

3.8 MODEL QUESTIONS

A) Very Short Questions

Q 1: From which Constitution has the term "Union of India" been borrowed?

Q 2: With whom does ultimate sovereignty lie in India?

B) Short Questions (Answer each question in about 150 words)

Q 1: Write two important sources of the Indian Constitution.

Q 2: Discuss justice and liberty as ideals of the Indian Constitution.

Q 3: Discuss the Government of India Act, 1935 as a source of the Indian Constitution.

C) Long Questions (Answer each question in about 300-500 words)

Q 1: Describe the philosophy and ideals enshrined in the Preamble to the Constitution of India.

Q 2: Write a note on the sources of the Indian Constitution.

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UNIT 4: FEATURES OF THE INDIAN CONSTITUTION

4.1 Learning Objectives

4.2 Introduction

4.3 Salient Features of the Indian Constitution

4.4 Let Us Sum Up

4.5 Further Reading

4.6 Answers to Check Your Progress

4.7 Model Questions

4.1 LEARNING OBJECTIVES

After going through this unit you will be able to:

- explain the salient features of the Indian Constitution
- examine some distinctive features of the Indian Constitution such as lengthiest Constitution, mixture of federal and unitary features, etc.

4.2 INTRODUCTION

The Indian Constitution is the supreme law of the country, providing the foundational framework that defines the nation's political structure, governance processes, and the rights and responsibilities of its citizens. Adopted on 26 November 1949 and enforced from 26 January 1940, it reflects the aspirations of the people of India for justice, liberty, equality, and fraternity. As one of the longest and most comprehensive written constitutions in the world, it draws from diverse global constitutional traditions while remaining firmly rooted in India's historical experiences and socio-cultural diversity. In this unit we shall discuss the various features of the Indian Constitution.

4.3 SALIENT FEATURES OF THE INDIAN CONSTITUTION

The constitution of a state is not only the fundamental law of the state, but it is also like a mirror of its social, political and economic systems. Each constitution grows and develops within a particular environment. The Constitution of India is unique in many ways. Several special features of the Indian Constitution distinguish it from many other constitutions of the world. The salient features of the Indian Constitution of India described as follows:

- **Written Constitution:** The Constitution of India is a written document. To draft the Indian Constitution, a Drafting Committee was constituted by the Constituent Assembly under the Chairmanship of Dr. B. R. Ambedkar. The Constituent Assembly was a representative body which was indirectly elected by the people. It consisted of 389 members out of whom 296 members were elected from British India and 93 members were the 'representatives of Native States'. The elections to the Constituent Assembly were held in 1946 and Dr. Rajendra Prasad was elected the President of the Constituent Assembly. The Drafting Committee prepared the draft of the Constitution. After long efforts, the new Constitution was finally adopted on November 26, 1949. Thus, the Indian Constitution came into force on January 26, 1940.
- **The Lengthiest Constitution:** The Indian Constitution is the lengthiest, bulkiest and most detailed Constitution in the World. It originally contained 394 Articles (divided into 22 parts) and 8 Schedules at the time of its enforcement. At present, it has 448 Articles, divided into 25 Parts and 12 Schedules. The Constitution of India contains a detailed list of Fundamental Rights, Directive Principles of State Policy, distribution of Powers between Centre and the States, political decentralisation (Panchayati Raj and Municipalities), Official Languages, Election and many other provisions over and above laying out the provisions regarding the executive, legislature and judiciary.
- **Partly rigid and partly flexible:** The Constitution of India is neither too rigid nor too flexible. A flexible constitution is that in which its provisions may be amended or modified by ordinary legislative process, whereas, in the case of a rigid constitution, a special procedure is required to be followed for the amendment or revision of its provisions. The Indian Constitution follows three methods for amendment. Firstly, some of the provisions can be amended by a simple majority of the Parliament. Secondly, some provisions may be amended by a special majority of the Parliament and thirdly, some other provisions which are federal in character may be amended only with a joint initiative of both the Parliament and the State legislature. The framers of the Indian Constitution adopted this system so that the Indian Constitution can adapt itself to the changing circumstances while still retaining its basic characteristics. Because of all these provisions, the Indian Constitution is characterized by the mixture of flexibility and rigidity.
- **Supremacy of the Constitution:** The Constitution of India is the supreme law of the country. All the three organs of the Government i.e.: Executive, Legislature and Judiciary

function under the Constitution of India and are controlled by it. They cannot violate the Constitution.

- **Mixture of Federal and Unitary features:** The Constitution of India establishes India as a partly Federal and partly unitary government. The word 'Federalism' is not mentioned anywhere in the Constitution. It describes India as a 'Union of States'. Because of the peculiar features of the Indian Constitution, some experts describe it as a 'quasi-federal state'. Indian federalism is also known as 'co-operative federalism'. Some of the federal features included in the Indian Constitution are written constitution, supremacy of the constitution, division of powers and distribution of powers between the centre and the states, a strong judiciary, bicameral legislature etc. But, India cannot be called a true federation because some non-federal features or unitary features like- existence of a strong centre, some rigid methods of amendment of the constitution, single citizenship, common All- India services, uniformity of judiciary, emergency provisions enjoyed by the President, appointment of Governors in the States, are distinctly noticed in the Constitution. Therefore, the Constitution of India is a mixture of federal and unitary features.
- **Parliamentary Government:** The Constitution of India provides for a Parliamentary form of Government on the British model. In the Parliamentary form of Government, the Head of the State is nominal, whereas the Prime Minster who is the leader of the majority in the Parliament is the real executive. In India, the President is only the nominal head of our country and the real and actual powers of the government are exercised by the Prime Minister.
- **Secularism:** Secularism is another important feature of the Indian Constitution. The word has been included in the Preamble by the 42nd Amendment in 1976. India does not recognize any religion as the state or official religion and treats all religions equally. All the people of India are given the liberty of thought, expression, belief and worship and there is no discrimination on the grounds of religion, caste or community. The State shall not make any discrimination against any person on the ground of his or her religion.
- **Provision of Fundamental Rights:** The Fundamental Rights are contained in Part-III of the Constitution from Articles 12 to 34.The framers of the Constitution derived inspiration from the 'Bill of Rights' from the Constitution of the U.S.A. Fundamental Rights are justiciable in the sense that a person can approach the court in case of violation of his or her Fundamental Rights. The Supreme Court of India is the Guardian of the rights and liberties of the people. They are not absolute. The Government can impose reasonable restrictions

on them especially on the grounds of national security, public order, decency, defamation, among others. The significance of the Fundamental Rights is that they protect the liberty and the freedom of the citizens against encroachment by the state. Originally, the Constitution provided for seven Fundamental Rights. But the Right to Property was abolished by the 44th Constitutional Amendment Act of 1978. At present, there are six Fundamental Rights. These six Fundamental Rights are- Right to Equality, Right to Freedom, Right Against Exploitation, Right to Freedom of Religion, Cultural and Educational Rights, Right to Constitutional Remedies.

- **Fundamental Duties:** Fundamental Duties are incorporated in Article 41A of Part IVA of the Constitution by the 42nd Constitutional Amendment Act of 1976. The original Constitution did not contain the fundamental duties. The Fundamental Duties are very important for the overall development of the country, these Duties must be performed by the citizens of India. These duties are not legally binding upon the citizens. Some of the duties include abiding by the Constitution and to respect its ideals and institutions and the National Flag and National Anthem, to defend the country and render national service, to develop the scientific temper, humanism and the spirit of inquiry and reform, to safeguard public property, to value and preserve the rich heritage of our composite culture etc.
- **Directive Principles of State Policy:** Another distinctive feature of the Indian Constitution is the Directive Principles of State Policy described in Part IV of our Constitution from Articles 36-41. These Directive Principles are fundamental in the governance of our Country and it is the duty of the state to apply these principles in making laws. These principles aim at securing social and economic freedoms by appropriate state action. These Directive Principle of State Policy are categorised as Socialist and Economic Principles, Gandhian principles and International Principles
- **Independent and impartial Judiciary:** A basic feature of the Indian Constitution is independence of the judiciary. The judiciary is separated from the other two organs i.e. executive and legislature. The tenure of the Judges of the Supreme Court and High Court is fixed and the judges cannot be removed by simple procedure. Independence of judiciary is very essential for the success of democracy. This independent judiciary acts as the guardian of the Indian Constitution.
- **Division of Powers between the Centre and the States:** Another important feature of the Indian Constitution of India is the division of powers between the Central and State Government. For this purpose three lists have been included in the Seventh Schedule of

the Constitution. These three list are - the Union List, the State List, and the Concurrent List. Over the subjects incorporated in the Union List the Central Government has exclusive jurisdiction, like that the State Government has jurisdiction over the subjects included in the State List. On the subjects included in the Concurrent List both the Central Government and the State Government have power.

- **Universal Adult Franchise:** The Universal Adult Franchise is introduced by the Constitution and thus, all adult citizens above the age of 18 years, irrespective of their religion, caste, race, colour and sex are entitled to participate in the election process.
- **Single Citizenship:** To promote the feeling of unity and oneness among the people of India, the framers of the Indian Constitution provided for a single citizenship for its citizens. It means that all the citizens of this country are Indian Citizens only. In the Federation like the United States of America dual citizenship is a very important federal feature, unlike India.
- **Emergency Powers:** The Indian Constitution has provided for emergency powers so that the whole nation can meet with any emergency situation the country or any part thereof may be faced with. The emergency powers are vested in the hands of the President of India. There are three kinds of Emergency powers. These are- National Emergency (Article-342), Emergency in a State (Article 346) and Financial Emergency (Article 360).

The above are some the important salient features of the Indian Constitution which makes it one of the most unique and distinct constitutions in the world.

LET US KNOW

The National Emergency (Article-342) was declared three times respectively in 1962, 1971 and in 1974 in our country. Emergency in a State (Article 346) (commonly called President's Rule) has been imposed many times in different States of India. Financial Emergency (Article 360) has not been declared till now.

ACTIVITY 4.1

Do you know how many times President's Rule has been declared in Assam? Try to find out the reasons behind the same.

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CHECK YOUR PROGRESS

Q. 1: The Indian Constitution has ..... Schedules. (Fill in the blank).

Q. 2: Indian federalism is also known as "co- operative federalism" ? (True/False)

.....

Q. 3: Mention any four Fundamental Duties incorporated in the Constitution of India.

.....

.....

Q 4: Mention four important features of the Indian Constitution.

.....

.....

Q. 4: Mention four unitary features of the Indian Constitution?

.....

.....

Q. 6: Through which Amendment the Right to Property is removed from the list of Fundamental Rights?

.....

Q 7: State the names of the three lists which divides powers between the Central Government and the State Governments.

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Q 8: Write briefly about Emergency Powers of the President of India as a feature of the Indian Constitution.

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.....

4.4 LET US SUM UP

- The Indian Constitution is the lengthiest, bulkiest and most detailed Constitution in the World. It contains at present 448 Articles, divided into 24 parts and 12 Schedules. The Constitution of India contains a detailed list of Fundamental Rights, Directive Principles of State Policy, distribution of Powers between Centre and the States, Official Languages, Election and many other provisions over and above laying out the provisions regarding the executive, legislature and judiciary.
- The Indian Constitution is characterized by the mixture of flexibility and rigidity. The framers of the Indian Constitution adopted this system so that the Indian Constitution can adapt itself to the changing circumstances while still retaining its basic characteristics.
- The Constitution of India is the supreme law of the country. All the three organs of the Government i.e.: Executive, Legislature and Judiciary function under the Constitution of India and are controlled by it. They cannot violate the Constitution.
- The Constitution of India establishes India as a partly federal and partly unitary government. Some of the federal features included in the Indian Constitution are written constitution, supremacy of the constitution, etc. But, India cannot be called a true federation because some non-federal features or unitary features like- a strong centre, some rigid methods of amendment of the constitution, single citizenship, etc. Therefore, the Constitution of India is a mixture of federal and unitary features.
- Some other important features of the Indian Constitution include provision of a Parliamentary form of Government on the British model, Secularism, Fundamental Rights, Independent and impartial Judiciary, Division of Powers between the Centre and the States, Universal Adult Franchise, Single Citizenship: and Emergency Powers.

4.5 FURTHER READING

1) Chander, Prakash.(2000). *Indian Government and Politics*. New Delhi :Cosmos Bookhive Pvt. Ltd.
2) Ghai, K. K.(2007). *Indian Government and Politics*. New Delhi: Kalyani Publishers.
3) Kapur, Anup Chand and Misra, K.K. (2006). *Select Constitutions.* New Delhi : S. Chand and Company.
4) Pylee, M. V. (2006). *Constitutional Government in India.* New Delhi: S. Chand and Company.

4.6 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No 1: 12 Schedules

Ans to Q No 2: True

Ans to Q No 3: (i) To abide by the Constitution and to respect its ideals and institutions and the National Flag and National Anthem, (ii) to defend the country and render national service, (ii)i to develop the scientific temper, humanism and the spirit of inquiry and reform,

(iv) to safeguard public property, to value and preserve the rich heritage of our composite culture .

Ans to Q No 4: i) Written and Lengthiest Constitution

ii) Partly flexible and partly rigid Constitution

iii) Supremacy of the Constitution.

iv) Universal Adult Franchise

4.7 MODEL QUESTIONS

A) Very Short Questions

Q 1: Through which Amendment Act Fundamental Duties have been incorporated in the Constitution of India

Q 2: What are the Categories of the Directive Principles of State Policy?

Q 3: How many schedules does the Indian Constitution presently contain?

Q 4: Mention any two federal features of the Indian Constitution.

B) Short Questions (Answer each question in about 140 words)

Q 1: Discuss secularism and fundamental duties as features of the Indian Constitution.

Q 2: Why is the Indian state regarded as a mixture of Unitary and Federal features?

C) Long Questions (Answer each question in about 300-400 words)

Q 1: Describe the features of the Indian Constitution.

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UNIT 5: UNION AND ITS TERRITORY; CENTRE-STATE RELATIONS

UNIT STRUCTURE

5.1 Learning Objectives

5.2 Introduction

5.3 Union and its Territory: The Constitutional Framework

5.4 Division of Powers between the Centre and the States; Centre-State Relations

5.4.1 Division of Powers between the Centre and the States

5.4.2 Relations between the Centre and the States

5.4.3 An Estimate of Indian Federalism

5.5 Let Us Sum Up

5.6 Further Reading

5.7 Answers to Check Your Progress

5.8 Model Questions

5.1 LEARNING OBJECTIVES

After going through this unit, you will be able to:

- discuss the constitutional framework regarding the Union and its territory.
- explain the division of powers between the Centre and the States
- explain the relations between the Centre and the States
- Present an estimate of Indian federalism.

5.2 INTRODUCTION

The Constitution of India describes India as a “Union of States” in its very first Article. Nowhere in the Constitution is India explicitly referred to as a federation. Although the Constitution contains several federal features, it exhibits more non-federal or unitary characteristics. Therefore, India cannot be considered a *pure* federal state. It is described as a “Union of States” because the Indian federation is not the result of an agreement among the constituent units, nor do these units possess the right to secede from the Union, unlike in a classical federation. By defining India as

a “Union of States,” the Constitution emphasizes the indestructible unity of the nation. This territorial framework directly shapes Centre–State relations, as it reinforces the primacy of the Union in matters of national integrity while allowing states to function within a federal structure. The wide powers of Parliament under Articles 2, 3, and 4 reflect a strong Centre, whereas the administrative, legislative, and financial arrangements between the Union and the states ensure cooperative federalism. Thus, the nature of India’s territory and the structuring of its political units are closely tied to the balance of power between the Centre and the states.

5.3 UNION AND ITS TERRITORY: THE CONSTITUTIONAL FRAMEWORK

The framers of the Indian Constitution gave considerable thought to the territorial organization of the nation, recognizing that the stability, integrity, and unity of the country depended significantly on how the territory of India was defined and administered. This concern is reflected in Part I of the Constitution, titled *“The Union and its Territory”*, which includes Articles 1 to 4. The provisions under these Articles lay down the basic principles relating to the territory of India, the nature of the Union, and the power of Parliament to reorganize states or alter their boundaries. Together, they establish a framework that has allowed India to adapt to changing political, administrative, and linguistic demands over time while maintaining the country’s sovereign unity.

- **Article 1: Name and Territory of the Union**

  - **“India, that is Bharat, shall be a Union of States”**

Article 1 declares that *“*India, that is Bharat, shall be a Union of States*.”* This formulation was chosen deliberately. The Constitution does not describe India as a federation, even though its political structure contains federal principles. Instead, the phrase “Union of States” reflects the view of the framers that India’s unity is indestructible and not dependent on a voluntary agreement among the states. Unlike classical federations such as the United States or Switzerland, where constituent states originally came together through an agreement, the Indian Union emerged from historical and political circumstances shaped by colonial rule, integration of princely states, and the need for a strong central authority after independence.

- **Components of the Territory of India**

Article 1 also defines the territory of India to include:

1. The states;
2. The Union territories; and
3. Any other territory that may be acquired.

This provision makes it clear that the territory of India is broader than just the states and includes Union territories directly administered by the Centre as well as any territory that India may legally acquire in the future. Thus, the Constitution anticipates territorial changes that may arise through political developments, diplomatic settlements, or even wars.

LET US KNOW

Why is India called a 'Union of States'

The choice of the term "Union" had two major implications. First, it emphasized that the Indian federation is *not* the result of an agreement among the units. States did not create the Union; instead, the Union created the states. Second, it indicated that states do not have the right to secede. The unity and integrity of the country were considered paramount, and the Constitution sought to prevent any centrifugal forces from threatening national stability. Dr. B.R. Ambedkar explained in the Constituent Assembly that the word "Union" signifies the indestructible nature of the country's unity.

This understanding forms the basis of India's quasi-federal structure with a strong central government. Though the powers of states are constitutionally protected, Parliament has wide authority to reorganize them, merge them, or change their boundaries.

- **Article 2: Admission or Establishment of New States**

Article 2 empowers Parliament to admit into the Union or establish new states on such terms and conditions as it thinks fit. This article is meant to deal with territories that are not part of India at the commencement of the Constitution. For example, when the French and Portuguese territories such as Puducherry, Goa, and Daman and Diu joined India, they were integrated through laws passed under this article. This provision gives flexibility to the Union to incorporate new territories if they wish to join India or are acquired through international negotiations or historical agreements.

- **Article 3: Formation of New States and Alteration of Areas, Boundaries, or Names of Existing States**

Article 3 is one of the most significant provisions in Part I, as it grants Parliament extensive power to reorganize the internal map of India. Parliament may:

- Form a new state;
- Increase or decrease the area of any state;
- Alter the boundaries of any state;
- Change the name of any state.

These changes can be initiated by Parliament through a bill. However, such a bill must be referred to the legislature of the concerned state for expressing its views. Importantly, the opinion of the state legislature is not binding on Parliament. This demonstrates the supremacy of the Union in territorial matters. It also reinforces the idea that states are not sovereign entities; they exist within the larger sovereign framework of the Union.

The history of Indian state reorganization has repeatedly relied on this article. The States Reorganisation Act of 1956, which reorganized states largely on linguistic lines, was based on this constitutional provision. Many later developments—such as the creation of Chhattisgarh, Jharkhand, Uttarakhand (2000), and more recent states like Telangana (2014)—were also carried out under Article 3.

- **Article 4: Laws Made Under Articles 2 and 3**

Article 4 states that laws made under Articles 2 and 3 shall not be considered constitutional amendments for the purposes of Article 368. This means that Parliament does not require a special majority or ratification by states to pass such laws. They can be passed by a simple majority. This further indicates the flexibility given to the Union to alter its territorial arrangements without stringent amendment procedures.

- **Union Territories: Nature and Significance**

Union territories occupy a unique position in India's territorial framework. Unlike states, they are directly governed by the Union. Some Union territories, such as Delhi and Puducherry, have been granted legislatures and partial statehood, while others are administered by Lieutenant Governors or Administrators.

The creation of Union territories has often been motivated by strategic, administrative, cultural, or security considerations. For example, the Andaman and Nicobar Islands hold strategic naval importance; Ladakh, carved out in 2019, has a sensitive international border; whereas Chandigarh serves as a shared capital for two states. Presently there are eight Union Territories in India.

- **Territorial Adjustments in Post-Independence India**

India's territorial map has changed significantly since 1950. Some important developments include:

- Integration of princely states in the early years of independence.
- Merger of French possessions like Puducherry (Pondicherry), Karaikal, etc., and Portuguese possessions like Goa , Daman, Diu, Dadra and Nagar Haveli , etc.
- Reorganization of states along linguistic lines (1956).
- Creation of new states to accommodate ethnic or regional aspirations.
- Reorganization of Jammu and Kashmir in 2019 into two Union territories.

These changes demonstrate the flexibility and foresight of the constitutional provisions on territory.

Thus, the provisions relating to the “Union and its Territory” reflect the vision of the Constitution’s framers to create a strong, united, and adaptable nation-state. By defining India not as a traditional federation but as a “Union of States,” the Constitution ensures the indivisibility of the nation.

Part I of the Constitution therefore lays the foundation for India’s territorial unity, stability, and integrity while allowing for necessary evolution over time.

CHECK YOUR PROGRESS

Q 1: Which Part of the Indian Constitution deals with “The Union and its Territory”?

……

Q 2: Which Article empowers Parliament to admit into the Union or establish new states on such terms and conditions as it thinks fit.?

……

Q 3: Laws made under Articles 2 and 3 are considered constitutional amendments requiring a special majority? (True/False)

……

Q 4: Mention the names of one French possession and one Portuguese possession that were merged with the Indian Union after independence.

……

5.4 DIVISION OF POWERS BETWEEN THE CENTRE AND THE STATES; CENTRE-STATE RELATIONS

5.4.1 Division of Powers between the Centre and the States

The Constitution of India has divided the powers between the Centre and the States. Though the Central government is stronger than that of the State government yet, the State

governments have their own sphere of activities. In India, powers of both the governments are well-defined. The residuary powers are left for the Central government. The division of powers in legislative, administrative and financial matters can be discussed in the following way.

- **Division of Legislative Powers**

Article 246 of the Indian Constitution has discussed the division of legislative powers between the Centre and the States. The Seventh Schedule includes three lists containing different subjects meant for the two governments to make legislation. These lists are – the Union List, the State List and the Concurrent List.

The subjects which are included in the Union List, such as, defence, foreign affairs, currency and coinage, citizenship and census, the Parliament of India has been given the power to make laws. Presently there are 100 subjects in the Union List (originally 97 subjects). The State Legislatures have no right to make laws in these subjects. The subjects included in the Union List are mainly of national importance and uniform in character.

The State Legislatures can make laws in the subjects which are included in the State list. There are presently 61 subjects in the State List (originally 66 subjects) and they are subjects of local importance. They include – law and order, public health, forests, revenue, sanitation, etc. It is provided in the Constitution that on some occasions, the Central Legislature can also make laws on the subjects of the State list. Article 249 empowers the Parliament to make a law on the subjects of the State List for national interest if a resolution is passed by the Rajya Sabha by 2/3 majority to that effect. Again Article 250 mentions that during emergency the Parliament gains the power to make laws on the subjects of the State list.

Both the Parliament and the State Legislatures can make laws on the subjects which are included in the Concurrent List. There are 52 subjects in the Concurrent List (originally 47 subjects). The subjects of this list are of great importance and uniform in character. However, they may need local attention. Some subjects of this list are – education, economic planning, social security, electricity and newspaper. In case of this list, one point is to be noted that if there is a conflict between the Central law and the State law on a subject of this list, then the Central law will prevail over the State law.

The subjects which are not included in these three Lists of subjects are termed as Residuary Powers. The Parliament has been given exclusive power to make laws on those subjects.

Thus, we may say that the Central Legislature, i.e., the Parliament is more powerful than the State Legislatures in matters of division of legislative power. The Parliament has exclusive

power to make laws on the subjects of the Union List and in case of the Residuary Powers. It has also been given power to make law in the State List and it has its dominance in matters of the Concurrent List.

- **Division of Administrative Power**

In case of division of administrative powers also, the Central government has a greater share. Article 73 of the Indian Constitution mentions that the executive power of the Central government extends to all those matters with respect to which the Indian Parliament can make laws. Again Article 162 lays down that the State government has its executive power in all those matters in which the State Legislature exercises power to make laws.

The Constitution of India has clearly mentioned that the executive power of the State must be exercised in such a way that it complies with the laws of the Parliament. The State government cannot impede or prejudice the exercise of the executive power of the Union.

Article 258 mentions that the President may entrust either conditionally or unconditionally, with the consent of a State government, any function which falls under the authority of the Central government. Again, according to Article 356, the Central government may take necessary steps to protect the interest of any State of India. The President can exercise emergency power under this Article to take over the administration of a State if it fails to comply with the constitution of India.

The Central government can also exercise its control over the State governments by the officials who are appointed by it but they work in the States. The Constitutional head of the State, the Governor, also works as a Central agent in the States. Besides, the officials of the All-India services are also there.

- **Division of Financial Power**

Like that of the legislative and administrative powers, in case of the financial powers also the Central government has been made more powerful than that of the State government. The sources of income which are mainly constituted from various taxes imposed and collected by the government are divided between the Centre and the States. This division can be discussed in the following way.

The Constitution has discussed the distribution of taxes and duties between the Centre and the States from Articles 264 to 300.

There are certain taxes which are levied and collected by the States and they form the sources of income for them. Taxes like land revenues, tax on agricultural income, estate duty etc.

are levied and collected by the States. There are other taxes like stamp duty, excise on medicine, toilet preparations etc. which are levied by the Union but collected and appropriated by the States. The taxes collected from railways, posts and telegraphs, wireless, broadcasting, etc. constitute the sources of income for the Centre. There are also taxes which are levied and collected by the Centre but assigned to the States.

The Centre exercises control over the States in financial matters in various ways. The President can make alterations in the distribution of revenues earned from income tax between the Centre and the States. The Centre can also grant loans and provide grant-in-aid to States with special subsidy to some States. Further, the Centre can exercise financial control over the States through Central agencies like Comptroller and Auditor General of India and the Finance Commission which is appointed by the President after every five years to make recommendations on distribution of net proceeds of taxes between the Centre and the States.

LET US KNOW

Pandit Jawaharlal Nehru was the Chairman of the Union Powers Committee of the Constituent Assembly. In one of his speeches in the Assembly he said, “We are unanimously of the view that it would be injurious to the interest of the country to provide for weak Central authority which would be incapable of ensuring peace, of coordinating vital matters of common concern and of speaking effectively for the whole country in the international sphere”.

5.4.2 Relations between the Centre and the States

When we discuss Centre-State relations, it should be remembered that India is federal in structure and unitary in spirit. In India, we have two sets of government and there is division of powers between them. However, this division of powers is not in true nature of a federal government. So far as the division of powers in India is concerned, the States have very limited areas of authority and autonomy. Therefore, a demand is always there for greater autonomy on the part of the States. The States demand that they should be given more power for self-sufficiency and development. Because of this, sometimes the relation between the two governments becomes strained.

Professor Morris-Jones famously characterised Indian federalism as “bargaining federalism”, a term that captures the dynamic and often negotiated nature of Centre–State

relations. This notion arises from the persistent tendency of the Central government to assert its predominance, contrasted with the continuous efforts of States to secure greater autonomy within the constitutional framework. Over the years, this bargaining character has been further reinforced by the rise of regionalism and the proliferation of regional political parties across the country.

The emergence of regional parties reflects the growing consciousness of distinct socio-economic and cultural identities within various parts of India. These parties are often formed to articulate and protect the specific developmental needs, political aspirations, and cultural concerns of their respective regions—needs that national parties have not always addressed adequately. Consequently, when such parties assume power at the State level, they tend to adopt a more assertive stance vis-à-vis the Union. They consistently bargain for greater devolution of powers, enhanced fiscal resources, and increased administrative flexibility to effectively address the unique challenges of their regions.

In this evolving political landscape, the federal structure increasingly operates through negotiation, accommodation, and mutual adjustment between the Centre and the States—precisely what Morris-Jones intended to convey through the concept of bargaining federalism.

The framers of the Constitution made the Central government more resourceful and stronger than that of the States not with the intention to curb the powers of the States. Rather, they visualized the establishment of co-operative federalism in India. The Constitution of India stands on the foundation of co-operative federalism presuming interdependence of national and regional governments of a federal Union instead of granting them absolute independence in the allotted spheres. Therefore, the Constitution has made institutional arrangements, such as, National Development Council, Finance Commission, Comptroller and Auditor General, Inter-State Councils and Zonal Councils where both the governments would sit together and work for solving various national and regional problems. Besides, a number of statutory bodies have also been instituted for adjudication of disputes regarding the use, distribution and control of inter-State rivers. The Constitution makers intended that both the Central government and the State government

co-operate with one another and work harmoniously. None should encroach upon the sphere of the other. Both should respect the authority of one another.

However, the real working of the Indian federation reveals that as the Central government has been made strong by the Constitution itself for which it has always been dominating the State governments by its activities. The provision for appointment of the Governor by the President, the provision of imposition of President's rule under Article 356, the provision for complying with the directives of the Central government and such other non-federal features have been strengthening the position of the Central government as ever.

5.4.3 An Estimate of Indian Federalism

When we discuss the nature of Indian federalism, then we must say that it is unique in itself. The framers of the Indian Constitution envisaged a federal form of government with a strong unitary basis. There is a Centralizing tendency in the Indian federation. The Central government has been made more resourceful and strong. The Constitution makers have provided for such type of a federal structure for various reasons. For example, India is a vast country with a diverse population. So, to maintain unity and integrity in the country, a strong Centre was deemed necessary. Again, to perform the vast responsibilities of a modern welfare state and for the economic development of a newly independent State, a strong Centre equipped with sufficient resources and power was important. At the same time, to establish India at the international forums, the Central government should be powerful enough to exercise a domineering voice.

The Constitution has made the Central government more powerful than the States. The Central government exercises more power than the States in legislative, administrative as well as in financial matters. Though we have two sets of government and power is divided between them constitutionally, yet that division is not equitable. The Indian Constitution has certain federal features. At the same time, it has certain overwhelming non-federal features.

Accordingly, India continues to be a federal polity with a unitary spirit making the Central government more powerful. However, there has always been some resentment on the part of the States against the stronger position of the Central government which they have expressed from time to time. They are demanding for autonomy in their own spheres and adequate power to work independently for their welfare. The Rajamannar Committee, the West Bengal Government Memorandum on Union-State Relations, the Anandpur Sahib Resolution and the Sarkaria Commission all have favoured for granting more power to the States in comparison to the present position. The Sarkaria Commission was established by the Central government in 1983 to study the question of Centre-State relation and to make recommendation if necessary. The Commission accepted the need for a strong Central government in India but recommended for devolution of more power to the States so that a co-operative federation can be established in the country.

In the recent years, we have seen the growth and development of coalition politics in India. This has happened mainly because of the emergence of various regional and local political parties and their strong position in the share of seats in both assembly and Parliamentary elections. No single national political party has been able to secure absolute majority in the Lok Sabha in recent Parliamentary elections to form a government by its own. They have been compelled to form coalitions with like-minded parties – national, regional and local to form government at the Centre. This has changed the working of the federal system in India to an extent.

Some indications of change in the working of the Indian federal polity can also be seen with the replacement of the Planning Commission with that of the National Institute for Transforming India or the Niti Aayog. The Planning Commission worked as a Centralized mechanism. The whole planning process was carried out under the control and supervision of the Central government. The new institution which came into existence on 1st January 2015 has been designed on the basis of the principle of co-operative-competitive federation where both the Centre and the States will actively participate for all round and rapid development of the country.

CHECK YOUR PROGRESS

Q. 4: Education is what type of subject?

……

Q 5: Who described Indian federalism as “bargaining federalism”?

……..

5.5 LET US SUM UP

- Part I of the Constitution, titled *“The Union and its Territory”*, includes Articles 1 to 4. These provisions lay down the basic principles relating to the territory of India, the nature of the Union, and the power of Parliament to reorganize states or alter their boundaries.
- Article 1 declares that *“India, that is Bharat, shall be a Union of States.”* The Constitution does not describe India as a federation, even though its political structure contains federal principles. Instead, the phrase “Union of States” reflects the view of the framers that India’s unity is indestructible and not dependent on a voluntary agreement among the states.

- Article 1 also defines the territory of India to include: the states; the Union territories; and any other territory that may be acquired.
- Article 2 empowers Parliament to admit into the Union or establish new states on such terms and conditions as it thinks fit.
- Article 3 is one of the most significant provisions in Part I, as it grants Parliament extensive power to reorganize the internal map of India.
- Article 4 states that laws made under Articles 2 and 3 shall not be considered constitutional amendments for the purposes of Article 368. This means
- Union territories occupy a unique position in India’s territorial framework. Unlike states, they are directly governed by the Union. Some Union territories, such as Delhi and Puducherry, have been granted legislatures and partial statehood, while others are administered by Lieutenant Governors or Administrators.

- India’s territorial map has changed significantly since 1950.

- When we discuss the nature of Indian federalism, then we must say that it is unique in itself. The framers of the Indian Constitution envisaged a federal form of government with a strong unitary basis. There is a Centralizing tendency in the Indian federation. The Central government has been made more resourceful and strong. The Constitution makers have provided for such type of a federal structure for various reasons.

- The Constitution of India has divided the powers between the Centre and the States. Though the Central government is stronger than that of the State government yet, the State governments have their own sphere of activities. In India, powers of both the governments are well-defined. The residuary powers are left for the Central government.

- Professor Morris-Jones famously characterised Indian federalism as “bargaining federalism”, a term that captures the dynamic and often negotiated nature of Centre–State relations. This notion arises from the persistent tendency of the Central government to assert its predominance, contrasted with the continuous efforts of States to secure greater autonomy within the constitutional framework.

- Some indications of change in the working of the Indian federal polity can also be seen with the replacement of the Planning Commission with that of the National Institute for Transforming India or the Niti Aayog.

5.6 FURTHER READING

1. Kapur, Anup Chand and Misra, K.K. (2006). *Select Constitutions.* New Delhi: S. Chand and Company.
2. Ghai K. K. (2017). *Indian Government and Politics*. New Delhi, Kalyani Publishers.
3. Chander, Prakash. (2000). *Indian Government and Politics*. New Delhi: Cosmos Bookhive Pvt. Ltd.
4. Pylee, M, V. (2006). *Constitutional Government in India.* New Delhi: S. Chand and Company.

5.7 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No 1: Part I

Ans to Q No 2: Article 2

Ans to Q No 3: False

Ans to Q No 4: Puducherry and Goa

Ans to Q No 5: Concurrent subject

Ans to Q No 6: Professor Morris-Jones

5.8 MODEL QUESTIONS

A) Very Short Questions

Q. 1: Mention the Article of the Indian Constitution which describes that "India is a Union of States."

Q. 2: What is meant by Residuary Power?

Q 3: Mention the three Lists of subjects mentioned in the Seventh Schedule.

Q 4: Mention nay two subjects mentioned in the State List.

B) Short Questions (Answer each question in about 150 words)

Q.1: Present an estimate of Indian federalism.

Q. 2: Explain the Legislative relations between the Centre and the States.

C) Long Questions (Answer each question in about 300-500 words)

Q.1: Discuss the constitutional framework regarding the Union and its territory.

Q.2: Discuss briefly the relations between the Centre and the States.

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UNIT 6: CITIZENSHIP

UNIT STRUCTURE

10.1 Learning Objectives

10.2 Introduction

10.3 Meaning of Citizenship

10.4 Constitutional and Legal Provisions regarding Citizenship in Indian context

10.5 Acquisition of Citizenship in India

10.6 Loss of Citizenship in India

10.7 Let Us Sum Up

10.8 Further Reading

10.9 Answers to Check Your Progress

10.10 Model Questions

6.1 LEARNING OBJECTIVES

After going through this unit, you will be able to-

- explain the meaning of Citizenship
- analyse the constitutional and legal provisions relating to the Indian citizenship
- discuss the condition for acquisition of Indian citizenship
- examine the conditions which lead to the loss of Indian citizenship.

10.2 INTRODUCTION

Citizenship remains one of the most widely debated themes in academic discourse. At its core, the concept of citizenship defines the relationship between an individual and the state, signifying one's legal and political status as a responsible member of that state. To enjoy the full rights and privileges of citizenship, individuals are also expected to discharge certain duties, responsibilities, and obligations towards the state.

Recognising the importance of this concept, the framers of the Indian Constitution devoted considerable attention to it and incorporated several provisions dealing with citizenship. The Constitution and subsequent legal frameworks outline detailed rules governing the acquisition and cessation of Indian citizenship. This unit examines the meaning of citizenship and explores the key issues associated with citizenship in India.

10.3 MEANING OF CITIZENSHIP

The notion of citizenship is seen in terms of a legal/formal status. Literally the term 'citizen' symbolises the person or resident of a country with certain privileges. Citizenship, very often focuses on a specific nationality, entitlements and claims, rights and duties for individuals enshrined in the Constitution of a country. It signifies that if the member of a particular political community performs their allotted duties and responsibilities according to the provisions of the Constitution, the state apparatus provides them all the rights and privileges for enjoyment of a public life. The concept of citizenship originated in the ancient Greece. In ancient Greece citizenship was considered to be a narrow concept. During the time of ancient Greek philosopher Aristotle, citizenship privileges were restricted to a limited section of the society. Aristotle limited the concept of citizenship by including only a few sections of people into the ambit of citizen status. He visualised purely an aristocratic idea of citizenship. However, with the gradual development of modern nation state system, the whole concept of citizenship becomes inclusive in its nature and it includes a larger political community.

In any democratic country citizens are provided a number of rights and privileges and accordingly they must show their allegiance towards the state. The success of democracy also largely depends upon the qualities of the citizens.

10.4 CONSTITUTIONAL AND LEGAL PROVISIONS REGARDING CITIZENSHIP IN INDIAN CONTEXT

Though the Constitution of India has provided a federal structure, yet the very nature of the Indian political system is federal in spirit and unitary in practice. Therefore, in India, each individual is entitled with single citizenship, i.e. Citizenship of India. In order to form a unified polity, the framers of Indian Constitution put emphasis basically upon single citizenship. The framers of the Indian Constitution put enough importance upon the question of citizenship basically at the time of framing of the Constitution. Articles 5, 6, 7, 8, 9, 10, 11 incorporated in Part II of the Indian Constitution mainly deal with the issue of citizenship.

Article 5: Article 5 deals with the issue of citizenship at the time of commencement of the Constitution. Accordingly, the following categories of domiciled persons are offered citizenship on the date of adoption of the Constitution (26 January, 1950) :

(a) Persons born within the territory of India [(Art. 5(a)].

(b) Person, either of whose parents was born within the territory of India—irrespective of the nationality of his/her parents or the place of birth of such person [Art. 5(b)].

(c) Person, who had been ordinarily resident in the territory of India for not less than five years immediately preceding such commencement [Art. 5(c)].

Though Article 5 of the Indian Constitution offers citizenship by domicile, yet it did not define the term domicile. In simple words, domicile represents the permanent residence of a citizen.

Article 6: Right of citizenship of certain persons who have migrated to India from Pakistan.

Article 7: Right of citizenship of certain migrants to Pakistan.

Article 8: Right of citizenship of certain persons of Indian origin residing outside India.

Article 9: Persons voluntarily acquiring citizenship of a foreign State not to be citizens of India.

Article 10: Continuance of the rights of citizenship.

Article 11: Parliament to regulate the right of citizenship by law.

The Constitution of India did not implement any comprehensive constitutional law and statutory basis of citizenship in India. Regarding the law of citizenship, the responsibility is vested upon the Indian Parliament of India to legislate certain laws related to citizenship. The Indian Parliament enacted the Citizenship Act 1955, which was subsequently amended several times through the Citizenship (Amendment) Act 1986, the Citizenship (Amendment) Act 1992, the Citizenship (Amendment) Act 2003, the Citizenship (Amendment) Act, 2005, the Citizenship (Amendment) Act, 2015 and the Citizenship (Amendment) Act, 2019 regarding Indian citizenship.

CHECK YOUR PROGRESS

Q.1: State the meaning of citizenship.

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Q.2: Greek philosopher Aristotle limited the concept of citizenship only to a limited section of people. (True/False)

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Q.3: Which articles of the Indian Constitution deal with the issue of citizenship ?

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10.5 ACQUISITION OF CITIZENSHIP IN INDIA

According to the Citizenship Act 1955, citizenship can be acquired through various methods. This Act focuses upon the various modes of acquisition of citizenship. These methods of acquisition of citizenship are discussed below---

- *Citizenship by Birth*: Each person born in India on or after January 26, 1950 shall be considered the citizen of India by birth. But in case of the children born to foreign diplomats who were posted in India are not eligible for Indian citizenship. In order to prevent the infiltration problem, an amendment was made in 1986 in the Citizenship Act of 1955 and thereby a person born in India is able to become a citizen of India by birth if his or her parents are citizens of India at the time of his/her birth. In this way, an individual can attain Indian citizenship by birth.
- *Citizenship by Descent*: A person born outside India on or after January 26, 1950 shall be considered the citizen of India by descent if his/her parents are citizens of India at the time of his/her birth.
- *Citizenship by Registration*: Through registration with definite authority, a person can acquire Indian citizenship. Registration for Indian citizenship can be done through different methods. Persons of Indian Origin (PIOs) who generally reside in India for almost five years may apply for registration. A person, in case of citizenship, is deemed to be of Indian origin if his/her parents and grand-parents were born in undivided India. Ordinarily residing PIOs outside India can also be included under Citizenship by Registration. Those women who get married to Indian citizens too become the citizens of India through the process of registration.

- *Citizenship by Naturalisation*: A person can acquire Indian citizenship by naturalisation. To attain Indian citizenship, he/she must qualify the following conditions---

(a) He must belong to a country where the citizens of India are allowed to become subjects or citizens of that country by naturalisation.

(b) He/she needs to renounce the citizenship of his/her own country according to the prevailing law of that country.

(c) Before the date of giving the application for naturalization, he or she must reside or serve the concerned government authority for 12 months.

(d) The person needs to possess a good and moral character.

(e) He/she must have workable knowledge of a particular Indian language.

(f) After acquiring citizenship by naturalisation, he or she is considered to be the permanent resident of India or elsewhere to serve under the Government of India.

- *Citizenship by Incorporation of Territory*: If India includes any new territory within its border, then the people of that territory will automatically become the citizens of India. For example—the people of Sikkim acquired Indian citizenship after the annexation of Sikkim by India in 1976.

10.6 LOSS OF CITIZENSHIP IN INDIA

The Citizenship Act 1955 clearly lays down that under certain conditions a person may lose his/her Indian citizenship. Anyone may lose his or her citizenship under any of the three conditions. These conditions are: renunciation, termination and deprivation.

- *By Renunciation*: Any Indian citizen may voluntarily renounce his/her citizenship in order to become the citizen of another country. For this purpose, the concerned citizen needs to make a necessary declaration in the prescribed format.
- *By Termination*: If any Indian citizen voluntarily acquires the citizenship of another country, then his/her citizenship in India will be automatically terminated. This kind of termination may take place by operation of law.
- *By Deprivation*: Deprivation is considered to be one kind of compulsory termination of Indian citizenship with the prior approval of Government Order. If any person obtains Indian citizenship by fraud, false representation or concealment of any material fact or if the person becomes disloyal towards the Indian Constitution or if he/she helps or

assists a country with whom India is at war, the Government of India by an Order can deprive that person from enjoying Indian citizenship.

CHECK YOUR PROGRESS

Q.4: Mention any three methods of acquisition of Indian citizenship as provided by the Citizenship Act 1955.

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Q.5: The state of Sikkim was incorporated in India in the year ..... (Fill in the blank)

Q.6: Write about any two conditions under which an Indian citizen may lose his/her Indian citizenship.

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Q.7: Write a short note on the acquisition of Indian citizenship by the method of naturalisation.

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10.7 LET US SUM UP

- The concept of citizenship indicates the relationship between the individual and the state. Citizenship denotes all individual's status as a responsible member of a

state. For attaining all the facilities of citizenship, he or she must fulfil the duties and responsibilities along with obligations towards the state.

- The concept of citizenship originated in the ancient Greece. In ancient Greece citizenship was considered to be a narrow concept. Greek philosopher Aristotle limited the concept of citizenship by including only a few sections of people into the ambit of citizen status.
- But in the present time the concept of citizenship has become a inclusive one and it includes a larger political community.
- Though the Constitution of India has provided a federal structure, but the very nature of Indian political system is federal in spirit and unitary in practice. Therefore in India, each individual is entitled to single citizenship, i.e. Citizenship of India.
- The Constitution of India has provided a number of provisions regarding Indian citizenship. But the responsibility to make laws and other statutory provisions related to Indian citizenship is vested upon the Parliament of India. Accordingly the Indian Parliament has enacted a number of laws in this regard, such as the Citizenship Act 1955, the Citizenship (Amendment) Act 1986, the Citizenship (Amendment) Act 1992, the Citizenship (Amendment) Act 2003, the Citizenship (Amendment) Act, 2005 and Citizenship (Amendment) Act, 2015.
- The Citizenship Act 1955 has provided a number of methods of acquisition of Indian citizenship. These methods are- citizenship by birth, citizenship by descent, citizenship by registration, citizenship by naturalisation, citizenship by incorporation of territory.
- The Citizenship Act 1955 also provided that under certain condition a person may lose his/her Indian citizenship. Anyone may loss his or her citizenship under any of the three conditions, such as - renunciation, termination and deprivation.

10.8 FURTHRER READING

1. Chander, Prakash. (2008). *Indian Government And Politics*. Gurgaon: Cosmos Bookhive (P) Ltd.

2. Ghai, K.K. (2007). *Indian Government And Politics*. New Delhi: Kalyani Publishers.

10.9 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q. No 1: By citizenship, very often focuses on a specific nationality, entitlements and claims, rights and duties for individuals enshrined in the Constitution of a country. It signifies that if the member of a particular political community performs their allotted duties and responsibilities according to the provisions of the Constitution, the state apparatus provides them all the rights and privileges for enjoyment of a public life.

Ans to Q. No 2: True

Ans to Q. No 3: Articles 5, 6, 7, 8, 9, 10, 11 of the Indian Constitution mainly deal with the issue of citizenship.

Ans to Q. No 4: Citizenship by birth, Citizenship by descent, Citizenship by registration.

Ans to Q. No 5: 1976

Ans to Q. No 6: (i) By Renunciation: Any Indian citizen may voluntarily renounce his/her citizenship in order to become citizen of another country. For this purpose, the concerned citizen needs to make a necessary declaration in the prescribed format.

(ii) By Termination: If any Indian citizen voluntarily acquires the citizenship of another country, then his/her citizenship in India will be automatically terminated. This kind of termination may take place by operation of law.

Ans to Q. No 7: A person can acquire Indian citizenship by naturalisation. To attain Indian citizenship, he/she must qualify the following conditions---

(g) He must belong to a country where the citizens of India are allowed to become subjects or citizens of that country by naturalisation.
(h) He/she needs to renounce the citizenship of his/her own country according to the prevailing law of that country.
(i) Before the date of giving the application for naturalization, he or she must reside or serve the concern government authority for 12 months.
(j) The person needs to possess a good and moral character.
(k) He/she must have workable knowledge of a particular Indian language.
(l) After acquiring citizenship by naturalisation, he or she is considered to be the permanent resident of India or elsewhere to serve under the Government of India.

10.10 MODEL QUESTIONS

(A) Very Short Questions

Q. 1: Mention any one provision of the Indian Constitution regarding citizenship.

Q. 2: State the name of one important Act enacted by the Parliament of India which provides the detailed provisions about Indian citizenship.

Q. 3: What is the full form of PIO in the context of Indian citizenship?

(B) Short Questions (Answer each question in about 150 words)

Q.1: Explain the conditions under which an Indian citizen may lose his/her Indian citizenship.

Q. 2: Write a short note on the meaning of citizenship.

(C) Long Questions (Answer each question in about 300-500 words)

Q.1: Discuss various provisions of the Indian Constitution regarding citizenship.

Q.2: Examine the various methods of acquisition of Indian citizenship.

UNIT 7: FUNDAMENTAL RIGHTS: MEANING, CHARACTERISTICS AND SIGNIFICANCE

UNIT STRUCTURE

6.1 Learning Objectives

6.2 Introduction

6.3 Meaning and Background of Fundamental Rights

6.3.1 Meaning of Fundamental Rights

6.3.2 Historical Background of Fundamental Rights

6.4 Features and Significance of Fundamental Rights

6.4.1 Features of Fundamental Rights

6.4.2 Significance of Fundamental Rights

6.5 Let Us Sum Up

6.6 Further Reading

6.7 Answers to Check Your Progress

6.8 Model Questions

6.1 LEARNING OBJECTIVES

After going through this Unit, you will be able to:

- describe the meaning of Fundamental Rights incorporated in the Indian Constitution
- examine the background that led to inclusion of Fundamental Rights in the Constitution of India
- explain the features of Fundamental Rights
- describe the importance of Fundamental Rights.

6.2 INTRODUCTION

This unit introduces you to the Fundamental Rights of Indian citizens. There are six Fundamental Rights of Indian citizens incorporated in Part III of the Indian Constitution. These rights are peculiar in the sense that without these, no one can live in a democratic manner. Therefore, framers of the Indian Constitution provided some Fundamental Rights for Indian citizens. Democracy cannot work if the people do not have rights. Inclusion of Fundamental Rights prevents the government from becoming despotic. Fundamental Rights are essential for moral and material development of the people also. People can develop their best self and

personality through these rights. Though these rights are guaranteed by the Constitution, yet the state can take back these rights temporarily during proclamation of emergency to maintain public order, security and so on. At the same time these rights are justifiable also. The courts can protect and safeguard them, if someone's rights are violated. After all, Fundamental Rights are indispensable for good life and for the full development of human personality. In this unit we will discuss meaning, nature, categories, importance and limitations of Fundamental Rights. Besides this he background leading to the inclusion of these rights in the Indian Constitution will also be highlighted.

6.3 MEANING AND BACKGROUND OF FUNDAMENTAL RIGHTS

➢ 6.3.1 Meaning of Fundamental Rights

Fundamental Rights fulfil some basic and essential conditions of good life for human progress. These are fundamental in the sense that in the absence of these rights citizens cannot develop their personality and their own self. These rights are not the same as ordinary rights of citizen. Fundamental Rights are enshrined in the Constitution. These are constitutionally protected and guaranteed to the citizens while ordinary rights are protected by the ordinary law of the country. Fundamental Rights are inviolable in ordinary situation. Only under reasonable circumstances, these rights are suspended temporarily. Right to Life, Freedom of Speech and Expression, Right to Equality, Right to Religion, Right to Personal Liberty, Right to Education are some important Fundamental Rights of Indian citizen .Every state incorporates these Fundamental Rights in their own Constitution and citizens can enjoy them . If anybody's Fundamental Rights are violated by force he or she can go to the court seeking legal assistance. Democratic countries like India, Japan, France, Switzerland and many other countries enlisted some Fundamental Rights for the citizen. These are basic rights of individuals without which democracy becomes meaningless. The Constitution of India has embodied a number of Fundamental Rights in Part III. Citizens can enjoy these rights within some reasonable restrictions.

➢ 6.3.2 Historical Background of Fundamental Rights

In India, the demand for inclusion of Fundamental Rights in the Constitution of the country arose during the Freedom Movement. During that period, Indian leaders were of the view that India must have a Constitution of its own and the Constitution must contain a list of rights and freedoms for the people of India. Many foreign documents have influenced the demands of the Indian people for constitutional rights. England's Bill of Rights of 1689, United States' Bill

of Rights of 1791, France's Declaration on the Rights of the Man and of the Citizen of 1789 are important in this regard.

In India, awareness of people for their rights and freedoms assumed a revolutionary character throughout the freedom movement during the colonial rule. During this period, the people of India demanded their rights along with their chief demand of freedom from foreign rule. Resistance to foreign rule was manifested in the form of the demand for fundamental freedoms and civil and political rights for the people of India (Yasin and Upadhyay, 2004; 59). The first organised demand for rights and freedoms was made through the Constitution of India Bill, 1895 (which is also known as Home Rule Document). This Bill emphasised the freedom of expression and equality before law for the citizens of India. In 1925 Mrs Annie Besant drafted the Commonwealth of India Bill which also included a number of fundamental rights for the Indians. Some of the important rights and freedoms stated by the Bill were- right to liberty, right to property, right to freedom of religion, expression of opinion, assembly without arms, right to free elementary education, right to use public property, etc. But this Bill was not passed by the British parliament. On 19th May, 1928 an All Party Conference of the representatives from all the Indian Political Parties was held to discuss the various issues relating to the desires and demands of the people of India. After the Conference, a Committee was formed under the Chairmanship of Shri Motilal Nehru. The Committee prepared and published a report on 14th August, 1928. This Report is known as the Nehru Report. This report clearly stated the Indians should be guaranteed fundamental rights. This Report also sought to secure the rights of ethnic and religious minorities in terms of their representation in the government. In 1931 the Karachi Session of the Indian National Congress adopted a resolution to protect the fundamental civil and socio-economic rights of the Indian people. It adopted a document concerning fundamental rights which, later, influenced the Constituent Assembly in framing Part III of the Indian Constitution. Apart from that, a Committee was set up under the chairmanship of Tej Bahadur Sapru and this Committee submitted its report in 1945. The Report firmly recommended that the Constitution of India must contain Fundamental Rights for the Indians and these rights are to be divided into two parts- justifiable rights and non-justifiable rights. The Constituent Assembly accepted these recommendations and subsequently Fundamental Rights, which are justifiable in nature, were included in Part III of the Indian Constitution, while in Part IV of the Indian Constitution non-justifiable rights were incorporated in the form of the Directive Principles of State Policy.

The Fundamental Rights incorporated in the Part III of the Indian Constitution are as follows:

I. Right to Equality (Article 14 – Article 18)

II Right to Freedom (Articles 19 – Article 22)

III Right against Exploitation (Articles 23 – Article 24)

IV Right to Freedom of Religion (Articles 25 – Article 28)

V Cultural and Educational Rights (Articles 29 – Article 30)

VI Right to Constitutional Remedies (Article 32)

CHECK YOUR PROGRESS

Q.1: How many Fundamental Rights are incorporated in the Constitution of India?

.....

Q.2: In India people can enjoy Fundamental Rights without any limitations. (True/False)

.....

Q.3: In which year was England's Bill of Rights passed?

.....

Q.4: In which year was the Nehru Report published?

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6.4 FEATURES AND SIGNIFICANCE OF FUNDAMENTAL RIGHTS

➢ 6.4.1 Features of Fundamental Rights

The fundamental Rights included in Part III of the Indian Constitution possess certain basic features or characteristics which can be discussed as below:

- Fundamental Rights are an indispensable part of our Constitution. Twenty-four articles are enjoined with these Fundamental Rights. Parliament can amend Fundamental Rights by a special procedure.

- While essentially, Fundamental Rights are available to Indian citizens alone, some Fundamental Rights such as the right to life and liberty and the right to religious freedom are available to both citizens and aliens.
- Fundamental Rights are not absolute. Citizens can enjoy them only within some reasonable restrictions imposed on these rights by the Constitution. Fundamental Rights without prescribed conditions may disrupt public order.
- Fundamental Rights can be suspended during the time of emergency and rights of the citizen are curtailed temporarily except right to life and personal liberty (Article 20 and Article 21)
- Fundamental Rights are justifiable also. A citizen can go to the court for enforcement of his or her Fundamental Rights in case of their violation. Under Article 32 and Article 226 of the Indian Constitution, a citizen can approach the Supreme Court and High Court respectively in this regard.
- Fundamental Rights are amendable also. Parliament can amend these rights by a special procedure.
- Fundamental Rights aim at balancing collective interests with individual interests.
- Fundamental Rights are superior to ordinary law of the land. They are conferred a special sanctity.
- Some Fundamental Rights are positive while some others are negative in nature. Certain provisions of Part III of the Indian Constitution are of the nature of prohibitions as they place constitutional limitations on the authority of the state. For instance, no authority of the State can deny to any person equality before the law or the equal protection of the laws. This actually may be termed as a negative right. On the other hand, other rights such as the Right to Freedom, etc., could be termed as positive rights.

➢ 6.4.2 Significance of Fundamental Rights

Fundamental rights have great significance in the life of each and every human being. These rights are considered to be the most essential elements for all round development of the individual. These rights provide opportunity and freedom to the individuals for their physical, moral, social and spiritual welfare. Only with the help of fundamental rights can human beings lead a dignified life.

The success of a democratic political structure depends upon the extent to which citizens can enjoy fundamental rights. Democracy becomes meaningless if people cannot

avail themselves of fundamental rights and freedoms. In a democratic system, people must have the freedom to express their opinion and this will help in formulating public opinion which is very essential for creating awareness among people.

In India, the Constitution guarantees justifiable Fundamental Rights to the citizens. Indian citizens, without any kind of discrimination of race, caste, language, religion, sex etc, have been given the right to approach the judiciary for protecting their fundamental rights. Infact, this right to approach the judiciary is also a fundamental right of the Indian citizens. Under Articles 32 and 226 of the Indian Constitution, Indian citizens can approach the Supreme Court and High Courts respectively for protecting their fundamental rights. In India, fundamental rights basically aim at ensuring unity of the country, since these rights emphasise equality of opportunity to all Indian citizens in matters of public life. In India, fundamental rights prevent the state from interfering in the lives of the individuals in negative ways. They protect the life of citizens from arbitrary state actions. These rights have also eliminated some social evils from our society. For example, Article 17 abolishes untouchability from our society.

In simple words, we can say that fundamental rights have a great significance in our day-to-day life. Without these rights, it will not be possible for us to pursue a life with dignity.

CHECK YOUR PROGRESS

Q.5: Fundamental rights are justifiable. (True/False)

……

Q.6: Under which Article of the Indian Constitution can Indian citizens approach the Supreme Court of India for protecting their fundamental rights?

……

Q.7: Mention two features of fundamental rights.

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CHECK YOUR PROGRESS

Q. 13: Fundamental Rights are absolute. (True/False)

.....

Q. 14: On what grounds restrictions can be imposed on the Right to Freedom of Religion?

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6.5 LET US SUM UP

- Fundamental Rights fulfil some basic and essential conditions of good life for human progress. These are fundamental in the sense that in the absence of these rights citizens cannot develop their personality and their own self.
- In India awareness of people for their rights and freedoms assumed a revolutionary character throughout the freedom movement during the colonial rule. A number of Documents and Bills and Reports of various Commissions had influenced the framers of the Indian Constitution to incorporated Fundamental Rights in the Constitution of India.
- Fundamental Rights incorporated in the Part III of the Indian Constitution have certain characteristics. Such as- fundamental rights are amendable, fundamental rights are not absolute, fundamental rights are suspendable under certain circumstances, these rights aim at balancing collective interests with individual interests and fundamental rights are superior to ordinary law of the land, fundamental rights are justifiable.

- Fundamental rights have great significance in life of each and every human being. These rights are considered to be the most essential elements for all round development of human being
- Part III of the Indian Constitution provides six Fundamental Rights to the Indian citizens. These are- the Right to Equality (Article 14 – Article 18), the Right to Freedom (Articles 19 – Article 22), the Right against Exploitation (Articles 23 – Article 24), the Right to Freedom of Religion (Articles 25 – Article 28), Cultural and Educational Rights (Articles 29 – Article 30) and the Right to Constitutional Remedies (Article 32).
- Fundamental Rights are not absolute. Therefore within some reasonable restrictions citizens can enjoy them.

6.6 FURTHER READING

1) Chander, Prakash.(2000). *Indian Government and Politics*. New Delhi: Cosmos Bookhive Pvt. Ltd.
2) Ghai, K. K.(2007). *Indian Government and Politics*. New Delhi: Kalyani Publishers.
3) Kapur, Anup Chand and Misra, K. K. (2006). *Select Constitutions.* New Delhi: S. Chand and Company.
4) Pylee, M, V. (2006). *Constitutional Government in India.* New Delhi: S. Chand and Company.

6.7 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No 1: Six

Ans to Q No 2: False

Ans to Q No 3: 1689

Ans to Q No 4: 1928

Ans to Q No 5: True

Ans to Q No 6: Article 32

Ans to Q No 7: (i) Fundamental Rights are not absolute.

(ii) Fundamental Rights are justifiable also.

Ans to Q. No 8: Part III of the Indian Constitution

Ans to Q. No 9: True

Ans to Q. No 10: True

Ans to Q. No 11:

(a) to freedom of speech and expression ;

(b) to assemble peacefully and without arms ;

(c) to form associations or unions ;

(d) to move freely throughout the territory of India ;

(e) to reside and settle in any part of the territory of India ; and

(g) to practice any profession , or to carry on any occupation, trade or business

Ans to Q. No 12: Article 30

Ans to Q. No 13: False

Ans to Q. No 14: The Right to Freedom of Religion is subject to restrictions imposed by the State in the interest of public order, morality and health so that the freedom of religion may not be abused.

6.8 MODEL QUESTIONS

A) Very Short Questions

Q. 1: Which Part of the India Constitution contains Fundamental Rights?

Q. 2: The Report of which Committee firmly recommended that the Constitution of India must contain Fundamental Rights for the Indians to be divided into two parts- justifiable rights and non-justifiable rights?

B) Short Questions (Answer each question in about 150 words)

Q.1: Explain any six features of the Fundamental Rights incorporated in the Constitution of India.

Q.2: Write a short note on the significance of Fundamental Rights.

C) Long Questions (Answer each question in about 300-500 words)

Q 1: Explain the meaning of Fundamental Rights in India. Describe the features of Fundamental Rights.

Q 2: Discuss the historical background of Fundamental Rights.

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UNIT 8: TYPES OF FUNDAMENTAL RIGHTS

UNIT STRUCTURE

8.1 Learning Objectives

8.2 Introduction

8.3 Categories of Fundamental Rights

8.4 Restrictions on Fundamental Rights

8.5 Let Us Sum Up

8.6 Further Reading

8.7 Answers to Check Your Progress

8.8 Model Questions

8.1 LEARNING OBJECTIVES

After going through this unit, you will be able to:

- discuss the various types of Fundamental Rights incorporated in the Constitution of India
- explain the restrictions on Fundamental Rights.

8.2 INTRODUCTION

In the previous unit we discussed the meaning, nature and significance of Fundamental Rights. Fundamental Rights, as we have seen, form the cornerstone of the Indian Constitution, guaranteeing essential freedoms and protections necessary for the development of individuals and the functioning of a democratic society. Enshrined in Part III of the Constitution, these rights reflect the ideals of justice, liberty, equality, and dignity that guided India's freedom struggle and constitutional vision. To ensure clarity and effective implementation, the Constitution groups these rights into distinct categories, each addressing a specific dimension of human freedom—ranging from civil liberties and protection against arbitrary State action to rights promoting equality, cultural preservation, and constitutional remedies. Together, these categories of Fundamental Rights create a robust framework that safeguards individual autonomy while balancing the interests of the community and the State.

8.3 CATEGORIES OF FUNDAMENTAL RIGHTS

Fundamental Rights are incorporated in the Part III of the Indian Constitution. There are six categories or types of Fundamental Rights in our Constitution which are as follows:

I. Right to Equality (Article 14 – Article 18)

II Right to Freedom (Articles 19 – Article 22)

III Right against Exploitation (Articles 23 – Article 24)

IV Right to Freedom of Religion (Articles 25 – Article 28)

V Cultural and Educational Rights (Articles 29 – Article 30)

VI Right to Constitutional Remedies (Article 32)

LET US KNOW

Right to Property, which was originally a fundamental right has been removed from the list of Fundamental Rights by the Forty-Fourth Constitution Amendment Act, 1978 as the country intends to promote the socialistic objectives. Accordingly, now it is an ordinary legal right under Article 300A of Part XII of the Constitution.

Let us now discuss the six categories of Fundamental Rights :

I. RIGHT TO EQUALITY (Article 14 – Article 18): It implies equality before the law and equal protection of the laws within the territory of India. No man is above the law of the land. Every person is subject to the ordinary law and amenable to the jurisdiction of the ordinary tribunals. Any discrimination is prohibited and equality of opportunity in matters of public employment under the State is ensured. There is no distinction between officials and private citizen and no discrimination on the basis of caste, creed, religion, sex, etc is allowed.

As per **Article 14** - the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India. Article 15 prohibits discrimination on grounds

of religion, race, caste, sex or place of birth : firstly, the State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them; secondly, no citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to (a) access to shops, public restaurants, hotels and places of public entertainment; or (b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.

Article 15 ensures equality of opportunity in matters of public employment in that (a) there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State and (b) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

Article 17 of the Constitution provides for abolition of “Untouchability” and its practice in any form is forbidden. The enforcement of any disability arising out of “Untouchability” shall be an offence punishable in accordance with law.

Article 18 provides for abolition of titles. The objective is to deter the state from conferring any titles that create social hierarchy or special privilege. India wanted to break from colonial practices where the British government awarded titles such as *Rai Bahadur*, *Khan Bahadur*, *Sir*, *Lord*, etc. These titles created artificial ranks and promoted inequality. Accordingly, under **Article 18** :

> Clause (1)- barring military or academic distinction, no title shall be conferred by the State.
> Clause (2)- No citizen of India shall accept any title from any foreign State.
> Clause (3)- No person who is not a citizen of India shall, while he holds any office of profit or trust under the State, accept without the consent of the President any title from any foreign State.
> Clause (4)- No person holding any office of profit or trust under the State shall, without the consent of the President, accept any present, emolument, or office of any kind from or under any foreign State.

But right to equality does not mean absolute equality or universal application. Some exceptions are allowed by the Indian Constitution and these limitations are as follows :

- the President of India or the Governor of a State shall not be answerable to any court for the power exercised or act done by him or her
- no criminal proceeding shall be instituted against the President or the Governor during his or her term of office
- exemption from taxes on certain classes of property
- imposition of taxes upon different trades and professions
- making special provisions for women and children
- making special provisions for advancement of any socially, economically and educationally backward classes like Scheduled Castes and Scheduled Tribes including special employment opportunities, which is called protective discrimination.

II. **RIGHT TO FREEDOM (Article 19 – Article 22):** This right is a most significant and important right for the citizens. This right confers some positive rights to promote the ideal of liberty. Right to Freedom is guaranteed under **Articles 19-22**.

Article 19 (1) guarantees six freedoms to all citizens. Under this Article, all citizens shall have the right -

(a) to freedom of speech and expression ;

(b) to assemble peacefully and without arms ;

(c) to form associations or unions ;

(d) to move freely throughout the territory of India ;

(e) to reside and settle in any part of the territory of India ; and

(g) to practice any profession , or to carry on any occupation, trade or business

Article 20 and 21 guarantee the right to life, dignity and status.

Article 20 (1) provides that no person shall be convicted of any offence except for violation of a law in force at the time of the commission of the Act charged as an offence, nor be subjected

to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.

Article 20 (2) guarantees that no person shall be prosecuted and punished for the same offence more than once.

Article 20 (3) provides that no person accused of any offence shall be compelled to be a witness against himself.

Under Article 21 no person shall be deprived of his life or personal liberty except according to procedure established by law.

Article 21A states that the State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine. It may be mentioned here that Article 21A of the Indian Constitution was added by the Constitution (Eighty-sixth Amendment) Act, 2002 with the aim of providing free and compulsory education to all children in the specified age group (six to fourteen years of age). To give effect to the provisions of Article 21A, the Right to Education (RTE) Act was enacted in 2009.

Article 22 provides important safeguards to individuals who are arrested or detained.

Article 22 (1) provides that no person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice.

Article 22 (2) provides that every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.

Like the Right to Equality, Right to Freedom is not absolute. The State can impose reasonable restrictions upon the six freedoms provided by Article 19 to maintain a balance between individual liberty and public order. Such reasonable restrictions on the exercise of the freedoms under Article 19 may be imposed in the interests of the sovereignty and integrity

of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence. Similarly, provisions of Article 22 may not be applicable to a person who belongs to an enemy country or to a person who is arrested or detained under any law providing for preventive detention. Further, when a proclamation of emergency is made under Article 352, provisions of Article-19 itself remain suspended (Art. 358).

III. **RIGHT AGAINST EXPLOITATION (Article 23 – Article 24):** The Indian Constitution recognizes the dignity of the individual against any form of exploitation either by the State or by the privileged section of the society and therefore guarantees the Right against Exploitation under **Articles 23-24**.

Article 23 prohibits traffic in human beings and *begar* and other forms of forced labour and employment of children in factories, mines or in any other 'hazardous employment').

Article 24 provides that 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.

The provisions of Article 23 and Article 24 are absolute and the State is firm on maintaining the dignity and status of the individual against any form of exploitation.

LET US KNOW

The 86th Constitution Amendment Act was passed in December, 2002 whereby a new Article, namely, Article 21 A, was inserted in the Constitution of India after Article 21. As per the new Article, "the State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine." Thus, the Right to Education is now a Fundamental Right which has been accorded the same legal status as the Right to Life under Article 21. Subsequently, the Right of Children to Free and Compulsory Education Act, 2009 was passed. As per the Act, every child in the age group of 6-14 years will be provided 8 years of elementary education in an age appropriate classroom in the vicinity of his or her neighbourhood.

IV. **RIGHT TO FREEDOM OF RELIGION (Article 25- Article 28):** The Indian Constitution has adopted a secular ideology and declared India as a secular state which maintains

an attitude of neutrality and impartiality towards all religions. There is no state religion in India. The Right to Freedom of Religion is guaranteed under **Articles-25-28**.

Under **Article 25 (1)** , all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.

As per **Article 26**, every religious denomination or any section thereof shall have the right— (a) to establish and maintain institutions for religious and charitable purposes; (b) to manage its own affairs in matters of religion; Prohibition of traffic in human beings and forced labour. Prohibition of employment of children in factories, etc. Freedom of conscience and free profession, practice and propagation of religion. Freedom to manage religious affairs. (c) to own and acquire movable and immovable property; and (d) to administer such property in accordance with law.

As per **Article 27**, no person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination.

According to **Article 28 (1)**, no religious instruction shall be provided in any educational institution wholly maintained out of State funds.

. The Right to Religion is also subject to certain limitations. The State has the right and duty to intervene if any religious activity creates public disorder, affects morality, and health and so on.

V. CULTURAL AND EDUCATIONAL RIGHTS (Article 29 – Article 30): The Constitution of India guarantees cultural and educational rights for all sections of people irrespective of their religious, racial and cultural diversities. These rights are non-political in nature. To preserve the religious and cultural interests of each community, the Constitution of India incorporated these cultural and educational rights under **Article 29** and **Article 30**.

According to **Article 29 (1)**, any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same. **Article 29 (2)** states that no citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.

Article 30 provides that all minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.

This right has also some limitations. The State can regulate the affairs of such educational institutions in the interest of efficiency of instruction, discipline, morality and public order.

VI. RIGHT TO CONSTITUTIONAL REMEDIES (Article 32): A right without remedy is a meaningless formality. The Indian Constitution enumerates various rights to its citizen and in order to make these rights effective, it includes some means or remedies in the form of the Right to Constitutional Remedies under **Article 32**. Article 32 guarantees to every citizen the right to move the Supreme Court or High Courts for enforcement of Fundamental Rights by constitutional means. Both the Supreme Court under Article 32 and the High Courts under Article 226 can issue necessary ***writs*** for the purpose. When a citizen feels that his or her Fundamental Rights have been violated, he can move the court for the redressal of the same. The Supreme Court under Article 32 and the High Court under Article 226 may issue writs including ***habeas corpus***, ***mandamus, prohibition, quo-warranto*** and ***certiorari*** to safeguard the Fundamental Rights. These are some instruments and means to make Fundamental Rights more effective. The courts have the power to enforce Fundamental Rights by issuing these writs against any authority of the State. The Indian Constitution lays down that any act of the executive or of the legislature which violates Fundamental Rights shall be void and the courts are empowered to declare it as void (Article 13). Thus, the Constitution of India has made the judiciary "the protector and guarantor of Fundamental Rights" by virtue of the Right to Constitutional Remedies. This constitutional right has been described as the "heart and soul" of the Constitution by Dr.B.R.Ambedkar as only the Right to Constitutional Remedies can make Fundamental Rights truly effective.

LET US KNOW

Habeas corpus, mandamus, prohibition, quo warranto, and certiorari are constitutional writs that safeguard individual rights and ensure proper functioning of public authorities. *Habeas corpus* protects personal liberty by requiring that a detained person be brought before a court to justify the legality of the detention. *Mandamus* is issued by a court to direct a public official or authority to perform a duty they are legally obligated to carry out. *Prohibition* prevents a lower court or tribunal from exceeding its jurisdiction or acting contrary to law. *Quo warranto* challenges the legal authority of a person occupying a public office, requiring them to show under what authority they hold the position. *Certiorari* enables a higher court to review and correct errors of jurisdiction or law

committed by lower courts or tribunals. Together, these writs function as vital instruments of judicial control and protection of fundamental rights.

However, the right to move the court for protection of Fundamental Rights may be suspended during a National Emergency except those rights provided by Article 20 and Article 21 which can never be suspended even during an Emergency (44th Constitutional Amendment Act, 1978).

CHECK YOUR PROGRESS

Q. 8: Fundamental Rights are mentioned in which Part of Indian Constitution?

.....

Q. 9: Fundamental Rights are justifiable. (True/False)

.....

Q. 10: Fundamental Rights are amendable. (True/False)

.....

Q. 11: Mention the six Freedoms provided by the Article 19 of the Indian Constitution.

………

Q. 12: Which Article of the Indian Constitution provides that all communities shall have the right to establish and administer educational institutions of their choice?

………

8.4 RESTRICTIONS ON FUNDAMENTAL RIGHTS

Though the Constitution of India guarantees all these Fundamental Rights for the citizen, yet there are some limitations and exceptions to these rights also. A citizen cannot enjoy Fundamental Rights absolutely or at will. Within some constitutional limitations, citizens can enjoy their rights. The Constitution of India imposes some reasonable restrictions upon enjoyment of these rights, so that public order, morality and health remain intact. The Constitution always aims at balancing collective interests with individual interests .For example, the Right to Freedom of Religion is subject to restrictions imposed by the State in the interest of public order, morality and health so that the freedom of religion may not be abused. Similarly, Rights guaranteed by Article 19 does not mean absolute liberty. Absolute individual rights cannot be guaranteed by any modern state. Therefore, our Constitution has empowered the State to impose reasonable restrictions as may be necessary in the larger interests of the community. Our Constitution always attempts "to strike a balance between individual liberty and social control" and to establish a welfare state where collective interests get prominence over individual interests. Freedom of speech and expression [Art.19(1)(a)] is subject to reasonable restrictions imposed by the State relating to defamation, contempt of court, decency or morality, security of the state, friendly relations with foreign states, incitement to an offence, public order, maintenance of the sovereignty and integrity of India . Freedom of Assembly [Art.19(1)(b)] is also subject to reasonable restrictions imposed by the State in that the assembly must be peaceful and without arms in the interest of public order. Freedom of press which is included in the wider freedom of expression is also subject to reasonable limitations and the State can impose restrictions upon freedom of press in the larger interests of the state or for the prevention of contempt of court, defamation or incitement to an offence.

CHECK YOUR PROGRESS

Q. 13: Fundamental Rights are absolute. (True/False)

.....

Q. 14: On what grounds restrictions can be imposed on the Right to Freedom of Religion?

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.....

8.5 LET US SUM UP

- Fundamental Rights fulfil some basic and essential conditions of good life for human progress. These are fundamental in the sense that in the absence of these rights citizens cannot develop their personality and their own self.
- In India awareness of people for their rights and freedoms assumed a revolutionary character throughout the freedom movement during the colonial rule. A number of Documents and Bills and Reports of various Commissions had influenced the framers of the Indian Constitution to incorporated Fundamental Rights in the Constitution of India.
- Fundamental Rights incorporated in the Part III of the Indian Constitution have certain characteristics. Such as- fundamental rights are amendable, fundamental rights are not absolute, fundamental rights are suspendable under certain circumstances, these rights aim at balancing collective interests with individual interests and fundamental rights are superior to ordinary law of the land, fundamental rights are justifiable.
- Fundamental rights have great significance in life of each and every human being. These rights are considered to be the most essential elements for all round development of human being
- Part III of the Indian Constitution provides six Fundamental Rights to the Indian citizens. These are- the Right to Equality (Article 14 – Article 18), the Right to Freedom (Articles 19 – Article 22), the Right against Exploitation (Articles 23 – Article 24), the Right to Freedom of Religion (Articles 25 – Article 28), Cultural and Educational Rights (Articles 29 – Article 30) and the Right to Constitutional Remedies (Article 32).
- Fundamental Rights are not absolute. Therefore, within some reasonable restrictions citizens can enjoy them.

8.6 FURTHER READING

1) Chander, Prakash. (2000). *Indian Government and Politics*. New Delhi: Cosmos Bookhive Pvt. Ltd.
2) Ghai, K. K.(2007). *Indian Government and Politics*. New Delhi: Kalyani Publishers.
3) Kapur, Anup Chand and Misra, K. K. (2006). *Select Constitutions.* New Delhi: S. Chand and Company.
4) Pylee, M, V. (2006). *Constitutional Government in India.* New Delhi: S. Chand and Company.

8.7 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No 1: Six

Ans to Q No 2: False

Ans to Q No 3: 1689

Ans to Q No 4: 1928

Ans to Q No 5: True

Ans to Q No 6: Article 32

Ans to Q No 7: (i) Fundamental Rights are not absolute.

(ii) Fundamental Rights are justifiable also.

Ans to Q. No 8: Part III of the Indian Constitution

Ans to Q. No 9: True

Ans to Q. No 10: True

Ans to Q. No 11:

(a) to freedom of speech and expression ;

(b) to assemble peacefully and without arms ;

(c) to form associations or unions ;

(d) to move freely throughout the territory of India ;

(e) to reside and settle in any part of the territory of India ; and

(g) to practice any profession , or to carry on any occupation, trade or business

Ans to Q. No 12: Article 30

Ans to Q. No 13: False

Ans to Q. No 14: The Right to Freedom of Religion is subject to restrictions imposed by the State in the interest of public order, morality and health so that the freedom of religion may not be abused.

8.8 MODEL QUESTIONS

A) Very Short Questions

Q. 1: Which Part of the India Constitution contains Fundamental Rights?

Q. 2: Which Article of the Indian Constitution provides Indians the right to approach the Supreme Court and the High Courts for protecting their rights?

Q. 3: Which Article of the Indian Constitution abolishes untouchability in India?

Q 4: Mention any two grounds on which the Freedom of speech and expression (Art.19-1-A) is subject to reasonable restrictions.

B) Short Questions (Answer each question in about 150 words)

Q.1: Write briefly about the Right to Equality.

Q.2: Explain the restrictions on Fundamental Rights.

C) Long Questions (Answer each question in about 300-500 words)

Q 1: Mention the six types of Fundamental Rights. Explain the Right to Freedom.

Q 2: Explain the Right to Constitutional Remedies. Discuss the restrictions on Fundamental Rights.

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UNIT 9: FUNDAMENTAL DUTIES

UNIT STRUCTURE

9.1 Learning Objectives

9.2 Introduction

9.3 Historical Background of Fundamental Duties in India

9.4 Types Fundamental Duties mentioned in the Indian Constitution

9.5 Significance of Fundamental Duties

9.6 Limitations of Fundamental Duties

9.7 Let Us Sum Up

9.8 Further Reading

9.9 Answers to Check Your Progress

9.10 Model Questions

9.1 LEARNING OBJECTIVES

After going through this unit you will be able to:

- explain the historical background that led to the inclusion of Fundamental Duties in the Indian Constitution
- discuss different types Fundamental Duties incorporated in the Constitution of India
- explain the significance of the Fundamental Duties
- identify the limitations or drawbacks of the Fundamental Duties.

9.2 INTRODUCTION

The Fundamental Duties constitute an important part of the Indian Constitution. They are included in Part IV of the Constitution in Article 51A. These fundamental duties are certain

obligations given by the Constitution to the Indian citizens to be followed so that the country can stand strong and unified and achieve progress and prosperity in all fields. The Indian citizens have eleven Fundamental Duties to be followed. These Duties are not compulsory, yet they are expected to be followed honestly. In this unit, we will discuss the Fundamental Duties of the Indian citizens. The background that led to the inclusion of these duties in the Indian Constitution will also be examined. Significance and limitations of these fundamental duties will also be discussed in this unit.

9.3 HISTORICAL BACKGROUND OF FUNDAMENTAL DUTIES IN INDIA

Originally, the Indian Constitution did not contain any list of Fundamental Duties. The framers of the Constitution did not feel it necessary that a list of fundamental duties should be included in the Constitution. They believed that the people of the country would automatically realize their responsibilities and carry them out accordingly. But in the absence of certain well defined codes of obligations and responsibilities, people mostly remained indifferent and negligent. Therefore, an urgent need was felt for inclusion of clearly defined set of duties for the Indian citizens. Accordingly, the Swaran Singh Committee was constituted in 1976 during national emergency to study the question of amending the Constitution on the basis of past experiences. The Committee recommended an eight-point code of fundamental duties for the Indian citizens and the Government, on the basis of that recommendation, formulated ten important duties and added them under Article 51A which was inserted in Part IV of the Constitution by the Constitution (Forty-second Amendment) Act, 1976. Thus, the Fundamental Duties are found in Article 51A of Part IV of the Constitution numbered (a) to (j). The Constitution (Eighty-sixth Amendment) Act, 2002 added one more fundamental duty numbered (k). So, Indian citizens presently have eleven duties to perform.

The Fundamental Duties have been included in the Indian Constitution by taking inspiration from the constitutions of other countries as well as other international documents. From among them, the Constitution of former U.S.S.R. was important as this was the first constitution in the world to mention a set of fundamental duties. Again, our Fundamental Duties are in accordance with Article 29(1) of the Universal Declaration of Human Rights of the UN which says that everyone has duties to the community in which alone the free and full development of his personality is possible. The Fundamental Duties have been included in the Indian Constitution

with the hope that citizens will behave more responsibly and work for the peace, prosperity and brotherhood in the country.

9.4 TYPES OF FUNDAMENTAL DUTIES MENTIONED IN THE INDIAN CONSTITUTION

As mentioned earlier, Article 51A of Part IV the Indian Constitution presently provides 11 Fundamental Duties for the citizens of India. It shall be the duty of every citizen of India—

(a) to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;

(b) to cherish and follow the noble ideals which inspired our national struggle for freedom;

(c) to uphold and protect the sovereignty, unity and integrity of India;

(d) to defend the country and render national service when called upon to do so;

(e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;

(f) to value and preserve the rich heritage of our composite culture;

(g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;

(h) to develop the scientific temper, humanism and the spirit of inquiry and reform;

(i) to safeguard public property and to abjure violence;

(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.

While discussing the Fundamental Duties, it is important to note that the very first duty listed is to abide by the Constitution and respect its ideals and institutions. This duty is crucial for

maintaining the unity and integrity of the country. A nation can remain strong only when its citizens stay united under one Constitution and one Flag.

The second duty requires citizens to cherish and follow the noble ideals that inspired our freedom fighters in their struggle for independence. This is significant because remembering them with respect and drawing inspiration from their principles helps us move forward with determination and purpose.

Equally important is the duty to protect the sovereignty, unity, and integrity of India, for these define our national identity. Defending the country is also a fundamental responsibility, and every citizen is expected to rise to this duty whenever the nation faces threats, whether internal or external.

Another essential duty is to value and preserve the rich cultural heritage of our composite culture. We must honour this heritage and contribute to its preservation and promotion. Similarly, we are duty-bound to protect and improve the natural environment and refrain from activities that lead to its degradation.

One of the duties also calls upon citizens to develop a scientific temper, humanism, and a spirit of inquiry and reform. This means rejecting superstition and blind beliefs, and striving to be rational, progressive, and open-minded in our actions and behaviour.

Citizens are further required to safeguard public property and abstain from violence, as violence hampers social development and fosters hatred and discord. Another duty urges us to strive for excellence in all spheres of individual and collective activity so that the nation may progress through the contributions of its people.

Lastly, parents and guardians have a special duty to provide opportunities for education to their children. This is vital because an educated child today becomes a responsible and capable citizen tomorrow.

From the point of view of the nature of the Fundamental Duties, we can discuss them in **three categories:**

- Duties which are of moral nature include cherishing noble ideals of our freedom struggle, preserving the rich heritage of our composite culture, developing scientific

temper, humanism and the spirit of inquiry and reform, striving for excellence in all individual and collective activities and providing opportunities for education to children between the age of 6 and 14 years.

- Duties which are political in nature include respecting the Constitution, the National Flag and the National Anthem; upholding and protecting sovereignty, unity and integrity of the country; defending the country and rendering national service and promoting harmony and spirit of brotherhood amongst all.
- Duties which are of special nature include protecting the natural environment and safeguarding public property and abjuring violence.

CHECK YOUR PROGRESS

Q.1: In which Part of the Indian Constitution are the Fundamental Duties included?

……

Q. 2: When were the Fundamental Duties included in the Constitution of India?

……

Q. 3: The Indian Constitution contains how many Fundamental Duties for the Indian citizens?

……

Q. 4: Mention any five Fundamental Duties of the Indian citizens.

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9.5 SIGNIFICANCE OF FUNDAMENTAL DUTIES

The Fundamental Duties of the Indian citizens are non-justifiable. Unlike the Fundamental Rights, we cannot approach the courts of law for preservation and enforcement of the Fundamental Duties. No one can make the citizens oblige the duties legally even if they are violated. Obligation or obedience to these duties depends purely on moral consciousness of the citizens.

However, our Fundamental Duties are having their own importance. They have constitutional significance. When we do not obey or follow these duties, then it means we are not following constitutional principles. They should be followed for the greater interest of the society. Our Fundamental Duties reflect certain principles which are very much rooted in our culture and traditions. They are sacred and have moral value. So, if we follow them, then it will help our country to grow better and prosper among the nations of the world.

Again, the inclusion of the Fundamental Duties in our Constitution aims at making the citizens conscious regarding their responsibility towards the society and fellow citizens. It is very important to note that rights of the citizens would be meaningless if duties are not properly performed. We will be able to enjoy our rights in the true sense only when we respect the rights of our fellow citizens. If we do not respect other's right, then others will also not respect our rights. Then nobody will be able to enjoy his/her right. Therefore, it is necessary that we give due importance to our duties just as we give importance to our rights.

Though our Fundamental Duties are not justifiable, yet they are termed as 'fundamental' in the Constitution. This implies that our duties have great significance. As responsible citizens, we should perform our fundamental duties. We should perform them to show our honesty and sincerity to this land and its people. Obedience to these duties is very much linked to the health and wealth of this country. The judiciary can also take note of these duties while deciding various cases. There are legal provisions through which some of the Fundamental Duties can be enforced. For example, in order to ensure that no disrespect is shown to the National Flag, Constitution of India and the National Anthem, the Prevention of Insults to National Honours Act 1971 was enacted.

So, we can say that our Fundamental Duties have great significance. Though they are not binding upon us, yet we should obey them for the greater interest of our society.

LET US KNOW

The Justice Verma Committee, established in 1999, was tasked with suggesting measures to promote the spirit of Fundamental Duties among citizens, especially through the education system. The Union Government formed this committee following a 1998 notice from the Supreme Court. It emphasized that educational institutions should play a key role in spreading awareness about Fundamental Duties. The Committee observed that although the duties listed in Article 51A are moral obligations, they provide a valuable framework for responsible citizenship and national discipline. It noted that many problems in governance and society could be addressed if citizens genuinely adhered to these duties. Importantly, the Committee clarified that it did not support enforcing Fundamental Duties through legal penalties but recommended promoting them through education, awareness, and social institutions.

9.6 LIMITATIONS OF FUNDAMENTAL DUTIES

The Fundamental Rights of the Indian citizens have various limitations or drawbacks. Some of these limitations can be mentioned as follows:

- Since Fundamental Rights are non-justifiable so, they cannot be legally enforced. Even if they are violated, no one can take legal aid for their preservation. This is a big limitation of our Fundamental Duties.
- Again, our Fundamental Duties are not binding upon us. They may be ignored and often neglected by most of our citizens. That means they are treated as valueless.
- Except for a few duties (like environmental protection, respecting the national flag), there is no detailed law prescribing how they must be performed. Without enabling legislation, duties remain vague and symbolic.
- In many Constitutions of the world, fundamental duties are included in the same Chapter as fundamental rights. Those constitutions attach same importance to both the rights and the duties. But in the Indian Constitution, the Fundamental Duties are not treated equally with that of the Fundamental Rights.
- Another important drawback is that many important duties have not been included in the list of Fundamental Duties of the Indian Constitution. For example, duty to pay taxes in time, to vote consciously, to participate actively in the democratic process, to foster a spirit of family values and responsible parenthood, to keep

away from corrupt practices in private and public life, etc. are some important duties that should have found place in the list of Fundamental Duties. So, our Fundamental Duties are not as extensive as they should have been.

- It should also be noted that some of the Fundamental Duties are either vague or not clearly defined. Many duties are expressed in general terms such as:
- "to strive towards excellence," "to promote harmony," "to develop scientific temper." Such broad phrasing makes interpretation subjective.

Though there are certain limitations of Fundamental Duties, yet these duties have their own importance. These duties foster a sense of responsibility in the minds of citizens to respect rights of other persons and thus contribute to the development of the country.

CHECK YOUR PROGRESS

Q. 5: Fundamental Duties are justifiable. (True/False)

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Q. 6: Write briefly about two limitations of the Fundamental Duties.

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Q. 7: Write briefly about any two points that will justify the significance of the Fundamental Duties.

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9.7 LET US SUM UP

- The Fundamental Duties constitute an important part of the Indian Constitution. They are included in the Part IV of the Constitution in Article 51A. They are certain obligations given by the Constitution to the citizens to be followed for the unity and prosperity of the country.
- Originally, the Indian Constitution did not include any list of Fundamental Duties. It was only in the year 1976, that Article 51A was inserted in Part IV of the Constitution by the Forty-Second Amendment which included a list of ten Fundamental Duties for the Indian citizens. The Constitution (Eighty-sixth Amendment) Act, 2002 added one more duty to the list of Fundamental Duties.
    - There are certain limitations of the Fundamental Duties. The Fundamental Duties of the Indian citizens are non-justifiable. Fundamental Duties are not binding upon us. In the Indian Constitution, the Fundamental Duties are not treated equally with that of the Fundamental Rights. Many important duties have not been included in the list of Fundamental Duties of the Indian Constitution. For example, duty to pay taxes in time, to vote consciously, to participate actively in the democratic process, etc. are not included in the list of Fundamental Duties.
    - Fundamental Duties have their own importance. When we do not obey or follow these duties, then it means we are not following constitutional principles. They should be followed for the greater interest of the society. Obedience to these duties is very much linked to the wealth and prosperity of this country.

9.8 FURTHER READING

1) Chander, Prakash. (2000). *Indian Government and Politics*. New Delhi: Cosmos Bookhive Pvt. Ltd.

2) Ghai, K. K.(2007). *Indian Government and Politics*. New Delhi: Kalyani Publishers.

3) Kapur, Anup Chand and Misra, K. K. (2006). *Select Constitutions.* New Delhi: S. Chand and Company.

4) Pylee, M, V. (2006). *Constitutional Government in India.* New Delhi: S. Chand and Company.

9.9 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q. No 1: Part IV of the Constitution

Ans to Q. No 2 : in 1976

Ans to Q. No 3 : eleven

Ans to Q. No 4: (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 value and preserve the rich heritage of our composite culture;

(d) To protect and improve the natural environment including forests, lakes, rivers, and wild life and to have compassion for living creatures;

(e) To develop the scientific temper, humanism and the spirit of inquiry and reform.

Ans to Q. No 5: False

Ans to Q. No 6: (a) Since Fundamental Rights are non-justifiable so, they cannot be legally enforced. Even if they are violated, no one can take legal aid for their preservation. This is a big limitation of our Fundamental Duties.

(b) Many important duties have not been included in the list of Fundamental Duties of the Indian Constitution. For example, duty to pay taxes in time, to vote consciously, to participate actively in the democratic process, to foster a spirit of family values and responsible parenthood, to keep away from corrupt practices in private and public life, etc. are some important duties that should have found place in the list of Fundamental Duties. So, our Fundamental Duties are not as extensive as they should have been.

Ans to Q. No 7: (a) The inclusion of the Fundamental Duties in our Constitution aims at making the citizens conscious regarding their responsibility towards the society and fellow citizens. It is very important to note that rights of the citizens would be meaningless if duties are not properly performed. We will be able to enjoy our rights in the true sense only when we respect the rights of our fellow citizens. If we do not respect other's right, then others will also not respect our rights. Then nobody will be able to enjoy his/her right. Therefore, it is necessary that we give due importance to our duties like that of our rights.

(b) The judiciary can also take note of the Fundamental Duties while deciding various cases. There are legal provisions through which some of the Fundamental Duties can be enforced. For example, in order to ensure that no disrespect is shown to the National Flag, Constitution of India and the National Anthem, the Prevention of Insults to National Honour Act 1971 was enacted.

9.10 MODEL QUESTIONS

A) Very Short Questions

Q. 1: From which country's constitution did India take inspiration for inclusion of Fundamental Duties?

Q 2: When was the eleventh Fundamental Duty included in the Constitution?

Q 3: Through which amendment the Fundamental Duties have been included in the Constitution of India?

Q 4: On the recommendations of which Committee established in 1976 were the Fundamental Duties incorporated in the Indian Constitution?

B) Short Questions (Answer each question in about 150 words)

Q 1: Write a short note on the significance of the Fundamental Duties of the Indian citizens.

Q 2: Explain the three categories of Fundamental Duties from the point of view of the nature of the Fundamental Duties.

C) Long Questions (Answer each question in about 300-500 words)

Q 1: Discuss the background of Fundamental Duties incorporated in the Indian Constitution.

Q 2: Examine the limitations of the Fundamental Duties of the Indian citizens.

UNIT 10: DIRECTIVE PRINCIPLES OF STATE POLICY

UNIT STRUCTURE

10.1 Learning Objectives
10.2 Introduction
10.3 Meaning of the Directive Principles of State Policy
10.4 Features of the Directive Principles of State Policy
10.5 Classification of the Directive Principles of State Policy
10.6 Implementation of the Directive Principles of State Policy
10.7 Constitutional Significance of the Directive Principles of State Policy
10.8 Let Us Sum Up
10.9 Further Reading
10.10 Answers to Check Your Progress
10.11 Model Questions

10.1 LEARNING OBJECTIVES

After going through this unit you will be able to:

- explain the meaning, features and various types of Directive Principles
- describe the significance and importance of Directive Principles
- explain implementation of Directive Principles in our country

10.2 INTRODUCTION

This unit introduces you to the Directive Principles of State Policy which are mentioned in Part IV of the Indian Constitution covering Article 36 to Article 51. These principles are meant for the State to follow them in matters of administration and in making of laws. Because the basic aim behind these principles is establish a welfare state . These principles are different from fundamental rights which were discussed in the previous units . While fundamental rights are enforceable , Directive Principles are not enforceable by the courts. The courts can not compel the government to implement these principles. But it is the duty of every responsible government to translate these principles in to action to promote social and economic justice among citizens. These principles are fundamental in the governance of the country .

10.3 MEANING OF DIRECTIVE PRINCIPLES OF STATE POLICY

One of the distinctive features of Indian Constitution is the inclusion of the Directive Principles of State Policy or DPSPs. Borrowed from the Irish Constitution, the makers of our Indian Constitution incorporated these principles in Part IV of the Constitution from Article 36 to Article 51. These principles were deemed fundamental in the governance of the country which epitomized the hopes and aspirations of the Indian people. The Irish Constitution had greatly impressed the members of the Constituent Assembly . The members of the Constituent Assembly observed that most of the new constitutions that came into being after World War I, particularly those of Germany and East European countries, had recognized that one of the chief functions of the State must be to foster and secure the social well-being of the citizens and the economic prosperity of the nation . Such an attitude impressed our Constitution makers to incorporate these principles in our Constitution

The Directive Principles are some affirmative instructions to the State authorities to secure to all citizens justice- social, economic and political ; liberty of thought, expression, belief, faith and worship; equality of status and opportunity; and to promote among them all fraternity assuring the dignity of the individual and the unity and integrity of the nation. These principles underline the philosophy of Democratic Socialism to secure the high ideals set forth in the Preamble to the Constitution. It is the duty of the State to follow these principles both in the matter of administration as well as in the making of laws of the Directive Principles is to establish a welfare state where economic and social democracy might flourish.

The Directive Principles of State Policy may be classified under several groups, covering socio-economic rights to statements of international policy of the country . Significantly, these principles are not justiciable in character. They cannot be enforced by the courts of law if the State does not follow these principles in matters of administration as well as in making of laws . But it is the duty of the State to follow them to promote fraternity and equality and to guarantee justice to the people of the country. Nevertheless, the Directive Principles are regarded as the basic foundation of democracy and welfare State. They are incorporated in the Constitution to meet economic and social aspirations of the people of our country. Political democracy requires for its success economic security. Therefore the makers of our Constitution incorporated the Directive Principles as supplement to the Fundamental Rights. The Directive Principles provide some economic principles to secure economic justice and security.

10.4 FEATURES OF DIRECTIVE PRINCIPLES OF STATE POLICY

The Directive Principles of State Policy incorporated under Part IV from Article 36-Article 51 possess the following features:

- Directive Principles of State Policy are some instructions to the State for achieving socio-economic development.
- Directive Principles of State Policy are not enforceable in the courts and no one can go to the court for its proper implementation.
- Directive Principles of State Policy are positive in nature . These principles increase the powers and functions of the State .
- Directive Principles of State Policy aims at establishment of a welfare state by securing social and economic justice. These principles are based on socialist thinking .
- These principles are indispensable for socio-economic development of our country .Because welfare and justice are the twin objectives of our Constitution.
- These principles have great moral value also. It constitutes the conscience of our Constitution . No responsible government can dare to go against these principles.
- Directive Principles of State Policy constitute the mirror of public opinion. These principles always reflect the will of the people .These are embodied in the Constitution to the meet the aspirations of the people.
- These are fundamental in the governance of the country. The State should follow these principles for progress of the country.

10.5 CLASSIFICATION OF DIRECTIVE PRINCIPLES

(i) Socialist and Economic Principles: The socialist and economic principles always aim at shaping our country into a welfare state. Art. 38(1) provides that the State shall promote the welfare of the people by securing and protecting as it may a social order in which justice – social, economic, and political shall inform all the institutions of national life. The State shall strive to minimize the inequalities in income and try to eliminate inequalities in status, facilities and opportunities among individuals and groups engaged in different vocations within the country-Art.38(2). Thus promotion of welfare of people by securing a social order where justice shall prevail is the objective of our Constitution. To ensure such objectives, the State shall direct its policy in securing-

- adequate means of livelihood for all citizens irrespective of men and women equally ;
- equal distribution of wealth and resources among all classes ;
- equal pay for equal work for both men and women ;
- just and humane conditions of work, a decent standard of living , full employment, leisure and social and cultural opportunities;
- participation of workers in the management of undertakings and establishments;
- protection of children, youth against exploitation and against moral and material abandonment. The Forty-Second Amendment altered this provision and provides that "children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against moral and material abandonment";
- Provision of work and compulsory education for all people, relief in case of unemployment, old age, sickness and disability and other cases of undeserved want;
- equality of opportunity and status for all individuals;
- level of nutrition and standard of living of the people;
- public health and enforce prohibition of consumption of intoxicating drinks and drugs;
- environment safeguarding forest and wild life of the country ;
- a uniform civil code throughout the country;
- protection of adult and child labour.

(ii) Gandhian Principles: Principles enjoined under Gandhian principles in Article 40, Article 43, Article 47 and Article 48 are some ideals of Mahatma Gandhi followed during his lifetime. Our constitution framers wanted to implement these ideals to fulfil his dream. The State shall take steps-

- to organize village panchayats and endow them power and authority to enable them to function as unit of self-government. ;
- to promote cottage industries and village industries on an individual or co-operative basis in rural areas ;
- to prohibit consumption of intoxicating and injurious drinks and drugs;
- to promote educational and economic interests of the weaker sections of the people particularly SCs, STs to establish social justice and equity;
- to organize agricultural and animal husbandry on modern and scientific lines;
- to prohibit the slaughter of cows and other useful cattle;
- to protect and improve environment and safeguard the forests and wild life of the country;

- to protect, preserve and maintain places of national historical importance;
- to separate the judiciary from the executive.

(iii) International Principles: Principles enjoined in Art. 51 under international principles are some provisions to the State relating to ensure international peace and security. The State shall attempt –

- to promote international peace and security ;
- to maintain just and honorable relations between nations ;
- to foster respect for international law and treaty obligation ;
- to encourage settlement of international disputes by arbitration.

CHECK YOUR PROGRESS

Q 1: Directive Principles are non-justifiable? (True/False)

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Q 2: What is the main aim of Directive Principles?

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Q 3: Directive principles are meant for

(a) the people (b) the State

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Q 4: Describe any two features of the Directive Principles.(within 50 words)

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Q 5: Mention any two Socialist and Economic Directive Principles.

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10.7 CONSTITUTIONAL SIGNIFICANCE OF DIRECTIVE PRINCIPLES

The Directive Principles have great constitutional significance. They have been declared to be fundamental in the governance of the country and it shall be the duty of the State

to apply these principles in making laws (Art-37). Though these principles are not enforceable in the courts, yet no government would dare to ignore them. Every government should take steps for implementing Directive Principles of State Policy as far as possible or else it would be criticized on the ground of non-fulfilment of the Directive Principles. These principles represent the deliberate wisdom of the nation and act as a constant reminder to the State for the implementation of the same. Inclusion of Directive Principles in the constitution always gives a constitutional recognition of the responsibility of the State to promote the social and economic welfare of the people. The 42nd and 44th amendments emphasized the socialistic goal of the Indian polity that every State has a positive duty to ensure to its citizens social and economic justice and dignity of the individual.

CHECK YOUR PROGRESS

Q 6: Explain the constitutional significance of the Directive Principles.(within 50 words)

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10.8 LET US SUM UP

- The Directive Principles of State Policy are incorporated under Chapter-IV from Article 36-Article 51are some instructions to the State for achieving socio-economic development and establishment of a welfare state. These principles have been largely borrowed from the Irish Constitution.
- The Directive Principles of State Policy may be classified under several groups, covering socio-economic rights to statements of international policy of the country .
- The Directive Principles of State Policy are classified into Socialist and Economic Principles, Gandhian Principles and International Principles.
- The government has enacted social, labour and economic legislations besides industrial, agricultural and taxation policies.

- The Directive Principles of State Policy, though not enforceable in the court of law, are an indispensable part of our Constitution and no responsible government can deny these principles as it is answerable before the electorate. The implementation of these principles is the key to the socio-economic development of the country as a whole.

10.9 FURTHER READING

1) Chander, Prakash.(2000). *Indian Government and Politics*. New Delhi :Cosmos Bookhive Pvt. Ltd.
2) Ghai, K.K.(2007). *Indian Government and Politics*. New Delhi: Kalyani Publishers.
3) Kapur, Anup Chand and Misra, K.K. (2006). *Select Constitutions.* New Delhi : S. Chand and Company.
4) Pylee, M, V. (2006). *Constitutional Government in India.* New Delhi: S. Chand and Company.

10.10 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No 1: True

Ans to Q No 2: Establishment of a welfare state

Ans to Q No 3: State

Ans to Q No 4: True

(i) Directive Principles of State Policy are positive in nature . These principles increase power and functions of the State.

(ii) Directive Principles of State Policy aims at establishment of a welfare state by securing social and economic justice. These principles are based on socialist thinking.

Ans to Q No 5:

(i) adequate means of livelihood for all citizen irrespective of men and women equally ;

(ii) equal distribution of wealth and resources among all classes;

Ans to Q No 6: The Directive Principles have great constitutional significance. They have been declared to be fundamental in the governance of the country and it shall be the duty of the

State to apply these principles in making laws (Art-37). Though these principles are not enforceable in the courts, yet no government would dare to ignore them. Every government should take steps for implementing Directive Principles of State Policy as far as possible or else it would be criticized on the ground of non-fulfillment of the directives.

10.11 MODEL QUESTIONS

A) Very Short Questions

Q 1: The Directive Principles of State Policy or DPSPs have been borrowed from which Constitution?

Q 2: The Directive Principles of State Policy are incorporated in which part of the Constitution?

Q 3: Mention the Articles incorporating the Gandhian Principles under Directive Principles of State Policy.

Q 4: The International Principles under Directive Principles of State Policy are incorporated in which Article?

B) Short Questions (Answer each question in about 150 words)

Q 1: Write the main features of the Directive Principles of State Policy?

Q 2: Mention any four Gandhian Principles enumerated under Directive Principles of State Policy ?

Q 3: What do you mean by the Directive Principles of State Policy? What are the international principles mentioned under the Directive Principles of State Policy ?

Long Questions (Answer each question in about 300-500 words) :

Q 1: Discuss the various types of Directive Principles of State Policy.

Q 2: Explain the main features of the Directive Principles of State Policy? Describe the constitutional significance of the Directive Principles of State Policy.

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UNIT 11: UTILITY AND IMPLEMENTATION OF DIRECTIVE PRINCIPLES OF STATE POLICY

UNIT STRUCTURE

11.1 Introduction

11.2 Utility of Directive Principles of State Policy

11.3 Implementation of Directive Principles of State Policy

11.4 Let Us Sum Up

11.5 Further Reading

11.6 Answers to Check Your Progress

11.7 Model Questions

11.1 INTRODUCTION

The Directive Principles of State Policy (DPSPs), enshrined in Part IV of the Indian Constitution (Articles 36–51), occupy an indispensable place in India's constitutional philosophy. Though they are *non-justiciable*----that is, they cannot be enforced in a court of law----their significance is profound, as they constitute the moral, social, and ideological blueprint of governance in India. They reflect the aspirations of the makers of the Constitution for building a just, humane, and egalitarian society after independence. DPSPs drawn from various sources, including the Irish Constitution, Gandhian ideas, socialist principles, and the universal values of social justice. Over the decades, these principles have significantly influenced legislation, public policies, judicial interpretations, and administrative actions.

11.2 UTILITY OF DIRECTIVE PRINCIPLES OF STATE POLICY

The Constitution framers were conscious that the newly independent nation was burdened with widespread poverty, illiteracy, inequality, caste discrimination, lack of economic development, and the urgent need to promote social welfare. Recognizing these structural challenges, they introduced the DPSPs as guidelines for future governance. The purpose was twofold:

a) To promote social and economic democracy alongside political democracy, and
b) To guide the State in creating a welfare state, where justice—social, economic, and political—would inform all institutions of national life.

Dr. B.R. Ambedkar famously described DPSPs as the “instruments of instruction” to the State. Though not enforceable by courts, they were deemed equally fundamental in the governance of the country as Fundamental Rights. The framers hoped that as the country developed economically, the State would increasingly transform these principles into binding laws and policies. The utility of the DPSPs could be discusses as follows:

1. Blueprint of a Welfare State

Perhaps the greatest utility of DPSPs lies in their role as the guiding vision for a welfare state. They aim to establish a system where wealth does not become concentrated in a few hands, opportunities are equal, workers and farmers are protected, educational and health facilities are accessible, and vulnerable groups enjoy support from the State. Unlike Fundamental Rights, which restrict the State, DPSPs empower the State to take positive action.

2. Moral and Ethical Foundation of Governance

DPSPs serve as the moral compass for governments. They provide normative guidelines that compel governments---regardless of political ideology----to prioritize issues such as social justice, environmental protection, and human dignity. Even if not enforceable in courts, they carry a strong ethical and political mandate, since governments are accountable to the electorate.

3. Catalysts for Legislation and Public Policy

A major utility of DPSPs is their role in inspiring progressive legislation. Many social welfare laws, labour reforms, panchayati raj legislation, land reforms, and social security schemes have been grounded in DPSPs. Successive governments have invoked DPSPs to justify and design socio-economic reforms.

4. Interpretative Tool for Judiciary

The judiciary has increasingly interpreted Fundamental Rights in the light of DPSPs. Over time, the Supreme Court has developed doctrines such as harmonious construction, ensuring that DPSPs help expand the content of rights. For example, the right to life under Article 21

has been interpreted to include the right to livelihood, health, clean environment, education, and shelter----ideas embedded in DPSPs.

5. Balancing Individual Rights with Collective Good

DPSPs provide the philosophical framework for reconciling individual freedoms with societal welfare. This balance is essential for democratic governance, where excessive focus on either rights or duties can distort the system. DPSPs complement Fundamental Rights and help ensure that democracy does not become merely procedural, but substantive.

6. Instrument for Social Transformation

India inherited deep socio-economic inequalities after colonial rule. DPSPs were designed as tools for transforming society by attacking poverty, discrimination, feudal practices, patriarchy, and economic exploitation. They empower the State to undertake redistributive policies and major reforms such as land ceiling, nationalization, rural development, and affirmative action in various forms.

7. Promoting Decentralization and Grassroots Democracy

Gandhian DPSPs on village panchayats laid the moral foundation for the 73rd and 74th Constitutional Amendments, which institutionalized Panchayati Raj and urban local bodies. This has significantly reshaped India's democratic structure, making governance more participatory and grassroots-oriented.

8. International Peace and Global Responsibility

Article 51's focus on promoting international peace reflects India's commitment to global norms, diplomacy, and peaceful coexistence. It has shaped India's foreign policy ideas, including non-alignment, anti-colonialism, and peaceful resolution of disputes.

CHECK YOUR PROGRESS

Q 1: Discuss the DPSPs as a Blueprint of a Welfare State.

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Q 2: Write about the DPSPs as moral and ethical foundation of governance.

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11.3 IMPLEMENTATION OF DPSPs: PROGRESS AND ACHIEVEMENTS

The Directive Principles of State Policy (DPSPs), contained in Part IV of the Indian Constitution (Articles 36–51), are not enforceable by courts, yet they have profoundly shaped India's socio-economic legislation and policies since independence. They act as guidelines for the State in establishing a welfare society based on justice----social, economic, and political. Over the decades, governments at the Union and State levels have implemented several DPSPs through laws, schemes, and constitutional amendments.

1. Land Reforms and Agrarian Transformation

One of the most significant areas of DPSP implementation is land reform. Guided by Article 39 (b) and (c), governments enacted land ceiling laws, abolished zamindari, and redistributed land to peasants. These measures weakened feudal structures and expanded rural rights. While implementation varied across states, the overall impact was transformative. Some of the notable examples in this regard are as follows:

- Abolition of Zamindari Acts (1950s), which ended intermediary landholding systems.
- Land Ceiling Acts in states such as Assam, West Bengal, Kerala, and Andhra Pradesh, which redistributed surplus land.
- Tenancy reforms, granting security of tenure and fair rent to tenants.

2.Labour Welfare and Social Security Laws

DPSPs have strongly influenced India's labour legislation, ensuring humane working conditions, social security, and welfare of workers.

Key Implementations:

- Minimum Wages Act, 1948: Ensures minimum wage for workers (Article 43).
- Maternity Benefit Act, 1961 and amendments: Implements maternity relief under Article 42.
- Equal Remuneration Act, 1976: Enforces equal pay for equal work, fulfilling Article 39(d).
- Factories Act, 1948 amendments: Improve health and safety at the workplace and implements just and humane work conditions (Article 42).
- Employee State Insurance Act (ESI) and Employees' Provident Fund Act (EPFO): Provide social security aligned with Article 41 (right to work, education, and public assistance).
- Recent welfare schemes such as PM Shram Yogi Maandhan and e-Shram further strengthen security for unorganized workers : Implements the provision of living wage under Article 43.

c) **Educational Reforms and Right to Education**

Article 45 directs the State to provide free and compulsory education for children. This DPSP has seen major implementation through constitutional amendments and laws.

Key Implementations:

- 86th Constitutional Amendment (2002) inserting Article 21A, making education a Fundamental Right.
- Right of Children to Free and Compulsory Education Act, 2009 (RTE Act), guaranteeing education for children aged 6–14.
- Expansion of mid-day meal schemes, Sarva Shiksha Abhiyan (SSA), and Samagra Shiksha Mission.

Thus, a DPSP was transformed into an enforceable right through law and constitutional change.

4. Panchayati Raj and Democratic Decentralization

Article 40 directs the State to organize village panchayats. This principle became operational with the landmark 73rd and 74th Constitutional Amendments (1992).

Key Implementations:

- Constitutional status to Panchayati Raj institutions (PRIs) and municipalities.
- Creation of Gram Sabhas, District Councils, and Ward Committees.
- Reservation for women and marginalized groups in local governance.
- Decentralization of power and participatory democracy.

This is one of the most successful implementations of a Gandhian DPSP.

5. Welfare of Weaker Sections (Article 46)

Article 46 urges the State to protect the educational and economic interests of SCs, STs, OBCs and other weaker sections.

Key Implementations:

- Reservation policies in legislatures, public employment, and educational institutions.
- Special legislations such as:
    - SC/ST (Prevention of Atrocities) Act, 1989
    - Protective discrimination measures in jobs and scholarships
    - Special Component Plans and Tribal Sub-Plans
- Policies like Eklavya Model Schools, hostel facilities, and targeted welfare schemes.

These measures demonstrate concrete State effort toward social justice.

6. Environment Protection

Though DPSPs originally did not contain explicit environmental provisions, Article 48A was added through the 42nd Amendment, directing the State to protect the environment and forests. This principle has inspired numerous laws such as:

- Environment Protection Act (1986)
- Wildlife Protection Act (1972)
- Forest Conservation Act (1980)

The judiciary has also used DPSPs to strengthen environmental jurisprudence.

7. Public Health and Nutrition

Article 47 directs the State to improve public health, raise nutrition levels, and prohibit intoxicating drinks. Its influence can be seen in:

Key implementations:

- National Health Mission (NHM) and Ayushman Bharat for universal health coverage.
- Integrated Child Development Services (ICDS) providing nutrition to mothers and children.
- Mid-Day Meal Scheme, the world's largest school feeding program.
- POSHAN Abhiyan
- Swachh Bharat Mission, focusing on sanitation and hygiene.
- Prohibition policies in states like Gujarat and Bihar, reflecting the directive to prohibit intoxicating drinks.

8. Environment and Wildlife Protection (Article 48A)

Article 48A was inserted by the 42nd Amendment (1976), directing the State to protect the environment and wildlife.

Key Implementations:

- Wildlife Protection Act, 1972
- Forest Conservation Act, 1980
- Environment Protection Act, 1986
- National Green Tribunal Act, 2010

Judicial activism has also expanded environmental rights by interpreting Article 21 in light of Article 48A.

9. Industrial and Economic Policies (Article 43 and 43A)

Several economic policies reflect DPSPs concerning employment, living wage, and workers' participation.

Key Implementations:

- Promotion of cottage and village industries, such as Khadi and handloom sectors (Article 43).
- Industrial Disputes Act amendments improving worker protection.
- Cooperative movement and the 97th Constitutional Amendment strengthening cooperative societies.
- Implementation of schemes like:
    - MGNREGA (Right to work and livelihood)
    - PM-KISAN
    - Skill India Mission

These measures reflect the commitment to social and economic democracy.

10. Secular and Uniform Civil Code Principles (Article 44)

While the Uniform Civil Code (UCC) has not been implemented nationwide, steps toward reform of personal laws demonstrate partial implementation.

Key Implementations:

- Hindu Code Bills (1950s): Reform of Hindu personal law.
- Muslim Women (Protection of Rights on Divorce) Act.
- Supreme Court judgments supporting gender justice in personal laws (e.g., Shah Bano, Shayara Bano).
- Recent UCC legislation in Uttarakhand (2024), the first state-level codification.

11. Promotion of International Peace (Article 51)

Article 51 guides India's foreign policy principles.

Key Implementations:

- Advocacy of non-alignment, peaceful settlement of disputes, and global nuclear disarmament.
- Participation in UN peacekeeping missions.
- Commitment to international treaties such as the Paris Climate Agreement.

12. Judicial Enforcement through Interpretation

Though DPSPs are non-justiciable, the judiciary has used them to expand the scope of Fundamental Rights.

Landmark judgments include:

- Kesavananda Bharati (1973): Harmony between FRs and DPSPs.
- Minerva Mills (1980): Balance between Parts III and IV is part of the basic structure.
- Olga Tellis (1985): Right to livelihood (Article 21) linked to Article 39.
- Unni Krishnan (1993): Right to education read into Article 21.

Thus, courts have indirectly enforced DPSPs by elevating them to the status of constitutional values.

CHECK YOUR PROGRESS

Q 3: Mention any two labour welfare and social security laws which have been enacted in pursuance of Directive Principles of State Policy.

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Q 4: Which Article was inserted by the 42nd Amendment (1976), directing the State to protect the environment and wildlife?

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LET US SUM UP

- The Constitution framers were conscious that the newly independent nation was burdened with widespread poverty, illiteracy, inequality, caste discrimination, lack of economic development, and the urgent need to promote social welfare.
- Dr. B.R. Ambedkar famously described DPSPs as the “instruments of instruction” to the State. Though not enforceable by courts, they were deemed equally fundamental in the governance of the country as Fundamental Rights.
- The framers hoped that as the country developed economically, the State would increasingly transform these principles into binding laws and policies. The utility of the DPSPs could be seen in terms of their laying the blueprint of a Welfare State and the Moral and Ethical Foundation of Governance.
- DPSPs serve as the moral compass for governments. They provide normative guidelines that compel governments---regardless of political ideology----to prioritize issues such as social justice, environmental protection, and human dignity.
- A major utility of DPSPs is their role in inspiring progressive legislation. Many social welfare laws, labour reforms, panchayati raj legislation, land reforms, and social security schemes have been grounded in DPSPs. Successive governments have invoked DPSPs to justify and design socio-economic reforms.
- The judiciary has increasingly interpreted Fundamental Rights in the light of DPSPs. Over time, the Supreme Court has developed doctrines such as harmonious construction, ensuring that DPSPs help expand the content of rights.
- DPSPs provide the philosophical framework for reconciling individual freedoms with societal welfare.

- Gandhian DPSPs on village panchayats laid the moral foundation for the 73rd and 74th Constitutional Amendments, which institutionalized Panchayati Raj and urban local bodies. This has significantly reshaped India's democratic structure, making governance more participatory and grassroots-oriented.
- Article 51's focus on promoting international peace reflects India's commitment to global norms, diplomacy, and peaceful coexistence. It has shaped India's foreign policy ideas, including non-alignment, anti-colonialism, and peaceful resolution of disputes.

- The Directive Principles of State Policy (DPSPs), contained in Part IV of the Indian Constitution (Articles 36–51), are not enforceable by courts, yet they have profoundly shaped India's socio-economic legislation and policies since independence.
- The DPSPs act as guidelines for the State in establishing a welfare society based on justice----social, economic, and political. Over the decades, governments at the Union and State levels have implemented several DPSPs through laws, schemes, and constitutional amendments.

FURTHER READING

1) Chander, Prakash. (2000). *Indian Government and Politics*. New Delhi: Cosmos Bookhive Pvt. Ltd.
2) Ghai, K. K.(2007). *Indian Government and Politics*. New Delhi: Kalyani Publishers.
3) Kapur, Anup Chand and Misra, K. K. (2006). *Select Constitutions.* New Delhi: S. Chand and Company.
4) Pylee, M, V. (2006). *Constitutional Government in India.* New Delhi: S. Chand and Company.

ANSWERS TO CHECK YOUR PROGRESS

Ans to Q no 1:

The greatest utility of DPSPs lies in their role as the guiding vision for a welfare state. They aim to establish a system where wealth does not become concentrated in a few hands, opportunities are equal, workers and farmers are protected, educational and health facilities

are accessible, and vulnerable groups enjoy support from the State. Unlike Fundamental Rights, which restrict the State, DPSPs empower the State to take positive action.

Ans to Q no 2:

DPSPs serve as the moral compass for governments. They provide normative guidelines that compel governments---regardless of political ideology----to prioritize issues such as social justice, environmental protection, and human dignity. Even if not enforceable in courts, they carry a strong ethical and political mandate, since governments are accountable to the electorate.

Ans to Q no 3:

a) Minimum Wages Act, 1948
b) Maternity Benefit Act, 1961

Ans to Q no 4: Article 48A

MODEL QUESTIONS

A) Very Short Questions

Q. 1: Land ceiling laws enacted by the government have been guided by which Articles of the Indian Constitution?

Q.2: Which Constitutional Amendment inserted Article 21A making education a Fundamental Right ?

B) Short Questions (Answer each question in about 150 words)

Q 1: Write about the implementation of DPSPs with reference to Panchayati Raj and Democratic Decentralization.

Q 2: Explain the implementation of DPSPs with reference to Industrial and Economic Policies.

C) Long Questions (Answer each question in about 300-500 words)

Q 1: Explain the utility of Directive Principles of State Policy.

Q 2: Discuss the implementation of Directive Principles of State Policy .

UNIT 12: RELATIONSHIP BETWEEN FUNDAMENTAL RIGHTS AND DIRECTIVE PRINCIPLES OF STATE POLICY

UNIT STRUCTURE

12.1 Learning Objectives

12.2 Introduction

12.3 Fundamental Rights in the Indian Constitution

12.4 Directive Principles of State Policy in the Indian Constitution

12.5 Relation between Fundamental Rights and Directive Principles of State Policy

12.6 Let Us Sum Up

12.7 Further Reading

12.8 Answers to Check your Questions

12.9 Model Questions

12.1 LEARNING OBJECTIVES

After going through this unit, you will be able to-

- discuss the Fundamental Rights under the Indian Constitution
- discuss the Directive Principles of State Policy incorporated in Indian Constitution
- explain the relation between Fundamental Rights and Directive Principles of State Policy.

12. 2 INTRODUCTION

In the Indian Constitution, we find two important Parts being devoted to two pertinent topics. They are Fundamental Rights in Part III and Directive Principles of State Policy in Part IV

of the Constitution. The Fundamental Rights constitute certain basic freedoms guaranteed and protected by the Constitution to the citizens of India and others and the Directive Principles are certain directives given to the State to be followed while making policies for the welfare of the society. In the following sections, we will discuss the Fundamental Rights and the Directive Principles and the relation between them.

12.3 FUNDAMENTAL RIGHTS IN THE INDIAN CONSTITUTION

The framers of the Indian Constitution incorporated a bill of rights and freedoms taking inspiration from the various constitutions of the different countries of the world and the Charter of the United Nations. However, the Constitution of the United States of America influenced the most in this regard. These rights are also based on our rich cultural heritage and traditions. They are called fundamental because they constitute those basic human rights without which individuals will not be able to live a good life. They are fundamental also because they are guaranteed by the Constitution and protected by it.

The Fundamental Rights are included in Part III of the Indian Constitution. Originally, the Constitution included seven Fundamental Rights. But by the 44th amendment of the Constitution in 1978 the Right to Property was excluded from the list of Fundamental Rights. Now, it has been placed in Article 300A of Part XII of the Constitution and has become a simple legal right. So, we have six Fundamental Rights to enjoy at present. They are – *Right to Equality, Right to Freedom and Personal Liberty, Right against Exploitation, Right to Freedom of Religion, Cultural and Educational Rights* and *Right to Constitutional Remedies*. They are found from Article 12 to Article 35 of the Constitution.

The inclusion of the Fundamental Rights is very important for promoting democracy in the country. They provide not only liberty to its people but also restrict the state from using its power arbitrarily. The state must use its power while respecting the rights of the people. Our Fundamental Rights are justifiable, that means if they are violated by anyone then we can approach the courts of law for their protection. But they are not absolute. They are provided to us with reasonable restrictions. They can even be suspended when the President of India declares emergency except the rights which are provided under Article 20 and 21. The Fundamental Rights can be amended by the Parliament of India whenever it finds it necessary. However, amendment should not lead to abrogation of these rights. Then it will amount to the violation of the basic structure of the Constitution. Our Fundamental Rights are mainly political and social in character. They provide scope for development of the personality of the individual.

LET US KNOW

- Article 19 of the Indian Constitution has guaranteed *six freedoms* to the citizens. They are right to: a) freedom of speech and expression, b) freedom of peaceable assembly, c) freedom to form associations or unions, d) freedom of free movement throughout the country, e) freedom to reside and settle in any part of India, and f) freedom of profession, occupation, trade or business.

- Article 32 provides for the right to constitutional remedies. It empowers the Supreme Court to protect our Fundamental Rights if they are violated.

- Reasonable restrictions are imposed upon the Fundamental Rights to protect public order, public health, morality, integrity, sovereignty and security of the country.

12.4 DIRECTIVE PRINCIPLES OF STATE POLICY IN THE INDIAN CONSTITUTION

The **Directive Principles of State Policy** are mentioned in Part IV of the Indian Constitution. They are found from Article 36 to Article 51 of the Constitution. These Principles are certain directions given by the Constitution to the State. The Directive Principles are fundamental in the governance of the country. They should be followed by our governments for the welfare of the people. These Principles have been included in the Constitution by taking inspiration from the Irish Constitution of 1937. The Directive Principles also have similarities with the 'Instruments of Instructions' which were meant for the Governor General and the Governors under the Government of India Act, 1935.

The Directive Principles are not classified in the Constitution. But from the nature of these Principles, we can classify them as socio- economic, international, and Gandhian principles. These principles are included in the Constitution for establishing a welfare state by ensuring the socio-economic well-being of all the people in the country. These principles instruct the government to establish a progressive and egalitarian society by removing all kinds of socio-economic injustice and inequality. These principles provide the governments the guidelines to move towards the establishment of a new society based on liberty, equality, justice and

fraternity for all.

The Directive Principles of State Policy are not justiciable. It means that we cannot approach the courts of law even if they are violated or not implemented by the government. Their implementation depends on the willingness of those at the government and the availability of the resources. Unless implemented by the government by making new legislations or by making policies, they remain in a condition of permanent suspended animation. They are meant for the state and the state should follow them for greater interest of the society. These principles aim at strengthening the social and economic base of democracy in the country.

CHECK YOUR PROGRESS

Q. 1: State the meaning of Fundamental Right.

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Q. 2: In which Part of the Indian Constitution are Fundamental Rights included?

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Q. 3: Where in the India Constitution do we find the Directive Principles of State Policy?

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Q. 4: What is the aim of the Directive Principles of State Policy?

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Q. 5: Explain the characteristics of the Fundamental Rights.

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12.5 RELATION BETWEEN THE FUNDAMENTAL RIGHTS AND THE DIRECTIVE PRINCIPLES OF STATE POLICY

The Fundamental Rights mentioned in Part III and the Directive Principles of State Policy included in Part IV of the Indian Constitution have relation between them. They are complementary and supplementary to each other. They are regarded as sister parts of the Indian Constitution.

The Fundamental Rights of the Indian Constitution are mainly political and social in character. They aim at establishing political democracy in the country. There are no economic rights in our list of Fundamental Rights. This gap has been filled up by the Directive Principles of State Policy. The economic rights of the people are supposed to be guaranteed by the socio-economic principles mentioned in the Directive Principles. They aim at ensuring social and economic justice to the people. They are important for establishing economic democracy. So, both the Fundamental Rights and the Directive Principles work together for establishing a true democracy in the country.

Though the Directive Principles are not justiciable, yet they have great influence in the working of the governments. A good and popular government can never ignore these principles. They are fundamental in the governance of the country. Their implementation facilitates the welfare of the people. It is very important for the enjoyment of Fundamental Rights by all the people in the society irrespective of caste, creed, religion, language, gender and others. Directive Principles guarantee social and economic security and equality to all and thus pave the way for the enjoyment of Fundamental Rights by the people.

The Fundamental Rights and the Directive Principles are based on the precious ideals which are mentioned in the Preamble to the Constitution. They work together to achieve the ideals which our leaders and the Constitution makers had in their vision. Together they can be said to be the soul of the Indian Constitution. The principles of liberty, equality, justice, fraternity, integrity, democracy, socialism and secularism can be achieved in reality only when people enjoy Fundamental Rights and the government implements the Directive Principles.

Both the Fundamental Rights and the Directive Principles ensure responsible government in the country. The existence of the Fundamental Rights in the Constitution restricts the state from using its power in an arbitrary manner. The governments must show respect to the rights of the people and any violation of these rights by any agency of the government will invite judicial intervention. The Constitution itself has provided for the Fundamental Right to Constitutional Remedies whenever violation of these rights takes place. At the same time, the Directive Principles want the state and its government to be committed to the cause of the people. These principles provide a charter of activities to be performed for the welfare of the people. Any government willing to serve the people well will definitely take steps to implement these principles.

The inclusion of the Fundamental Rights and the Directive Principles in the Constitution is very important for the interest of the society as a whole. The Fundamental Rights are meant for the people. They provide chances and opportunities to the individuals to work for the development of their personality. The Directive Principles are meant for the state. The state should follow them in order to ensure better conditions of life to the individual as well as to the society. In other words, the Fundamental Rights and the Directive Principles are included in the Constitution to facilitate development and progress in the society.

These Fundamental Rights and Directive Principles are very important features of the Indian Constitution. They have their constitutional validity. Though the Directive Principles are not binding upon the state, yet they cannot be ignored. They provide the yardsticks to the people to evaluate the performance of the government. Any government not following these principles will prove to be unpopular. The governments must follow them in due respect to the Constitution. The case is same with that of the Fundamental Rights. The government must do everything to protect and preserve these rights. Neglect and violation of the Fundamental Rights by the government will invite public criticism and unrest in the country.

Though we find complementary and supplementary relationship between the Fundamental Rights and the Directive Principles, yet they have some differences as well. These differences can be mentioned as follows:

- First, we can say that the Fundamental Rights are justifciable while the Directive Principles are not justifiable. One can approach the courts of law when his/her rights are violated. On the other hand, if the Directive Principles are not implemented then no one

can approach the courts of law. Legal remedy is available in case of Fundamental Rights but not in case of Directive Principles.

- Again, the Fundamental Rights are meant for the people. They are very important for the development of the personality of the individuals. They provide scope and opportunities to the individuals to work to achieve higher aims in life. However, the Directive Principles are meant for the State. They provide instructions for governance to the State. The State should follow them to ensure the welfare of the people.
- Another difference between the two is that the Fundamental Rights are mainly political in character and the Directive Principles are economic. The Fundamental Rights aim at achieving political democracy in the country whereas the Directive Principles by assuring economic equality and justice aim to establish economic democracy.
- The Fundamental Rights can be suspended when the President of India declares emergency in the country. Then all our rights get suspended except the right to life and personal liberty mentioned in Articles 20 and 21. But the Directive Principles always remain in a condition of suspended animation unless implemented by the state.
- The Fundamental Rights put restrictions upon the activities of the State. The State should not do anything which can violate the Fundamental Rights of the people. On the other hand, the Directive Principles expand the activities of the State. These principles want the State to act for the well-being of the society.

CHECK YOUR PROGRESS

Q. 6: Write any two points that indicate the complementary relation between the Fundamental Rights and the Directive Principles of State policy.

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Q. 7: Write any two differences between the Fundamental Rights and the Directive Principles of State Policy.

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12.6 LET US SUM UP

- Both the Fundamental Rights mentioned in Part III and the Directive Principles of State Policy included in Part IV of the India Constitution are very important. They have been given special status and therefore, discussed in detail in two different Parts of the Constitution. They are important for the society.
- Fundamental Rights and the Directive Principles have relation between them. They are complementary and supplementary to each other. Both are working together to establish a true democracy in the country. Together they can be said to be the soul of the Indian Constitution. The principles of liberty, equality, justice, fraternity, integrity, democracy, socialism and secularism can be achieved in reality only when people enjoy Fundamental Rights and the government implements the Directive Principles of State Policy.
- The inclusion of the Fundamental Rights and the Directive Principles in the Indian Constitution is very important for the interest of the society as a whole. The Fundamental Rights are meant for the people. They provide chances and opportunities to the individuals to work for the development of their personality. The Directive Principles are meant for the state. The state should follow them in order to ensure better conditions of life to the individual as well as to the society. In other words, the Fundamental Rights and the Directive Principles are included in the Constitution to facilitate development and progress in the society.
- Though we find relation between the Fundamental Rights and the Directive Principles, yet they have some differences as well. We can say that the Fundamental Rights are justiciable while the Directive Principles are not. Again, the Fundamental Rights are meant for the people. But, the Directive Principles are meant for the State. Another

difference between the two is that the Fundamental Rights are mainly political in character while the Directive Principles are economic. The Fundamental Rights, except the right to life and personal liberty, can be suspended when the President of India declares emergency in the country. But the Directive Principles always remain in a condition of suspended animation unless implemented by the State. The Fundamental Rights put restrictions upon the activities of the state. On the other hand, the Directive Principles expand the activities of the state.

12.7 FURTHER READING

1) Chander, Prakash.(2000). *Indian Government and Politics*. New Delhi: Cosmos Bookhive Pvt. Ltd.

2) Ghai, K. K.(2007). *Indian Government and Politics*. New Delhi: Kalyani Publishers.

3) Kapur, Anup Chand and Misra, K. K. (2006). *Select Constitutions.* New Delhi: S. Chand and Company.

4) Pylee, M, V. (2006). *Constitutional Government in India.* New Delhi: S. Chand and Company.

12.8 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q. No 1: The Fundamental Rights are basic human rights. They are called fundamental because they are guaranteed by the Constitution and protected by it.

Ans to Q. No 2: Part III of the Indian Constitution

Ans to Q. No 3: Part IV of the Indian Constitution

Ans to Q. No 4: The aim of the Directive Principles of State Policy is the establishment of a welfare state in India.

Ans to Q. No 5: (a) Fundamental Rights are justifiable, that means if they are violated by anyone then we can approach the courts of law for their protection.

(b) The Fundamental Rights are not absolute. They are provided to us with reasonable restrictions. They can even be suspended when the President of India declares emergency

except the rights which are provided under Articles 20 and 21.

(c) The Fundamental Rights can be amended by the Parliament of India whenever it is found necessary. However, amendment should not lead to abrogation of these rights. Then it will amount to violation of the basic structure of the Constitution.

(d) Fundamental Rights are mainly political and social in character.

(e) The Fundamental Rights are important as they provide scope for development of personality of the individual.

Ans to Q. No 6: (a) The Fundamental Rights of the Indian Constitution are mainly political and social in character. They aim at establishing political democracy in the country. There are no economic rights in our list of Fundamental Rights. This gap has been filled up by the Directive Principles of State Policy. The economic rights of the people are supposed to be guaranteed by the socio-economic principles mentioned in the Directive Principles. Both the Fundamental Rights and the Directive Principles work together for establishing a true democracy in the country.

(b) Both the Fundamental Rights and the Directive Principles ensure responsible government in the country. The existence of the Fundamental Rights in the Constitution restricts the state from using its power in an arbitrary manner. The governments must show respect to the rights of the people and any violation of these rights by any agency of the government will invite judicial intervention. At the same time, the Directive Principles want the state and its government to be committed to the cause of the people. These principles provide a charter of activities to be performed for the welfare of the people. Any government, willing to serve the people well, will definitely take steps to implement these principles.

Ans to Q. No 7: (a) Fundamental Rights are justiciable while the Directive Principles of State Policy are not justiciable. One can approach the courts of law when his/her rights are violated. On the other hand, if the Directive Principles are violated then no one can approach the courts of law.

(b) The Fundamental Rights are meant for the people. They provide scope and opportunities to the individuals to work to achieve higher aims in life. However, the Directive Principles are meant for the state. The state should follow them to ensure welfare of the people.

12.9 MODEL QUESTIONS

A) Very Short Questions

Q 1: Which constitution influenced the most in the inclusion of Fundamental Rights in the Indian Constitution?

Q 2: From which country's constitution did India borrow the Directive Principles of State Policy to include in the Constitution?

Q 3: How many Fundamental Rights are included in the Constitution of India?

Q 4: Through which Amendment the Right to Property has been removed from the List of Fundamental Right in India and when?

B) Short Questions (Answer each question in about 150 words)

Q 1: Write briefly about the meaning of Fundamental Rights.

Q 2: How do the Fundamental Rights and the Directive Principles ensure responsible government in the country?

Q 3: Write how Fundamental Rights and Directive Principles help in establishing democracy in the country.

C) Long Questions (Answer each question in about 300-500 words)

Q 1: Explain the differences between Fundamental Rights and the Directive Principles of State Policy.

Q 2: Discuss the relationship between Fundamental Rights and Directive Principles of State Policy.

UNIT 13: AMENDMENT OF THE INDIAN CONSTITUTION

UNIT STRUCTURE

13.1 Learning Objectives
13.2 Introduction
13.3 Amendment Procedure of the Indian Constitution
13.3.1 Methods of Amendment of the Indian Constitution
13.3.2 Criticism of the Amendment Procedure of the Indian Constitution
13.4 A Brief Comparison of the Amendment Procedure of the Indian Constitution with the American pattern of Constitutional Amendment
13.5 Let Us Sum Up
13.6 Further Reading
13.7 Answers to Check Your Progress
13.8 Model Questions

13.1 LEARNING OBJECTIVES

After going through this unit you will be able to-

- explain the nature of amending procedure the Indian Constitution
- describe the three methods of amendment provided by the Indian Constitution
- discuss the criticisms of the Amendment Procedure of the Indian Constitution
- compare the amendment procedure of Indian Constitution with that of the United States of America.

13.2 INTRODUCTION

This unit introduces you to the amendment procedure of the Constitution of India. The process of amendment of our Constitution incorporates both rigid and flexible methods. That is why our Constitution cannot be amended as easily as the British Constitution nor is it so difficult like the American one. Thus unlike other federal constitutions, the Indian Constitution can be amended by a rather simpler method. The Constitution must be amended if situation demands and also it must be protected from unnecessary and frequent changes. That is why Jawaharlal Nehru in the Constituent Assembly said, 'while we want this Constitution to be as solid and permanent as we can make it, there is no permanence in a constitution. If you make any constitution rigid and permanent you stop the nation's growth, the growth of a living, vital, organic people.' Thus Indian Constitution makes a balance between rigidity and flexibility and finds out a mixture of both.

13.3 AMENDMENT PROCEDURE OF THE INDIAN CONSTITUTION

The amendment procedure of the Indian Constitution has been discussed under Article 368 of the Constitution which lays down '….. Parliament may in exercise of its constituent power amend by way of addition, variation or repeal any provision of this Constitution in accordance with the procedure laid down in this Article.' Interestingly Indian Constitution provides for three different methods for amending different provisions of the Constitution.

13.3.1 Methods of Amendment of the Indian Constitution

Each of the three methods of amendment described in the Indian Constitution is unique in its own way and exhibits a mixture of flexibility and rigidity. Some of the provisions can be amended as easily as an ordinary law by the Union Parliament, some need a special majority of the Parliament and some provisions can be amended only when half of the States give consent besides special majority support in the Parliament.

- **First method of Amendment**

There are some provisions in the Constitution which can be amended by simple law of the Parliament. No special techniques need to be applied for it. These provisions are amended by the Indian Parliament by **simple majority in each of the two Houses without any approval of the States**. The provisions under this system are as follows-

a) Articles 2, 3 and 4 providing the admission and establishment of new States and alteration of boundaries, areas or name of existing states.

b) Part II of the Constitution dealing with the issue of acquisition and termination of citizenship.

c) Article 81 prescribing the delimitation of constituencies.

d) Article 100(3) dealing with quorum in the Parliament.

e) Article 105 relating to the privileges of the members of the Parliament.

f) Article 106 relating with the salaries and allowances of the members of the Parliament.

g) Article 138(2) dealing with the rules of procedure in each House of the Parliament.

h) Article 210 (2) relating to English as a language of the Parliament.

i) Article 124 (1) dealing with the appointment of the Supreme Court Judge

j) Article 135 concerning the jurisdiction of the Supreme Court.

k) Article 169 relating to the creation or abolition of the upper chamber of the state.

l) Article 240 relating to the Legislatures of the Union Territories.

m) Article 327 relating to the election of the country.

n) Article 341 relating to the official language of the country.

o) Schedule II, V and VI of the Constitution.

- **Second Method of Amendment of the Indian Constitution**

Most of the provisions of the Indian Constitution can be amended by relatively rigid method which needs a **special majority in each House of the Parliament**. Such amendment Bill can be proposed by either House of the Parliament and that needs to be passed by two thirds of the members present and voting in each House and this must also include majority of the total membership of each house. All the provisions of the Constitution except those which can be amended by other two methods are amended by this one.

- **Third Method of Amendment of the Indian Constitution**

There are some provisions in the Constitution which are amended by a rather difficult method. This method needs **the support of half of the States besides the special majority of the Parliament**. It involves two stages- The proposed amendment bill must be passed by a majority of the total membership and a 2/3rds majority of the members present and voting in each House. In the second stage such a bill must also have consent of 50% of the State legislatures.

Provisions of the Indian Constitution which can be amended by this very rigid method are:

a) Article 54 and 55 dealing with the election of the President of India.
b) Article 73 relating to the extent of executive power of the Union.
c) Article 162 relating to the executive power of the States.
d) Article 241 dealing with the High Courts in the Union Territories.
e) Chapter IV of Part V concerning with the Supreme Court of India.
f) Chapter V of Part VI dealing with the High Courts of the States.
g) Chapter I of Part XI describing the legislative relations between the Union and the States.
h) All provisions relating to the List in the Seventh Schedule.
i) Provisions relating to the representation of the States in the Parliament.
j) The provisions of Article 368 itself.

The President of India needs to give his assent to all amendment bills. But he does not have any discretion in withholding his consent to a bill. Besides this, our Constitution has nowhere mentioned about any special commission for amendment. Also there is no question of referendum for ratification of the changes made in the Constitution as and when it is passed by the Parliament or in some cases by the State legislatures.

13.3.2 Criticism of the Amendment Procedure of the Indian Constitution

The Amendment procedure of the Indian Constitution has been criticised on various grounds. Some of these criticisms are mentioned below:

- It is criticized that in a very short period of time too many amendments have been made to the Indian Constitution. In just 70 years, 122 amendments have been made. It reflects the inadequacies of the original Constitution.
- The Indian States do not have the right to initiate an amendment bill. Every amendment bill must come up from either House of the Union Parliament. It has added to the powers of the Centre over the States.
- Majority provisions in the Constitution can be amended single handedly by the Parliament either through simple or special majority, without the consent of the States.
- The Indian Constitution is silent whenever there is a situation of deadlock emerging between the two houses of the Parliament over an amendment bill.
- The system of judicial review of the amendment bill makes the Supreme Court of India as the third chamber of the legislature with the power of rejecting a bill.

CHECK YOUR PROGRESS

Q.1: Which Article of the Indian Constitution deals with the amendment procedure of the Constitution itself?

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Q.2: The Constitution of India provides for how many amendment procedures?

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Q.3: Mention any four provisions of the Indian Constitution which can be amended by the Indian Parliament by simple majority in each of the two Houses.

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Q.4: Write briefly about the Third method of Amendment of the Indian Constitution.

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Q.5: Write any two criticisms of the amendment procedure of the Indian Constitution.

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13.4 A BRIEF COMPARISON WITH THE AMERICAN PATTERN OF CONSTITUTIONAL AMENDMENT

India has borrowed many features from the American Constitution specially its federal character, a long list of fundamental rights and so on. Yet over the years our Constitution has gone for more than hundred amendments in 70 years of its commencement, while the American Constitution has undergone only 27 amendments in more than 200 years. The striking differences between the amendment procedures of the two countries can be enumerated as follows:

- Both India and the USA are federations, but the units of the Indian state, i.e., the States, cannot initiate any amendment proposal as is granted to the units of American federation.
- In India, ratification of the State legislature is not needed for all provisions. It is limited to some handful provisions of the Constitution. In America all constitutional amendment bills must be ratified by States. Not a single provision of the American constitution can be amended by the national legislature alone.
- In India, even when the ratification of the States for any amendment bill is needed, it needs only half of the State legislatures' approval whereas in case of America an amendment bill must be approved by the ¾ th of all State legislatures.
- In India some of the provisions of the Constitution can be amended by the Union Parliament by ordinary law making procedure, but in the USA not a single provision can be amended by ordinary law making process. That is why, it takes longer in America to enact any amendment bill than it does in India.
- In America, the constitutional amendment bill need not be approved or consented to by the President. As a matter of fact, in the USA, amendment bills are not sent to the President, unlike India. On the other hand, in India, all amendment bills must have the assent of the President for becoming an Act.

CHECK YOUR PROGRESS

Q.6: In the United States of America, the States can initiate an amendment proposal. (True/False)

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Q. 7: In the United States of America why does an amendment bill take more time to be enacted?

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Q.8: In America, the constitutional amendment bill need not be approved or consented to by the President. (True/False)

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Q.9: Mention any two differences between the amendment procedures in the USA and India.

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13.5 LET US SUM UP

- The amendment procedure enshrined in the Indian Constitution is unique in the sense that it is mixture of both flexibility and rigidity, combining three different methods for amending different provisions.
- The amendment procedure of the Indian Constitution has been discussed under Article 368 of the Constitution.
- Under the first method of amendment, there are some provisions in the Constitution which can be amended by simple law of the Parliament. No special techniques need to be applied for it. These provisions are amended by the Indian Parliament by simple majority in each of the two Houses without any approval of the States.
- Most of the provisions of the Indian Constitution can be amended by relatively rigid method which needs a special majority in each House of the Parliament. This is the second method of amendment of the Indian Constitution. Such amendment Bill can be proposed by either House of the Parliament and that needs to be passed by two thirds of the members present and voting in each House and this must also include majority of the total membership of each house.
- There are some provisions in the Constitution which are amended by a rather difficult method. This method needs the support of half of the States besides the special

majority of the Parliament. It involves two stages- The proposed amendment bill must be passed by a majority of the total membership and a 2/3rd majority of the members present and voting in each House. In the second stage such a bill must also have consent of 50% of the State legislatures.

- The third method of amendment of the Indian Constitution is a rigid one. There are some provisions in the Constitution which are amended by a rather difficult method. This method needs the support of half of the States besides the special majority of the Parliament. It involves two stages- The proposed amendment bill must be passed by a majority of the total membership and a 2/3rds majority of the members present and voting in each House. In the second stage such a bill must also have consent of 50% of the State legislatures.
- The amendment procedure of the Indian Constitution has been criticised on various grounds. More particularly it has to face criticisms because of the more dominant role of the Parliament in comparison to the states.
- If we make a comparison between the amendment procedures of India and the USA, then we can see that are lots of differences between the constitution amendment procedures of the both countries.
- The amendment procedure of the Indian Constitution reflects the wisdom of the Constitution makers who tried to strike a balance between retaining the basic character of the Constitution and introducing changes as needed with time.

13.6 FURTHER READING

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2. Ghai, K.K. (2007). *Indian Government And Politics*. New Delhi: Kalyani Publishers.

3. Kapur, Anup Chand and Misra, K. K. (2006). *Select Constitutions.* New Delhi: S. Chand and Company.

4. Pylee, M, V. (2006). *Constitutional Government in India.* New Delhi: S. Chand and Company.

13.7 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q. No 1: Article 368

Ans to Q. No 2: Three

Ans to Q. No 3: (a) Part II of the Constitution dealing with the citizenship question.

(b) Article 81 prescribing the delimitation of constituencies.

(c) Article 100(3) dealing with quorum in the Parliament.

(d) Article 105 relating to the privileges of the members of the Parliament.

Ans to Q. No 4: There are some provisions in the Constitution which are amended by a rather difficult method. This method needs the support of half of the States besides the special majority of the Parliament. It involves two stages- The proposed amendment bill must be passed by a majority of the total membership and a 2/3rds majority of the members present and voting in each House. In the second stage such a bill must also have consent of 50% of the State legislatures.

Ans to Q. No 5: (a) The Indian States do not have the right to initiate an amendment bill. Every amendment bill must come up from either House of the Union Parliament. It has added to the powers of the Centre over the States. (b) Majority provisions in the Constitution can be amended single handedly by the Parliament either through simple or special majority, without the consent of the States.

Ans to Q. No 6: True

Ans to Q. No 7: In the USA not a single provision can be amended by ordinary law making process. That is why, it takes longer in America to enact any amendment bill than it does in India.

Ans to Q. No 8: True

Ans to Q. No 9: (a) In India, ratification of the State legislature is not needed for all provisions. It is limited to some handful provisions of the Constitution. In America all constitutional amendment bills must be ratified by States. Not a single provision of the American constitution can be amended by the national legislature alone. (b) In America, the constitutional amendment bill need not be approved or consented to by the President. As a matter of fact, in the USA, amendment bills are not sent to the President, unlike India. On the other hand, in India, all amendment bills must have the assent of the President for becoming an Act.

13.8 MODEL QUESTIONS

(A) Very Short Questions

Q. 1 Name the persons who supported the flexible method of amendment in the Constituent Assembly.

Q. 2: Mention any two provisions of the Indian Constitution which can be amended by the very rigid method.

(B) Short Questions (Answer each question in about 150 words)

Q.1: Write a short note on the flexible amendment method of the Indian Constitution.

Q. 2: Write briefly about the second method of amendment procedure of the Indian Constitution.

(C) Long Questions (Answer each question in about 300-500 words)

Q.1: Critically examine the amendment procedure of the Indian Constitution.

Q. 2: Make a comparison of the amendment procedure of the Indian Constitution with the American pattern of constitutional amendment.

UNIT 14: BASIC STRUCTURE OF THE INDIAN CONSTITUTION AND AMENDMENT

UNIT STRUCTURE

14.1 Learning Objectives

14.2 Introduction

14.3 The issue of Amendment of the Basic Structure of the Indian Constitution

14.4 Criticism of the Basic Structure Concept

14.5 An overview of some important amendments of the constitution of India

14.6 Let Us Sum Up

14.7 Further Reading

14.8 Answers to Check Your Progress

14.9 Model Questions

14.1 LEARNING OBJECTIVES

After going through this unit, you will be able to-

- explain the basic structure of the Constitution of India
- examine the issue of amendment of the basic structure of Indian constitution
- discuss some of the important Amendments of Indian Constitution.

14.2 INTRODUCTION

In the previous unit, we have discussed the amendment procedure of the Indian Constitution. One very important issue that is associated with the amendment procedure of the Constitution is that of the basic structure of the Constitution. Basic structure generally refers to those provisions of the Constitution which cannot be amended by the Parliament. In this unit, we will discuss the basic structure of the Constitution and the issue of Amendment of the Basic Structure of the Indian Constitution. This concept of basic structure of the Constitution also faces criticism from various sections and we will

focus on these criticisms also. Along with this, we will also discuss some important Amendments of the Constitution of India.

14.3 THE ISSUE OF AMENDMENT OF THE BASIC STRUCTURE OF THE INDIAN CONSTITUTION

The constitution of any country should be flexible to the extent that it can meet the changing demands and aspirations of the people of that country. Time and circumstances are not static but dynamic in nature. With the changing time and circumstances, needs and aspirations of the people also change. To fulfil these changing needs of the people, the constitution of any country should also be amended accordingly. The framers of the Indian Constitution realised this fact and provided the provision of amendment of the Constitution. Article 368 of the Indian Constitution deals with the amendment procedure of the Constitution. The framers of the Indian Constitution adopted both rigid and flexible methods in case of amendment of different provisions of the Constitution. Due to the flexible method of the constitutional amendment, the question of 'amendment of the basic structure of the Constitution' came into existence. The concept of the 'Basic Structure of the Constitution' gained momentum on the eve of the Supreme Court's judgement in Keshavananda Bharti Case Vs State of Kerala in 1973. Before analysing the issue of amendment of the basic structure of the Indian constitution, we first need to know about the basic structure of the Constitution itself. In simple words, the basic structure symbolizes the special parts of the Constitution which are protected from the amending power of the Parliament.

But the Constitution has not provided any specified definition of the basic structure. The responsibility to decide which part of the Constitution would be considered as basic structure is vested upon the Indian Judiciary.

The Basic structure is considered to be the important part of the constitution which shows the fundamental character of the Constitution. Different judicial judgements have tried to explain the basic structure of the Indian Constitution. For example, Chief Justice Sikri focussed upon five special features of the basic structure, namely—Republican and Democratic form of government, Secular character of the Constitution, Supremacy of the Constitution, Separation of powers among legislature, executive and judiciary, and the Federal character of the Constitution. The Basic Structure concept of the Indian Constitution came into existence at the time of Keshavananda Bharti Case. In the Keshavananda Bharti Vs State of Kerala case in 1973, the question of amendment of the basic structure of the Constitution was raised and the Supreme Court challenged the power of the Parliament to amend the Constitution by declaring that the basic

structure of the Constitution could not be changed. In this historic judgement, the Supreme Court of India challenged a lot of past amendments of the Indian Constitution. The Supreme Court of India also reviewed its own decisions on different occasions for the purpose of social justice. Though in the Golak Nath Case the Supreme Court expressed that the Parliament possessed the right to amend the Fundamental Rights, yet in 1973 in the Keshavananda Bharti Case the Supreme Court declared that the Parliament cannot change the Basic Structure of the Indian Constitution. In this case, the Supreme Court of India challenged the 24th, 25th and 29th amendments of the Constitution. The historic judgement of Keshavananda Bharti Case severely curtailed the amending power of the Indian Parliament.

The Supreme Court of India in the Minerva Mills case in 1980 again raised the question of basic structure of the Constitution. In its decision, the Supreme Court observed that though the Constitution has given the Parliament the power to amend the Constitution, yet the Parliament could not exercise this power in an absolute way. The Parliament cannot amend the basic structure of the Constitution so that it does not lead to any change in the actual spirit of the Constitution itself. The Supreme Court also asserted that the limited amending power of the Parliament was one of the basic features of the Indian Constitution. It also stated that if the courts were not permitted to pronounce upon the constitutional validity of the amendments carried out by the Parliament, the Fundamental Rights of the citizens would be rendered ineffective.

In this way, since its first inception in the Keshavananda Bharti Case, the doctrine of 'basic structure of the Constitution' has been elaborated and debated through various historic cases like Indira Gandhi Vs Raj Narain, Minerva Mills Case etc. Since the Constitution itself has not mentioned clearly about the basic structure of the Constitution, so this concept involves a lot of debates and criticisms.

14.4 CRITICISM OF THE BASIC STRUCTURE CONCEPT

Critics have severely criticised the basic structure concept of the Indian Constitution on the following grounds—

(a) Due to the availability of the substantive and formal contents in various provisions of the Indian Constitution, it is very much difficult to demarcate between the basic and non-basic features of the Constitution. Values and features are different from each other.

(b) The framers of the Indian Constitution were also in favour of the dynamic character of the Constitution to suit the changing circumstances. The Constitution must change

according to the needs of the society. So the critics are of the view that even if the provisions, which are included within the basic structure of the Constitution need any change to fulfil the changing needs of the society, they must be amended accordingly. But, if we change the basic structure of the Constitution for the purpose of the socio-economic change, the values of the Constitution may be eroded.

(c) The judiciary has failed to define clearly about the 'basic structure of the Constitution' and vested the responsibility upon the subsequent judicial benches to identify the basic structure of the Constitution. The judges need to review the various laws in order to preserve the basic values enshrined in the Constitution. But some debate arises because the judiciary reserves the final right to decide whether a particular amendment made by the Parliament affects the basic structure of the Constitution or not. But at the same time, the framers of the Indian Constitution adopted the form of parliamentary democracy in India and in that sense the Parliament has to play a significant role. Since the final word rests with the Supreme Court rather than the Parliament regarding the amendment of the Constitution, this creates a dilemma between the Supreme Court and the Parliament.

The Indian Constitution is considered to be the supreme law of the land and supremacy of the Constitution is a peculiar feature of Indian political system. The judiciary has the prime responsibility to safeguard the laws enshrined in the Constitution. Therefore Judiciary tries its best to protect the Constitution.

CHECK YOUR PROGRESS

Q. No 1: In which year did the concept of basic structure of the Constitution gain momentum in India?

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Q. No 2: The responsibility to decide which part of the Constitution would be considered as basic structure is vested upon the ..... (Fill in the blank)

Q. No 3: According to Chief Justice Sikri which features of the Indian Constitution are regarded as the basic structure of the Constitution?

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Q. No 4: Write briefly about any two criticisms against the concept of the basic structure of the Constitution.

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14.5 AN OVERVIEW OF SOME IMPORTANT AMENDMENTS OF THE CONSTITUTION OF INDIA

The Constitution of India has been amended for several times till date since its adoption. These amendments carry a good deal of changes and significance to the Indian Political System. Some of the important amendments to the Constitution of India are discussed below:

1. The first amendment to the Constitution of India was carried out in 1951 to provide safeguards against abuse of certain Fundamental Rights, such as the right to equality before law, right to freedom of speech. It also added a new Schedule to the Constitution (Schedule IX) and included certain Acts in the list, which could not be challenged by the Courts.

2. The sixth amendment to the Constitution of India was carried out in 1956 and it empowered the Parliament to define sale 'outside' a state or in the course of import and export and restricted the state's power to levy tax on important goods or commodities in the inter-state trade.

3. In the year 1956, the seventh amendment to the Constitution of India was carried out which led to the reorganisation of the states on linguistic basis and the introduction of Union Territories in India.

4. The eighth amendment carried out in 1959 extended the period of reservation of seats in the Lok Sabha and state legislative assemblies for Scheduled Castes, Scheduled Tribes and Anglo-Indians upto 10 years.

5. In the year 1960 the ninth amendment was carried out and it led to the adjustment of Indian territory. It made changes in the First Schedule of the Constitution to cede the territory of Berubari to Pakistan as a result of Indo-Pakistan Agreement.

6. In the year 1961 tenth and twelfth amendments to the Constitution of India were carried out which introduced Dadra, Nagar and Haveli, Goa, Daman and Diu respectively as Union Territories of India.

7. The nineteenth amendment to the Constitution of India was carried out in 1966 and it curtailed the power of the Election Commission regarding the appointment of election tribunals for deciding election disputes of the members of the Parliament and the State Legislatures.

8. The twenty-fourth Amendment to the Indian Constitution was carried out in 1971 which enables the Parliament to amend the Fundamental Rights incorporated in Part III of the Indian Constitution.

9. In 1973 the thirty-first amendment to the Constitution of India increased the total number of members of Lok Sabha from 525 to 545, but reduced the representation of Union Territories from 25 to 20.

10. The thirty-sixth amendment of the Indian Constitution in 1975 incorporated Sikkim as a full-fledged Indian state.

11. The forty-second amendment to the Constitution of India was carried out in 1976. This amendment was the most comprehensive amendment carried out so far which led to fundamental changes in the Indian Constitution. This amendment incorporated the terms ‘Socialist’, ‘Secular’ and ‘Integrity’ in the Preamble of the Constitution. This forty-second amendment also incorporated Fundamental Duties of the citizens in the Constitution by adding Article 51 A. It also asserted the primacy of the Directive Principles of State Policy over Fundamental Rights. Along with these changes the forty second amendment also made it obligatory for the President to act on the advice of the Council of Ministers.

12. The forty-fourth amendment to the Constitution of India was carried out in 1978 and it removed the Right to Property from the list of Fundamental Rights and made it a legal right.

13. The fifty-second amendment to the Constitution of India was carried out in 1985 to stop political defection. As a result Anti-Defection law came into existence. By passing Anti-Defection Law, provision has been created for suspension of membership of the Parliament under Tenth Schedule of the Indian Constitution.

14. The sixty-first amendment to the Constitution of India lowered the voting age of the citizens of India from 21 to 18 to the elections of the Lok Sabha and state legislative assemblies.

15. The sixty-fifth amendment in 1990 provided statutory recognition to the Commission for Schedule Castes and Schedule Tribes. This amendment accorded this Commission as the National Commission for the Schedule Caste and Schedule Tribes.

16. The seventy-third amendment to the Constitution of India in 1992 provided constitutional status to the Panchayati Raj Institutions in India by adding Part IX in the Constitution. Likewise in 1993 seventy-fourth amendment to the Constitution of India added Part IX A which provided constitutional status to the municipalities.

17. The eighty-sixth amendment to the Constitution of India in 2002 added Article 21A which provided that the state shall provide free and compulsory education to all children between the age of six to fourteen years without any discrimination.

18. In the year 2016, 101st amendment to the Constitution of India was carried out which introduced Goods and Services Tax in India.

19. In the year 2023, 106th amendment to the Constitution of India was passed which reserved 1/3 of the seats for the women in the Lok Sabha, State Legislative Assemblies and the Delhi Legislative Assembly including those seats reserved for SCs and STs.

CHECK YOUR PROGRESS

Q. No 5: Which amendment of the Constitution of India lowered the voting age of the citizens of India from 21 to 18?

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Q. No 6: In which year Indian states were reorganised on linguistic basis?

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Q. No 7: Which amendment of the Constitution of India provided constitutional status to the municipalities?

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Q. No 8: Write briefly about 42nd amendment of the Indian Constitution.

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14.6 LET US SUM UP

- The constitution of any country should be flexible to the extent that it can meet the changing demands and aspirations of the people of that country. The framers of the Indian Constitution realised this fact and provided the provision of amendment procedure of the Constitution.
- Article 368 of the Indian Constitution deals with the amendment procedure of the Constitution. The framers of the Indian constitution adopted both rigid and flexible methods in case of amendment of different provisions of the Constitution. Due to the flexible method of the constitutional amendment, the question of 'amendment of the basic structure of the Constitution' came into existence.
- Basic structure symbolizes the special parts of the Constitution which are protected from the amending power of the Parliament. The concept of the 'Basic Structure of the constitution' gained momentum on the eve of Supreme Court's judgement in Keshavananda Bharti Case Vs State of Kerala in 1973.
- Basic structure of the Constitution included features like- Republican and Democratic form of government, Secular character of the Constitution, Supremacy of the Constitution, Separation of powers between legislature, executive and judiciary, and Federal character of the Constitution etc.
- The responsibility to decide which part of the Constitution would be considered as basic structure is vested upon the Indian Judiciary. The Supreme Court of India through its different judgements in different cases has tried to define the basic structure of the Constitution and it stated that the Parliament can't amend the basic structure of the Constitution.
- The concept of basic structure of the Constitution has been criticised by various sections of scholars.
- Right from the time of adoption of the India Constitution till now, a number of amendments have been carried out which have brought some important changes to the socio-political and economic scenario of the country.

14.7 FURTHER READING

1. Chander, Prakash. (2008). *Indian Government And Politics*. Gurgaon: Cosmos Bookhive (P) Ltd.

2. Ghai, K.K. (2007). *Indian Government And Politics*. New Delhi: Kalyani Publishers.

14.8 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q. No. 1: 1973

Ans to Q. No. 2: Indian Judiciary

Ans to Q. No. 3: Republican and Democratic form of government, Secular character of the Constitution, Supremacy of the Constitution, Separation of powers between legislature, executive and judiciary, and Federal character of the Constitution.

Ans to Q. No. 4: (i) The framers of the Indian Constitution were also in favour of dynamic character of the Constitution to suit in the changing circumstances. The Constitution must change according to the needs of the society. So the critics are of the view that even if the provisions, which are included within the basic structure of the Constitution, need any change to fulfil the changing needs of the society, they must be amended accordingly. (ii) The judiciary has failed to define clearly about the 'basic structure of the Constitution' and vested the responsibility upon the subsequent judicial benches to identify the basic structure of the Constitution. The judges need to review the various laws in order to preserve the basic values enshrined in the Constitution. But some debate arises because the judiciary reserves the final right to decide whether a particular amendment made by the Parliament effects the basic structure of the Constitution or not. But at the same time the framers of the Indian Constitution adopted parliamentary democracy in India and in that sense parliament have to play a significant role. Since the final word rests with the Supreme Court rather than the Parliament regarding the amendment of the Constitution, this creates a dilemma between the Supreme Court and Parliament.

Ans to Q. No. 5: 61st amendment to the Constitution of India

Ans to Q. No. 6: 1956

Ans to Q. No. 7: 74th amendment to the Constitution of India

Ans to Q. No. 8: The forty-second amendment to the Constitution of India was carried out in 1976. This amendment was the most comprehensive amendment carried out so far which led to fundamental changes in the Indian Constitution. This amendment incorporated the terms 'Socialist', 'Secular' and 'Integrity' in the Preamble of the Constitution. This forty-second amendment also incorporated Fundamental Duties of the citizens in the Constitution by adding Article 51 A. It also asserted the primacy of the Directive Principles of State Policy over Fundamental Rights. Along with these changes the forty second amendment also made it obligatory for the President to act on the advice of the Council of Ministers.

14.9 MODEL QUESTIONS

(A) Very Short Questions

Q. 1: In which year was Sikkim incorporated within India as a full-fledged state?

Q. 2: Which amendment to the Constitution of India removed the Right to Property from the list of Fundamental Rights?

Q. 3: Through which amendment the Panchayati Raj institutions were provided constitutional status in India?

(B) Short Questions (Answer each question in about 150 words)

Q.1: Write briefly about the meaning of Basic Structure of the Constitution.

Q. 2: Write briefly about the role of the Supreme Court of India in defining the basic structure of the Constitution of India.

(C) Long Questions (Answer each question in about 300-500 words)

Q.1: Critically discuss the concept of basic structure of the Indian Constitution.

Q. 2: Write a note on the various amendments of the Indian Constitution.



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