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VALUE ADDITION SERIES

CONSTITUTIONAL DISCOURSE

For Civil Services Examinations

Curated with a comprehensive analysis of the nature, pattern, and evolving trends of questions asked in both Prelims and Mains



CHRONICLE Nurturing Talent Since 1990

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Editor

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Compiled by

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CHRONICLE

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ABOUT THIS BOOK

The Constitution of India is not merely a legal document; it is the foundational charter of a nation that chose, at a moment of extraordinary diversity and difficulty, to govern itself through the principles of democracy, justice, liberty, equality and fraternity.

To understand Indian Polity, therefore, is to understand not just the mechanics of government, but the values and compromises that hold together one of the world's largest and most diverse democracies.

This book "Constitutional Discourse" has been written with a single, practical purpose in mind: to prepare aspirants for the Civil Services Examination - at both the Prelims and the Mains stages through a single, integrated study of Indian Polity.

Most aspirants approach Polity in two disconnected ways:

For Prelims, they memorise facts - Articles, Schedules, timelines, institutional structures often without asking why these provisions exist or what purpose they serve.

For Mains, they are then expected, often for the first time, to write analytically about governance, federalism, rights, and institutions - a skill that cannot be built overnight, and that factual recall alone does not prepare them for.

This book is designed to close that gap from the very first chapter, rather than treating Prelims preparation and Mains preparation as two separate, sequential tasks.

Each chapter in this book follows a consistent, two-part structure:

The first part presents the core factual content - constitutional provisions, institutional design, statutory frameworks, landmark judgments, and relevant historical and administrative detail written in clear, direct language, organised precisely so it can be revised quickly and retained reliably. This part is built for Prelims: it is comprehensive, accurate, and free of unnecessary embellishment.

The second part, presented under the heading "An Analytical Perspective" (or, where the theme calls for a more focused treatment, "Mains Value Addition"), moves beyond the facts to examine why a provision exists, what tensions it seeks to resolve, how it has been interpreted and contested, and what it reveals about the broader functioning and occasional dysfunction of Indian democracy. This part is built for Mains: it equips the aspirant not just to recall a provision, but to construct a reasoned, structured argument around it, of the kind the Mains examination demands.

This structure of this book reflects a simple conviction that facts and analysis are not two separate subjects to be studied at two separate times, but two dimensions of the same understanding, best built together.

It is hoped that this book serves not only as preparation for an examination, but as a genuine introduction to the workings of Indian democracy - one that stays with the reader well beyond the examination hall, in the manner Dr. B.R. Ambedkar himself may have intended when he insisted that citizens must be equipped to be more than electors alone.

CONTENTS

1. Constitution: Introduction and Evolution 1

- Indian Constitution 1
- Features of Indian Constitution 2
- Evolution of the Indian Constitution 4
- Work of the Constituent Assembly 6
- Parts and Schedules of the Constitution 9

Mains Value Addition 11

- Nature and Critical Analysis of the Constituent Assembly 11
- Govt of India Act, 1935 & the Indian Constitution: A Comparative Analysis 12
- Borrowed Features of the Indian Constitution: Sources and Analysis 13
- Values and Ideals of the Freedom Struggle Reflected in the Constitution 14
- Fundamental Duties and the Ethic of Responsibility 15
- Evolution of the Indian Constitution and Contemporary Challenges 15
- Comparing the Indian Constitution with Other Constitutions 16

2. Preamble to Indian Constitution 18

- Components of the Preamble 18

Mains Value Addition 25

- The Preamble: Philosophy, Contestation, and the Living Constitution 25
- Conclusion: The Preamble as a Living Standard 28

3. Union and its Territory 29

- Part I of the Indian Constitution 30
- Integration of Princely States at the Time of Independence 33
- Reorganisation after Independence 33
- Evolution of States in India 34
- The Debate: Small States vs. Large States 37
- The Ambedkar-Patel Debate on the Size of States 39

Mains Value Addition 40

- Comparative Federalism: The United States and India 40
- Evolution of Indian States and the Role of Diversity 42
- Colonial Legacy and Indian Federalism 43

4. Citizenship in India 45
- Citizens and Aliens 45
- Domicile, NRI and PIO 45
- Single Citizenship 46
- Rights Available Exclusively to Citizens 46
- Constitutional Provisions on Citizenship 47
- Acquisition of Citizenship under the Citizenship Act, 1955 48
- Loss of Citizenship 50
- The Citizenship Amendment Act, 2019 51
- Overseas Citizenship of India (OCI) 52
- Citizenship: Related Terms and Concepts 53
- Global Citizenship 53

Mains Value Addition 54
- Citizenship in the Age of Globalisation: Rethinking a Territorial Concept 54
- Global Migration Politics and India's Citizenship Framework 55

5. Fundamental Rights 57
- Fundamental Rights under the Indian Constitution 58
- Fundamental Rights: Articles 12-35 60
- Right to Equality (Articles 14-18) 62
- Right to Freedom (Articles 19-22) 70
- Right against Exploitation (Articles 23-24) 81
- Right to Freedom of Religion (Articles 25-28) 84
- Cultural and Educational Rights (Articles 29-30) 88
- Article 31 - Right to Property 89
- Article 32 - Right to Constitutional Remedies 91
- Some other Fundamental Rights 93
- Criticism of Fundamental Rights 94
- Articles at a Glance 94

Mains Value Addition 96
- Fundamental Rights: Absolute Rights or Reasonable Restrictions? 96
- Expanding Scope of Article 21: Judicial Creativity or Judicial Overreach? 97
- Equality under the Constitution: Formal Equality vs. Substantive Equality 98
- Fundamental Rights in the Digital Age 100
- Judicial Review: Guardian of Fundamental Rights or Counter-Majoritarian Institution? 102

6. Directive Principles of State Policy 104
- Inspirational Sources of DPSPs 104
- Features of Directive Principles 105

- Classification of Directive Principles 106
- Uniform Civil Code 111
- Criticism of Directive Principles 113
- Articles Related to Directive Principles at a Glance 113

Mains Value Addition 114

- DPSPs: Relevance in the Contemporary World & Achievements 114
- The Debate over Including the UCC in DPSPs rather than Fundamental Rights 115
- The Debate over Enforcing Certain DPSPs 117

7. Fundamental Duties 119

- Swaran Singh Committee Recommendations 119
- List of Fundamental Duties 120
- Features of the Fundamental Duties 121
- Criticism of Fundamental Duties 121
- Significance of Fundamental Duties 122
- Verma Committee Observations 122
- Additional Duties Worth Considering 123

8. Amendment to the Constitution 126

- Procedure for Amendment 127
- Types of Amendments 128
- Parliament's Power to Amend the Constitution: The Case Law Trajectory 129
- The Basic Structure Doctrine 131
- Major Amendments to the Constitution 132

Mains Value Addition 133

- How the Amendment Process Keeps the Constitution a Living Document? 133
- The Amendment Process in India and the USA: A Comparison 135

9. Centre-State Relations 138

- Distribution of Powers: Legislative, Administrative, Financial 139
- Extra-Constitutional Devices for Cooperation 144
- Financial Relations 148
- The Finance Commission and Centre-State Relations 150
- Inter-State Water Disputes 152

Mains Value Addition 152

- Trends in Centre-State Relations 152
- Institutional Efforts to Address Centre-State Tensions 154
- Cooperative Federalism in India 156
- Emerging Challenges for 21st-Century Federalism 157

- Green Federalism 158
- Comparative Federalism 158

10. Finance Commission 162

- Article 280 & the Finance Commission 162
- Finance Commissions So Far 164

Mains Value Addition 166

- Fiscal Federalism and Financial Decentralisation in India 166

11. Inter-State Water Disputes 169

- Constitutional Framework 169
- The Cauvery Water Dispute 170
- The Sutlej-Yamuna Link (SYL) Canal Issue 171

Mains Value Addition 172

- Why Inter-State Water Disputes are so difficult to Manage 172

12. Emergency Provisions 176

- Part I : National Emergency (Article 352) 176
- Part II: President's Rule (Article 356) 179
- Part III: Financial Emergency (Article 360) 184

Mains Value Addition 185

- Federalism in India: Nature, and how centralization makes it "Quasi-Federal" 185
- Federalism in India and the USA: A Comparison 187

13. President of India 190

- Election of the President 190
- Impeachment of the President (Article 61) 193
- Succession to the Presidency (Article 62) 194
- Powers of the President 194
- Privileges and Immunities of the President 202

Mains Value Addition 203

- Powers of the Indian and American Presidents: A Comparison 203

14. Vice President of India 206

- Qualifications for the post of Vice-President 206
- Election of the Vice-President 207
- Term of Office (Article 67) 208
- Removal 208
- Oath or Affirmation 209
- Emoluments 209

- Powers and Functions 209

Mains Value Addition 210

- The Office of Vice President: Utility, Criticism, and a Comparative Perspective ..210
- The 2024 No-Confidence Motion against the VP: Testing the Limits of Art. 67(b) 211

15. Parliament 213

- Is the Indian Parliament Sovereign? 213
- The Position of the Rajya Sabha 214
- Presidential and Parliamentary Forms of Government 215
- Organisation of Parliament 216
- Membership of Parliament 218
- Presiding Officers of Parliament 219
- Leaders in Parliament 222
- Sessions of Parliament 223
- Devices of Parliamentary Proceedings 223
- Bills in Parliament 224
- Types of Majorities Used in the Indian Parliament 225
- Parliamentary Committees 226
- System of Elections to the Lok Sabha 227
- Election to the Rajya Sabha: The Procedure 228
- Money Bills 228
- Financial Bills 229
- Joint Sitting of Two Houses 229
- Government Budgeting 230
- Consolidated Fund, Public Account, and Contingency Fund 230
- Cut Motions: Policy Cut, Economy Cut, and Token Cut 231
- Parliamentary Forums 231

Mains Value Addition 232

- Critical Analysis of Issues Associated with the Parliament 232
- Articles Related to Parliament at a Glance 234

16. Attorney General 235

- Appointment and Term 235
- Duties and Functions 235
- Solicitor General of India 236

Mains Value Addition 236

- The Attorney General: Independent Constitutional Adviser, or the Government's Advocate? A Critical Analysis 236
- Reforming the Office of the Attorney General: Comparative Lessons and the Case for Change 238

17. Comptroller and Auditor General (CAG) 240
- Historical Background of CAG 240
- Role of CAG 240
- CAG: Constitutional Provisions (Articles 148-151) 241
- The CAG's (Duties, Powers and Conditions of Service) Act, 1971 242
- CAG's Powers in Relation to Companies 242
- Structure of the CAG's Office 242
- Audit Function of the CAG 243
- Independence of the CAG 244
- Reports of the CAG 244
- Criticisms of the CAG's Functioning 245
- The CAG's Working: A Balanced Assessment 245
- Proposed Reforms to the 1971 Act 246
- Nature of Audit: Types 246
- CAG and Social Audit 247

Mains Value Addition 247
- The CAG as 'Friend, Philosopher, and Guide' to the PAC 247

18. Governor 249
- Historical Background 249
- The Constituent Assembly Debate 249
- Constitutional Provisions 250
- Powers and Functions of the Governor 251
- Governor and Chief Minister 255

Mains Value Addition 255
- The Governor's Role: A Historical Perspective 255
- Does the Governor Enjoy Greater Discretion than the President? 257
- Articles Related to the Governor at a Glance 257

19. State Legislature 259
- Legislative Council (Vidhan Parishad) 259
- Legislative Assembly (Vidhan Sabha) 262
- Powers and Functions of the Legislative Assembly 263

Mains Value Addition 264
- Functioning of State Legislatures in India: Persisting Weaknesses and the Case for Reform 264
- Articles Related to the State Legislature at a Glance 267

20. Fifth & Sixth Scheduled Areas 268
- The Fifth Schedule (Article 244(1)) 268
- The Sixth Schedule (Articles 244(2) and 275(1)) 271
- The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 274
- Constitutional Safeguards for Scheduled Tribes 276
- Fifth & Sixth Scheduled Areas: An Analytical Perspective 276

Mains Value Addition 277
- Why Scheduled Areas are Important for Maintaining Harmony in Diversity? 277
- How State-led Effort can Play a Vital Role in Reducing Conflict Arising from Class and Cultural Difference? 279

21. Panchayati Raj 282
- Evolution of Panchayati Raj 282
- Early Post-Independence Efforts 283
- The 73rd Amendment Act, 1992 285
- Assessment of Panchayati Raj Institutions 287
- The PESA Act, 1996 288
- Articles Related to Panchayats at a Glance 289

Mains Value Addition 290
- Three Decades of the 73rd Amendment: Genuine Devolution, or Decentralisation on Paper? 290
- Women's Reservation in Panchayats: Genuine Empowerment or the "Sarpanch Pati" Phenomenon? 291

22. Municipalities 293
- 'Urban Local Government' 293
- Evolution of Urban Bodies 293
- The 74th Amendment Act, 1992 294
- Should Mayors be Directly Elected? 296
- The Twelfth Schedule (Article 243W): 18 Functional Items 298
- Types of Urban Local Bodies 298
- Problem Areas of Municipal Bodies 301
- From Urban Local Bodies to Smart Cities: The Next Level 301
- Articles Related to Municipalities at a Glance 303

Mains Value Addition 303
- The 74th Amendment at Three Decades: Why has Urban Local Governance in India Underperformed Relative to Panchayati Raj? 303
- Smart Cities Mission and the Special Purpose Vehicle (SPV) Model 305

23. The Judiciary 308
- Composition of the Supreme Court 308
- Qualifications to be appointed as Judge of the Supreme Court 308
- Appointment of Judges: A Detailed Analysis 309
- Oath or Affirmation 311
- Tenure of Judges 312
- Removal of a Supreme Court Judge 312
- Ad Hoc and Acting Judges 312
- Provisions for Retired Judges 312
- Seat of the Supreme Court 313
- Salaries & Allowances 313
- Independence of the Supreme Court 313
- Role of the Chief Justice of India 314
- Supreme Court Advocates 314
- Benches of the Supreme Court 314
- The National Court of Appeal Debate 315
- Jurisdiction of the Supreme Court 316
- All India Judicial Service (AIJS) 320

Mains Value Addition 321
- Pendency and Judicial Reforms 321
- Village-Level and Community Justice Mechanisms 322
- Procedural Innovations 323
- Criminal Justice System: A Reform Needing Urgent Attention 325
- Judicial Review, Activism, and Overreach 326

24. Electoral System in India 329
- Scale of India's General Elections 329
- Election Commission of India 330
- Election Machinery 332
- Election Process 333
- Recognition of Political Parties 335

Mains Value Addition 336
- Electoral Reforms 336
- Further Reforms Proposed by the Election Commission 342
- Electoral Reforms in India and their Impact on Voter Turnout 343
- Education and Voting Behaviour in India 344
- Continuing Dominance of Caste & Religion over Education in Indian Elections 346
- Why have Constitutional and Legal Measures had Limited Success? 346

25. Representation of the People Act 348
- Representation of the People Act, 1950 (RPA 1950) 348
- Representation of the People Act, 1951 (RPA 1951) 349
- Why the Representation of the People Act is frequently in News 350
- Representation of the People Act: An Analytical Perspective 351

Mains Value Addition 352
- Balancing the Presumption of Innocence with the Need for Probity in Public Life 352
- Judicial Interpretation as a Tool for Strengthening Electoral Democracy 353

26. Anti-Defection Law 355
- Background of Anti-Defection Law 355
- Constitutional Provisions 355
- Objectives of the Anti-Defection Law 355
- Grounds for Disqualification 356
- Position before the 91st Constitutional Amendment 356
- Changes Introduced by the 91st Constitutional Amendment Act, 2003 356
- Authority to Decide Disqualification 357
- Judicial Review 357
- Important Judicial Developments 357
- Impact on Legislative Independence 357
- Criticisms of the Anti-Defection Law 358
- Suggested Reforms 358
- Significance of the Anti-Defection Law 358
- Challenges Ahead 358

Mains Value Addition 359
- Has the Anti-Defection Law Achieved its Objectives? 359

27. Right to Information 362
- Right to Information Act, 2005 362
- RTI and the Official Secrets Act, 1923 363
- The Second Administrative Reforms Commission (S-ARC) Recommendations 364
- Central Information Commission and State Information Commissions 365
- Right to Information: An Analytical Perspective 367

Mains Value Addition 368
- Why RTI is Vital for Accountability, Transparency and Good Governance 368

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CHAPTER
01

Constitution: Introduction and Evolution

"The Constitution is not a mere lawyer's document; it is a vehicle of life, and its spirit is always the spirit of the age." ***- B.R. Ambedkar***

The Constitution of a country is the set of rules and principles that regulate the powers of its government and the duties of its citizens. The word 'Constitution' is linked to 'constitutionalism', a philosophy that stands for limited government and the rule of law.

- A Constitution ensures disciplined government. It stands against absolutism and autocracy.
- Every authority or institution, whether created by the Constitution or not, derives its powers directly or indirectly from the Constitution.

Historical Perspective

The concept of a Constitution can be traced to the city-states of ancient Greece. In modern Europe, written Constitutions came into wider use during the eighteenth and nineteenth centuries. The Constitution of the United States drew on ideas from ancient Greek political thought. During the twentieth century, an increasing number of countries came to see a Constitution as a necessary part of democratic or republican government, and adopted their own.

Types of Constitution

Constitutions are of two types: written and unwritten.

- **A written Constitution** is drafted after a prolonged process of discussion by a representative body elected for this purpose.

  Examples: The Constitutions of India and Nepal are written constitutions.
- **An unwritten Constitution** evolves gradually from conventions, customs, traditions, judicial pronouncements, and social values.

  Examples: The Constitutions of Britain and Israel are unwritten constitutions.

Indian Constitution

The Indian Constitution is the cornerstone of India's democracy, shaping the nation as a sovereign, secular, and inclusive republic. Adopted on November 26, 1949, it reflects the aspirations of a newly independent nation, ensuring justice, liberty, equality, and fraternity for all.

CHAPTER
02

Preamble to Indian Constitution

"The edifice of our Constitution is based upon the basic elements mentioned in the Preamble. If any of these elements are removed, the structure will not survive and it will not be the same Constitution or it cannot maintain its identity." - **The Supreme Court of India**

The term 'preamble' refers to the introduction or preface of the Constitution. It may be regarded as the successor of Jawaharlal Nehru's 'Objectives Resolution'. It is the spirit of the Constitution and contains the summary or essence of the Constitution. The American Constitution was the first to include a preamble.

Preamble

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 of 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.

Note: *The 42nd Amendment (1976) added the words 'socialist', 'secular' and 'integrity' to the Preamble.*

Components of the Preamble

The preamble to a constitution reflects the fundamental philosophy, core values, and guiding objectives of a nation. It serves as an introductory statement that encapsulates the framers' vision and outlines the source of the state's authority and the goals the government is designed to achieve.

For example, the **Preamble to the Indian Constitution** reflects several specific components and principles:

- **Source of Authority:** By starting with "We, the people of India," it establishes that all constitutional authority and sovereignty are derived from the citizens.

CHAPTER
03

Union and its Territory

"The power of Parliament to diminish the area of a State under Article 3 does not provide for the cession of Indian territory to a foreign country. Indian territory can be ceded to a foreign state only by amending the Constitution under Article 368."

–The Supreme Court of India (Berubari Union Case, 1960)

Part I of the Constitution, comprising Articles 1 to 4, defines the territorial identity of India and lays down the framework within which the boundaries of the Union can change over time.

It answers three basic questions:

- What constitutes India as a political entity?
- How is its territory classified? and
- Through what process can new states be created or existing ones altered?

This chapter traces that framework from its constitutional foundations to its historical unfolding. It begins with the conceptual distinction between a 'state', a 'nation' and a 'nation-state', and explains why the Constitution deliberately uses the term 'Union' rather than 'Federation' to describe India. It then examines Articles 2, 3 and 4 in detail, which together give Parliament wide powers to admit, create, alter or reorganise states ; powers that reveal a distinctly unitary bias within India's federal design.

The chapter then moves from constitutional text to constitutional history. It follows the integration of over 500 princely states into the Indian Union after 1947, the initial four-fold classification of states, and the subsequent, often contentious, journey towards linguistic reorganisation; from the Dhar Commission and the JVP Committee, through the landmark Fazl Ali Commission and the States Reorganisation Act of 1956, to the continuous redrawing of state boundaries that has followed ever since, right up to the creation of Telangana in 2014.

Finally, the chapter engages with the deeper debates that this history has generated; the arguments for and against smaller states, the phenomenon of regionalism in its various forms, and the differing visions of Ambedkar and Patel on how India's internal boundaries should be drawn. Together, these threads help explain not just how India's states came to be, but why the question of internal reorganisation remains a live constitutional and political issue even today.

CHAPTER
04

Citizenship in India

"Each Indian is an equal citizen, each one has equal opportunity, rights and duties in this land."
-**Droupadi Murmu**

Citizenship determines who is a full member of the Indian state and who is not. It is the legal bond that connects an individual to the country, carrying with it a specific set of rights and obligations that are not extended to non-citizens.

This chapter examines the constitutional and statutory framework governing Indian citizenship - from the persons who became citizens at the commencement of the Constitution, to the various modes of acquiring and losing citizenship under the Citizenship Act, 1955, to more recent developments such as the Citizenship Amendment Act, 2019, and the evolving concept of Overseas Citizenship of India.

Citizens and Aliens

India, like most countries, recognises two broad categories of people within its territory - **citizens** and **aliens**.

- **Citizens:** They are full members of the Indian state. They owe allegiance to it and, in return, enjoy the complete range of civil and political rights available under the Constitution.
- **Aliens:** They are citizens of some other state. They do not enjoy the full range of civil and political rights available to Indian citizens. Aliens are further divided into two categories:

  (i) **Friendly Aliens**: Subjects of countries that maintain cordial relations with India.

  (ii) **Enemy Aliens**: Subjects of a country that is at war with India. Enemy aliens enjoy fewer protections than friendly aliens; for instance, they are not entitled to the protection against arrest and detention guaranteed under Article 22.

Related Concepts: Domicile, NRI and PIO

- **Domicile** refers to residing in a country with the clear intention of making it one's permanent home. Such intention is typically evidenced through factors like employment, property ownership, or family ties. It is a legal concept distinct from mere physical presence in a country.
- **Non-Resident Indian (NRI)**: An NRI is an Indian citizen who resides outside India for employment, business, or other purposes, and does not meet the residency threshold prescribed under Indian

CHAPTER
05

Fundamental Rights

"Fundamental violations of human rights always lead to people feeling less and less human."
- Aung San Suu Kyi

A right is a legal claim granted to a citizen, or to any other individual, by the Constitution or by statute, for example, the right to life. Rights are the bedrock of democracy. They promote individual development and are closely linked, in the modern era, to the idea of equality. At their core, rights are a protection against arbitrary state action.

Origin of Rights

The concept of rights emerged alongside the concept of citizenship, first appearing in ancient Greece. However, citizenship and the rights that came with it were not universal; they were confined to a small section of society.

Several historical documents laid the groundwork for the rights we recognise today, including the Magna Carta (1215), the English Bill of Rights (1689), the French Declaration of the Rights of Man and of the Citizen (1789), and the American Constitution and Bill of Rights (1791).

Various Kinds of Rights

Rights are broadly of two types.

(i) **Granted Rights**: If someone else decides how your faculties may be used, you do not hold exclusive right over them. In other words, such rights are not inalienable.

(ii) **Inherited (Natural) Rights**: If you alone decide how your faculties are used, your rights are inalienable. They belong to you simply by virtue of being human.

- **Human Rights:** Human rights are the rights a person holds simply because he or she is a human being. They are held by all persons equally, universally, and permanently. Human rights are:
  - **Inalienable**: they cannot be taken away any more than one can cease being human.
  - **Indivisible**: no right can be denied on the ground that it is "less important" or "non-essential."
  - **Interdependent**: all human rights form part of a complementary framework. For instance, the ability to participate in government is directly affected by the right to free expression, the right to education, and even the right to the basic necessities of life.

CHAPTER
06

Directive Principles of State Policy

"Our object in framing the Constitution is really two-fold: to lay down the form of political democracy, and to lay down that our ideal is economic democracy, and also to prescribe that every government, whichever is in power, shall strive to bring about economic democracy. The Directive Principles have great value, for they lay down that our ideal is economic democracy."

–B. R. Ambedkar

Fundamental Rights, discussed in the previous chapter, are the bedrock of **political democracy**. Through individual rights, they ensure that democracy prevails and that its roots run deep. They are essential for an individual's full physical, intellectual, moral, and spiritual development.

Political democracy, however, remains fragile unless its socio-economic foundations are strengthened through policies aimed at building a welfare state. Minimising disparities and ensuring equitable development are necessary conditions for individual rights to be meaningfully enjoyed; rights become effective only when social security and economic wellbeing are also assured. The Directive Principles of State Policy (DPSPs) aim to create a new socio-economic order that gives political democracy a firm foundation.

As Nehru observed, a government will ignore the Directive Principles "only at their own peril." In seeking to build an egalitarian society, the framers were not content with political justice through Fundamental Rights alone; they sought to combine it with economic and social justice.

Inspirational Sources of DPSPs

- The idea of DPSPs was borrowed from the **Constitution of Ireland**.
- The Government of India Act, 1935, contained a similar set of provisions known as "**Instrument of Instructions**."
- Leaders of the freedom struggle, drawing on liberal-democratic ideas from the West, chose to include these principles as moral guidelines for the public policy of a welfare state.
- Contemporary **socialist ideas** influenced the framers - for instance, the DPSPs relating to worker welfare and the elimination of inequality.
- The Constituent Assembly was also influenced by **Gandhian ideas**, such as Panchayati Raj and the promotion of village industries.

CHAPTER
07

Fundamental Duties

"Every duty is holy, and devotion to duty is the highest form of worship of God."

–Swami Vivekananda

"If we all discharge our duties, rights will not be far to seek. But if, leaving duties unperformed, we run after rights, they will escape us like a will-o'-the-wisp."

–Mahatma Gandhi

Immanuel Kant held that a person's will is genuinely good only when it is motivated by duty - one should never act on a principle one would not wish to see become a universal law. He further argued that rights, however important, must always be counterbalanced by duty.

Though rights and duties of citizens are correlative and inseparable, the original Constitution contained only Fundamental Rights, not Fundamental Duties - a gap we have already noted as one of the criticisms of the Constituent Assembly.

The framers did not feel it necessary to codify citizens' duties directly in the Constitution, though they did incorporate the duties of the *State* in the form of the Directive Principles of State Policy.

It was only in **1976** that Fundamental Duties of citizens were formally added to the Constitution.

India's Fundamental Duties are inspired by the Constitution of the erstwhile **USSR**. Notably, none of the constitutions of major liberal democracies - the USA, Canada, France, Germany, or Australia specifically enumerate a list of citizens' duties, a distinction sometimes cited in favour of the Indian approach. The **Japanese Constitution** is one of the few democratic constitutions that do include such a list, and this is sometimes linked to Japan's strong culture of civic discipline and public etiquette.

Socialist constitutions, by contrast, have traditionally given equal weight to rights and duties. The Constitution of the erstwhile USSR, for instance, explicitly declared that citizens' enjoyment of rights and freedoms was inseparable from the performance of their duties and obligations.

Swaran Singh Committee Recommendations

In 1976, the Congress party set up the **Sardar Swaran Singh Committee** to examine the question of Fundamental Duties - a need that had been felt acutely during the internal Emergency of 1975-77. The committee recommended a separate chapter on Fundamental Duties, stressing that citizens should become as conscious of their duties as they were of their rights.

CHAPTER
08

Amendment to the Constitution

"I feel that the Constitution is workable, it is flexible, and it is strong enough to hold the country together, both in peacetime and in wartime. Indeed, if I may say so, if things go wrong under the new Constitution, the reason will not be that we had a bad Constitution. What we will have to say is that Man was vile."

–B.R. Ambedkar

The Constitution reflects the aspirations and needs of a people, and since these aspirations and needs are constantly evolving, the Constitution cannot remain a static document. Fast-changing socio-economic, political, and financial realities must be accommodated, and law cannot be allowed to lag too far behind a rapidly evolving society. For the Constitution to remain a genuinely **living document**, it must provide a built-in procedure for its own amendment. Such procedures can be **rigid** or **flexible**. Under a **rigid** procedure, a special and elaborate method is required to amend the Constitution. Under a **flexible** procedure, an amendment can be passed in the same manner as an ordinary law. The Indian Constitution combines both approaches: it is rigid where the federal structure and other basic features are concerned, but comparatively flexible for the majority of its remaining provisions.

Methods of Amendment

1. Informal Methods

The Constitution evolves not only through formal amendment under Article 368, but also through two informal channels.

Judicial Pronouncements

The Supreme Court, through its rulings, has contributed significantly to the evolution of the Constitution, often with far-reaching consequences. Notable examples include:

- **Berubari case (1960)**: Held that Indian territory cannot be ceded to a foreign state except through a constitutional amendment.
- **Kesavananda Bharati case (1973)**: Introduced the **basic structure doctrine**.
- **Minerva Mills case (1980)**: Held that Fundamental Rights and Directive Principles are complementary, and that a balance between the two must be maintained.

CHAPTER
09

Centre-State Relations

"Federalism is no longer the fault line of Centre-State relations, but the definition of a new partnership of Team India. Citizens now have the ease of trust, not the burden of proof and process. Businesses find an environment that is open and easy to work in."

–Narendra Modi

Before the Indian federation was formed, the states that came together to constitute it were not, in the strict sense, 'sovereign' entities requiring elaborate safeguards against the Centre. As a result, the Indian federation has acquired several characteristics that distinguish it markedly from the American model:

- **Residuary powers** under the Indian Constitution rest with the **Union**, not the states - a design also found in the Canadian Constitution, and not, by itself, a departure from genuine federalism.
- Despite the division of powers between the Union and the states, the Constitution gives the Union considerable control over both **state legislation and state administration** - for instance, a Governor may reserve a state bill for the President's consideration, and the President may then withhold assent. Since the Governor is appointed by, and holds office at the pleasure of, the Union, this too reflects ideas found in the Canadian Constitution rather than the American one.
- The Constitution lays down the framework for both the Union and every state; no state today retains a separate constitution of its own. *(Jammu and Kashmir formerly held this distinction under Article 370, but following the abrogation of its special status in August 2019, and its reorganisation into the Union Territories of Jammu & Kashmir and Ladakh, no Indian state any longer possesses a separate constitution.)*
- Barring a small set of provisions touching the federal structure, states need not even be consulted for most constitutional amendments; the bulk of the Constitution can be amended by a bill in Parliament, passed with a special majority.
- While the **Union is indestructible**, the **states are not** - Parliament can reorganise states, or alter their boundaries, through an ordinary law passed by simple majority, without requiring the consent of the affected state's legislature; the President need only **ascertain** its views. The ease with which the federal map can be reshaped in this manner was demonstrated by the **States Reorganisation Act, 1956**, and by the numerous state reorganisations that have followed since.
- The **Rajya Sabha** does not offer equal representation to all states, unlike the American Senate larger, more populous states enjoy proportionately greater representation, weakening one of

CHAPTER
10

Finance Commission

"I believe that through knowledge and discipline, financial peace is possible for all of us."

–Dave Ramsey

The Finance Commission is not merely an ad hoc institution for dividing revenue between the Centre and the states it functions as a **financial watchdog** and a **goal-setter**, working to strengthen fiscal accountability and fiscal federalism across the country.

The Finance Commission is established by the President of India under **Article 280** of the Constitution. The **first Finance Commission** was constituted in **1951**. The requirement to establish such a body at regular intervals is an entirely **original contribution** of the Indian Constitution - an idea not directly borrowed from any other constitution.

Article 280 & the Finance Commission

Article 280 requires the President to constitute a Finance Commission within **two years** of the Constitution's commencement, and thereafter **every fifth year**, or at such earlier intervals as the President considers necessary.

A Finance Commission consists of a **Chairman and four other members**, all appointed by the President.

Since the Commission is constituted at regular intervals, its work benefits from a meaningful degree of **continuity** - each successive Commission builds on the analysis and recommendations of its predecessors.

After considering the Commission's recommendations on the sharing of Union taxes, the President prescribes, by order, the actual percentages and manner of distribution meaning Parliament itself is **not directly involved** in assigning or distributing this revenue.

Relevance of the Finance Commission

As a constitutional instrument, the Finance Commission is uniquely positioned to resolve many of the complex financial questions that shape Union-state relations - a role evident across the recommendations of the sixteen Finance Commissions constituted to date.

Reporting to Parliament

Article 281 requires the President to lay every Finance Commission recommendation, along with an explanatory memorandum on the action taken, before **both Houses of Parliament**.

CHAPTER
11

Inter-State Water Disputes

"If the wars of the twentieth century were fought over oil, the wars of this century will be fought over water."

–Ismail Serageldin, World Bank

Constitutional Framework

Article 262 of the Constitution provides for the adjudication of inter-state water disputes, making two distinct provisions:

(i) Parliament may, by law, provide for the adjudication of any dispute or complaint relating to the use, distribution, or control of the waters of any inter-state river or river valley.

(ii) Parliament may also provide that **neither the Supreme Court nor any other court** shall exercise jurisdiction over such a dispute.

Under this Article, Parliament has enacted two laws:

(i) The **River Boards Act, 1956**, which provides for the establishment of river boards, at the request of concerned state governments, to advise on the regulation and development of inter-state rivers and river valleys.

(ii) The **Inter-State River Water Disputes Act (ISRWDA), 1956**, which empowers the Central government to constitute an **ad hoc tribunal** to adjudicate a dispute between two or more states over the waters of an inter-state river. A tribunal's decision is **final and binding**, and neither the Supreme Court nor any other court has jurisdiction over a dispute once referred to such a tribunal.

Why an Extra-Judicial Mechanism?

While the Supreme Court would, in principle, have jurisdiction over inter-state water disputes involving genuine legal rights, experience across most federal countries has shown that ordinary legal rules modelled on private proprietary interests in water do not offer a satisfactory basis for resolving disputes where the wider **public interest** in water use is at stake. This is the underlying rationale for Article 262's specialised, tribunal-based mechanism.

Nine inter-state water dispute tribunals have been constituted to date under the 1956 Act.

CHAPTER
12

Emergency Provisions

"The Indian federation was unique, as during a time of Emergency, it could convert itself into an entirely unitary state."

–B.R. Ambedkar

There are moments when a nation is suddenly overtaken by events and forces that seriously endanger its security and the safety of its citizens. The Emergency provisions are a unique feature of the Indian Constitution, allowing the Centre to assume wide powers to handle such situations.

During an Emergency, the Centre can take full legislative and executive control over any state, and may even curtail or suspend certain freedoms of citizens. The very existence of these provisions is one reason academicians hesitate to describe the Indian Constitution as fully federal.

The Emergency provisions are contained in **Part XVIII** of the Constitution, from **Articles 352 to 360**. The Constitution provides for **three types of Emergency**:

1. **National Emergency** - due to war, external aggression, or armed rebellion (**Article 352**).
2. **President's Rule** - due to the failure of constitutional machinery in a state (**Article 356**).
3. **Financial Emergency** - due to a threat to the financial stability or credit of India (**Article 360**).

Part I : National Emergency (Article 352)

Features of National Emergency

- Proclaimed under **Article 352**, when the President is satisfied that a grave emergency exists, threatening the security of India, or any part of it, through **war, external aggression, or armed rebellion**. The proclamation may cover the whole of India or only a part of it.
- The President may issue such a proclamation only after the decision of the **Union Cabinet** has been communicated to him in writing.
- The proclamation is **subject to judicial review**. In *Minerva Mills v. Union of India* (1980), the Supreme Court held that there is no bar on judicially reviewing the validity of a proclamation of Emergency under Article 352(1), though the Court's role is limited to examining whether the constitutional limitations have been observed - for instance, whether the President's satisfaction was based on relevant material, or was instead vitiated by mala fide, absurd, or entirely irrelevant considerations, in which case it amounts to no genuine satisfaction at all.

CHAPTER
13

President of India

"In matters of style, swim with the current; in matters of principle, stand like a rock."

–Thomas Jefferson

Articles 52 to 78, in Part V of the Constitution, deal with the Union executive, which consists of the **President**, the **Vice-President**, the **Prime Minister**, the **Council of Ministers**, and the **Attorney General of India**.

India adopted the **Westminster model** of parliamentary democracy from Britain, under which Parliament is supreme, and the political executive - the Union Council of Ministers, headed by the Prime Minister functions as the **de facto** head of government.

The President is the **head of the Indian State**. As the first citizen of India, the President serves as a symbol of the nation's unity, integrity, and solidarity.

- **Article 52**: There shall be a President of India.
- **Article 53(1)**: The executive power of the Union shall be vested in the President.

Election of the President

Article 54 provides that the President is elected not directly by the people, but by an **electoral college** consisting of:

- The **elected** members of both Houses of Parliament;
- The **elected** members of the Legislative Assemblies of the states; and
- The **elected** members of the Legislative Assemblies of the Union Territories of Delhi and Puducherry (added through the 70th Amendment Act, 1992).

Correspondingly, **nominated** members of either House of Parliament, nominated members of State Legislative Assemblies, members of State Legislative Councils (whether elected or nominated, in states with a bicameral legislature), and nominated members of the Delhi and Puducherry Assemblies do **not** participate in the President's election. Where an assembly stands dissolved, its members lose their eligibility to vote in a presidential election, even if fresh elections to that assembly have not yet been held.

Note: *Members of the Electoral College act in a non-legislative, purely electoral capacity while voting for the President.*

CHAPTER
14

Vice President of India

"I will bear true faith and allegiance to the Constitution of India as by law established, and I will faithfully discharge the duty upon which I am about to enter."

–Oath of the Vice President

The office of the Vice President is the **second-highest constitutional post** in India. The Vice President serves as the **ex-officio Chairperson of the Rajya Sabha**, and the office is designed to complement that of the President stepping in to discharge the President's functions during the latter's absence, illness, or a vacancy in that office.

In essence, the Vice President exists to assist and, where necessary, substitute for the President as the nominal head of the Republic.

- **Article 63**: "There shall be a Vice-President of India" - meaning the office itself can never remain vacant as a matter of constitutional design, even if a specific individual's tenure comes to an end.
- **Article 64**: The Vice-President shall be the **ex-officio Chairman of the Council of States** (Rajya Sabha), and shall not hold any other office of profit. During any period when the Vice-President is acting as, or discharging the functions of, the President under Article 65, they do not perform the duties of Rajya Sabha Chairman, and are not entitled to the salary or allowance attached to that office under Article 97.
- **Article 65**: In the event of a vacancy in the office of President by reason of death, resignation, removal, or otherwise - the Vice-President acts as President until a new President, duly elected to fill that vacancy, enters office. While so acting, or discharging the President's functions, the Vice-President enjoys all the powers and immunities of the President, and is entitled to such emoluments, allowances, and privileges as Parliament determines by law or, until such a law is made, those specified in the **Second Schedule**.

Qualifications for the post of Vice-President

A candidate for the office of Vice-President must:

- Be a **citizen of India**.
- Have completed **35 years of age**.
- Be eligible for election as a member of the **Rajya Sabha**.

CHAPTER
15

Parliament

"Parliament of the country is the repository of the sovereign will of the people, and its successful functioning is a joint responsibility of both the government and the Opposition."

–Pratibha Patil

Indian democracy is, in many ways, the outcome of the freedom struggle, whose experiences directly shaped its democratic institutions, Parliament chief among them. India inherited the **Westminster model** from Britain, where Parliament occupies a central role in the political system. The Preamble's opening words, "We the People," confer sovereignty on the people, exercised indirectly through their representative body, Parliament - the legislative organ of the Union government, and the pre-eminent institution in India's parliamentary democracy.

- **Articles 79 to 122**, in Part V of the Constitution, deal with Parliament's organisation, composition, duration, officers, procedures, privileges, and powers.

Is the Indian Parliament Sovereign?

The doctrine of **'Parliamentary sovereignty'** is closely associated with the British Parliament. Sovereignty means the supreme power within the state; in Britain, this power rests with Parliament, subject to no legal restriction on its authority.

According to the jurist A. V. Dicey, this carries three implications:

(i) Parliament can make, amend, or repeal any law.

(ii) Parliament makes constitutional laws through the **same procedure** as ordinary laws - there is no legal distinction between its constituent and legislative authority.

(iii) Parliamentary laws cannot be struck down by courts as unconstitutional — Britain has **no system of judicial review**.

The Indian Parliament, by contrast, cannot be regarded as sovereign in this sense, since 'legal' restrictions genuinely limit its authority:

- **The Constitution's Written Character**: As the fundamental law of the land, the Constitution defines the authority of all three organs of government, requiring Parliament to operate within its prescribed limits. A legal distinction exists between Parliament's ordinary legislative authority and its constituent (amending) authority, and certain amendments additionally require ratification by half the states none of which has any parallel in Britain's unwritten constitutional tradition.

CHAPTER
16

Attorney General

"The power of the lawyer is in the uncertainty of the law."

-Jeremy Bentham

Article 76 of the Constitution provides for the office of the **Attorney General for India (AG)**, the highest law officer in the country.

Appointment and Term

The Attorney General is appointed by the **President**, and must possess the same qualifications required to be appointed a judge of the **Supreme Court** - that is, the person must be a citizen of India, and must have been either a judge of a High Court for five years, or an advocate of a High Court for ten years, or, in the President's opinion, an eminent jurist.

The Constitution does **not fix a term of office** for the AG, nor does it lay down a specific procedure or grounds for removal.

- The AG holds office **during the pleasure of the President**, meaning the President may remove the AG at any time, without needing to establish any particular cause.
- **The AG may also resign at any time**, by submitting a resignation to the President. By convention, the AG resigns whenever the Council of Ministers resigns or is replaced, since the appointment is made on the advice of that very Council.
- The Constitution similarly does not fix the AG's remuneration; the AG receives such remuneration as the President determines.

Duties and Functions

As the **chief law officer of the Government of India**, the AG's constitutionally assigned duties are:

- To advise the Government of India on legal matters referred by the **President**.
- To perform such other duties of a legal character as the President may assign.
- To discharge the functions conferred by the Constitution, or by any other law.

In practice, the President has assigned the AG the following specific responsibilities:

- To appear on behalf of the Government of India in all cases before the **Supreme Court** in which the Government of India is concerned.

CHAPTER
17

Comptroller and Auditor General (CAG)

"The CAG is probably the most important officer in the Constitution of India, and his duties are far more important than the duties even of the judiciary."

–B. R. Ambedkar (Constituent Assembly)

Public audit is a vital instrument for ensuring **parliamentary supremacy over the executive**, and for enforcing public accountability. Public audit institutions have evolved, over time, to help legislatures effectively exercise the **'power of the purse'** - an authority with two essential elements: **granting** money, and **supervising its expenditure**. Public audit exists to ensure that public money is both raised properly and spent for the purposes Parliament has actually authorised.

The parliamentary system rests fundamentally on the executive's responsibility to the legislature for all its actions; a responsibility the legislature can enforce only if it is genuinely able to scrutinise the executive's activities. Since checking accounts and assessing the soundness of financial transactions requires specialised expertise beyond an ordinary legislator's competence, the Constitution created the institution of the **Comptroller and Auditor General (CAG)** to perform this function.

Historical Background of CAG

The CAG institution was established to bring **transparency, accountability, and probity** to public life. It first came into existence in **1860**, its importance recognised almost immediately after the British Crown assumed direct governance from the East India Company in 1858.

The **Government of India Acts of 1919 and 1935** progressively strengthened its position, and in **1950**, the office earlier known simply as the Auditor General of India was given constitutional status, and re-designated as the **Comptroller and Auditor General of India**.

Role of CAG

The CAG's core function is to uphold the Constitution and the laws of Parliament in the sphere of **financial administration**. The executive's accountability to Parliament in this sphere is secured chiefly through the CAG's audit reports. As an **agent of Parliament**, conducting audit on its behalf, the CAG is responsible **only to Parliament**.

CHAPTER
18

Governor

"The central government enjoys the power to remove Governors of different states, as long as it does not act arbitrarily, without reason, or in bad faith."

–Supreme Court, B. P. Singhal v. Union of India

The Governor is the head of a state, much as the President is the head of the Republic - the **nominal** head of state, while the **Chief Minister** functions as the real executive head. All executive action of the state is formally taken in the Governor's name, though the substance of decision-making rests with the Chief Minister and the Council of Ministers.

Historical Background

The **Government of India Act, 1858**, transferred administrative responsibility for India from the East India Company to the British Crown, making the provincial Governor an agent of the Crown, acting through the Governor-General.

- The **Montagu-Chelmsford Reforms (1919)** introduced only modest, limited responsible government at the provincial level. The **Government of India Act, 1935**, granted **provincial autonomy**, requiring the Governor ordinarily to act on ministerial advice though the Governor continued to exercise substantial **discretionary** powers, accountable only to the Governor-General.
- Following independence, the 1935 Act was adapted and applied until the new Constitution was drafted. The **Adaptation Order, 1947**, dropped references to these discretionary powers, requiring the Governor to act entirely on the advice of the Council of Ministers.

The Constituent Assembly Debate

The Constituent Assembly's deliberations on the Governor's office centred on two questions: whether the Governor should be **elected or nominated**, and the scope of the Governor's **discretionary powers**. The framers initially considered a directly elected Governor for each state, modelled on US state governors, but ultimately rejected this, for several reasons:

- A directly elected Governor would function as a genuine **"real head"** rather than a constitutional head, risking friction with the state's Council of Ministers.
- Election by the state assembly risked making the Governor a **pawn** of the very political parties responsible for the Governor's election, undermining impartiality.

CHAPTER
19

State Legislature

"Parliament and state legislatures are northstar of democracy. Members of Parliament and Legislatures are lighthouses."

–Jagdeep Dhankhar, Former Vice-President of India

State legislatures are the replica of Parliament at the state level. They carry the same structure, powers, authority, and privileges at the state level, and must therefore be equally responsible and accountable. **Articles 168 to 212**, in Part VI of the Constitution, deal with the organisation, composition, duration, officers, procedures, privileges, and powers of the State Legislature closely modelled on the corresponding provisions for Parliament, though with certain differences.

Legislative Council (Vidhan Parishad)

The **Legislative Council** is the upper house in states with a bicameral legislature. Most Indian states have a **unicameral** legislature, consisting only of the Legislative Assembly.

At present, **six states** have a Legislative Council: **Andhra Pradesh, Bihar, Karnataka, Maharashtra, Telangana, and Uttar Pradesh**.

- **Note:** Jammu and Kashmir's Legislative Council was **abolished** through the **Jammu and Kashmir Reorganisation Act, 2019**, which reorganised the former state into the Union Territories of Jammu & Kashmir (with a legislature) and Ladakh (without one), and under which Article 370's abrogation ended the state's separate constitution.
- The J&K Legislative Assembly, reconstituted following the 2024 elections, now has a **five-year term** (reduced from the earlier six years) under the ordinary framework applicable to Union Territory legislatures rather than any separate J&K-specific constitutional arrangement.

Separately, **West Bengal, Odisha, and Rajasthan** have each, at various points, passed Assembly resolutions favouring the creation of a Legislative Council, though these remain **pending before Parliament**, and have not yet been enacted into law.

Unlike the Vidhan Sabha (Legislative Assembly), the Legislative Council is a **permanent body**, not subject to dissolution - each member serves a **six-year** term, with **one-third retiring every two years**, mirroring the Rajya Sabha's own structure.

CHAPTER
20

Fifth & Sixth Scheduled Areas

Jawaharlal Nehru recommended five principles, known as the "Tribal Panchsheel," for policy vis-à-vis the tribals:

1. *People should develop along the lines of their own genius, and the imposition of alien values should be avoided.*
2. *Tribal rights in land and forest should be respected.*
3. *Teams of tribals should be trained in the work of administration and development.*
4. *Tribal areas should not be over-administered or overwhelmed with a multiplicity of schemes.*
5. *Results should be judged not by statistics or the amount of money spent, but by the human character that is evolved.*

–Jawaharlal Nehru, The Right Approach to Tribal People

The basic thrust of the Fifth and Sixth Schedules of the Constitution is the protection of the cultural distinctiveness of tribals. They also protect tribals from their economic disadvantages, so that tribal identity can be maintained without coercion or exploitation.

- The interests of Scheduled Tribes outside the North-East are protected by the Fifth Schedule. This Schedule designates "Scheduled Areas" in large parts of India where the interests of the Scheduled Tribes are to be protected. A Scheduled Area has more than 50 percent tribal population.
- The Sixth Schedule relates to the administration of the states of Assam, Meghalaya, Tripura and Mizoram in the North-East. It provides for the formation of autonomous districts, and of autonomous regions within those districts, since different Scheduled Tribes may live within the same district.

The Fifth Schedule (Article 244(1))

The Fifth Schedule is an important provision of the Constitution dealing with the control and administration of the Scheduled Areas.

Its key features include:

- Provision for the constitution of a Tribes Advisory Council.
- Power for the Governor to adapt laws passed by Parliament and the State legislature so that they suit these areas.

CHAPTER
21

Panchayati Raj

"True democracy cannot be worked by twenty men sitting at the centre. It has to be worked from below, by the people of every village."

–Mahatma Gandhi

There remains truth in the old saying that India lives in her villages. In the Indian context, genuinely sustainable democracy is, in many ways, democracy at the **village level** itself - village communities have historically been the basic units within which individual freedom and self-governance were realised.

- The institution of the **Panchayat** - from *panch* (five) and *ayat* (assembly) is among the earliest, and most enduringly preserved, institutions of local governance in India: a village assembly of respected elders, traditionally chosen to settle local disputes and problems according to custom.
- **Panchayati Raj** refers to the **three-tier structure** of democratic local self-government at the district, block, and village levels - the **Zila Parishad**, **Panchayat Samiti**, and **Gram Panchayat** respectively. It embodies the philosophy of **decentralisation**, aiming to secure **Gram Swaraj** through participative governance and locally driven rural development.

Evolution of Panchayati Raj

Panchayats, as institutions of local self-government and development, have been part of Indian governance since ancient times with historical evidence of Panchayati systems functioning during the **Chola period**.

Local self-government acquired a formal statutory basis under British rule:

- **Lord Mayo's Resolution (1870)** initiated the process of political and administrative decentralisation, seeking to enlarge the powers of local self-government institutions.
- **Lord Ripon's Resolution (1882)** often described as the **Magna Carta of local self-government** in India - laid its more substantive institutional foundations.
- The **Royal Commission on Decentralisation (1907)**, under **Hobhouse**, recommended that local governance begin at the village and district levels.
- The **Government of India Act, 1919** (Montagu-Chelmsford Reforms), made local self-government a **transferred subject** under the newly introduced scheme of dyarchy.

However, the Panchayats established under these colonial-era measures were **not genuinely democratic institutions**, since the government nominated most of their members.

CHAPTER
22

Municipalities

"Building sustainable cities and a sustainable future will need open dialogue among all branches of national, regional and local government. And it will need the engagement of all stakeholders including the private sector and civil society, and especially the poor and marginalized."

–Ban Ki-moon

'Urban Local Government'

Urban Local Government in India refers to the governance of an urban area by the people, through their elected representatives. Its jurisdiction is confined to a specific urban area, demarcated for this purpose by the state government.

- India has **eight types of urban local bodies**: Municipal Corporation, Municipality, Notified Area Committee, Town Area Committee, Cantonment Board, Township, Port Trust, and Special Purpose Agency.
- The system of urban local government was **constitutionalised** through the **74th Constitutional Amendment Act, 1992**.
- At the Central level, urban local government falls under three ministries: the **Ministry of Housing and Urban Affairs** (the current name of the erstwhile Ministry of Urban Development); the **Ministry of Defence**, in respect of Cantonment Boards; and the **Ministry of Home Affairs**, in respect of Union Territories.

Evolution of Urban Bodies

Historical Perspective

The institutions of urban local government in modern India developed principally during British rule:

- **1687-88**: India's first Municipal Corporation was established at **Madras**.
- **1726**: Municipal Corporations were established in **Bombay and Calcutta**.
- **Lord Mayo's Resolution (1870)** on financial decentralisation envisaged the development of local self-government institutions.

CHAPTER
23

The Judiciary

"Justice should not only be done but should manifestly and undoubtedly be seen to be done."
–Gordon Hewart

The Indian Constitution provides for a **single, integrated judiciary**, headed by the Supreme Court. Each state, or group of states, has a High Court exercising administrative control over the subordinate courts within its territory. This differs from the United States, where federal laws are enforced through a separate federal judiciary, while state laws are enforced through independent state courts. In India, the Supreme Court can be approached to challenge the verdict of any High Court or subordinate court - a unified structure that plays an important integrating role, and helps preserve the country's unity.

The Supreme Court of India was inaugurated on 28 January 1950, succeeding the Federal Court of India, established under the Government of India Act, 1935 though with jurisdiction considerably greater than its predecessors'.

Articles 124 to 147, in Part V of the Constitution, deal with the Supreme Court's organisation, independence, jurisdiction, powers, and procedure; Parliament is also authorised to regulate several of these aspects.

Composition of the Supreme Court

At the Constitution's commencement, the Supreme Court consisted of one Chief Justice and seven other judges. Parliament has progressively increased this number to ten in 1956, thirteen in 1960, seventeen in 1977, twenty-five in 1986, and thirty in 2009.

- The **Supreme Court (Number of Judges) Amendment Act, 2019**, further raised the sanctioned strength to **34 judges in total** (the Chief Justice of India and 33 other judges), the figure that has stood since.
- In 2026, the Union Cabinet cleared a further proposal to expand the Court's sanctioned strength to **38 judges**, reflecting the Court's continually growing caseload.

Qualifications to be appointed as Judge of the Supreme Court

To be appointed a judge of the Supreme Court, a person must:

- Be a citizen of India.

CHAPTER
24

Electoral System in India

"The ballot is stronger than the bullet."

–Abraham Lincoln

Every five years, India conducts one of the largest democratic exercises in the world, transcending boundaries of religion, caste, and creed. As a constitutional democracy with a parliamentary system, regular, free, and fair elections lie at the heart of India's governance determining the composition of the Lok Sabha, the Rajya Sabha, state and Union Territory legislative assemblies, and the offices of President and Vice-President.

Scale of India's General Elections

Conducting a Lok Sabha general election involves managing the largest electoral event in the world. The **2024 general election** saw an electorate of nearly **970 million** registered voters, across more than **10.5 lakh polling stations**, spanning terrain ranging from the snow-clad Himalayas to the deserts of Rajasthan, and sparsely populated islands in the Indian Ocean. The Election Commission deploys millions of personnel to conduct elections, supported by extensive civilian police and security forces to ensure peaceful proceedings.

Legal Framework

Elections are governed by constitutional provisions, supplemented by parliamentary legislation:

- **Articles 324 to 329**, in Part XV of the Constitution, lay down the core framework for India's electoral system.
- The **Representation of the People Act, 1950**, deals principally with the preparation and revision of electoral rolls.
- The **Representation of the People Act, 1951**, deals in detail with the conduct of elections and post-election disputes.

Other relevant laws and rules include:

- the Presidential and Vice-Presidential Elections Act, 1952;
- the Government of Union Territories Act, 1963;
- the Government of the National Capital Territory of Delhi Act, 1991;

CHAPTER
25

Representation of the People Act

"It is not enough to be electors only. It is necessary to be law-makers; otherwise those who can be law-makers will be the masters of those who can only be electors."

–B.R. Ambedkar

Elections form the bedrock of the Indian democratic system. The Indian democratic setup gives citizens the right to elect their representatives. The Representation of the People Act is an Act of the Parliament of India that provides for the preparation of electoral rolls, delimitation of constituencies, conduct of elections to the Houses of Parliament and to the House or Houses of the Legislature of each State, the qualifications and disqualifications for membership of those Houses, corrupt practices and other offences connected with such elections, and the decision of doubts and disputes arising out of or in connection with such elections.

- Articles 324 to 329 in Part XV of the Constitution deal with the electoral system in India.
- The Constitution empowers Parliament to make provisions on all matters relating to elections to Parliament and the State Legislatures. In exercise of this power, Parliament has enacted laws such as the Representation of the People Act, 1950 (RPA 1950), the Representation of the People Act, 1951 (RPA 1951), and the Delimitation Commission Act, 1952.

Representation of the People Act, 1950 (RPA 1950)

RPA 1950 provides for:

- Qualification of voters.
- Preparation of electoral rolls.
- Delimitation of constituencies.
- Allocation of seats in Parliament and the state legislatures.

Parts and Schedules of RPA 1950

- **Part I:** Preliminary
- **Part II:** Allocation of Seats and Delimitation of Constituencies
- **Part IIA:** Officers
- **Part IIB:** Electoral Rolls for Parliamentary Constituencies

CHAPTER
26

Anti-Defection Law

"The evil of political defections has been a matter of national concern. If it is not combated, it is likely to undermine the very foundations of our democracy and the principles which sustain it."

–Supreme Court in Kihoto Hollohan v. Zachillhu

The Anti-Defection Law seeks to prevent elected representatives from changing political allegiance after being elected. It was enacted to curb the growing trend of legislators defecting from one political party to another for personal gain, often leading to political instability and corruption through practices such as **horse-trading**.

The law was incorporated into the Constitution through the **52nd Constitutional Amendment Act, 1985**, by inserting the **Tenth Schedule**. It aims to promote political discipline while preserving the integrity of the electoral mandate.

Background of Anti-Defection Law

After the Fourth General Elections (1967), Indian politics witnessed widespread defections by legislators. Governments frequently collapsed due to elected representatives switching political parties in return for ministerial positions or other benefits.

- This phenomenon came to be popularly known as **"Aaya Ram, Gaya Ram"**, after Haryana MLA Gaya Lal changed his political affiliation multiple times within a short period.
- To address this problem, Parliament enacted the Anti-Defection Law in 1985.

Constitutional Provisions

The Anti-Defection Law derives its constitutional basis from:

- **Articles 102(2)** and **191(2)**, which provide for disqualification of Members of Parliament and State Legislatures on grounds of defection.
- **Tenth Schedule**, inserted by the **52nd Constitutional Amendment Act, 1985**, which lays down the detailed provisions relating to disqualification.

Objectives of the Anti-Defection Law

The law seeks to:

- Prevent political defections motivated by the lure of office or other personal benefits.

CHAPTER
27

Right to Information

"The Right to Information Act is a path-breaking legislation which signals the march from darkness of secrecy to dawn of transparency."

–2nd Administrative Reforms Commission

Right to Information Act, 2005

What makes the Right to Information Act, 2005, special is its power and practicality in enabling citizens to seek and obtain information from government authorities. The law has promoted transparency and accountability in public authorities.

Salient Features

- Replaced the Freedom of Information Act, 2002.
- Jammu and Kashmir had a separate law, the J&K Right to Information Act, 2009.
- RTI relaxes the restrictions placed by the Official Secrets Act, 1923.
- **Three Levels of the RTI Mechanism:** Public Information Officer (PIO), First Appellate Authority, and the Central Information Commission (CIC).
- **Time Period for the PIO:** Information must be provided expeditiously, or within 30 days from the date of receipt of the request by the public authority.
- **Time Limit for the First Appeal:** Within 30 days from the expiry of the time limit for supply of information, or from receipt of the order.
- **Time Period for the Appellate Authority:** Within 30 days, or in exceptional cases up to 45 days, from the date of receipt of the appeal.
- **Time Limit for the Second Appeal:** Within 90 days from the expiry of the time limit for supply of information.
- The Act also requires public authorities to computerise records and proactively publish information.
- **Bodies Covered under RTI:** Constitutional bodies at the Centre and in the states (Legislature, Executive, Judiciary), bodies and NGOs substantially financed or owned by the government, and privatised public utility companies.