



# RJS

Rajasthan Judicial Services

CIVIL JUDGE CADRE

Rajasthan High Court (HCRAJ)

**Law Paper - 1**

Volume 1



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## The constitution of India

- \* In constituent assembly there were 389 members = 296 of British territory + 93 members of princely states.
- \* There was a drafting committee in which there were 7 members. Dr. B.R. Ambedkar was the chairman, N Gopalswamy Iyer, A. Krishna Swami Iyer, KM Munshi, Syed Mohammad Sadaulla, M Madavrao (who replaced BL Mitra), TT Krishnam Chari (who came after death of DP Khaitan).

Representation of Rajasthan in constituent assembly.

1. V.T Krishnama Chari
2. Hira Lal Shastri
3. Raj Bhadur
4. Manik Lal Verma
5. Balwant Singh Mehta
6. Lt. Colonel Dalel Singh
7. Jai Narayan Vyas
8. Gokul Lal Asawa
9. Sardar Singh
10. Jaswant Singh
11. K.M Panikkar
12. Ram Chandra Upadhyay
13. Mukut Bihari
14. C.S. Venkata Chhari

Original residents of Rajasthan

1. Prabhu Dayal Himat Singh (WB)
2. Banarsi Das Jhunjhunwala (Bihar)
3. Padampat Singhania (UP)

- \* There were 15 women
- \* First sitting/meeting was held on 9<sup>th</sup> Dec, 1946.
- \* Sachidanand Sinha was a temporary chairman.
- \* Dr. Rajendra Prasad was President of constituent assembly.
- \* There were 2 deputy chairmen H.C. Mukharjee and V.T. Krishnamchari

After partition the number was 389 to 299 members, it was read 3 times.

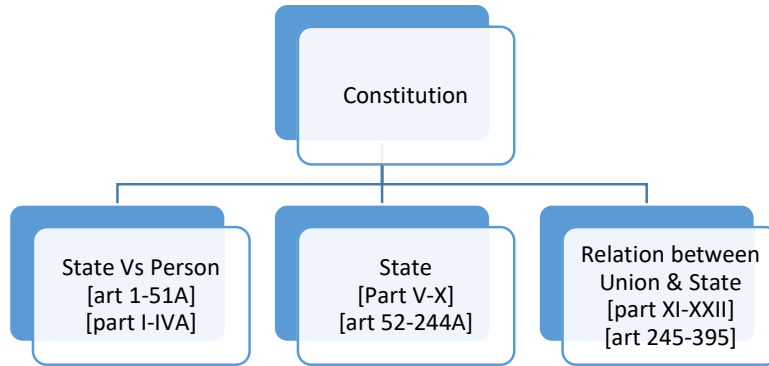
- (i) First time = 4 Nov, 1948
- (ii) Second time = 15 Nov, 1948
- (iii) Third time = 14-26 Nov, 1949

- \* On 26 Nov of 1949 it was adopted.
- \* Seal = elephant
- \* Sir BN Rao was legal advisor.
- \* H.N.R Iyenger was secretary
- \* L.N.M. was chief draftsman
- \* Beautification of original constitution was done by artists of Shantiniketan especially by Nandlal Bose and Ram Manohar Sinha.
- \* Hindi edition by Vasant Krishna Vedh and beautification by Nandlal Bose.
- \* Membership in common wealth = 16 may of 1949.
- \* National flag = 26 July of 1947
- \* Hindi national language = 14 Sep of 1949
- \* National anthem = 24 Jan of 1950
- \* National song (Vande Matram) = 24 Jan of 1950 by Bankim Chandra Chattarjee in Anand
- \* National calendar = 22 Mar of 1957
- \* National emblem = Sarnath, Varanasi
- \* National word = Satya Mevjayate by Mandoop upnishad
- \* National animal = Tiger (Panthera Tigris)
- \* National bird = Peacock (Pavo Christatus)
- \* Name of country = Indian i.e. Bharat

Main committees of constitutional assembly and its charman:

- 1) Rule committee -> Dr Rajendra Prasad
- 2) Drafting committee -> Dr. BR Ambedkar
- 3) Co ordination committee -> Rajendar Prasad
- 4) Consultation committee -> Sardar V. Patel
- 5) State committee -> Jawahar Lal Nehru
- 6) Flag committee, Fundamental rights, Subcommittee -> J.B. Kriplani

- \* Total convention 11, total sitting 165, and total time 2 years 11 months 18 days.
- \* 26 Nov was first called law day, from 2015 it is called constitution day.



Part A:

Part I: Union & its Territory (article 1-4)

Part II: Citizenship (article 5-11)

Part III: Fundamental rights (article 12-35)

Part IV: Directive Principles (article 36-51)

Part IV A: Fundamental Duties (article 51A)

Part B:

Part V: Union (article 52-151)

Part VI: State (article 152-237)

Part VII: Repealed (article 238)

Part VIII: Union Territory (article 239-242)

Part IX: Panchayat (art 243-243 O)

Part IX A: Municipality (article 243P-243 ZG)

Part IX B: Co operative Society (article 243H- 243ZT)

Part X: Schedule & Tribal Area (article 244-244A)

Part C:

Part XI: Relation between Union & State (article 245-263)

Part XII: With finance, property contract, suit (article 264-300A)

Part XIII: Trade, commerce & intercourse within India (article 301-307)

Part XIV: Services (article 308-323)

Part XIV A: Tribunals (article 323A-328B)



Part XV: Election (article 324-329A)

Part XVI: Special provisions (article 330-342A)

Part XVII: Language (article 343-351)

Part XVIII: Emergency provision (article 352-366)

Part XIX: Miscellaneous (article 361-367)

Part XX: Amendment in constitution (article 368)

Part XXI: Temporary Transitional & social provisions

Part XXII: Short title, commencement, authoritative text & repeal

- \* Membership in UNO → 1945
- \* Initially in constitution there were 22 parts & 1 schedule. Presently 448 articles, 25 parts & 12 schedules.
- \* One part was removed by 7<sup>th</sup> amendment = (part VII, art 238, part V states)
- \* In 1947, when Indian got independence, all states were divided in 4 parts (A, B, C, and D).
- \* After 7<sup>th</sup> amendment, state & union territory.
- \* Part B state included:
  - a. J&K
  - b. Mysore
  - c. Hyderabad
  - d. Middle India
  - e. Patiala & East Punjab

## Schedule

1. T: Territory
2. E: Emolument (salary)
3. A: Affirmation
4. R: Rajya Sabha
5. S: Scheduled Area
6. O: Other scheduled Areas
7. F: Federalism (Union, State, con-current list)
8. L: Language
9. Came by First amendment: Validation of Act
10. Came by 52<sup>nd</sup> amendment : anti defection law
11. Came by 73<sup>rd</sup> amendment: Panchayat
12. Came by 74<sup>th</sup> amendment: Municipality

1. Scheduled 1: There are 28 states, 9 Union Territories

- \* J&K is now a UT, along with Ladakh
- \* J&K reorganization Act, 2019 (with effect from 31<sup>st</sup> Oct, 2019)

2. Schedule 2: Emoluments: It is in five parts

- a. President/ Governor
- b. Repealed
- c. Speaker, deputy speaker of Lok Sabha & Rajya Sabha
- d. Supreme courts & High Court Judges
- e. Comptroller & Auditor General of India

Salary:

- a. President = 5 lakh
- b. Vice president = 4 lakhs
- c. Governor = 3.5 lakh
- d. Prime minister = 1.6 lakh
- e. CJI = 2.8 lakh
- f. SC Judge/CJ of High court = 2.25 lakh
- g. High Court Judges = 2.5 lakh
- h. Comptroller & Auditor General Of India = 2.5 lakh
- i. Member of parliament = 1 lakh  
(Salaries is increased by finance act, 2018)

3. Schedule 3: Oath & affirmation:

Q 1: Which post there is format in constitution?

Q 2: Who take promise of secrecy?

4. Schedule 4:

Q. Which state has maximum Rajya Sabha members?

Ans. UP

Q. Which state had minimum Rajya Sabha members?

Ans. Pondicherry, Sikkim

Q. How many members of Rajasthan are in Lok Sabha & Rajya Sabha.

5. Schedule 5: scheduled area

6. Schedule 6: Other scheduled area (Assam, Meghalaya, Tripura, Mizoram)

7. Schedule 7:

Union list  
47(100)

State list  
66(61)

Concurrent list  
47(52)

\* Latest amendment: 101 amendment

8. Schedule 8: Language

\* Initially there were 14 languages, now 22

- a. 21<sup>st</sup> amendment -> Sindhi
- b. 71<sup>st</sup> amendment -> Manipuri, Nepali, Konkani
- c. 92<sup>nd</sup> amendment -> Bodo, Dogri, Methli & Santhali
- d. 96<sup>th</sup> amendment -> Spelling Oriya to Odiya

9. Schedule 9: Validation of act (came by 1<sup>st</sup> amendment) – 284 acts

10. Schedule 10: Anti-defection law ( came by 52<sup>nd</sup> amendment) – 29 matters

11. Schedule 11: Panchayat ( came by 73<sup>rd</sup> amendment) – 18 matters

Q. Constitution is made by the best part of the constitutions of the world. Explain.

Ans.

Canada	<ul style="list-style-type: none"> <li>* Federal system based on Union</li> <li>* Advisory jurisdiction of SC</li> <li>* Appointment of Governor</li> </ul>
UK	<ul style="list-style-type: none"> <li>* Bicameral system</li> <li>* Single citizenship</li> <li>* Rule of law</li> <li>* Constitutional position of president</li> <li>* Cabinet system</li> <li>* Parliamentary privileges</li> </ul>
USA	<ul style="list-style-type: none"> <li>* Fundamental rights</li> <li>* Independence of Judiciary</li> <li>* Written constitution</li> <li>* Impeachment president &amp; judges</li> <li>* Judicial review</li> <li>* Equal protection of law</li> </ul>
Ireland	<ul style="list-style-type: none"> <li>* Directive principles</li> <li>* Election of president</li> <li>* Members nominated in Rajya Sabha</li> </ul>
Australia	<ul style="list-style-type: none"> <li>* Concurrent list</li> </ul>

	* Provision of trade & commerce
Germany	* Emergency provisions
South Africa	* Amendment In constitution
France	* Republic, equality
USSR (Russia)	* Fundamental duties
Japan	* Procedure established by law

- \* Govt. of India Act, 1935: Federal scheme, public service commission, judiciary etc.

Q. whether Indian constitution is federal?

Ans.

Unitary	Federal
All the major powers are with the center	There are two govt. center or state
<u>Characteristics:</u> <ul style="list-style-type: none"> <li>* Appointment of governor</li> <li>* Emergency</li> <li>* Single citizenship</li> <li>* New states are created by center</li> <li>* Accounts, audit, election by one organization</li> <li>* Parliament can make law in state list also</li> </ul>	<u>Characteristics:</u> <ul style="list-style-type: none"> <li>* 7<sup>th</sup> schedule</li> <li>* Supremacy of constitution</li> <li>* Written constitution</li> <li>* Independence of judiciary</li> <li>* It is rigid &amp; written i.e. amendment is only exception</li> </ul>

- \* In Indian constitution both the elements are present but federal element is more so it is called Quasi federal.
- \* State of WB Vs UOI
- \* Federalism is more in Indian constitution renowned constitutionalist K.C. where used the word Quasi Federal.
- \* Dr. B.R. Ambedkar said Indian constitution is federal but in emergency it become unitary.
- \* 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 citizen;

Justice, social, economic and political liberty of thought, expression, belief, faith and worship;

Equality of states 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 thereby adopt enact and give to ourselves this Constitution.

- \* Pandit Jawaharlal Nehru on 13 Dec, 1946 put it as proposal in constituent assembly.
- \* Accepted on 22 Jan, 1947 & finally accepted on 17 Oct 1948

Preamble is divided into two parts:

Principles (5)	Objects (4)
<ul style="list-style-type: none"> <li>* Sovereign</li> <li>* Socialist</li> <li>* Secular</li> <li>* Democratic</li> <li>* Republic</li> </ul>	<ul style="list-style-type: none"> <li>Justice</li> <li>Liberty</li> <li>Equally</li> <li>Fraternity</li> </ul>

- \* 26 Nov 1949
- \* Few articles of constitution were enforced on the same day and remaining constitution on 26 Jan, 1950.

## #Part XXII (article 393-395)

Article 393: short title: the constitution of India>

Article 394: following articles came in force immediately.

- \* Articles: 5,6,7,8,9,60,324,366,367,379,380,388, 391,392,393 & remaining on 20-01-1950.

Article 394 A: It shall be translated in Hindi.

Article 395: Now following enactments are repealed.

- \* Indian independence act, 1947
- \* Govt. of Indian act, 1935
- \* Other enactments which amend and supplementing them.
- \* But not following -> privy council jurisdiction act, 1949

Q. What is the object of preamble?

Ans.

- \* it stated the source of law (We the People of India)
- \* State the exception and thinking of the constitution framers.
- \* Where constitution is silent, shows the way.
- \* It is the soul of constitution.

Q .Whether preamble is part of constitution?

Ans.

- \* In Re Beruberi Union & exchange of enclave's case.
- \* Preamble is not part of constitution
- \* Keshvanand Bharti Vs State of Kerala  
It is the part of constitution & also part of basic structure.
- \* LIC Vs consumer education & research center
- \* It is indispensable part of a constitution.

Q. Whether there is amendment in preamble?

Ans. Yes, once in 42<sup>nd</sup> amendment, 1976

Socialist, secular & Integrity

## #Principles (5)

- (1) Sovereign: that is Indian is not dependent on any country; it shall make its own law. It's not dominion.
- (2) Socialist: All type of exploitation shall be abolished and equal opportunities of income.
  - \* Excel Wear Vs UOI -> along with personal interest, interest of state has to be seen.
  - \* DS Nakara Vs UOI -> It is duty of the state to inspire everyone to live with dignity.
  - \* Delhi Science Forum Vs UOI -> Privatization of Telecom industry is correct.
- (3) Secular: by state secularism can be in two manner
  - a. By not recognizing all religion (China)
  - b. By recognizing all religion (India)
    - \* SR Bomai Vs UOI -> Secularism is indispensable part.
    - \* Aruna roy Vs UOI -> In NCERT, chapter relating to god & goddess in moral studies is correct.
    - \* ZB Bukari Vs BR Mehta -> in public places, if idols then it can be removed.
- (4) Democratic: That is govt. elected by people.
  - \* Raj Narayan Vs Indira Gandhi -> Fair election is basic structure
- (5) Republic: It has head of state, who is not under anyone.

## Object (4)

- (1) Justice:
  - a. Social: article 14,15 etc
  - b. Economic : article 25,43 etc
  - c. Political: article 325, 366 etc.
- (2) Liberty:
  - a. Thought: article 19 etc
  - b. Expression: article 25 etc.
  - c. Belief: article 26 etc
  - d. Faith: article 25,26,27 etc.
  - e. Worship: article 28 etc.

(3)Equality:

- a. Status: article 17,18
- b. Opportunity: article 14,15,16

(4)Fraternity: Not allowed to break (single citizenship)

## Part I (article 1-4)

Article 1: India that is Bharat. It's territory according to 1<sup>st</sup> schedule

- a. State
- b. UT, specified in I Schedule
- c. Acquired territories

Acquired by following ways:

- a. By winning the area
- b. By treaty
- c. By contract
- d. By accession (by land deposit in rivers)

Article 2: Wherever any new state or area then it can be admitted (Nepal) or established (Uttarakhand) by the union.

- \* Parliament is empowered to admit or establish.

Article 3:

- \* Wherever parliament is satisfied then it can do following things:
  - a. Make new state. (By combining or portioning state)
  - b. Increase the area.
  - c. Diminish the area.
  - d. Alter the boundaries
  - e. Alter the name.
  
- \* There shall be following procedure:
  - a. On the recommendation of president, bill shall be presented in any of the house of parliament.
  - b. Wherever matter pertains to any state then sends to the legislature of the state.
  - c. There shall be a time period for opinion of state.
  - d. After opinion it shall be sent back to parliament where it shall be resolved by simple majority.



- \* Babul lal Vs State of Bombay -> Opinion must be on time. Generally time period of 6 months and not necessary that opinion is accepted.
- \* In Re Beru Bari -> wherever there are boundaries disputes their parliament is competent in article 3. There is no need of amendment in article 368.
- \* 100<sup>th</sup> amendment, Bangladesh border matter.

**Article 4:** Wherever any act is done in article 2 or 3 then supplemental incidental and consequential amendment in schedule 1 & 4.

## Part II (Citizenship) (5-11)

Q. By required?

Ans. because few fundamental rights are only for the citizens.

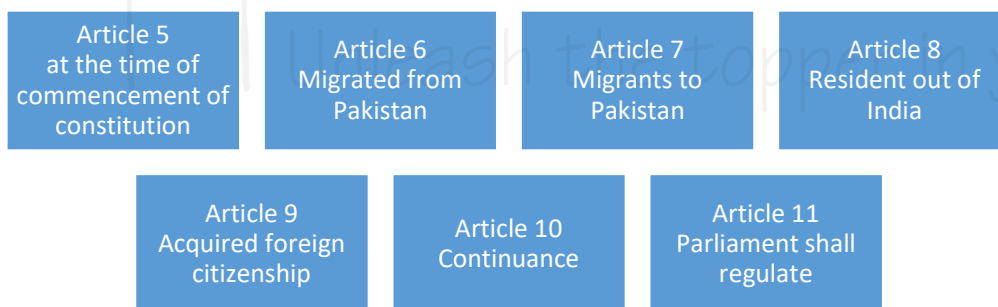
Eg. Article 15, 16, 19, 29, 30

- \* Right to represent/ higher post eg. President, SC/HC judges
- \* Right to vote

In constitution  
Article 5-11

Citizenship  
 Citizenship Act  
 1955

#Constitution (article 5-11)



**Article 5:** At the time of commencement of constitution every person who is following shall be considered citizen of India.

- a. Domiciled in territory of India, and
- b. He is born in India.
- c. Either of the parents born in India.
- d. Ordinary resident in Indian not less than 5 years.

Domicile = resident + Intention

- \* Michael Vs State of Bombay -> merely residence is not sufficient there must be intention also.
- \* Pradeep Jain Vs UOI -> single citizenship in India, person can reside anywhere in India.
- \* There is only domicile of the country.
- \* State of Maharashtra Vs Prabhakar
- \* Every person includes prisoners also.

Article 6: Any person, who has migrated to Indian from Pakistan, he shall be citizen of Indian if:

- a. Parents, grandparents born in India
- b. If he has come in India before 19 July, 1948.
- c. If came after this date he has to apply & give certify that he was in India for 6 months before application.

Article 7: if any person migrated to Pakistan after 1 mar, 1947 then he is not citizen of India, except he comes back before 19 July 1948 and with the permission or re-settle.

Article 8: Wherever any person is residing out of Indian then he can go to Indian counselor representative or diplomatic agent of India and take citizenship if:

- a. Born in India
- b. His parents or grandparents born in India.

Article 9: If any person voluntarily takes citizenship of other country then not considered citizen of India.

Article 10: Every person who is citizen of India, he shall continue except law of Parliament.

Article 11: Parliament can make law regarding citizenship (acquisition termination and other matters.)

## The Citizenship Act, 1955 (Act no 55 of 1955)

Acquisition of citizenship is by following manner:

Sec 3: by birth

Sec 4: by descent

Sec 5: by registration

Sec 6: naturalization

Sec 7: by incorporation

Parliament provides the overseas citizenship to the people of Indian origin in 16 specified countries.

### Sec 3:

- \* Wherever birth of child on or before 26 Jan 1950 in India.
- \* Either of the parents is Indian, on or after 1<sup>st</sup> July 1987.
- \* Now both parents should be Indian (amendment 2003) (one Indian + not illegal immigrant)

### Sec 4:

- \* Father should be citizen of India, 10 Dec 1992.
- \* Now either of the parents (amendment 2003)
- \* And within 1 year of birth should get registration within Indian Council.

### Sec 5: There can be registration

- \* 7 years (if from few countries then years differ)

### Sec 6: When person attains full age then apply.

### Sec 7: When area acquired then citizens of that area.

## Overseas Citizenship (came in 2003) (Person of Indian origin)

### Dual citizenship

Sec 7A: now person of other country can also become citizen of India.

Sec 7B: he shall have all the rights except:

- (i) No right of employment under article 16.
- (ii) He is not eligible for various post president, vice president etc.
- (iii) He can't vote
- (iv) Restriction in representation of people act.

Few benefits are:

- (i) In education
- (ii) Home loan

\* Sec 7C: person can renounce his citizenship

\* Sec 7B: Govt. can cancel in citizenship

### Termination

Sec 8: Renounce person of full age & capacity.

Sec 9: Terminate (parliament shall make law)

Sec 10: Deprivation (only one person who has been registered or naturalized)

- \* By following a giving false statement, fraud doubtful act during war or disloyal.
- \* All the above decision there can be review & revision to central govt. within 30 days.
- \* Refer citizenship amendment act 2019.

Q. Whether only natural person can be citizen?

Ans. yes, only natural person not legal person.

- \* State trading corporation Vs CTO
- \* British Indian steam navigation company Vs Jagjit Singh
- \* Companies are not citizen.
- \* RC copper Vs UOI
- \* Benet Coveman Vs UOI