



# PEP - 2024

**PRELIMS EXCLUSIVE PROGRAMME**

**ONE STOP DESTINATION FOR PRELIMS PREPARATION**

**POLITY**

**HANDOUTS**





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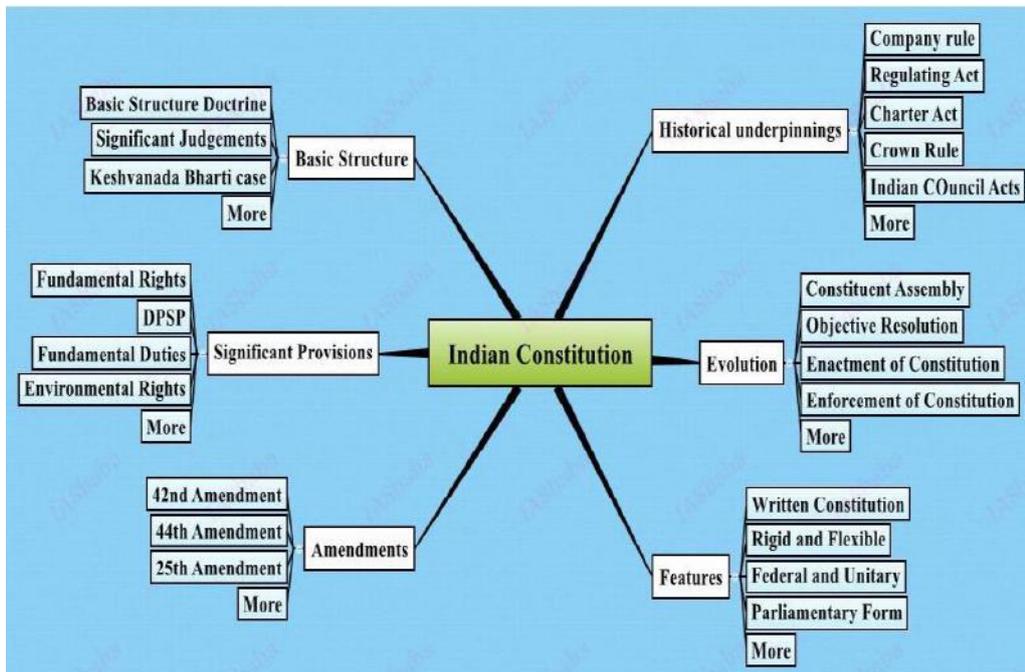
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### TOPICS:

Basic concepts- State,  
Nation,  
Country,  
Types of Governments.  
Historical development of Constitution- Need for Constitution,  
Constitutionalism,  
Making of Constitution,  
Salient features,  
Preamble - Nature of State and Objectives

### PREVIOUS YEARS QUESTIONS

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## STATE

In ancient times human beings lived in communities. The obvious fact is that human beings are social animals and they cannot live in isolation. They belong to society. The collective life that they need assumes certain rules and regulations and gradually such a group life has led to the formation of political communities and the emergence of State

The term 'State' in its modern sense was first used by Machiavelli (1469-1527), the Italian statesman. The State consists of four elements. These are:

- The people;
- The territory on which they live;
- The government to rule and regulate the lives of the people
- Sovereignty, which implies unrestricted authority to take decisions and manage its own affairs.

The state to act as 'trustee' of the people means that it should hold people's power as a trust for welfare of the people. It should not consider people as helpless subjects, but as co-rulers in its governance.

Some of the definitions of the concept of State are as follows:

- "The State is the politically organized people of a definite territory" –Bluntschli
- State is "a community of persons, more or less numerous, permanently occupying a definite portion of territory, independent, or nearly so, of external control, and possessing an



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organized government to which the great body of inhabitants render habitual obedience.”

–Garner

- State is “a territorial society divided into governments and subjects, whether individuals or associations of individuals, whose relationships are determined by the exercise of this supreme coercive power.” –Laski
- State “is a people organized for law within a definite territory”. –Woodrow Wilson
- “The State is a concept of political science, and a moral reality which exists where a number of people, living on a definite territory, are unified under a government which in internal matters is the organ of expressing their sovereignty, and in external matters is independent of other governments.” –Gilchrist

### Distinction between State and Society

We must differentiate between state and society otherwise we will be justifying state interference in all aspects of human life, thereby affecting human liberty.

The distinction between the state and the society can be explained as under:

- Strictly speaking, the **state is a political organization**; it is society politically organized. Society, on the other hand, is a social organization and has within it, all types of associations (social, economic, religious, political, cultural and the like). **Society is both broader as well as narrower than the state.** It is broader when it is used to describe the whole community of mankind; it is narrower when it is used to describe a small group of a village.
- In terms of origin, **society is prior to the state.** Society may be said to have been born the day the human life must have begun. But the state did not begin with the society; it must have started at a later stage of social development. Human beings are social being first and then political being
- Being prior to the state, **society is clearly a natural** and therefore, an instinctive institution. The **state is artificial, a created institution**; it was made when it was needed.
- The state exists for the society in the same way as a means exists for its end. The state is, therefore, a means and the society is an end.
- The state is sovereign: no sovereignty means no state; the society is not sovereign; it exists without being sovereign. As sovereign, the state is supreme over all other organizations, institutions and individuals within its boundaries; as sovereign, the state is independent of all other like states; sovereignty gives the state a separate and independent existence.
- The **state has to have a definite territory.** It is, therefore, a territorial organization in so far as it stays on the definite portion of territory: its territorial boundaries are fixed, definite and permanent. Society does have a territory but its territory is not

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permanent; its place of operation may extend or may get limited. The Islamic society, for example, transcends national boundaries.

- The **state has general rules of conduct called the laws**; the society, too, has general rules of conduct but they are called rituals, norms, habits and the like. Laws of the state are written, definite and clear; those of the society, are unwritten, indefinite and vague.
- The state's laws have a binding sanction. The violation of the laws of the state is followed by punishment: physical or otherwise or both. The rules of the society, if violated, lead to social boycott, i.e. social exclusion.
- The area of the state, we may say, is the area of that of taking action in case of disobedience; it has power is force. The area of society, on the other hand, is the area of voluntary cooperation and its power is goodwill; its method is its flexibility.

### Nation and State

By nation, we mean a historically constituted stable community of people formed on the basis of a common language, territory, economic life and physiological make up manifested in a common culture.

NATION connotes the concept of people who are conscious of their historical and cultural background and who wish to perpetuate this background politically, i.e. within the framework of a state.

The state, as we know, is a people organized for law within a definite territory; it is always sovereign-supreme internally and independent externally. The nation is a group of people psychologically bound together while sharing common joys and sorrows. The distinction between state and nation can be explained as under:

- Nation and state are distinct entities. A nation may not be always a state; India was not a state before August, 1947. A state may not always be a nation. Austria - Hungary was a state but not a nation before World War I because the heterogeneous people did not form a culturally homogeneous people.
- The state is a state because it is sovereign. The nation is not a state if it is not sovereign. A nation becomes a nation-state when the nation attains statehood.
- The state is a political concept while the nation is a cultural, and a psychological body. Nation is primarily cultural, and only incidentally political. What it means is that nation is not a political concept, it is only spiritual.
- There is an element of force connected with the state. The state's laws are binding. There is a coercion exercised by the state if its authority is defied. In the case of the nation, there is the element of persuasion.

**Distinction between the nation and nationality is a thin one:**



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- Nationality is a cultural term. It is a psychological, which is generated in a group of people having geographical unity and who belong to a common race, common history, religion, customs and traditions, economic interests and common hopes and aspirations.
- The people of a nationality must have a sense of unity. They must feel that they have something in common which differentiates them from other people. But nation is a people organised; a people united. **What unites people in a nation are feelings of oneness.** Nation gives an idea of an organisation; nationality gives an idea of sentiment.
- The evolution of the state has shown that there may be states with more than one nationalities and there may be nationalities spread over more than one states. The former USSR, as a state, had a considerable number of nationalities; the Korean nationality, to take another example, is spread over two states. Thus a state may or may not co-exist with nationality.

### State and the Government

The government is one element of the state. It is the agency through which laws are made, enforced and those who violate laws, are punished. It is the visible manifestation of state authority. It consists of all the persons, institutions and agencies through which the will of the state is expressed and carried out. Though the state speaks through the government, it is proper to differentiate between the two.

- The state has authority inherent in itself whereas the government has no inherent powers. The government gets its structure, authority and **power from the Constitution of the State.**
- The **state is a larger entity that includes all the citizens;** the government is, relatively a smaller unit that includes only those who are employed to perform its functions. We are all citizens of the state, but we are all not functionaries of the government.
  - The government is an essential organ or agency of the state but it is no more than the state itself than the board of directors of a corporation is itself the corporation.
- The **idea of state is quite abstract.** The government is the concretization of the idea of the state. We see the government, not the state.
- The **state is a near permanent institution;** it is so because it does not die unless it is attacked and made a part of the other state. The government is temporary; it is so because it may change: today's rulers may not be tomorrow's rulers.
- The state may be the same everywhere whereas, the government may vary from one state to another. India, the United States, Great Britain and France for example, are all states. But the governments which work in these states may not be of the same type.



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- The opposition to the state is different from the opposition of the government. We criticize the government; we never condemn the state. The **criticism of the state is a revolt**; the criticism of the government is not a rebellion.
  - We would never hear from an Indian that India is bad; but we would usually hear that the policies of the Indian Government headed by a political party/parties are bad. It is a crime to condemn one's state; it is a duty, in fact it is a right to criticise one's government.

- **Parliamentary Government** is a system of government where the legislative organ of the government is closely related to its executive organ; the cabinet is taken from the legislature and is responsible to it, especially to the lower house of the legislature.
- **Presidential government** is a system of government where the legislative organ of the government is independent of the executive organ; the executive exists separately from the legislature and is not responsible to it.

## MAJOR POLITICAL THEORIES

### Liberalism

Liberalism is too dynamic and too flexible a concept to give it a precise meaning.

Nevertheless, on a broader agreement

- In social sphere, liberalism stands for **secularism** and a society that opposes, all kinds of social discrimination;
- In economic sphere, it favours a **capitalistic economy**, individual ownership of the means of production and maximum profit-earning motive
- In political sphere, it stands for a **democratic polity**, individual rights and liberties, responsive and responsible government, free and impartial judiciary and the like.

### Weaknesses of Liberalism

Liberalism has its own inherent defects. It is a philosophy full of tensions.

- On the one hand, it unfurls the flag of **liberty**, and on the other, it argues for **equality**.
- On the one hand, it works, within the framework of **market society**, it promises equal opportunities to all.
- On the one hand, it asks for unlimited rights to acquire property, and on the other, it seeks to demand a share of profit for the welfare of those who are unemployed and the needy.
- On the one hand, it builds a capitalistic economy, ending up ultimately in inequalities, and on the other, it endeavours to establish an egalitarian society.

### Marxism



- Marxism is a political philosophy of the working class, which advocates equality, social justice, absence of all types of exploitation, a planned economy with employment for each and all
- According to Marx, state, being the result of a class society, is a class institution. It is neither impartial nor just; it is a class institution. It is a partisan, oppressive and exploitative institution; it exists to serve the dominant class of which it is an instrument.
- He says that there will be **dictatorship of the proletariat** meaning the rule of the working class, that follows after the capitalist society.
- Lenin insists that the dictatorship of the proletariat is better than the bourgeois state (controlled by Capitalists), both quantitatively and qualitatively as it looks after the interests and welfare of the whole multitude of the workers rather than handful of capitalists.
- The socialist society that follows the capitalist society after its abolition is a **classless society**. It is a classless society in the sense that all are workers wheresoever they work, in the office, in the factory or on the fields: each gets job according to one's ability ('from each according to his abilities to each according to his work'). The **communist society** which follows the socialist society, will be both the classless society and the stateless society.

The Marxian formulations, in practice, have been really disappointing. Marxism, as a practice, has failed, whatever be the reasons. One chief reason has been its centralizing tendency: the dictatorship of the proletariat becomes the **dictatorship of the communist party**, the party's dictatorship becomes, ultimately, the dictatorship of one man: be that a Stalin or a Mao.

### Gandhism

Gandhism is a political philosophy of Satya and Ahimsa, an alternative solution of all problems faced by humanity, a synthesis of all major political ideologies of the world.

- Gandhiji was a **critic of Western Civilization**. His complaint against western materialism is that it destroys the very essence of spiritualism. He regarded the western type of man as an atomistic individual, with all flesh and no soul.
- Gandhiji is not an admirer of the type of the state that exists in the Western Society. For him, the Western state represented 'violence in a concentrated form'; it is a soulless machine. Accordingly, **Gandhiji, as a philosophical anarchist**, admitted the state, but very unwillingly, only when it is most needed.
  - **Anarchist** is one who is opposed to every type of state; anarchism is a theory of lawlessness: without state, without government, without law.
- Gandhiji advocated what he called, the **Ramrajya**. Gandhism stands for a non-violent state based on (i) the consent of the people (ii) the near unity in the society. Gandhiji



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advocated decentralization of power: both political and economic. The spirit of Gandhian democracy is the spirit of decentralization.

- As **against materialism**, industrialization and capitalism, he made a strong plea for Swadeshi, cottage industries and the theory of Trusteeship.
- Gandhiji's idea of trusteeship was unique. It was unique because it aimed at establishing cordial relations between the capital and the labour. Declaring all property to be the property of the community as a whole, Gandhiji pleaded that all the employers (industrialists, capitalists and the like) are the trustees of what they hold.
- Gandhiji's whole social philosophy is a **philosophy of equality**: equality not in the sense of absolute equality, but in the sense that as human beings, all are equal. A society based on equality, according to Gandhiji, is a society which rejects any and every type of discrimination: either on the basis of caste, creed, class, sex, race, or region.
- **Sarvodaya**, as Gandhiji had visualised, is the greatest good of all the members of the society. It is the welfare of all. It is the good of the individual together with the good of all the individuals, i.e., the good of each with the good of all. The concept of good in Sarvodaya is not merely material, it is moral and spiritual as well.

## CONSTITUTION

*Constitution means a set of fundamental principles, basic rules and established precedents (means standards/instances).*

- It identifies, defines and regulates various aspects of the State and the structure, powers and functions of the major institutions under the three organs of the Government – the executive, the legislature and the judiciary.
- It also provides for rights and freedoms of citizens and spells out the relationships between individual citizen and the State and government.
- A Constitution may be written or unwritten, but it contains fundamental laws of the land. It is the supreme and ultimate authority
- A Constitution also lays down limits on the power of the government to avoid abuse of authority.
- Moreover, it is not a static but a living document, because it needs to be amended as and when required to keep it updated.
- Its flexibility enables it to change according to changing aspirations of the people, the needs of the time and the changes taking place in society.



## CONSTITUTIONAL VALUES

- The Constitution of any country lays down certain ideals that form the basis of the kind of country that we as citizens aspire to live in.
- A country is usually made up of different communities of people who share certain beliefs, but may not necessarily agree on all issues.
- A Constitution helps serve as a set of principles, rules and procedures on which there is a consensus. These form the basis according to which the people want the country to be governed and the society to move on.
- This includes not only an agreement on the type of government but also on certain ideals that the country should uphold.

### Constitutionalism

- Constitutionalism is the doctrine often associated with the political theories of John Locke. It says that government powers should be legally limited and its authority or legitimacy depends on observing these limitations.
- Constitutionalism is the doctrine that governs the legitimacy of government action, and it implies something far more important than the concept of legality, which requires official conduct to follow pre-determined legal rules.
- Therefore, Constitutionalism recognizes the need for a government with powers while also insisting that those powers be limited.
- The concept of constitutionalism has been recognised by the Supreme Court in **Rameshwar Prasad v. Union of India**. The Court stated, "The constitutionalism or constitutional system of Government abhors absolutism – it is premised on the Rule of Law in which subjective satisfaction is substituted by objectivity provided by the provisions of the Constitution itself."
- In **IR Coehlo v. State of Tamil Nadu**, the Court held that Constitutionalism is a legal principle that requires control over the exercise of governmental power to ensure that the democratic principles on which the government is formed shall not be destroyed. Chandrachud, CJ, in Minerva Mills case observed, – "The Constitution is a precious heritage and, therefore, you cannot destroy its identity".

### Principles of Constitutionalism

**Constitutionalism is an amalgamation of the following underlying principles:**

- **Separation of Powers**
  - Separation of powers divides the mechanism of governance into three branches i.e., Legislature, Executive and the Judiciary.
  - This not only prevents the monopolization of power, but also creates a system of checks and balances.
  - As this division of powers is in the Constitution itself, this becomes an effective tool for ensuring Constitutionalism.



- **Responsible and Accountable Government**
  - In a democratic setup, the government is elected so that it can serve the people who help elect it. It is in this sense that the electors have a right to demand accountability and answers from their government.
  - Therefore, when the government fails the expectations of the electorate, the authorization to govern is revoked by voting them out.
- **Popular Sovereignty**
  - The concept of popular sovereignty lays down that the government derives its legitimacy from the people.
  - No corporate body, no individual may exercise any authority that does not expressly emanate from it.
  - Even though there is a certain sovereign entity that is empowered to govern, ultimate sovereignty resides in the nation.
  - The power of such a sovereign entity emanates from the public.
- **Rule of Law**
- The presence of rule of law means that the government does not belong to men but to the laws. Dicey lays down three essential components of Rule of Law:
  - Nobody is to be punished except for a specific breach of law that is established in an ordinary legal manner before ordinary courts of law.
  - No one is above the law.
  - Courts play a vital role in protecting the rights and freedoms of an individual.
- **Independent Judiciary**
  - The Judiciary is the upholder of Rule of law and if its independence is taken away, it puts the entire rule of law in jeopardy. Indian Constitution therefore envisages the separation of the judiciary from the Executive under Article 50.
- **Individual Rights**
  - The rights of the individual shall be at the highest pedestal for constitutionalism to thrive.
  - These individual rights have not only been protected by the courts but have also been interpreted in a manner where their effect and implementation has broadened.
  - The enforcement of these rights is ensured by the Constitutional Courts i.e. the Supreme Court and the High Courts.
- **Civilian control of the military and Police**
  - Apart from these features, constitutionalism envisages that the control of the military should be in the hands of a civilian government so that the military does not interfere in the democratic decision making or attempt a military coup.
  - Constitutionalism also envisages that police while performing its duties shall uphold the rights, freedoms and dignity of the individuals, the same can be ensured by bringing the police under the control of laws and courts.



## HISTORICAL DEVELOPMENTS OF INDIAN CONSTITUTION

Act	Features/Provisions
Regulating Act 1773	<ul style="list-style-type: none"><li>Designated Governor of Bengal as <b>Governor General of Bengal</b> and created an <b>Executive Council</b> of four members to assist him. (First GG of Bengal was Lord Warren Hastings)</li><li>The Governors in Councils at Madras and Bombay were brought under the control of Bengal, especially in matters of foreign policy. Now, they could not wage war against Indian states without Bengal's approval.</li><li>The company directors were elected for a period of five years and one-fourth of them were to retire every year. Also, they could not be re-elected.</li><li>The company directors were directed to make public all correspondence on revenue, civil and military matters with Indian authorities before the British authorities.</li><li><b>Established SC @ Calcutta in 1774</b> with Sir Elijah Impey as the first Chief Justice. (1 CJ and 3 judges). It had civil and criminal jurisdiction over the British subjects and not Indian natives.</li></ul>
Amending Act 1781	<ul style="list-style-type: none"><li>To rectify the defects of Regulating Act, 1773</li><li>Also known as Act of Settlement</li><li><b>Exempted</b> Governor-General and the council from the jurisdiction of Supreme Court for acts done by them in official capacity (also exempted servants of the company)</li><li>It provided that the Supreme Court was to have <b>jurisdiction over all the inhabitants of Calcutta</b>. It also required the court to administer the personal law of the defendants i.e., Hindus were to be tried according to the Hindu law and Muslims were to be tried according to the Mohammedan law.</li><li>It laid down that the appeals from the Provincial Courts could be taken to the Governor-General-in-Council &amp; not to the SC</li></ul>
Pitts India Act 1784	<ul style="list-style-type: none"><li>It <b>distinguished</b> between the commercial and political functions of the Company.</li><li>It allowed the <b>Court of Directors</b> to manage the commercial affairs, but created a new body called <b>Board of Control</b> to manage the political affairs. Thus, it established a system of <b>double government</b>.</li><li>It empowered the Board of Control to supervise and direct all operations of the civil and military government or revenues of the British possessions in India.</li><li>Company's territories in India were for the first time called the '<b>British possessions in India</b>'</li></ul>



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	<ul style="list-style-type: none"><li>British Government was given the <b>supreme control</b> over Company's affairs and its administration in India</li></ul>
<b>Act of 1786</b>	<ul style="list-style-type: none"><li>In 1786, Lord Cornwallis was appointed as the Governor-General of Bengal. He placed two demands to accept that post, viz.,<ol style="list-style-type: none"><li>1. He should be given power to override the decision of his council in special cases.</li><li>2. He would also be the Commander-in-Chief.</li></ol></li><li>Accordingly, the Act of 1786 was enacted to make both the provisions.</li></ul>
<b>Charter Act of 1793</b>	<ul style="list-style-type: none"><li>It extended the overriding power given to Lord Cornwallis over his council, to all future Governor-Generals and Governors of Presidencies.</li><li>It extended the trade monopoly of the Company in India for another period of twenty years</li><li>It laid down that the members of the Board of Control and their staff were, henceforth, to be paid out of the Indian revenues.</li></ul>
<b>Charter Act of 1813</b>	<ul style="list-style-type: none"><li>It <b>abolished the trade monopoly of the company</b> in India i.e., the Indian trade was thrown open to all British merchants. However, it continued the monopoly of the company over trade in tea and trade with China.</li><li>It <b>allowed the Christian missionaries</b> to come to India for the purpose of enlightening the people.</li><li>It provided for the <b>spread of western education</b> among the inhabitants of the British territories in India.</li><li>It <b>authorised the Local Governments</b> in India to impose taxes on persons. They could also punish the persons for not paying taxes.</li></ul>
<b>Charter Act 1833</b>	<ul style="list-style-type: none"><li>Made GG of Bengal as GG of India (William Bentick)</li><li>Deprived the Governors of Bombay and Bengal of their legislative powers</li><li>Laws made under this act were known as acts (previously-regulations)</li><li>Ended commercial activities of EIC &amp; it became purely administrative body</li><li>Attempted to introduced system of open competition in Civil Services and stated that Indians should not be debarred from holding any post. However this provision was negated by opposition from the Court of Directors</li></ul>
<b>Charter Act 1853</b>	<ul style="list-style-type: none"><li>Separated legislative and executive functions of the governor-general's Council.</li><li>Established six membered Governor-General's legislative council known as Indian Legislative Council (functioned as mini Parliament,</li></ul>



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	<p>legislation was considered as separate function)</p> <ul style="list-style-type: none"><li>• Introduced <b>open competition for Civil Services</b>. The covenanted civil service was, thus, thrown open to the Indians also.</li><li>• Accordingly, the <b>Macaulay Committee</b> (the Committee on the Indian Civil Service) was appointed in 1854.</li><li>• Introduced <b>Local representation in Indian (Central) Legislative Council</b> (Out of six, four were appointed by the provincial governments of Madras, Bombay, Bengal and Agra).</li><li>• It extended the Company's rule and allowed it to retain the possession of Indian territories on trust for the British Crown. But, it did not specify any particular period, unlike the previous Charters (Indication that Company's rule can be terminated any time the Parliament liked)</li></ul>
<b>GOI Act 1858</b>	<ul style="list-style-type: none"><li>• Abolished EIC &amp; transferred the powers to British Crown.</li><li>• Changed the designation from GG of India to Viceroy of India (Lord Canning)</li><li>• Ended the system of Dual govt by abolishing COD &amp; BOC</li><li>• Created a new office: Secretary of State (SoS) &amp; 15 member council to assist SoS (advisory body)</li><li>• SoS was a member of the British Cabinet and was responsible ultimately to the British Parliament.</li></ul>
<b>Indian Council Act 1861</b>	<ul style="list-style-type: none"><li>• Beginning of the <b>representative institutions</b> by associating Indians with the law-making process.</li><li>• Viceroy should <b>nominate some Indians as non-official members</b> of his expanded council (Raja of Benaras, the Maharaja of Patiala and Sir Dinkar Rao)</li><li>• Initiated the process of <b>decentralization</b> by restoring powers to Bombay &amp; Madras.</li><li>• Provided for establishment of <b>new Legislative Council</b> in Bengal (1862), NWFP (1886) and Punjab (1897)</li><li>• Gave recognition to <b>Portfolio system</b> ( by Lord Canning in 1859)</li><li>• Empowered Viceroy to issue ordinance without concurrence of Legislative Council in emergency (life: 6 months)</li></ul>
<b>Indian Council Act 1892</b>	<ul style="list-style-type: none"><li>• Increased the number of additional (non-official) members in Central &amp; provincial councils but maintained official majority.</li><li>• Gave <b>power to discuss Budget</b> (that was introduced in 1860)</li><li>• Provided for nomination of some non-official members (<b>indirect use of election</b> even though word election is not used) of<ul style="list-style-type: none"><li>(a) Central Legislative Council by the viceroy on the recommendation of the provincial legislative councils and the Bengal Chamber of Commerce, and</li></ul></li></ul>



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	(b) that of the provincial legislative councils by the Governors on the recommendation of the district boards, municipalities, universities, trade associations, zamindars and chambers.
<b>Indian Council Act 1909</b>  Also known as <b>Morley (SoS)-Minto (Viceroy) Reforms</b>	<ul style="list-style-type: none"><li>• Legislative councils size increased. Central council increased from 16 to 60 (Provincial councils also increased but not uniform)</li><li>• It retained official majority in the Central legislative council, but allowed the provincial legislative councils to have nonofficial majority.</li><li>• Enlarged deliberative function of legislative council. Ex: supplementary questions &amp; <b>resolutions on budget</b> allowed.</li><li>• Introduced a system of <b>communal representation of Muslims</b> by accepting the concept of Communal Electorate.</li><li>• First time <b>association of Indians with executive councils</b> of Viceroy &amp; Governors (Satyendra Prasad Sinha as law member)</li><li>• Also provided for the separate representation of presidency corporations, chambers of commerce, universities and zamindars.</li></ul>
<b>GOI Act 1919</b>  Came into force in 1921  Also known as <b>Montagu (SoS)-Chelmsford (Viceroy) reforms</b>	<ul style="list-style-type: none"><li>• It clearly demarcated the central and provincial subjects</li><li>• <b>Dyarchy</b>: Provincial Subjects were further divided into transferred (by Governor with aid of ministers responsible to Legislative Council) and reserved subjects (by Gov &amp; executive council without being responsible to Legislative Council).</li><li>• Introduced Bicameralism and <b>direct elections</b>.</li><li>• Central Legislative Council was replaced by Upper house &amp; lower house. The majority of members of both the Houses were chosen by direct election.</li><li>• Required that 3/6 of viceroys Executive Councils were to be Indians (other than the Commander-in-chief)</li><li>• <b>Extended the principle of Communal representation</b> by providing separate electorates to Sikhs, Indian Christians, Anglo-Indians &amp; Europeans.</li><li>• Granted <b>Franchise to limited people</b> based on education, tax or property.</li><li>• Created a new office of <b>High commissioner for India</b> in London and transferred few secretariat functions.</li><li>• Established <b>central PSC in 1926</b> to recruit civil servants.</li><li>• Separated for first time <b>provincial and central budget</b> and authorised the provincial legislatures to enact their budgets</li><li>• It provided for the appointment of a <b>statutory commission</b> to inquire into and report on its working after ten years of its coming into force.(Simon Commission)</li></ul>
<b>Simon Commission</b>	<ul style="list-style-type: none"><li>• All the members of the commission were British and hence, all the</li></ul>



	<p>parties boycotted it.</p> <ul style="list-style-type: none"><li>• Submitted report in 1930 and recommended<ul style="list-style-type: none"><li>○ The abolition of dyarchy</li><li>○ Extension of responsible Government in the provinces</li><li>○ Establishment of a federation of British India and princely states</li><li>○ Continuation of communal electorate</li></ul></li><li>• To consider the proposals of the commission, the British Government convened three round table conferences of the representatives of the British Government, British India and Indian princely states.</li><li>• On the basis of these discussions, a 'White Paper on Constitutional Reforms' was prepared and submitted for select committee of British Parliament which later led to GOI Act, 1935 with certain modifications</li></ul>
<b>GOI Act 1935</b>	<ul style="list-style-type: none"><li>• Act divided the powers into 3 list: Federal list (59), Provincial list (54) and Concurrent list(36). Residuary powers with Viceroy.</li><li>• Provided for the establishment of an All-India Federation consisting of provinces and princely states as units. But never came into being as Princely States didn't join it.</li><li>• It abolished Dyarchy in provinces &amp; introduced <b>provincial autonomy</b>.</li><li>• Introduced <b>responsible Governments in provinces</b>, that is, the Governor was required to act with the advice of ministers responsible to the provincial legislature. This came into effect in 1937 and was discontinued in 1939.</li><li>• Provided for adoption of dyarchy at the center i.e. reserved subjects &amp; transferred subjects. Did not come into operation.</li><li>• Introduced Bicameralism in 6 /11 provinces (Bengal, Bombay, Bihar, Madras, UP and Assam)</li><li>• It further extended the principle of communal representation by providing separate electorates for depressed classes (Scheduled Castes), women and labour (workers).</li><li>• Abolished Council of India Established by 1858 act. Instead SoS was to be assisted by team of advisors</li><li>• <b>Extended franchise</b> (10% of population got voting rights)</li><li>• <b>Established RBI</b> to control currency and credit of the country.</li><li>• Provided for establishment of Federal PSC, Provincial PSC &amp; Joint PSC</li><li>• Established Federal court (set up in 1937)</li></ul>
<b>Indian Independence Act 1947</b>	<ul style="list-style-type: none"><li>• Ended British rule in India &amp; declared India as an independent &amp; sovereign state from 15 August 1947</li><li>• Provided for the partition of India and creation of Pakistan with the right to secede from British Common wealth.</li><li>• Abolished Office of Viceroy and provided each dominion a Governor</li></ul>



General who was to be appointed by British King on the advice of dominion Cabinet

- It empowered Constituent Assemblies to enact constitution of their own and **repeal any British laws including this act.**
- It granted freedom to Indian Princely states to join India or Pak or remain Independent.
- It deprived British Monarch right to veto bills, but this right was reserved for Governor General (GG).
- Designated GG of India and Provincial governors as Constitutional heads (nominal).
- It discontinued the appointment to CS's and reservation of posts by secretary of state for India.
- Lord Mountbatten became the 1st GG of new dominion India who swore in Jawaharlal Nehru as the 1st PM
- The constituent Assembly of India formed in 1946 became the Parliament of dominion India

### Objectives Resolution

The philosophy underlying the Indian Constitution was embodied quite early in the Objective Resolution which was moved in the first session of the Constituent Assembly on December 13, 1946 by Pt. J.L. Nehru and adopted after considerable debate and deliberation in the Assembly on January 22, 1947.

- To foster unity of the nation and to ensure its economic and political security, to have a written Constitution, and to proclaim India as a Sovereign, Democratic Republic.
- To have a federal form of government with the distribution of powers between the Centre and the States.
- To guarantee and secure justice, equality, freedom of thought, expression, belief, faith, worship, vocation, association and action to all the people of India.
- To provide adequate safeguards for minorities, backward and tribal areas and depressed and other backward classes.
- To maintain the integrity of the territory of the Republic and the sovereign rights on land, sea and air according to the law of civilized nations.
- To attain rightful and honoured place in the world and make willing contribution to the promotion of world peace and the welfare of mankind.

### Constituent Assembly

- In 1934, M N Roy first proposed the idea of a constituent assembly.
- The demand was taken up by the Congress Party in 1935 as an official demand.
- The British accepted this in the **August Offer of 1940.**



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- Under the **Cabinet Mission plan** of 1946, elections were held for the formation of the constituent assembly.
- The members of this assembly were **elected indirectly**, i.e., by the members of the provincial assemblies by the method of a single transferable vote of proportional representation.
- Initially, the number of members was 389 (Cabinet Mission Plan). After partition, some of the members went to Pakistan and the number came down to 299. Out of this, 229 were from the British provinces and 70 were nominated from the princely states (who gradually joined it)
- After Partition, members of the Muslim League from the Indian Dominion also entered the Assembly.
- **Dr. Sachchidananda Sinha** was the first temporary chairman of the Constituent Assembly.
- Later, **Dr. Rajendra Prasad** was elected as the President and its Vice President was **Harendra Coomar Mookerjee**.
- The Assembly also became a legislative body. Whenever the Assembly met as the Constituent body it was chaired by Dr. Rajendra Prasad and when it met as the legislative body, it was chaired by **G.V. Mavlankar**.
- **B N Rau** was the constitutional advisor and **H.V.R. Iyengar** was the Secretary to assembly.
- Elephant was adopted as the symbol (seal) of the Constituent Assembly.
- The assembly first met on 9 December 1946. The Muslim League had boycotted this meeting citing their demand for partition.
- The **National Flag** of the Union was adopted on 2 July 1947.
- The time taken by the assembly to frame the constitution: 2 years, 11 months and 18 days. Money spent in framing the constitution: Rs.64 lakhs.
- On 24 January 1950, '**Jana Gana Mana**' was adopted as the national anthem.
- The final document had 22 parts, 395 articles and 8 schedules.
- The draft was published in January 1948 and the country's people were asked for their feedback and inputs within 8 months.
- The last session was held during 14 – 26 November 1949.
- The constitution was passed and **adopted by the assembly on 26 November 1949**.
- The constitution came into force on 26 January 1950 (which is celebrated as Republic Day).
- It elected Dr. Rajendra Prasad as the first President of India on January 24, 1950.
- The original version was beautified and decorated by artists from Shantiniketan including Nand Lal Bose and Beohar Rammanohar Sinha.



### Committees & their Chairmen

1. Drafting Committee: Dr. B R Ambedkar
2. Union Constitution Committee: Jawaharlal Nehru
3. Union Powers Committee: Jawaharlal Nehru
4. States Committee: Jawaharlal Nehru
5. Steering Committee: Dr. Rajendra Prasad
6. Rules of Procedure Committee: Dr. Rajendra Prasad
7. Provincial Constitution Committee: Vallabhbhai Patel

### Criticism of Constituent Assembly:

- Not a representative body
- Not a sovereign body
- Time consuming
- Dominated by congress
- Lawyer- Politician Dominance
- Dominated by Hindus

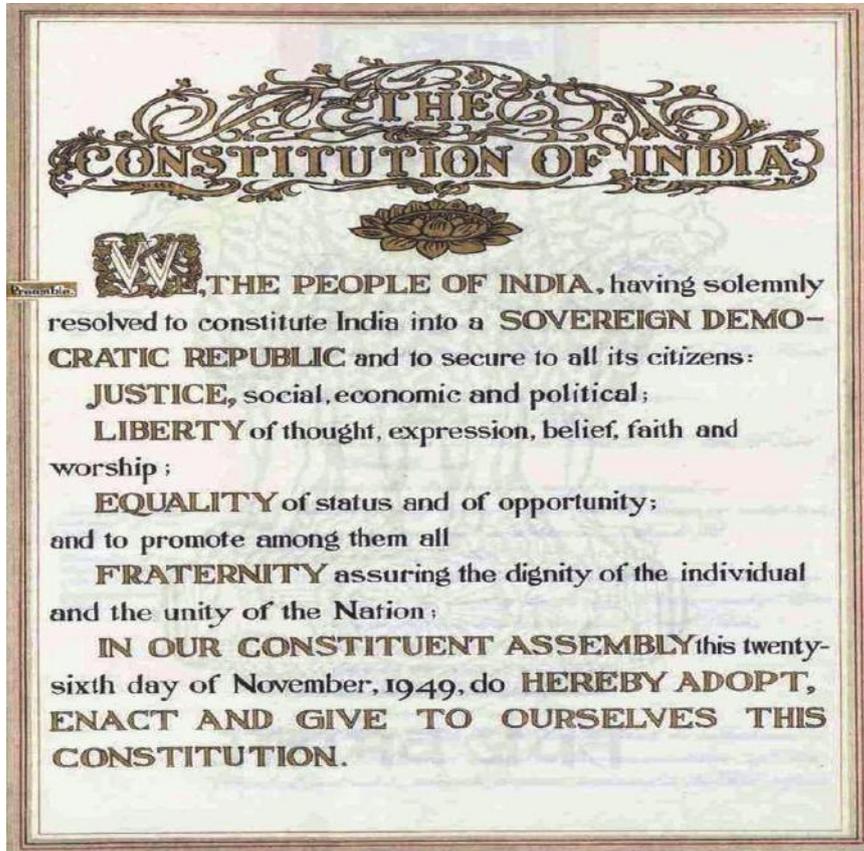
### Notes

### Salient Features of Indian Constitution

- Longest Written Constitution (448 Articles, 25 parts and 12 schedules)
- Drawn from various sources
- Blend of rigidity & Flexibility ->Article 368 provides for 2 types of amendment (simple & special majority)
- Federal system with unitary bias
- Parliamentary form of government
- Synthesis of parliamentary sovereignty (UK model) and judicial supremacy (US model)
- Integrated and Independent judiciary
- Fundamental Rights (to promote political democracy)
- Directive Principles of State Policies (to promote socio-economic democracy)
- Fundamental Duties (added by 42nd CAA, 1976 on Swarna Singh committee recommendations, in part IV-A, Article 51 (A), it has 11 FDs)
- Secular state
- Universal Adult Franchise (reduced to 18yrs by 61st CAA, 1989)
- Single Citizenship
- Independent bodies
- Emergency provisions (Article 352, 356, 365, 360)
- 3 Tier Government – Union, State & Local



PREAMBLE



Significance of the Preamble

- Based on the 'Objectives Resolution'
- Source of the constitution as People of India
- Not a source of power & not a prohibition to legislature
- Non-justiciable.
- Amendment of Preamble: Yes, it can be amended without affecting Basic features of the constitution
- Amended- Yes (so far once, 42nd Constitutional Amendment Act; new words— Socialist, Secular and Integrity).
- Objectives- it specifies justice, liberty, equality, fraternity, unity and integrity.

Sovereign	India is neither a dependency nor a dominion of any other nation.
Socialist	The term means the achievement of socialist ends through democratic means. It holds faith in a mixed economy where both private and public sectors co-exist side by side. <ul style="list-style-type: none"> <li>○ It was added in the Preamble by 42<sup>nd</sup> Amendment, 1976.</li> </ul>
Secular	All religions in our country (irrespective of their strength) have the same status and support from the state. It was incorporated in the Preamble by



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	42 <sup>nd</sup> Constitutional Amendment, 1976.
Democratic	Political, social and economic democracy. The term implies that the Constitution of India has an established form of Constitution which gets its authority from the will of the people expressed in an election.
Republic	Political sovereignty lies with people and public offices are open to all.
Justice	The term 'justice' in the Preamble embraces three distinct forms—social, economic and political. <ul style="list-style-type: none"><li>• <b>Social Justice</b> – Social justice means that the Constitution wants to create a society without discrimination on any grounds like caste, creed, gender, religion, etc.</li><li>• <b>Economic Justice</b> – Economic Justice means no discrimination can be caused by people on the basis of their wealth, income, and economic status. Every person must be paid equally for an equal position and all people must get opportunities to earn for their living.</li><li>• <b>Political Justice</b> – Political Justice means all the people have an equal, free and fair right without any discrimination to participate in political opportunities.</li></ul>
Liberty	Absence of restraints on the activities of individuals
Equality	It means the absence of special privileges to any section of the society.
Fraternity	A sense of brotherhood.

**Preamble a part of constitution or not?**

➤ Berubari Union case, 1960	Is not a part
➤ Keshvananda Bharati case, 1973	It is a part
➤ LIC of India Case, 1995	Integral part

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