



Introduction to Constitution

(संविधान का परिचय)

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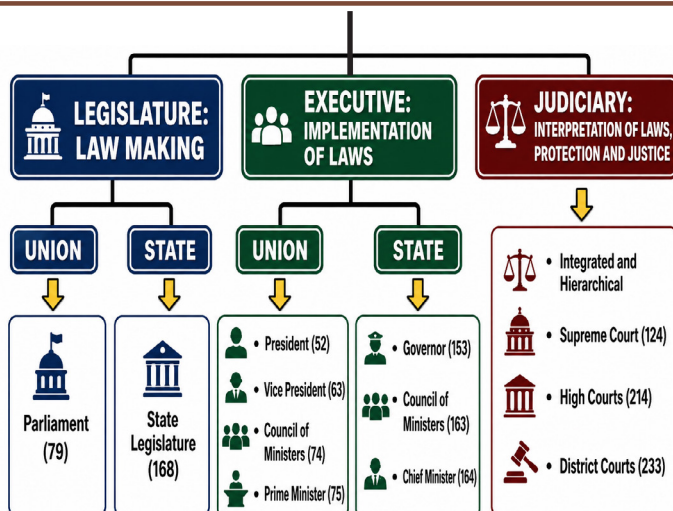
Introduction to Constitution

1. Constitution
2. Organs of Government
3. Classification of the Constitution
4. Democracy
5. Various Systems of Government
6. Salient Features of Indian Constitution
7. Federalism in India
8. 12 Schedules

Constitution

- ❖ **Constitution** → Fundamental laws governing a state and limiting government power.
- ❖ **Objective** → To define and limit the powers of government.
- ❖ **Constitutionalism** → The authority of a government is derived from and strictly limited by constitution

Organs of Government



Theory of Separation of Powers → French philosopher Montesquieu

Classification of the Constitution



Written

- ❖ A codified document framed and adopted by a specific body.
- ❖ **Examples :**
 - **USA** : The world's oldest and the shortest written constitution. Drafted: 1787 | Inforce: 1789 | Total: 7 Articles
 - **Monaco** : The world's shortest constitution in terms of the number of words.
 - **India** : The world's lengthiest and most detailed written constitution. → 395 Articles, 22 Parts, and 8 Schedules.
 - **Meiji Constitution (Japan)** : The oldest modern constitution in Asia, (1889)

Unwritten

- ❖ A constitution based on conventions, laws, judicial decisions, and established practices.
- ❖ It is generally more flexible in nature.
- ❖ **Examples :**
 - United Kingdom
 - New Zealand
 - Israel
 - Saudi Arabia

- ❖ **15 June 1215: Magna Carta** → The Magna Carta, signed by King John, is considered a major foundation of the British unwritten constitution.

Indian Constitution: Then and Now

Original Constitution vs Present Constitution

When the Constitution came into force (1950)			Present Constitution		
Articles	Schedules	Parts	Articles	Schedules	Parts
395	8	22	448	12	25

Removed Parts

- Part VII - States in Part B of the First Schedule
- Old Part IX - Territories in Part D of the First Schedule and other territories not specified in that Schedule

Added Parts

- Part IVA - Fundamental Duties
- Part IX - Panchayats
- Part IXA - Municipalities
- Part IXB - Co-operative Societies
- Part XIVA - Tribunals

Note: Some books and sources mention the present number of Articles as about 470; here, the commonly used exam-oriented count of 448 is shown.

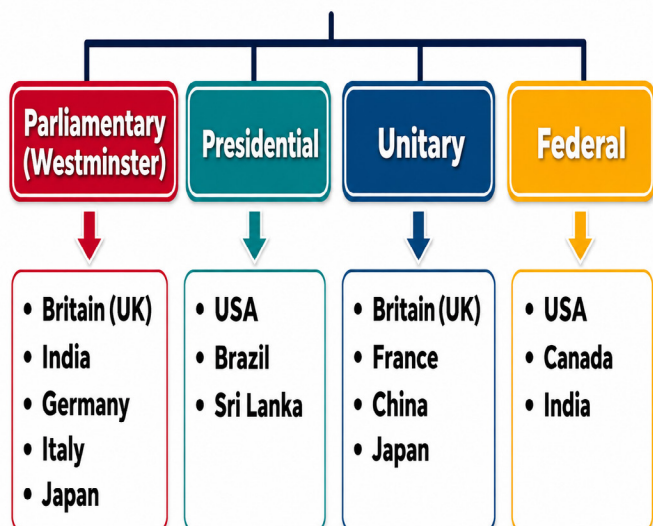
Democracy

- ❖ A system of government in which supreme power is vested in the people.
- Lincoln: "Government of the people, by the people and for the people."

Types

- **Direct Democracy** (Switzerland)
 - Referendum
 - Initiative
 - Recall
 - Plebiscite
- **Indirect or Representative Democracy**
 - Indirect representation
 - India, USA, UK, etc.

Various Systems of Government



Form of Government	Definition	Examples
 Parliamentary	In this system, the executive (government) derives its legitimacy from the legislature (parliament) and is accountable to it. The head of government (Prime Minister) and the head of state (President or Monarch) are separate.	• United Kingdom (UK) • India • Germany • Italy • Japan
 Presidential	In this system, the executive and the legislature are completely independent of each other. The President is directly elected and serves as the real head of both the state and the government.	• USA • Brazil • Sri Lanka
 Unitary	In this system, the entire governing power is concentrated in the hands of a single central government.	• United Kingdom (UK) • France • China • Japan
 Federal	In this system, powers are clearly divided by the Constitution between a central government and various state governments.	• USA • Canada • India

Salient features of Indian Constitution

- ❖ Longest Written Constitution
- ❖ Drawn from Various Sources
- ❖ Blend of Flexibility and Rigidity
- ❖ Federal System with Unitary Bias
- ❖ Parliamentary Form of Government
- ❖ Balance between Parliamentary Sovereignty and Judicial Supremacy
- ❖ Integrated and Independent Judiciary
- ❖ Fundamental Rights
- ❖ Directive Principles of State Policy
- ❖ Fundamental Duties
- ❖ A Secular State
- ❖ Universal Adult Franchise
- ❖ Single Citizenship
- ❖ Emergency Provisions
- ❖ Three-tier Government
- ❖ Cooperative Societies

Federalism in India

- ❖ Federalism is a system of government where power is shared between a central and its constituent units.
- ❖ Article 1 → India, that is Bharat, shall be a Union of States.

Federal Features	Unitary Features
➤ Dual Government ➤ Division of Powers ➤ Written Constitution ➤ Independent Judiciary ➤ Bicameralism ➤ Rigidity ➤ Autonomy of states	➤ Strong Centre: Residuary Powers Vested in the Centre ➤ Single Citizenship ➤ Single Constitution ➤ Integrated Judiciary ➤ Emergency Provisions ➤ Flexibility ➤ Appointment of Governors and All India Services

Junta Rule:

- ❖ The term "Junta" means "military government."
- ❖ It refers to a situation in which a group of military officers seizes control of a country's government and rules by force.
- ❖ Instead of being ruled by a single dictator, the country is governed by a group or committee of senior military officers.
- ❖ Myanmar is currently one of the most prominent examples of junta rule.

Indian Constitution : 12 Schedules

- ❖ The Constitution originally had 8 schedules.
- ❖ Today, there are a total of 12 schedules.

Schedule	Constitutional Amendment	Year	Subject / Purpose
Ninth Schedule	➤ First Constitutional Amendment	1951	➤ To protect land reform laws etc. from judicial review
Tenth Schedule	➤ 52nd Constitutional Amendment	1985	➤ Anti-defection law
Eleventh Schedule	➤ 73rd Constitutional Amendment	1992	➤ 29 subjects related to Panchayati Raj
Twelfth Schedule	➤ 74th Constitutional Amendment	1992	➤ 18 subjects related to Municipalities

Indian Constitution : 12 –Schedules

First Schedule

(States and Union Territories)

- Names, boundaries, and jurisdictions of states and union territories
- Revised when states are created and boundaries are altered

Articles 1 & 4

Berubari Union Case (1960)



Berubari Union Case (1960)

A Historic Judgment on the Indian Constitution and Cession of Territory

In Re: Berubari Union & Exchange of Enclaves, 1960



1 Background

- In 1958, the Nehru–Noon Agreement was made to resolve the India–Pakistan border dispute and the issue of enclaves / transfer of territory.
- The main dispute was whether a part of Berubari Union in West Bengal should be given to Pakistan.

2 Key Question

- Can a part of India's territory be ceded only through executive action?
- Does Article 3 include the power to transfer such territory?

3 Supreme Court Decision

- The Court held that executive action alone is not sufficient for ceding any part of Indian territory.
- A constitutional amendment is necessary for such a transfer.
- This must be done under Article 368, not merely under Article 3.

4 Importance

- The judgment clarified that cession of territory requires a constitutional amendment.
- After this, the 9th Constitutional Amendment Act, 1960 was passed.
- In the Berubari case, the Court also observed that the Preamble is a key to understanding the Constitution, but is not itself a part of the Constitution.
- At that time, the Court did not treat the Preamble as a source of substantive power.

Exam Point

Berubari Case = **Cession of Territory** + **Article 368** + **9th Amendment** + Preamble is not a source of power

Second Schedule

(Salaries and Allowances of Constitutional Authorities)

- President of India
- Governors of States
- Speaker and Deputy Speaker of the Lok Sabha
- Chairman and Deputy Chairman of the Rajya Sabha
- Speaker and Deputy Speaker of State Legislative Assemblies
- Chairman and Deputy Chairman of State Legislative Councils
- Judges of the Supreme Court
- Judges of High Courts
- Comptroller and Auditor General of India (CAG)

Articles 59(3), 65(3), 75(6), 97, 125, 148(3), 158(3), 164(5), 186 & 221

Third Schedule

(Oaths or Affirmations)

- Union (Central) Ministers
- Candidates for Election to Parliament
- Members of Parliament
- Judges of the Supreme Court
- Comptroller and Auditor General of India (CAG)
- State Ministers
- Candidates for Election to the State Legislature
- Members of the State Legislature
- Judges of the High Courts

Articles 75(4), 84, 99, 124(6), 148(2), 164(3), 173, 188, 219

❖ Important Exclusions → President (Article 60) + Vice-President (Article 69) + Governor (Article 159)

Oath vs Affirmation		
Feature	Oath	Affirmation
 Basis	It is based on God or a supreme power. A person makes a promise considering God as a witness.	It is based on a person's own conscience, morality, and integrity.
 Wording	It begins with: "I swear in the name of God..."	It begins with: "I solemnly affirm..."
 For whom	It is mainly for <u>theists</u> who believe in God.	It is for <u>atheists</u> , <u>agnostics</u> , or those whose religious beliefs do not permit them to take an oath.
 Nature	Its nature is <u>religious</u> .	Its nature is <u>secular</u> .

Fourth Schedule

➤ Allocation of Seats in the Rajya Sabha

Articles 4(1) & 80(2)

❖ States with the Highest Number of Rajya Sabha Seats = Uttar Pradesh (31 seats) → Maharashtra (19 seats) → Tamil Nadu (18 seats)

Fifth Schedule

➤ Administration and control of Scheduled Areas and Scheduled Tribes)

➤ Except for Assam, Meghalaya, Tripura, and Mizoram)

Article 244(1)

Sixth Schedule

(Administration of Tribal Areas in Assam, Meghalaya, Tripura and Mizoram)

➤ Autonomous District Councils (ADCs) and Regional Councils are constituted for the administration of tribal areas in Assam, Meghalaya, Tripura and Mizoram (AMTM).

➤ The Governor has the final authority to suspend or dissolve an Autonomous District Council (ADC).

Articles 244(2) & 275(1)

Seventh Schedule

(Union, State and Concurrent Lists)

➤ Division of Powers (Three Lists)

➤ Union List → Originally 97 subjects (currently 100).

➤ State List → Originally 66 subjects (currently 61).

➤ Concurrent List → Originally 47 subjects (currently 52).

Article 246

UNION LIST (LIST I)		STATE LIST (LIST II)		CONCURRENT LIST (LIST III)	
No.	Subject (English)	No.	Subject (English)	No.	Subject (English)
1	Defense	1	Public Order	1	Education
2	Foreign Affairs	2	Police	2	Forests
3	Currency and Coinage	3	Public Health and Sanitation	3	Marriage and Divorce
4	Banking and Insurance	4	Agriculture	4	Criminal Law and Procedure
5	Railways, National Highways, and Airways	5	Local Government (Panchayats and Municipalities)	5	Protection of Wild Animals and Birds
6	Atomic Energy	6	Prisons	6	Trade Unions
7	Census	7	State Public Services	7	Economic and Social Planning
8	Citizenship	8	Liquor / Intoxicating Liquors	8	Electricity
9	Post and Telegraph / Telecommunications	9	Land and Land Revenue	9	Population Control and Family Planning
10	War and Peace	10	Markets and Fairs	10	Newspapers, Books, and Printing Presses

❖ Prafulla Kumar Mukherjee v. Bank of Commerce (1947) → Doctrine of Pith and Substance'

**42वाँ संविधान संशोधन, 1976 | 42nd Constitutional Amendment, 1976**

'मिनी संविधान' | 'Mini Constitution'

राज्य सूची के 5 विषय समवर्ती सूची में स्थानांतरित किए गए। | 5 subjects were shifted from the State List to the Concurrent List.

शिक्षा
| Educationवन
| Forestsवन्य जीव एवं पक्षी संरक्षण
| Protection of Wild
Animals & Birdsबाट और माप
| Weights & Measuresन्याय प्रशासन
| Administration of Justiceसमवर्ती सूची
Concurrent List**Basis of the Seventh Schedule and Parliament's Legislative Power over the State List****Basis of the Seventh Schedule**

- Article 246(1) – Union List
- Article 246(2) – Concurrent List
- Article 246(3) – State List
- Basis of Residuary Powers: Article 248



The Constitution provides 5 exceptional situations in which the Parliament of India (Central Government) can make laws on subjects in the State List.

1 When the Rajya Sabha passes a resolution in the national interest (Article 249)

If the Rajya Sabha passes a resolution by a two-thirds majority of the members present and voting that it is necessary in the national interest for Parliament to make a law on a specified subject in the State List, Parliament can make such a law.

2 During a National Emergency (Article 250)

When a National Emergency is in operation, Parliament gets the power to make laws on any subject in the State List for the whole of India or any part of it.

3 On the request/consent of two or more States (Article 252)

If the legislatures of two or more States pass resolutions requesting Parliament to make a law on a particular subject in the State List for those States, Parliament may do so.

4 To implement international agreements and treaties (Article 253)

Parliament can make laws on State List subjects for implementing international treaties, agreements, or conventions.

5 When President's Rule is imposed in a State (Article 356)

During President's Rule, Parliament can make laws on subjects in the State List for that State.



★ **Article 254(1):** If a law made by a State Legislature on a subject in the Concurrent List is inconsistent or repugnant to a law made by Parliament, then the law made by Parliament (Union law) shall prevail.

★ **Important Exception — Article 254(2):** If a law made by a State Legislature has been reserved for the consideration of the President and has received the President's assent, then that law will remain in force in that particular State, even if it is inconsistent with the Union law.

Eighth Schedule (Recognized Languages)

- 22 officially recognized languages by the Constitution → Originally 14
- Assamese, Bengali, Gujarati, Hindi, Kannada, Kashmiri, Malayalam, Marathi, Odia, Punjabi, Sanskrit, Tamil, Telugu, Urdu
- 21st Constitutional Amendment (1967) → Sindhi
- 71st Constitutional Amendment (1992) : (NaMaK) → Nepali, Manipuri, Konkani
- 92nd Constitutional Amendment (2003) : (BDM-S) → Bodo, Dogri, Maithili, Santhali

Articles 344(1) & 351



Eighth Schedule (8th Schedule)

Languages of the Constitution and Classical Languages



1 Key Facts

- The Eighth Schedule of the Constitution includes **22** languages — originally **14**.
- This topic is related to Articles **344(1)** and **351**.
- English** is not included in the Eighth Schedule.

2 Original 14 Languages

Assamese

Bengali

Gujarati

Hindi

Kashmiri

Marathi

Odia

Punjabi

Sanskrit

Urdu

Dravidian Languages

Tamil

Telugu

Kannada

Malayalam

3 Languages Added Later

21st Amendment
(1967)

Sindhi

71st Amendment
(1992)Nepali
Manipuri
Konkani92nd Amendment
(2003)Bodo
Dogri
Maithili
Santhali

4 Classical Languages of India (11)

A. List of Classical Languages

- | | |
|--------------|--------------|
| 1. Tamil | 7. Marathi |
| 2. Sanskrit | 8. Pali |
| 3. Telugu | 9. Prakrit |
| 4. Kannada | 10. Assamese |
| 5. Malayalam | 11. Bengali |
| 6. Odia | |

B. Details of Granting Classical Language Status

Language	Year Granted	Key Point
Tamil	2004	First language to be declared classical
Sanskrit	2005	—
Telugu	2008	—
Kannada	2008	—
Malayalam	2013	—
Odia	2014	—
Marathi	2024	Included in October 2024
Pali	2024	Included in October 2024 (main language of Buddhist texts)
Prakrit	2024	Included in October 2024 (main language of Jain texts)
Assamese	2024	Included in October 2024
Bengali	2024	Included in October 2024

Eighth Schedule =
22 languagesClassical Languages =
11In 2024, **5** new classical languages
were added:
Marathi, Pali, Prakrit, Assamese, Bengali.

Ninth Schedule (Certain Acts and Regulations)

- Protection of certain laws from judicial challenge → First Constitutional Amendment (1951)
- Original purpose → To protect Land Reform and Zamindari Abolition laws from being challenged in courts on grounds of violation of Fundamental Rights (Judicial Review)

Article 31B

- ❖ Kesavananda Bharati (24 April 1973) → Established the "Basic Structure Doctrine" of the Constitution
- ❖ I.R. Coelho vs. State of Tamil Nadu (2007) → A 9-judge bench unanimously ruled that any law placed in the Ninth Schedule after 24 April 1973 is not immune from Judicial Review

Tenth Schedule (Anti-Defection Provisions)

- Anti-Defection Law → 52nd Constitutional Amendment (1985)
- Members of Parliament and State Legislatures are disqualified on grounds of defection

Articles 102(2) & 191(2)

Eleventh Schedule (Panchayats)

- Panchayats → 73rd Constitutional Amendment (1992)
- It includes 29 subjects (Agriculture, Rural Development, Drinking Water, etc.)

Article 243G

Twelfth Schedule (Municipalities)

- Municipalities → 74th Constitutional Amendment (1992)
- 18 subjects → Urban planning, public health, fire services, etc.

Article 243W

The original Constitution had 8 Schedules; currently, there are 12 Schedules.