

IN Constitutional Law: Exam Notes

Fundamental Rights (Part III, Articles 12-35)

- **Part III** of the Constitution deals with **Fundamental Rights (FRs)** , described as the '**Magna Carta**' of India.
- **Currently Six** FRs are guaranteed.
- **Definition of 'State':** Defined under **Article 12**.
- **Right to Equality (Articles 14-18):** **Article 14** guarantees the **Rule of Law** (Equality before the law and equal protection of laws).
 - "**Equality before law**" is borrowed from the **British (UK) Constitution**.
 - **Article 15** prohibits discrimination on grounds of religion, race, caste, sex, or place of birth.
- **Right to Freedom:**
 - **Article 19(1)(a)** guarantees the **Right to Freedom of Speech and Expression**.
 - **Article 21** protects the **Right to Life and Personal Liberty**.
- **Constitutional Remedies:**
 - **Article 32** (Right to Constitutional Remedies) is called the '**Heart and Soul**' of the **Constitution** by Dr. B.R. Ambedkar.
 - The Judiciary (Supreme Court/High Courts) is the "**Protector of Fundamental Rights**".
 - **Writ of Habeas Corpus:** Issued to release a person unlawfully detained.
 - **Writ of Mandamus:** Commands a public authority to perform a public legal duty.
 - **Writ of Quo Warranto:** Inquires by what authority one holds a public office.
- **Suspension/Restriction:**
 - **Article 20** (Protection in respect of conviction) and **Article 21** (Right to life) **cannot be suspended** even during a national emergency.
 - **Article 33** empowers Parliament to **modify FRs for armed forces**.
- **Key Amendments/Changes:**
 - **Right to Property** was removed from the list of FRs by the **44th Constitutional Amendment Act, 1978**. It is now a **Legal Right** (or Constitutional Right) under **Article 300A**.
 - **Right to Education** was made a Fundamental Right by the **86th Constitutional Amendment Act, 2002** (inserted **Article 21A**).
- **Article 13** makes laws inconsistent with Fundamental Rights **void**.

Directive Principles of State Policy (DPSPs) (Part IV, Articles 36-51)

- Contained in **Part IV** (Articles 36 to 51).
- Borrowed from the **Ireland (Irish Constitution)**.
- **Nature:** They are **non-justiciable** (cannot be enforced by court) but are **fundamental to the governance of the country**.
- **Aim:** To establish a **Welfare State** and a Social and Economic Democracy.
- **Gandhian Principles** reflect **Decentralized and Panchayati Raj** administration (Rural development, cottage industries, prohibition of liquor, etc.).
- **Article 41** (Right to work, to education and to public assistance in certain cases) has been fully implemented through the **MGNREGA Act**.
- **Protection of environment and wildlife** is under **Article 48A** (DPSP); and under **Article 51A(g)** (Fundamental Duty).

Fundamental Duties (Part IVA, Article 51A)

- Incorporated by the **42nd Constitutional Amendment Act, 1976**.
- Recommended by the **Swaran Singh Committee (1976)**.
- Borrowed from the Constitution of **USSR** (erstwhile Soviet Constitution).
- **Originally Ten** duties; the **11th duty** (Duty of a parent or guardian to provide education to his child or ward between the age of six and fourteen years) was added by the **86th Constitutional Amendment Act, 2002**.
- **Nature:** They are **non-justiciable**, meaning they are not legally enforceable by a court.

Union Government & Parliament

- **Three main organs of government:** The **Legislature**, the **Executive**, and the **Judiciary**.
- **Parliament of India** consists of the **President, the Lok Sabha, and the Rajya Sabha**.
- **Bicameral Legislature:** A legislature consisting of two houses or chambers.
- **Lok Sabha (House of the People):** Maximum strength is **550** (530 from States + 20 from UTs). The **Speaker** is elected by its members from among themselves.
- **Rajya Sabha (Council of States):** Called the **permanent house** because it cannot be dissolved; one-third of its members retire every second year. It represents the **States and Union Territories**.
 - The **Vice-President of India** is the **ex-officio Chairman** (presiding officer).
- **Money Bill:** Must originate in the **Lok Sabha**. The **Speaker of the Lok Sabha** decides whether a Bill is a Money Bill.
- **Joint Sitting (Article 108):** Summoned by the **President** in case of disagreement on an Ordinary Bill, and presided over by the **Speaker of the Lok Sabha**.

- **Bill to Law:** A Bill becomes a law after being passed by both Houses and receiving the assent of the President (**Article 111**).
- **Executive:** Drawn from and responsible to the **Legislature (Parliament)** in a parliamentary form of government. The **real executive authority** rests with the **Council of Ministers headed by the Prime Minister**.
- **No Confidence Vote:** Can only be introduced against the **Council of Ministers** (or the entire Executive).
- **Legislative Control over Executive:** Through question hour, zero hour, and various motions.
- **Residuary Powers of Legislation:** Belong to **The Union Parliament (Article 248)**.
- **Checks and Balances:** Constitutional mechanism allowing each organ to limit the powers of the others.

Local Governance (Panchayats and Municipalities)

- **Panchayati Raj System:**
 - **Rajasthan** was the first state to establish it (in Nagaur district, 1959).
 - Head of Gram Panchayat is the **Sarpanch or Pradhan**.
 - **Zila Parishad** (District Council) is the highest body of democratic decentralization at the district level.
- **Municipalities/Urban Local Bodies (ULBs):**
 - Function under the **74th Constitutional Amendment Act, 1992**.
 - Governing body of a large city is called the **Municipal Corporation (Nagar Nigam)**.
 - The **Mayor** is the **Ceremonial/Nominal head**.
 - The **Municipal Commissioner** (Chief Executive Officer) is the **real executive authority**. He is usually an **IAS Officer** appointed by the State Government.
 - Compulsory functions include maintaining public health, sanitation, public works, and registering births and deaths.
- **Grass Root Democracy:** Democratic decision-making at the lowest or village level, primarily through the Panchayati Raj Institutions (PRIs) and Municipalities.
- **State Election Commission:** Established under **Article 243K** (for Panchayats) and **Article 243ZA** (for Municipalities).

District Administration

- **Head of district administration:** **District Collector/District Magistrate/Deputy Commissioner**.
- **Roles of District Collector:** Revenue collection, law and order maintenance (as DM), and development administration (as District Development Officer).
- **Link function:** Acts as a link between the **State Government and the District Administration/People**.

- **Revenue functions:** Collection of land revenue and other government dues, and maintenance of land records.
- **District Magistrate** is responsible for maintaining **Law and Order**.

Election Commission of India (ECI)

- **Composition:** One **Chief Election Commissioner (CEC)** and **two Election Commissioners (ECs)**. It became a multi-member body permanently in **1993**.
- **CEC Appointment:** Appointed by the **President of India**.
- **CEC Tenure:** **Six years** or until he attains the age of **65 years**, whichever is earlier.
- **Independence:** Ensured by the **security of tenure for the CEC** and the fact that the CEC's conditions of service cannot be varied to his disadvantage.
- **Removal of CEC:** Only in the same manner and on the same grounds as a **Judge of the Supreme Court**.
- **Removal of other ECs:** By The **President on the recommendation of the Chief Election Commissioner**.
- **Function:** Superintendence, direction, and control of elections to Parliament, State Legislatures, and the offices of President and Vice-President (**Article 324**). Main function is conducting free, fair, and impartial elections in India.
- **Model Code of Conduct (MCC):** Enforced to regulate the conduct of political parties and candidates.

Other Key Points

- **Original Constitution:** Had **395 Articles, 22 Parts, and 8 Schedules**.
- **Preamble Justice:** Guarantees **Social, Economic, and Political Justice**.
- **Fraternity Objective:** To assure the dignity of the individual and the unity and integrity of the Nation.
- **Flexibility/Rigidity:** The Indian Constitution is a blend of both because the procedure for its amendment is partly simple (flexible) and partly difficult (rigid).
- **Constituent Assembly:** Established to draft the Constitution of India.
 - The Drafting Committee had **Seven** members (1 Chairman + 6 other members).
- **Judiciary:** Judges of the Supreme Court hold office until the age of **65 years**.
- **National Commission for SCs (NCSC):** Formed under **Article 338**.
- **National Commission for STs (NCST):** Created by the **89th Constitutional Amendment Act, 2003** (inserted **Article 338A**).
- **Article 340** deals with the appointment of a Commission to investigate the conditions of **Backward Classes**.
- **National Commission for Women** was established in **1992** (as a statutory body).