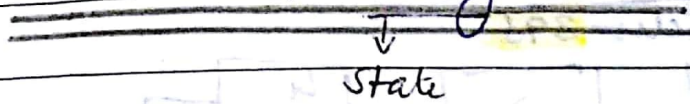


Indian Constitution

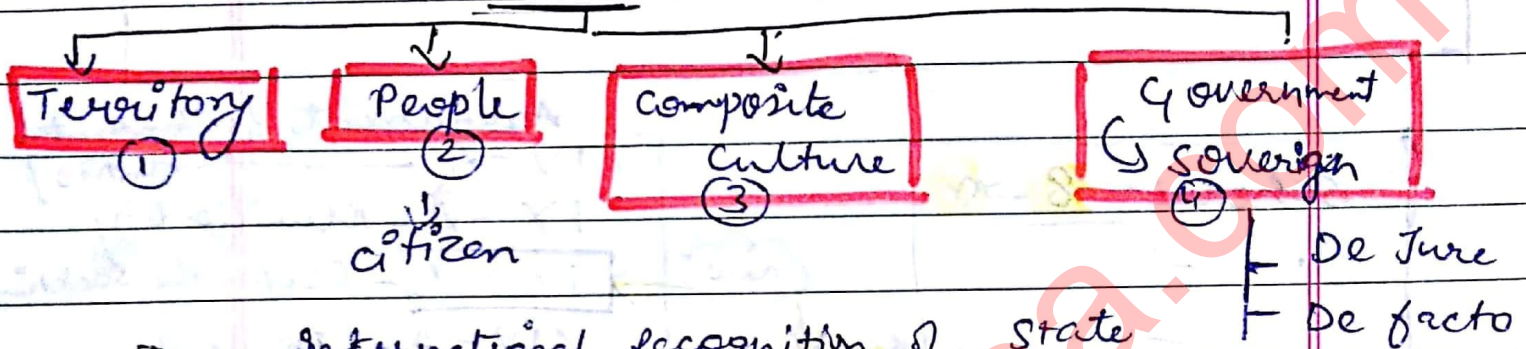
Polity



Nation-Substantial process

Nationality → thought

Nation-State



International recognition of state can be obtained by

- De Jure (by legal consequence) → ambassy → sue
- De facto (if any of 4 ^{elements} ~~conditions~~ doesn't fulfilled) → eg. Tibet

→ Grand Norm

⇒ Constitution is a set of rules which creates the relation of the Govt. of people, define the territory, encourages its culture, defines nature of gov't. of state its rule for international relation.

⇒ Polity is the implementation part of constitution.

constitution

17

I - Union & its Territory

22 - 26

395

II - Citizenship

III - Fundamental Rights

IV - Directive Principles of State Policy (DPSP)

[Justice Swarna Singh Committee's recommendation]

IVA - Fundamental Duties (10)

→ inserted 42nd amendment Act, 1976

→ inspired by USSR (Russia)

→ Article - 51A

→ 10 Fundamental duties 51A - A
B
C

provide duty of parents to
education to child
of 8-14 yrs children

→ Now 11 Fundamental duties after

86th Constitutional Amendment Act 2002

V - Union

Panchayat

VI - State

↓
Municipality

VII - (Repeal - 29th Amendment) Part State

VIII - Union Territory

↓
State

IX - Panchayat

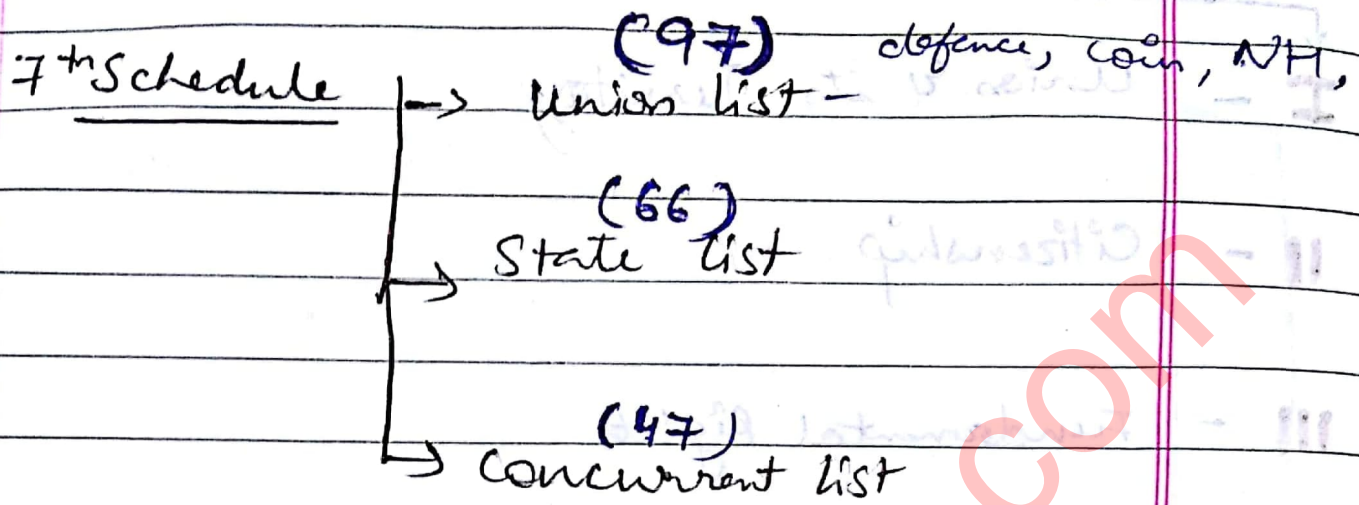
↓
Union
Centre

IXA - Municipality

IXB - Cooperative Society

X - Scheduled Tribal Area.

XI - Centre - State Relationship



XIV - UPSC

XV - Election

XVIII - Emergency provisions

Silent Features of Constitution

- Indian Constitution is largest written constitution of in the world.
- Unwritten constitution is based on customs, usage and Ideals.

③ Blend of federal & Unitarian Constitution.

Unitary

federal



- | | |
|---|-------------------------------------|
| (i) Strong State (Centre) | (i) Dual quality. — central — state |
| (ii) Single Const. | (ii) Written Constitution. |
| (iii) flexibility of the Const. | (iii) Division of power. |
| (iv) No Equality of the State representation. | (iv) Independence Judiciary |
| (v) Emergency Provision | (v) Supremacy of Constitution |
| (vi) Single Citizenship | (vi) Rigid Constitution |
| (vii) Integrated Judiciary. | (vii) Bicameralism |
| (viii) All India Services | |

IAS IFS IPS

(ix) Integrated Audit Machinery.

(x) Appointment of Governor.

(xi) Integrated Election Machinery

* Preamble of Indian Constitution.

↳ Preamble shows $\begin{cases} \text{goals} \\ \text{ideal} \\ \text{characteristics} \end{cases}$

① Sovereign :

It refers that India is neither a dependency nor a dominion of any other nation but an independent state.

② Socialist :

It means democratic socialism which involves that nationalisation of all means of production & distribution

③ Secular :

All religion in our country have the same status & support from the state

④ Democratic :

It means doctrine of popular sovereignty that is possession of supreme power by the people.

⑤ Republic :

India has an elected head called President.

⑥ Justice : → Political
→ Social
→ Economical

⑦ Liberty :

Thoughts, expression, faith, belief & worship. Liberty, equality & fraternity of our preamble is taken from french revolution (1789).

⑧ Equality :

Means of absence of any special privilege.

⑨ Fraternity :

Sense of brotherhoodness by the system of single citizenship.

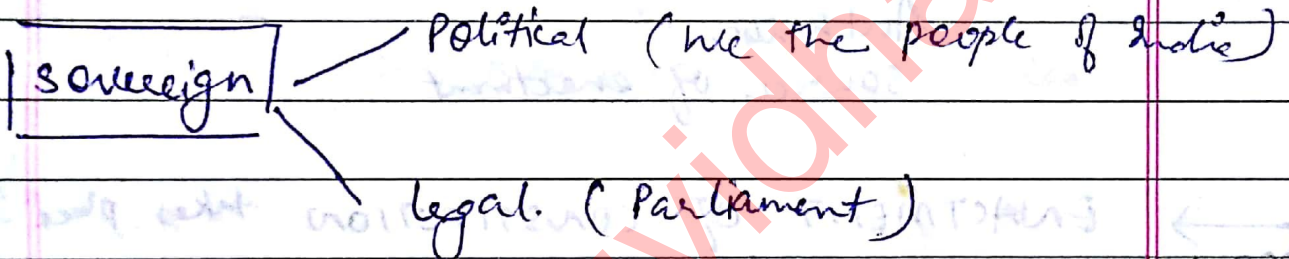
Preamble

→ 26 Nov 1949

Federal system

"We the people of India" having solemnly resolve "to constitute India into a"

- Polity of India
- Sovereign → country
 - Socialist → society
 - Secular → religion
 - Democratic → system
 - Republic " → person
- Added by 42nd CAA, 1976



To [secure] to all its citizens

◦ Justice → social, Economic, Political

Part 3rd (Fundamental rights)

words inspired from French revolution 1789

◦ Liberty → so thought, expression, faith, belief of worship. → 25-28

◦ Equality → of status, of opportunity, as means of absence of any special privileges.

◦ Fraternity → among them all (20/21)

⇒ Dignity of individual, → 20, 21, 25

⇒ Unity of Integrity

Added after 42nd CAA, 1976

Do here by

created constitution

→ In our **constituent Assembly**

on the date

→ **26 Nov 1949** → (Law Day)

- Enact
- Adopt
- Give to ourselves, the constitution

[26 Jan 1950]

15 other

Rest of constitution

Art 394

Authentic source of enactment

ENACTMENT OF CONSTITUTION takes place in 2 parts.

1st part - 16 Articles on 26 Nov. 1949

2nd part → rest of the article on 26 Jan 1950

1st sitting of constituent Assembly → **9 Dec, 1946**

↓

सचिदा नन्दा सिन्हा Sachida Nanda Sinha

2nd sitting → **11th Dec, 1946**

↓

Permanent head → Rajender Prasad

13th Dec, 1946 → **Pt. Jawahar Lal Nehru**

↓

Objective Resolution.

↓

Accepted on 22nd Jan 1947.

Qo Is constitution part of Preamble?

"In Re. Berubari Union Case" the Supreme Court declared that Preamble is 'NOT' a part of constitution but latter on

In "Keshwanand Bharti vs. State of Kerala Case" the Supreme Court held that Preamble is the 'Integral part' of constitution.

■ Doctrine of Basic Structure

↳ Derived from Keshwanand Bharti Case.

PART - I [1 to 4]

Union and Its Territory

(Political Expression of India)

(Territorial Expression)

Article 1 - India is Bharat shall be the "Union of states" and its territories shall comprise with —

- territories of states,
- territories of the union territories,
- Acquired territories in future.

* Sister Articles are Article 2 and 3 *

Article 2 - Admission of the New (State) in the Indian Union. International content

eg: - Sikkim → 35th CAA, 1974 (Admission)

26th CAA, 1956 (Full State)

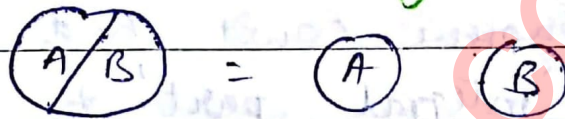
Article 3 :- Formation of New States and their establishment.

eg:- Telangana

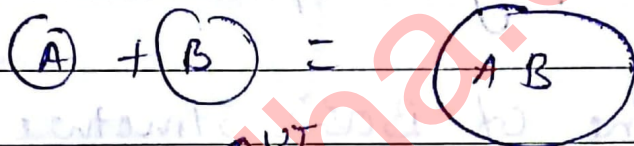
- change in any of these name, area, territory boundary.

Under Article 3 → Parliament by law

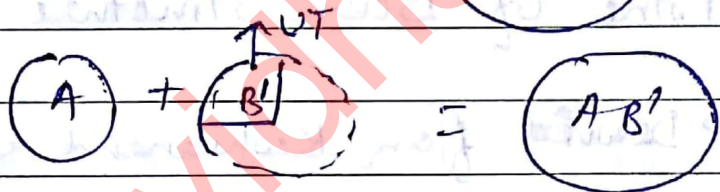
① (a) By Separation



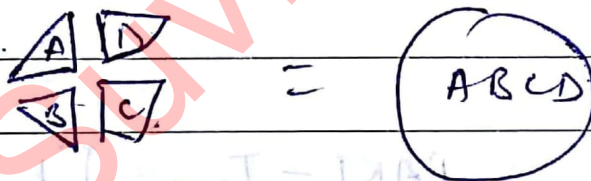
(b) By combining



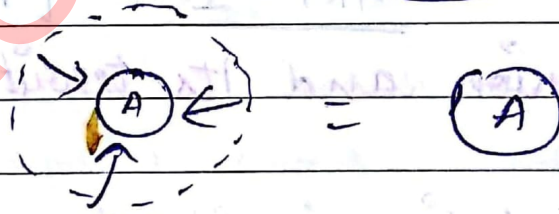
(c)



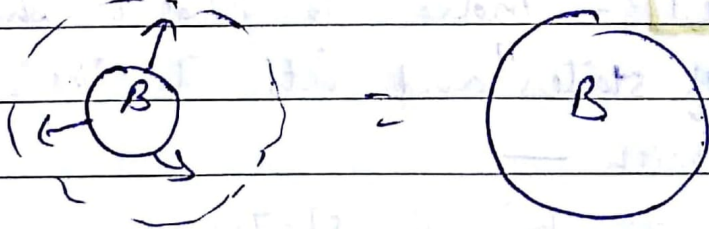
(d)



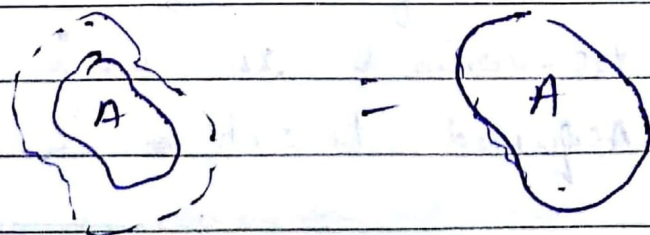
② Diminishing the boundary area



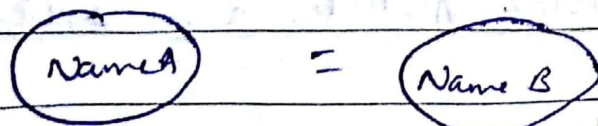
③ Increasing the boundary area



④ Altering the boundary



⑤ Altering the name



Article 4 :- Laws can be made by the parliament for the amendment of 1st & 4th schedule & supplemental, incidental and consequential matters.

Part - II [5-11]

Citizenship

Article 5 :- Citizenship at the commencement of Constitution.
[26 Jan 1950] ← Article 5 was applicable till that day only.

Article 6 :- ^{Rights} ~~Provide~~ of citizenship of certain persons who have migrated to India from Pakistan.
(At the time of partition of India & Pakistan.)

Article 7 :- ^{Rights of} ~~A~~ citizenship to those ^{migrants} (who left India) to Pakistan.

on & before 19 July 1948 → Registration for citizenship

After 1 Nov 1949 → No citizenship.

^{Rights of citizenship of}

Article 8 :- ~~A~~ Persons of India origin residing out of India.

Article 9 :- Persons ~~born~~ voluntarily acquiring citizenship of a foreign state not to be citizens (Termination of citizenship)

Article 10 :- Continuance of citizenship

Article 11 :- ^{Age No} Parliament to regulate the right of citizenship by law
^{Date} (Parliament can make a law regarding citizenship)

Indian Citizenship Act, 1955

[after 26 Jan 1950]

- To acquire the citizenship
- To determine the citizenship
- To terminate the citizenship.

Modes to acquire the Indian Citizenship

- By Birth (Parents & Grand Parents)
- By Descent (3 generations)
- By Registration
- By Naturalization (Foreign person can get the citizenship 12 yrs)
- By Acquiring the territory.

Determination of Citizenship

① Citizens by domicile (दomicil)

② Citizens by residence.

(i) ^{stay} more than 182 days in last financial year.

If not so...

(ii) they are called NRI citizen.

→ Indian Citizenship (Amendment) Act, 2003.

Ministry of Home Affairs (MHA)

PIO (Persons of Indian Origin) hold PIO card and known as PIO card holder.

→ Indian Citizenship (Amendment) Act, 2005

OCI - (Overseas Citizens of India)

16 countries

this is Dual Citizenship

→ Indian Citizenship (Amendment) Act, 2010

except East Asian Nations

rest of the world can get OCI.

• Merits to become an OCI

- ① Multiple entry and multiple exit, multi-purpose visa.
- ② There is no need to go the nearest police station for entry purposes on the Foreigners Information Register.
- ③ There'll be no need of VISA to enter in the country.
- ✓ ④ To invest money for commercial & business purposes.

• De-merits to become an OCI

- ① They can't hold the constitutional post.
- ② They " cast their vote in the General Election.
- ③ They can't hold agriculture & plantation land.

□ Termination of Citizenship (Sec 9)

① By Renunciation: A person can renounce the India citizenship if he holds capacity: -

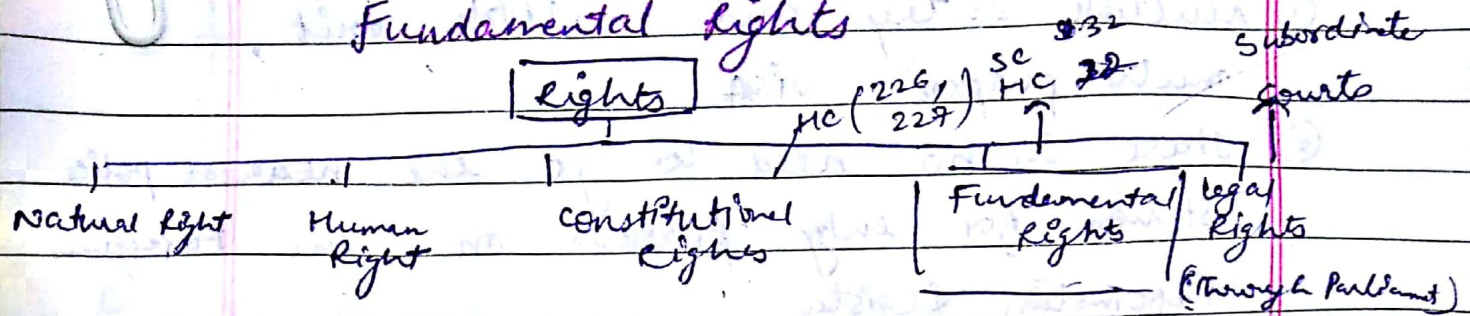
(a) Age (18/21)

(b) Soundness of mind [16 a person ^{is not capable} ~~does not~~ to know the nature and consequence of contract

(~~Sec 8~~)
② By Termination: If a person accepts citizen of any other country, then his Indian citizenship'll be terminated.

③ By Deprivation: ^{enemy}

Fundamental rights



Types of Fundamental Right

- ① Right to Equality (Article 14-18)
- ② Right to Freedom (19-22)
- ③ Right against Exploitation (23/24)
- ④ Right to freedom of religion (25-28)
- ⑤ Cultural & Educational rights of minorities (29 & 30)
- ⑥ Right of Constitutional Remedies (32)

Helping articles define some terms:

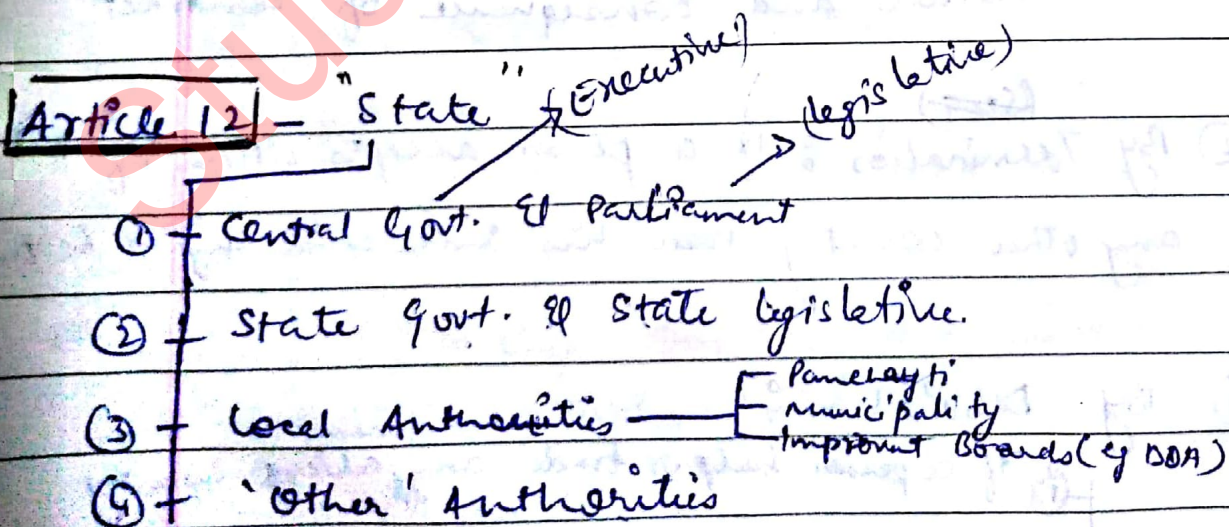
Article 12 -> "State"

Article 13 -> "Law"

Article 31 -> ~~Right to property~~ ^{Compensation} Abolished by 44th Article Amendment, 1978

Article 33 -> Parliament can abrogate the rights of "Forces"

Article 35 -> Parliament have power to make "Law"



Article 19 Right of Freedom

Art 19(1) (a) Right to speech & Expression

(b) Right to assembled

(c) Right to make association, organisation, (co-operative society)

(d) Right to move anywhere in territory of India

(e) Right to reside and settle in any part of the territory of India

(f) ~~xxx Repealed (Right to hold Property) xxx~~

→ Repealed by ~~44th~~ 44th CAA, 1978 but
Now Art 300A provide it

(g) Right to ~~to~~ carry on any trade, occupation, profession, business.

These articles are exhaustive & limited by Art 19 itself.

Article 19(2) restricts to (a) & restrictions :-

- The security of nation

- Unity & integrity of nation

- In relation to the foreign friendly countries

- In relation to the public order.

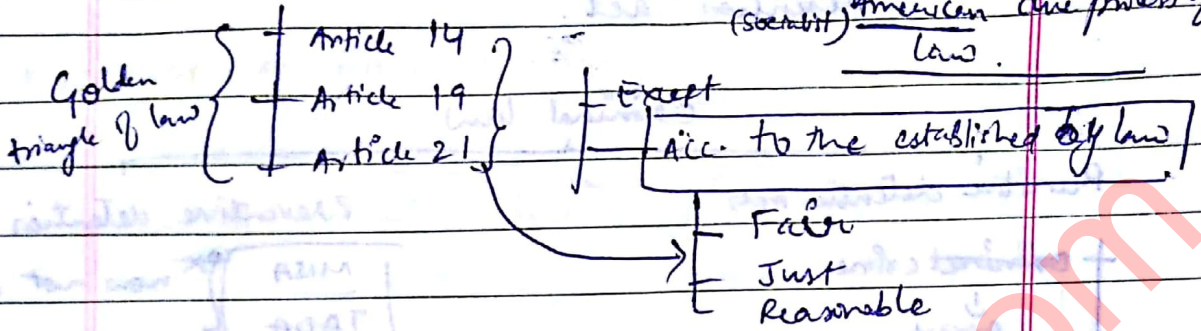
- Defamation (मान हीन)

- morality & decency

A.K. Gopalan

American (law ought to be) due process of law

Maneka Gandhi v/s. Union of India → Backdoor entry of American due process of law.



Article 21 is the balloon of rights

some other laws by the interpretation of Article 21 -

- 1) Right to Livelihood
- 2) Right of Privacy
- 3) Right to get Fresh Water
- 4) Right to get fresh Environment
- 5) Right to get medical treatment during accident
- 6) Free legal Aid
- 7) Right of Speedy Trial
- 8) Right against solitary confinement.
- 9) Right against Hand cuffing
- 10) Right against Public Humiliation
- 11) Right against delayed execution
- 12) Right of Education (now it is Fundamental Right)
- 13) Right to Sleep

Article 22 Right against Arrest & detention

- 1) Right to ask the ground of arrest.
- 2) " " concern with an advocate of his choice
- 3) "Product" before the magistrate within 24hrs

NOTE: Above such rights are not available to -

- (i) Enemy alien
- (ii) A person who is detained under a preventive detention act.

criminal law

Punitive detention Acts

↑ ~~criminal~~ crime
↓
Arrest

max 6 months
& min 3 months

Preventive detention Acts

MISA } * now not applicable
TADA }
POTA }

NSA - National Security Act
FERA
FEMA

Article 23: Right against Exploitation

(min. labour Act)

- "Begar" work without pay or
- Force labour (without consent) or Bonded labour
- Standard form of contract
- Human Traffic

Signature

Article 24: Prohibition of human traffic & Force labour -

(i) Trafficking human beings, Begar & other similar form of force labour are prohibited & any contravention of this provision shall be an offence punishable in accordance with law.

Article 24: Prohibition of children to employ in factories or mines

No child below the age of 14 yrs shall be employ to work in any factory or mine or engaged in any other hazardous employment.

recently opened areas for child labour -

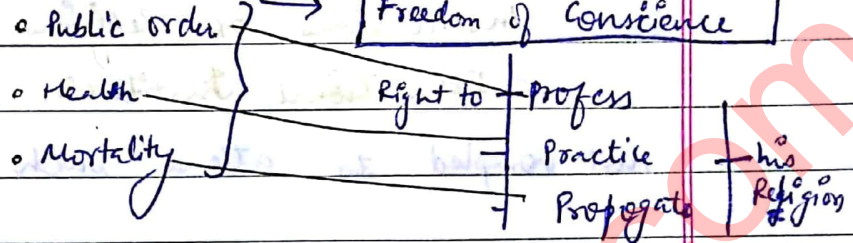
- ① business-family enterprises
- ② audio video
- ③ non-hazardous places

Article 25: Right to freedom of Religion

(Restriction)

(Personal right to individual)

Freedom is Subject to:



freedom of conscience & free profession, practice & propagation of religion -

subject to public order, morality & health & other provisions of this constitution.

'All persons' are equally entitled to -

freedom of conscience & the right to freely profess, practice & propagate religion.

The wearing & carrying of Kirpans shall deemed to be included in the profession of "Sikh Religion"

Article 26 Freedom to Manage Religious Affairs
(Institutional Right)

- Any section of religion or denomination.

Subject to public order, health, mortality, every religious institution or its denomination have -

(a) to establish & maintain institutions for religious & charitable purposes.

(b) to manage its own affairs in matters of religion

(c) to own & acquire movable & immovable property

Article 27 : Freedom as to Payment of Taxes
For promotion of Any Particular Religion
Individuals are not necessary to pay such taxes.

Article 28 Freedom as to attendance at Religious
Instructions or Religious Worship in Certain
Educational Institution

not compelled to attend such programs

Article 29/30 Cultural & Educational Right of Minorities

29
Any Section of the citizens
| language
| Script
| Culture

30
Minorities
Declared on the basis of
① Region
② Language
→ to establish & manage
Any Educational Institution

Article 29 :- Protection of Right or Interest of Minorities

Any section of the citizens residing in the territory of
India or any part thereof having a distinct
language, culture or script of its own shall
have the right to conserve the same.

Article 30 :- Rights of minorities to
Establish educational institutions

All minorities whether based on religion or
language, shall have the right to establish
& administer any educational institutions
of their choice.

Article 32 : Right of Constitutional Remedies

→ Procedural Fundamental Right
 → Heart & Soul of Constitution (III)

→ Right to move the Supreme Court.

- order (H.C.) ✓
- Direction ✓
- CS. writ ✓
 - ① Habeas corpus (व्यक्ति को मुक्त कराना)
 - ② Mandamus (परमादेश)
 - ③ Prohibition (प्रतिषेध)
 - ④ Certiorari (अपहृत)
 - ⑤ Quo Warrants

King
↓

Ubi Remedium Ibi Jus

where there is Remedium there is right

Ubi Jus Ibi Remedia

Given by Winfield

① Habeas Corpus ^{not} applicable SC / 226 HC
 [Res Judicata]

Arrest/Detention

S. Court will say

"Bring the body Before me"

- Executive
- Legislative
- Quasi Judicial Bodies
- Private persons

decide → legal / illegal

② Mandamus [We Command]

Command

Don't do

In case of Ultra Vires Act
 or

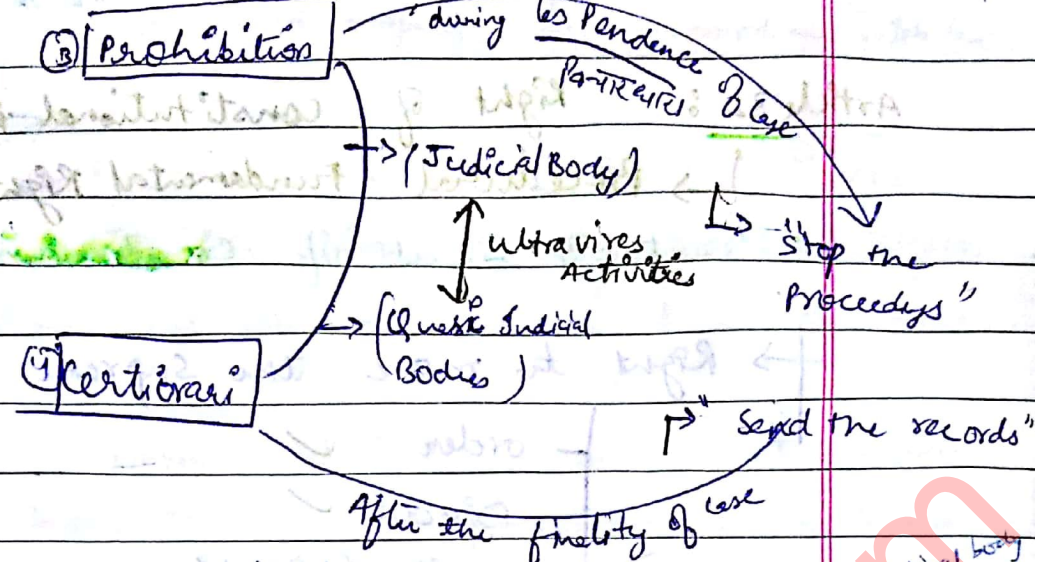
DO it

don't do Intra Vires Act

- Executive
- legislative
- Quasi Judicial Body

can be issued by S.C.

Judicial
tribunal



⑤ Quo - warrantos (संबन्धित प्रश्न) (can't be against ministerial body or president)

can remove the post

if a person holds any Public Post

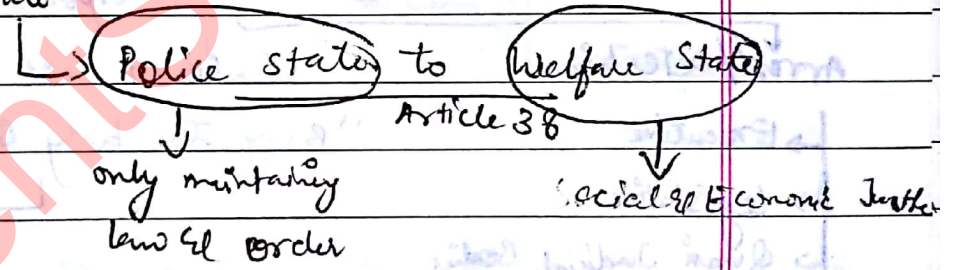
any person can file it

PART IV [Borrowed from Ireland]

Directive Principles of State Policy [Article 36-51]

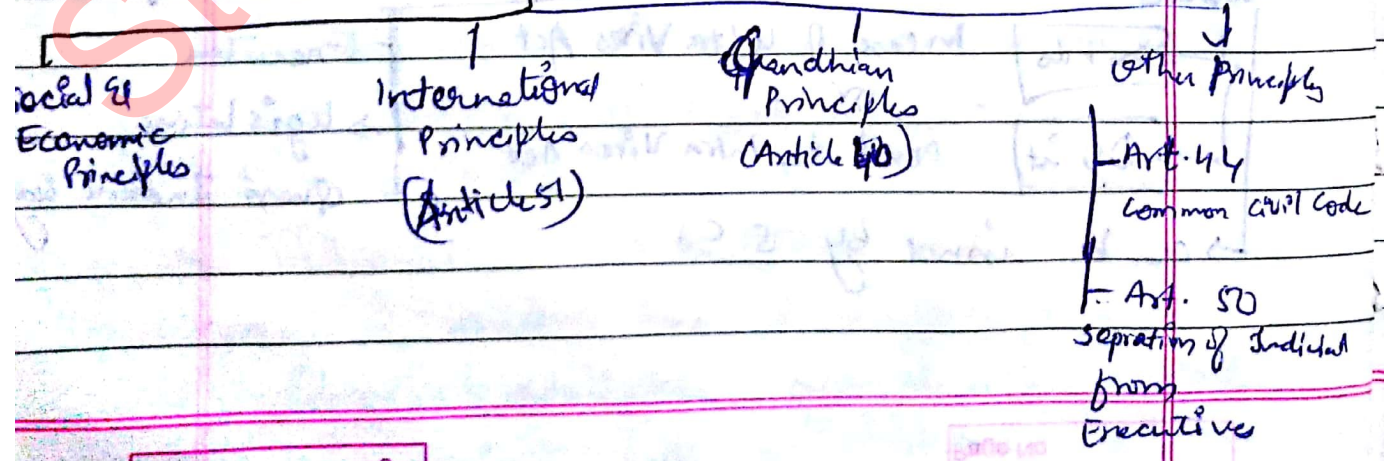
[Article - 36] = 12

State



Article 37 - Non Justifiable

DPSP



Directive Principles (PART 4)

* New Directive Principles :

(1) 42th Amendment Act 1976 added 4 new DPSP, Constitutional.

(i) Article 33

(ii) Article 33(A)

(iii) " 43(A)

(iv) " 48(A)

DPSP

Fundamental Right

(1) These are the non-justiciable

(2) They aim at establishing social & economic democracy in Country

(3) They require legislation for their implementation, they are not automatically enforced.

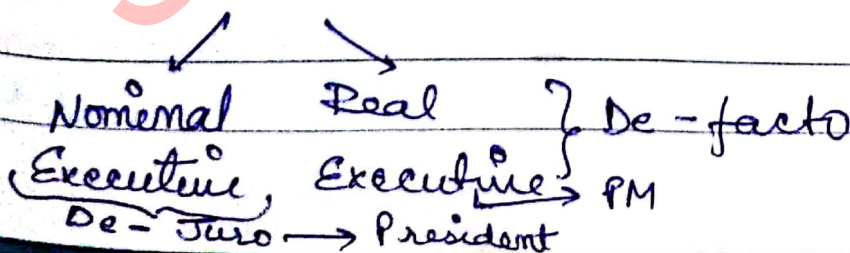
(1) These are justiciable

(2) They aim at establishing political democracy.

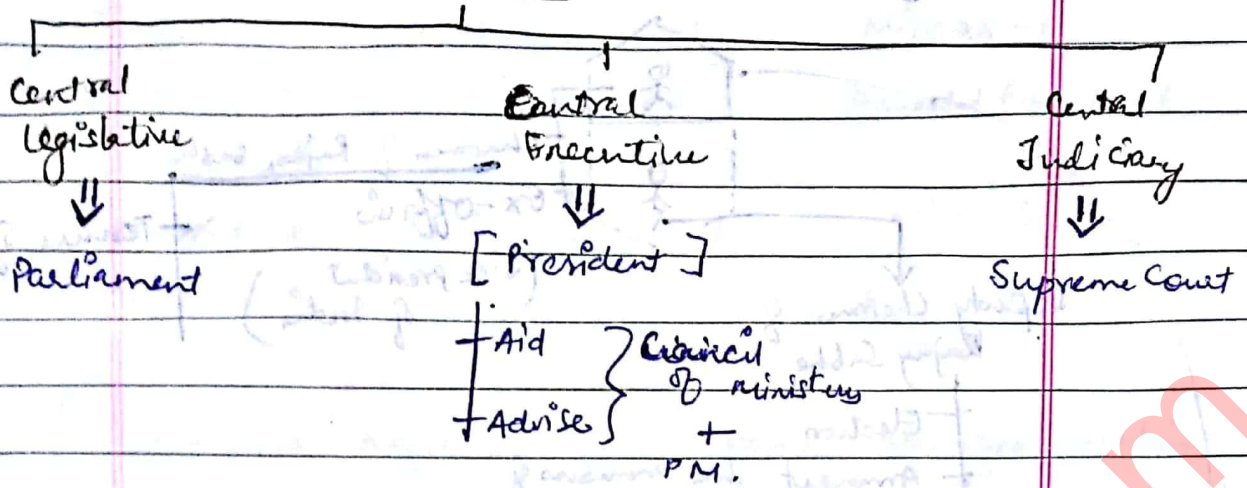
(3) They don't require any legislation for their implementation, they are automatically enforced.

~~fundamental Duties~~

Union Executive :



Part V

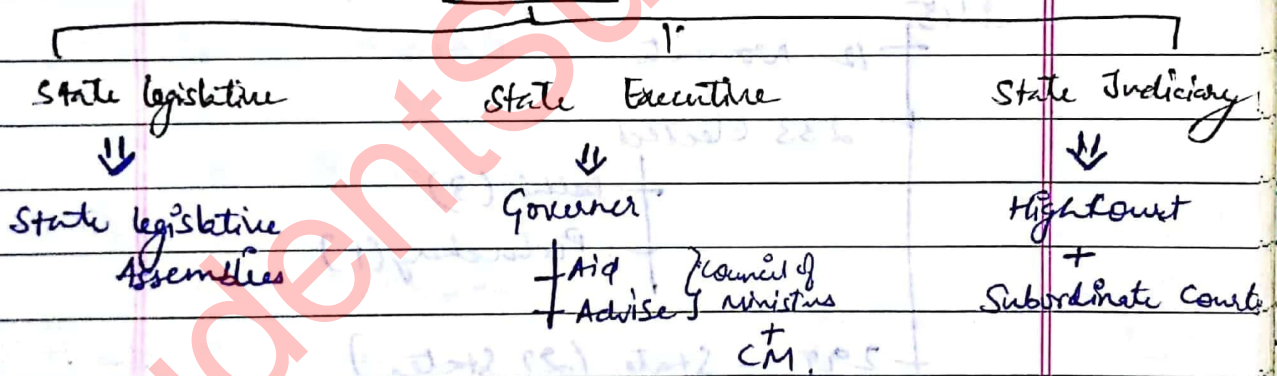


5212

8650

8655-019938

Part VI



• composition of Parliament

- President
- Rajya Sabha (Council of States)
- Lok Sabha (House of People)

• composition of state legislative Assembly

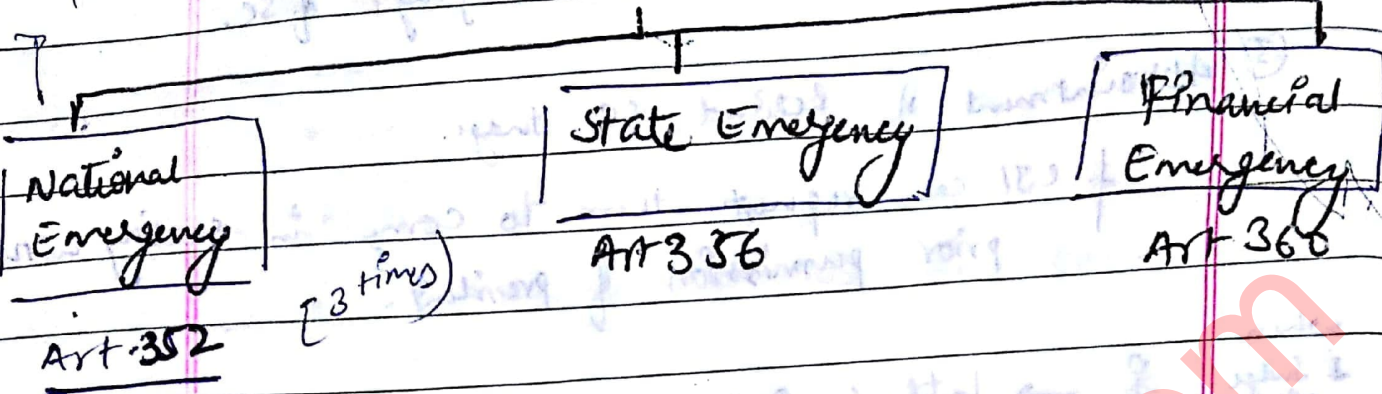
- Governor of state
- State legislative Council (MLC) - 7 states
- State legislative Assembly

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Involvement
Indira Park 1975

Emergency Provision

Part XVIII [352-360]



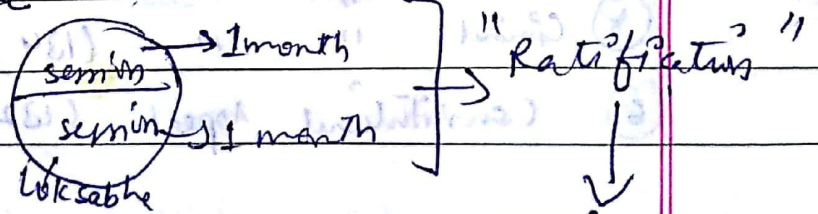
- By President
- "Security of Nation"
- war
- external Aggression
- armed Rebellion

added after 44th CAA, 1978

Internal Disturbance
25 June 1975

under Article 352

Proclamation $\frac{1}{3}$ life

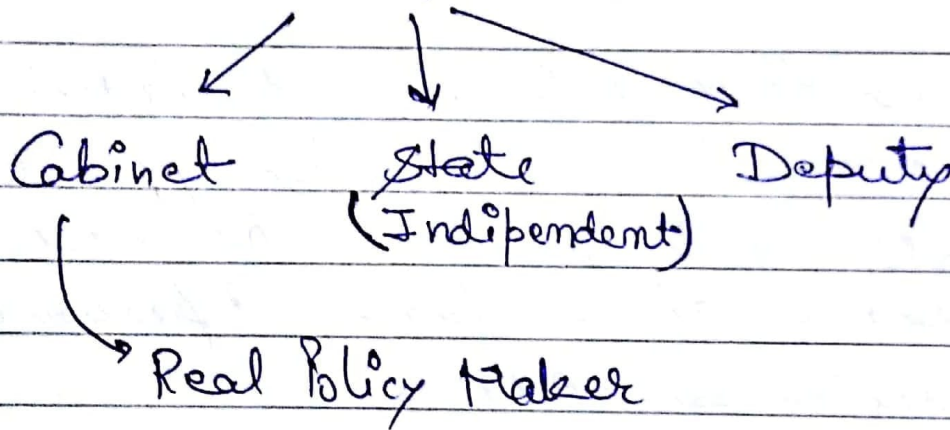


6 months... etc

After the Reassembly
within (30 days)

then life \rightarrow For 1 year

Council of Minister :-



91th Ammendment 2003 → P.M + other Minister → total (L.S) 15%.

Double Membership is not allowed, either L.S or R.S.

* Collective Responsibility -

- A-75 clearly states that the Council of Min^{is} is responsible to the lower house of Parliament. This means that all the minister joint responsibility to the L.S for their acts. (swim a Sink).

When the L.S passes a No Confidence motion against the COM, All the ministers have to resign including those ministers who are from R.S.

• A-75, clearly state that COM hold office during the pleasure of President.

Parliament :-

* Q1. which is correct?

- (i) The COM in the Centre shall be Collective responsible in the Parliament.
- (ii) The Union Ministers shall hold office during the Pleasure of the President.
- (iii) P.M shall Communicate to the President about the proposal for the legislation.

Q2. Economic Justice is One of the objective of

- (i) Preamble & F.R
- (ii) " & DPSP
- (iii) F.R & DPSP
- (iv) None of the above.

Q3. which is correct?

- (i) member of the Cabinet are member of the Parliament.
- (ii) Minister hold office till they enjoy Confidence in Parliament.
- (iii) Cabinet is headed by head of the state.

Q4. Correct about Fundamental for the Governance of the Country?

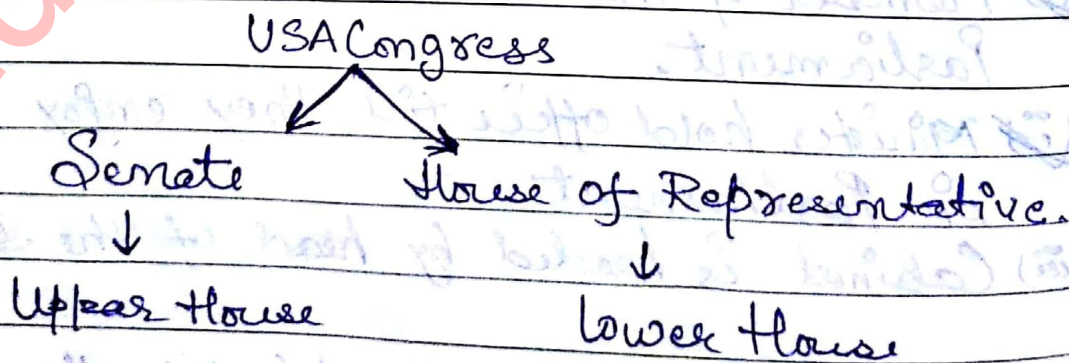
(i) F.R (ii) F.D (iii) DPSP (iv) F.R & F.D

Q5. The Indian Parliamentary System is different from British " " is that India has

- (i) Both a real & nominal Executive.
- (ii) A System of Collective Responsibility.
- (iii) Bi-Cameral legislature.
- (iv) System of Judicial Review ✓

*

- It is a legislative organ of the Union Govt. A-73 II, 122 in Part V of the Constitution deals with the Parliament.
- President of India is not member of either house & doesn't sit in the Parliament to attend its meetings. He is integral part of Parliament.
- Parliament = President + L.S + R.S.
- American Pres. is not an integral part of legislature



- Parliamentary form of Govt. focus on interdependence, the legislative & Executive organ

- India have President in - Parliament like the Crown - in - Parliament. wheather Presidential ~~form~~ forms of gov. have separation of legislative & executive organ.

* Composition of R.S :-

- upto 250 (Based on population of state)
- 250 → Election (Indirect Method)
- 238 (UT+ States) 12 (Nominated by President)

c.g → Sachin Tendulkar.

* Composition of L.S :-

- upto 552 → Election (Direct Method)
- 530 (States) 20 (UT) 2 (Anglo-Indian Community)

We choose our representative & representative choose L.S members.

- RS is the Continuous Chamber, it is a permanent body & can't be dissolved. However 1/3 of its members retired every 2nd yr. These seats are filled up by fresh election & Presidential nomination at the beginning of every 3rd yr.

The retiring member are eligible for re-election & re-nomination any no. of times.

- The Constitution lays down the following qualification in membership of Parliament :-

① Citizen of India

→ He must be approved by ECI

② He must make a declaration to an oath or affirmative affirmation before the person authorised by the election Commission for this purpose.

③ He must be not less than 30 yrs of age in case of R.S & not less than 25 yrs in case of L.S

④ He must possess other qualification prescribed by Parliament.

↳ Parliament has laid down the following additional qualifications in People Representation Act 1951

(i) He must be registered as an elector for a Parliamentary Constituency,

(ii) This is same in the case of both R.S & L.S

(iii) The requirement that a candidate contesting an election to the R.S from a particular State should be an elector in that particular State was deepensed within 2003.

(iv) He must be a member of a ST or SC in any state or U.T if he want to contest a seat reserved for them.

↳ Disqualification -

(i) Hold any office of profit.

(ii) Pagal unsound mind

(iii) Undischarged insolvent

(iv) He must ~~not~~ have been punished by law.

(v) If he is disqualified by any parliament