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Constitutional Assembly and Making of the Constitution

Constituent Assembly and Making of the Constitution

The Cabinet Mission envisaged the establishment of a Constituent Assembly to frame a Constitution for the country. Members of the Constituent Assembly were elected by the Provincial Legislative Assemblies. Each Province and each Indian State were allotted seats in proportion to its population, roughly in the ratio of one to a million. The seats so ascertained were distributed among the main communities in each Province. The main communities recognised were Sikh, Muslim and General.

Important Committees of the Constituent Assembly and their Chairman

Major Committees of the Indian Constituent Assembly	Chairman
Ad hoc Committee on the National flag	Rajendra Prasad
Advisory Committee on Fundamental Rights, Committee on the Functions of the Constituent Assembly	Vallabhbhai Patel
Committee on Minorities and Tribal and Excluded Areas	G.V. Mavalankar
Committee on the Rules of Procedure	Vallabhbhai Patel
Special Committee to Examine the Draft Constitution	Rajendra Prasad
Provincial Constitution Committee	Alladi Krishnaswami Ayyar
Drafting Committee	Vallabhbhai Patel
Excluded and Partially Excluded Areas Sub-Committee	B.R. Ambedkar
Finance and Staff Committee	A.V. Thakkar
Fundamental Rights Sub-Committee	Rajendra Prasad
House Committee	J.B. Kripalani
Minorities Sub-Committee	B. Pattabhi Sitaramayya
North-East Frontier Tribal Areas and Assam, Excluded and Partially Excluded Areas Sub-Committee	H.C. Mukherjee
Order of Business Committee	Gopinath Bardoloi
States Committee	K.M. Munshi
Steering Committee	Jawaharlal Nehru
Union Constitution Committee	Rajendra Prasad
Union Powers Committee	Jawaharlal Nehru

- ❖ The total number of members of the Constituent Assembly was 385, of whom 93 were representatives from the Indian States and 292 from the Provinces (British India).
- ❖ After the partition of India, the number of members of the Constituent Assembly came to 299, of whom 284 were actually present on the 26th November, 1949 and signed on the finally approved Constitution of India.
- ❖ The Constituent Assembly, which had been elected for undivided India, held its first meeting on December 9, 1946, and reassembled on August 14, 1947, as the sovereign Constituent Assembly for the dominion of India. It took two years, eleven months and eighteen days for the Constituent Assembly to finalize the Constitution.
- ❖ Objective Resolution was moved in the first session of the Constituent Assembly (on December 13, 1946) by Pt. Jawahar Lal Nehru which was adopted after considerable deliberation and debate in the Assembly on 22 January, 1947. **The following objectives were embodied in the resolution:**
 - 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 center and 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 its sovereign rights on land, sea and air according to justice and the law of civilized nations.
 - To attain a rightful and honored place in the world and make its full and willing contribution to the promotion of world peace and the welfare of mankind.
- ❖ The principles of the Constitution were outlined by various committees of the Assembly, and there was a general discussion on the reports of these Committees.
- ❖ The Constituent assembly appointed the Drafting Committee with Dr. B.R. Ambedkar was the Chairman on August 29, 1947 to scrutinize the draft of the text of the constitution of India prepared by the constitutional Adviser B.N.Rao (Benegal Narsing Rao).

- ❖ The Drafting Committee, headed by Dr. B. R. Ambedkar, submitted a Draft constitution of India to the President of the assembly on February 21, 1948. The members of Drafting Committee were:
 1. N.Gopalaswamy Ayyangar,
 2. Alladi Krishnaswamy Ayyar,
 3. Dr. K.M. Munshi,
 4. Syed Mohammad Saadullah,
 5. B.L. Mitter (later replaced by N. Madhava Rao),
 6. Dr. D.P. Khaitan (replaced on death in 1948 by TT. Krishnamachari).

- ❖ The third and final reading of the draft was completed on November 26, 1949. On this date, the signature of the President of the Assembly was appended to it and the Constitution was declared as passed.
- ❖ The provisions relating to citizenship, elections and provisional Parliament etc. were implemented with immediate effect, that is, from the 26th November, 1949. The rest of the provisions of the constitution came into force on January 26, 1950 and this date is referred to in the Constitution as the date of its commencement. 26th November is observed as '**Constitution Day**' To celebrate the 125th birth anniversary of Dr. B.R. Ambedkar, the Government of India (Ministry of Social Justice & Empowerment) decided to observe 'Constitution Day' on 26th November w.e.f 2015.

Article of the Constitution

Articles	Subject
Part 1 Art. 1-4	The union and its territory
Part 2 Art.5-11	Citizenship
Part3	Fundamental Rights

- ✓ Art. 12: Definition of State
- ✓ Art. 13:Laws inconsistent with or in derogation of the fundamental rights

Right to Equality

- Art. 14 Equality before law
- Art. 15 Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth
- Art.16 Equality of opportunity in matters of public employment
- Art17. Abolition of untouchability
- Art. 18 Abolition to titles

Right to Freedom

- Art.19 Protection of certain rights regarding freedom of speech etc.
- Art 20. Protection in respect of conviction for offense
- Art.21 Protection of life and personal liberty
- Art.21A Right to education
- Art.22 Prohibition of employment of children in factories etc.

Rights against Exploitation

- Art .23 Prohibition of traffic in human beings and forces labor.
- Art .24 Prohibition of employment of children in factories etc.

Rights to Freedom of Religion

- Art. 25 Freedom of conscience and free profession practice and propagation of religion.
- Art.26 Freedom to manage religious affairs.
- Art.27 freedom as to payment of taxes for promotion of any particular religion
- Art.28 Freedom as to attendance at religious instruction or religious worship in certain education institutions.

Cultural and Educational Rights

- Art.29 Protection of interest of minorities
- Art.30 Rights of minorities to establish and administer educational institution

Savings from Certain Law

- Art .31A Saving of laws providing for acquisition of estates etc.
- Art .31B Validation of certain acts and regulation
- Art .31C savings of laws giving effect to certain directive principles

Rights to Constitutional Remedies

- Art. 32A Remedies for enforcement of rights conferred by this part.
- Art. 33. Power of the parliament to modify the rights conferred by this part in their application Forces etc.
- Art.34 Restriction on rights conferred by this part while martial law is in force in any area
- Art .35 Legislation to give effect to the provision of this part.

Other important Articles

- Art.74 Council of ministers to aid and advise president
- Art.76 Attorney General of India
- Art. 79 Constitution of parliament
- Art. .107 Provisions as to introduction and passing of bill
- Art.110 Definition of 'Money Bills'
- Art. 123 Power of president to promulgate ordinances during recess of parliament
- Art 124. Establishment and constitution of supreme court
- Art. 148 Comptroller and Auditor -general of India
- Art. 324 Superintendence, direction and control of election to be vested in an election commission
- Part XX Art. 368 Amendment of the constitution
- Part XXI Art. 369 -392 temporary, Transitional and special provision - special status of states

List of Schedules of Indian Constitution

Schedules in Indian Constitution

Schedules	Features of Schedules
First Schedule	It contains the name of States and Union Territories Territorial Jurisdiction of states is also included
Second Schedule	The provisions in relation to allowances, privileges, emoluments of: <ul style="list-style-type: none"> • President of India • Governors of Indian States • Speaker of Lok Sabha & Deputy Speaker of Lok Sabha • Chairman of Rajya Sabha & Deputy Chairman of Rajya Sabha • Speaker and Deputy Speaker of Legislative Assemblies of Indian States • Chairman and Deputy Chairman of Legislative Councils of the Indian States • Supreme Court Judges • High Court Judges • Comptroller & Auditor General of India (CAG)
Third Schedule	It contains the forms of oath and affirmation for: <ul style="list-style-type: none"> • Union Ministers of India • Parliament Election Candidates • Members of Parliament (MPs) • Supreme Court Judges • Comptroller and Auditor General • State Ministers • State Legislature Elections' Candidates • State Legislature Members • High Court Judges
Fourth Schedule	It contains the provisions in relation to the allocation of seats for States and Union Territories in the <u>Rajya Sabha</u>
Fifth Schedule	It contains provisions in relation to the administration and control of scheduled areas and scheduled tribes
Sixth Schedule	It contains provisions in relation to the administration of tribal areas in the states of Assam, Meghalaya, Tripura and Mizoram
Seventh Schedule	This schedule deals with the three legislative lists:

- Union
- State
- Concurrent

Eighth Schedule It deals with the 22 official languages recognized by the Constitution of India.

Ninth Schedule It deals with the state acts and regulations of that deal with land reforms and abolition of the zamindari system. It also deals with the acts and regulations of the Parliament dealing with other matters.

Note:

- 1st Amendment Act 1951 added the Ninth Schedule to protect the laws included in it from judicial scrutiny on the ground of violation of fundamental rights.
- However, in 2007, the Supreme Court ruled that the laws included in this schedule after April 24, 1973, are now open to judicial review

Tenth Schedule It contains provisions relating to disqualification of the members of Parliament and State Legislatures on the ground of defection.

Note:

This schedule was added by the 52nd Amendment Act of 1985, also known as Anti-Defection Law.

Eleventh Schedule

- It contains the provisions that specify the powers, authority and responsibilities of Panchayats. It has 29 matters.
- This schedule was added by the 73rd Amendment Act of 1992

Twelfth Schedule

- It deals with the provisions that specify the powers, authority and responsibilities of Municipalities. It has 18 matters.
- This schedule was added by the 74th Amendment Act of 1992

- Art.34 Restriction on rights conferred by this part while martial law is in force in any area
- Art .35 Legislation to give effect to the provision of this part
- Part IV Directive principles of state policy
- Art.44 Uniform civil code for the citizens
- Art45 provision for early childhood care and education to children below the age of six years
- Art.55 Promotion of international peace and security

Part IVA Art.51 A 11 fundamental Duties

1. Abide by the Indian constitution and respect its ideals and institutions, the National Flag and the National Anthem
2. Cherish and follow the noble ideals that inspired the national struggle for freedom
3. Uphold and protect the sovereignty, unity and integrity of India
4. Defend the country and render national service when called upon to do so
5. Promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities and to renounce practices derogatory to the dignity of women
6. Value and preserve the rich heritage of the country's composite culture
7. Protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures
8. Develop scientific temper, humanism and the spirit of inquiry and reform
9. Safeguard public property and to abjure violence
10. Strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavor and achievement
11. Provide opportunities for education to his child or ward between the age of six and fourteen years. **This duty was added by the 86th Constitutional Amendment Act, 2002**

Question Based on the topic

1. The idea of the Preamble has been borrowed in Indian Constitution from the Constitution of -

- a) Italy
- b) Canada
- c) France
- d) U.S.A.

Ans. (d)

2. The concept of "A Union of States in the India Constitution" has been derived from-

- (a) The American Declaration of Independence
- (b) The Australian Constitution
- (c) The British North-America
- (d) The Swiss Constitution

Ans. (c)

3. Which of the following statements is true?

- (a) The Federal form of Government is in United States of America
- (b) The government of India is federal and unitary both
- (c) The government of France is of federal form
- (d) The Prime Minister of Pakistan is appointed by the people

Ans. (a)

4. Concurrent List included in Indian Constitution is given by

- (a) The Soviet Union
- (b) Australia
- (c) Canada
- (d) Italy

Ans. (b)

5. The concept of 'the Directive Principles of State Policy in the Indian Constitution has been adopted from the Constitution of -

- (a) France
- (b) Ireland
- (c) Japan
- (d) U.S.S.R.

Ans. (b)

6: The Indian Constitution is divided into:

- (a) 16 Parts
- (b) 22 Parts
- (c) 24 Parts
- (d) 25 Parts

Ans. (b)

7: Which part of the Constitution contains provisions relating to citizenship?

- (a) Part I
- (b) Part III
- (c) Part III
- (d) Part IV

Ans. (c)

8: Which one of the following is not matched correctly?

- (a) Citizenship- Part II of Constitution
- (b) Fundamental Rights- Part III of Constitution
- (c) Fundamental Duties- Part VI-A of Constitution
- (d) State- Part VI of Constitutions

9. To give constitutional protection, state land reforms laws have been included in the –

- (a) 7 Schedule
- (b) 9 Schedule
- (c) 8 Schedule
- (d) 10 Schedule

Ans. (b)

10 .The Ninth Schedule was introduced in the Constitution of India during the prime Ministership of:

- (a) Jawaharlal Nehru
- (b) Lal Bahadur Shastri
- (c) Indira Gandhi
- (d) Morarji Desai

Ans. (a)

11. Prevention of cruelty to animals is listed in which list of the Indian Constitution?

- (a) Union List
- (b) Concurrent List
- (c) State list
- (d) Preamble
- (e) None of the above/More than one of the above

Ans. (c)

12. Which of the following Entry is subject of Concurrent List:

- (a) Population control and family planning
- (b) Public health and sanitation
- (c) Per-person Tax
- (d) Treasure Travel

Ans. (a)





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