

**CONTENTS**

<b>UNIT</b>	<b>TOPIC</b>	<b>Page No.</b>	<b>Marks Weightage</b>	<b>Frequency</b>
<b>A</b>	<b>INDUSTRIAL &amp; LABOUR LAWS</b>	<b>9</b>	<b>70</b>	<b>.....</b>
<b>I</b>	<b>FACTORIES ACT, 1948</b>	<b>10</b>	<b>4-6</b>	<b>MEDIUM</b>
<b>II</b>	<b>EQUAL REMUNERATION ACT, 1976</b>	<b>20</b>	<b>4-6</b>	<b>MEDIUM</b>
<b>III</b>	<b>MATERNITY BENEFITS ACT, 1961</b>	<b>24</b>	<b>2-4</b>	<b>LOW</b>
<b>IV</b>	<b>CHILD LABOUR (R&amp;A) ACT, 1986</b>	<b>27</b>	<b>2-4</b>	<b>MEDIUM</b>
<b>V</b>	<b>TRADE UNION ACT, 1926</b>	<b>31</b>	<b>2-4</b>	<b>LOW</b>
<b>VI</b>	<b>LABOUR LAW (EFR &amp; MR) ACT, 1988</b>	<b>35</b>	<b>2-4</b>	<b>LOW</b>
<b>VII</b>	<b>EMPLOYMENT EXCHANGE (CNV) ACT, 1959</b>	<b>37</b>	<b>2-4</b>	<b>LOW</b>
<b>VIII</b>	<b>APPRENTICE ACT, 1961</b>	<b>39</b>	<b>4-6</b>	<b>MEDIUM</b>
<b>IX</b>	<b>INDUSTRIAL EMPLOYMENT (S.O.) ACT, 1946</b>	<b>45</b>	<b>2-4</b>	<b>LOW</b>
<b>X</b>	<b>CONTRACT LABOR (R&amp;A) ACT, 1970</b>	<b>47</b>	<b>2-4</b>	<b>LOW</b>
<b>XI</b>	<b>THE PAYMENT OF WAGES ACT, 1936</b>	<b>50</b>	<b>2-4</b>	<b>MEDIUM</b>
<b>XII</b>	<b>EMPLOYEE STATE INSURANCE ACT, 1948</b>	<b>52</b>	<b>2-4</b>	<b>HIGH</b>
<b>XIII</b>	<b>MINIMUM WAGES ACT, 1948</b>	<b>60</b>	<b>2-4</b>	<b>MEDIUM</b>

\*You may also order & buy any Executive & Professional level books by CS. Dev Sharma

XIV	<b>EMPLOYEES PROVIDENT FUND ACT, 1952</b>	65	4-6	HIGH
XV	<b>PAYMENT OF BONUS ACT, 1965</b>	74	4-6	HIGH
XVI	<b>GRATYUITY ACT, 1972</b>	79	4-6	MEDIUM
XVII	<b>EMPLOYEES COMPENSATION ACT, 1923</b>	81	2-4	MEDIUM
XVIII	<b>INDUSTRIAL DISPUTES ACT, 1947</b>	90	4-6	MEDIUM
PART B	<b>GENERAL LAWS</b>	106	30	.....
XIX	<b>CONSTITUTION OF INDIA</b>	107	6-8	HIGH
XX	<b>INTERPRETATION OF STATUTES</b>	122	6-8	HIGH
XXI	<b>LIMITATIONS ACT, 1963</b>	128	4-6	HIGH
XXII	<b>CIVIL PROCEDURE CODE, 1908</b>	133	4-6	HIGH
XXIII	<b>INDIAN PENAL CODE &amp; CRIMININAL PROCEDURE CODE, 1973</b>	141	4-6	HIGH
XXIV	<b>INDIAN EVIDENCE ACT, 1872</b>	148	4-6	HIGH
XXV	<b>RIGHT TO INFORMATION ACT, 2005</b>	154	2-4	MEDIUM
XXVI	<b>SPECIFIC RELIEF ACT</b>	160	2-4	LOW

<b>XXVIII</b>	<b>LAW OF TORTS</b>	<b>174</b>	<b>4-6</b>	<b>MEDIUM</b>
.....	<b>MULTIPLE CHOICE QUESTIONS (MCQ's)</b>	<b>180</b>	.....	.....
.....	<b>ANSWERS PRESENTATION FORMAT FOR EXAMS</b>	<b>226</b>	.....	.....
.....	<b>ICSI QUESTION PAPER JUNE 2015</b>	<b>228</b>	.....	.....
<b>AMENDMENT BULLETIN &amp; EXTRA TOPICS</b>		<b>248</b>	....	....
<b>MCQ ANSWER KEYS</b>		<b>262</b>	....	....

*Own your words*

\*You may also order & buy any Executive & Professional level books by CS. Dev Sharma

**CONSTITUTION OF INDIA**



**IMPORTANT PROVISIONS IN THIS CHAPTER**

ARTICLE 14-18	RIGHT TO EQUALITY
ARTICLE 19-22	RIGHT TO FREEDOM
ARTICLE 23-24	RIGHT AGAINST EXPLOITATION
ARTICLE 25-28	RIGHT AGAINST RELIGION
ARTICLE 29-30	CULTURAL & EDUCATIONAL RIGHTS
ARTICLE 32	CONSTITUTIONAL REMEDIES
ARTICLE 123	SPECIAL POWERS TO PRESIDENT

**INTRODUCTION**

The **Constitution of India** is the supreme law of [India](#). It lays down the framework defining fundamental political principles, establishes the structure, procedures, powers and duties of government institutions and sets out fundamental rights, [directive principles](#) and the duties of citizens. Constitution is a document which provides a basic legal framework by which the country is regulated. A Constituent Assembly was set up in the

---

\*You may also order & buy any Executive & Professional level books by CS. Dev Sharma

year 1946 to frame the constitution of India and finally the Constituent of India was adopted by Constituent Assembly on 26<sup>th</sup> November, 1949 and Constitution of India came into force on 26<sup>th</sup> January, 1950.

The constitution of India is the longest written constitution of any sovereign country in the world contains 448 Articles, which are divided into 25 parts and 12 Schedules, 5 appendices and 98 amendments (*out of 120 Constitution Amendment Bills*). Besides the English version, there is an official Hindi translation. [Dr. Bhimrao Ramji Ambedkar](#) is widely regarded as the architect of the Indian Constitution.. Constitution of India is considered all supreme and has the overriding effect over all the laws governing the various aspects of our system. The Constitution of India is said to be mother of all laws governing the various statute and have their origin in the Constitution of India.

[Article 370](#) of the Constitution gives special status to the State of [Jammu and Kashmir](#). The words "socialist" and "secular" were added to the definition in 1976 by constitutional amendment (mini constitution). India celebrates the adoption of the constitution on 26 January each year as [Republic Day](#)

## **IS INDIAN CONSTITUTION FEDERAL OR UNITARY..??**

The constitution generally may be unitary or federal type. Under unitary type of constitution, all powers flow from a single top authority. But under federal system, there are different layers of authority and each layer has separate powers, all decided by the constitution.

The federal features of our constitution are:

- 1. Dual authority:** We have two sets of government i.e., government at the centre and government, at various state levels.
- 2. Distribution of power:** The constitution distributes the power to make law by way of Union List (where only union can make laws), State List (where

---

\*You may also order & buy any Executive & Professional level books by CS. Dev Sharma

only states can make laws) and Concurrent List (where both the union and the states can make laws).

3. **Supremacy of Constitution:** The three pillars of our legal system i.e., legislature, executive and judiciary all are subordinates to the Constitution of India. i.e., none of them can surpass the provisions of Constitution of India.
4. **Independence of Judiciary:** The judiciary of our country is totally independent and neither the legislature nor the executive can control the judiciary.
5. **Written Constitution:** The Constitution of India is a written document.

However, even our constitution has aforesaid federal features, in times of need, becomes unitary i.e., sometimes union has more powers than the state under the following circumstances:

1. The **union list** contains 97 entries out of which 96 have been specifically named and the 97<sup>th</sup> item has been left blank and is unknown as residuary item under which any new item which has not found in placed in any of the list can be included. This being in the union list it effectively means that on any new subject, only parliament can make a law.
2. Under **state list**, only state can pass law but Article 246 permits the parliament to pass law on state list matters under five circumstances. These circumstances are a matter of:
  - a) National Interest;
  - b) Emergency;
  - c) Dispute between two or more states;
  - d) To give effect to an international agreement; and
  - e) Breakdown of constitutional machinery in a state.

Thus parliament has more powers under these five circumstances even in the state list.

3. Under **concurrent list**, if any law is passed on a particular matter by Union as well as State and if there is an inconsistency between two laws then the union law will prevail over the state law.
4. In India, we have a single citizenship system unlike in the case of USA where there is a concept of dual citizenship.

### FUNDAMENTAL RIGHTS

A man, by birth, has certain rights which are universal and inalienable i.e., he can't be deprived of them. It is the function of the State to recognize these rights and allow of free play so that the human liberty is preserved. The aforesaid rights are recognized in the form of fundamental rights in **part III** of the Constitution of India.

### JUSTIFIABILITY AMENDABILITY OF FUNDAMENTAL RIGHTS

The question whether a fundamental right can be amended or taken away has been examined in various cases and finally settled in the **Golaknath Case**. In this cases it was held that *fundamental rights can neither be abridged nor amended not taken away* by the law and for this purpose, the term law includes a Constitution Amendment.

**Keshavanand Bharati v. State of Kerala**, where the Supreme Court has dismissed the petition that fundamental rights can be affected by a Constitutional Amendment but the *basic structure* of the constitutional can't be amended.

1. **Doctrine of Severability:** It provides that only that part of the law will be declared invalid which is inconsistent with the fundamental rights and the rest of the law will stand. However, invalid part of the law will be severed only if it is severable . Otherwise the court shall declare the entire law as invalid.
2. **Doctrine of Eclipse:** It provides that a law made before the commencement of the constitution remains eclipsed or dormant to the extent in comes under the shadow of fundamental right i.e., is inconsistent with it, but the eclipsed or dormant part becomes active and effective again if the

\*You may also order & buy any Executive & Professional level books by CS. Dev Sharma

inconsistency brought about by the fundamental rights is removed by the amendment to the Constitution of India.

3. **Doctrine of Waiver of Rights:** It provides that a person has the liberty to waive the enjoyment of such rights as are conferred on him by the state, provided that such person must have the knowledge of his right and the waiver should be voluntarily. However, citizens cannot waive of any of the fundamental rights. [**Bheshar Nath vs. IT Commissioner**]

## CONSTITUTIONAL FUNDAMENTAL RIGHTS

### I. RIGHT TO EQUALITY [ARTICLES 14 TO 18]

The constitution of our country espouses the principles of equality of states and opportunity in its very preamble.

#### 1. Equality before the law

“The State shall not deny to any person equality before law or equal protection of the laws within the territory of India.”

#### 2. Prohibition of discrimination on grounds only of religion, race, sex etc.

Article 15 provided that the state shall not discriminate against any citizen on grounds only of religion, race, caste, sex, places of birth for following:

- a) To access shops, public restaurants, hotels and place of public entertainment;
- b) The use of wells, tanks, bathing ghats, roads and placed and resorts, maintained out of State funds.

#### 3. Equality of Opportunity in Matters of Public Employment

Article 16 guarantees equality of opportunity to all citizens in the matter of appointment to any office under the State. The aforesaid rule is subject to the following exceptions:



- a) The parliament can make any law prescribing any requirement as resident a State in respect of any parliament class or classes of employment in that state.
- b) The State can make provisions for the reservation of post in favour of any backward classes of citizens.
- c) Offices connect with religious institutions may be reserved for the persons of a particular religion.

#### 4. **Abolition of Untouchability**

Article 17 provides that untouchability is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of untouchability shall be an offence punishable in accordance with law.

#### 5. **Abolition of Titles**

Articles 18 abolishes all the title conferred on various Citizens by British Government and the use of those titles is prohibited as it result in creating superior and inferior classes of citizens. However, Military titles, Academic titles or Titles recognizing merit or work of an extra-ordinary nature can be conferred and used.

## II. **RIGHT TO FREEDOM [ARTICLES 19 TO 22]**

1. **Right to freedom of Speech and Expression [Article 19(1)(a)]** : Freedom of speech and expression is a very important aspect of democracy. The freedom of speech and expression means the right to express one's convictions and opinions freely by words of mouth, writing, printing, pictures or any others any other mode.

The right to speech and expression includes right to make good or bad speech. One may express oneself even by sign. It also includes the expression of idea through dramatic performance, cinematographic and any other mode of expression.

In **Maneka Gandhi v. Union of India**, it was decided that the freedom of speech and expression includes the freedom of press and thus imposition of pre-censorship on publication of views, ideas, analysis, etc is violation of freedom of speech and expression.

Permissible restrictions

1. Sovereignty and integrity of India
  2. Security of the state
  3. Friendly relations with foreign States
  4. Public order
  5. Decency and morality
  6. Contempt of court
  7. Defamation
  8. Incitement to offence.
- 2. Right to assemble peacefully and without arms [Article 19(1)(b)]** :It is the right to citizens to assemble peacefully and without arms.  
However reasonable restrictions may be imposed on the interest of:
- I. The sovereignty and integrity of India;
  - II. Public order.
- 3. Right to form association and union [Article 19 (1)(c)] :**  
The right is subject to reasonable restrictions which may be imposed in an interest of:
1. Sovereignty and integrity of India;
  2. Public order;
  3. Morality.
- 4. Right to move freely throughout the territory of India [Article 19(1)(d)] :**  
Right to move freely is confined only to the territory of India and it can't be extended to travel abroad.  
This right is also subject to some reasonable restrictions which may be imposed:
- I. In the interest of the general public;
  - II. For the protection of interest of any schedule tribe.

**5. Right to reside and settle in any part of territory of India [Article 19 (1)(e)]:**

The right to freedom of residence is intended to remove internal barriers within the territory of India to enable every citizen to travel freely and settle down in any part of the state or Union territory.

This freedom is also subject to reasonable restrictions which may be imposed:

- I. In the interest of general public;
- II. For the protection of interest of any scheduled tribe.

**6. Right to practice any profession or carry on any trade, business or carry on any trade, business or occupation [Article 19 (1)(g)] :**

Article 19(1) (g) provides that all citizens shall have the right to practice any profession or to carry on any occupation, trade or business.

The right is also subject to reasonable restrictions which may be imposed:

- I. In the interest of the general public;
- II. To prescribe professional or technical qualification necessary for carrying on any profession, trade or business;
- III. To enable the State to carry on any trade or business to the exclusion of Private Citizens. This means that the creation of State monopoly shall not be considered to deprive a citizen of the freedom of trade and occupation.

**1) Protection against ex-post facto laws:** Ex-post facto laws are laws which are punished what had been unlawful when done. If a particular act was not an offence according to the law of the land at the time when the person did that act, then he can't be convicted under a law which, with retrospective effect, declares that act as an offence.

**2) Protection against double jeopardy:** No person can be prosecuted and punished for the same offence more than once.

**3) Protection against self-incrimination:** A person accused of any offence can't be compelled to be a witness himself.

Article 21 of the constitution confers on every person the fundamental right to life and personal liberty. It says that “No person shall be deprived of his life or personal liberty except according to the procedure established by law”.

In **A. K. Gopalan v. State of Madras**, a very narrow meaning was given to the expression personal liberty confining it to the liberty of the persons i.e., of the body of a person. It was held that only if the person’s physical movement is restricted, then there was need for law and procedure, otherwise his personal liberty would be restricted in any way without violating.

That the expression “personal liberty” is not limited to bodily restraint or to confinement to prison only is well illustrated by **Kharak Singh v. State of U.P.** In this case, the question raised was of the validity of the police regulation authorizing the police to conduct what are called domiciliary visits against bad characters and to have surveillance over them. The court held that such visit were an invasion on the part of the sanctity of a man’s house and liberty of the individual, unless authorized by a valid law.

### **III. RIGHT AGAINST EXPLOITATION [ARTICLES 23 & 24]**

Article 23 imposes a complete ban on traffic in human beings and forced labour. Article 24 prohibits employment of children in factories, etc.

#### **Article 23**

Traffic in human beings and beggar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law”

Beggar is a system where a person is compelled to render involuntary and free service. Even if any there is payment of wages, a person can’t be compelled to work against his will.

#### **Article 24**

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

Various laws like. The Factories Act, 1948, The Employment of Children Act, 1938, The Child Labour (Prohibition and Regulation) Act, 1986 are some of the legislations which protect.

#### IV. RIGHT TO FREEDOM OF RELIGION [ARTICLES 25 TO 28]

##### Article 25

It guarantees to every person freedom of conscience and the right to profess practice and propagate any religion freely.

##### Article 26

It guarantees to every religious denomination the following rights:

- 1) The right to establish and maintain institution for the religious and charitable purposes.
- 2) The right to manage its own affairs in matters of religion.
- 3) Right to own and acquire movable and immovable property.
- 4) Right to administer that property in accordance with law.

##### Article 27

It provides that no person shall be compelled to pay taxes, the proceeds of which are specifically appropriation in payment of expenses for the promotion or maintenance of any particular religion or religious denomination.

##### Article 28

It provides that no religious instructions shall be provided in any educational institution wholly maintained out of State funds .However, this prohibition shall not apply to any educational institution which is administered by the State but has been established under any endowment or trust which requires that religious instructions shall be imparted in such institution.

*Your scarcest resource is your time*

---

\*You may also order & buy any Executive & Professional level books by CS. Dev Sharma

**V. CULTURAL AND EDUCATIONAL RIGHTS [ARTICLES 29 & 30]****Article 29**

It provides the following:

- 1) Any section of the citizens residing in the territory of India having distinct language, script or culture of his own shall have the right to conserve the same; and.
- 2) No citizens shall be denied admission into any educational institution maintained by the State on grounds only of religion, race, cast, language or any of them.

**Article 30**

It provides the following:

- 1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institution of their choice, and
- 2) The state shall not, in granting aid educational institutions, discriminate any educational institution on the ground that it is under the management of the minority, whether based on religion or language.

**VI. RIGHT TO CONSTITUTIONAL REMEDIES [ARTICLE 32]**

Article 32 makes it a fundamental right that a person, whose fundamental right is violated, has a right to move the Supreme Court for the enforcement of his fundamental rights. Thus, a person need not first exhaust the other remedies and then go to the Supreme Court. He can directly raise the matter before the highest court of the land and the Supreme Court may pass appropriate orders and writs for the enforcement of the right, the violation of which has been alleged.

‘**Ubi jus ibi remedium**’ means where there is a right there is a remedy. Such remedies are available in the nature of

- 1) Habeas corpus;
- 2) Mandamus
- 3) Prohibition;
- 4) Certiorari; and

5) Qua Warranto.

**1. Writ of Habeas Corpus**

The words 'habeas corpus' literally means 'to have a body'. It is a remedy available to a person who is confined without legal justification. Through this writ, the court let it know the reasons for detention of the person and of justification.

Habeas corpus, thus, entails the authority to produce the person before the court. The applicant of this writ may be the prisoner or any person on his behalf to safeguard his liberty. It seeks immediate relief from unlawful detention, whether in prison or private custody.

This is a very powerful safeguard to the subject against arbitrary acts of private individuals and also executives.

**2. Writ of Mandamus**

Mandamus literally means a command. This writ of command is issued by the Supreme Court or High Court when any government, court, corporation or any public authority has to do a public duty but fails to do so. But it should be noted that it should not be discretionary duty of the authority which is challenged. It may further be noted that this writ can't be issued against president or the Governor.

**3. Writ of prohibition**

Writ of prohibition is issued by Supreme Court or High Court to subordinate Court preventing later from usurping the jurisdiction which is legally not vested in it. The writ lives in both for excess of jurisdiction or absence of jurisdiction. It is generally issued before the trial of the case or during the pendency of the proceeding but before the order was made.

**4. Writ of Certiorari**

If any lower court or a tribunal gives its decision but based on wrong jurisdiction, then the writ of certiorari is issued to sub-ordinate judicial or quasi-judicial body by Supreme Court or High Court when such sub-ordinate judicial or quasi-judicial acted:

- a) Without or in excess of jurisdiction;

- b) In violation of the prescribed procedure;
- c) *In contravention of principal justice;*
- d) Resulting in an error of law apparent on the record.

#### **5. Writ of Quo Warranto**

The term 'Quo Warranto' means "what is your authority". Whenever any public office held by any one not qualified do hold it, it can be challenged by this writ by any person. An order issued by the court to such an authority to explain under what valid grounds he is holding such a post. If it is found on investigating that he is not entitled to the office, the court may restrain him from acting in the office and declare the office to be vacant.

#### **FUNDAMENTAL DUTIES**

Following are some of the important fundamental duties:

- i. To abide by the Constitution and respect its ideals and institution, the National Flag and the National Anthem.
- ii. To uphold and protect the sovereignty of India.
- iii. To defend the country and render National service when called upon to do so.
- iv. To promote harmony and spirit of common brotherhood amongst all the people of India.
- v. To renounce practices derogatory to the dignity of women.
- vi. To value and preserve the rich heritage of our composite culture.

#### **ORDINANCE MAKING POWERS OF THE PRESIDENT OF INDIA**

Normally, Parliament has legislative powers and it alone can pass laws on Union list matters. However, our constitution under Article 123 gives special legislative power to president of India by promulgating ordinance under certain circumstances.

Following are the important provisions regarding ordinance making powers of the president of India:

- I. The president gets the powers only when the parliament is not functioning. Even if one house of parliament is not functioning, the president can pass an ordinance.



- II. The president has powers to pass ordinance on the matters on which the parliament does not have powers.
- III. The Councils of Ministers should suggest the passing of an ordinance on such matters.
- IV. The president himself should also be satisfied about the need for the ordinance and he can't be compelled.
- V. Once an ordinance is passed, it should be placed before both the Houses of parliament and approved by them within six week of their respective dates of re-assembly.
- VI. The ordinance lapses if it is not approved withdraws the aforesaid six weeks or if it is rejected earlier or if the president himself withdraws the ordinance.
- VII. The ordinance can't be challenged except on the limited ground of mala fide intention in passing the ordinance. **[Cooper's Cases]**

### **PITH AND SUBSTANCE RULE**

The rule of pith and substance is applied when a law dealing with a subject in one list also touches a subject in another list. In such cases the pith and substance of the legislation i.e., the true object of legislation is to be determined. If on such examination, it is found that the legislation in its existence is within the legislative complete competent of the legislature which enacted it, is valid even if it accidentally encroached on subjected on another list.

### **COLOURABLE LEGISLATION**

The theory behind this concept is "You can't do indirectly what you can't do directly". The object of distribution of legislative powers to different legislative is that ought to act within their respective boundaries marked by the specific entries. There are some cases where the legislature passed an Act which outwardly purports to be dealing with a subject within its legislative competence but in substance it covers a subject not within its

---

\*You may also order & buy any Executive & Professional level books by CS. Dev Sharma

powers. Such type of law is called colourable legislation and it will be struck down by Court.

### **PLENARY POWERS**

When a legislative power is given with respect to any subject, the legislative have the power make laws on such subject and also any matter incident to such subject. This is called giving plenary of powers. **For example**, when a power is giving on tax matter, the legislatures have the power to make law for imposition of tax, and also not to impose and collect tax.

### **DELEGATED LEGISLATION**

Delegate legislation means law making by authorities other than legislatures (i.e., Executive and judiciary) on the basis of power given by the legislatures. It is a process which proceeds from any authority other than the sovereign power and is, therefore, dependent for its continued existence and validity on some superior or supreme authority.