

Constitution and You: Rights and Responsibilities as Citizens

The Constitution of India is the supreme law of the country. It defines the structure of the government, the rights of citizens, and the principles of governance

The constitution declares India a sovereign, socialist, secular, and democratic republic, assures its citizens justice, equality, and liberty, and endeavours to promote fraternity

It is the longest written national constitution in the world. It was adopted by the Constituent Assembly of India on 26 November 1949 and became effective on 26 January 1950. India celebrates its constitution on 26 January as Republic Day.

The process for formulation of the Constitution took 2 years, 11 months and 18 days and it has been amended 105 times; the latest amendment became effective on 15 August 2021.

Constitution is the basic law/document of the country. Constitution is not to be construed a mere law but a machinery by which all other laws are made. All other laws must be in conformity with the constitution. It is a document with special legal sanctity which sets out the frame work and principal functions of the government of the state.

Unique feature of Indian constitution is that it is a combination of federal and unitary system.

Federal features or Basic Structure of the Constitution :

- 1) Dual government
- 2) Supremacy of constitution
- 3) Written constitution
- 4) Rigid constitution
- 5) Independence of Judiciary
- 6) Distribution of Powers

IMPORTANT ARTICLES

(Fundamental Rights, Directive Principles of State Policy and Fundamental Duties)

Right to Equality (Articles 14 to 18)

- Article 14: Equality before law and equal protection of laws AND Rule of Law
Article 15: Prohibition of discrimination on grounds of religion, race, caste, sex or
Article 16: Equality of opportunity in matters of public employment
Article 17: Abolition of Untouchability and prohibition of its practice
Article 18: Abolition of Titles except Military and Academic

Right to Freedom (Articles 19 to 22)

Article 19: Protection of certain rights (Six Rights) regarding

- (a) freedom of speech and expression
- (b) freedom of Assembly
- (c) freedom of Association
- (d) freedom of Movement
- (e) freedom of Residence
- (f) freedom of Profession

Article 20 : Rights of Accused person OR Protection in respect of

(1) Conviction of offences / ex post facto law

No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence, must not be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of commission of the offence.

Article 20(1) imposes a limitation on the law making power of the legislation. It prohibits the state to make the retrospective criminal laws. However, it cannot apply to civil laws.

(2) Double Jeopardy

No person shall be prosecuted and punished for the same offence more than once/twice.

The word prosecution limits the scope of the protection. If there is no punishment in the 1st (first) prosecution, the 2nd (second) prosecution is NOT a bar.

Essential Ingredients:

- a) The person must be accused of an offence.
- b) The prosecution must have taken place before a Court or Judicial tribunal.
- c) The person must have been prosecuted and punished in the previous proceedings.
- d) The offence must be the same for which he was prosecuted and punished in the previous proceeding.

(3) Protection/Prohibition against self-incrimination(i.e. Bar on polygraphy, brain mapping, fingerprinting test against the wishes of the accused)

No person accused of any offence shall be compelled to be a witness against himself.

The following conditions must be fulfilled to claim the benefit of Article 20(3).

- 1) Person claiming must be accused
- 2) It is a protection against such compulsion relating in his giving evidence against himself.

Article 21: Protection of life & personal liberty except in accordance with the procedure established by law

Article 21 of the Indian Constitution lays down as “Protection of life & personal liberty except in accordance with the procedure established by law”.

SC interpreted personal liberty very narrowly. Personal liberty means bodily restraint or confinement of person.

a) Menaka Gandhi's Case

The scope of personal liberty has been widened. SC held that the right to life is not merely confined to animal existence but includes to live with human dignity.

Now it protects against the legislative action also.

b) Olga Tellis Vs Bombay Municipal Corporation

Right to live and personal liberty also includes right to livelihood.

Article 21 A : Right to elementary education

State shall provide free and compulsory education to the children from age 6 to 14 (86th amendment-2002) w.e.f 1st April, 2009

Article 22 : Protection against arrest and detention on certain cases. Right against Exploitation (Articles 23 & 24)

Article 23 : Prohibition of traffic in human beings and forced labour

Article 24 : Prohibition of employment of children in factories, etc.

Right to Freedom of Religion (Articles 25 to 28)

Article 25 : Freedom of conscience and free profession, practice and propagation of religion

Article 26 : Freedom to manage religious affairs

Article 27 : Freedom as to payment of taxes for promotion for any particular religion

Article 28 : Freedom as to attendance at religious instruction or religious workshop in certain educational institutions.

Cultural and Educational Rights (Articles 29 & 30)

Article 29 : Protection of interests of minorities

Article 30 : Right of minorities to establish and administer educational institutions

Article 31 : (Repealed)

Article 31 A: Saving of laws providing for acquisition of estates...etc

Article 31 B: Validation of certain acts and regulations

Article 31 C: Saving of laws giving effect to certain directive principles

Article 31 D: (Repealed)

Right to Constitutional Remedies (Article 32)

Article 32: Right to move the Supreme Court for the enforcement of fundamental rights OR Remedies for enforcement of fundamental rights including Writs of

- (i) Habeas Corpus
- (ii) Mandamus
- (iii) Prohibition
- (iv) Certiorari
- (v) Quo warranto

A Writ is a written order issued by a court, commanding the party to whom it is addressed to perform or cease to perform a specified act.

Article 32 A: (Repealed)

Article 33 : Power of parliament in modify the fundamental rights in their application to forces, etc

Article 34 : Restriction on fundamental rights while martial law is in force in any area

Article 35 : Legislation to give effect to some of the provisions of fundamental rights

Directive Principles of State Policy:

Article 36 : Definition of State

Article 37 : Application of the directive principles of State Policy

- Article 38 : State to secure a social order for the promotion of welfare of the people.
- Article 39 : Name & Territory of the Union
- Article 39 A: Equal Justice and free legal aid
- Article 40 : Organization of village panchayat
- Article 41 : Right to work, to education, and to assistance in public work
- Article 42 : Provision of just and humane condition of work and maternity relief
- Article 43 : Living wages..etc for workers
- Article 43 A: Participation of workers in management of Industries
- Article 44 : Uniform civil code for the citizens
- Article 45 : Provision of early childhood care and education to children below the age of six years.
- Article 46 : Promotion of educational and economic interests of scheduled castes, scheduled tribes and other weaker sections.
- Article 47 : Duty of the state to raise the level of nutrition and the standard of living and to improve public health.
- Article 48 : Organization of agriculture and animal husbandry
- Article 48 A: Protection and improvement of environment and safe guarding of forests & wild life.
- Article 49 : Protection of monuments and places and objects of national importance
- Article 50 : Separation of Judiciary from executive
- Article 51 : Promotion of internal peace and security

Article 51 A: Fundamental duties

Originally, the Constitution of India did not contain these duties. Fundamental duties were added by the 42nd and 86th Constitutional Amendment acts.

Fundamental Duties are a set of moral and ethical obligations that are enshrined in Part IV-A (Article 51A) of the Constitution of India. As of now, there are 11 Fundamental duties.

Citizens are morally obligated by the Constitution to perform these duties. However, like the Directive Principles, these are non-justifiable, without any legal sanction in case of their violation or non-compliance.

Article 51A: Fundamental duties

It shall be the duty of every citizen of India –

- (a) to abide by the Constitution and respect its ideals and institutions, the National Flag, and the National Anthem;
- (b) to cherish and follow the noble ideals which inspired our national struggle for freedom;
- (c) to uphold and protect the sovereignty, unity, and integrity of India;
- (d) to defend the country and render national service when called upon to do so;
- (e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic, and regional or sectional diversities; to renounce practices derogatory to the dignity of women;
- (f) to value and preserve the rich heritage of our composite culture;
- (g) to protect and improve the natural environment including forests, lakes, rivers, and wildlife, and to have compassion for living creatures;
- (h) to develop the scientific temper, humanism, and the spirit of inquiry and reform;
- (I) to safeguard public property and to abjure violence;
- (j) to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavor and achievement.
- (k) to provide opportunities for education by the parent the guardian, to his child, or a ward between the age of 6-14 years as the case may be

Article 243 in Constitution of India

Article 243 of the Constitution of India deals with Panchayats, their constitution, compositions, powers and responsibilities etc. defined through sections 243A to 243O.

Examples:

243A. A Gram Sabha may exercise such powers and perform such functions at the village level as the Legislature of a State may, by law, provide.

Article 243D also provides for reservation of not less than 1/3rd seats for women.

Article 243G: Defines the powers, authority, and responsibilities of Panchayats

Gram Sabha

Gram Sabha is a body consisting of all the persons registered in the electoral rolls relating to a village comprised within the area of Panchayat at the village level. Since all the persons registered in electoral rolls are members of Gram Sabha, there are no elected representatives. Further, Gram Sabha is the only permanent unit in Panchayati Raj system and not constituted for a particular period. This institution is empowered to perform various functions at the village level, including establishing schools and health facilities. The powers and functions of Gram Sabha are fixed by state legislature by law.

Reservation in Panchayats

There is a provision of reservation of seats for SCs and STs at every level of Panchayat. The seats are to be reserved for SCs and STs in proportion to their population at each level. Out of the Reserved Seats, 1/3rd have to be reserved for the women of the SC and ST. Out of the total number of seats to be filled by the direct elections, 1/3rd have to be reserved for women. There has been an amendment bill pending that seeks to increase reservation for women to 50%. The reserved seats may be allotted by rotation to different constituencies in the Panchayat.

The Constitution (Seventy-third Amendment) Act, 1992, was a significant reform in the Constitution of India. It introduced the concept of gram panchayats, which is a third-level government that deals directly with the public and works to address problems at the grass-roots level.

The 74th Constitutional Amendment Act (CAA) of 1992, also known as the Nagarpalika Act, gave constitutional status to Urban Local Bodies (ULBs) in India. It came into effect on June 1, 1993.

The 74th Constitutional Amendment Act was passed to constitutionalize the system of Urban Local Government, also known as the Municipal bodies. It provides a framework for the decentralisation of obligations and duties to the Municipal bodies at different levels of a state. With the introduction of this act, an institutional framework was created to focus on the grassroots level and ensure efficient administration of the urban areas through self-governing urban local bodies.

The amendment established ULBs (Urban Local Bodies) as the lowest unit of governance in cities and towns.

Devolved powers and made ULBs more responsive

The amendment gave ULBs (Urban Local Bodies) more powers and responsibilities, including planning, service delivery, and financial management and aimed to make urban governance more responsive to the needs of the people.

Key Features

- 73rd and 74th Amendments to the Constitution of India empowered the Panchayat and Municipal bodies to take up the development planning of their areas
- These two Amendments are also opening doors for the common people to participate in developing plans for their areas through the medium of Grama Sabhas and Area Sabhas
- There is no election or nomination required for membership of a Grama Sabha or Area Sabha- only requirement to participate is that one should be a registered voter of the area
- All the higher bodies like the Ward Committees, Panchayats, Municipalities etc are expected to take into account the recommendations of the Grama and Area Sabhas for formulating any plans for development.
- Most people are still not aware of this power and prerogative available to them

Ward Committees and Area Sabhas for Municipal Bodies in Andhra Pradesh

G.O. Ms. No- 57 of 2010 that was issued by the Municipal Administration and Urban Development Department, Government of Andhra Pradesh laid the foundation for the constitution of the Ward Committees and the Area Sabhas with the objective of involving all citizens in the process of governance and truly taking democracy to the grassroots.

All decision for planning and development of the of an area are to be taken by the voters in the Area Sabha Meetings to be convened at least once in 3 months. The recommendations of the all the Area Sabhas of a Ward to be considered by the Ward Committees for any development plans and financial allocations of their Wards.

This provision of Area Sabhas and Ward Committees can really take democracy to the grassroots to make common people the key decision makers and ensure relevant planning, effective implementation and responsive administration but unfortunately now it is mostly on paper.

**Time for Citizens to wake up and Act to secure their participation in governance from grassroots
To make Indian Democracy meaningful and exemplary!!**

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