

Constitutional Law (Internal notes)

1. What is the philosophy of the Constitution?

The **philosophy of the Constitution** refers to the fundamental principles and values on which it is based. These include **justice, liberty, equality, and fraternity**, as mentioned in the **Preamble**. It aims to create a society based on **democracy, rule of law, and human dignity**, ensuring the protection of individual rights while maintaining national unity.

2. What is meant by the Constitution as a basic norm?

The **Constitution as a basic norm** means that it is the **supreme law of the land**, from which all legal and political systems derive their authority. It provides the framework for governance, ensuring that all laws, policies, and governmental actions remain within its limits. No law or action can violate the constitutional provisions.

3. What is the Rule of Law?

The **Rule of Law** is a fundamental principle stating that **no one is above the law**, including the government. It ensures **legal equality**, meaning every individual is subject to the same laws, regardless of their status or position. It also upholds **due process**, meaning that legal procedures must be followed before depriving a person of life, liberty, or property.

4. What is constitutionalism?

Constitutionalism is the concept that government power should be **limited and regulated** by a Constitution to **prevent the abuse of power**. It ensures that rulers do not act arbitrarily and must **follow constitutional principles** such as democracy, fundamental rights, and separation of powers.

5. Why is the Constitution called a living document?

The **Constitution is called a living document** because it is **flexible and evolves** with changing societal needs. It can be modified through **amendments** and interpreted by the judiciary to address new challenges. For example, landmark judgments have expanded fundamental rights over time, ensuring the Constitution remains relevant.

6. What are the different forms of the Constitution?

The Constitution can take various forms based on its structure and nature:

- **Written or Unwritten:** A **written Constitution** (e.g., India, USA) is codified in a single document, while an **unwritten Constitution** (e.g., UK) is based on customs, judicial decisions, and legal principles.
- **Rigid or Flexible:** A **rigid Constitution** (e.g., USA) requires a complex amendment process, whereas a **flexible Constitution** (e.g., UK) can be easily modified.
- **Federal or Unitary:** A **federal Constitution** (e.g., India, USA) divides power between central and state governments, whereas a **unitary Constitution** (e.g., UK) concentrates power at the central level.

7. What was the legal system during the East India Company's rule?

During the **East India Company's rule**, the legal system was based on a mix of **Hindu, Muslim, and British laws**. The Company established courts, but justice was largely based on traditional laws. **Governor Warren Hastings (1772)** introduced reforms, appointing British judges and implementing a dual judicial system, where criminal law was based on Muslim laws and personal laws were based on respective

religions.

8. **What changes were introduced in the legal system under British Crown rule?**

When the British Crown took over in **1858**, several legal reforms were introduced:

- Establishment of the **Indian Penal Code (IPC)**, **Criminal Procedure Code (CrPC)**, and **Civil Procedure Code (CPC)** to unify laws.
- Creation of **High Courts in 1861** to replace earlier courts.
- Introduction of the **Rule of Law**, ensuring legal equality for all citizens.
- Formation of the **Supreme Court and Privy Council** as the highest judicial bodies for appeals.

9. **What were the major events during the freedom struggle that influenced constitutional development?**

Several events played a role in shaping India's Constitution:

- **Simon Commission (1927)**: Proposed constitutional reforms but excluded Indians, leading to protests.
- **Communal Award (1932)**: Introduced separate electorates for minorities, leading to tensions.
- **Government of India Act, 1935**: Provided provincial autonomy and was a precursor to the Constitution.
- **Indian Independence Act (1947)**: Led to India's independence and the partition of India and Pakistan.

10. **What was Mountbatten's Plan of 1947?**

Lord Mountbatten's Plan (June 3, 1947) proposed the **partition of India** to resolve Hindu-Muslim conflicts. It led to:

- The creation of **two independent nations—India and Pakistan**.
- The division of **Punjab and Bengal** based on religious majority.
- The granting of **independence on August 15, 1947**.
- The option for princely states to **join India or Pakistan** or remain independent.

11. **What was the role of the Constituent Assembly in drafting the Indian Constitution?**

The **Constituent Assembly**, established in **1946**, was responsible for framing India's Constitution. It had **389 members**, including **Dr. B.R. Ambedkar (Chairman of the Drafting Committee)**. Over **three years**, the Assembly debated and adopted the Constitution, which came into force on **January 26, 1950**.

12. **What is the Preamble of the Indian Constitution?**

The **Preamble** is the introductory statement of the **Indian Constitution** that expresses its **objectives and ideals**. It declares India as a **Sovereign, Socialist, Secular, Democratic Republic** and ensures **Justice, Liberty, Equality, and Fraternity** for all citizens.

13. **What are the socio-legal concepts under the Preamble?**

The **Preamble** reflects various **social and legal** principles:

- **Social Justice**: Eliminating discrimination and promoting equality.
- **Economic Justice**: Bridging wealth gaps and ensuring fair distribution of resources.

- **Political Justice:** Equal participation in governance and free elections.
- **Secularism:** Equal treatment of all religions by the state.
- **Democracy:** A government elected by the people.
- **Sovereignty:** India's independence in decision-making.

14. How does the Preamble help in interpreting the Constitution?

The **Preamble** acts as a **guiding principle** in interpreting the Constitution. Courts use it to understand the **spirit of the Constitution** and resolve ambiguities. In **Kesavananda Bharati v. State of Kerala (1973)**, the Supreme Court held that the Preamble represents the **basic structure** of the Constitution, which cannot be altered.

15. What are the salient features of the Indian Constitution?

The **Indian Constitution** has several unique features:

1. **Longest Written Constitution:** Contains detailed provisions with 470 Articles.
2. **Federal Structure with Unitary Features:** India has a **federal system** with a strong **central government**.
3. **Fundamental Rights and Duties:** Guarantees rights like equality, freedom, and protection against exploitation.
4. **Directive Principles of State Policy (DPSP):** Guidelines for governance aimed at social justice.
5. **Independent Judiciary:** Ensures separation of powers and protects constitutional rights.

16. What are the main provisions related to citizenship under the Citizenship Act of 1955?

The **Citizenship Act of 1955** provides **five ways to acquire Indian citizenship**:

- **By Birth:** A person born in India becomes a citizen (subject to certain conditions).
- **By Descent:** A person born outside India to Indian parents may acquire citizenship.
- **By Registration:** Foreigners married to Indian citizens or residing in India for a certain period can apply.
- **By Naturalization:** A foreigner can become a citizen after **12 years of residence** in India.
- **By Incorporation of Territory:** When India acquires a new territory, its people become Indian citizens.

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