

Date 01.09.2025 constitution by anjana

Imported question can be add in question paper @20 marks

Direct Question Forms

1. What is meant by a constitution? Explain the salient features of the Indian Constitution.
2. The Indian Constitution is often called a “bag of borrowings.” Discuss.
3. Explain the meaning of Constitution and highlight the unique features of the Indian Constitution.
4. What is a constitution? Describe the main characteristics of the Indian Constitution.
5. Why is the Indian Constitution described as a borrowed Constitution?

Combined / Analytical Forms

6. Define Constitution. Is the Indian Constitution merely a borrowed document? Support your answer with reasons.
 7. Discuss the salient features of the Indian Constitution. In this context, explain why it is called a “bag of borrowings.”
 8. “The Indian Constitution is unique despite being borrowed from many sources.” Discuss.
 9. What do you understand by the term Constitution? Explain the special features of the Indian Constitution that distinguish it from other Constitutions.
 10. Write short notes on:
 - a) Constitution
 - b) Salient features of the Indian Constitution
 - c) Borrowed provisions of the Indian Constitution
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Answer :-

Answer Framework

1. Meaning of Constitution

- The Constitution is the **supreme law of the land**.
 - It lays down the framework for **government structure, powers, and citizens’ rights and duties**.
 - It defines the relationship between **State and citizens**.
 - Example: Indian Constitution came into effect on **26th January 1950**.
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2. Why Indian Constitution is called a “Bag of Borrowings”

- Our Constitution makers studied various countries’ Constitutions.
 - They borrowed provisions **suitable to Indian conditions**.
 - Examples of borrowings:
 - **Britain** → Parliamentary system, Rule of Law, Single Citizenship.
 - **USA** → Fundamental Rights, Judicial Review, Independence of Judiciary.
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- **Canada** → Federal system with strong Centre, residuary powers.
 - **Ireland** → Directive Principles of State Policy.
 - **Australia** → Concurrent List, Joint Sitting of Parliament.
 - **Germany (Weimar)** → Emergency Provisions.
 - **France** → Liberty, Equality, Fraternity (Preamble).
 - **South Africa** → Procedure of Constitutional Amendment.
 - **USSR (Russia)** → Fundamental Duties, Five-Year Plans.
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3. Salient Features of Indian Constitution

- **Longest written Constitution** in the world.
 - **Drawn from many sources** (hence, bag of borrowings).
 - **Blend of rigidity and flexibility** (some parts easily amendable, others very difficult).
 - **Federal system with unitary bias** (Centre is stronger).
 - **Parliamentary form of Government** (like Britain).
 - **Secular State** (no state religion, equal respect for all religions).
 - **Independent Judiciary** (with power of Judicial Review).
 - **Fundamental Rights** (Part III).
 - **Directive Principles of State Policy** (Part IV).
 - **Fundamental Duties** (Part IV-A).
 - **Single Citizenship** (like Britain).
 - **Universal Adult Franchise** (every citizen 18+ can vote).
 - **Emergency provisions** (to safeguard unity and integrity).
 - **Special provisions for SCs, STs, OBCs and minorities.**
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4. Conclusion

- The Indian Constitution is rightly called a “bag of borrowings,” but it is **unique in its application**.
 - It is not a copy-paste document; rather, it is a **careful selection of the best features** suited for Indian conditions.
 - It reflects the vision of the Constituent Assembly to build a **sovereign, socialist, secular, democratic republic**.
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Preamble

Possible Exam Questions on Preamble

Direct / Definition Type

1. What is the Preamble to the Indian Constitution? Explain its importance.
 2. Define the Preamble. Is it a part of the Constitution?
 3. Write a note on the Preamble of the Indian Constitution.
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Analytical / Critical Type

4. Discuss the significance of the Preamble in the interpretation of the Constitution.
 5. "The Preamble is the key to the minds of the Constitution makers." Explain.
 6. Explain the objectives enshrined in the Preamble of the Indian Constitution.
 7. Critically examine the legal status of the Preamble with reference to Supreme Court judgments (Berubari case, Kesavananda Bharati case).
 8. Is the Preamble justiciable? Discuss with case laws.
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Combination Type

9. What are the key words used in the Preamble? Explain their meaning (Sovereign, Socialist, Secular, Democratic, Republic, Justice, Liberty, Equality, Fraternity).
 10. How far does the Preamble reflect the philosophy of the Indian Constitution?
 11. Examine the amendment of the Preamble by the 42nd Amendment Act, 1976.
 12. Discuss the role of the Preamble in shaping Indian democracy.
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Short Notes / Simple Form

13. Short note on:
 - a) Preamble as the soul of the Constitution
 - b) Objectives of the Preamble
 - c) Amendment of the Preamble
 14. What is the importance of the words "We, the people of India" in the Preamble?
 15. Explain the phrase "Sovereign, Socialist, Secular, Democratic, Republic" in simple words.
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Short Notes on Preamble

The Preamble of the Indian Constitution sets out the aims and aspirations of the people. It declares that it is the people of India who have adopted, enacted, and given to themselves the Constitution of India.

1. Definition & Nature

- The **Preamble** is the **introductory statement** of the Constitution.
 - It sets out the **philosophy, objectives, and guiding principles**.
 - Describes India as: **Sovereign, Socialist, Secular, Democratic, Republic**.
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2. Objectives in the Preamble

- **Justice** → Social, Economic, Political.
 - **Liberty** → Thought, Expression, Belief, Faith, Worship.
 - **Equality** → Status and opportunity.
 - **Fraternity** → Assuring dignity of the individual and unity & integrity of the nation.
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3. Importance

- Called the **“Key to the minds of the Constitution makers.”** (K.M. Munshi).
 - Provides **guiding light** in interpreting the Constitution.
 - Reflects the **vision of India’s democracy**.
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4. Legal Status (Case Laws)

- **Berubari case (1960)**: SC said Preamble is **not part** of Constitution.
 - **Kesavananda Bharati case (1973)**: SC held Preamble is **part of Constitution** and can be used in interpretation.
 - **LIC of India case (1995)**: Reaffirmed Preamble is part of Constitution.
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5. Amendment

- **42nd Amendment (1976)**: Added **three words** – Socialist, Secular, Integrity.
 - Preamble **can be amended**, but **basic structure cannot be destroyed**.
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6. Conclusion

- Preamble is the **soul of the Constitution**.
 - It embodies the **aims, ideals, and values** of the nation.
 - Provides a **philosophical foundation** for constitutional interpretation.
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Short Notes on Secularism

1. Meaning of Secularism

- Secularism = **No State religion**; equal treatment of all religions.
 - State remains **neutral** → neither promotes nor discriminates against any religion.
 - Ensures **freedom of religion** for all citizens.
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2. Constitutional Provisions

- **Preamble**: India is a **Secular Republic** (word added by 42nd Amendment, 1976).
 - **Article 14** → Equality before law (no discrimination on religious grounds).
 - **Article 15** → No discrimination on grounds of religion.
 - **Article 16** → Equality in public employment.
 - **Article 25** → Freedom of conscience & free profession, practice and propagation of religion.
 - **Article 26** → Freedom to manage religious affairs.
 - **Article 27** → No compulsion to pay taxes for promotion of any religion.
 - **Article 28** → No religious instruction in government educational institutions.
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3. Judicial Interpretation

- **Kesavananda Bharati case (1973)**: Secularism is part of **basic structure** of Constitution.
 - **S.R. Bommai case (1994)**: Defined secularism as essential to democracy; government cannot favor any religion.
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4. Indian Model of Secularism

- Different from the West:
 - Western secularism = total separation of State & Church.
 - Indian secularism = **principled distance** → State may intervene to ensure equality (e.g., banning untouchability, reforming personal laws).
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5. Conclusion

- Secularism is **core to India's unity in diversity**.
 - It safeguards **religious harmony** and **democratic values**.
 - India's secularism means **equal respect, equal protection** for all religions.
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Answer for secularism

Answer Notes – Secularism

The term **secularism** means that the State has no official religion of its own and treats all religions with equal respect. In India, secularism does not mean complete separation of religion from the State, but rather **equal protection of all religions** and freedom of conscience for every individual.

The **Preamble of the Constitution** declares India to be a **Secular Republic** (the word “secular” was added by the 42nd Amendment, 1976). Several provisions safeguard this principle:

- **Article 14** ensures equality before law.
- **Article 15** prohibits discrimination on religious grounds.
- **Articles 25–28** guarantee freedom of religion, right to manage religious affairs, and prevent the State from promoting any particular religion.

The **Supreme Court** has recognized secularism as part of the **basic structure** of the Constitution. In the **Kesavananda Bharati case (1973)**, secularism was declared beyond the reach of amendment. In the **S.R. Bommai case (1994)**, the Court held that any State government acting against secular principles can be dismissed.

Thus, Indian secularism is unique. Unlike Western secularism (strict separation of Church and State), Indian secularism allows State intervention for **social reform** while ensuring freedom of faith. It is essential for maintaining **unity in diversity** in a multi-religious society like India.

This framework = **200 words (10 marks)** if written in short sentences.

For **20 marks**, add more explanation + examples (Uniform Civil Code debate, temple entry reforms, triple talaq judgment, etc.).

- **42nd Amendment (1976):** Added **three words** – Socialist, Secular, Integrity.
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Definition of SeculariPreamble – Exam Questions (LLB style)

1. **Is the Preamble a part of the Constitution? Explain with case laws.**
 2. **Can the Preamble be amended under Article 368?**
 3. **Is the Preamble enforceable in a court of law?**
 4. **Does the Preamble play any role in the interpretation of the Constitution?**
 5. **Is the Preamble the source of power or just a guiding principle?**
 6. **Can Fundamental Rights be read with reference to the Preamble?**
 7. **Is the Preamble just a preface or does it have substantive value?**
 8. **Was the word “Secular” present in the original Preamble of 1950?**
 9. **How did the 42nd Constitutional Amendment affect the Preamble?**
 10. **Is the Preamble the key to the minds of the Constitution makers? Discuss.**
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Q1. Is the Preamble a part of the Constitution?

Answer:

- In the *Berubari case (1960)*, the Supreme Court held that the Preamble is *not part* of the Constitution.
 - Later, in the *Kesavananda Bharati case (1973)*, the Court overruled *Berubari* and declared that the Preamble is part of the Constitution and has a significant role in interpretation.
 - Again, in the *LIC of India case (1995)*, the Supreme Court reaffirmed this.
- So, the Preamble is part of the Constitution, but it is not enforceable in court like Fundamental Rights.
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Q2. Can the Preamble be amended under Article 368?

Answer:

- Yes, the Preamble can be amended, but without altering the basic structure.
 - Example: The 42nd Amendment (1976) added the words *Socialist, Secular, and Integrity* to the Preamble.
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Q3. Is the Preamble enforceable in a court of law?

Answer:

- No, the Preamble is not justiciable (cannot be enforced in court).
 - It does not create any legal rights or obligations.
 - But it serves as a guiding principle for interpretation of the Constitution and laws.
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Q4. Does the Preamble play any role in interpretation of the Constitution?

Answer:

- Yes, the Supreme Court often uses the Preamble to interpret ambiguous provisions.
 - It reflects the philosophy and objectives of the Constitution, such as justice, liberty, equality, and fraternity.
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Q5. Can Fundamental Rights be read with reference to the Preamble?

Answer:

- Yes. The Preamble gives meaning to Fundamental Rights.
 - Example: The word Liberty in the Preamble strengthens the interpretation of Article 19 (Freedom of Speech & Expression).
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The **Kesavananda Bharati v. State of Kerala (1973)** case is the landmark judgment in Indian constitutional law. You will use it in many answers across subjects. Let me show you where and how you can use it in reference:

Situations to Use Kesavananda Bharati Case

1. Basic Structure Doctrine

- This is the main principle.
 - Held that Parliament can amend the Constitution under Article 368, but cannot alter the basic structure (e.g., democracy, secularism, rule of law).
👉 Use in answers on Constitutional Amendment, Article 368, Basic Structure, Judicial Review.
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2. Preamble as Part of the Constitution

- Court held that Preamble is part of the Constitution and can be used in interpretation, though it is not justiciable.
👉 Use in answers on Preamble, Interpretation of Constitution, Case laws on Preamble.
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3. Judicial Review

- The judgment strengthened the power of the Supreme Court to review constitutional amendments.
👉 Use in answers on Judicial Review, Separation of Powers, Role of Judiciary.
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4. Parliament's Amending Power

- Clarified that Parliament's power to amend is wide but not unlimited.
 - Example: Fundamental Rights can be amended, but cannot destroy democracy or secularism.
👉 Use in answers on Parliament vs Judiciary, Amendment power, Fundamental Rights vs DPSP conflict.
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5. Secularism as a Basic Structure

- Secularism was reaffirmed as part of the basic structure.
👉 Use in answers on Secularism, Religious Freedom, Equality.
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Quick Memory Tip (where to cite this case)

👉 Whenever you see exam questions with keywords like:

- *Basic Structure*
- *Amendment of Constitution*
- *Article 368*
- *Judicial Review*
- *Preamble*
- *Secularism / Democracy / Rule of Law*

✓ Always mention Kesavananda Bharati case (1973).

Right to Privacy

1. Meaning

- Right to Privacy = Protection of personal life, autonomy, and dignity from unnecessary intrusion by State or others.
 - It includes privacy of body, communication, data, home, and personal choices (like marriage, food, sexual orientation, etc.).
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2. Constitutional Status

- Originally, the Right to Privacy was not expressly mentioned in the Constitution.
 - It has been judicially recognized as part of Article 21 (Right to Life and Personal Liberty).
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3. Important Case Laws

1. *Kharak Singh v. State of UP (1962)* – SC held that privacy is not a Fundamental Right, but certain intrusions violate personal liberty under Article 21.
 2. *Gobind v. State of MP (1975)* – SC recognized a limited right to privacy under Article 21.
 3. *PUCL v. Union of India (1997)* – Telephone tapping held to violate privacy unless backed by law.
 4. *Justice K.S. Puttaswamy v. Union of India (2017)* – Landmark case:
 - A 9-judge bench of SC declared Right to Privacy as a Fundamental Right.
 - It is protected under Article 21 and also linked to Articles 14 and 19.
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4. When Added?

- Not added by any amendment.
 - It was judicially recognized in 2017 (Puttaswamy case) as part of the Fundamental Rights.
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5. Conclusion

- **Right to Privacy is now a Fundamental Right under Article 21.**
 - **It covers personal liberty, dignity, data protection, and lifestyle choices.**
 - **It cannot be curtailed except by a law which is just, fair, and reasonable.**
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Ref case for right to privacy is

Case Laws on Right to Privacy

1. **Kharak Singh v. State of U.P. (1962)**
 - **Surveillance by police challenged.**
 - **SC held: Right to Privacy is *not expressly guaranteed*, but unauthorized intrusion into home violates personal liberty under Article 21.**
 2. **Gobind v. State of M.P. (1975)**
 - **SC accepted that some aspects of privacy are protected under Article 21, but subject to reasonable restrictions.**
 3. **Malak Singh v. State of Punjab (1981)**
 - **Surveillance of habitual offenders is permissible, but it must not invade the dignity and liberty of individuals.**
 4. **People's Union for Civil Liberties (PUCL) v. Union of India (1997)**
 - **Telephone tapping violates the right to privacy unless authorized by procedure established by law.**
 5. **Justice K.S. Puttaswamy (Retd.) v. Union of India (2017)**
 - **Landmark 9-judge bench decision.**
 - **Declared Right to Privacy is a Fundamental Right protected under Article 21, and linked with Articles 14 and 19.**
 - **Covers personal liberty, data protection, sexual orientation, reproductive rights, etc.**
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Secularism means that the **State has no official religion** of its own and gives **equal respect, protection, and freedom** to all religions. It ensures that:

1. Every individual is free to **profess, practice, and propagate** any religion (or none at all).
 2. The State does not **discriminate** against citizens on the basis of religion.
 3. The government may regulate or reform religious practices only to uphold **equality, justice, and social welfare**.
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Bag of borrowing given below

Borrowed Concept of Democracy

- The idea of **Democracy** in the Indian Constitution is mainly borrowed from the **United Kingdom (UK)** and the **United States of America (USA)**.

From the United Kingdom (Britain):

- **Parliamentary form of Government**
- **Rule of Law**
- **Single Citizenship**
- Concept of a **Nominal Head of State** (President like the King/Queen in Britain)
- Collective responsibility of the Council of Ministers

From the United States (America):

- **Democratic spirit** in the form of:
 - Fundamental Rights
 - Principle of Popular Sovereignty (“We the People”)
 - Independence of Judiciary
 - Judicial Review
 - Preamble ideals of *Justice, Liberty, Equality*
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“The phrase ‘Government of the people, by the people, for the people’ was given by Abraham Lincoln in the Gettysburg Address (1863), and its spirit is adopted in the Indian Constitution.”

Meaning of Fraternity

- **Fraternity** means a **sense of brotherhood and unity among the people**.
 - It ensures that all citizens feel they are part of **one nation**, regardless of religion, caste, language, or region.
 - It also guarantees the **dignity of the individual** and the **unity and integrity of the nation**.
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Meaning of Sovereignty

- **Sovereignty** means **supreme power of the State** to make laws and take decisions **without external control**.
 - It implies that India is **independent**, not subject to authority of any other country, power, or international body.
 - It also means that the **people of India are the ultimate authority** → power flows from the people to the government (popular sovereignty).
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Constitutional Context

- The Preamble declares India as a **Sovereign State**.
- It has both:

- **External Sovereignty** → Independence in foreign affairs (India can sign treaties, maintain relations, join international bodies).
- **Internal Sovereignty** → Supreme authority within the country (Parliament, State governments make laws).

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Meaning of Secularism

- **Secularism** means that the **State has no official religion** of its own and treats all religions with **equal respect and protection**.
- It guarantees every citizen **freedom of conscience** and the right to **profess, practice, and propagate** any religion, or even follow none.
- In India, secularism does not mean strict separation (as in the West), but rather **equal respect for all faiths** (*Sarva Dharma Sambhava*).

Constitutional Basis

- **Preamble** → Declares India a *Secular* Republic (word added by **42nd Amendment, 1976**).
- **Articles 25–28** → Guarantee freedom of religion.
- **Articles 14, 15, 16** → Ensure equality and non-discrimination on religious grounds.

Judicial Support

- **Kesavananda Bharati case (1973)**: Secularism is part of the **basic structure** of the Constitution.
 - **S.R. Bommai case (1994)**: Defined secularism as essential to Indian democracy; the State cannot favor any religion.
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Date 02.09.2025 Preamble constitution chapter 1

Socialism, socialist

It is a duty of government that make equal distribution of wealth.

Question: What is GST?

Answer: It is indirect tax. Which introduce in 101 amendments.

Socialism definition

The term “**Socialist**” was inserted in the Constitution by the **42nd Constitutional Amendment**. A socialist society simply means the elimination of income inequality and the equitable distribution of wealth among citizens. This implies that it is the duty and responsibility of the government to provide resources to individuals, irrespective of their status in society.

What is mini constitution?

The **42nd Amendment Act of 1976** is often called the “**Mini-Constitution**” because of the extensive changes it introduced. Through this amendment, three words — **Socialist, Secular, and Integrity** — were added to the Preamble of the Constitution. These changes were made under the provisions of **Articles 368 and 13**.

Case ref for preamble

Re Berubari Union Case (1960):

Here Re means S.C. do this SAU MOTO action.

This was an important case decided by the Supreme Court of India relating to the power of Parliament to cede Indian territory to a foreign country.

- **Background:** After the India–Pakistan agreement (Nehru–Noon Agreement, 1958), it was decided that the Berubari Union (a territory in West Bengal) would be divided, and part of it would go to Pakistan.
 - **Issue:** The question was whether the Government of India could transfer this territory to Pakistan by using executive power alone, or whether a **constitutional amendment** was required.
 - **Judgment:** The Supreme Court held that Parliament cannot transfer any part of Indian territory to a foreign country without amending the Constitution under **Article 368**. The executive power or even ordinary legislation under Article 3 was not enough.
 - **Significance:** This case clarified that the **Preamble is not a source of power** or limitations; it is only a key to understand the Constitution.
 - In the **Re Berubari Union Case (1960)**, the Hon’ble Supreme Court held that the **Preamble of the Constitution is not a part of the Constitution** and therefore cannot be amended.
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- However, later in **Kesavananda Bharati v. State of Kerala (AIR 1973)**, the largest bench in the history of India, consisting of 13 judges, overruled the *Re Berubari* decision. The Court held that the **Preamble is a part of the Constitution** and can be

amended like any other provision of the Constitution, subject to the **basic structure doctrine**. Article 368 can allow amendment in the constitution.

- Case of Kesavanand Bharti Kerala 1973 can be fit in fundamental right question.

article 141? Short story *** all the lower court says to S.C. (copy that)

Article 134?

Article 134 of the Indian Constitution deals with the appellate jurisdiction of the Supreme Court in criminal matters, outlining the specific circumstances under which an appeal can be filed with the Supreme Court against a High Court's decision.

Where the mention fundamental rights?

Part 3 of the Constitution (12-35)

Question: what is the means of state?

Answer: the body which create by legislative body or the government that is called state in Constitution.

Case ref

The case of Bhagat Ram vs. State of Rajasthan was a landmark Supreme Court of India case decided on January 31, 1972. It addressed critical questions regarding criminal appeals and the principle of *res judicata* (a matter already judged).

what is article 12

Article 12 of the Indian Constitution

defines the term "State" for the purpose of enforcing fundamental rights under Part III of the Constitution. It does not grant any rights itself but identifies the government entities and authorities against which a citizen can seek legal remedies for a violation of their Fundamental Rights.

The legal principle of *ejusdem generis*, Latin for "of the same kind," is a rule of statutory and contractual interpretation. It states that when a list of specific items is followed by general words, the general words should be interpreted to include only items of the same type or class as those specifically listed.

If a law prohibits the use of "cars, trucks, tractors, motorcycles, and other motor-powered vehicles" on a hiking trail, the phrase "other motor-powered vehicles" would likely be interpreted to include only land-based motor vehicles similar to those explicitly mentioned, not airplanes or boats.

Case ref

The correct name for the case is Ramana Dayaram Shetty vs. The International Airport Authority of India (1979). The Supreme Court's ruling is a landmark judgment in Indian administrative law and constitutional law.

- IAAI is a "State" under Article 12: The court applied the "instrumentality or agency of the government" test and found that the IAAI was financially, functionally, and administratively

under the deep and pervasive control of the Central Government. This made it an "other authority" under Article 12.

Date 8-9-25 Subject :- Constitution by anjana

In article 12 > what is state>(body)> these are defined in 4 lines.

**** RE?** in the matter of.....or.....regarding

Preamble case ref

A In Re: Berubari Union case (1960), a landmark advisory opinion by the Supreme Court of India. It arose from a territorial dispute between India and Pakistan following the partition of 1947.

- Preamble is not a part of the Constitution: In this case, the court stated that the Preamble is not a part of the Constitution and therefore cannot be used to limit or interpret parliamentary power. This position was later famously reversed by the court in the ***Kesavananda Bharati case (1973)***, which held that the Preamble is indeed a part of the Constitution and contains its basic structure.
 - Implementation through **Article 368**: The court advised that to implement the Nehru-Noon Agreement, a constitutional **amendment was necessary**.
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What is state under article 12 of the preamble

Article 12 of the Indian Constitution does not provide four distinct definitions, but rather specifies four types of entities that fall under its inclusive definition of "the State". The interpretation of these categories, particularly "other authorities," has been expanded significantly by the judiciary over time.

The four categories are:

1. The Government and Parliament of India

This includes the central executive and legislative bodies that govern the country.

- Government of India: This refers to the Union Executive, which includes the President, the Prime Minister, and the Council of Ministers.
- Parliament of India: This comprises the Lok Sabha (House of the People) and the Rajya Sabha (Council of States), which make national laws.
- Any department of the Central Government is considered an arm of the State.

2. The Government and Legislature of each State

This covers the executive and legislative bodies at the state level.

- Government of each State: This includes the State Executive, such as the Governor, the Chief Minister, and the Council of Ministers.
- Legislature of each State: This refers to the state-level legislative assemblies and, where they exist, legislative councils.

3. All local authorities

This category includes local self-governing bodies that operate within a defined area and have the power to make regulations. The Supreme Court has provided a test for identifying local authorities, which typically includes:

- Municipalities and Municipal Corporations
- Panchayats and District Boards
- Port Trusts
- Bodies with a separate legal existence, autonomy, and the power to raise funds.

4. Other authorities

This is the most complex category and has been subject to broad judicial interpretation to include entities that, though not explicitly governmental, act as instrumentalities or agencies of the government. Landmark Supreme Court cases like *Ramana Dayaram Shetty v. International Airport Authority of India* and *Ajay Hasia v. Khalid Mujib* established a test for determining if a body qualifies under this head. A body is an "other authority" if one or more of the following conditions are met:

- **State Funding:** The entity's entire or a significant portion of its share capital is held by the government.
- **Deep and Pervasive Control:** The government exercises a high degree of control over the entity's functioning.
- **Public Function:** The entity performs functions that are of great public importance or closely related to government functions.
- **Monopoly Status:** The entity enjoys a monopoly status conferred or protected by the State.
- **Transfer of Department:** A government department is transferred to the entity, such as a corporation.

Definition of State – Article 12

Article 12 of the Indian Constitution defines the term "State." It includes:

1. The Government and Parliament of India (Union Executive and Legislature),
2. The Government and Legislature of each State,
3. All local authorities, and
4. Other authorities within the territory of India or under the control of the Government of India.

Fundamental Rights are enforceable only against the State as defined under Article 12. The Supreme Court in *Rajasthan Electricity Board v. Mohan Lal (1967)* and *Ajay Hasia v. Khalid Mujib (1981)* clarified that statutory bodies, corporations, and institutions substantially controlled by the Government are also covered under "State."

Article 141 short S.C. order must be follow by lower court.

What is *Ejusdem generis* ?

Ejusdem generis is a Latin phrase meaning "of the same kind". In statutory and contractual interpretation, it is a legal rule that states when a list of two or more specific words is followed by

a more general word, the general word should be interpreted to include only things of the same class or type as the specific words

A different case where *ejusdem generis* was used

While *Shantabai* did not use the *ejusdem generis* rule, a related but earlier case, *University of Madras v. Shantabai* (1954), did apply this principle in a different context.

- The context: In this High Court case (later reversed), the issue was whether the University of Madras was considered "the State" under Article 12 of the Constitution.
 - The application: The court applied the ***ejusdem generis* rule to the term** "other authorities" in Article 12, interpreting it to include only bodies that performed functions of a governmental or sovereign nature. It concluded that the university, as a corporation created for educational purposes, was not of the same "kind" as the government and local authorities explicitly mentioned.
 - The reversal: It is important to note that the Supreme Court later rejected this narrow interpretation of "other authorities" and abandoned the *ejusdem generis* test in the case of ***Rajasthan State Electricity Board v. Mohan Lal* (1967)**.
-

Shanta Bai vs. State of Bombay (1958)

This case is primarily related to Section 3 of the Transfer of Property Act, 1882, and the Registration Act, 1908.

- The central issue was whether a document granting the right to cut and remove trees constituted a transfer of immovable property.
- The Supreme Court clarified the distinction between "standing timber" (movable property) and a *profit à prendre* (a benefit from the land, considered immovable property).
- Because the court deemed the right to be a *profit à prendre*, the unregistered document was invalid, and *Shantabai* could not enforce her claimed property rights.

***Bhagat Ram vs. State of Rajasthan* (1972)**

This case is related to Section 429 of the old Criminal Procedure Code (CrPC), 1898 (now Section 392 of the CrPC, 1973), which deals with the power of a third judge in a criminal appeal when a Division Bench is split.

- It is not related to the *ejusdem generis* rule.
- The ruling established that a third judge could only decide on the specific points of disagreement between the original judges and could not reopen the entire case to convict someone on charges for which they had already been acquitted. (एकिकटेड (acquitted) का मतलब है दोषमुक्त करना या बरी करना।)
- The case also strongly affirms the principle of *res judicata* in criminal proceedings.

***R. D. Shetty vs. International Airport Authority of India* (1979)** **ref case for definition of state**

This case is fundamentally related to Article 12 and Article 14 of the Indian Constitution.

- Article 12: The court held that the International Airport Authority was a "State" because it was an "instrumentality or agency of the Government." The ruling provided a comprehensive set of tests to determine if a body, though not explicitly mentioned in Article 12, falls under its definition.
 - Article 14: The court found that the Airport Authority's actions in awarding a tender were arbitrary and violated the right to equality. It established that State-affiliated bodies must act fairly, reasonably, and without discrimination in their contractual dealings, even when awarding "government largesse"
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Definition of article 12

Article 12 of the Constitution

Article 12 of the Constitution defines the term "State." It is important to know which bodies fall under this definition [because Fundamental Rights are enforceable primarily against the State.](#)

The term *State* includes:

- The Government and Parliament of India (Union Executive and Legislature),
- The Government and Legislature of each State,
- All local authorities, and
- Other authorities within the territory of India or under the control of the Government of India.

For the **first time, the interpretation of the word "other authorities" was given in the case of *Shanta Bai v. State of Bombay*, where the court applied the principle of "ejusdem generis" (which means of the same kind).**

👉 Would you like me to also expand this with **leading cases like *Rajasthan Electricity Board v. Mohan Lal (1967)* and *Ajay Hasia v. Khalid Mujib (1981)*** — since these are the landmark rulings that you'll need for an LLB exam answer on *Article 12*?

Case

A **shanta bai vs state of Bombay**

The landmark 1958 Supreme Court case of

Shanta Bai v. State of Bombay is a key judgment in property law, focusing on the distinction between movable and immovable property and the requirement of registration for certain property rights. The case arose after the state government acquired forest land, interfering with Shanta Bai's claim based on an unregistered document.

Facts of the case

- Shanta Bai's husband, who owned forest land in the Madhya Pradesh region, executed an unregistered document in her favour.

- The document granted her the right to enter the forest and cut and take away wood, bamboo, and teak for a period of twelve and a half years.
- Subsequently, the Madhya Pradesh Abolition of Proprietary Rights Act, 1950, was enacted. This legislation vested all proprietary rights in the forest land in the state.
- The Divisional Forest Officer, acting on behalf of the state, stopped Shanta Bai from continuing her work in the forest, seizing the wood she had already cut.
- Shanta Bai filed a petition with the Supreme Court, arguing that the state's actions violated her fundamental rights under Articles 19(1)(f) (right to property) and 19(1)(g) (right to practice any profession).

The Supreme Court's ruling

The Supreme Court dismissed Shanta Bai's petition, making a crucial distinction regarding the nature of her rights and the validity of her claim.

Immovable property

- The court held that the right granted to Shanta Bai was a *profit à prendre*, meaning a right to enter the land and take a part of its produce.
- Drawing a distinction between "standing timber" (movable property intended for immediate felling) and growing trees (immovable property), the court found that since the document allowed her to take wood over a long period, her right was a benefit arising from the land itself.
- As a *profit à prendre*, it was deemed an interest in immovable property.

Requirement for registration

- Under the Registration Act, 1908, any document granting an interest in immovable property for more than one year must be registered.
- Since the document granting Shanta Bai her rights was unregistered, the court ruled that it was legally invalid and conferred no proprietary title or interest in the land to her.

Violation of fundamental rights

- The court held that because Shanta Bai had no valid proprietary right to the forest land, the state's actions did not violate her fundamental right to property.
- The court stated that if the grant was merely a personal contract (a licence), then the state was not bound by it, and any breach would be a civil matter between the original parties, not a constitutional issue.

Case

B Bhagat ram vs state of Rajasthan

The Supreme Court case of

Bhagat Ram v. State of Rajasthan (1972)* is a significant criminal law judgment concerning the limits of judicial power in appeal proceedings and the application of the principle of *res judicata* (issue estoppel) in criminal cases.

Facts of the case

- Bhagat Ram, a police inspector, was tried along with another individual, Ram Swaroop, on charges including conspiracy to extort a bribe.
- The trial court acquitted both Bhagat Ram and Ram Swaroop on all charges.
- The State of Rajasthan appealed the acquittal to the High Court, where a Division Bench heard the case.
- The Division Bench unanimously upheld the acquittal of Ram Swaroop.
- Regarding Bhagat Ram, the two judges on the Division Bench differed in opinion on his acquittal for some charges, specifically under Section 161 of the Indian Penal Code and Section 5(1)(a) of the Prevention of Corruption Act.
- Due to this disagreement, the case was referred to a third judge to decide the points of difference, as per Section 429 of the Criminal Procedure Code, 1898 (now Section 392 of the CrPC, 1973).
- The third judge, however, exceeded his authority by not only convicting Bhagat Ram on the disputed charges but also overturning his acquittal on certain other charges that the Division Bench had already conclusively dismissed.

The Supreme Court's ruling

The Supreme Court allowed Bhagat Ram's appeal and set aside the conviction imposed by the third judge. The court's ruling was based on the following key principles:

- Limited scope of the third judge: The Supreme Court clarified that when a matter is referred to a third judge under Section 429 CrPC, that judge's power is limited to deciding only the specific points of difference between the original judges. The third judge has no jurisdiction to reopen the entire case or to reconsider charges on which an acquittal has already been unanimously confirmed.
 - Application of *res judicata* in criminal cases: The judgment emphasized that the principle of *res judicata*, or issue estoppel, applies to criminal proceedings. An order of acquittal, unless set aside in a higher appeal, is final and cannot be reopened in subsequent proceedings, even if they are part of the same appellate process.
 - Protection against double jeopardy: The court reinforced the constitutional safeguard against double jeopardy, which prevents an individual from being tried or punished again for the same offense.
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Case

C **R.D.Shetti vs airport authority of India.**

The case of

Ramana Dayaram Shetty v. The International Airport Authority of India (1979), often referred to as «R.D. Shetty vs. Airport Authority», is a landmark ruling by the Supreme Court of India. It addresses the crucial questions of whether statutory bodies can be considered "State" under Article 12 of the Constitution and the standards of fairness required from such entities in their administrative and contractual dealings.

Facts of the case

The International Airport Authority of India (IAAI), a statutory body, invited tenders for establishing and operating restaurants and snack bars at the

Bombay International Airport

, specifying that only "registered IInd Class Hoteliers having at least 5 years experience" were eligible. The fourth respondent, despite lacking the required experience, submitted a tender which was accepted by the IAAI. The appellant, who met the criteria but did not tender because he believed the conditions would be enforced, challenged this decision in the Bombay High Court, arguing the IAAI acted arbitrarily and violated Article 14. The High Court dismissed his petition, leading to an appeal in the Supreme Court.

Issues framed

1. Whether the IAAI is an "instrumentality" or "agency" of the State under Article 12 of the Indian Constitution.
2. Whether the IAAI violated Article 14 by accepting a tender from a non-eligible party.

The Supreme Court's decision and reasoning

The Supreme Court, in a judgment by Justice P.N. Bhagwati, held that the IAAI's actions were arbitrary and violated Article 14.

Article 12: Definition of "State" and governmental instrumentality

Examining factors such as financial dependence, government control, and public functions, the court concluded that the IAAI was an instrumentality of the Central Government and thus fell within the definition of "State" under Article 12.

Article 14: Equality and non-arbitrariness in contracts

The court affirmed that governmental bodies must adhere to constitutional principles, including Article 14, even in commercial dealings. It ruled that arbitrary actions in contract awards are not permissible and that public authority actions must be reasonable, non-discriminatory, and fair. The court found that ignoring the eligibility criteria in the tender notice and accepting a bid from an unqualified party was arbitrary and violated Article 14.

Conclusion

Despite finding a violation of Article 14, the Supreme Court did not set aside the contract due to the appellant's delay and the fourth respondent's investment, dismissing the appeal.

Significance of the judgment

The *R.D. Shetty* case is significant because it:

- Expanded the definition of "State" under Article 12 to include statutory bodies and government instrumentalities.
- Established that Article 14 requires non-arbitrary action from the state and its agencies in all their dealings, including contracts and distribution of "government largesse".

- Highlighted the judiciary's role in enforcing constitutional principles and ensuring fairness in public authorities' actions
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What is in schedule 7 and article 246

Article 246 of the Indian Constitution and the Seventh Schedule are fundamentally linked in defining the distribution of legislative powers between the Union (central) government and the state governments.

- Article 246: This article delineates the legislative authority of the Parliament and state legislatures.
- **Seventh Schedule:** This schedule contains the three legislative lists—Union, State, and Concurrent—that detail the subjects on which the Parliament and state legislatures can make laws.

The three legislative lists

The Seventh Schedule is the operational blueprint for the division of powers laid out in Article 246. Here is a breakdown of the three lists:

1. List I: The Union List

This list contains subjects of national importance on which only the Indian Parliament can legislate.

- Number of subjects: Currently has 100 subjects, including.
- Key subjects:
 - Defense
 - Foreign affairs
 - Banking and currency
 - Atomic energy
 - Railways
 - Inter-state trade and commerce
 - Census

2. List II: The State List

This list contains subjects of local or state importance on which only the state legislatures can legislate under normal circumstances.

- Number of subjects: Has 61 subjects.
- Key subjects:
 - Public order
 - Police
 - Public health and sanitation
 - Agriculture

- Local government
- Fisheries

3. List III: The Concurrent List

This list contains subjects on which both the Parliament and state legislatures can make laws.

- Number of subjects: Has 52 subjects.
- Key subjects:
 - Criminal law and procedure
 - Marriage and divorce
 - Education
 - Forests
 - Trade unions
 - Economic and social planning

Resolution of conflicts

Article 246 provides a mechanism for resolving conflicts between the laws made by the central and state governments:

- Union List over State List: In case of a conflict between the Union List and the State List, a law made by the Parliament prevails.
 - Union List over Concurrent List: If there is an overlap between the Union List and the Concurrent List, the Union law prevails.
 - Concurrent List over State List: In the event of a conflict between a state and a central law on a subject in the Concurrent List, the central law prevails. However, a state law can prevail within that state if it has received presidential assent, though Parliament can still override it later.
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Case

D **m c mehta vs union of India**

The Supreme Court case of

M. C. Mehta v. Union of India (1987) is a [landmark judgment in Indian environmental jurisprudence](#). Also known as the **Oleum Gas Leak Case**, it is known for establishing the **principle of absolute liability** for industries engaged in hazardous activities and for expanding the scope of the Right to Life (Article 21) to include the right to a clean and healthy environment.

Background of the case

- Context: The case was filed as a Public Interest Litigation (PIL) in the immediate aftermath of the devastating Bhopal Gas Tragedy of 1984.
- Incident: In December 1985, an oleum gas leak occurred at the

Shriram Foods and Fertiliser Industries

plant in Delhi, causing serious harm to workers and the public, including the death of a lawyer.

- Petitioner: Environmental lawyer M. C. Mehta filed a writ petition seeking the closure of the hazardous industrial units owned by Shriram Foods and Fertiliser Industries.

Key legal issues

The Supreme Court addressed several important constitutional questions in its ruling:

- Scope of Article 32: Whether the court could award compensation to victims under Article 32, which guarantees the right to constitutional remedies.
- Absolute Liability: The extent of liability for industries engaged in hazardous activities, and whether the existing English principle of "strict liability" (from the case of *Rylands v. Fletcher*) was adequate.
- Article 21 and the Environment: Whether the right to a clean and healthy environment is included within the fundamental Right to Life under Article 21.

The Supreme Court's landmark judgment

The court's decision, delivered by Chief Justice P.N. Bhagwati, laid down several groundbreaking principles.

1. Principle of Absolute Liability

The court rejected the 19th-century strict liability rule from *Rylands v. Fletcher*, which allowed for defenses like "Act of God" or the act of a stranger. The court formulated a new rule for a modern, industrial society:

- An enterprise engaged in hazardous or inherently dangerous activity that causes harm is absolutely and non-delegably liable for the resulting damages.
- The company is liable even if it exercised due care and negligence is not proven.
- This principle is not subject to any exceptions and was established to hold companies accountable for the risks they create.

2. The "Deep Pockets" Principle

The court established that the amount of compensation must be proportionate to the size and financial capacity of the enterprise. The larger and more prosperous the company, the greater the amount of compensation should be. This ensures that the compensation acts as a deterrent and is meaningful to the victims.

3. Expanded Scope of Article 21

The judgment affirmed that the right to a healthy environment is a fundamental right that is part of the Right to Life under Article 21. This broadened the protection afforded by Article 21 to include environmental safety.

4. Power to Grant Compensation under Article 32

The Supreme Court held that it could award compensation to victims directly under its writ jurisdiction (Article 32). This was a significant expansion of the court's powers, allowing it to provide remedial relief in addition to preventing rights violations.

Date 10-09-2025 Chapter 1 subject constitution

Article 12 – Definition of State

Article 12 defines *State* for Part III (Fundamental Rights). It includes:

- Government & Parliament of India,
- Government & Legislature of each State,
- All local authorities,
- Other authorities under control of Government of India.

The interpretation of “other authorities” is clarified through case law.

Important Cases:

1. **Shanabhai vs State of Mysore** (also seen as *Shanabhai vs State of Gujarat*)

- Issue: Whether certain government-controlled bodies can be considered “State”.
 - Ratio: Any body which performs governmental or public functions under government authority may come under “State” under Article 12.
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2. **Bhagwan Dass vs Rajasthan State Electricity Board** (sometimes cited as *Bhagwan Ram / Bhagirath Ram vs Rajasthan SEB, 1967*)

- Facts: The question was whether the Rajasthan State Electricity Board is “State” under Article 12.
 - Held: Yes, because it was created by statute and carried out governmental/public duties.
 - **Significance:** This case widened the scope of “State” beyond just government departments.
-

3. **R.D. Shetty vs International Airport Authority of India (1979)**

- Facts: The Airport Authority rejected a tender arbitrarily. The issue was whether the Authority is “State”.
 - Held: Yes, because it is a statutory body and exercises public functions.
 - **Test Laid Down:** Functional test → If a body is financially, functionally and administratively under government control, it can be treated as “State” under Article 12.
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4. **M.C. Mehta vs Union of India (Oleum Gas Leak Case, 1986)**

- Facts: Leakage of oleum gas from Shriram Food & Fertilizer, Delhi caused harm. The issue was liability of a private corporation.
- Held: Even private corporations performing public functions of great importance can be brought under scrutiny for fundamental rights.
- **Doctrine Developed:** Absolute Liability (stricter than strict liability).
- **Relevance to Article 12:** Though Shriram was a private corporation, the Court said that fundamental rights must not be defeated just because an enterprise is not formally "State". It showed judicial trend of expanding Article 12.

✅ **Summary for Exams**

- **Bhagwan Ram vs Rajasthan SEB** → Statutory corporation = State.
- **R.D. Shetty vs Airport Authority** → Functional & financial control test.
- **M.C. Mehta vs Union of India** → Even private bodies performing public duties may attract Article 12 obligations.
- **Shanabhai Case** → Reinforces inclusion of bodies exercising governmental powers.

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New article start

Corrected Sentence:

Fundamental Rights are given in Part III of the Constitution (Articles 12 to 35). Article 13 specifically provides that any law inconsistent with Fundamental Rights shall be void.

👉 Key Points for clarity:

- **Part III** = Fundamental Rights (Articles 12–35).
- **Article 13** = Gives power of judicial review; declares laws inconsistent with Fundamental Rights as void.
- So, Article 13 is *part of Chapter/Part III*, not the whole chapter itself.

Great question 👍 Both **Doctrine of Severability** and **Doctrine of Eclipse** are very important in **Article 13** context. Let me explain them in simple exam-style detail:

1. Doctrine of Severability

- **Meaning:** If a part of a law is unconstitutional (because it violates Fundamental Rights), only that offending part is struck down, and the rest of the law remains valid, *provided the valid and invalid parts are separable*.
- **Purpose:** To save as much of the law as possible.
- **Case Law:**

- **R.M.D.C. vs Union of India (1957)** → Supreme Court applied severability.
 - Example: If a section of an Act violates Article 19(1)(a) (freedom of speech), only that section is void, not the whole Act.
-

2. Doctrine of Eclipse

- **Meaning:** A pre-constitutional law (existing before 26 Jan 1950) which violates Fundamental Rights is not dead; it becomes dormant (eclipsed). It remains in the “shadow” of Fundamental Rights. If later, the Fundamental Right is amended or removed, the eclipsed law revives and becomes valid again.
 - **Scope:** Applies only to **pre-constitutional laws** (laws made before the Constitution).
 - **Case Law:**
 - **Bhikaji Narain Dhakras vs State of Madhya Pradesh (1955)** → A Motor Vehicles law was held eclipsed after Constitution came into force, but it revived after Article 19(6) amendment.
-

✓ Summary for Exams:

- **Doctrine of Severability** = Only unconstitutional portion of law is struck down, rest survives.
 - **Doctrine of Eclipse** = Pre-constitutional law inconsistent with Fundamental Rights is not void but dormant, and can revive if inconsistency is removed.
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What is the mention in article 13(1)?

Article 13(1) – Text (simplified):

All laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of Part III (Fundamental Rights), shall, to the extent of such inconsistency, be void.

Explanation:

- “Laws in force before commencement” = Pre-constitutional laws (before 26 Jan 1950).
 - If any part of such law conflicts with Fundamental Rights (Articles 12–35), then only that conflicting part becomes void.
 - This is where Doctrine of Eclipse applies → such laws are not dead but remain inoperative (eclipsed) as long as the conflict exists.
-

Example / Case Law:

- **Bhikaji Narain Dhakras vs State of Madhya Pradesh (1955) → Old law restricting motor vehicles trade became void after Constitution because it violated Article 19(1)(g). Later, when Article 19(6) was amended, the law revived.**
-

✓ **In Short for Exams:**

- **Art. 13(1) deals with pre-constitutional laws.**
 - **Such laws inconsistent with Fundamental Rights become void to the extent of inconsistency.**
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College work;-

Article 13(1) relates to **pre-constitutional laws**, which means those laws that were already in existence before **26th January 1950**, the day on which our Constitution came into force. If any provision of such a law is inconsistent with **Part III of the Constitution (Fundamental Rights)**, it shall be void **to the extent of inconsistency**.

The courts, by applying the **Doctrine of Severability**, strike down only that portion of the law which violates Fundamental Rights, while the rest of the law remains valid.

Further, by applying the **Doctrine of Eclipse**, such inconsistent provisions are not completely dead but remain in a dormant (eclipsed) state. They can become operative again if the inconsistency is removed—for example, through an **amendment by Parliament under Article 368** or if the relevant Fundamental Right is modified.

And what is the mention in article 13(2)?

Article 13(2) – Text (simplified):

The State shall not make any law which takes away or abridges the Fundamental Rights conferred by Part III, and any law made in contravention of this clause shall, to the extent of the contravention, be void.

Explanation:

- **This deals with post-constitutional laws (laws made after 26 Jan 1950).**
 - **Restriction on the State: Parliament, State legislatures, or any authority under Article 12 cannot pass laws that violate Fundamental Rights.**
 - **If such a law is passed, it will be declared void (unconstitutional) by the courts.**
 - **Here, Doctrine of Severability is often applied → only the offending portion is struck down.**
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Case Law:

- **State of Madras vs Champakam Dorairajan (1951)**

- **First case where a post-constitutional law was struck down for violating Fundamental Rights (reservation in educational institutions violated Article 15(1)).**
 - **Keshavananda Bharati vs State of Kerala (1973)**
 - **Parliament's power to amend cannot destroy Fundamental Rights (led to Basic Structure Doctrine).**
-

✓ **In Short for Exams:**

- **Art. 13(2) = No law can be made by the State that violates Fundamental Rights.**
 - **If made, such law is void to the extent of contravention.**
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What is in article 19?

Article 19 – Protection of Certain Rights regarding Freedom of Speech, etc.

Article 19(1): Six Freedoms (originally 7, now 6)

Every citizen of India has the following freedoms:

1. Art. 19(1)(a) – Freedom of speech and expression.
 2. Art. 19(1)(b) – Right to assemble peacefully and without arms.
 3. Art. 19(1)(c) – Right to form associations, unions or co-operative societies.
 4. Art. 19(1)(d) – Right to move freely throughout the territory of India.
 5. Art. 19(1)(e) – Right to reside and settle in any part of India.
 6. Art. 19(1)(g) – Right to practice any profession, or to carry on any occupation, trade or business.
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What is article 13 define?

Article 13 – Laws inconsistent with or in derogation of Fundamental Rights

Clause (1): Pre-constitutional laws

- **All laws existing in India before 26th January 1950 (the day Constitution came into force), if inconsistent with Fundamental Rights, shall be void to the extent of inconsistency.**
👉 **Doctrine of Eclipse applies here.**
-

Clause (2): Post-constitutional laws

- **The State shall not make any law that takes away or abridges Fundamental Rights.**
 - **If such a law is made, it will be void to the extent of contravention.**
👉 **Doctrine of Severability applies here.**
-

Clause (3): Definition of “law”

- The term *law* includes ordinances, orders, bye-laws, rules, regulations, notifications, customs, or usages having the force of law.
 - So, even delegated legislation and customary laws can be struck down if they violate Fundamental Rights.
-

Clause (4): Constitutional Amendments

- Inserted by the 24th Amendment, 1971.
 - Declares that nothing in Article 13 shall apply to Constitutional Amendments under Article 368.
👉 This was upheld in *Kesavananda Bharati v. State of Kerala (1973)*, but with the Basic Structure Doctrine (Parliament can amend, but not destroy the basic structure).
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✅ In Simple Words:

Article 13 gives teeth to Fundamental Rights by ensuring that:

- Old laws inconsistent with FRs become void (clause 1).
 - New laws violating FRs cannot be made (clause 2).
 - Defines law broadly (clause 3).
 - Constitutional amendments are outside its scope, but subject to basic structure test (clause 4).
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What is an Ordinance?

- An Ordinance is a temporary law made by the Executive (President or Governor) when the Legislature (Parliament or State Assembly) is not in session.
 - It has the same force and effect as an Act of Parliament/State Legislature, but it is temporary in nature.
-

Who can pass it?

1. At the Union level:
 - President of India (Article 123) can promulgate an ordinance when:
 - Either House of Parliament is not in session, and
 - Immediate action is required.
2. At the State level:
 - Governor of a State (Article 213) can issue an ordinance when:
 - State Legislative Assembly (or either House, in bicameral states) is not in session, and

- Immediate action is required.

Life of an Ordinance:

- An ordinance must be laid before Parliament/State Legislature when it reassembles.
- It ceases to operate at the expiration of 6 weeks from the reassembly of the Legislature.
- If both Houses approve it (by passing a law), it continues as an Act.
- If rejected or not approved → it laps (becomes invalid).

Key Points:

- Maximum life = 6 months + 6 weeks (if issued right after Parliament adjourns, and then Parliament meets after 6 months, the ordinance will last until 6 weeks after reassembly).
- Ordinance cannot be issued on subjects where the Legislature itself has no power.
- It is subject to judicial review (e.g., D.C. Wadhwa vs State of Bihar, 1987 → frequent re-promulgation of ordinances was held unconstitutional).

✅ In Short for Exams:

- Ordinance = temporary law by President (Art. 123) or Governor (Art. 213).
 - Life = 6 weeks after Legislature reassembles.
 - If approved → becomes Act; if not → lapses.
 - It is an emergency power, not to be misused.
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What is the meaning of order in the constitution manner?

Order in Constitutional Manner

Meaning:

An order is a formal command, direction, or decision issued by a lawful authority. It has legal force and is binding until it is withdrawn, expires by law, or is struck down by a court.

Under Article 13(3)(a) of the Constitution, the term *law* includes “ordinance, order, bye-law, rule, regulation, notification, custom or usage” having the force of law. Therefore, even an order issued by the Government or other authority can be treated as “law” and can be challenged if it violates Fundamental Rights.

Who can pass an Order?

- Executive Authorities → President, Governors, Ministers, Civil Servants (e.g., detention orders, service orders, tax orders).

- Judiciary → Courts/Tribunals can pass judicial orders and directions.
 - Legislature (indirectly) → Sometimes enables executive to issue orders under a statute.
-

Time Limit of an Order:

- Unlike an Ordinance (which has a fixed life of 6 weeks after reassembly of Legislature), an Order generally:
 - Remains in force until its purpose is fulfilled,
 - Or till it is withdrawn/modified by the issuing authority,
 - Or till the law under which it was issued ceases to operate.
 - Example: A preventive detention order has a maximum time limit prescribed by law (generally 3 months, extendable by Parliament up to 12 months).
 - Other administrative orders (like transfer orders, service suspension orders, etc.) remain valid until cancelled or replaced.
-

Judicial Review:

If an order violates Fundamental Rights, it can be struck down by courts under Article 32 (Supreme Court) or Article 226 (High Courts).

✓ In Short for Exams:

- Order = official direction/command issued by lawful authority.
 - Who can pass: Executive, Judiciary, or any authority empowered by law.
 - Time limit: No fixed general limit → continues until withdrawn, expires under parent law, or struck down by court.
 - If inconsistent with Fundamental Rights → void under Article 13.
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What is law?

General Meaning:

Law is a set of rules enforced by the State to regulate human conduct in society. It ensures justice, order, and equality, and provides remedies when rights are violated.

Definition by Jurists:

1. Salmond:
“Law is the body of principles recognized and applied by the State in the administration of justice.”

2. Austin:
"Law is the command of the sovereign backed by sanction."
 3. Holland:
"Law is a general rule of external human action enforced by a sovereign political authority."
-

Constitutional Meaning (Article 13(3)(a)):

In the Indian Constitution, the term law is given a very wide meaning. It includes:

- Ordinances
- Orders
- Bye-laws
- Rules
- Regulations
- Notifications
- Custom or usage having the force of law

👉 So even administrative actions or customs can be considered "law" if they affect Fundamental Rights.

Features of Law:

- It is a rule of conduct.
 - Enforced by the State.
 - Backed by sanctions (punishments/penalties).
 - Aims to secure justice, order, and welfare.
 - Dynamic in nature (changes with society).
-

Types of Law:

1. Public Law → Constitutional law, Administrative law, Criminal law.
 2. Private Law → Contract law, Property law, Family law.
 3. Substantive Law → Defines rights and duties.
 4. Procedural Law → Provides machinery to enforce those rights and duties.
-

✅ In Short for Exams:

- Law = system of rules enforced by State to regulate conduct and provide justice.

- Constitutional definition (Art. 13): includes Acts, ordinances, orders, rules, regulations, bye-laws, customs, etc.
 - Law ensures justice, order, equality, and social welfare.
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What is The Hindu Succession Act ?

The Hindu Succession Act was enacted on June 17, 1956, to codify and amend the law of intestate (without a will) succession among Hindus. **In 2005, a significant amendment** to the act granted daughters equal coparcenary rights in ancestral property.

The Hindu Succession Act of 1956

The original Act established a uniform and comprehensive system of inheritance for Hindus, including Sikhs, Jains, and Buddhists.

- The Act abolished the concept of a "limited estate" for women, giving them absolute ownership of property they acquired.
- The Act organized heirs of an intestate Hindu male into four categories:
 - Class I Heirs (including a widow, son, and daughter)
 - Class II Heirs
 - Agnates (relatives solely through male lineage)
 - Cognates (relatives not wholly through male lineage).

The Hindu Succession (Amendment) Act of 2005

This amendment addressed gender inequalities that remained in the 1956 law, particularly in relation to ancestral property.

- Added to the Constitution: The 2005 amendment came into effect on September 9, 2005.
 - Key changes under the 2005 amendment:
 - Daughters as coparceners: A daughter of a coparcener (a person with a birthright interest in ancestral property) now becomes a coparcener by birth, with the same rights and liabilities as a son.
 - Equal rights in property: A daughter now has the same rights to coparcenary property as if she had been a son.
 - Abolition of discriminatory clauses: Sections of the 1956 Act that prevented female heirs from seeking partition of a dwelling house and disqualified widows who remarried were removed.
 - Retrospective effect: The Supreme Court has clarified that a daughter's coparcenary right is by birth, and it is not required for her father to have been alive when the amendment was passed.
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Date 12.09.2025 chapter 1 constitution by Anjana time 09.30 am

What is the mean of article 13?

It is about the judicial review. It's given the power to the judiciary for the review of every law and amendment which has been done by the legislation. Because judiciary is the protector and you can say legal guardian of the constitution. For a long time legislature want to over rule the judiciary by the name of amendment but after a long discussion our jury held that with reference via so many cases that legislature can amendment in whole the constitution but legislation can't change the basic structure of the constitution. You can say the back bone of the constitution can't be change by any mode. And judicial review is the back bone of the constitution. So final verdict is that the judiciary has all right to review all the laws and amendment passed by legislation.

By chatgpt

Q. What is the meaning of Article 13?

Answer:

Article 13 of the Indian Constitution is about *Judicial Review*. It gives power to the judiciary to review every law and constitutional amendment passed by the legislature. The judiciary is considered the *protector or legal guardian* of the Constitution.

For a long time, the legislature tried to overrule the judiciary in the name of constitutional amendments. However, the judiciary, through various landmark judgments, held that although Parliament has wide power to amend the Constitution, it cannot alter or destroy its **basic structure**.

The *basic structure* is the backbone of the Constitution, and it cannot be changed by any mode of amendment. Judicial review itself is considered one of the essential features of the basic structure.

Therefore, the final position is that the judiciary has the authority to review all laws and amendments passed by the legislature and strike them down if they violate Fundamental Rights or the basic structure of the Constitution.

Reference Cases:

- *Sajjan Singh v. State of Rajasthan* (1965) – Supreme Court discussed whether Parliament could amend Fundamental Rights.
- *Golak Nath v. State of Punjab* (1967, 11 Judges Bench) – It was held that Parliament cannot amend Fundamental Rights.
- *Kesavananda Bharati v. State of Kerala* (1973, 13 Judges Bench) – The landmark judgment where the Supreme Court held that Parliament can amend any part of the Constitution but cannot destroy its **Basic Structure**.

In all these cases honourable by the supreme court held that the back bone of the constitution can't be destroy by any means.

Q. From which Articles does the judiciary derive the power to protect the Constitution?

Answer:

The judiciary derives its power to protect and safeguard the Constitution mainly from the following Articles:

- **Article 13** – Provides for *judicial review* of laws. Any law violating Fundamental Rights is void.
- **Article 32** – Empowers individuals to directly approach the Supreme Court for the enforcement of Fundamental Rights. Dr. B.R. Ambedkar called it the “*heart and soul of the Constitution.*”
- **Article 137** – Grants the Supreme Court the power to review its own judgments or orders.
- **Article 226** – Gives High Courts the power to issue writs for the enforcement of Fundamental Rights and other legal rights.

Thus, through these Articles, the judiciary ensures that no law, amendment, or action can disturb the Fundamental Rights or destroy the basic structure of the Constitution.

Q. What is Article 13(4)?

Answer:

Article 13(4) was inserted by the **24th Constitutional Amendment, 1971**. It states that “*nothing in this Article shall apply to any amendment of the Constitution made under Article 368.*”

This means that constitutional amendments are not included within the definition of “law” under Article 13(3), and therefore, they were originally considered to be outside the scope of judicial review.

However, in ***Kesavananda Bharati v. State of Kerala (1973)***, the Supreme Court held that **judicial review is part of the basic structure of the Constitution**. Therefore, even constitutional amendments made under Article 368 are subject to judicial review if they violate the *basic structure* of the Constitution.

Thus, while Parliament has the power to amend the Constitution, it cannot destroy its basic structure, and such amendments can be reviewed by the judiciary under Article 13.

“In *Kesavananda Bharati v. State of Kerala (1973)*, the Hon’ble Supreme Court held that the legislature has full power to amend the Constitution under Article 368, but it cannot destroy or alter the *basic structure* of the Constitution in any manner.”

Ambika Mills v. State of Gujarat (1974) is mainly connected with **Article 13 and Article 31C** of the Constitution.

Here’s the context:

- In this case, the **validity of Article 31C** (inserted by the **25th Constitutional Amendment, 1971**) was challenged.
- Article 31C provided that any law made to implement the Directive Principles (particularly Articles 39(b) and 39(c)) could not be declared void even if it violated **Articles 14 or 19**.
- The Supreme Court upheld the validity of **Article 31C** (but only to the extent of Articles 39(b) and 39(c)).

So, the **Ambika Mills case** is generally cited under discussions of:

- **Article 13 (judicial review of laws)**

- **Article 31C (Directive Principles vs Fundamental Rights conflict)**

In *State of Gujarat v. Ambica Mills Ltd. (1974)*, the Hon'ble Supreme Court held that Fundamental Rights are available only to citizens. Therefore, a provision of law which is inconsistent with Fundamental Rights will be void only in respect of citizens, but it will remain operative and valid in relation to non-citizens.

गुजरात राज्य बनाम अम्बिका मिल्स लिमिटेड (1974) में माननीय सर्वोच्च न्यायालय ने यह निर्णय दिया कि मौलिक अधिकार केवल *नागरिकों* को उपलब्ध हैं। इसलिए यदि किसी विधि का कोई प्रावधान मौलिक अधिकारों के प्रतिकूल है, तो वह प्रावधान केवल *नागरिकों के संदर्भ में* शून्य (void) होगा। लेकिन वही प्रावधान *गैर-नागरिकों* (non-citizens) पर प्रभावी और वैध रूप से लागू रहेगा।

Article 14 – Equality Before Law

Text:

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

Explanation:

- Article 14 guarantees equality before law and equal protection of laws to **all persons** (citizens as well as non-citizens).
- *Equality before law* (a British concept) means no one is above the law, and all are subject to the ordinary law of the land.
- *Equal protection of laws* (an American concept) means equal treatment in equal circumstances.
- However, Article 14 allows **reasonable classification** (not arbitrary discrimination).

Case Reference:

- *State of West Bengal v. Anwar Ali Sarkar (1952)* – Classification must not be arbitrary.
 - *E.P. Royappa v. State of Tamil Nadu (1974)* – Equality is antithesis of arbitrariness.
 - *Maneka Gandhi v. Union of India (1978)* – Article 14 strikes at arbitrariness in State action.
-

What is rational nexus means?

Meaning of Rational Nexus

- **Rational Nexus** means a **reasonable and logical connection** between the *classification made by a law* and the *objective it seeks to achieve*.
- In simple words → if the State makes a classification (e.g., treating different groups differently), that classification must not be arbitrary; it must have a *fair and justifiable link* with the purpose of the law.

Doctrine of Reasonable Classification (Article 14)

For a classification to be valid under Article 14:

1. **Intelligible Differentia** → The classification must be based on some real and intelligible distinction which separates one group from another.
 2. **Rational Nexus** → That distinction must have a rational (logical) relation to the objective of the law.
-

Example:

- A law providing free education only to children below 14 years.
 - **Differentia:** Age (below 14).
 - **Objective:** To promote elementary education.
 - **Rational Nexus:** Age classification is logically connected to the aim of compulsory education. ✓

But if a law said → “Free education only for children born in January,”

- Differentia exists (January-born children),
 - But **no rational nexus** with the objective of education. ✗
-

Case Law:

- *State of West Bengal v. Anwar Ali Sarkar (1952)* – Classification must have a rational nexus with the object of the law.
 - *Ram Krishna Dalmia v. Justice Tendolkar (1958)* – Laid down the twin test: intelligible differentia + rational nexus.
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Date 15.9.25 time 09.30 am subject constitution by Anjana

Article 14

Question: What is in article 14?

Answer: it is about equal protection law.

Question: what is rule of law?

Answer: law is supreme.

Arbitrary

not seeming to be based on any reason or plan and sometimes seeming unfair

बिना तर्क, नियम या योजना पर आधारित और कभी-कभी अनुचित मनमाना स्वेच्छाचारी

Artica 14

Doctrine of Reasonable Classification (Article 14)

For a classification to be valid under Article 14:

1. **Reasonable classification**
 2. **Intelligible Differentia** → The classification must be based on some real and intelligible distinction which separates one group from another.
 3. **Rational Nexus** → That distinction must have a rational (logical) relation to the objective of the law.
-
-

C rational nexus- That distinction must have a rational (logical) relation to the objective of the law.

Article 14

Article 14 begins by imposing a duty on the State not to discriminate and not to deny any person equality before the law. This reflects a **negative approach**, meaning that no one should be treated unequally, and every person is equal in the eyes of law. At the same time, it also provides a **positive right** to every individual to demand equality, thereby prohibiting unequal treatment. Article 14 is based on the **concept of Rule of Law**, which means that law is supreme. The Preamble of our Constitution also embodies the principle of equality.

Article 14 prohibits **class legislation**, but it permits **reasonable classification**. This means the State has the power to classify persons, objects, or situations, but such classification must not be arbitrary. It must be based on an **intelligible differentia**, i.e., a clear distinction that separates one group from others. Moreover, there must be a **rational nexus** between the basis of classification and the object sought to be achieved. In other words, the classification should not only be reasonable but must also directly relate to the purpose for which it is made.

For exam

Article 14 – Equality Before Law

1. **Negative Duty on State** – State shall not deny equality before law or equal protection of laws.
2. **Positive Right of Citizens** – Every person can demand equality; prohibits unequal treatment.
3. **Rule of Law** – Law is supreme; reflected in the Preamble (Equality).
4. **No Class Legislation** – State cannot make arbitrary classifications.
5. **Reasonable Classification Permitted** – Two essential conditions:
 - **Intelligible Differentia** – Clear distinction separating groups.
 - **Rational Nexus** – Classification must relate to the object sought to be achieved.

Conclusion: Article 14 ensures equality by prohibiting arbitrary action while allowing reasonable classification based on justice, fairness, and purpose.

Equality of status and opportunity mention in preamble and article 14.

Case

E p royappa vs state of tamil nadu.

E.P. Royappa v. State of Tamil Nadu (1974)

- **Facts:** Royappa, a Chief Secretary, was transferred as Deputy Chairman of the State Planning Commission. He challenged it as mala fide and violative of Article 14.
- **Issue:** Whether Article 14 only prohibits arbitrary classification or also covers arbitrariness in State action.
- **Judgment (SC):**
 - Article 14 is not confined to **reasonable classification**.
 - **“Equality is antithetic to arbitrariness.”**
 - Any **arbitrary State action** is inherently violative of Article 14.
- **Principle Laid Down:**
 - Shift from **doctrine of classification** to **doctrine of arbitrariness**.
 - Equality and arbitrariness are sworn enemies; where there is arbitrariness, there is no equality.

👉 This case broadened the scope of Article 14 and became the foundation for later cases like *Maneka Gandhi v. Union of India (1978)*.

Article 14 – Important Case Laws (Cheat Sheet)

1. State of West Bengal v. Anwar Ali Sarkar (1952)

- **Facts:** Special Courts Act allowed selective trial of cases.
- **Principle:** Struck down as **arbitrary classification**; Article 14 forbids class legislation.

2. Budhan Choudhary v. State of Bihar (1955)

- **Facts:** Different procedures for trial of same offences.
- **Principle:** Article 14 allows **reasonable classification**, not class legislation.

3. E.P. Royappa v. State of Tamil Nadu (1974)

- **Facts:** Transfer of Chief Secretary challenged.
- **Principle:** “Equality is antithetic to arbitrariness.” Arbitrariness = violation of Article 14.

4. Maneka Gandhi v. Union of India (1978)

- **Facts:** Passport impounded without reasons.
- **Principle:** Article **14 + 19 + 21** are interlinked; fairness, non-arbitrariness, natural justice essential. (**GOLDEN TRIANGLE RULE**)

5. Ajay Hasia v. Khalid Mujib (1981)

- **Facts:** Admission process challenged.
- **Principle:** **Test of arbitrariness** applied; Article 14 strikes down unfair/unjust State action.

6. Indira Sawhney v. Union of India (1992 – Mandal Commission case)

- **Facts:** OBC reservation challenged.
- **Principle:** Reservation valid but capped at **50%**; **creamy layer excluded**.

7. Navtej Singh Johar v. Union of India (2018)

- **Facts:** Challenge to Section 377 IPC.
 - **Principle:** Criminalization of consensual homosexuality held **arbitrary, violative of Article 14**.
-

Maneka Gandhi v. Union of India (1978)

- **Facts:** Maneka Gandhi’s passport was impounded by the government without giving proper reasons. She challenged this under Articles 14, 19, and 21.
- **Held (Supreme Court):**
 1. **Golden Triangle:** Article **14 (Equality)**, **19 (Freedoms)**, and **21 (Life & Liberty)** are interconnected; any law affecting personal liberty must satisfy all three.
 2. **Protection from Arbitrary Action:** Citizens are protected not only from **arbitrary legislature** but also from **arbitrary executive actions**.
 3. **Due Process of Law:** The phrase “**procedure established by law**” under Article 21 must include **fair, just, and reasonable procedure** (importing the spirit of “due process of law” into Indian Constitution).
 4. **Natural Justice:** Right to be heard (**audi alteram partem**) and fairness are part of Article 21.
- **Principle Laid Down:** Expanded the scope of Fundamental Rights; **arbitrariness in procedure violates Article 21, read with Articles 14 and 19**.

👉 This case is considered a **turning point in Indian Constitutional Law** because it transformed Article 21 into a broad protection of **life and personal liberty**.

Case

Javed vs the state of Haryana.

The 2003 Supreme Court of India case *Javed and Ors. v. State of Haryana and Ors.* upheld the constitutionality of a Haryana law that disqualified people with more than two children from contesting elections for a Panchayat, the village-level local government. The landmark judgment balanced individual rights with the state's efforts toward family planning and population control.

The Supreme Court's ruling

The Supreme Court upheld the law, ruling that the state's objective of population control was a valid public policy goal. The court found that the disqualification was a reasonable classification under Article 14 and that the right to contest an election is a statutory, not a fundamental, right. Regarding Article 25, the court held that statutory law in the public interest prevails over personal law, noting that while Islamic law permits multiple wives, it is not a mandatory religious practice. The court also linked fundamental rights under Article 21 with fundamental duties under Article 51A, stating that population control is a duty for sustainable development.

Case

Air India vs. Nargesh Meerza and others (1981)

In *Air India vs. Nargesh Meerza and others* (1981), the Supreme Court of India addressed discriminatory service regulations imposed by Air India on its female flight attendants (air hostesses). Nargesh Meerza and other air hostesses challenged policies that mandated early retirement, restricted marriage, and terminated employment upon a first pregnancy.

Facts of the case

Air India's regulations for air hostesses were significantly different from those for their male counterparts, the flight pursers. The regulations included that an air hostess's service would be terminated upon:

- Reaching 35 years of age. Male flight pursers, however, retired at 58.
- Marrying within the first four years of service.
- A first pregnancy.
- Additionally, the regulations gave the managing director a broad, discretionary power to extend an air hostess's retirement age from 35 to 45, which was challenged as an arbitrary and uncontrolled power.

Issues before the court

The central questions the Supreme Court considered were:

1. Whether the regulations for air hostesses violated the constitutional principles of equality and non-discrimination under Articles 14, 15, and 16 of the Indian Constitution.

2. Whether the managing director's unlimited discretionary power to extend service was a case of excessive delegation of authority, thus violating Article 14.

The court's judgment and findings

The Supreme Court delivered a mixed judgment, striking down some discriminatory provisions while upholding others.

- Termination on first pregnancy: The court declared the provision terminating an air hostess's service upon her first pregnancy to be "callous, cruel and an open insult to Indian womanhood". It ruled this provision unconstitutional and struck it down completely.
- Discretionary extension of service: The provision granting the managing director unguided discretion to extend an air hostess's service was also struck down. The court held that this discretionary power was arbitrary and violated Article 14.
- Bar on marriage: The court controversially upheld the regulation that terminated service if an air hostess married within the first four years of employment. It found this restriction to be a "salutary provision" that was not arbitrary.
- Retirement age disparity: The court also upheld the differential retirement age of 35 for air hostesses, compared to 58 for male flight pursers, though it directed that medically fit air hostesses were entitled to automatic extensions until age 45.

Significance and criticism

Air India vs. Nargesh Meerza is considered a landmark case that challenged institutionalized gender discrimination in employment. While celebrated for striking down the blatantly discriminatory pregnancy clause and discretionary power, the judgment has also been heavily criticized for upholding the marriage bar and early retirement age, which many scholars saw as perpetuating stereotypical and sexist assumptions about women. Despite its problematic elements, the case is an important precedent in India's legal history for advancing women's rights in the workplace.

✔ **Quick Formula for Answer Writing:**

Article 14 = Negative duty (no unequal treatment) + Positive right (demand equality) + Rule of Law + No class legislation + Reasonable classification (Intelligible Differentia + Rational Nexus) + No arbitrariness (E.P. Royappa).

Case

Danial Latifi vs Union of India case (2001)

The *Danial Latifi vs Union of India* case (2001) is a landmark Supreme Court judgment that upheld the constitutional validity of the Muslim Women (Protection of Rights on Divorce) Act, 1986. However, in doing so, the Court reinterpreted the Act to ensure that divorced Muslim women could receive maintenance extending beyond the **iddat (waiting) period**, which effectively restored the spirit of the 1985 Shah Bano judgment.

Background: The Shah Bano Case (1985)

The *Danial Latifi* case cannot be understood without its predecessor, the Shah Bano case.

- In 1985, the Supreme Court, in *Mohd. Ahmed Khan v. Shah Bano Begum*, granted maintenance to a divorced Muslim woman, Shah Bano, under Section 125 of the Code of Criminal Procedure (CrPC), **a secular law applicable to all citizens.**
- The ruling provoked a political backlash, with some conservative Muslim groups claiming it interfered with Muslim personal law.
- In response, the Parliament, under the Rajiv Gandhi government, passed the **Muslim Women (Protection of Rights on Divorce) Act, 1986 (MWPRD Act)**. The Act restricted a Muslim husband's liability for maintenance to only the **iddat period**, after which the responsibility would fall on the woman's relatives or the State Wakf Board.

The Danial Latifi Challenge (2001)

Danial Latifi, who was Shah Bano's lawyer, challenged the constitutional validity of the MWPRD Act in the Supreme Court. He argued that the Act violated the fundamental rights to equality (Article 14), non-discrimination (Article 15), and life and personal liberty (Article 21) by denying divorced Muslim women the same maintenance rights available to women of other religions.

The Supreme Court's ruling

In its 2001 judgment, the Supreme Court provided a crucial and progressive interpretation of the MWPRD Act.

- Upheld constitutional validity: The Court upheld the Act's constitutional validity but held that Section 3(1)(a) must be interpreted in a way that provides for a "fair and reasonable provision" for the wife's future.
- Maintenance beyond *iddat*: The Court clarified that the husband's obligation to provide a "reasonable and fair provision" for his divorced wife is not limited to the *iddat* period alone but extends to her entire life or until she remarries.
- **Settlement within *iddat*: The husband is required to make arrangements for this lifelong maintenance by paying a lump-sum amount within the *iddat* period.**
- Balanced personal and constitutional law: The judgment balanced the provisions of Muslim personal law with the constitutional rights to equality and a life of dignity, ensuring that the MWPRD Act was not rendered discriminatory.

Significance

The *Danial Latifi* judgment was a crucial step in securing the maintenance rights of divorced Muslim women in India.

- It effectively neutralized the discriminatory effect of the MWPRD Act by giving it a more liberal and expansive interpretation consistent with the Indian Constitution.
- It underscored that constitutional rights take precedence over personal laws if the latter are interpreted in a way that infringes upon a person's fundamental rights.
- The judgment upheld the principle that a divorced woman has a right to sufficient financial security to sustain herself, regardless of her religion

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Hon'ble supreme court

Amendment

Judicial

Constitution

Fundamental

Rights

Conflict