



POLITY  
- Part 2

- Formation of New States

## Formation of States

- **Article 1** in the Constitution states that India, that is Bharat, shall be a Union of States. The territory of India shall consist of: The territories of the States, The Union Territories and Any territory that may be acquired.  
The names of the States and the Unions have been described in the First Schedule.
- **Article 2:** Admission & establishment of new states French settlement of Pondicherry & Portuguese settlement of Goa, Daman & Sikkim
- **Article 3:** Formation of new states & alteration of areas, boundaries & names of existing states  
(Power vested only in parliament)

## State formation Procedure

- A bill regarding formation of new state/ alteration of name or area of existing state is introduced in Parliament
- Bill can be introduced only on the recommendation of the President
- President before recommending the bill to Parliament obtain the views of the affected States
- The Bill is required to be passed in both the houses by a simple majority
- With the Presidential assent the Bill becomes an Act

## Creation of New States

- Jharkhand, Uttarakhand and Chhattisgarh were created in 2000 on socio-political basis.
- States have also been created on linguistic lines, such as Andhra Pradesh in 1953.

## Formation of States in India

YEAR	STATES FORMATION
1947	Provinces and around 550 Princely States were merged with existing provinces
1953	Andhra Pradesh was carved out of Madras
1953	North East Frontier Agency was formed
1956	14 States and 6 UTs were created
1960	Bombay state split into Maharashtra and Gujarat

## Formation of New States

YEAR	STATE FORMATION
1962	Nagaland as a separate State from Assam
1966	Formation of Haryana
1970	Formation of Himachal Pradesh
1971	Formation of Manipur, Tripura, Meghalaya, Mizoram, & Union Territories of Arunachal Pradesh and Mizoram
1975	Formation of Sikkim
1986	Formation of States of Mizoram and Andhra Pradesh
1987	Formation of Goa
2000	Formation of Chhattisgarh, Uttarakhand, and Jharkhand
2014	Formation of Telangana

## Demands for new States

- Bundelkhand carving out of UP and MP
- Bodoland (Assam)
- Kodagu (Karnataka)
- Saurashtra (Gujarat)
- Gorkha land ( West Bengal)
- Rayalaseema (Andhra Pradesh)
- Mithila (Bihar)



- Citizenship

## Citizenship

- Indian constitution provides single citizenship
- Constitution describes who were deemed to be citizens of India as on 26<sup>th</sup> January 1950.
- Indian Citizenship Act 1955
- The Citizenship (Amendment) Act, 1986, 1992, 2003, 2005

## Acquisition of Indian Citizenship

- By Birth: Every person born in India on or after January 26, 1950, shall be citizen of India by birth
- By Descent: If either of his parents is a citizen of India at the time of the person's birth
- By Registration: staying in India for 5 years immediately before making an application or persons who are married to citizens of India
- By Naturalization: A foreigner can acquire Indian Citizenship on application for naturalization
- By Incorporation of Territory: If any new territory becomes a part of India

## NRI

- Overseas Indians, also known as Non-resident Indians
- They are also called Indian Diaspora
- Are people of Indian Birth or origin who lives outside the Republic of India.
- There are over 31 million Indian Diaspora largest diaspora population in the world
- NRI defined in Income Tax Act: The rates of income tax are different for persons who are resident of India and for NRIs. Residence in India requires stay in India of at least 182 days in a financial year or 365 days spread out over 4 consecutive years and at least 60 days in that year.

## Tax to NRI

- NRI are only taxed for income earned/ collected in India
- Pan card is necessary for NRI if has got taxable income in India.
- NRIs can not purchase any agricultural land

## Persons of Indian Origin (PIO)

- India introduced the concept of the person of Indian Origin in 2002 and an Overseas Citizen of India (OCI) in 2006 as categories of persons who enjoy certain legal rights in India.
- Both OCI and PIO have been merged in 2015
- The Amendment Act introduced the concept of an “Overseas Citizen of India Cardholder” OCC
- OCC Eligibility  
They are citizens of another country but was a citizen of India at the time or any time after the commencement of the Constitution. OR. Was eligible to become a citizen of India at the time of commencement of the Constitution. OR. Belonged to a territory that became part of India after 15 August 1947.

## Facilities to OCC

- OCC to be treated at Par with NRI
- Multiple entry multi-purpose lifelong Visa
- What is not available:
  - the right to equality of opportunities in matter of public employment
  - Election to President and Vice-President
  - Appointment of Judge
  - No voting rights
  - Cannot be MP MLA
  - Appointment to Public Service

## Citizenship (Amendment) Bill 2019

- The Bill seeks to facilitate acquisition of citizenship by six identified minority communities namely Hindus, Sikhs, Jains, Buddhists, Christians and Parsis from Afghanistan, Pakistan and Bangladesh who came to India before 31<sup>st</sup> December 2014. (Only Non-Muslims)
- The bill is not confined to Assam will apply to all states and Union Territories of India.
- The minimum residency period for citizenship is being reduced from existing 12 years under the present law to 7 years
- ST status to be given to six communities of Assam namely Tai Ahom, Koch Rajbongshi, Chutia, Tea Tribes, Moran and Matak



## Termination of Indian Citizenship

- Renunciation by Voluntary Act
- After acquiring the citizenship of another country
- Deprivation of citizenship by an order of the Government of India

## Rule of Law

- Constitution is supreme law of land and all laws passed by legislature must conform to it
- No person is above Law & all are subjected to ordinary law without any distinction of rank or position  
Exception: Provided in the Constitution
- No person can be punished or made to suffer except for violation of Law & any such violation is subjected to scrutiny by Courts of Law
- Principle of Natural Justice: No person can be judge in his own case; No person can be forced to give evidence against himself

- Fundamental Rights

## Fundamental Rights VS. Legal Rights

Fundamental Rights	Legal Rights
Protected and guaranteed by written constitution	Legal rights are protected and enforced by Law of the Land
In violations of Fundamental Rights one can approach directly to High Court and Supreme Court	In violation of legal Rights one has to move to subordinate court or High Court
Change in Fundamental Rights can be done through Amendment of the Constitution	Legal Rights can be changed by ordinary process of legislation
Fundamental Rights provide protection against State Action	Legal Rights have no such protection

## Fundamental Rights

- Article 14 to 18 : Right to Equality
- Article 19 to 22 : Right to Freedom
- Article 23 to 24 : Right against Exploitation
- Article 25 to 28 : Right to Freedom of Religion
- Article 29 to 30 : Cultural & Educational Rights
- Article 32 to 35 : Right to Constitutional Remedies

## Right to Equality

- ARTICLE 14 : Equality before law & equal protection of law
- Equality before law- No man is above law irrespective of his rank or position
- Equal protection of Law- Among equals, law should be equal and equally administered

## Article 15: Right against discrimination

- No discrimination on the basis of caste, race, religion, sex or place of birth only
- No discrimination with respect to access to public places including bathing Ghats
- State is empowered to make special provisions for the SC & ST
- State is empowered to make special provisions for women and Children

## Article 16: Equality of Opportunity

- Equality of opportunity to all citizens for employment under State office: No discrimination against employment on grounds of religion, sex, caste, descent, place of birth or residence
- Exceptions:  
State make laws giving preference on domicile basis  
State have reservation for SC & ST
- Unfilled vacancies to be carried forward & not to be lapsed



## Article 17: Abolition of untouchability

- Abolition of Untouchability
- Untouchability is abolished and its practice in any form is forbidden.
- Though the Indian Constitution abolished untouchability, the oppressed status of Dalits remains a reality. In rural India still Dalits live in secluded quarters, do the dirtiest work, and are not allowed to use the village well and other common facilities.
- Harijan is term popularized by Mohandas Gandhi for referring to Dalits, traditionally considered to be untouchable.

## Article 18: Abolition of Titles

- State will not confer titles to anyone citizen or non citizens except Military & Academic distinctions
- Citizen of India can not accept any titles from any foreign States
- A foreigner holding any office of profit or trust under the State is not to accept any titles from foreign States without consent of the President of India
- No person holding any office of profit or trust under the State is to accept any gift, emolument or office from foreign State without consent of the President of India.

## Article 19 Right to Freedom

- Freedom of speech & expression
- Freedom of Assembly
- Freedom to form associations/unions/cooperative societies
- Freedom of Movement
- Freedom of Residence
- Freedom / Right to Trade & Occupation

## Article 20: Protection in respect of conviction for offences

- Retrospective Criminal Legislation: No person shall be convicted of any offence except for violation of law in force at the time of commission of act charged as offence
- Double Jeopardy: No person shall be prosecuted & punished for the same offence more than once but only in respect of punishment inflicted by court of law or judicial tribunal
- Departmental action as well as court punishment can be there
- No person accused of any offence shall be compelled to be witness against himself

## Article 21: Protection of Life & Personal Liberty

- No person shall be deprived of his life/personal liberty except according to procedure prescribed by law
- Article 21-A: Right to Education (Added by 86<sup>th</sup> Amendment)  
State shall provide free & compulsory education to all children of ages 6 to 14 years

Right is for getting elementary Education not professional or Higher education

## Article 22: Protection Against Arrest & Detention

- No person who is arrested shall be detained in custody without being informed on which grounds
- Person arrested shall be brought before magistrate within 24 hours of arrest
- Without authority of magistrate no person shall be detained in custody more than 24 hours
- Exceptions: Person arrested under preventive detention

## Preventive Detention

- Preventive detention is to intercept a person before he does crime so as to prevent him from doing it
- Such a detention is purely on the basis of suspicion or reasonable probability of impending commission of offence
- Maximum detention can be for 3 months
- Accused must have and given the earliest opportunity of making representation against detention orders
- Accused must be told grounds for his arrest except the facts which are against public interest to disclose
- The Preventive Detentions Acts are enacted by Parliament Like NASA, TADA, COFEPOSA, PITNDPSA etc.

## Article 23: Right Against Exploitation

- Prohibition of human trafficking and forced Labour
- Human Trafficking: is the trade of humans for the purpose of forced labour, sexual slavery, or commercial sexual exploitation for the trafficker or others.  
It is even the context of forced marriage, or extraction of organs or tissues, including for surrogacy and ova removal
- Article 24: Prohibition of employment of children in factories, mines or any other hazardous environment under 14 years of age



## Right to freedom of Religion

- Article 25: Freedom of conscience & free propagation, practice and profession of religion
- Article 26: Freedom to manage religious affairs  
Subject to public order, morality & Health
- Freedom to establish & maintain institutions for religious & charitable purposes
- Freedom to manage your own affairs in matters of religion
- Freedom to own and acquire movable or immovable property and to administer such property in accordance with law

## Right to Freedom of Religion

- Article 27: Freedom from taxes for promotion of any particular religion
- Article 28: Freedom from attending religious instructions
- No religious instructions can be imparted in state managed institutions
- In institutions managed by religious groups the religious instructions can be imparted
- Religious instructions may be imparted in institutions recognized by the state or receiving funds aid from the state BUT AN INDIVIDUAL CAN NOT BE FORCED TO ATTEND OR FOLLOW THOSE INSTRUCTIONS

## Cultural & Educational Rights

- Article 29: Protection of interest of minorities
- Everyman including Minorities have right to conserve his culture, script & language and can establish educational institutions for the same
- No citizen can be denied admission to any educational institution maintained by the State or receiving aid out of State fund on grounds of religion, race, cast or language only
- Article 30: All minorities whether based on religion or language shall have the right to establish & administer educational institutions of their choice
- States will not discriminate the institutions while granting aid/funds

## Right to Constitutional Remedies

- Supreme Court is the Guarantor & Protector of all Fundamental Rights as stated in the Constitution
- Constitution empowers an individual with a right to move to Supreme Court for enforcement of Fundamental Rights conferred under part III of the Constitution
- Supreme Court endowed with power to issue directions, orders or writs, whichever is considered appropriate for enforcement of any of the Rights conferred by part III of the Constitution.

## Fundamental Rights & Armed Forces

- Article 33: Parliament by Law can restrict Fundamental Rights available to members of armed forces and also forces charged with maintenance of public order to make sure that they discharge their duty properly
- Any law made under Article 33 by Parliament cannot be challenged in Court of Law.
- Article 34: States about restrictions on Fundamental Rights when Martial Law is in force

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- WE WILL TRANSFORM YOU

Thank You