



Question No: 1

Article 1 of Indian Constitution defines India as

- (a) Federal State**
- (b) Unitary State**
- (c) Union of State**
- (d) Quasi-Federal State**

Question No: 2

The pattern of Centre-State relations in India can be traced back to

- (a) The U.S. Constitution**
- (b) The Government of India Act, 1935**
- (c) Motilal Nehru Committee Report**
- (d) Ambedkar's vision**

Question No: 3

The person appointed by two parties to settle a dispute is known as:

- (a) Judge
- (b) Arbitrator
- (c) Solicitor
- (d) Conciliator

Question No: 4

Right to travel is a fundamental right under

- (a) Article 19 of the Constitution**
- (b) Article 21 of the Constitution**
- (c) Article 14 of the Constitution**
- (d) None of the above**

Question No: 5

The members of Constituent Assembly who framed the Constitution were:

- (a) directly elected by the people**
- (b) indirectly elected**
- (c) nominated**
- (d) appointed by political parties**

Question No: 6

Ambedkar acted in Constituent Assembly as:

- (a) President of the Assembly**
- (b) Chairman of the Drafting Committee**
- (c) the leading spokesman of weaker sections**
- (d) a strong defender of fundamental rights**

Question No: 7

Sovereignty under the Constitution belongs to

- (a) the Parliament**
- (b) the People**
- (c) the Supreme Court**
- (d) the President along with Parliament**

Question No: 8

The Supreme Court upheld Mandal Commission Report in

- (a) Bommai v. Union of India**
- (b) Indra Sawhney v. Union of India**
- (c) Unnikrishnan v. Union of India**
- (d) Maneka Gandhi v. Union of India**

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magna carta of Human
~~rights~~



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Fundamental Rights

Rights
in
India

Part-3
⇓
(12-35)



USA
==

(1st const logic
with preamble)

Constitutional Rt



ORIG - 7
Part - 12
Rt. to Property
Art. 300A
Present
6

1 FR
2 CR
3 LR

The Fundamental Rights are enshrined in Part III of the Constitution from Articles 12 to 35.

In this regard, the framers of the Constitution derived inspiration from the Constitution of USA (i.e., Bill of Rights).

Originally, the Constitution provided for seven Fundamental Rights-

- 1. Right to equality (Articles 14–18)**
- 2. Right to freedom (Articles 19–22)**
- 3. Right against exploitation (Articles 23–24)**

- 4. Right to freedom of religion (Articles 25–28)
- 5. Cultural and educational rights (Articles 29–30)
- 6. Right to property (Article 31) (deleted)
- 7. Right to constitutional remedies (Article 32)

RT. to Property =)

However, the right to property was deleted from the list of Fundamental Rights by the 44th Amendment Act, 1978.

It is made a legal right under Article 300-A in Part XII of the Constitution. So at present, there are only six Fundamental Rights.

Features of Fundamental Rights:

Citi ⊕ Aliens
(पदेन)

1. Some of them are available only to the citizens.
2. They are not absolute but qualified. The state can impose reasonable restrictions on them.

3.

They are justiciable, allowing persons to move the courts for their enforcement, if and when they are violated.

4.

They are defended and guaranteed by the Supreme Court.

5.

They can be suspended during the operation of a National Emergency except the rights guaranteed by Articles 20 and 21.

6.

Their application to the members of armed forces, para-military forces, police forces, intelligence agencies and analogous services can be restricted or abrogated by the Parliament (Article 33).

7.

Their application can be restricted while martial law is in force in any area.

Martial law means ‘military rule’ imposed under abnormal circumstances to restore order (Article 34). It is different from the imposition of national emergency.

Category	Consists of
1. Right to equality (Articles 14–18)	<p>(a) Equality before law and equal protection of laws (Article 14).</p> <p>(b) Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth (Article 15).</p> <p>(c) Equality of opportunity in matters of public employment (Article 16).</p> <p>(d) Abolition of untouchability and prohibition of its practice (Article 17).</p> <p>(e) Abolition of titles except military and academic (Article 18).</p>

2. Right to freedom (Articles 19–22)

- (a) Protection of six rights regarding freedom of: (i) speech and expression, (ii) assembly, (iii) association, (iv) movement, (v) residence, and (vi) profession (Article 19).
- (b) Protection in respect of conviction for offences (Article 20).
- (c) Protection of life and personal liberty (Article 21).
- (d) Right to elementary education (Article 21A).
- (e) Protection against arrest and detention in certain cases (Article 22).

3. Right against exploitation (Articles 23–24)
- (a) Prohibition of traffic in human beings and forced labour (Article 23).
 - (b) Prohibition of employment of children in factories, etc. (Article 24).

4. Right to freedom of religion (Article 25–28)
- (a) Freedom of conscience and free profession, practice and propagation of religion (Article 25).
 - (b) Freedom to manage religious affairs (Article 26).
 - (c) Freedom from payment of taxes for promotion of any religion (Article 27).
 - (d) Freedom from attending religious instruction or worship in certain educational institutions (Article 28).

**5. Cultural and
educational
rights
(Articles
29–30)**

- (a) Protection of language, script and culture of minorities (Article 29).**
- (b) Right of minorities to establish and administer educational institutions (Article 30).**

6. Right to Right to move the Supreme Court for the enforcement of constitutional fundamental rights including the writs of (i) *habeas corpus*, remedies (ii) *mandamus*, (iii) prohibition, (iv) *certiorari*, and (v) *quo war-rento* (Article 32).

Habeas Corpus

It is a Latin term which literally means ‘to have the body of’.

It is an order issued by the court to a person who has detained another person, to produce the body of the latter before it.

The court then examines the cause and legality of detention. It would set the detained person free, if the detention is found to be illegal.

Thus, this writ is a bulwark of individual liberty against arbitrary detention.

The writ of habeas corpus can be issued against both public authorities as well as private individuals. The writ, on the other hand, is not issued where the (a) detention is lawful, (b) the proceeding is for contempt of a legislature or a court, (c) detention is by a competent court, and (d) detention is outside the jurisdiction of the court.

Mandamus

It literally means ‘we command’. It is a command issued by the court to a public official asking him to perform his official duties that he has failed or refused to perform.

It can also be issued against any public body, a corporation, an inferior court, a tribunal or government for the same purpose.

The writ of mandamus cannot be issued:

- (a) against a private individual or body;**
- (b) to enforce departmental instruction that does not possess statutory force;**

- (c) when the duty is discretionary and not mandatory;**
- (d) to enforce a contractual obligation;**
- (e) against the president of India or the state governors; and**
- (f) against the chief justice of a high court acting in judicial capacity.**

Prohibition

Literally, it means 'to forbid'. It is issued by a higher court to a lower court or tribunal to prevent the latter from exceeding its jurisdiction or usurping a jurisdiction that it does not possess.

Thus, unlike mandamus that directs activity, the prohibition directs inactivity.

The writ of prohibition can be issued only against judicial and quasi-judicial authorities.

It is not available against administrative authorities, legislative bodies, and private individuals or bodies.

Certiorari

In the literal sense, it means ‘to be certified’ or ‘to be informed’. It is issued by a higher court to a lower court or tribunal either to transfer a case pending with the latter to itself or to squash the order of the latter in a case.

It is issued on the grounds of excess of jurisdiction or lack of jurisdiction or error of law.

Thus, unlike prohibition, which is only preventive, certiorari is both preventive as well as curative.

Previously, the writ of certiorari could be issued only against judicial and quasi-judicial authorities and not against administrative authorities.

However, in 1991, the Supreme Court ruled that the certiorari can be issued even against administrative authorities affecting rights of individuals.

Like prohibition, certiorari is also not available against legislative bodies and private individuals or bodies.

Quo-Warranto

In the literal sense, it means ‘by what authority or warrant’.

It is issued by the court to enquire into the legality of claim of a person to a public office. Hence, it prevents illegal usurpation of public office by a person.

The writ can be issued only in case of a substantive public office of a permanent character created by a statute or by the Constitution.

It cannot be issued in cases of ministerial office or private office. Unlike the other four writs, this can be sought by any interested person and not necessarily by the aggrieved person.

FR available only to citizens and not to foreigners

1. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth (Article 15).
2. Equality of opportunity in matters of public employment (Article 16).
3. Protection of six rights regarding freedom of : (i) speech and expression, (ii) assembly, (iii) association, (iv) movement, (v) residence, and (vi) profession (Article 19).

4. Protection of language, script and culture of minorities (Article 29).

5. Right of minorities to establish and administer educational institutions (Article 30).

***FR available to both
citizens and foreigners
(except enemy aliens)***

1. Equality before law and equal protection of laws (Article 14).
2. Protection in respect of conviction for offences (Article 20).
3. Protection of life and personal liberty (Article 21).

4. Right to elementary education (Article 21A).

5. Protection against arrest and detention in certain cases (Article 22).

6. Prohibition of traffic in human beings and forced labour (Article 23).

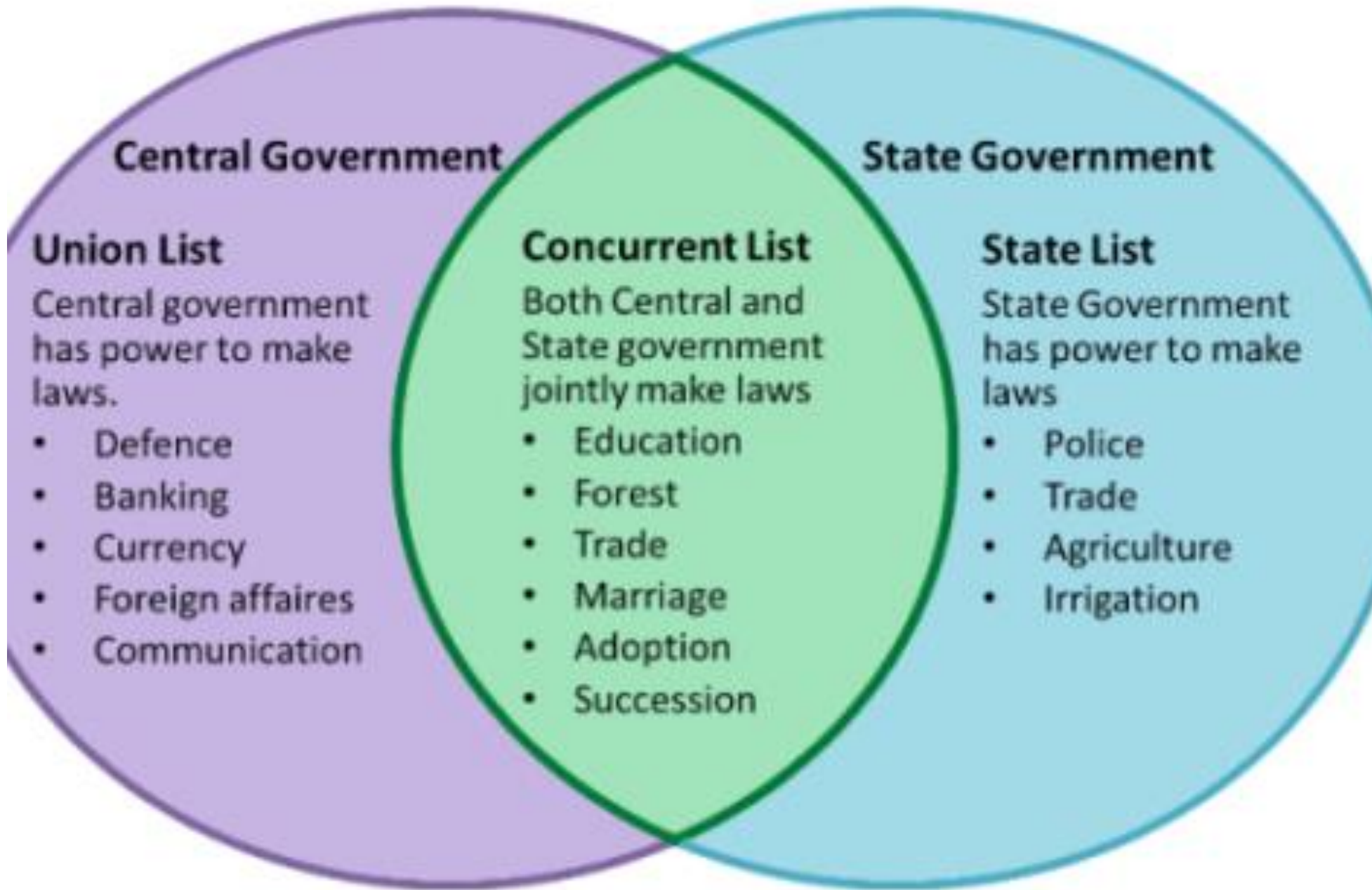
7. Prohibition of employment of children in factories etc., (Article 24).

8. Freedom of conscience and free profession, practice and propagation of religion (Article 25).

9. Freedom to manage religious affairs (Article 26).

10. Freedom from payment of taxes for promotion of any religion (Article 27).

11. Freedom from attending religious instruction or worship in certain educational institutions (Article 28).



Directive Principles of State Policy

The Directive Principles of State Policy are enumerated in Part IV of the Constitution from Articles 36 to 51.

The framers of the Constitution borrowed this idea from the Irish Constitution of 1937, which had copied it from the Spanish Constitution.

Dr B R Ambedkar described these principles as ‘novel features’ of the Indian Constitution.

Granville Austin has described the Directive Principles and the Fundamental Rights as the ‘Conscience of the Constitution’.

Features of the Directive Principles

1.

The phrase ‘Directive Principles of State Policy’ denotes the ideals that the State should keep in mind while formulating policies and enacting laws.

2.

They embody the concept of a ‘welfare state’ and not that of a ‘police state’, which existed during the colonial era.

3.

The Directive Principles are non-justiciable in nature, that is, they are not legally enforceable by the courts for their violation.

4.

The Directive Principles, though non-justiciable in nature, help the courts in examining and determining the constitutional validity of a law.