

BALU PUBLICATIONS

For
Civil Services
Short Notes

Indian Polity

Rs:50/-

Polity Articles To Prepare For Civil Services Online

Section 1 → Constitution + Union Territories + Citizenship + FRs + DPSP + FDs

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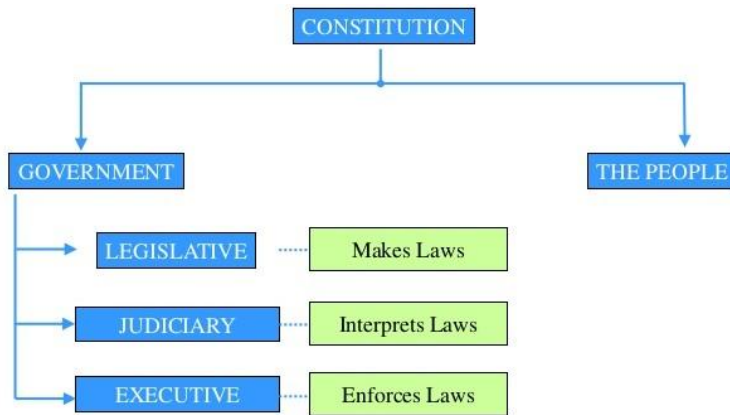
Section 6 → Center-State Relations + Tribunals + Language + Emergency provisions + Anti-Deflection Law + Parliamentary Committees

- [Center State Relations](#)
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Features of Indian Constitution

Indian Constitution

- Sovereign, Socialist, Secular, Democratic Republic
- Supreme law of the Nation
- Written & lengthiest of the world
- Consists of 12 schedules, 25 parts & 448 Articles



12 Schedules of Indian Constitution

Schedule	Description
1	List of States & Union Territories
2	Salaries
3	Oaths and affirmations
4	Allocate seats for each state of India in Rajya Sabha
5	Administration and control of scheduled areas and tribes
6	Provisions for administration of Tribal Area in Assam, Meghalaya, Tripura, Mizoram Gives allocation of powers and functions between Union & States.
7	<ul style="list-style-type: none"> • Union List (For central Govt) 100 Subjects. • States List (Powers of State Govt) 61 subjects • Concurrent List (Both Union & States) 52 subjects
8	List of 22 languages of India recognized by Constitution
9	Reservation – Contains acts & orders related to land tenure, land tax, railways, industries.{Right of property not a fundamental right now}
10	Anti-Deflection law
11	By 73 rd amendment; Contains provisions of Panchayati Raj
12	By 74 th amendment; Contains provisions of Municipal Corporation.

Framed By constituent assembly under chairmanship of Dr. Rajendra Prasad ; Drafted by Chief of Drafting Committee Dr. Ambedkar in 2 years, 11 months & 18 days

Formally adopted on 26 Nov. 1949 & came into force on 26th Jan 1950 (Because on 26th Jan 1930, Declaration of Poorna swaraj was made by JLN)

Provisions in Indian constitution taken from foreign states

Country	Provision
Canada	Quasi Federal with strong center compared to states Governors
UK	Parliamentary form of Government Rule of Law Procedure established by law
USA	Fundamental Rights Judicial Review Independent Judiciary Federal structure
USSR	Fundamental Duties
Ireland	Directive Principles of State Policy
Germany – Weimar	Emergency Provisions
France	Ideals of Liberty, Equality & Fraternity

Indian Constitution: Quasi Federal (Federal But Unitary)

- Rajya Sabha can make laws with respect to laws enumerated in state list in national interest by passing a resolution supported by 2/3 of the members present & voting
- Single citizenship for all (No dual citizenship with respect to central & state government)
- Common & Centralized Election commission for state gov. as well as parliament
- Only parliament has the power to amend constitution (States have their role only in matters affecting federal interest → In this case, Bill need to be ratified by legislatures of not less than half of states by simple majority – States special majority only in formation of new legislative council)
- Common Comptroller & Auditor General of India for union & state government
- Single, unified & hierarchical judiciary with same laws throughout the nation
- Central Rule over states in period of Emergencies

- Constitution does not protect territorial integrity of states → Parliament unilaterally can increase or alter boundaries or name of states.
- Common constitution throughout the nation

Features of Federal Constitution (America)

- Dual Polity + Dual Government with clear separation of powers + No overruling by state or central government + Dual citizenship + Dual constitution
 - Powers originating from constitution with supremacy of the constitution
 - Independent & impartial judiciary with powers w.r.t constitution of state or of central government
 - Written form + Rigid → requires joint act of central & state government to amend the constitution
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The Preamble

- A philosophy on which whole constitutional structure is based which cannot be enforced in court of law
- Not any source of any government power >> Do not place any limitations on organs of constitution (Executive, Judiciary & Legislature)
- Limited applications & can be resorted only when there is an ambiguity in provisions of the constitution
- Proclaims India to be Sovereign, Socialist, Secular, and Democratic Republic

Democratic → Justice + Liberty + Equality + Fraternity

Berubari Case (1960) → SC Verdict: Preamble is not part of constitution hence cannot be amended

Keshavnanda Bharti Case (1973) → SC Verdict: Overruled earlier decision & stated preamble is part of constitution & can be amended provided “Basic structure of constitution as demarcated in preamble is not destroyed”

Union & its Territories – Formation of States in India

Article 1 of Indian Constitution defines names & territories of nation >> Describes India as union of states (Not federation of states)

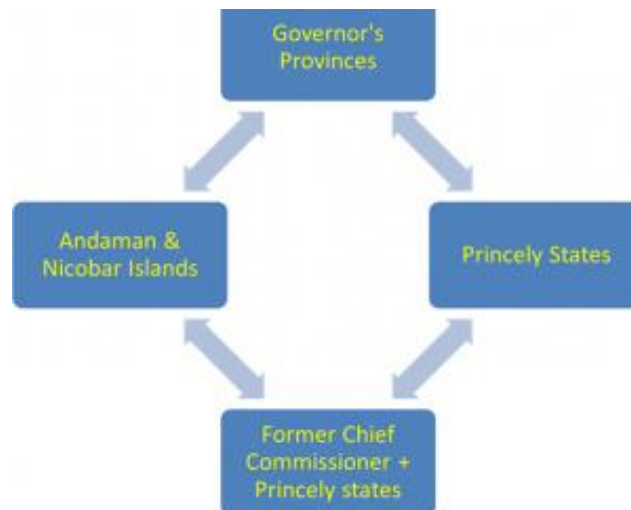
Article 2: Admission & establishment of new states >> French settlement of Pondicherry & Portuguese settlement of Goa, Daman & Sikkim

Article 3: Formation of new states & alteration of areas, boundaries & names of existing states (Power vested only in parliament)

- A bill regarding formation of new states / alteration of name or area of existing states is introduced in parliament only on the recommendation of president who shall refer it to state but is not bound to act upon states views.
- If the said bill is passed by both the houses by simple majority then after presidential assents it comes into action.
- In case of union territories, it is not even necessary for president to obtain views of legislatures of union territories.

Formation of States in India

On 26th Jan 1950, Constitution divided Indian states into four parts



But before this division, Throughout India a constant demand to reorganize the states on linguistic basis arose, Hence constituent assembly formed Linguistic Province commission (LPC) to look into the matter (Headed by S.K. Dhar) – June, 1948

LPC headed by Dhar supported reorganization on the basis of administrative convenience rather than on Linguistic basis

In Dec, 1948 a second LPC was formed to again verify the report given by Dhar & look into the matter again >>> Members (J.L. Nehru, Vallabh Bhai Patel & Pattabhi sitaramayya) >>> Gave the same report as given by Dhar, hence on 26th Jan, 1950 division took place as mentioned above.

Oct, 1953 >> Formation of 1st linguistic State, ANDHRA PRADESH

Cause: Death of Potti Sriramulu due to 56 days hunger strike for separation of Telegu speaking areas from Madras (Tamil speaking people)

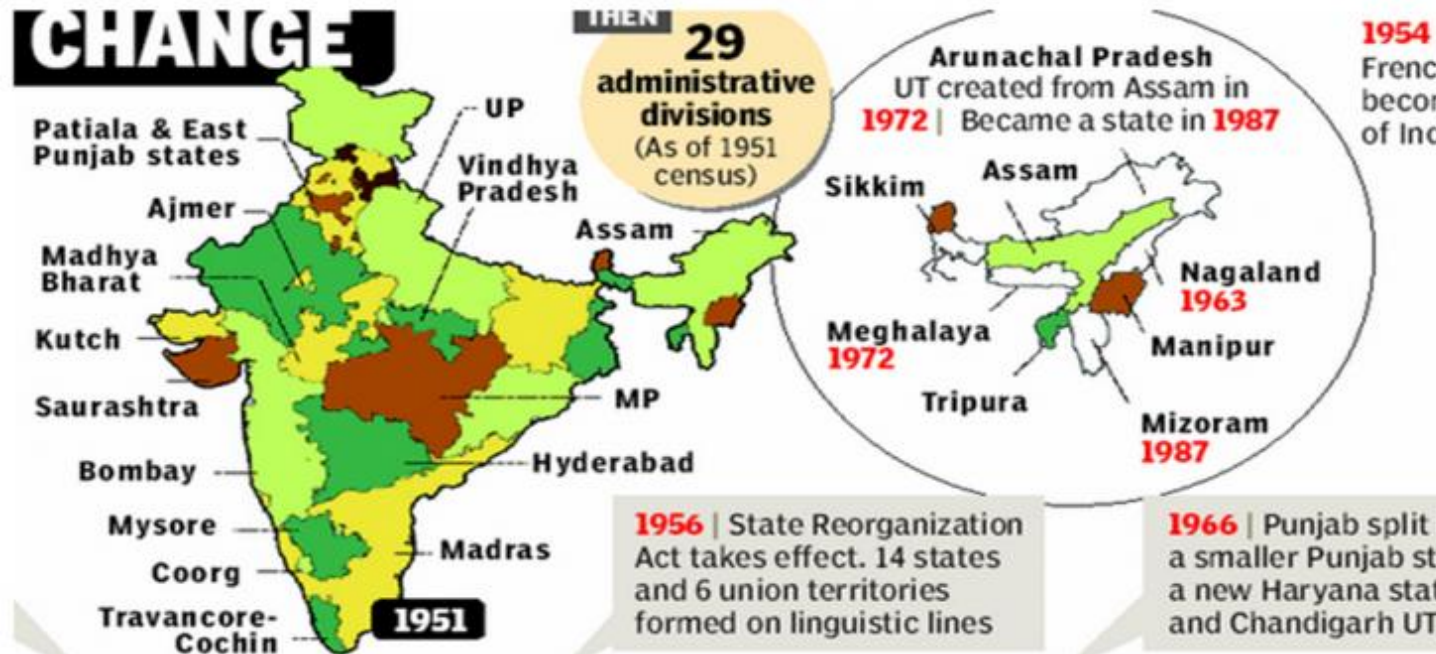
States Reorganization Commission (SRC): Dec, 1953

- Commission Members : Fazal Ali (Chairman), H.N Kunzru, K.M Pannakar
- Abolition of 4 fold classification of states
- Recommended creation of 16 states & 3 centrally administered territories

States Reorganization Act: 1956 (7th Amendment): Formation of 14 states and 6 union territories took place

Formation of States till 2014

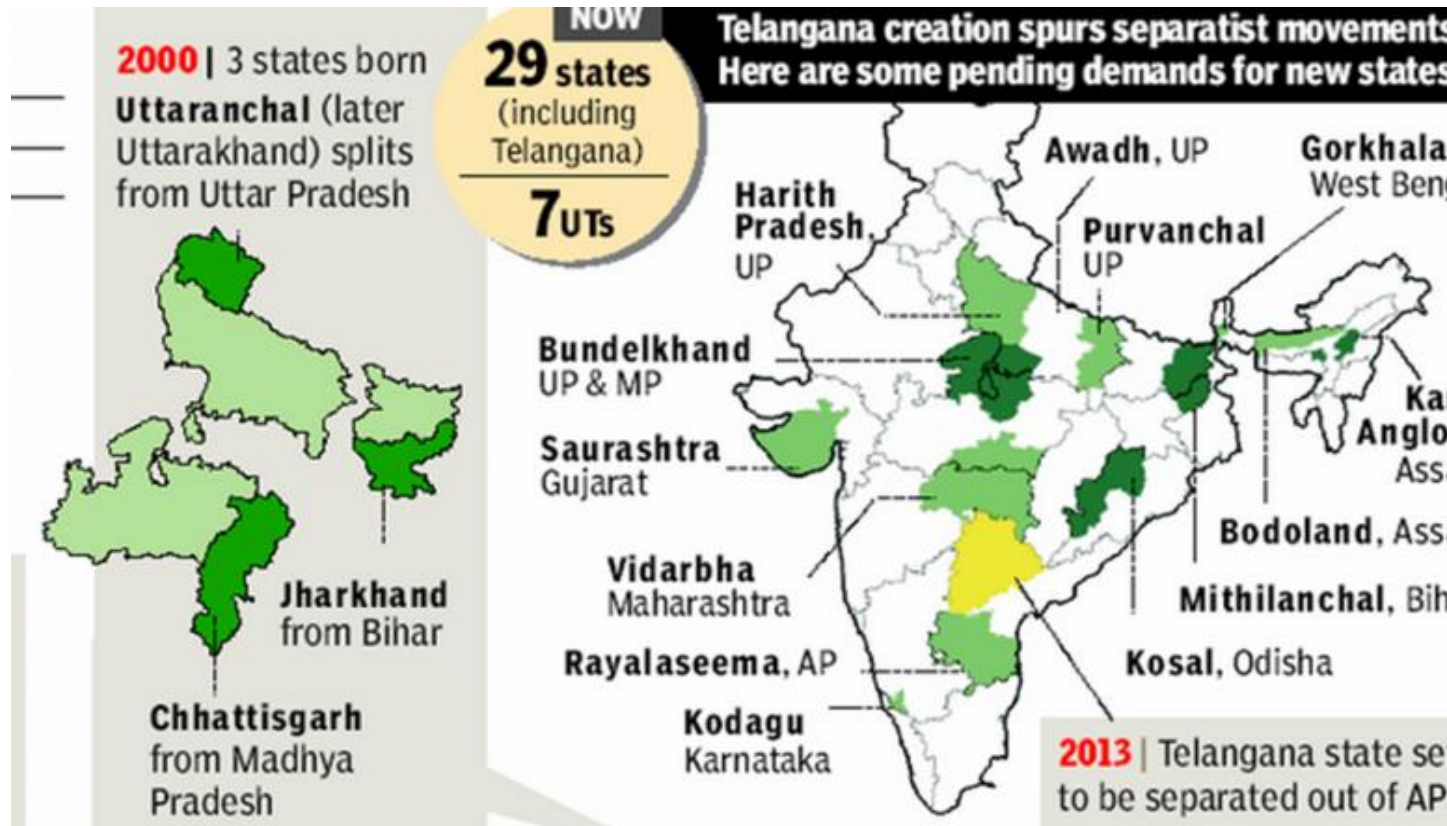
An opening was through to make more states in India as per the needs of the situation, but only after the decision of parliament. This led to formation of a number of new states in India as shown below:



- Bombay reorganization act, 1960 : Formation of Gujrat
 - State of Nagaland act, 1962 : Nagaland as separated state from Assam
 - Punjab reorganization act, 1966 : Formation of Haryana
 - New state of Himachal Pradesh act , 1970
 - North eastern reorganization act, 1971 : Formation of Manipur, Tripura, Meghalaya, Mizoram & Union territories of Arunachal Pradesh & Mizoram
 - New state of Sikkim act , 1975
 - State of Arunachal Pradesh Act, State of Mizoram act 1986 : Formation of States of Mizoram & Ar. Pradesh
 - State of Goa Act, 1987
 - P reorganization act, 2000 : Formation of Chhattisgarh
 - P reorganization act, 2000 : Formation of Uttarakhand
 - Bihar reorganization act, 2000 : Formation of Jharkhand
 - Andhra Pradesh reorganization act, 2014 : Formation of Telangana
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Pending demands for new states in India

Formation of Telangana created a flame among other separatist movement for creation of new states. Given below are some of the pending demands for new states:



Citizenship in India & Indian citizenship acts

Fundamental Rights provided in Indian constitution are available to citizens of India only; some of the fundamental rights which are not enjoyed by a non-citizen of India are:

- Right to be discriminated on the basis of religion, race, sex, cast or birth of place
- Equal opportunities in public employment
- Right of six democratic freedoms (Article 19) + Cultural & educational rights

Only citizens of India have the right:

- To hold civil office
- Right to vote
- Right to be judges of courts

Indian citizenship act, 1955

- Indian constitution provides single citizenship to all irrespective of the states a person belongs to
- Constitution simply describes classes of people deemed to be citizens of India as on 26th Jan 1950 & leaves entire law of citizenship to be regulated by parliamentary laws

Parliament enacted Indian citizenship act, 1955 for acquisition & loss of Indian citizenship. Since its commencement it has been amended four times:

- The Citizenship (Amendment) Act , 1986.
- The Citizenship (Amendment) Act, 1992.
- The Citizenship (Amendment) Act , 2003.
- The Citizenship (Amendment) Act, 2005.

According to Indian citizenship act, 1955, Indian citizenship was extended to citizens of commonwealth countries but this law was repealed by amendment in 2003

Acquisition of Indian Citizenship as per Citizenship act, 1955

Citizenship by birth: Every person born in India on or after January 26, 1950, shall be a citizen of India by birth.

Citizenship by descent: A person born outside India on or after January 26, 1950, shall be a citizen of India by descent if either of his parents is a citizen of India at the time of the person's birth.

Citizenship by registration: A person can acquire Indian citizenship by registering themselves before the prescribed authority, e.g. persons of Indian origin who are ordinarily resident in India and have been so for five years immediately before making the application for registration; persons who are married to citizens of India.

Citizenship by naturalization: A foreigner can acquire Indian citizenship, on application for naturalisation to the Government of India.

Citizenship by Incorporation of territory: If any new territory becomes a part of India, the Government of India shall specify the persons of that territory as citizens of India.

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.

Fundamental Rights in India

- Fundamental Rights (FRs) are known as cornerstone of Indian constitution & mentioned in Part 3 of the constitution
- FRs prohibits unreasonable interference of the state & prevents its executive & legislature to become authoritarian >>> Hence put due limitations of state power
- Observance of fundamental duties is essential for having one's FRs redressed in case of their violation

Fundamental Rights V/S Legal Rights

- Legal rights are protected & enforced by ordinary law of land whereas FRs are protected & guaranteed by written constitution
- In violation of legal rights, one can file suit in subordinate court or by writ application in High court whereas in violation of FRs one can directly approach Supreme court
- Legal rights can be changed by ordinary process of legislation whereas FRs cannot be amended without amending the constitution itself (i.e. by special majority)
- FRs provides protection only against state action not against a private individual except rights pertaining to abolition of untouchability & rights against exploitation

FRs are not absolute but qualified rights >>> Subject to certain restrictions imposed by the state on the question of national security, interest & general welfare of the society >> But restrictions are checked by SC & HC's, whether restrictions are reasonable or not on the grounds of:

- Advancement of SC's & ST's
- Sovereignty & integrity of India
- Security of India
- Friendly relations with foreign states
- In interest of general public morality & public order

FRs are justifiable & can be enforced in court of law but state may deny some of the FRs to a class of people For ex – Armed forces, Para-Military personnel, Police forces etc. for national security & integrity

Judicial Review & FRs

- Judicial review is the power of SC & HC only to declare a law unconstitutional & void if it is inconsistent with any of the provision of constitution to the extent of inconsistency
- Judicial Review is power against both legislature as well as executives
- States do not make laws which abridges the rights mentioned in part 3 of the constitution & any law made in contravention of this clause shall be void to the extent of contraventions

Amendability of FRs

SC verdict in **Golaknath V/S state of Punjab (1967)** >> FRs has been given transcendental position by constitution hence no authority functioning under constitution including parliament has the power to amend FRs

In Keshavananda Bharati V/S state of Kerala, 1973, SC held that parliament has the power to amend any provision of the constitution including part 3, however parliament's amending power subjects to "Basic structure of the constitution"

Rule of Law

- Constitution is supreme law of land & all laws passed by legislature must confirm to it
- No person is above law & all are subjected to ordinary law without any distinction of rank or position (Exception: President, Governor, Foreign diplomats & ambassadors)
- No person can be punished or made to suffer except for violation of law & any such violation must be looked by ordinary legal laws in courts
- Natural Justice >> No person can be judge in his own case; both sides must be heard, unbiased & impartial justice

Six Fundamental Rights in India

Article 14 – 18	Right to Equality
Article 19 – 22	Right to Freedom
Article 23 – 24	Right against Exploitation
Article 25 – 28	Right to Freedom of Religion

Article 29 – 30 Cultural & Education Rights

Article 32 – 35 Right to Constitutional Remedies

Right to Equality

Article 14: Equality before law & equal protection of laws

- Equality before law (British origin) >> No man is above law irrespective of his rank or position
- Equal protection of law (US origin) >> Among equals, law should be equal & equally administered
- Exception: President, Governor, Ambassadors, Foreign diplomats

Article 15: Right against Discrimination

- No discrimination on the basis of cast, race, religion, sex or place of birth only
- No discrimination w.r.t access of shops, hotels & public places including bathing Ghats
- Empowers state to make special provisions for the advancement of SC & ST (including their admission in educational institutions >>> Public & private both)
- Empowers state to make special provisions for women & children

Article 16: Equality of opportunity

- No discrimination against employment under state office on grounds only of religion, sex, caste, descent, place of birth or residence >> Equality of opportunity to all citizens for employment under state office
- **Exception 1:** Article 16 Forbids discrimination on grounds of residence but if there is a good reason to retain certain posts for residents only then parliament may by law regulate the extent by which it would be possible to depart from article 16
- **Exception 2:** Reservation of employment for SCs & STs along with seats reserved in matter of promotion with consequential seniority >> Unfilled vacancies to be carry forward & not to lapse
- Person holding an office in connection with affairs of religious or denominated institutions shall profess the same religion or denomination

End of Preview.

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