

POLITY LECTURE NOTES

PART 1 of the Indian Constitution – THE UNION AND ITS TERRITORY

Article 1

Clause (1) – India, that is Bharat, shall be a Union of States

Clause (2) – The States and the territories thereof shall be as specified in the First Schedule

Clause (3) – The territory of India shall comprise—

- (a) The territories of the States;
- (b) The Union territories specified in the First Schedule;
- (c) Such other territories as may be acquired.

Why the term Union instead of Federation?

- Our country is not a result of any type of contract between formerly independent states
- Once a territory becomes part of Indian Territory they do not have the power of succession i.e. such states cannot opt out of the union.

What is the difference between Territory of India and Union of India?

- Territory of India refers to a wider set including present states, union territories and regions which may be acquired at a later point.
- Current States and Union Territories of India.

Article 2

2 - Parliament may by law admit into the Union, or establish, new States on such terms and conditions as it thinks fit.

2A - [Sikkim to be associated with the Union.] Rep. by the Constitution (Thirty-sixth Amendment) Act, 1975, s. 5 (w.e.f.26-4-1975).

Till 1956 **States were categorized as:-**

Part A – 9 States (Former provinces of the British Governors)

Part B – 9 states (Former Princely States)

Part C – 10 states (Former Princely states) and 4 Chief Commissioner Provinces

Part D – Andaman & Nicobar Islands

Total number of states – 29

Chief Commissioner Provinces

were small provinces governed directly by British Government but due to its small size a Governor was not required thus officer of the rank of Chief Commissioner was made incharge of the province.
E.g. - Delhi, Coorg

What is a schedule?

A schedule is an appendix or a supplement that is attached at the end of a constitution. It is in the form of an explanation to one or more articles of the constitution

Reorganisation of States during British rule was done keep three points in mind. These were:-

- Administrative convenience
- Economic Convenience
- Military Convenience

Article 3

Parliament may by law—

- (a) Form a new State by separation of territory from any State or by uniting two or more States or Parts of States or by uniting any territory to a part of any State
- (b) Increase the area of any State
- (c) Diminish the area of any State
- (d) Alter the boundaries of any State
- (e) Alter the name of any State

After independence large number of princely states had joined the Union of India so British reorganisation reasons would not have worked.

- Use of Language as demarcation was thought of as one of the reasons initially
- **In 1948, SN Dhar** commission was set up to look into the reorganisation which **did not accept this reason** as it will invoke sub national sentiments
E.g. – Right wing parties of Maharashtra opposing people from UP and Bihar in Mumbai
- **JVP committee** consisting of Jawaharlal Nehru, Sardar Vallabhai Patel, Pattabhi Sitaaramayya submitted its report in April 1949 **endorsing the views of SN Dhar committee**
- **In 1956 State Reorganisation committee** consisting of Fazal Ali, AM Panikar, Pandit Hridayanath Kunzru
- It rejected 'One Language One state' claim and said that Unity, Integrity and Security of the state should not be compromised.
They carved out 14 states and 6 Union Territories

For creation or reorganisation of states, only a simple majority of the Parliament is required

14 States – Andhra Pradesh, Assam, Bihar, Bombay, Jammu & Kashmir, Kerala, Madhya Pradesh, Madras, Mysore, Orissa, Rajasthan, Punjab, West Bengal

6 Union Territories - Andaman & Nicobar, Himachal Pradesh, Delhi, Tripura, Manipur, Lakshadweep

Article 4

Clause (1) - Any law referred to in article 2 or article 3 shall contain such provisions for the amendment of the First Schedule and the Fourth Schedule as may be necessary to give effect to the provisions of the law and may also contain such supplemental, incidental and consequential provisions (including provisions as to representation in Parliament and in the Legislature or Legislatures of the State or States affected by such law) as Parliament may deem necessary.

Clause (2) - No such law as aforesaid shall be deemed to be an amendment of this Constitution for the purposes of article 368.

PART 2 of the Indian Constitution – CITIZENSHIP

- **A citizen is a person who enjoys full membership of the community in which he lives.**
- **Citizens** are different from **aliens** who do not enjoy following fundamental rights – Article 15, Article 16, Article 19, Article 29 and Article 30.
- **Citizens alone have the right to hold certain offices** such as those of President, Vice – President, Governor of a State, Judge of SC and HC's etc.

Aliens – are non-citizens of the country. They come for a brief visit, work or any other purpose. Aliens are of two types:-

1. Friendly Aliens
2. Enemy Aliens

At the commencement of the Constitution, Citizenship of India was conferred upon the below mentioned people:-

1. Persons who are born in India and domiciled in India.
2. Persons who are not born in India but domiciled in India and have been staying in India for a period of at least 5 years.
3. Persons who are domiciled in India but not born in India but either of their parents were born in India.
4. Persons who are resident in India but they migrated to Pakistan after 1st March 1947 but later returned on resettlement permit.
5. Persons who were residents of Pakistan but migrated to India before 19 July 1948 or after that date and have been residing in India for at least 6 months
6. Persons who reside outside India but either of parents or grandparents were born in India.

Citizenship Act, 1955 (amended in 1986, 1992, 2003 and 2005)

The Act provides for acquisition of Indian Citizenship after the commencement of Constitution in five ways

1. **By Birth** - Any person born in India, on or after 26 January 1950 but before the commencement of the 1986 Act on 1 July 1987 is a citizen of India by birth.
2. **By Descent** - Persons born outside India on or after 26 January 1950 will be considered as citizen of India if at the time of their birth either of the parents are citizens of India and the parents get the birth registered with the Indian Consulate within 1 year of birth.
3. **Citizenship by Registration** – Any Person who is not a citizen of India can apply for registration as a citizen if he satisfies certain criteria mentioned in the Constitution. Applicable basically for PIOs and OCI.
4. **Citizenship by Naturalization** - Citizenship of India by naturalization can be acquired by a foreigner who has resided in India continuously for a period of 1 year and prior to this 1 year in the past 14 years the person should have stayed in India for atleast 11 years. Also person should not be a citizen of a country which does not allow Indians to become its citizens by Naturalisation and person should renounce citizenship of parent country.
5. **Citizenship by Incorporation of territory** – If any new territory becomes a part of India, the Government of India shall notify the persons of that territory to be citizens of India.

Loss of Citizenship

1. **Renunciation of Indian citizenship** - a voluntary act by which a person holding an Indian citizenship gives it up.
2. **Termination** – If a Indian citizen voluntarily accepts the citizenship of another country his Indian citizenship stands terminated.
3. **Deprivation** - If a Indian citizen has obtained his citizenship by fraud, or if he has been disloyal to India, or has been residing outside India for seven years continuously, or if he has unlawfully traded or communicated with the enemy during war, or if has been imprisoned within 5 years in any country for a period 2 years after becoming a citizen of India either by naturalization or registration.

Concept of Dual Citizenship - Overseas Citizen of India (OCI)

Parliament of India passed the Citizenship (Amendment) Act 2005, which says that all the people of Indian origin in various countries, except in Pakistan and Bangladesh, whose parents/grandparents migrated from India after 26 Jan 1950 or were eligible to become Indian citizens on 26 Jan 1950 or belonged to a territory that became a part of India after 15 Aug 1947, will become eligible to be registered as Overseas Citizen of India.

Special Arrangements made for OCI card holders:-

1. They are entitled to procuring a multiple entry Lifelong Visa
2. OCI holders are treated on par with NRIs for economic, financial and educational matters
3. They are also exempt from registration with the Foreigners Regional Registration Officer (FRRO) on their arrival in the country and can stay or live for as long as they wish.
4. OCI cardholders can travel at very short notice and take up assignments in India.

An Overseas Citizen of India will not enjoy the following rights even if resident in India:-

1. The right to vote,
2. The right to hold the offices of President, Vice-President, Judge of Supreme Court and High Court, Member of Lok Sabha, Rajya Sabha, Legislative Assembly or Council,
3. Appointment to Public Services (Government Service)