

Constitutional Law of India



**Kush Kalra
Bhanu Tanwar**

Sultan Chand & Sons

Constitutional Law of India

**Dedicated to the
“WE, THE PEOPLE OF INDIA and My Parents”**

Constitutional Law of India

Dr. Kush Kalra

BA LL.B, LL.M

Bhanu Tanwar

BA LL.B, LL.M



Sultan Chand & Sons[®]

Educational Publishers

New Delhi

SULTAN CHAND & SONS®

Educational Publishers

23, Daryaganj, New Delhi-110 002

Phones : 011-23281876, 23266105, 41625022 (Showroom & Shop)

011-23247051, 40234454 (Office)

E-Mail : sultanchand74@yahoo.com; info@sultanchandandsons.com

Fax : 011-23266357; Website : www.sultanchandandsons.com

ISBN : 978-93-91820-29-9 (TC-1283)

Price : ₹ 295.00

First Edition: 2023

EVERY GENUINE COPY OF THIS BOOK HAS A HOLOGRAM



In our endeavour to protect you against counterfeit/fake books, we have pasted a copper hologram over the cover of this book. The hologram displays the full visual image, unique 3D multi-level, multi-colour effects of our logo from different angles when tilted or properly illuminated under a single light source, such as 3D depth effect, kinetic effect, pearl effect, gradient effect, trailing effect, emboss effect, glitter effect, randomly sparking tiny dots, micro text, laser numbering, etc.

A fake hologram does not display all these effects.

Always ask the bookseller to put his stamp on the first page of this book.

All Rights Reserved: No part of this book, including its style and presentation, can be reproduced, stored in a retrieval system, or transmitted in any form or by any means – electronic, mechanical, photocopying, recording or otherwise without the prior written consent of the publishers. Exclusive publication, promotion and distribution rights reserved with the Publishers.

Warning: An unauthorised act done in relation to a copyright work may result in both civil claim for damages and criminal prosecution.

Special Note: Photocopy or Xeroxing of educational books without the written permission of publishers is illegal and against Copyright Act. Buying and Selling of pirated books is a criminal offence. Publication of a key to this book is strictly prohibited.

General: While every effort has been made to present authentic information and avoid errors, the author and the publishers are not responsible for the consequences of any action taken on the basis of this book.

Limits of Liability/Disclaimer of Warranty: The publisher and the author make no representation or warranties with respect to the accuracy or completeness of the contents of this work and specifically disclaim all warranties, including without limitation warranties of fitness for a particular purpose. No warranty may be created or extended by sales or promotional materials. The advice and strategies contained therein may not be suitable for every situation. This work is sold with the understanding that the publisher is not engaged in rendering legal, accounting, or other professional services. If professional assistance is required, the services of a competent professional person should be sought. Neither the publishers nor the author shall be liable for damages arising herefrom.

Disclaimer: The publishers have taken all care to ensure highest standard of quality as regards typesetting, proofreading, accuracy of textual material, printing and binding. However, they accept no responsibility for any loss occasioned as a result of any misprint or mistake found in this publication.

Author's Acknowledgement: The writing of a Textbook always involves creation of a huge debt towards innumerable author and publications. We owe our gratitude to all of them. We acknowledge our indebtedness in extensive footnotes throughout the book. If, for any reason, any acknowledgement has been left out we beg to be excused. We assure to carry out correction in the subsequent edition, as and when it is known.

PREFACE

A modern state without constitution is unimaginable. A constitution is a vital necessity as it determines the power relationship between the citizens of the country and between the governors and the governed. Hence, Jellinek observed “The people of every country have the democratic right to determine form of the government under which they are to live”. For the purpose of determining the form and nature of government and the nature of power relationship, the people set up a constituent assembly. This assembly frames the constitution of the country. Thus, the establishment of a representative body for framing of a constitution is implicit in the very concept of democracy. However, the constitution may also have an automatic growth and may be mainly grounded in the conventions, *e.g.*, the British Constitution.

The Constitution is the supreme law of the land. It lays down the framework to make laws, govern the country, establish a structure of policies, procedures, powers and duties of the Union and State governments. It states out the Fundamental Rights, Directive Principles and Duties of citizens.

The Constitution of India came into force on 26th January 1950 and since then there has been a phenomenal growth in the development of Constitutional concepts, principles and dynamics. There are various ways of developing a Constitution; among them the most direct method is the method of formal Amendment by the Parliament. But the most active institution of the State which has contributed immensely for Constitutional development is the institution of Judiciary and it has made its contribution by virtue of the process of judicial interpretation and this particular role of the Judiciary has been witnessed in relation to the Fundamental Rights as guaranteed in Part III of the Constitution.

Originally the Constitution had 395 Articles, 8 Schedules and 22 Parts; currently it has 448 Articles, 12 Schedules and 25 Parts. The Constitution has been amended 101 times till date. The power of amending the Constitution and making laws lies with the Parliament. The most important amendment being the 42nd Amendment in 1976 which was so elaborate that it is called the Mini-Constitution. The latest 101st Amendment being the Goods and Service Tax which is by far the biggest Tax reform after the Indian Independence.

The Twelve Schedules

1. *First Schedule*: Territorial Demarcations of States and Union territories.
2. *Second Schedule*: Provisions for the President, Governor and Senior Executives.
3. *Third Schedule*: Affirmations and Oaths.
4. *Fourth Schedule*: Allocation of Seats in the Rajya Sabha.
5. *Fifth Schedule*: Administration and Control of Scheduled Areas.
6. *Sixth Schedule*: Administration of Tribal areas of North-East.
7. *Seventh Schedule*: Union, State and Concurrent Lists.
8. *Eighth Schedule*: Languages (22).
9. *Ninth Schedule*: Laws immune to Judicial Review.
10. *Tenth Schedule*: Disqualification on grounds of Defection.
11. *Eleventh Schedule*: Provisions for Panchayats.
12. *Twelfth Schedule*: Provisions for Municipalities.

The philosophy of a Constitution consists of the ideals for which the constitution stands and the policies that the Constitution enjoins upon the rulers of the Community to follow. The Constitution of India reflects the impact of our ideology in the following spheres:

- (i) **Secularism**: Secularism is the hallmark of the Indian Constitution. People professing different religions have the freedom of religious worship of their own choice. All religions have been treated alike. The fact appreciated in India was that all religions love humanity and uphold the truth. All the social reformers and political leaders of modern India have advocated religious tolerance, religious freedom and equal respect for all religions. This very principle has been adopted in the Constitution of India where all religions enjoy equal respect. However, the word 'secularism' was nowhere mentioned in the Constitution as adopted in 1949. The word 'secularism' has now been added to the Preamble to the Constitution through the 42nd Amendment passed in 1976.
- (ii) **Democracy**: We have borrowed the modern form of democracy from the West. Under this system, democracy means the periodic responsibilities of the Government to go to the people. For this purpose; elections have been held every five-year to elect a Government by the people. However, democracy covers even the economic and social aspects of life. This aspect of democracy is well-reflected in the Directive Principles of State Policy. They are aimed at human welfare, co-operation, international brotherhood and so on.
- (iii) **Sarvodaya**: *Sarvodaya* refers to the welfare of all. It is different from the welfare of the majority. It seeks to achieve the welfare of all without exception. It is referred to as *Ram Rajya*. The concept of *Sarvodaya* was developed by Mahatma Gandhi, Acharya Vinoba Bhave and J. Narayan under which the material, spiritual, moral and mental development of everyone is sought to be achieved. The Preamble to the Indian Constitution and the Directive Principles of State Policy represent this ideal.
- (iv) **Socialism**: Socialism is not new to India. *Vedanta's* philosophy has socialism in it. The national struggle for freedom had this aim also in view. Jawaharlal Nehru referred to himself as a socialist and republican. Almost all the parties in India profess to promote democratic socialism. These principles are included in the Directive Principles of State Policy. However, to lay emphasis on this aspect, the word 'socialism' was specifically added to the Preamble to the Constitution through the 42nd Amendment.

- (v) **Humanism:** Humanism is a salient feature of Indian ideology. Indian ideology regards the whole of humanity as one big family. It believes in resolving international disputes through mutual negotiations. This is what we find in the Directive Principles of State Policy.
- (vi) **Decentralization:** Decentralization is another aspect of *Sarvodaya*. Indian has always practised decentralization through the *Panchayat* system. Mahatma Gandhi also advocated decentralization. It is on this account that he is regarded as a philosophical anarchist. We have introduced the *Panchayati Raj* system in India to achieve the objective of decentralisation. The concept of cottage industries as laid down in the Directive Principles of State Policy also refers to decentralization.
- (vii) **Liberalism:** Liberalism does not refer to the Western concept of liberalism. It refers, in the Indian context, to self-government, secularism, nationalism, economic reforms, constitutional approach, representative institutions, etc., all these concepts were advocated by the modern Indian leaders.
- (viii) **Mixed Economy:** Co-existence is a salient feature of our ideology. Co-existence has manifested itself through a mixed system of economy. In this system, we have allowed both the private and public sectors of the economy to work simultaneously. Large scale and essential industries have been put in the public sector.
- (ix) **Gandhism:** Gandhism represents an ethical and moral India. Gandhi set a new example of fighting foreign rule through non-violence. He taught the importance of non-violence and truth. He advocated untouchability, cottage industry, prohibition, adult education and the uplift of villages. He wanted a society free of exploitation and decentralized in character. All these Gandhian principles have found an honourable place in the Constitution of India.

Acknowledgement

School of Law, UPES

CONTENTS

1. Introduction	1
Introduction	1
Government of India Act, 1858	1
Main Features of the System introduced by the Act of 1858 were as under	1
Indian Councils Act, 1861	2
Indian Council Act, 1892	2
Minto-Morely Reforms, 1909	3
Montagu-Chelmsford Report	5
The Main Features of the Montford Reforms	5
Simon Commission	7
All Parties Conference and Motilal Nehru Report, 1928	8
The main Points of the Nehru Report were as follows	8
Simon Report	8
Round Table Conferences	9
The Government of India Act, 1935	10
Objective of the Government of India Act, 1935	10
Schedules in the Government of India Act, 1935	10
Features of the Government of India Act, 1935	10
Provincial Autonomy	11
Provincial Government	11
Provincial Executive	12
Discretionary Powers	12
Special Responsibility	12
On the Advice of the Council of Ministers	12
Establishment of Courts Under The Government of India Act, 1935	13
Federal Court	13
High Court	13
Other Provisions	13
Constitutional Developments between 1937–1947	14
August Offer, 1940	14
The Cripps Mission, March 1942	15
Quit India Resolution, 1942	15
Wavell Plan, 1945	15

The Shimla Conference	15
Cabinet Mission Plan, 1946	16
Purpose of the Mission	16
Recommendations of Mission	16
Indian Independence Act, 1947	17
Constituent Assembly for India	18
Functions of the Constituent Assembly	18
Commencement of Constitution	18
2. Salient Features of The Constitution	19
Salient Features	19
Longest Written Constitution	19
Drawn from Various Sources	19
Preamble of the Constitution	21
India is a Democratic and Socialist State	21
Single Citizenship	21
Quasi-Federal in Nature	21
Adult Suffrage	22
Independence of Judiciary	22
Judicial Review	22
Fundamental Rights	22
Directive Principles of the State Policy	22
Judicial Review	23
Socio-economic Justice	23
Fundamental Duties	23
Parliamentary Form of Government	23
Secularism	24
Basic Structure Theory	24
Independence of Judiciary	24
Emergency Provisions	24
BiCameral Union Parliament	25
Constitutionalism	25
Features of Constitutionalism	26
3. Nature of Indian Constitution	27
Is Constitution of India Federal?	27
Federal Principle	27
Essential Characteristics of a Federal Constitution	27
Cooperative Federalism	33
7th Schedule	34
All India Services	34
Full Faith and Credit Clause	34
Zonal Council	34
NITI Aayog	34
GST	34
4. Preamble	35
Introduction	35
Words in the Preamble	35
Amendment of the Preamble	38

5. The Union and Its Territories (Articles 1 to 4)	41
Union and its Territory (Articles 1 to 4)	41
States	41
Union Territories	42
Admission or Establishment of New States: Article 2	42
Formation of New States and Alteration of Areas, Boundaries or Names of Existing State: Article 3	43
Supremacy of Parliament in the Formation of States	43
6. Citizenship (Articles 5 to 11)	45
Introduction	45
Citizenship by Domicile (Article 5)	45
Citizenship of Migrants to India from Pakistan (Article 6)	45
Citizenship of Migrants of Pakistan (Article 7)	46
Citizenship of Persons of Indian Origin Residing Outside India (Article 8)	46
Article 9	46
Article 10	46
Article 11	46
Citizenship Act, 1955	46
(i) Citizenship by Birth	46
(ii) Citizenship by Descent	47
(iii) Citizenship by Registration	47
(iv) Citizenship by Naturalisation	47
(v) Citizenship by Incorporation of Territory	47
Termination of Citizenship	47
Corporations and Citizenship	47
7. Fundamental Rights (Articles 12 to 35)	49
Introduction	49
Origin of Fundamental Rights	49
Originally the Indian Constitution Provided for Seven Fundamental Rights	49
Features of Fundamental Rights	50
Fundamental Rights Provided Under Indian Constitution Part III are as Follows	50
Difference between Fundamental Rights and Directive Principles	51
Waiver of Fundamental Rights	53
Parliament Power to Amend Fundamental Rights	54
State: Article 12	55
Government (Union and State), Parliament and State Legislature	56
Is Judiciary a State?	59
Laws Inconsistent with or in Derogation of the Fundamental Rights: Article 13	60
Doctrine of Severability	60
Doctrine of Eclipse	61
Post Constitutional Laws – Clause (2) of Article 13	62
Definition of Law – Clause (3) of Article 13	62
Constitutional Amendments 13(4)	63
Saving of Certain Laws	63
Article 31A of Constitution of India	
“Saving of Laws Providing for Acquisition of Estates, etc”	63

Article 31B of Constitution of India	
“Validation of Certain Acts and Regulations”	65
Article 31C of Constitution of India	
“Saving of Laws giving Effect to certain Directive Principles”	65
Power of Parliament to Modify the Rights Conferred by this Part in Their Application etc	66
Article 33	66
Restriction on Rights Conferred by this Part while Martial Law is in Force in Any Area	67
Legislation to Give Effect to the Provisions of this Part	67
8. Rights to Equality (Articles 14 to 18)	69
Introduction	69
Right to Equality under Article 14 Indian Constitution	69
Article 14 Highlights Two Important Terms	69
Equality before Law	69
Equal Protection of the Laws	70
Rule of Law	71
Supremacy of Law	71
Equality before The Law	71
PreDominance of Legal Spirit	72
Doctrine of Reasonable Classification	72
Test of Reasonable Classification	72
Doctrine of Arbitrariness	73
Article 14 Aims to Protect Persons Similarly Placed Against Discriminatory Treatment	73
Natural Justice and Article 14	80
Prohibition of Discrimination on Grounds of Religion, Race, Caste, Sex or Place of Birth: Article 15 Indian Constitution	83
Equality of Opportunity in Matters of Public Employment: Article 16	88
Abolition of Untouchability: Article 17	92
Abolition of Titles: Article 18	93
9. Rights to Freedom (Articles 19 to 22)	95
Introduction	95
Freedom Guaranteed by Article 19	95
Freedom of Speech and Expression: Article 19(1)(a)	95
Freedom of Expression & Duty of the State to Protect Rights	96
Freedom of Press	98
Right to Know and to Obtain Information	99
Right to Know The Antecedents of The Candidates at Election	99
Right to Reply	99
Right to Fly the National Flag	99
Freedom of Assembly: Article 19(1)(b)	99
Freedom to Form Associations or Unions or Cooperative Societies: Article 19(1)(C)	100
Freedom of Movement: Article 19(1)(d)	101
Freedom of Residence: Article 19(1)(e)	101

Right to Property	102
Freedom of Profession, Occupation, Trade or Business: Article 19(1)(g)	102
Protection in Respect of Conviction of Offences: Article 20	103
Ex Post Facto Law: Clause (1) of Article 20	103
Jeopardy must Begin	104
Jeopardy must End	104
Prohibition Against Self-incrimination: Clause (3) of Article 20	105
Protection of Life and Personal Liberty: Article 21	106
Procedure Established by Law	107
Process of Law	108
The differences between 'Procedure Established by Law' and 'Due Process of Law' are given below	108
Some Important Cases under Article 21	109
Right to Education: Article 21A	112
Protection against Arrest and Detention: Article 22	113
Article 22(7)	115
What is detention?	115
Some Preventive Detention Laws	115
10. Rights Against Exploitation (Articles 23 to 24)	117
Prohibition of Traffic in Human Being and Forced Labour: Article 23	117
Prohibition of Employment of Children in Factories etc: Article 24	118
11. Freedom of Religion (Articles 25 to 28)Contents	121
Introduction	121
Restrictions on Freedom of Religion	122
1. Public Order, Morality and Health	122
2. Other Provisions Relating to the Fundamental Rights	122
3. Regulation of Economic, Financial, Political and Social Activities	122
Freedom to Manage Religious Affairs: Article 26	122
Freedom as to Payment of Taxes for Promotion of any Particular Religion: Article 27	123
12. Cultural and Educational Rights (Articles 29 to 30)	125
Protection of interests of minorities: Article 29	125
The Distinction between Article 29(2) and Article 15(1)	125
Right of Minorities to Establish and Manage Educational Institutions: Article 30	126
Features of Article 30 of the Indian Constitution	126
13. Rights to Constitutional Remedies (Articles 32 to 35)	129
Introduction	129
<i>Habeas Corpus</i>	130
Mandamus	131
Conditions for the Issuance of Mandamus	131
Purpose of <i>Mandamus</i>	131
The Following are the Purposes for Which A Writ of <i>Mandamus</i> May be Issued	131
<i>Quo Warranto</i>	132
Grounds of issuing the writ of <i>Quo Warranto</i>	132
<i>Certiorari</i>	133
The Conditions Necessary for The Issue of The Writ of <i>Certiorari</i> are	133
Prohibition	133

The Writ of Prohibition can be Issued on the Following Grounds	133
Article 32 and Article 226 of Indian Constitution	134
How Article 32 is different from the Article 226	134
Power of Parliament to Modify The Rights Conferred by This Part in Their Application etc: Article 33	135
Restriction on Rights Conferred by This Part While Martial Law is in Force in any Area: Article 34	135
14. Directive Principles of State Policy (Articles 36 to 51)	137
Introduction	137
Definition: Article 36	138
Application of the Principles Contained in this Part : Article 37	138
State to Secure a Social Order for the Promotion of Welfare of the People: Article 38	138
Certain principles of Policy to be Followed by the State: Article 39	138
Equal Justice and Free Legal Aid: Article 39A	139
Organisation of Village Panchayats: Article 40	139
Right to Work, to Education and To Public Assistance in Certain Cases: Article 41	139
Provision for Just and Humane Conditions of Work and Maternity Relief: Article 42	139
Living Wage, etc, for Workers: Article 43	139
Participation of Workers in Management of Industries: Article 43A	140
Promotion of Cooperative Societies: Article 43B	140
Uniform Civil Code for the Citizens : Article 44	140
Provision for Free and Compulsory Education for Children: Article 45	140
Promotion of Educational and Economic Interests of Scheduled Castes, Scheduled Tribes and other Weaker Sections: Article 46	140
Duty of The State to Raise the Level of Nutrition and The Standard of Living and to Improve Public Health: Article 47	140
Organisation of Agriculture and Animal Husbandry : Article 48	140
Protection and Improvement of Environment and Safeguarding of Forests and WildLife : Article 48A	141
Protection of Monuments and Places and Objects of National Importance: Article 49	141
Separation of Judiciary from Executive: Article 50	141
Promotion of International Peace and Security: Article 51	141
15. Fundamental Duties (Articles 51A)	143
Introduction	143
The Importance of Fundamental Duties are as follows	144
16. The Union Executive (Articles 52 to 78, 123 and 361)	145
President of India	145
Election of the President	145
Conditions of President's Office: Article 59	146
Holding of Presidential Elections	146
Impeachment of President: Article 61	146
Matters Relating to, or Connected with, the Election of a President or Vice-President: Article 71	147
Protection and Immunities of President, Governors and Rajpramukhs: Article 361	147

Powers, Functions and Constitutional Position of President of India	148
Executive Functions	148
Legislative Powers and Functions	149
Power to Promulgate Ordinances	150
Diplomatic Powers	151
Military powers	151
Pardoning Powers / Judicial Powers	151
Financial Power	151
Indian President and American President	152
Vice-President of India: Article 63	152
Vice-President to Act as Chairperson (Ex-Officio) of The Rajya Sabha: Article 64	152
Vice-President to Act as President or to Discharge His Functions During Casual Vacancies in The Office, or during The Absence, of President: Article 65	153
Election of Vice-President: Article 66	153
Term of Office of Vice President: Article 67	153
Time of Holding Election to Fill Vacancy in the Office of Vice President and the term of Office of Person Elected to Fill Casual Vacancy : Article 68	154
Oath or Affirmation by the Vice-President: Article 69	155
Discharge of Presidents Functions in other Contingencies: Article 70	155
Prime Minister and other Ministers: Article 75	155
Attorney General for India: Article 76	156
17. Union Legislature (Articles 79 to 122)	159
Introduction	159
Council of States (Rajya Sabha)	159
House of the People (Lok Sabha)	161
Disqualifications for Membership: Article 191	162
Anti-Defection Law	162
Office of Profit: Article 102	163
Officers of Parliament	163
Chairman and Deputy Chairman of the Council of States	163
Secretariat of Parliament	164
Passage of Legislative Proposals	164
Types of Bills in India	165
Difference between Ordinary Bill and Money Bill	166
Article 110 provides for the definition of Money bills	166
Restriction on Introduction of Certain Categories of Bills in Rajya Sabha	167
Constitution Amendment Bills	167
Joint Sitting	167
Privileges of Member of Parliament and Members of Committees	168
Privileges coming under Article 105(3) are as under	168
Rules and Procedure: Article 118	168
Language to be used in Parliament: Article 120	168
Restriction on discussion in Parliament: Article 121	169
Courts Not to Inquire into Proceedings of Parliament: Article 122	169

18. Union Judiciary (Articles 124 to 147)	171
Introduction	171
Establishment and Constitution of Supreme Court	171
Tenure and Removal of Judges	174
Salaries and Allowances	174
The seat of the Supreme Court: Article 130	174
Jurisdiction of the Supreme Court	175
Original Jurisdiction of Supreme Court	175
Appellate Jurisdiction (Article 132) of Supreme Court	175
Criminal Matters (Article 134)	175
Advisory Jurisdiction (Article 143) of Supreme Court	176
Special Leave Petition	176
Writ Jurisdiction	176
Review Jurisdiction	176
High Courts	177
Court of Record	178
Power of Superintendence	178
Jurisdiction of Existing High Court	178
Judicial Review	179
19. State Executive (Articles 153 to 167 and 213)	181
The Governor	181
Powers of Governor	182
Ordinance Making Power	184
Discretionary Powers of the Governor	184
Constitutional Articles related To Roles and Powers of the Governor	185
Roles and Power of the Governor	185
Power of The Deputy Speaker or Other Person to Perform The Duties of the of, or to Act as, Speaker : Article 180	189
Power of The Deputy Chairman or Other Person to Perform The Duties of the Office of, or to Act as, Chairman : Article 184	190
Secretariat of State Legislature : Article 187	190
Oath or Affirmation by Members : Article 188	190
Decision on Questions as to Disqualifications of Members : Article 192	190
Definition of Money Bills : Article 199	190
Assent to Bills : Article 200	191
Bills Reserved for Consideration : Article 201	191
Annual Financial Statement : Article 202	191
Procedure in Legislature with Respect to Estimates : Article 203	192
Supplementary, Additional or Excess Grants : Article 205	192
Special Provisions as to Financial Bills : Article 207	193
Rules of Procedure : Article 208	193
Power of Governor to Promulgate Ordinances During Recess of Legislature : Article 213	193
Appointment and Conditions of The Office of a Judge of a High Court : Article 217	194

Oath or Affirmation by Judges of High Courts : Article 219	195
Power of Superintendence Over all Courts by the High Court : Article 227	195
Officers and Servants and The Expenses of High Courts : Article 229	195
Extension of Jurisdiction of High Courts to Union territories : Article 230	195
Establishment of a common High Court for two or more States : Article 231	195
Appointment of District Judges : Article 233	196
Recruitment of Persons Other Than District Judges to the Judicial Service : Article 234	196
Application of The Provisions of This Chapter to Certain Class or Classes of Magistrates : Article 237.	196
Definition : Article 243(g).	196
Constitution of Finance Commission to Review Financial Position : Article 243(I).	196
Elections to the Panchayats : Article 243K	197
Application to Union Territories : Article 243L	197
Definition : Article 243P(c)	197
Definition : Article 243P(d)	197
Constitution of Municipalities : Article 243Q	197
Finance Commission : Article 243-Y	197
Application to Union Territories : Article 243ZB	198
Committee for District Planning : Article 243ZD	198
Requirements as to Recommendations and Previous Sanctions to be Regarded as Matters of Procedure only : Article 255	198
Article 258A. Power of the States to Entrust Functions to the Union	198
Contingency Fund : Article 267.	198
Succession to Property, Assets, Rights, Liabilities and Obligations in Certain Cases : Article 294	199
Contracts : Article 299	199
Recruitment and Conditions of Service of Persons Serving the Union or a State : Article 309	199
Tenure of office of Persons Serving the Union or a State : Article 310	200
Dismissal, Removal or Reduction in Rank of Persons Employed in Civil Capacities Under the Union or a State : Article 311	200
Public Service Commissions for the Union and for the States : Article 315	200
Appointment and Term of Office of Members : Article 316	200
Removal and Suspension of a Member of a Public Service Commission : Article 317	201
Power to Make Regulations as to Conditions of Service of Members and Staff of the Commission : Article 318	201
Function of Public Service Commission : Article 320	201
Reports of Public Service Commissions : Article 323	202
Superintendence, Direction and Control of Elections to be Vested in an Election Commission : Article 324	202
Representation of the Anglo-Indian Community in the Legislative Assemblies of the States : Article 333	202
National Commission for Scheduled Castes : Article 338	202

National Commission for Scheduled Tribes : Article 338A	203
Scheduled Castes : Article 341	203
Scheduled Tribes : Article 342	203
Language to be Used in the Supreme Court and in the High Courts and for Acts, Bills, etc. : Article 348	203
Provisions in Case of Failure of Constitutional Machinery in States : Article 356	204
Protection of President and Governors and <i>Rajpramukhs</i> : Article 361	204
Interpretation : Article 367	205
20. The State Legislature (Articles 168 to 212)	207
Introduction	207
Composition of the Houses	207
Legislative Assembly (<i>Vidhan Sabha</i>)	208
Legislative Council (<i>Vidhan Parishad</i>)	208
Qualifications of Membership	209
Disqualifications of Membership	209
Legislative Procedure: Article 196	211
Financial Bills	211
Assent to Bills: Article 200	212
Bills Reserved for President's Consideration: Article 201	212
Language to be used in the Legislation: Article 210	212
Procedure in Financial Matters: Articles 202 to 207	212
General Rules of Procedure	213
21. Subordinate Courts (Articles 233 to 237)	215
Introduction	215
Validation of Appointments of, and Judgments, etc., Delivered by, Certain District Judges: Article 233A	215
Recruitment of Persons Other Than District Judges to the Judicial Service: Article 234	216
Control over Subordinate Courts: Article 235	216
22. The Union Territories (Articles 239 to 241)	217
Introduction	217
Administration of Union Territories: Article 239	217
Creation of Local Legislatures or Council of Ministers or Both for Certain Union Territories: Article 239A	217
National Capital Territory of Delhi : Article 239AA and Article 239AB	217
Provision in Case of Failure of Constitutional Machinery: Article 239AB	219
Power of Administrator to Promulgate Ordinances During Recess of Legislature: Article 239B	219
Power of President to make Regulations for Certain Union Territories: Article 240	220
High Courts for Union Territories: Article 241	220
23. Panchayats (Articles 243 to 243O)	223
Introduction	223
Gram Sabha	223
Constitution of Panchayats	224
Gram Panchayat	224

Panchayat Samiti	224
Zila Parishad	224
Composition of Panchayats	224
Reservation of Seats	225
Disqualifications for Membership	225
Powers and Responsibilities of <i>Panchayats</i>	225
Powers to Impose Taxes by, and Funds of, the <i>Panchayats</i> : Article 243H	225
Constitution of Finance Commission to Review Financial Position :Article 243I	226
Eleventh Schedule	226
Elections to the <i>Panchayats</i> : Article 243K	227
24. Municipalities and Cooperative Societies	
(Articles 2439 to 243ZG and Articles 243ZH to 243ZT)	229
Introduction	229
Constitution of Municipalities: Article 243Q	229
Composition of Municipalities: Article 243R	229
Constitution and Composition of Wards Committees, etc.: Article 243S	230
Reservation of Seats: Article 243T	230
Duration of Municipalities, etc.: Article 243U	231
Disqualifications for Membership: Article 243V	231
Powers, Authority and Responsibilities of Municipalities, etc: Article 243W	231
Power to Impose Taxes by, and Funds of, the Municipalities: Article 243X	232
Finance Commission: Article 243Y	232
Audit of Accounts of Municipalities: Article 243Z	233
Elections to the Municipalities: Article 243ZA	233
Application to Union Territories: Article 243ZB	233
Part not to Apply to Certain Areas: Article 243ZC	233
Committee for District Planning: Article 243ZD	233
Committee for Metropolitan Planning: Article 243ZE	234
Continuance of Existing Laws and Municipalities: Article 243ZF	235
Bar to Interference by Courts in Electoral Matters: Article 243ZG	235
Cooperative Societies (Article 243ZH to 243ZT)	235
Definitions: Article 243ZH	236
Incorporation of Cooperative Societies: Article 243ZI	236
Number and Term of Members of Board and its Office Bearers: Article 243ZJ	236
Election of Members of Board: Article 243ZK	237
Supersession and Suspension of Board and Interim Management: Article 243ZL	237
Audit of Accounts of Cooperative Societies: Article 243ZM	238
Convening of General Body Meetings: Article 243ZN	238
Right of a Member to get Information: Article 243ZO	238
Returns: Article 243ZP	239
Offences and Penalties: Article 243ZQ	239
Application to Multi-State Cooperative Societies: Article 243ZR	239
Application to Union Territories: Article 243ZS	240
Continuance of Existing Laws: Article 243ZT	240

25. Relations Between the Union and the States (Articles 245 to 293)	241
Introduction	241
Sarkaria Commission on the Union and State Relations	241
Legislative Relations	241
Doctrine of Pith and Substance	243
Doctrine of Colourable Legislation	243
Doctrine of Harmonious Construction	243
Administrative Relations	244
Centre State Relations During Normal Ties	244
Centre State Relations During Emergencies	245
Financial Relations	246
Distribution of the Tax-revenue	246
Grants-in-Aid	247
Effects of Emergency on Centre-State Financial Relations	247
Finance Commission: Article 280	247
26. Rights to Property (Articles 294 to 298)	249
Succession to Property, Assets, Rights, Liabilities and	
Obligations in certain cases: Article 294	249
Succession to Property, Assets, Rights, Liabilities and	
Obligations in Other Cases: Article 295	249
Property accruing by escheat or Lapse or as <i>Bona Vacantia</i> : Article 296	250
Things of Value within Territorial Waters or Continental shelf and Resources of the	
Exclusive Economic Zone to Vest in the Union: Article 297	250
Power to carry on trade, etc: Article 298	250
Right to Property: Article 300A	251
27. Trade, Commerce and Intercourse (Within the Territory of India)	
(Articles 301 to 307)	253
Introduction	253
Freedom of Trade, Commerce and Intercourse is not Absolute	253
Relationship between Article 301 and 19(1)(g)	255
28. Services Under the Union and the States (Articles 308 to 314)	257
Recruitment and conditions of service of Persons serving the	
Union or a State: Article 309	257
Tenure of Office of Persons Serving the Union or a State: Article 310	257
Dismissal, removal or Reduction in Rank of Persons Employed in	
Civil Capacities Under the Union or a State: Article 311	258
All-India services: Article 312	259
Power of Parliament to Vary or Revoke Conditions of Service of	
Officers of Certain Services: Article 312A	259
29. Tribunals (Articles 323A and 323B)	261
Introduction	261
Administrative Tribunals: Article 323A	261
Tribunals for other Matters: Article 323B	262
Characteristics of Administrative Tribunals	263
Objectives of the Administrative Tribunals	263

30. Elections (Articles 324 to 329)	267
Introduction	267
Indian Constitution: Election Related Provisions	268
Superintendence, Direction and Control of Elections to Be Vested in an Election Commission: Article 324	268
Inclusion of Names in Electoral Roll: Article 325	268
Elections to the Parliament and State Assemblies based on Adult Suffrage: Article 326	268
Power of Parliament to Formulate Laws: Article 327	269
Power of State Legislature: Article 328	269
Prohibits Court's Interference in Electoral Matters: Article 329	269
Composition of Election Commission	269
Functions and Powers of Election Commission	270
31. Official Language (Articles 343 to 351)	273
Official language of the Union: Article 343	273
Commission and Committee of Parliament on Official Language: Article 344	273
Official Language or Languages of a State: Article 345	274
Official Language for Communication Between One State and Another or Between a State and the Union: Article 346	274
Special Provision Relating to Language Spoken By A Section of The Population of A State: Article 347	274
Language to be Used in the Supreme Court and In the High Courts and for Acts, Bills, etc: Article 348	275
Special Procedure for Enactment of Certain Laws relating to Language: Article 349	275
Language to be used in representations For redress of grievances: Article 350	276
Facilities for Instruction in Mother-Tongue At Primary Stage: Article 350A	276
Special Officer for Linguistic Minorities: Article 350B	276
Directive for Development of the Hindi Language: Article 351	276
32. Emergency Provisions (Articles 352 to 360)	277
Introduction	277
National Emergency	277
The Procedure of Proclaiming Emergency	279
The Procedure of Revoking Emergency	279
Effect of Proclamation of Emergency	279
State Emergency	280
Financial Emergency	282
33. Amendment of the Constitution (Article 368)	283
Power of Parliament to amend The Constitution and procedure Therefor: Article 368	283
1. By Simple Majority of Parliament	284
2. By Special Majority of Parliament	284
3. By Special Majority of Parliament And Consent of States	285
Types of Amendments – Constitutional Amendment Process	285
Important Amendments in Indian Constitution	286
First Amendment, 1951	286
The Constitution (Second Amendment) Act, 1952	287

The Constitution (Fourth Amendment) Act, 1955	287
The Constitution (Seventh Amendment), 1956	287
The Constitution (Eighth Amendment) Act, 1959	288
The Constitution (Ninth Amendment Act), 1960	288
The Constitution (Tenth Amendment Act), 1961	288
The Constitution (Eleventh Amendment Act), 1961	288
The Constitution (Twelfth Amendment Act), 1962	288
The Constitution (Thirteenth Amendment Act), 1962	288
The Constitution (Fourteenth Amendment) Act, 1962	288
The Constitution (Fifteenth Amendment Act), 1963	289
The Constitution (Sixteenth Amendment) Act, 1963	289
The Constitution (Seventeenth Amendment) Act, 1964	289
The Constitution (Eighteenth Amendment) Act, 1966	289
The Constitution (Nineteenth Amendment) Act, 1966	289
The Constitution (Twenty-first Amendment) Act, 1967	290
The Constitution (Twenty-fourth Amendment Act), 1971	290
The Constitution (Twenty-fifth Amendment) Act, 1971	290
The Constitution (Twenty-sixth Amendment Act), 1971	290
The Constitution (Twenty-seventh Amendment) Act, 1971	290
The Constitution (Thirty-first Amendment Act), 1973	290
The Constitution (Thirty-second Amendment) Act, 1973	291
The Constitution (Thirty-third Amendment) Act, 1974	291
The Constitution (Thirty-fifth Amendment) Act, 1974	291
The Constitution (Thirty-sixth Amendment Act), 1975	291
The Constitution (Thirty-seventh Amendment Act), 1975	291
The Constitution (Thirty-eighth Amendment) Act, 1975	291
The Constitution (Thirty-ninth Amendment Act), 1975	292
The Constitution (Forty-second Amendment Act), 1976	292
The Constitution (Forty-third Amendment Act), 1978	293
The Constitution (Forty-fourth Amendment Act), 1978	293
The Constitution (Forty-sixth Amendment) Act, 1982	294
The Constitution (Forty-seventh Amendment) Act, 1984	294
The Constitution (Forty-ninth Amendment) Act, 1984	294
The Constitution (Fiftieth Amendment) Act, 1984	294
The Constitution (Fifty-second Amendment Act), 1985	294
The Constitution (Fifty-eighth Amendment Act), 1987	294
The Constitution (Sixty-first Amendment Act), 1989	295
The Constitution (Sixty-second Amendment Act), 1989	295
The Constitution (Sixty-fifth Amendment Act), 1990	295
The Constitution (Sixty-ninth Amendment Act), 1991	295
The Constitution (Seventh-first Amendment Act), 1992	295
The Constitution (Seventh-third Amendment Act), 1992	295
The Constitution (Seventy-fourth Amendment) Act, 1992	296
The Constitution (Seventy-sixth Amendment Act), 1994	296
The Constitution (Seventy-seventh Amendment Act), 1995	296

The Constitution (Eightieth Amendment Act), 2000	296
The Constitution (Eighty-fourth Amendment Act), 2000	296
The Constitution (Eighty-Second Amendment) Act, 2000	296
The Constitution (Eighty-fourth Amendment Act), 2001	297
The Constitution (Eighty-sixth Amendment Act), 2002	297
The Constitution (Eighty-eighth Amendment Act), 2003	297
The Constitution (Ninety-first Amendment) Act, 2003	297
The Constitution (Ninety-second Amendment Act), 2003	298
The Constitution (Ninety-fifth Amendment Act), 2010	298
The Constitution (Ninety-sixth Amendment Act), 2011	298
The Constitution (Ninety-seventh Amendment Act), 2012	298
The Constitution (Ninety-ninth Amendment Act), 2014	298
The Constitution (One Hundredth Amendment Act), 2015	299
The Constitution (One Hundred and First Amendment Act), 2016	299
The Constitution (One Hundred and Second Amendment Act), 2018	299
The Constitution (One Hundred and Third Amendment Act), 2019	299
The Constitution (One Hundred and Fourth Amendment Act), 2020	299
The Constitution (One Hundred and Fifth Amendment) Act, 2021	300
34. Leading Judgments on Constitutional Law	301
Constitution Judgments	301
Judgment 1: Right to Life Includes Right to Live with Human Dignity	301
Judgment 2: Methods of Executing Death Sentence	302
Judgment 3: Every Doctor Has Professional Duty to Protect Human Life	302
Judgment 4: People Charged for Minor Offences Languishing in Jails	303
Judgment 5: Right Against Self Incrimination	304
Judgment 6: Freedom of Speech & Right to Fly National Flag	305
Judgment 7: Right to Sleep	305
Judgment 8: Handcuffing should not be forced on Prisoners	307
Judgment 9: Prohibition of Smoking in Public Areas	308
Judgment 10: Citizen has Right to Safeguard Privacy of his Own and his Family	308
Judgment 11: Censorship Imposed on Making and Exhibition of Films	309
Judgment 12: Right to make “Demonstration” and Freedom of Speech & Expression	310
Judgment 13: Right to Life and Freedom of Movement and Expression	310
Judgment 14: Denial of Request for Interview By Jail Authorities Affects The Fundamental Right to Speech and Expression	311
Judgment 15: Freedom of Speech & Expression and Sedition	312
Judgment 16: Contempt of Court	313
Judgment 17: Right to Life and Foreign Citizens	313
Judgment 18: Handcuffs or Other Fetters shall not be Forced on a Prisoner	314
Judgment :19 “Right to Life” Includes Right to Lead a Healthy Life	314
Judgment 20: Child Prostitution	315
Judgment 21: Employment of Children at Circus	316
Judgment 22: Steps to Ban Publishing of Certain News Pieces or Pictures would Fetter the Independence of Free Press	317

Judgment 23: Manual Scavenging and Right to Life	317
Judgment 24: Compensation by State on Ground of Illegal Arrest	318
Judgment 25: Medical Facilities and Compensation by State	319
Judgment 26: Fundamental Right to Education	319
Judgment 27: Euthanasia	320
Judgment 28: Right to Profession not Absolute, Reasonable Restrictions can be Imposed on Profession	320
Judgment 29: <i>Hijras</i> as third gender	321
Judgment 30: Sexual Harassment of Women at Workplace	321
Judgment 31: DNA Test to Determine Paternity	322
Judgment 32: Whether Attempt to Commit Suicide is Illegal and Against Public Policy	322
Judgment 33: Every Accused has a Right to a Fair Trial by a Competent Court	323
Judgment 34: Whether a Woman can be Deprived of Employment Solely on the Ground of The Alleged Disadvantage She Suffers From Owing to Her Gender	324
Judgment 35: Discrimination against Factory Workers Based on Sex and Gender	324
Judgment 36: Better Jails must be Built with Educational and Recreation Facilities	325
Judgment 37: Prisoner Right to Receive Wages for their Labour	326
Judgment 38: Protection to Women Prisoners in Lock-Ups	327
Judgment 39: Dissolution of Legislative Assembly	327
Judgment 40: Capitation Fee Cannot be Permitted to be Charged	328

About the Book

A constitution is essentially the aggregate of the basic principles and laws of a political community, which is either a nation or a state, that determines the powers and duties of its government and the rights guaranteed to its citizens. It determines the structure and operation of government bodies and the political principles of the system.

The presence of a constitution is relevant in any modern democratic State in order to ensure that the principles of democracy are always upheld. It serves the purpose of limiting the government and distributing and separating powers among different organs and institutions of the government. It has a huge role in maintaining a balanced government. This book covers the Constitution of India in a simple and easy to understand language. The beauty of this book is that it will be of good use to one and all who are curious to know and study about Indian Constitution.

Salient Features

- Covers the Syllabus of Competitive Exams
- Easy to Understand Language
- Case Laws
- Up-to-date Amendments
- Useful for LL.B and LL.M students

About the Authors

Dr. Kush Kalra is associated with School of Law, UPES. He is a Limca Book Record Holder for the most number of books published on law in a year. A recipient of the National Youth Award by the Ministry of Youth Affairs and Sports, he believes that education can make a big difference and improve our lives.



Bhanu Tanwar graduated with her undergraduate and postgraduate degrees in Law from National Law University, Delhi. She specialised in Business Laws at the Master's level. She was awarded the Erasmus + International Credit Mobility Scholarship to study an exchange semester at University of Bergen, Norway where she studied courses on Arbitration and Energy Law. She is associated with School of Law, UPES.



Sultan Chand & Sons

Publishers of Standard Educational Textbooks

23 Daryaganj, New Delhi-110002

Phones (S) : 011-23281876, 23266105, 41625022

(O) : 011-23247051, 40234454

Email : sultanchand74@yahoo.com

info@sultanchandandsons.com



TC 1283

ISBN 978-93-91820-29-9



9 789391 820299