

102nd
Constitutional
Amendment
Act (2018)



National
Commission for
Backward
Classes as
Constitutional
Body



The amendment added **Articles 338B and 342A** into the Indian Constitution:

- **Article 338 B-** Provides for the establishment of NCBC consisting of 5 members- Chairperson, Vice Chairperson and three members- appointed by the President.
- It further provides functions to be performed by the NCBC and gives the Commission all the powers of a civil court while enquiring into specific complaints regarding the deprivation of rights and safeguards of the SEBCs.
- **Article 342 A-** It empowers the President to specify the SEBCs with respect to a state or union territory in consultation with Governor.
- The article makes it mandatory to get parliamentary approval for adding to or deleting a community from the Backward List of communities.



3 Member Panel led by Ajay Bhushan Pandey to review EWS criteria which has recommended removal of residential asset as one of the criteria.

103rd
Constitutional
Amendment
Act (2019)



Reservation for
Economically
Weaker
Sections



The Amendment provides 10% reservation to EWS in central govt and Private educational institutions and Central government jobs in addition to the existing reservations.

It follows the mandate of Article 46 of the Constitution of India, a Directive Principle that urges the government to protect the educational and economic interests of the weaker sections of society.

- It adds Article 15 (6) to provide reservations to economically weaker sections for admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of Article 30.
- It adds Article 16 (6) to provide reservations to people from EWS in public employment.

104th
Constitutional
Amendment
Act (2019)



Reservation of
seats for SCs
and STs in
Legislature



The amendment deals with Article 334 of the constitution.

It extends the deadline for the cessation for the reservation of seats for members from Scheduled Castes and Scheduled Tribes in the Lok Sabha and State Legislative Assemblies by a period of 10 years.

It does not, however, extend the period of reservation of the 2 Lok Sabha seats reserved for members of the Anglo-Indian Community and thus the practice of nominating two members of the Anglo-Indian community by the President of India under the recommendation of the Prime Minister of India was effectively abolished.

105th
Constitutional
Amendment
Act (2021)



Amends
provisions
added by 102nd
amendment act



The amendment act amends clauses 1 and 2 of Article 342A and also introduce a new clause 3. It further amends the Articles 366 (26c) and 338B (9).

- The Amendment clarifies that states can maintain the "state list" of OBCs as was the system before the Supreme Court judgement on 102nd CAA.
- The "state list" will be completely taken out of the ambit of the President and will be notified by the state assembly.
- Articles 366 (26c) defines socially and educationally backward classes.
- The amendment to 338B (9) exempts states and union territories from the requirement of consulting NCBC for matters related to preparation of their list of socially and educationally backward classes.

Part of 97th CAA struck down:

97th
Constitution
Amendment
Act (2011)



It granted co-
operative
societies
constitutional
status and
protection.



The 97th CAA provided for:

1. It made right to form cooperatives a fundamental right under article 19 (1) (c).
2. Included a new DPSP in Article 43 B.
3. Added Part IX-B to the Constitution.

Certain parts inserted in Constitution were struck down as the Court held that Cooperative societies fall in the State list and Parliament can't enact laws with regard to them.

Now only provisions dealing with multi-state cooperatives across states and in UTs in Part IX B are operational.

Ministry of cooperation
(2019)

1. Consider the following statements and mark the correct ones:

1) Adding or deleting a community from Central Backward list of communities requires approval of the President.

2) The preparation of state list of OBCs requires consultation with the National Commission for Backward Classes.

A. 1 only

B. 2 only

C. Both 1 and 2

D. Neither 1 nor 2

Union and its Territories

Union and its Territories

- Articles 1 to 4 under Part-I of the Constitution.
- Article 1 describes India, that is, Bharat as a 'Union of States' rather than a 'Federation of States'.
- This has been done for two reasons - one, the Indian Federation is not the result of an agreement among the states like the American Federation; and two, the states have no right to secede from the federation.
- Article 2 empowers the Parliament to 'admit into the Union of India, or establish, new states on such terms and conditions as it thinks fit'.

Union and its Territories

- Article 3 authorises the Parliament to: 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; increase/diminish the area of any state; alter the name or the boundaries of any state.
- Bill contemplating the above changes can be introduced only with prior recommendation of President; and before recommending the bill, President has to refer the same to the state legislature concerned.



Union and its Territories

- Constitution authorises the Parliament to alter the political map of India at will, and thus India is rightly described as ‘an indestructible union of destructible states’.
- Article 4 declares that laws made under Article 2 and Article 3 need to be passed by simple majority.
- Demand for linguistic reorganisation of states
- Dhar Commission, June 1948 - recommended the reorganisation of states on the basis of administrative convenience rather than linguistic factor.



Union and its Territories

- JVP Committee (Jawaharlal Nehru, Vallabhbhai Patel and Pattabhi Sitaramayya), December 1948 - rejected language as the basis for reorganisation of states.
- October 1953, government created Andhra as the first state created on linguistic criteria.
- Fazl Ali Commission, Dec 1953 - Along with K.M. Panikkar and H.N. Kunzru recommended language as the basis of reorganisation of states.

Citizenship

Citizenship

- India has two kinds of people– citizens and aliens. Citizens: Enjoy all civil and political rights.
- Citizen enjoys certain rights and privileges provided by constitution and aliens don't are:
- Article 15: Right against discrimination on grounds of religion, race, caste, sex or place of birth.
- Article 16: Right to equality of opportunity in the matter of public employment.
- Article 19: Right to freedom of speech and expression, assembly, association, movement, residence and profession.



Citizenship

- Articles 29 and 30: Cultural and educational rights.
- Right to vote in elections to the Lok Sabha and state legislative assembly.
- Right to contest for the membership of the Parliament and the state legislature.
- Eligibility to hold certain public offices like President etc. (In India both a citizen by birth and naturalized citizen are eligible for President while in USA, only a citizen by birth is eligible).
- Articles 5 to 11 under Part II. Constitution only identifies the persons who became citizens of India at its commencement (i.e., on January 26, 1950).



Citizenship

- Article 5: Citizenship at the time of commencement of constitution
- Article 6: Citizenship of those whom migrated from Pakistan to India.
- Article 7: Citizenship of those who migrated to Pakistan and then came back to India.
- Article 8: Citizenship of person of Indian Origin.
- Article 9: Termination of citizenship (automatic termination of citizenship upon voluntary acceptance of citizenship of any other country).



Citizenship

- **CITIZENSHIP ACT, 1955:** The Citizenship Act (1955) provides for acquisition and loss of citizenship after the commencement of the Constitution.
- How is citizenship acquired in India
- By birth in India,
By descent,
Through registration,
By naturalization (extended residence in India)
- By incorporation of territory into India.
- Renunciation of Indian Citizenship – by renunciation, termination and deprivation.



Citizenship Amendment Act, 2019

- Ministry of Home Affairs (MHA) has not yet notified the Citizenship (Amendment) Act, 2019 rules. Without rules, the Act cannot be implemented.
- What is The Citizenship (Amendment) Act?
- Seeks to amend The Citizenship Act, 1955: to make Hindu, Sikh, Buddhist, Jain, Parsi, and Christian illegal migrants from Afghanistan, Bangladesh, and Pakistan, eligible for citizenship of India.
- In other words, the Bill intends to make it easier for non-Muslim immigrants from India's three Muslim-majority neighbours to become citizens of India.

Citizenship Amendment Act, 2019

- Under The Citizenship Act, 1955, one of the requirements for citizenship by naturalization is that the applicant must have resided in India during the last 12 months, as well as for 11 years of the previous 14 years.
- Relaxations: The amendment relaxes the second requirement from 11 years to 5 years as a specific condition for applicants belonging to these six religions, and the aforementioned three countries.
- It exempts the members of the six communities from any criminal case under the Foreigners Act, 1946 and the Passport Act, 1920.
- Act does not apply to sixth schedule areas.

National Register of Citizens (NRC)

- It is basically a list of Indian citizens living in the state. The citizens' register sets out to identify foreign nationals in the state that borders Bangladesh.
- Prepared under Ministry of home Affairs, It is updated as per the provisions of The Citizenship Act, 1955 and The Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003.
- At present, only Assam has such a register and the exercise may be extended to other states as well.
- Nagaland is already creating a similar database known as the Register of Indigenous Inhabitants

National Population Register

- It is a Register of usual residents of the country, containing demographic information like mother tongue, place of birth of father and mother and last place of residence”
- It is being prepared at the local (Village/sub-Town), sub-District, District, State and National level under provisions of the Citizenship Act 1955 and the Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003.
- NPR was first done in 2010 and was later updated in 2015 when it was linked with Aadhar

National Population Register

- It is mandatory for every usual resident of India to register in the NPR
- A usual resident is defined for the purposes of NPR as a person who has resided in a local area for the past 6 months or more or a person who intends to reside in that area for the next 6 months or more
- The Registrar General India shall act as the “National Registration Authority”, it is also the country’s Census Commissioner.

Inner Line Permit

- ILP is an official travel document or permit granted to outsiders for travel to protected areas for a limited period
- Inner Line Permit was established by British government under Bengal Eastern Frontier Regulation, 1873 to safeguard tribals of eastern part of Bengal. This 1873 Regulation is also known as ILP.

Inner Line Permit

- ILP is seen as a way to protect the demographic, cultural, political and social integrity of the small tribal populations in the hill states.
- Foreigners need a Protected Area Permit (PAP) to visit tourist places which are different from Inner Line Permits needed by domestic tourists.
- Manipur is the fourth State after Arunachal Pradesh, Nagaland and Mizoram where the ILP regime is applicable.

Fundamental Rights

Fundamental Rights

- Enshrined in Part III of the Constitution from Articles 12 to 35. Inspired from the Constitution of USA (i.e., Bill of Rights)
- Meant for promoting the ideal of political democracy. They prevent the establishment of an authoritarian and despotic rule in the country, and protect the liberties and freedoms of the people against the invasion by the State.

Features of Fundamental Rights

- They are not absolute but qualified.
- All of them are available against the arbitrary action of the state. However, some of them are also available against the action of private individuals.
- Some of them are negative in character, that is, place limitations on the authority of the State, while others are positive in nature, conferring certain privileges on the persons.
- They are justiciable, allowing persons to move the courts for their enforcement, if and when they are violated.



Features of Fundamental Rights

- They are not sacrosanct or permanent. The Parliament can curtail or repeal them
- can be suspended during the operation of a National Emergency except the rights guaranteed by Articles 20 and 21.
- Their scope of operation is limited by Article 31A (saving of laws providing for acquisition of estates, etc.), Article 31B (validation of certain acts and regulations included in the 9th Schedule) and Article 31C (saving of laws giving effect to certain directive principles).



Features of Fundamental Rights

- 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).
- 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).
- Article 12 defines State.

Features of Fundamental Rights

- Article 13 declares that all laws that are inconsistent with or in derogation of any of the fundamental rights shall be void. In other words, it expressively provides for the doctrine of judicial review.
- FR available only to citizens – Article 15,16,19, 21 and 30.

Writs

- Habeas Corpus - literally means 'to have the body of'. Can be issued against both public authorities as well as private individuals.
- Mandamus - literally means 'we command'. It is issued against a public official, any public body, a corporation, an inferior court, a tribunal or government for the same purpose.
- Prohibition - Literally, it means 'to forbid'. can be issued only against judicial and quasi- judicial authorities.
- Certiorari - In the literal sense, it means 'to be certified' or 'to be informed'.



Article 21

- Article 21 declares that no person shall be deprived of his life or personal liberty except according to the procedure established by law. This right is available to both citizens and non-citizens.

Supreme Court Cases on Article 21

AK Gopalan case (1950): In this, the Supreme Court has taken a narrow interpretation of Article 21. It held that the protection under Article 21 is available only against arbitrary executive action and not from arbitrary legislative action. This means that the State can deprive the right to life and personal liberty of a person based on a law.

Menaka case (1978): In this, the Supreme Court overruled its judgment in the Gopalan case by taking a wider interpretation of Article 21. It ruled that the right to life and personal liberty of a person can be deprived by law provided the procedure prescribed by that law is reasonable, fair, and just. In other words, it has introduced the American expression 'due process of law'.

Rights pronounced as part of Article 21 through various judgements year round

Right to be Forgotten

- Centre has informed that the Personal Data protection bill has provisions for 'right to be forgotten'.
- Context - Right to be Forgotten goes in sync with the Right to Privacy, which is an integral part of Article 21 of the Constitution, which concerns the Right to Life.
- In 2017, the Right to Privacy was declared a fundamental right by the Supreme Court in its landmark verdict in the K.S. Puttuswamy or 'privacy' Judgment 2017.

Right to be Forgotten

- It is important to note that the Information Technology Rules, 2011 – which is the current regime governing digital data – does not have any provisions relating to the right to be forgotten.

Other Rights

- Right to have access to internet
- Right Against Sexual Harassment at Workplace - ruled in Vishakha v. State of Rajasthan that workplace sexual harassment is a violation of the right to equality, life, and liberty. As a result, Articles 14, 15, and 21 of the Constitution have been violated.
- Right to Shelter

Other Rights

- Right to Get Pollution Free Water And Air
- Right To Life and Suicide - Parliament passed the Mental Healthcare Act of 2017
- Right to Die With Dignity (Euthanasia) - Supreme Court in Aruna Shanbaugh vs Union of India, 2011 case held that passive Euthanasia can be practiced on the case-by-case bench of the High Court.

Anti-Conversion Laws in India

Anti-Conversion Laws in India

- Many states in India have enacted 'Freedom of Religion' legislation to restrict religious conversions carried out by force, fraud, or inducements.
- Recently, Karnataka, MP and UP have brought forward such legislation.
- Constitutional Provision: This right is protected under article 25- 28 of the constitution.

Anti-Conversion Laws in India

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

Anti-Conversion Laws in India

- However, there are no central legislation restricting or regulating religious conversions.
- SC judgements related to the matter
- Rev Stanislaus case: The freedom of religion enshrined in Article 25 is not guaranteed in respect of one religion only but covers all religions alike. Thus, there is no such thing as a fundamental right to convert any person to one's own religion.

Anti-Conversion Laws in India

- In both the Lily Thomas and Sarla Mudgal cases, SC has confirmed that religious conversions carried out without a bona fide belief and for the sole purpose of deriving some legal benefit do not hold water.
- Hadiya Judgement 2017 - The principle that the right to marry a person of one's choice is integral to Article 21.

NOTE- Rights are correlative to Duties

Fundamental Duties

Fundamental Duties

- Fundamental duties basically imply the moral obligations of all citizens of a country.
- Originally, the fundamental duties of India were not a part of the Indian Constitution.
- The Fundamental Duties were added in 1976, upon recommendation of the Swaran Singh Committee that was constituted by Indira Gandhi just after the declaration of national emergency.

Fundamental Duties

- 10 duties were added by the 42nd Amendment and 11th duty was added by the 86th Amendment in 2002.
- Currently there are 11 fundamental duties under Article 51A, Part IV-A of the Constitution.
- Fundamental Duties are non-justiciable and hence can't be taken to the court of law (non-enforceable).

Thank You