

*Constitutional Law-I | Solved Answer Book*

# **Constitutional Law-I**

## **Solved Answer Book**

### **Question Papers: 2022, 2023 and 2024**

*Prepared in question-and-answer format.*

*Each answer is written according to the approximate marks indicated in the question paper.*

**Subject: Constitution-I / Constitutional Law-I**

**Course/Paper: LCC 3.1.1 (CBCS)**

## 2022 Question Paper - Solved Answers

### Group A - Answer all questions (5 questions, 2 marks each = 10)

**1(a). Who describes the Indian Constitution as Quasi-federal? [2 marks]**

**Answer:**

The expression “quasi-federal” is commonly associated with K. C. Wheare, who described the Indian Constitution as quasi-federal because it has a federal structure but with a strong unitary bias. The Constitution distributes powers between the Union and the States, but in emergencies and in several administrative matters the Union has a dominant position.

**1(b). Mr. X, an Iranian national by birth, came to India before independence. He got a permit to reside in India as a foreigner up to a certain period. His permission was extended from time to time. However, in 1957 he was asked to leave India under the Foreigners Act, 1946. He claimed citizenship under Article 5 of the Constitution. Can his application be allowed? [2 marks]**

**Answer:**

No. His claim under Article 5 should not be allowed unless he proves domicile in India at the commencement of the Constitution and satisfies one of the conditions under Article 5. Residence under a temporary foreigner’s permit is not the same as domicile. Domicile requires an intention to make India a permanent home. Since he was treated as a foreigner and was residing under permission that could be extended or withdrawn, he cannot claim citizenship merely on that basis.

**1(c). Match the following list: [2 marks]**

Cases	Issues
1. Sajjan Singh v. State of Rajasthan	i. The 24th Constitutional Amendment
2. Golaknath v. State of Punjab	ii. The 17th Constitutional Amendment
3. Indira Nehru v. Raj Narain	iii. Harmony between Fundamental Rights and Directive Principles of State Policy
4. Minerva Mills v. Union of India	iv. Power of judicial review

**Answer:**

The correct matching is: 1-ii, 2-i, 3-iv, 4-iii. Sajjan Singh v. State of Rajasthan is connected with the validity of the 17th Constitutional Amendment. Golaknath v. State of Punjab led to the constitutional response through the 24th Amendment on Parliament’s amending power. Indira Nehru Gandhi v. Raj Narain is connected with judicial review as part of the basic structure. Minerva Mills v. Union of India is a leading case on harmony between Fundamental Rights and Directive Principles of State Policy.

**1(d). What are the reasonable restrictions under Article 19(2) of the Constitution? [2 marks]**

**Answer:**

Article 19(2) permits reasonable restrictions on freedom of speech and expression in the interests of: sovereignty and integrity of India, security of the State, friendly relations with foreign States, public order, decency or morality, contempt of court, defamation, and incitement to an offence. These restrictions must be reasonable and must have a proximate connection with the ground relied upon.

**1(e). What is 'Law in Force' under Article 13 of the Constitution? [2 marks]**

**Answer:**

Article 13(3)(b) defines “laws in force” as laws passed or made by a legislature or other competent authority in India before the commencement of the Constitution and not previously repealed, even if such laws were not in

operation in all or particular areas. Such pre-Constitution laws continue to operate, but under Article 13(1) they are void to the extent of inconsistency with Fundamental Rights.

**Group B - Answer any three questions (3 questions, 10 marks each = 30)**

**2. Explain the utility of the Preamble in the interpretation of the Constitution of India. [10 marks]**

**Answer:**

The Preamble is not an operative provision in the sense that a citizen cannot directly file a writ only for enforcement of the Preamble. Yet it is of great constitutional value because it states the ideals, objects and philosophy of the Constitution. It declares India to be a Sovereign, Socialist, Secular, Democratic Republic and promises justice, liberty, equality and fraternity.

In *Re Berubari Union*, the Supreme Court initially observed that the Preamble is not a part of the Constitution. This view was later corrected in *Kesavananda Bharati v. State of Kerala*, where the Court held that the Preamble is a part of the Constitution and can be used to interpret ambiguous provisions. The Preamble also helps in identifying the basic structure of the Constitution. Ideals such as democracy, republicanism, secularism, rule of law, equality and dignity have been treated as central constitutional values.

The utility of the Preamble is especially important when two interpretations of a provision are possible. Courts prefer the interpretation that advances constitutional morality and the broad purposes of the Constitution. For example, the meaning of liberty, equality and dignity under Part III has been expanded by reading them in the light of the Preamble. The Preamble also expresses the source of authority: "We, the people of India," showing that the Constitution derives its legitimacy from the people.

Therefore, the Preamble acts as a key to the mind of the Constitution-makers. It cannot override the clear text of the Constitution, but it is a powerful guide for interpretation, for development of constitutional doctrine, and for understanding the basic features of Indian constitutionalism.

**3. "The Principle of Equality is a dynamic concept with many aspects and dimensions and it cannot be cribbed, cabined and confined within traditional and doctrinaire limits" - Critically explain the statement. [10 marks]**

**Answer:**

Article 14 provides that the State shall not deny to any person equality before the law or equal protection of the laws. The quoted statement reflects the modern approach of the Supreme Court: equality is not a rigid or mechanical idea; it is dynamic and must respond to different social realities.

Traditionally, Article 14 was explained through the doctrine of reasonable classification. A classification is valid if it is founded on an intelligible differentia and if that differentia has a rational nexus with the object of the law. This test permits the State to classify persons for legitimate purposes, but it prohibits arbitrary or irrational classification. Cases such as *State of West Bengal v. Anwar Ali Sarkar* and *Ram Krishna Dalmia v. Justice Tendolkar* developed this test.

However, in *E. P. Royappa v. State of Tamil Nadu* and *Maneka Gandhi v. Union of India*, the Supreme Court expanded Article 14 beyond classification. The Court held that arbitrariness is antithetical to equality. Therefore, even if a law is not discriminatory in a traditional sense, it may violate Article 14 if it is arbitrary, unreasonable, excessive or unfair. This dynamic interpretation allows Article 14 to control executive discretion and legislative policy where there is manifest arbitrariness.

The statement also supports protective discrimination. Formal equality may require equal treatment, but substantive equality may require special measures for disadvantaged groups. Reservations under Articles 15 and 16, special provisions for women and children, and measures for socially and educationally backward classes are examples.

Thus, equality under Article 14 cannot be confined to old categories. It includes fairness, non-arbitrariness, reasonableness and substantive justice. The principle is dynamic because Indian society contains deep inequalities, and constitutional equality aims not merely at uniform treatment but at real and meaningful equality.

**4. "In the Puttaswamy judgement the Hon'ble Supreme Court said a person's right to privacy must be preserved except in cases where legality, necessity and proportionality are all weighed against it". In the light of the above statement explain the right to privacy. [10 marks]**

**Answer:**

The right to privacy was declared a fundamental right by a nine-Judge Bench of the Supreme Court in Justice K. S. Puttaswamy v. Union of India. The Court held that privacy is protected under Article 21 as part of life and personal liberty, and it is also connected with dignity, autonomy and other freedoms under Part III.

Privacy includes bodily privacy, informational privacy, decisional autonomy, family life, reproductive choice, sexual orientation, personal identity and control over personal information. It is not merely the right to be left alone; it is a condition necessary for individual dignity and freedom.

The right is not absolute. State interference with privacy must satisfy constitutional tests. First, there must be legality, meaning a valid law authorising the restriction. Secondly, the law must pursue a legitimate State aim such as national security, prevention of crime, public health or welfare. Thirdly, there must be necessity and proportionality: the measure adopted must be suitable, least restrictive and balanced against the harm to individual privacy.

This proportionality test prevents arbitrary surveillance and excessive data collection. In modern constitutional law, privacy is particularly important in matters of Aadhaar, phone tapping, search and seizure, digital data, medical information and personal choices. The Court emphasised that technological development cannot dilute constitutional rights.

Therefore, the Puttaswamy judgment transformed privacy into a core constitutional guarantee. It protects the inner sphere of personal life, but it permits lawful and proportionate restrictions where public interest genuinely requires them.

**5. Explain Right to Speech and Expression under Article 19(1) of the Constitution of India. [10 marks]**

**Answer:**

Article 19(1)(a) guarantees to all citizens the freedom of speech and expression. It includes the right to express one's views by words, writing, printing, pictures, electronic communication, artistic expression and symbolic acts. It also includes the freedom of the press, the right to receive information, the right to silence in appropriate cases, and political criticism of the government.

This freedom is essential to democracy because citizens must be able to discuss public affairs, criticise authorities, form opinions and participate in the political process. In *Romesh Thappar v. State of Madras* and *Brij Bhushan v. State of Delhi*, the Supreme Court gave strong protection to free expression. In later cases, the Court recognised the value of free circulation of ideas and access to information.

However, the freedom is not absolute. Article 19(2) permits reasonable restrictions in the interests of sovereignty and integrity of India, security of the State, friendly relations with foreign States, public order, decency or morality, contempt of court, defamation and incitement to an offence. The restriction must be imposed by law and must be reasonable. A vague, excessive or disproportionate restriction can be struck down.

The relation between speech and public order must be proximate, not remote. Mere criticism of the government is not enough to restrict speech unless it creates a constitutionally recognised harm. The Court has also insisted that restrictions should not destroy the essence of the right.

Thus, Article 19(1)(a) protects democratic expression, but Article 19(2) balances it with social order, reputation, security and constitutional morality.

**Group C - Answer any two questions (2 questions, 20 marks each = 40)**

**6. "Article 20 and Article 22 of the Constitution of India is the basic pillar of the criminal jurisprudence." In the light of the above statement describe the interrelation between the two Articles. [20 marks]**

**Answer:**

Articles 20 and 22 are important constitutional safeguards in criminal jurisprudence. They do not create criminal offences; rather, they protect individuals against unfair criminal prosecution, arbitrary arrest and unlawful detention. Together with Article 21, they ensure that criminal justice is governed by rule of law.

Article 20 contains three protections. Article 20(1) prohibits ex post facto criminal laws. A person cannot be convicted for an act that was not an offence when it was committed, nor can a greater penalty be imposed than what existed at the time of the offence. This protects certainty and fairness in criminal law. However, a procedural change or a beneficial reduction of punishment can apply retrospectively.

Article 20(2) embodies the rule against double jeopardy. No person shall be prosecuted and punished for the same offence more than once. The protection applies when there has been a previous prosecution and punishment before a competent court or tribunal. It prevents harassment by repeated criminal proceedings for the same offence.

Article 20(3) protects an accused from testimonial compulsion. No person accused of an offence shall be compelled to be a witness against himself. It protects the accused from being forced to make self-incriminatory statements. It does not prohibit voluntary statements, nor does it generally prevent taking physical evidence such as fingerprints or handwriting samples, subject to constitutional limits.

Article 22 deals with arrest and detention. Article 22(1) gives an arrested person the right to be informed of the grounds of arrest and the right to consult and be defended by a legal practitioner. Article 22(2) requires production before the nearest magistrate within twenty-four hours, excluding journey time. Detention beyond that period requires the authority of a magistrate. These safeguards apply to ordinary arrests.

Articles 22(3) to 22(7) deal with preventive detention. Preventive detention is detention not for punishment after trial, but to prevent future harm. Because it is a serious restriction on liberty, the Constitution requires safeguards such as communication of grounds, opportunity to make representation, and review by an Advisory Board. Even so, preventive detention remains an exceptional power and must be strictly controlled.

The interrelation between Articles 20 and 22 is that Article 20 protects a person after accusation and during prosecution, while Article 22 protects a person at the stage of arrest and detention. Article 20 is mainly offence-oriented; Article 22 is arrest-and-detention oriented. Both flow from the same principle: the State's power to punish or detain must be exercised fairly, lawfully and within constitutional limits.

These provisions form basic pillars of criminal jurisprudence because they restrain arbitrary State action. They recognise that an accused is not without rights. The criminal process must respect legality, counsel, judicial oversight, fair trial and human dignity. Therefore, Articles 20 and 22, along with Article 21, create the constitutional foundation of criminal justice in India.

**7. Describe the expanding horizons of the right to life under Article 21 of the Constitution. [20 marks]**

**Answer:**

Article 21 states that no person shall be deprived of his life or personal liberty except according to procedure established by law. In its early interpretation, the Supreme Court gave a narrow meaning to this provision. In *A. K. Gopalan v. State of Madras*, the Court treated "procedure established by law" as any procedure enacted by the legislature. Later, in *Maneka Gandhi v. Union of India*, the Court gave Article 21 a wide and transformative meaning. It held that the procedure must be just, fair and reasonable, and not arbitrary, fanciful or oppressive.

After Maneka Gandhi, Article 21 became the source of several unenumerated rights. The expression “life” does not mean mere animal existence. It means life with dignity and all those facilities necessary for meaningful human existence. The right to live with human dignity was recognised in Francis Coralie Mullin and expanded in many later cases.

The Supreme Court has recognised the right to livelihood in *Olga Tellis v. Bombay Municipal Corporation*, where pavement dwellers argued that eviction without rehabilitation affected their ability to live. The right to shelter, health and medical care has also been treated as part of Article 21. In *Consumer Education and Research Centre and Paschim Banga Khet Mazdoor Samity*, the Court recognised obligations relating to health and emergency medical treatment.

The right to education was read into Article 21 in *Mohini Jain and Unni Krishnan*, and later Article 21A was inserted to expressly provide free and compulsory education for children between six and fourteen years. Environmental rights have also developed under Article 21. The right to clean air, clean water and a healthy environment has been recognised in *M. C. Mehta* and other environmental cases.

Article 21 also includes rights of prisoners and undertrial persons. The Court has recognised the right to speedy trial in *Hussainara Khatoon*, protection against custodial violence in *D. K. Basu*, and legal aid as part of fair procedure. Personal liberty includes protection against arbitrary arrest, detention and excessive restrictions.

In *Justice K. S. Puttaswamy v. Union of India*, privacy was recognised as part of Article 21. This includes decisional autonomy, bodily integrity, informational privacy and dignity. The Court has also used Article 21 in areas of reproductive freedom, sexual autonomy, reputation, travel abroad, fair investigation and due process.

Thus, the “expanding horizons” of Article 21 show that it is a living provision. It converts the guarantee of life and personal liberty into a broad charter of dignity, fairness and human development. However, the right is not absolute. Deprivation is possible by a valid law that satisfies fairness, reasonableness and proportionality. Article 21 therefore balances individual liberty with legitimate State interests while keeping human dignity at the centre of constitutional law.

### **8. Write a critical note on interplay between the Fundamental Rights and the Directive Principles of State Policy under the Constitution of India. [20 marks]**

#### **Answer:**

Fundamental Rights and Directive Principles of State Policy are two essential parts of the Indian constitutional scheme. Fundamental Rights in Part III are justiciable and enforceable by courts. Directive Principles in Part IV are not enforceable by any court, but Article 37 declares that they are fundamental in the governance of the country and that the State has a duty to apply them in making laws.

Initially, the Supreme Court gave primacy to Fundamental Rights. In *State of Madras v. Champakam Dorairajan*, a law implementing a policy of communal reservation was struck down for violating Fundamental Rights. The Court held that Directive Principles cannot override Fundamental Rights. This led to the First Constitutional Amendment and the insertion of Article 15(4), permitting special provisions for socially and educationally backward classes.

Over time, the Court moved towards a doctrine of harmony. In *Kesavananda Bharati v. State of Kerala*, the Court recognised that the Constitution must be read as an integrated whole. In *Minerva Mills v. Union of India*, the Court held that harmony and balance between Fundamental Rights and Directive Principles is part of the basic structure. Giving absolute primacy to one over the other would disturb the constitutional balance.

Fundamental Rights represent political democracy and individual liberty. Directive Principles represent social and economic democracy. The framers wanted not only formal freedom but also social justice. Therefore, Part III and Part IV are complementary. For example, the right to life under Article 21 has been expanded by using Directive Principles relating to health, education, environment, livelihood and humane working conditions.

The relationship can be seen in several areas. Article 39(b) and (c) seek distribution of resources and prevention of concentration of wealth. Article 39A supports free legal aid and access to justice. Article 41 concerns work,

education and public assistance. Article 45 led to the development of the right to education. Article 48A supports environmental protection. Courts have used these principles to enrich Fundamental Rights.

There may still be conflicts. If a law violates a Fundamental Right, it can be invalid unless protected by a constitutional provision such as Article 31C, to the extent valid. The Court has not allowed Directive Principles to completely destroy Fundamental Rights. At the same time, Fundamental Rights are not interpreted in a narrow individualistic manner so as to defeat social welfare.

Therefore, the proper approach is not conflict but synthesis. Fundamental Rights limit State power, while Directive Principles guide State policy. Together they aim at a welfare State based on dignity, liberty, equality and social justice. The Indian Constitution requires a balance between individual freedoms and collective welfare, and that balance is the core of the constitutional scheme.

**9. Examine the various rights of minorities under Article 29 and Article 30 of the Constitution of India. [20 marks]**

**Answer:**

Articles 29 and 30 protect the cultural and educational rights of minorities and help preserve India's plural character. These provisions are not merely private privileges; they are constitutional guarantees intended to protect linguistic, religious and cultural diversity.

Article 29(1) gives any section of citizens residing in India, having a distinct language, script or culture of its own, the right to conserve the same. This right is not confined only to minorities; it can be claimed by any section of citizens with a distinct language, script or culture. It protects cultural identity and prevents forced assimilation.

Article 29(2) prohibits denial of admission into any educational institution maintained by the State or receiving State aid on grounds only of religion, race, caste, language or any of them. This is an individual right against discrimination in educational admission. It applies even to aided institutions and ensures equal access.

Article 30(1) gives all minorities, whether based on religion or language, the right to establish and administer educational institutions of their choice. The words "establish" and "administer" are important. Establish means to bring the institution into existence; administer means to manage its affairs, including appointment of staff, admission policy, discipline and internal management, subject to reasonable regulation.

The right under Article 30 is not absolute. The State may impose regulatory measures to ensure academic excellence, proper qualifications of teachers, public order, sanitation, discipline and prevention of maladministration. However, regulations cannot destroy the minority character of the institution or take away the real right of administration. In *St. Xavier's College v. State of Gujarat* and *T. M. A. Pai Foundation v. State of Karnataka*, the Supreme Court explained this balance.

Article 30(1A) protects minority institutions in matters of compulsory acquisition of property. If property of a minority educational institution is acquired, the amount fixed must not restrict or abrogate the right guaranteed under Article 30(1). Article 30(2) further provides that the State shall not discriminate in granting aid to educational institutions on the ground that the institution is under the management of a religious or linguistic minority.

The Supreme Court has also held that the right to administer does not include the right to maladministration. Minority institutions must comply with standards of education and lawful regulations. In aided institutions, the State may impose conditions connected with the aid, provided they are reasonable and do not destroy autonomy.

Thus, Articles 29 and 30 secure cultural preservation, educational autonomy and equality. They recognise that national unity in India is built not by suppressing differences but by protecting them within a constitutional framework.

## 2023 Question Paper - Solved Answers

### Group A - Answer all the questions (5 questions, 2 marks each = 10)

**1(a). Why is Indian Constitution called sui-generis?**

- (i) Because it sprang out from its own soil
- (ii) Because it's quasi-federal
- (iii) Because it's passed by constituent assembly
- (iv) None of the above [2 marks]

**Answer:**

Correct option: (i) Because it sprang out from its own soil. The Indian Constitution is called sui generis because it is unique in character. It borrows ideas from many constitutions but adapts them to Indian conditions, history, society and constitutional objectives.

**1(b). Which one of the following is not correct about the Indian federation? (Choose correct one from the following):**

- (i) It is quasi federal
- (ii) It is federal in form but unitary in nature
- (iii) It has exactly followed the USA policy of Confederation
- (iv) None of the above [2 marks]

**Answer:**

Correct option: (iii) It has exactly followed the USA policy of Confederation. India has not followed a confederal model. It has a federal structure with a strong Centre, and is often described as quasi-federal or federal in form but unitary in spirit in certain situations.

**1(c). Mr. A was born in Indian territory before 26th January, 1950 and his mother was an Indian lady but his father was an Iranian National. He was residing for more than six years in India. Is he eligible for citizenship as per Citizenship Act, 1955? (choose correct one from following):**

- (i) No, both the parents must be Indian
- (ii) Yes, eligible by domicile
- (iii) Yes, eligible by Naturalisation
- (iv) Yes by birth [2 marks]

**Answer:**

Correct option: (ii) Yes, eligible by domicile. Since Mr. A was born in the territory of India before 26 January 1950 and had been residing in India, the relevant principle is citizenship at the commencement of the Constitution based on domicile and birth/residence conditions. The facts indicate eligibility by domicile rather than by naturalisation.

**1(d). Match the following table: [2 marks]**

Cases	Articles
1. The State of Madras v. Srimathi Champakam Dorairajan	(i) Article 14
2. Anwar Ali Sarkar v. The State of West Bengal	(ii) Article 15
3. Maneka Gandhi v. Union of India	(iii) Article 16
4. Indra Sawhney v. Union of India	(iv) Article 21

**Answer:**

The correct matching is: 1-ii, 2-i, 3-iv, 4-iii. State of Madras v. Champakam Dorairajan is associated with Article 15 and reservation/admission discrimination. Anwar Ali Sarkar is associated with Article 14 and equality. Maneka Gandhi v. Union of India is associated with Article 21 and fair procedure. Indra Sawhney v. Union of India is associated with Article 16 and reservations in public employment.

**1(e). Match the following table: [2 marks]**

Rights	Articles
1. Minorities educational rights	(i) Article 17
2. Abolition of untouchability	(ii) Article 30
3. Prohibition of forced labour	(iii) Article 25
4. Freedom of religion	(iv) Article 23

**Answer:**

The correct matching is: 1-ii, 2-i, 3-iv, 4-iii. Minority educational rights are protected by Article 30. Abolition of untouchability is under Article 17. Prohibition of forced labour is under Article 23. Freedom of religion is protected under Article 25.

**Group B - Answer any three of the following (3 questions, 10 marks each = 30)**

**2. Describe how spirit and ideology of the Indian Constitution is embodied in the preamble of the Indian Constitution. [10 marks]**

**Answer:**

The Preamble embodies the spirit and ideology of the Indian Constitution. It begins with “We, the people of India,” which shows popular sovereignty. The Constitution derives its authority from the people, not from any monarch or external power.

The Preamble declares India to be Sovereign, Socialist, Secular, Democratic and Republic. “Sovereign” means India is internally and externally independent. “Socialist” indicates commitment to social and economic justice. “Secular” means the State has no official religion and treats all religions with equal respect. “Democratic” means government is based on the will of the people. “Republic” means the head of the State is elected and public offices are not hereditary.

The objectives of justice, liberty, equality and fraternity are the core ideals of the Constitution. Justice is social, economic and political. Liberty includes thought, expression, belief, faith and worship. Equality includes equality of status and opportunity. Fraternity promotes dignity of the individual and unity and integrity of the nation.

The Supreme Court in Kesavananda Bharati held that the Preamble is a part of the Constitution and can be used in interpretation. It helps identify the basic structure, including democracy, secularism, dignity, equality and rule of law. Although it is not directly enforceable like a Fundamental Right, it guides interpretation and constitutional development.

Therefore, the Preamble is the ideological summary of the Constitution. It expresses the goals which the Constitution seeks to achieve and provides a moral and legal compass for the State, courts and citizens.

**3. "Article 14 does not insist that every piece of legislation must have universal application and it does not take away from the state the power to classify persons for the purposes of legislation, but the classification must be rational." Explain. [10 marks]**

**Answer:**

Article 14 guarantees equality before the law and equal protection of the laws. It does not mean that every law must apply identically to all persons. Society contains different classes of persons and situations, and the State may make classifications for valid legislative purposes. What Article 14 prohibits is class legislation, not reasonable classification.

The doctrine of reasonable classification has two requirements. First, the classification must be founded on an intelligible differentia. This means that the persons grouped together must be distinguishable from those left out. Secondly, the differentia must have a rational nexus with the object of the law. If the classification has no relation to the purpose of the law, it becomes arbitrary.

The Supreme Court explained this principle in *Ram Krishna Dalmia v. Justice Tendolkar*. The State may classify persons based on occupation, age, locality, need, backwardness, risk, economic condition or other relevant factors. For example, special provisions for women, children, Scheduled Castes, Scheduled Tribes and socially and educationally backward classes are permitted because they serve substantive equality.

However, a classification cannot be artificial, evasive or discriminatory. In *State of West Bengal v. Anwar Ali Sarkar*, special criminal procedure without adequate guiding principle was struck down. Article 14 also includes protection against arbitrariness, as held in *E. P. Royappa and Maneka Gandhi*. Therefore, even a formally classified law may be invalid if it is manifestly arbitrary.

Thus, Article 14 does not demand universal application of every law. It allows rational and purpose-based classification, but forbids class legislation, hostile discrimination and arbitrary State action.

**4. Describe the various kinds of freedom guaranteed under Article 19 of the Constitution. [10 marks]**

**Answer:**

Article 19 guarantees important civil freedoms to citizens. At present, Article 19(1) includes the freedom of speech and expression; the right to assemble peaceably and without arms; the right to form associations, unions or co-operative societies; the right to move freely throughout the territory of India; the right to reside and settle in any part of India; and the right to practise any profession or to carry on any occupation, trade or business.

Freedom of speech and expression under Article 19(1)(a) is the foundation of democracy. It includes political criticism, press freedom, right to receive information and expression through different media. Article 19(1)(b) protects peaceful assembly, subject to public order. Article 19(1)(c) protects collective organisation, including trade unions and associations. Articles 19(1)(d) and (e) protect movement and residence across India. Article 19(1)(g) protects occupation, profession, trade and business.

These freedoms are not absolute. Articles 19(2) to 19(6) permit reasonable restrictions. Speech may be restricted on grounds such as sovereignty, security, public order, decency, contempt, defamation and incitement. Assembly and association may be restricted in the interests of sovereignty, integrity and public order. Movement and residence may be regulated in the interest of the general public or for protection of Scheduled Tribes. Profession and trade may be regulated by professional qualifications, licensing or State monopoly.

The test is reasonableness. Restrictions must be imposed by law, must serve a constitutionally permitted purpose, and must not be excessive. Thus, Article 19 creates a balance between individual liberty and social control in a democratic State.

**5. Write a note on 'Double Jeopardy'. [10 marks]**

**Answer:**

Double jeopardy means that a person should not be tried and punished more than once for the same offence. Article 20(2) provides: "No person shall be prosecuted and punished for the same offence more than once." It is based on the maxim *nemo debet bis vexari*, meaning no person should be vexed twice for the same cause.

For Article 20(2) to apply, three conditions are generally necessary. First, there must have been a previous prosecution. Secondly, there must have been punishment in that prosecution. Thirdly, the later proceeding must be for the same offence. Mere departmental enquiry or administrative penalty may not always amount to prosecution and punishment for Article 20(2).

The protection is narrower than the rule under Section 300 of the Code of Criminal Procedure or the common law plea of *autrefois convict/acquit*, because Article 20(2) uses the words "prosecuted and punished." In *Maqbool*

Hussain v. State of Bombay, confiscation by customs authorities was not treated as prosecution before a court. In S. A. Venkataraman, departmental action was not treated as criminal prosecution.

The object of the rule is to prevent harassment, oppression and repeated criminal proceedings by the State. It supports finality in criminal law and protects personal liberty.

Therefore, double jeopardy is a constitutional safeguard under Article 20(2), ensuring that once a person has been prosecuted and punished for an offence, the State cannot again prosecute and punish him for the same offence.

**Group C - Answer any two of the following (2 questions, 20 marks each = 40)**

**6. Examine the concept of the State under Article 12 of the Constitution. Do you consider that the Judiciary comes under the purview of State? Give reasons. [20 marks]**

**Answer:**

Article 12 defines “State” for the purpose of Part III of the Constitution. It includes the Government and Parliament of India, the Government and Legislature of each State, all local authorities, and other authorities within the territory of India or under the control of the Government of India. The definition is inclusive and is meant to make Fundamental Rights effective against bodies exercising public power.

The expression “local authorities” includes municipalities, panchayats and other statutory local bodies. The expression “other authorities” has received wide judicial interpretation. In Rajasthan State Electricity Board v. Mohan Lal, the Supreme Court held that a statutory body exercising public functions could be an authority under Article 12. In Sukhdev Singh, statutory corporations such as ONGC, LIC and IFC were treated as State because they were created by statute and performed public functions.

In Ajay Hasia v. Khalid Mujib, the Court developed tests to determine whether a body is an instrumentality or agency of the State. Relevant factors include full or substantial government funding, deep and pervasive control, monopoly status conferred or protected by the State, public importance of functions, and transfer of government departments to the corporation. In Pradeep Kumar Biswas v. Indian Institute of Chemical Biology, the Court clarified that the key question is whether the body is financially, functionally and administratively dominated by the government.

The concept of State is important because Fundamental Rights are generally enforceable against the State. If a body falls within Article 12, its actions must satisfy equality, fairness and non-arbitrariness under Articles 14, 15, 16, 19 and 21 as applicable.

The question whether the judiciary is “State” requires a distinction. The judiciary is an organ of the State in the broad constitutional sense. However, when courts perform purely judicial functions and deliver judgments, such judicial orders are generally not treated as “State action” for filing a writ petition under Article 32 as if the judgment itself violated Fundamental Rights. Judicial orders are challenged through appeals, revisions, review or curative jurisdiction, not ordinarily by treating the court as a respondent under Article 12.

But the administrative actions of the judiciary, such as recruitment, service conditions, contracts, tenders or administrative decisions of court authorities, can be tested on constitutional standards. In that sense, the judiciary can be treated as State in respect of non-judicial or administrative functions.

Therefore, Article 12 has been interpreted broadly to prevent evasion of Fundamental Rights through statutory corporations or government-controlled bodies. As regards judiciary, the better view is nuanced: courts as institutions are part of the State, but their judicial decisions are not ordinarily challenged as State action under Article 12; administrative actions of the judiciary are subject to Fundamental Rights.

**7. Describe the extending horizons of the right to life under Article 21 of the Constitution. [20 marks]**

**Answer:**

Article 21 states that no person shall be deprived of his life or personal liberty except according to procedure established by law. In its early interpretation, the Supreme Court gave a narrow meaning to this provision. In A.

K. Gopalan v. State of Madras, the Court treated “procedure established by law” as any procedure enacted by the legislature. Later, in Maneka Gandhi v. Union of India, the Court gave Article 21 a wide and transformative meaning. It held that the procedure must be just, fair and reasonable, and not arbitrary, fanciful or oppressive.

After Maneka Gandhi, Article 21 became the source of several unenumerated rights. The expression “life” does not mean mere animal existence. It means life with dignity and all those facilities necessary for meaningful human existence. The right to live with human dignity was recognised in Francis Coralie Mullin and expanded in many later cases.

The Supreme Court has recognised the right to livelihood in Olga Tellis v. Bombay Municipal Corporation, where pavement dwellers argued that eviction without rehabilitation affected their ability to live. The right to shelter, health and medical care has also been treated as part of Article 21. In Consumer Education and Research Centre and Paschim Banga Khet Mazdoor Samity, the Court recognised obligations relating to health and emergency medical treatment.

The right to education was read into Article 21 in Mohini Jain and Unni Krishnan, and later Article 21A was inserted to expressly provide free and compulsory education for children between six and fourteen years. Environmental rights have also developed under Article 21. The right to clean air, clean water and a healthy environment has been recognised in M. C. Mehta and other environmental cases.

Article 21 also includes rights of prisoners and undertrial persons. The Court has recognised the right to speedy trial in Hussainara Khatoon, protection against custodial violence in D. K. Basu, and legal aid as part of fair procedure. Personal liberty includes protection against arbitrary arrest, detention and excessive restrictions.

In Justice K. S. Puttaswamy v. Union of India, privacy was recognised as part of Article 21. This includes decisional autonomy, bodily integrity, informational privacy and dignity. The Court has also used Article 21 in areas of reproductive freedom, sexual autonomy, reputation, travel abroad, fair investigation and due process.

Thus, the “expanding horizons” of Article 21 show that it is a living provision. It converts the guarantee of life and personal liberty into a broad charter of dignity, fairness and human development. However, the right is not absolute. Deprivation is possible by a valid law that satisfies fairness, reasonableness and proportionality. Article 21 therefore balances individual liberty with legitimate State interests while keeping human dignity at the centre of constitutional law.

**8. Write an essay on the quantum of reservation in service with reference to landmark judgements. [20 marks]**

**Answer:**

Reservation in public employment is mainly connected with Article 16. Article 16(1) guarantees equality of opportunity in matters of public employment, while Article 16(4) permits the State to make provision for reservation of appointments or posts in favour of backward classes of citizens which, in the opinion of the State, are not adequately represented in the services. Articles 16(4A) and 16(4B) deal with reservation in promotion for Scheduled Castes and Scheduled Tribes and carry-forward vacancies.

The leading case is Indra Sawhney v. Union of India. The Supreme Court upheld reservation for Other Backward Classes but laid down important limits. The Court held that reservation under Article 16(4) is not an exception to equality but a facet of equality. It introduced the concept of creamy layer exclusion for OBCs so that advanced sections do not take the benefit. It also held that reservation should ordinarily not exceed 50 percent, except in extraordinary circumstances. The Court disallowed reservation in promotions under Article 16(4) as it then stood.

The Constitution was amended to respond to some parts of Indra Sawhney. Article 16(4A) was inserted to permit reservation in promotions for SCs and STs where they are not adequately represented. Article 16(4B) allows unfilled reserved vacancies to be treated as a separate class for carry-forward, so that they are not counted with current vacancies for the 50 percent ceiling in the same way.

In M. Nagaraj v. Union of India, the Court upheld the constitutional amendments but required the State to collect quantifiable data showing backwardness, inadequate representation and maintenance of administrative efficiency

before granting promotion reservation. In *Jarnail Singh*, the Court modified the requirement by holding that SCs and STs need not again prove backwardness, but data on inadequate representation and administrative efficiency remains relevant.

The 50 percent ceiling is a central principle in the “quantum” of reservation. It preserves a balance between equality of opportunity and affirmative action. However, the Court has recognised that exceptional situations may justify exceeding it, especially where there are extraordinary conditions. The validity of high reservation percentages has been tested strictly.

Reservation must also satisfy other constitutional requirements. It should be based on backwardness and inadequate representation, not merely poverty, except where the Constitution specifically provides for economic reservation. The 103rd Constitutional Amendment introduced reservation for Economically Weaker Sections through Articles 15(6) and 16(6), adding a separate 10 percent category outside the traditional backward-class reservation framework. The Supreme Court upheld the EWS amendment in *Janhit Abhiyan v. Union of India*.

In service law, reservation policy must also consider roster points, cadre strength, efficiency of administration under Article 335, creamy layer principles where applicable, and the difference between direct recruitment and promotion. Reservation cannot completely destroy open competition, nor can it be reduced to a purely political measure without constitutional justification.

Thus, the quantum of reservation in service is governed by the principle of substantive equality, the 50 percent ceiling as a rule of balance, the need for adequate representation, exclusion of creamy layer in OBC reservation, and judicial scrutiny of promotion reservations. The object is not charity but constitutional equality for groups historically excluded from public employment.

**9. Explain the various rights guaranteed to minority communities in India under the Constitution. [20 marks]**

**Answer:**

Articles 29 and 30 protect the cultural and educational rights of minorities and help preserve India’s plural character. These provisions are not merely private privileges; they are constitutional guarantees intended to protect linguistic, religious and cultural diversity.

Article 29(1) gives any section of citizens residing in India, having a distinct language, script or culture of its own, the right to conserve the same. This right is not confined only to minorities; it can be claimed by any section of citizens with a distinct language, script or culture. It protects cultural identity and prevents forced assimilation.

Article 29(2) prohibits denial of admission into any educational institution maintained by the State or receiving State aid on grounds only of religion, race, caste, language or any of them. This is an individual right against discrimination in educational admission. It applies even to aided institutions and ensures equal access.

Article 30(1) gives all minorities, whether based on religion or language, the right to establish and administer educational institutions of their choice. The words “establish” and “administer” are important. Establish means to bring the institution into existence; administer means to manage its affairs, including appointment of staff, admission policy, discipline and internal management, subject to reasonable regulation.

The right under Article 30 is not absolute. The State may impose regulatory measures to ensure academic excellence, proper qualifications of teachers, public order, sanitation, discipline and prevention of maladministration. However, regulations cannot destroy the minority character of the institution or take away the real right of administration. In *St. Xavier’s College v. State of Gujarat* and *T. M. A. Pai Foundation v. State of Karnataka*, the Supreme Court explained this balance.

Article 30(1A) protects minority institutions in matters of compulsory acquisition of property. If property of a minority educational institution is acquired, the amount fixed must not restrict or abrogate the right guaranteed under Article 30(1). Article 30(2) further provides that the State shall not discriminate in granting aid to educational institutions on the ground that the institution is under the management of a religious or linguistic minority.

The Supreme Court has also held that the right to administer does not include the right to maladministration. Minority institutions must comply with standards of education and lawful regulations. In aided institutions, the State may impose conditions connected with the aid, provided they are reasonable and do not destroy autonomy. Thus, Articles 29 and 30 secure cultural preservation, educational autonomy and equality. They recognise that national unity in India is built not by suppressing differences but by protecting them within a constitutional framework.

## 2024 Question Paper - Solved Answers

### Group A - Answer all the questions (5 questions, 2 marks each = 10)

**1(a). Who was the Chairman of Drafting Committee of the Constitution? [2 marks]**

**Answer:**

Dr. B. R. Ambedkar was the Chairman of the Drafting Committee of the Constituent Assembly. The Drafting Committee was responsible for preparing the draft text of the Constitution for consideration by the Assembly.

**1(b). When 'Dyarchy System' was introduced in India? [2 marks]**

**Answer:**

The dyarchy system was introduced in India by the Government of India Act, 1919, also known as the Montagu-Chelmsford Reforms. It divided provincial subjects into “transferred” and “reserved” subjects.

**1(c). Mention any two limitations on Freedom of Speech and Expression. [2 marks]**

**Answer:**

Any two limitations on freedom of speech and expression under Article 19(2) may be mentioned, such as public order and defamation. Other limitations include sovereignty and integrity of India, security of the State, decency or morality, contempt of court, friendly relations with foreign States, and incitement to an offence.

**1(d). Under which amendment the word “secularism” is inserted in Indian Constitution? [2 marks]**

**Answer:**

The word “secular” was inserted in the Preamble by the Constitution (Forty-second Amendment) Act, 1976. The same amendment also inserted the word “socialist” and added “integrity” to the expression “unity and integrity of the Nation.”

**1(e). Why is the Indian Constitution called 'sui generis'? [2 marks]**

**Answer:**

The Indian Constitution is called sui generis because it is unique and of its own kind. It borrows features from different constitutional systems, but it adapts them to Indian needs. Its mixture of federalism, parliamentary government, judicial review, Fundamental Rights, Directive Principles and strong Centre makes it distinct.

### Group B - Answer any three of the following (3 questions, 10 marks each = 30)

**2. "... the Preamble of the Constitution is a key to open the mind of the makers." In light of the above statement discuss the significance of the preamble. [10 marks]**

**Answer:**

The Preamble is not an operative provision in the sense that a citizen cannot directly file a writ only for enforcement of the Preamble. Yet it is of great constitutional value because it states the ideals, objects and philosophy of the Constitution. It declares India to be a Sovereign, Socialist, Secular, Democratic Republic and promises justice, liberty, equality and fraternity.

In *Re Berubari Union*, the Supreme Court initially observed that the Preamble is not a part of the Constitution. This view was later corrected in *Kesavananda Bharati v. State of Kerala*, where the Court held that the Preamble is a part of the Constitution and can be used to interpret ambiguous provisions. The Preamble also helps in identifying the basic structure of the Constitution. Ideals such as democracy, republicanism, secularism, rule of law, equality and dignity have been treated as central constitutional values.

The utility of the Preamble is especially important when two interpretations of a provision are possible. Courts prefer the interpretation that advances constitutional morality and the broad purposes of the Constitution. For

example, the meaning of liberty, equality and dignity under Part III has been expanded by reading them in the light of the Preamble. The Preamble also expresses the source of authority: “We, the people of India,” showing that the Constitution derives its legitimacy from the people.

Therefore, the Preamble acts as a key to the mind of the Constitution-makers. It cannot override the clear text of the Constitution, but it is a powerful guide for interpretation, for development of constitutional doctrine, and for understanding the basic features of Indian constitutionalism.

**3. Discuss the right to establish and administer educational institutions by the minorities under the Constitution of India. [10 marks]**

**Answer:**

The right of minorities to establish and administer educational institutions is protected by Article 30(1). It is available to religious and linguistic minorities. The purpose is to preserve diversity and allow minorities to maintain their culture, language and identity through education.

The right includes two parts: the right to establish an institution and the right to administer it. Administration includes management, appointment of staff, admission of students, discipline, use of property and internal governance. However, the right is not a right to maladministration. The State can impose reasonable regulations to maintain educational standards, teacher qualifications, health, discipline, transparency and academic excellence.

In *St. Xavier’s College v. State of Gujarat*, the Supreme Court held that regulations cannot destroy the minority character of the institution. In *T. M. A. Pai Foundation*, the Court explained that minority and non-minority private institutions have autonomy, but aided institutions may be subject to reasonable conditions attached to aid. In *P. A. Inamdar*, the Court dealt with admissions and fees in professional institutions.

Article 30(2) prohibits the State from discriminating in granting aid on the ground that an institution is managed by a minority. Article 30(1A) protects minority institutions when their property is compulsorily acquired.

Thus, Article 30 protects educational autonomy of minorities while permitting regulations that promote fairness and excellence without destroying minority control.

**4. Discuss the applicability of the principles of Article 13 in case of Pre-Constitutional and Post-Constitutional Laws. [10 marks]**

**Answer:**

Article 13 gives constitutional supremacy to Fundamental Rights. Article 13(1) deals with pre-Constitutional laws, and Article 13(2) deals with post-Constitutional laws.

Under Article 13(1), all laws in force before the commencement of the Constitution are void to the extent they are inconsistent with Fundamental Rights. Such laws are not completely dead for all purposes. The doctrine of eclipse applies: the inconsistent portion becomes unenforceable against citizens because it is overshadowed by Fundamental Rights. If the constitutional prohibition is later removed, the law may revive without re-enactment. This doctrine was explained in *Bhikaji Narain Dhakras v. State of M. P.*

Article 13(2) prohibits the State from making any law that takes away or abridges Fundamental Rights. Any such post-Constitutional law is void to the extent of contravention from the beginning. The doctrine of severability applies where only the unconstitutional part is separated and the valid part survives, if the valid part can operate independently.

There is an important difference. A pre-Constitution law was valid when made, but becomes unenforceable after the Constitution to the extent of inconsistency. A post-Constitution law violating Fundamental Rights is unconstitutional from its inception to that extent. Article 13(3) defines “law” broadly to include ordinances, orders, bye-laws, rules, regulations, notifications, customs and usages having the force of law.

Therefore, Article 13 operates as a judicial review clause and ensures that all old and new laws remain subordinate to Fundamental Rights.

**5. Write a short note on: Constitutional Remedies [10 marks]**

**Answer:**

Constitutional remedies are remedies available for enforcement of Fundamental Rights. Article 32 gives the right to move the Supreme Court, and Article 226 gives High Courts power to issue writs for enforcement of Fundamental Rights and for other legal rights. Dr. B. R. Ambedkar described Article 32 as the “heart and soul” of the Constitution.

The Supreme Court and High Courts may issue writs of habeas corpus, mandamus, prohibition, certiorari and quo warranto. Habeas corpus protects personal liberty by requiring production of a detained person before court. Mandamus commands a public authority to perform a public duty. Prohibition prevents an inferior court or tribunal from exceeding jurisdiction. Certiorari quashes an order passed without jurisdiction or in violation of natural justice. Quo warranto questions the authority by which a person holds a public office.

Article 32 itself is a Fundamental Right, while Article 226 is wider because it can be used for other legal rights also. During constitutional remedies, courts may give directions, compensation, guidelines and continuing mandamus in suitable cases. Public Interest Litigation has expanded access to constitutional remedies for poor and disadvantaged persons.

Thus, constitutional remedies make Fundamental Rights effective. Without remedies, rights would remain declarations. The writ jurisdiction ensures rule of law, judicial review and accountability of public authorities.

**Group C - Answer any two of the following (2 questions, 20 marks each = 40)**

**6. Examine the various facets of the Right to life under Article 21 of the Constitution. [20 marks]**

**Answer:**

Article 21 states that no person shall be deprived of his life or personal liberty except according to procedure established by law. In its early interpretation, the Supreme Court gave a narrow meaning to this provision. In *A. K. Gopalan v. State of Madras*, the Court treated “procedure established by law” as any procedure enacted by the legislature. Later, in *Maneka Gandhi v. Union of India*, the Court gave Article 21 a wide and transformative meaning. It held that the procedure must be just, fair and reasonable, and not arbitrary, fanciful or oppressive.

After *Maneka Gandhi*, Article 21 became the source of several unenumerated rights. The expression “life” does not mean mere animal existence. It means life with dignity and all those facilities necessary for meaningful human existence. The right to live with human dignity was recognised in *Francis Coralie Mullin* and expanded in many later cases.

The Supreme Court has recognised the right to livelihood in *Olga Tellis v. Bombay Municipal Corporation*, where pavement dwellers argued that eviction without rehabilitation affected their ability to live. The right to shelter, health and medical care has also been treated as part of Article 21. In *Consumer Education and Research Centre and Paschim Banga Khet Mazdoor Samity*, the Court recognised obligations relating to health and emergency medical treatment.

The right to education was read into Article 21 in *Mohini Jain and Unni Krishnan*, and later Article 21A was inserted to expressly provide free and compulsory education for children between six and fourteen years. Environmental rights have also developed under Article 21. The right to clean air, clean water and a healthy environment has been recognised in *M. C. Mehta* and other environmental cases.

Article 21 also includes rights of prisoners and undertrial persons. The Court has recognised the right to speedy trial in *Hussainara Khatoon*, protection against custodial violence in *D. K. Basu*, and legal aid as part of fair procedure. Personal liberty includes protection against arbitrary arrest, detention and excessive restrictions.

In *Justice K. S. Puttaswamy v. Union of India*, privacy was recognised as part of Article 21. This includes decisional autonomy, bodily integrity, informational privacy and dignity. The Court has also used Article 21 in areas of reproductive freedom, sexual autonomy, reputation, travel abroad, fair investigation and due process.

Thus, the “expanding horizons” of Article 21 show that it is a living provision. It converts the guarantee of life and personal liberty into a broad charter of dignity, fairness and human development. However, the right is not absolute. Deprivation is possible by a valid law that satisfies fairness, reasonableness and proportionality. Article 21 therefore balances individual liberty with legitimate State interests while keeping human dignity at the centre of constitutional law.

**7. Examine the doctrine of 'Ex-post facto' and 'Self-incrimination' according to Article 20 of the Constitution of India. [20 marks]**

**Answer:**

Article 20 contains important safeguards for persons accused of offences. The question specifically concerns the doctrines of ex post facto criminal law and self-incrimination.

Article 20(1) provides that no person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence, nor shall he be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the offence. This is the doctrine against ex post facto criminal law.

The first part means that an act which was innocent when done cannot later be made criminal retrospectively. Criminal liability must be based on a law existing at the time of the act. This protects certainty, fairness and rule of law. The second part prevents retrospective enhancement of punishment. If the punishment at the time of the act was lesser, a later harsher punishment cannot be imposed for that past act.

Article 20(1) applies to criminal offences and penalties. It does not prohibit retrospective civil laws or tax laws in the same way. It also does not prevent a beneficial retrospective law reducing punishment. Nor does it generally prevent procedural changes, because no person has a vested right in a particular criminal procedure unless the change affects substantive rights.

Article 20(3) provides that no person accused of any offence shall be compelled to be a witness against himself. This is the constitutional protection against self-incrimination. Three elements are necessary: the person must be accused of an offence; there must be compulsion; and the compulsion must be to give evidence against himself.

The protection covers oral and written testimonial evidence that has a tendency to incriminate the accused. It is based on the principle that the prosecution must prove its case and cannot force the accused to supply evidence against himself. It also protects human dignity and prevents coercive interrogation.

In *M. P. Sharma v. Satish Chandra*, the Court gave a broad view of the protection. In *State of Bombay v. Kathi Kalu Oghad*, the Court distinguished testimonial compulsion from physical evidence. Giving fingerprints, handwriting specimens or similar physical characteristics was not treated as being a “witness” in the testimonial sense. In *Selvi v. State of Karnataka*, involuntary narco-analysis, polygraph and brain-mapping tests were held to violate Article 20(3) and personal liberty because they involved compelled testimonial responses.

Article 20(3) does not prevent voluntary confession made according to law. It also does not prevent investigation, search, seizure or collection of non-testimonial physical evidence, subject to other constitutional and statutory safeguards.

Thus, Article 20(1) prevents retrospective criminalisation and retrospective enhancement of punishment, while Article 20(3) protects the accused from compelled self-incrimination. Together, they secure fairness in criminal law and restrain the coercive power of the State.

**8. Discuss the various freedoms enumerated under Article 19 of the Constitution and its limitations. [20 marks]**

**Answer:**

Article 19 is one of the central provisions of Part III. It guarantees certain freedoms to citizens and forms the foundation of democratic life. These freedoms are not absolute; each is subject to reasonable restrictions mentioned in the Constitution.

Article 19(1)(a) guarantees freedom of speech and expression. It includes the right to express views through words, writing, print, art, electronic media and symbolic conduct. It also includes freedom of the press, right to receive information and political criticism. Article 19(2) permits reasonable restrictions on grounds such as sovereignty and integrity of India, security of the State, friendly relations with foreign States, public order, decency or morality, contempt of court, defamation and incitement to an offence.

Article 19(1)(b) gives citizens the right to assemble peaceably and without arms. This protects meetings, demonstrations and peaceful protests. Article 19(3) permits restrictions in the interests of sovereignty and integrity of India and public order. Violent assemblies or armed gatherings are not protected.

Article 19(1)(c) protects the right to form associations, unions or co-operative societies. It includes the right to organise collectively for political, social, professional or labour purposes. Article 19(4) permits restrictions in the interests of sovereignty and integrity of India, public order and morality.

Article 19(1)(d) protects the right to move freely throughout the territory of India, and Article 19(1)(e) protects the right to reside and settle in any part of India. These freedoms promote national unity and common citizenship. Under Article 19(5), reasonable restrictions may be imposed in the interests of the general public or for the protection of the interests of Scheduled Tribes.

Article 19(1)(g) guarantees the right to practise any profession or to carry on any occupation, trade or business. Under Article 19(6), the State may impose reasonable restrictions in the interests of the general public, prescribe professional or technical qualifications, and create State monopolies.

The right to acquire, hold and dispose of property was earlier under Article 19(1)(f), but it was removed by the 44th Constitutional Amendment. Property is now protected as a constitutional legal right under Article 300A, not as a Fundamental Right.

The expression “reasonable restrictions” is important. A restriction must be imposed by law, must fall within the permitted constitutional grounds, and must not be arbitrary or excessive. Courts consider the nature of the right, the purpose of the restriction, the extent of harm, proportionality and procedural safeguards.

Therefore, Article 19 creates a balance between liberty and social order. It protects the freedoms necessary for democracy, individual development and national integration, while allowing the State to regulate them for legitimate public purposes.

**9. Write an essay on the reservation policies for the backward classes under Articles 15 and 16 of the Constitution. [20 marks]**

**Answer:**

Reservation policies for backward classes are constitutional devices for achieving substantive equality. They recognise that formal equality is insufficient where certain communities have suffered historical discrimination, social exclusion and lack of representation. Articles 15 and 16 are the main provisions.

Article 15(1) prohibits discrimination on grounds of religion, race, caste, sex or place of birth. However, Article 15(3) permits special provisions for women and children. Article 15(4), inserted after *State of Madras v. Champakam Dorairajan*, permits special provisions for socially and educationally backward classes and for Scheduled Castes and Scheduled Tribes. Article 15(5) enables reservation in educational institutions, including private unaided institutions, except minority institutions under Article 30. Article 15(6) provides for reservation for Economically Weaker Sections.

Article 16(1) guarantees equality of opportunity in public employment. Article 16(4) permits reservation in favour of backward classes of citizens which, in the opinion of the State, are not adequately represented in State services. Article 16(4A) permits reservation in promotion for SCs and STs in appropriate cases. Article 16(4B) deals with carry-forward reserved vacancies. Article 16(6) concerns EWS reservation in public employment.

The leading case on reservations is *Indra Sawhney v. Union of India*. The Supreme Court upheld OBC reservation but laid down the 50 percent ceiling, creamy layer exclusion for OBCs, and the principle that reservation should

be based on backwardness and inadequate representation. The Court treated reservation as a facet of equality, not an exception to equality.

In *M. Nagaraj*, the Court considered reservation in promotions and required quantifiable data regarding inadequate representation and administrative efficiency. In *Jarnail Singh*, the Court clarified that SCs and STs need not prove backwardness again, though data on inadequate representation remains relevant. The creamy layer principle has been used to ensure that benefits reach the truly disadvantaged.

Reservation policy must balance social justice and efficiency. Article 335 states that the claims of SCs and STs shall be taken into consideration consistently with the maintenance of efficiency of administration. The Constitution therefore permits affirmative action, but not unlimited or mechanical reservation.

EWS reservation under the 103rd Constitutional Amendment introduced a new economic category through Articles 15(6) and 16(6). In *Janhit Abhiyan v. Union of India*, the Supreme Court upheld the amendment. This shows that reservation policy has evolved beyond caste-based backwardness in a limited constitutional form.

The purpose of reservations is not to create permanent division, but to enable equal participation in education, employment and public life. At the same time, reservation cannot be a substitute for wider social reform, quality education and economic development. It must be periodically reviewed and implemented through fair criteria.

Thus, Articles 15 and 16 create a constitutional framework for protective discrimination. They aim to transform formal equality into real equality by addressing historic disadvantage and under-representation.