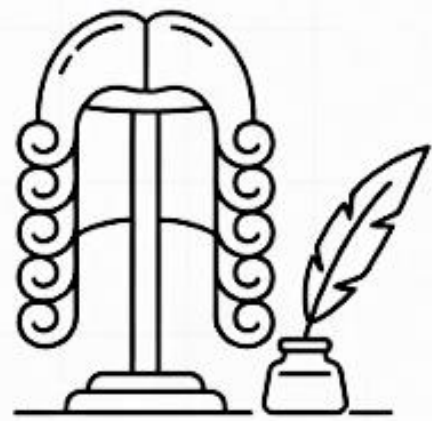
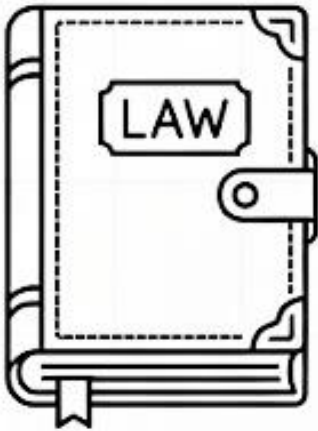




# INTRODUCTION TO LAW (338)

## CHAPTERWISE NOTES



## INTRODUCTION TO LAW

Sl. No.	Module	Chapters (Public Examination)	Marks
1	<b>Module 1 : Concept of Law</b>	L-3 Personal Law I: Hindu Law and Muslim Law  L-4 Personal Law II: Christian, Parsi and Jewish Law	12
2	<b>Module 3 : Classification of Law</b>	L-11 Substantive Law and Procedural or Adjective Law  L-12 Public and Private Law	16
3	<b>Module 5 : The Constitution of India-I</b>	L-18 Constitutionalism and Preamble  L-19 Fundamental Rights and Duties  L-20 Directive Principles of State Policy	20

Component	Details	Marks
<b>Public Exam (Selected Modules 1, 3, 5)</b>	Total Chapters : <b>7</b>	48
<b>Practical Exam</b>	Practical	00
<b>TMA</b>	Tutor Marked Assignment	20
<b>Final Possible Marks</b>		<b>68</b> <b>Marks</b>

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<b>1</b>	Personal Law – I: Hindu And Muslim Law
<b>2</b>	Personal Law II: Christian, Parsi And Jewish Law
<b>3</b>	Substantive Law And Procedural Or Adjective Law
<b>4</b>	Public Law And Private Law
<b>5</b>	Constitutionalism And Preamble
<b>6</b>	Fundamental Rights and Duties
<b>7</b>	Directive Principles Of State Policy

## 1

# PERSONAL LAW – I: HINDU AND MUSLIM LAW

## Introduction

India is a country with various religions, therefore personal laws here are based on religion and beliefs. These laws mainly regulate matters related to marriage, divorce, succession, adoption and property. In this chapter, Hindu law and Muslim law are studied in particular.

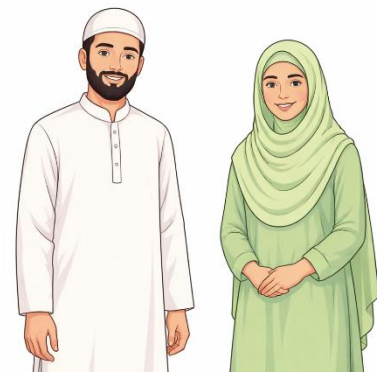
## Meanings of Terms

### Hindu

- A person who is Hindu, Jain, Sikh or Buddhist by religion.
- Who is born to Hindu parents.
- Who is not Muslim, Christian, Parsi or Jew and is not governed by any other law.

### Muslim

- A person who is a follower of the religion of Islam.
- A Muslim can be of two types:
  - Muslim by birth
  - Muslim by conversion



## Sources of Hindu and Muslim Law

### Sources of Hindu Law

#### 1. Ancient Sources

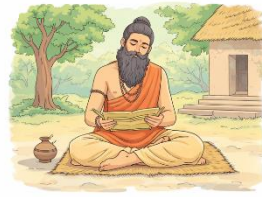
- Vedas
- Smritis



- Commentaries and Digests
- Customs

**2. Modern Sources**

- Justice, equity and good conscience
- Judicial decisions
- Legislation (Acts)
  - Hindu Marriage Act, 1955
  - Hindu Succession Act, 1956
  - Hindu Minority and Guardianship Act, 1956
  - Hindu Adoptions and Maintenance Act, 1956



**Sources of Muslim Law**

- **Quran** – the most sacred and primary source of Islam.
- **Sunna and Hadith** – sayings and practices of the Prophet.
- **Ijma** – collective agreement of scholars.
- **Qiyas** – decisions based on reasoning and analogy.
- **Customs**
- **Legislation**
- **Judicial decisions**
- **Justice, equity and good conscience**

**Laws Related to Marriage and Divorce**

**Marriage and Divorce under Hindu Law**

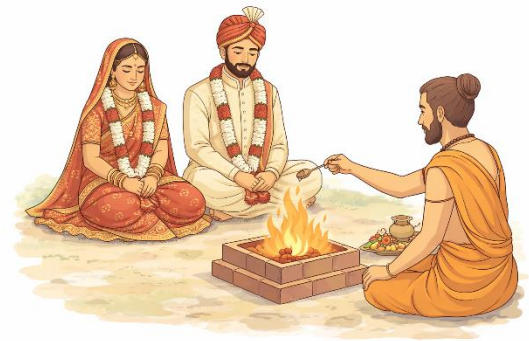
**Marriage**

- In Hindu religion, marriage is considered a sacred sacrament.
- Its objective is procreation and performance of religious duties.



### Essential Elements of a Valid Hindu Marriage

1. Neither party should have a living spouse at the time of marriage.
2. Both parties should be mentally sound.
3. Age of marriage
  - **Male** – 21 years
  - **Female** – 18 years
4. Both parties should not be within prohibited relationship.
5. Both parties should not be within sapinda relationship.



**Sapinda relationship:** When two persons are related from a common ancestor and fall within the specified generations.

**Child marriage:** A marriage in which the boy is below 21 years and the girl is below 18 years.

#### Grounds for Divorce:

- **Adultery**- After marriage, the husband or wife having sexual relations with another person.
- **Cruelty**- Such behaviour that causes physical or mental suffering to the husband or wife.
- **Desertion**- Husband or wife leaving the other without reasonable cause and without consent.
- **Conversion of religion** - Either the husband or wife changing his or her religion.
- **Insanity**- Either the husband or the wife suffering from a severe mental illness.

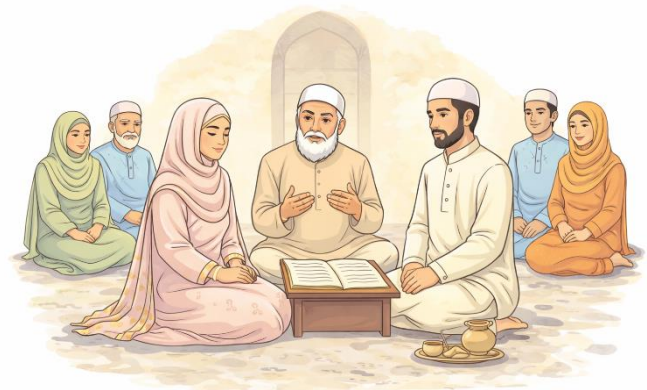
### Marriage and Divorce under Muslim Law

#### Marriage (Nikah)

- In Muslim law, marriage is a civil contract.
- The objective is to give legitimacy to children.

#### Essential Elements of a Valid Nikah

- The parties should be mentally sound.
- Proposal and acceptance by both parties.



- Presence of two witnesses.
- The proposal and acceptance should be in clear words.
- Condition of mehr.

### **Divorce (Talaq)**

- Divorce can be given by the husband.
- Initially the wife did not have the right to divorce.
- After the Muslim Dissolution of Marriage Act, 1939 the wife can also obtain divorce through the court.

## **Hindu and Muslim Law on Succession**

### **Hindu Law on Succession**

**Succession:** Transfer of property of a person to another person after his death.

#### **Types of Succession**

- 1. Testamentary succession:** Transfer of property on the basis of a will.
- 2. Intestate succession:** Distribution of property according to law when death occurs without a will.

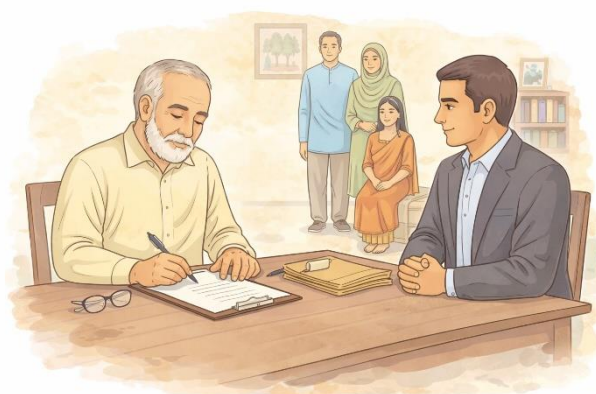
### **Succession in Muslim Law**

#### **1. Transfer of property**

- Testamentary succession
- Intestate succession (inheritance)

#### **2. Property of the deceased first**

- Funeral expenses
- Payment of debts
- Other liabilities



After payment, it is distributed among the heirs.

### **Comparative Analysis of Muslim and Hindu Laws on Inheritance**

- In Muslim law only one type of property is recognized.





- In Hindu law there is a distinction between ancestral and self-acquired property.
- In Muslim law the concept of joint family property does not exist.
- In Hindu law there is the concept of joint family property.
- In Muslim law the right to property is not obtained by birth.
- In Hindu law the right to property may be obtained by birth.
- Muslim law does not accept the doctrine of representation.

## TOP 5 QUESTIONS

### Q-1. What is personal law?

**Answer-** Personal law is the law which regulates the rules related to the personal matters of a person such as marriage, divorce, succession, adoption and property on the basis of the religion of the person.

### Q-2. What are the main sources of Hindu law?

**Answer-** The main sources of Hindu law are – Vedas, Smritis, commentaries, customs, judicial decisions, principles of justice and equity and various legislations such as the Hindu Marriage Act and the Hindu Succession Act.

### Q-3. What are the essential elements of a valid Hindu marriage?

**Answer-** For a valid Hindu marriage it is necessary that neither party has a living spouse, they are mentally sound, the prescribed age is completed, and they are not within prohibited relationship and sapinda relationship.

### Q-4. What is marriage (Nikah) in Muslim law?

**Answer-** In Muslim law nikah is a civil contract in which marriage is solemnized with proposal and acceptance, presence of witnesses and the condition of mehr. Its objective is to give legitimacy to children.

### Q-5. What is succession?

**Answer-** Succession is the process by which the property of a person is transferred to his heirs after his death. It may take place on the basis of a will or according to law without a will.





## 2

# PERSONAL LAW II: CHRISTIAN, PARSI AND JEWISH LAW

## Introduction

In the legal system of India, the personal laws of different religions play an important role. Apart from Hindu and Muslim law, the Christian, Parsi and Jewish communities also have their own personal laws. These laws mainly regulate marriage, divorce, succession, adoption and family relations.

## Role of Custom in Christian, Parsi and Jewish Law

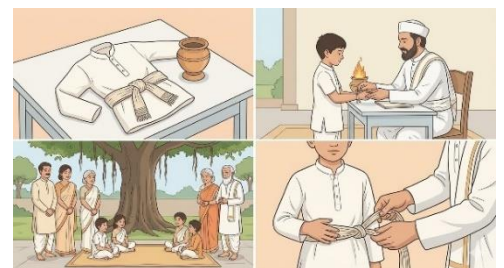
### Role of Custom in Christian Law

- **Customs – traditions** that have been practiced in society for a long time and are recognized by law.
- In India, customs have an important role in the life and law of the Christian community.
- Christian marriage is generally considered a **religious sacrament**.
- On subjects like marriage, divorce, succession etc., the rules and traditions of the Church are applied.
- Rules relating to marriage were determined by the **Indian Christian Marriage Act, 1872**.
- Rules of divorce were made by the **Indian Divorce Act, 1869**.
- In some areas, the Christian community also follows **local Hindu customs**.

### Role of Custom in Parsi Law

#### Customs related to Marriage

- Parsis follow the **Zoroastrian** religion.
- The **Navjote ceremony** is performed to initiate the child into the religion.
- The marriage ceremony is performed after sunset with religious rites.



- During marriage, religious prayers are performed by the priest.
- **Hathevaro (the ceremony of tying hands)** is an important part of marriage.
- Parsis are considered Parsis only by birth.
- If a Parsi woman marries a non-Parsi man, she does not get the rights of the Parsi community.

### Customs related to Adoption

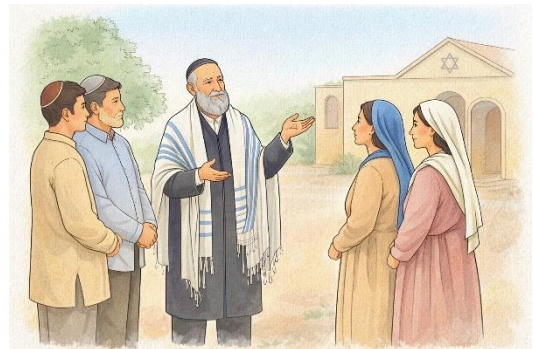
- In the Parsi community there is a **special tradition of adoption**.
- The adopted son is called **Palak**.
- Its purpose is to perform religious duties.
- The adopted son does not get full civil rights.

### Customs related to Succession

- Earlier, disputes were decided by the Parsi Panchayat.
- In matters related to succession and property, traditional rules were applied.

### Importance of Customs in Jewish Law

- The Jewish community follows the religion of **Judaism**.
- The main source of Jewish law is the **Mosaic Code**.
- Later the laws were organized in the **Talmud**.
- The Talmud is divided into two parts:
  - **Mishna**
  - **Gemara**



### Customs related to Marriage

- In Jewish law, marriage is considered a **civil and religious relationship**.
- Marriage is completed in two stages:
  - **Betrothal**



- **Marriage ceremony**
- Consent of both parties is necessary for betrothal.
- Special formalities take place at the time of betrothal:
  - **Kaseph** – giving money or object
  - **Shtar** – written document

### Customs related to Divorce

Jewish law recognizes divorce. Types of divorce:

- Divorce by mutual consent
- Divorce on the request of the husband
- Divorce on the request of the wife
- Divorce by law



### Succession and Inheritance

- The rules of Jewish succession are based on **religious texts and traditions**.
- Later in some matters **the Indian Succession Act, 1925** was applied.

## Role of Legislation and Judicial Precedents in Christian, Parsi and Jewish Religion

### Role of Legislation and Judicial Precedents in Christian Religion

#### Legislation on Marriage

- Rules of marriage were determined by **the Indian Christian Marriage Act, 1872**.
- This Act regulates the process of Christian marriage.
- Marriage is performed in the Church according to religious rites.



#### Legislation on Divorce

- Rules of divorce were made by **the Indian Divorce Act, 1869**.
- After the amendment in 2001, divorce by mutual consent was allowed.



### Legislation on Adoption

- Earlier there was no special law of adoption for Christians.
- They received guardianship under **the Guardian and Wards Act.**
- Later adoption became possible under the **Juvenile Justice Act.**

### Legislation on Succession

Matters of succession of Christians are governed by **the Indian Succession Act, 1925.**

### Judicial Precedents

- Decisions of courts have played an important role in the development of Christian law.
- In marriage, divorce and other family disputes, the court gives the final decision.

### Legislation on Parsi Law and their Judicial Review

#### Legislation on Marriage and Divorce

- **The Parsi Marriage and Divorce Act, 1936** was enacted.
- It was amended in 1988.



#### Situations when marriage becomes invalid

- The parties being in prohibited relationship.
- The marriage not being performed according to Parsi religious rites.
- The prescribed age not being completed at the time of marriage.

#### Grounds of Divorce

- Non-consummation of marriage
- Mental illness
- Pregnancy at the time of marriage
- Adultery
- Cruelty



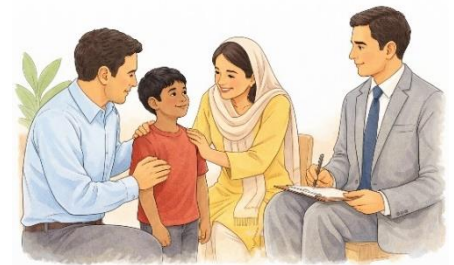
- Venereal disease
- Seven years imprisonment
- Missing for two years
- Living separately
- Conversion of religion
- Divorce by mutual consent

### **Courts**

Special **Parsi Matrimonial Courts** were established for matters related to Parsi marriage.

### **Law of Adoption**

- There is no separate Act of adoption for the Parsi community.
- Adoption is done for religious purposes.



### **Law of Succession**

Matters of Parsi succession are governed by **the Indian Succession Act, 1925**.

### **Role of Legislation and Judicial Precedents in Jewish Law**

- In India there is no special Act for the marriage of Jews.
- Therefore **judicial precedents** of courts play an important role.
- In marriage, divorce and other family disputes, the court gives decisions keeping in view Jewish traditions



# TOP 5 QUESTIONS

## Q-1. What is the role of customs in Christian law?

**Answer-** In the Christian community, traditions and customs of the Church play an important role in matters like marriage, divorce and succession. These traditions have also been recognized by Indian law and many rules were later organized through Acts.

## Q-2. What are the main features of Parsi marriage?

**Answer-** Parsi marriage is performed according to religious rites in the presence of a priest. In this, following Parsi customs is compulsory and at the time of marriage the prescribed age and valid relationship of both parties are necessary.

## Q-3. What are the main sources of Jewish law?

**Answer-** The main sources of Jewish law are the **Mosaic Code and the Talmud**. The Talmud contains detailed description of religious rules, traditions and laws related to social life.

## Q-4. What is the objective of the Parsi Marriage and Divorce Act, 1936?

**Answer-** The objective of this Act is to organize the rules related to marriage and divorce of the Parsi community. It determines the validity of marriage, grounds of divorce and the procedure of the court.

## Q-5. What is the importance of the Indian Succession Act, 1925?

**Answer-** This Act regulates matters related to succession of the Christian and Parsi communities in India. Under it, rules related to distribution of property and rights of heirs have been determined.





## 3

# SUBSTANTIVE LAW AND PROCEDURAL OR ADJECTIVE LAW

## Introduction

The two important branches of law are Substantive Law and Procedural Law. Substantive Law determines the rights and duties of people, while Procedural Law explains how these rights will be enforced in the court. Both are complementary to each other.

## Procedural Law vis-à-vis Substantive Law – Juristic Approach

**According to Jeremy Bentham:** Substantive and Procedural Law can be clearly separated.

**According to Holland:** Law defines the rights which it will protect and also specifies the method by which they will be enforced.

## According to Salmond

- Substantive Law defines rights.
- Procedural Law determines their remedies.

**According to some jurists:** the difference between the two is not completely clear.

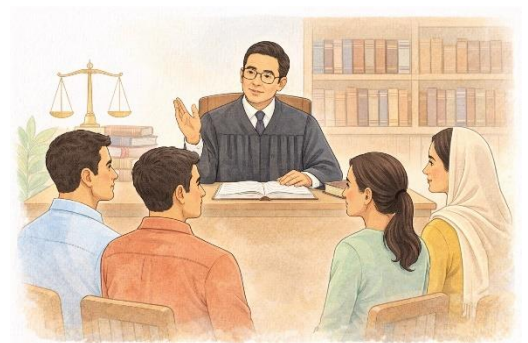
## Meaning and Nature of Substantive Law

### Substantive Law

The law which determines the rights and duties of citizens.

### This law

- defines wrong acts and crimes.
- determines their remedies and punishments.





- regulates the legal relationship between the individual and the State.

### **Substantive Civil Law**

- **Civil law includes private wrongs.**
- **It determines**
  - the essential elements of a contract.
  - rights related to property.
  - legal obligations of citizens.



- **In India the major Acts related to Substantive Civil Law:**

- Indian Contract Act, 1872
- Transfer of Property Act, 1882
- Indian Trust Act, 1882
- Specific Relief Act
- Indian Succession Act, 1925

### **Substantive Criminal Law**

- It determines crimes and their punishments.
- The major law in India: **Indian Penal Code (IPC)**
- It contains the definition of offences and provisions of punishment.



### **Meaning and Nature of Procedural Law**

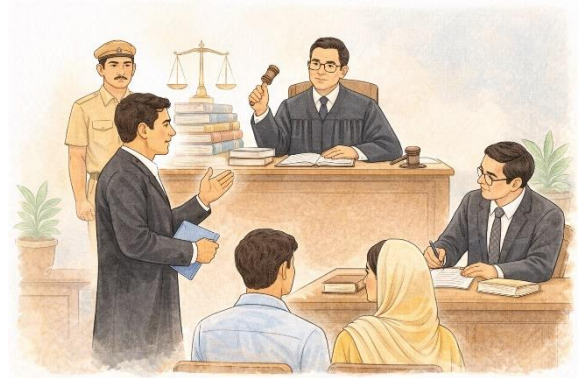
#### **Procedural Law**

The law which determines the method of enforcement of rights and judicial procedure.



### **It determines**

- how a case will be filed.
- what will be the procedure of the court.
- the process of evidence and decision.



### **Main Features of Procedural Law**

- It determines the process of enforcement of law.
- It provides rules of court proceedings.
- It explains the process of obtaining remedies for violation of rights.
- It regulates the proceedings of police and courts.

### **Procedural Civil Law**

- **It determines the rules to be followed by courts in civil cases.**
- **It determines**
  - how a suit will begin.
  - how evidence will be presented.
  - how judgment will be delivered.
- **Major law in India:** Code of Civil Procedure, 1908

### **Procedural Criminal Law**

**1. It regulates the investigation of offences and the procedure of trial.**

**2. It includes**

- Arrest
- Investigation



- Bail
- Trial
- Judgment

**3. Major law in India: Code of Criminal Procedure, 1973**

**Difference between Substantive Law and Procedural Law**

**Substantive Law**

- It determines rights and duties.
- It defines crimes and punishments.
- It regulates the relationship between the individual and the State.



**Procedural Law**

- It determines the procedure of courts.
- It provides rules of court proceedings.
- It explains the method of enforcing Substantive Law.

**Substantive and Procedural Law – Retrospective and Prospective**

- **Generally Procedural** Laws are retrospective.
- **The court has decided that**
  - Procedural Law can also be applied to old cases.
- **But**
  - Substantive Laws are generally prospective.



## Equivalence of Procedural and Substantive Rules/Principles

- Sometimes the rules of both laws appear similar.
- For example
  - rules related to evidence.
- rules related to court procedure.
- **Therefore** the difference between them is not always clear.

## TOP 5 QUESTIONS

### Q-1. What is Substantive Law?

**Answer-** Substantive Law is the law which determines the rights and duties of citizens and by defining crimes and wrong acts provides for their punishments and remedies.

### Q-2. What is Procedural Law?

**Answer-** Procedural Law is the law which determines the procedure of the court and the method of enforcement of rights. It explains how a case will be filed, how evidence will be presented and how justice will be delivered.

### Q-3. What is the difference between Substantive Law and Procedural Law?

**Answer-** Substantive Law determines rights and duties, whereas Procedural Law determines the judicial procedure for enforcing those rights. Both are complementary to each other.

### Q-4. What is Substantive Civil Law?

**Answer -** Substantive Civil Law is the law which determines the legal relations, rights and duties between individuals and regulates the rules related to contract, property and private wrongs.

### Q-5. What are examples of Procedural Law?

**Answer-** Major examples of Procedural Law in India are – Code of Civil Procedure, 1908, Code of Criminal Procedure, 1973, Indian Evidence Act, 1872, and Limitation Act, 1963.



## 4

# PUBLIC LAW AND PRIVATE LAW

## Introduction

In any legal system, law is mainly divided into two parts – Public Law and Private Law. Public Law regulates the relations between the State and citizens, while Private Law regulates the relations between individuals.

## Meaning and Nature of Public Law

### Public Law

That part of law which regulates the relations between the State (government) and citizens.

- It regulates matters that affect society.
- **Main subjects under Public Law:**
  - **Constitutional Law**
  - **Administrative Law**
  - **Criminal Law**
  - **Criminal Procedure**



## 1. Constitutional Law

The law which determines the political structure and powers of the State.

### It determines

- structure of the government
- powers and duties



- fundamental rights of citizens

In India its basis is the **Constitution of India**.

## 2. Administrative Law

The law which regulates government administration and the exercise of its powers.

### It determines

- functions of administrative agencies
- government decisions and orders
- administrative procedures



Administrative agencies enforce it through rules, orders and decisions.

## 3. Criminal Law

- The law which defines offences committed against society and prescribes punishment for them.
- A crime is considered a **wrong against the State or society**.
- In cases of crime, action is taken **by the State**.

## Meaning and Nature of Private Law

### Private Law

The law which regulates **legal relations between individuals or institutions**.

- In this the role of the State
  - This is only to provide judicial resolution of disputes.

### Private Substantive Law

The study of Private Law begins with various **substantive rights**.

### Normal Substantive Rights





- Rights which are enforceable against all persons.

### **Rights in personam**

- Rights which are enforceable against a specific person.

### **Remedial Rights**

- Rights whose objective is to obtain compensation or restitution.

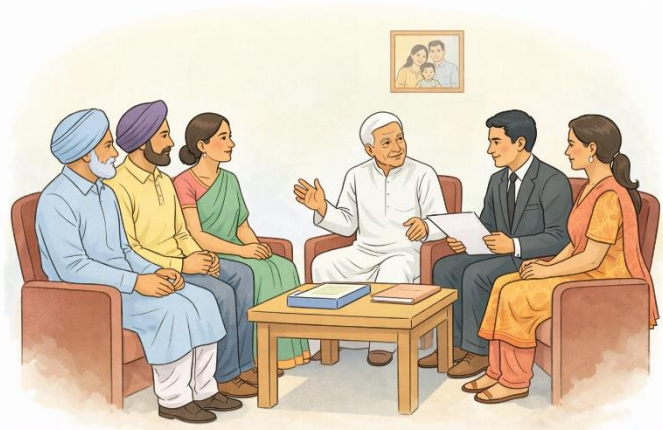
### **Abnormal Substantive Rights**

- These rights may relate to ordinary persons or artificial persons.

### **Private Adjective Law**

1. Private Adjective Law is the law which determines the **procedure of suing or being sued**.
2. It may apply to both natural and artificial persons.
3. Private Law mainly relates to the following subjects:

- **Law of Contract**
- **Law of Civil Wrongs**
- **Law of Property**
- **Law of Succession**
- **Family Law**





**Difference between Public Law and Private Law**

Public Law	Private Law
Regulates relations between the State and citizens.	Regulates relations between individuals.
The State is involved as one party.	State acts only as an arbitrator.
The position of parties is unequal.	The position of parties is equal.
<b>Main areas</b> – Constitutional Law, Administrative Law, Criminal Law	<b>Main areas</b> – Property, Contract, Family relations

**Theories determining the distinction between Public Law and Private Law**

**Interest Theory**

According to this theory

- Law related to public interest → **Public Law**
- Law related to private interest → **Private Law**



**Subordination Theory**

- If the relation is between **superior and subordinate** → Public Law
- If the relation is between **equal parties** → Private Law

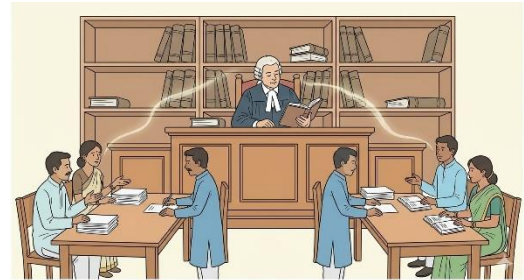
**Subject Theory**

- If the State acts as a **public authority in the relation** → Public Law
- Otherwise → Private Law



## Role of Judges in Shaping Law

- In the Common Law system judges play an important role.
- Judges
  - follow precedents.
  - apply those decisions in similar cases.
- In many cases **new legal principles develop** through court decisions.
- Role of judges
  - to interpret law
  - to clarify ambiguous laws
  - to ensure justice and fairness



## TOP 5 QUESTIONS

### Q-1. What is Public Law?

**Answer-** Public Law is the law which regulates relations between the State and citizens and includes subjects of public interest such as Constitutional, Administrative and Criminal Law.

### Q-2. What is Private Law?

**Answer-** Private Law is the law which regulates legal relations between individuals or institutions. In this the State acts only as a judicial arbitrator and resolves disputes.

### Q-3. What is Constitutional Law?

**Answer-** Constitutional Law is the law which determines the political structure of the State, the powers of the government and the fundamental rights of citizens. In India its main source is the Constitution of India.



**Q-4. What is the difference between Public Law and Private Law?**

**Answer-** Public Law regulates relations between the State and citizens and the State is one of the parties. Private Law regulates relations between individuals and the State acts only as an arbitrator.

**Q-5. What is the role of judges in the development of law?**

**Answer-** Judges interpret the law, apply precedents and in many cases develop new legal principles through their decisions, which leads to the development of law.



## 5

# CONSTITUTIONALISM AND PREAMBLE

## Introduction

The Constitution is the basic foundation of the governance of a country and it determines the relations between the government and the citizens. The Constitution of India begins with the **Preamble**, in which the ideals, objectives and basic principles of the Constitution are expressed.

## Constitutionalism

### Constitution

- The document which determines the structure, powers of governance of a State and the relations between citizens and government.
- provides the basis of governance of the State.
- runs the State according to laws and rules.

### Constitutionalism

Belief in constitutional government and constitutional principles is called constitutionalism.

#### Under it

- the government is controlled by a written Constitution.
- governance runs according to the rules of the Constitution.

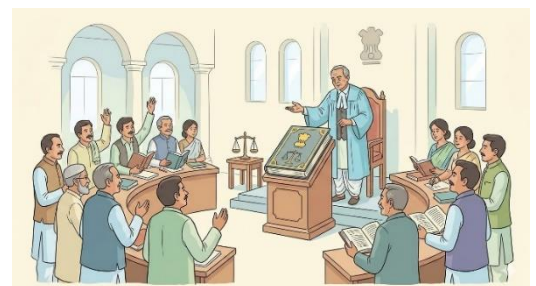
## Preamble of the Constitution

### Preamble

The Preamble is a brief introduction of the ideals, objectives and basic principles of the Constitution.

#### Preamble

- This is considered the **guide** of the Constitution.



- states the objectives and basic principles of the Constitution.

### Components of the Preamble

- **Source of authority of the Constitution**

The power of the Constitution is derived from the **people of India**.

- **Nature of the State**

India is a **Sovereign, Socialist, Secular, Democratic Republic**.

- **Objectives of the Constitution**

- Justice (social, economic, political)
- Liberty
- Equality
- Fraternity

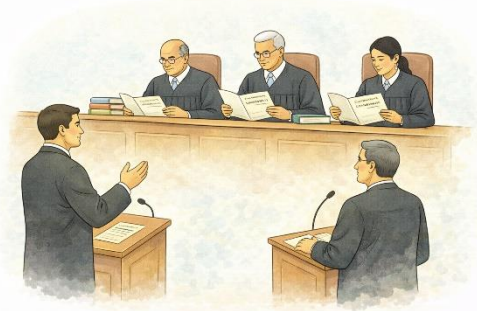


- Date of adoption of the Constitution: **26 November 1949**

### Preamble : Is it a part of the Constitution

#### Preamble is not a part of the Constitution

- The Supreme Court said in the **Berubari case (1960)**
  - The Preamble is not a part of the Constitution.
- **According to the Court**
  - The Preamble is not a source of power.
  - It only clarifies the objective of the makers of the Constitution.



#### Preamble is a part of the Constitution

- **In the Kesavananda Bharati case (1973) the Supreme Court said**
  - The Preamble is a part of the Constitution.
- **According to the Court**



- The Preamble is important in the interpretation of other provisions of the Constitution.

### Role of the Preamble

- It clarifies the objectives of the Constitution.
- It provides guidance in the interpretation of the Constitution.
- It expresses the basic spirit of the Constitution.
- It reflects the basic principles of the Constitution.

### Interpretational importance of the Preamble

- It acts as **interpreter** of the Constitution.
- It helps in the interpretation of other laws.
- It assists in the interpretation of international documents and declarations.



### Importance of the Preamble in interpreting the Constitution

- The Preamble clarifies the objectives of the Constitution.
- It helps in understanding the provisions of the Constitution.
- It clarifies the meaning of Fundamental Rights and Directive Principles.
- It helps in understanding the basic structure of the Constitution.

## TOP 5 QUESTIONS

### Q-1. What is Constitution?

**Answer-** The Constitution is the document which determines the system of governance of a State, the powers of the government and the relations between the citizens and the government. It functions as the fundamental law of the country.

### Q-2. What is meant by Constitutionalism?

**Answer-** Constitutionalism means belief in constitutional government and constitutional principles under which the government functions according to the rules and limitations of the Constitution.



**Q-3. What is Preamble?**

**Answer-** The Preamble is the introductory part of the Constitution in which the ideals, objectives and basic principles of the Constitution are mentioned and it functions as the guide of the Constitution.

**Q-4. What are the main objectives of the Preamble?**

**Answer-** The main objectives of the Preamble are – to establish social, economic and political justice, to provide freedom of thought and expression, to ensure equality of opportunity and to develop the feeling of fraternity among all citizens.

**Q-5. What is the importance of the Preamble in the interpretation of the Constitution?**

**Answer-** The Preamble provides guidance in the interpretation of the Constitution and helps in understanding the objectives and basic principles of the Constitution.





## 6

# FUNDAMENTAL RIGHTS AND DUTIES

## Introduction

In the Constitution of India, some important Fundamental Rights have been given to the citizens, which are necessary for the development of the individual and for a free life. Along with these, some Fundamental Duties of citizens have also been prescribed so that balanced development of society and nation can take place

## Need and Importance

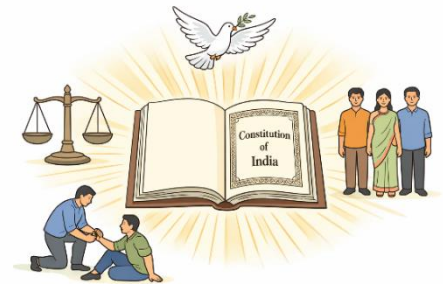
- During the freedom movement, Indian leaders felt the need for Fundamental Rights.
- Therefore, **special protection** was given to the rights of citizens in the Constitution.

## Fundamental Rights

Such rights given to citizens by the Constitution which can be enforced by the court.

### Characteristics of Fundamental Rights

- These rights are **granted by the Constitution**.
- Their protection is done by the **courts**.
- They are rights of a **higher level** than ordinary law.
- In case of their violation, remedy can be obtained in the court.



## Fundamental Rights

Fundamental Rights are given in **Part III** of the Constitution of India.

Main Fundamental Rights:

(A) Right to Equality

(B) Right to Freedom



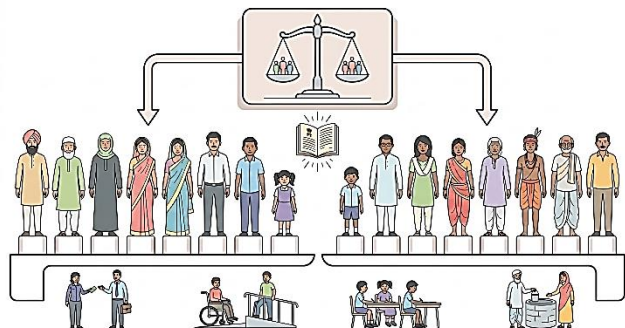
- (C) Right against Exploitation
- (D) Right to Freedom of Religion
- (E) Cultural and Educational Rights
- (F) Right to Constitutional Remedies

**(A) Right to Equality (Articles 14–18)**

- Guarantees equality **before law** and **equal protection**.
- The State cannot discriminate against any citizen on the basis of religion, caste, sex, place of birth etc.

**Main Provisions**

- **Equality** in the use of public places.
- Equal opportunity in **government jobs**.
- **Abolition of untouchability**.
- Abolition of **titles**.



**(B) Right to Freedom (Articles 19–22)**

**Right to Freedom**

Gives the individual freedom to live freely and express thoughts.

**Freedom under Article 19**

- Freedom of speech and expression
- Freedom to assemble peacefully
- Freedom to form associations or unions
- Freedom to move anywhere in the country
- Freedom to reside anywhere in the country
- Freedom to practise profession or trade



## Life and Personal Liberty

Articles 20–22 provide protection to the individual against arbitrary action of the State.

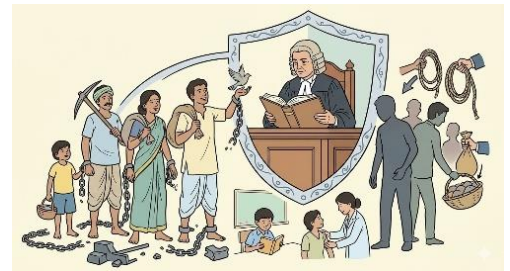
## Right to Education

### • Article 21A

- Right to free and **compulsory education for children from 6 to 14** years of age.

### (C) Right against Exploitation (Articles 23–24)

- Prohibition of human trafficking and **begar (forced labour)**.
- Prohibition on employing children below 14 years of age in **hazardous industries**.



### (D) Right to Freedom of Religion (Articles 25–28)

- All citizens have freedom to **profess, practise and propagate religion**.
- Religious institutions can **manage their property**.
- No person can be compelled to pay taxes for **religious purposes**.

### (E) Cultural and Educational Rights (Articles 29–30)

- Minorities have the right to preserve their **language, script and culture**.
- They have **the freedom to establish** and administer their educational institutions.

### (F) Right to Constitutional Remedies (Article 32)

## Right to Constitutional Remedies

- Right to go to court when Fundamental Rights are violated.
- **Dr. Bhimrao Ambedkar** called it the **“heart and soul”** of the Constitution.



## Major Writs

- Habeas Corpus
- Mandamus



- Prohibition
- Quo Warranto
- Certiorari

### Fundamental Duties

- Added by the **42nd Constitutional Amendment** of 1976.
- Given in **Article 51A** of the Constitution.

### Major Fundamental Duties

- To respect the Constitution, National Flag and National Anthem.
- To protect the **unity and integrity** of India.
- To defend the country.
- To promote social **harmony and brotherhood**.
- To protect the environment.
- To protect public property.
- To develop scientific temper.
- To provide opportunity of education to children of **6–14 years**.



## TOP 5 QUESTIONS

### Q-1. What are Fundamental Rights?

**Answer-** Fundamental Rights are those rights which are given to citizens by the Constitution and whose protection is done by the courts. These rights are considered necessary for the freedom and development of the individual.

### Q-2. What is the Right to Equality?

**Answer-** The Right to Equality provides equality before law and equal protection to all citizens and prohibits discrimination on the basis of religion, caste, sex or place of birth.



**Q-3. Which freedoms are included in the Right to Freedom?**

**Answer-** The Right to Freedom includes freedom of speech and expression, freedom of assembly, freedom to form associations, freedom to move and reside in the country and freedom to practise profession.

**Q-4. What is the Right to Constitutional Remedies?**

**Answer-** The Right to Constitutional Remedies gives citizens the right to approach the High Court or the Supreme Court and obtain justice when Fundamental Rights are violated.

**Q-5. What are Fundamental Duties?**

**Answer-** Fundamental Duties are the moral obligations prescribed for citizens by the Constitution whose objective is to protect the unity of the nation, social harmony and the ideals of the Constitution.



## 7

# DIRECTIVE PRINCIPLES OF STATE POLICY

## Introduction

In **Part IV (Articles 36–51)** of the Constitution of India, the **Directive Principles of State Policy** are given. Their objective is to establish social and economic justice in India and to make the country a **Welfare State**.

## Directive Principles of State Policy : Meaning and Nature

### Directive Principles

Such principles which guide the State to establish socio-economic justice and to build a Welfare State.

### These principles

- Guiding **instructions for the government**.
- express the imagination of the Constitution makers regarding the **socio-economic system**.
- **cannot be enforced by the courts**.
- still are considered **fundamental principles** for the governance of the country.

### Philosophical Basis of Directive Principles

- The inspiration of Directive Principles has been taken from the **Constitution of Ireland**.
- The sources of their ideas and philosophy:
  - **Declarations of human right**
  - **Liberal and socialist ideologies**
  - **Ideas of Mahatma Gandhi**





Their objective

- To establish a **socialist system** in India.
- To build a **Welfare State**.

### Classification of Directive Principles of State Policy

Directive Principles have been divided into four categories:

- **Economic and social principles**
- **Gandhian principles**
- **Principles related to international peace**
- **Other miscellaneous principles**



#### 1. Economic and Social Principles

- The State shall establish such a social system in which there is **social, economic and political justice**.
- All citizens should have **adequate means of livelihood**.
- **The distribution of property and resources** should be in the interest of society.
- The economic system should be such that **wealth is not concentrated in a few hands**.
- Men and women should receive **equal pay for equal work**.
- The **health and strength of workers** should be protected.
- Children and youth should be **protected from exploitation**.

#### 2. Gandhian Principles

- The State shall **establish village panchayats**.
- It will promote **cottage industries** in rural areas.
- It will provide **free and compulsory** education to children.
- It will promote the **educational and economic interests** of Scheduled Castes and Scheduled Tribes.
- It will **improve public health** and prohibit the use of intoxicating substances.





- It will protect **cows and milch** animals.

### 3. Principles related to International Peace and Security

- To promote international **peace and security**.
- To maintain just and **honourable relations** with other countries.
- To respect **international laws and treaties**.
- To try to **settle international disputes** peacefully.

### 4. Miscellaneous Directive Principles

- Effort to implement a **Uniform Civil Code** throughout the country.
- **Protection of environment and wildlife**.
- Protection of historical and cultural **monuments**.
- **Separation of judiciary** from the executive.



### Difference between Fundamental Rights and Directive Principles

Fundamental Rights	Directive Principles
Can be enforced by the courts.	Cannot be enforced by the courts.
Impose restrictions on the powers State.	Inspire the State to work towards socio-economic objectives.
Protect individual interests.	Promote the welfare of weaker sections of society.

### Relationship between Directive Principles and Fundamental Rights

- Both are **important features** of the Constitution.
- Both aim to realise the **ideals of the Constitution**.
- Both are **complementary** to each other.
- Fundamental Rights establish **political democracy**.
- Directive Principles attempt to establish **socio-economic democracy**.



### Implementation of Directive Principles of State Policy

The government has taken several steps to implement these principles:

- **Land reform laws** were implemented.
- **Minimum wages law** was implemented.
- **Panchayati Raj system** was implemented.
- **Free and compulsory education** was implemented.
- **Rural development programmes** were started.
- **Health and nutrition programmes** for women and children were started.



## TOP 5 QUESTIONS

### Q-1. What are Directive Principles of State Policy?

**Answer-** Directive Principles of State Policy are constitutional instructions which guide the government to establish social and economic justice and to make India a Welfare State.

### Q-2. What is the main objective of Directive Principles?

**Answer-** Their main objective is to establish social and economic equality in India and to build a Welfare State.

### Q-3. What is the classification of Directive Principles?

**Answer-** They are divided into four categories – Economic and Social Principles, Gandhian Principles, Principles related to International Peace and Miscellaneous Principles.

### Q-4. What is the difference between Fundamental Rights and Directive Principles?

**Answer-** Fundamental Rights can be enforced by the courts and protect individual rights, whereas Directive Principles cannot be enforced by courts and guide the State for socio-economic welfare.

### Q-5. How have Directive Principles been implemented?

**Answer-** The government has tried to implement these principles through land reforms, minimum wage laws, Panchayati Raj system, right to education, rural development programmes and health and nutrition schemes.

